

This file corresponds to book 1, title 3 (of the legal consequences of the fact) of the Portuguese penal code.

## Chapter I - Preliminary provision

### Article 40 - Purposes of penalties and security measures

1 - The application of penalties and security measures aims to protect legal assets and the reintegration of the agent into society.

2 - In no case can the penalty exceed the measure of guilt.

3 - The security measure can only be applied if it is proportionate to the seriousness of the fact and the danger of the agent.

## Chapter II - Penalties

### Section I - Penalties of imprisonment, fines and prohibition from exercising a profession, function or activity

#### Article 41 - Duration and counting of prison sentences

1 - The prison sentence has, as a rule, a minimum duration of 1 month and a maximum duration of 20 years.

2 - The maximum prison sentence is 25 years in the cases provided for by law.

3 - Under no circumstances may the maximum limit referred to in the previous paragraph be exceeded.

4 - The prison sentence periods are calculated according to the criteria established in criminal procedural law and, failing that, in civil law.

#### Article 42 - Execution of the prison sentence

1 - The execution of the prison sentence, serving the defense of society and preventing the commission of crimes, must be aimed at the social reintegration of the prisoner, preparing him to lead his life in a socially responsible way, without committing crimes.

2 - The execution of the prison sentence is regulated by specific legislation, which sets out the duties and rights of prisoners.

#### Article 43.<sup>o</sup> - Residence regime

1 - Whenever the court concludes that the purposes of executing the prison sentence are carried out in an appropriate and sufficient manner and the convict consents to this, they will be carried out under a stay-at-home regime, with supervision by technical means of remote control :

a) An effective prison sentence of no more than two years;

b) An effective prison sentence of no more than two years resulting from the discount provided for in articles 80 to 82;

c) A prison sentence of no more than two years, in the event of revocation of a non-custodial sentence or non-payment of the fine provided for in paragraph 2 of article 45.

2 - The residence regime consists of the obligation for the convicted person to remain in the residence, monitored by technical means of remote control, for the duration of the prison sentence, without prejudice to authorized absences.

3 - The court may authorize absences necessary for the convict to attend resocialization programs or for professional activity, professional training or studies.

4 - The court may make the residence regime subject to compliance with rules of conduct, subject to supervision by social reintegration services and intended to promote the reintegration of the convicted person into society, provided that they represent obligations whose compliance is reasonably required, namely :

a) Attend certain programs or activities;

b) Fulfill certain obligations;

c) Subject to medical treatment or cure in an appropriate institution, having obtained the prior consent of the convicted person;

d) Not exercising certain professions;

e) Do not contact, receive or accommodate certain people;

f) Not have in their possession objects especially suitable for committing crimes.

5 - Conditional release does not apply when the prison sentence is carried out while in residence.

#### Article 44 - Modification of conditions and revocation of the residence regime

1 - Absence authorizations and rules of conduct can be modified until the end of the sentence whenever relevant circumstances occur or that the court only became aware of later.

2 - The court revokes the residence permit if the convicted person:

a) Grossly or repeatedly violate the rules of conduct, the provisions of the social reintegration plan or the duties arising from the prison sentence execution regime;

b) Committing a crime for which he will be convicted and revealing that the purposes that were the basis of the residence regime could not be achieved through it;

c) Is subject to coercive preventive detention.

3 - The revocation determines the execution of the prison sentence not yet served in a prison establishment.

4 - Conditional release may be granted in relation to the time served in a prison.

#### Article 45 - Replacement of prison with fine

1 - The prison sentence imposed in a measure not exceeding one year is replaced by a fine or other applicable non-deprivation of liberty sentence, except if the execution of the prison is required by the need to prevent the commission of future crimes. The provisions of article 47 are correspondingly applicable

2 - If the fine is not paid, the convicted person serves the prison sentence imposed in the sentence. The provisions of paragraph 3 of article 49 are correspondingly applicable.

3 - (Revoked.)

4 - (Revoked.)

#### Article 46 - Prohibition of exercising a profession, function or activity

1 - The prison sentence applied in a measure not exceeding 3 years is replaced by a sentence of prohibition, for a period of 2 to 8 years, from the exercise of a profession, function or activity, public or private, when the crime has been committed by the accused in the respective exercise, whenever the court concludes that the purposes of the punishment are achieved in an adequate and sufficient manner by this means.

2 - In the case provided for in the previous paragraph, the provisions of paragraphs 4 to 6 of article 66 and article 68 are applicable, with the necessary adaptations.

3 - The court revokes the penalty of prohibition from exercising a profession, function or activity and orders the prison sentence determined in the sentence to be served if the offender, after conviction:

a) Violate the prohibition;

b) Committing a crime for which he will be convicted and revealing that the purposes of the penalty of prohibiting the exercise of a profession, function or activity could not be achieved through it.

4 - The provisions of article 57 are correspondingly applicable

5 - If, in the cases referred to in paragraph 3, the convicted person has to serve a prison sentence, but has already served a period of prohibition from carrying out a profession, function or activity, the court will deduct the prison time from serving the period of prohibition. already fulfilled.

6 - For the purposes of the provisions of the previous article, each day of imprisonment is equivalent to the number of days of prohibition from exercising a profession, function or activity, which corresponds proportionally to it under the terms of the sentence, rounding up whenever necessary by default of the number of days to be completed.

#### Article 47 - Fine penalty

1 - The fine penalty is set in days, in accordance with the criteria established in paragraph 1 of article 71, with, as a rule, a minimum limit of 10 days and a maximum of 360.

2 - Each day of fine corresponds to an amount between (euro) 5 and (euro) 500, which the court sets depending on the economic and financial situation of the convicted person and their personal expenses.

3 - Whenever the economic and financial situation of the convicted person justifies it, the court may authorize payment of the fine within a period not exceeding 1 year, or allow payment in installments. actions, the last of which cannot go beyond 2 years following the date of the final judgment of the conviction.

4 - Within the limits referred to in the previous paragraph and when supervening reasons justify it, the payment deadlines initially established may be changed.

5 - Failure to pay one of the installments will result in all of them becoming due.

#### Article 48 - Replacement of the fine with work

1 - At the request of the convicted person, the court may order that the fixed fine penalty be totally or partially replaced by days of work in establishments, workshops or works of the state or of other legal entities under public law, or even of private solidarity institutions social, when concluding that this form of compliance adequately and sufficiently achieves the purposes of punishment.

2 - The provisions of paragraphs 3 and 4 of article 58 and paragraph 1 of article 59 are correspondingly applicable

#### Article 49 - Conversion of unpaid fine into subsidiary imprisonment

1 - If the fine, which has not been replaced by work, is not paid voluntarily or coercively, subsidiary imprisonment is served for the corresponding time reduced by two thirds, even if the crime was not punishable by imprisonment, and for that purpose it is not applicable , the minimum limit of days of imprisonment set out in paragraph 1 of article 41.

2 - The convicted person may at any time avoid, in whole or in part, the execution of the subsidiary prison, by paying, in whole or in part, the fine to which he was sentenced.

3 - If the convicted person proves that the reason for non-payment of the fine is not attributable to him, the execution of the subsidiary prison may be suspended for a period of 1 to 3 years, provided that the suspension is subject to compliance with duties or rules of conduct of non-economic or financial content. If the duties or rules of conduct are not complied with, subsidiary arrest is carried out; if they are, the penalty is declared extinct.

4-The provisions of paragraphs 1 and 2 are correspondingly applicable to the case in which the convicted person negligently fails to complete the days of work for which, at his request, the fine was replaced. If the non-compliance is not attributable to you, the provisions of the previous paragraph are correspondingly applicable.

## Section II - Suspension of the execution of the prison sentence

### Article 50 - Assumptions and duration

1 - The court suspends the execution of the prison sentence imposed in a measure not exceeding five years if, taking into account the personality of the agent, the conditions of his life, his conduct before and after the crime and the circumstances of the crime, it concludes that the simple censorship of the fact and the threat of imprisonment adequately and sufficiently achieve the purposes of punishment.

2 - The court, if it deems it convenient and appropriate to achieve the purposes of the punishment, makes the suspension of the execution of the prison sentence subject, in accordance with the following articles, to the fulfillment of duties or the observance of rules of conduct, or determines that the suspension is accompanied by probation.

3 - Duties and rules of conduct may be imposed cumulatively.

4 - The sentencing decision always specifies the grounds for the suspension and its conditions.

5 - The period of suspension is set between one and five years.

### Article 51 - Duties

1 - The suspension of the execution of the prison sentence may be subject to the fulfillment of duties imposed on the convicted person and intended to repair the harm caused by the crime, namely:

a) Pay within a certain period, in whole or in part as the court deems possible, the compensation due to the injured party, or guarantee its payment by means of a suitable bond;

b) Give the injured party adequate moral satisfaction;

c) Deliver to institutions, public or private, of social solidarity or the state, a contribution monetary or provision of equivalent value.

2 - The imposed duties may not under any circumstances represent obligations for the convicted person which he cannot reasonably be expected to comply with.

3 - The duties imposed may be modified until the end of the suspension period whenever relevant circumstances arise or that the court only becomes aware of later.

4 - The court may order social reintegration services to support and supervise the convicted person in fulfilling the imposed duties.

### Article 52 - Rules of conduct

1 - The court may require the convicted person to comply, for the duration of the suspension, with rules of conduct with a positive content, subject to supervision and designed to promote their reintegration into society, namely:

a) Residing in a certain place;

b) Attend certain programs or activities;

c) Fulfill certain obligations.

2 - The court may, in addition, require the convicted person to comply with other rules of conduct, namely:

a) Not exercising certain professions;

b) Do not frequent certain environments or places;

c) Do not reside in certain places or regions;

d) Not accompanying, hosting or receiving certain people;

e) Not attending certain associations or not participating in certain meetings;

f) Not have in their possession objects capable of facilitating the commission of crimes.

3 - The court may also, having obtained the prior consent of the convicted person, determine that he or she is subject to medical treatment or cure in an appropriate institution.

4 - The provisions of paragraphs 2, 3 and 4 of the previous article are correspondingly applicable.

### Article 53 - Suspension with probation

1 - The court may determine that the suspension be accompanied by a probationary period, if it considers it convenient and appropriate to promote the reintegration of the convicted person into society.

2 - The probation regime is based on a social reintegration plan, carried out with supervision and support, during the duration of the suspension, from social reintegration services.

3 - The probation regime is ordered whenever the convicted person has not yet reached 21 years of age at the time of the crime.

4 - The regime of proof is also always ordered when the agent is convicted of committing a crime provided for in articles 163

to 176-a, the victim of which is a minor.

#### Article 54 - Social reintegration plan

1 - The social reintegration plan contains the resocialization objectives to be achieved by the convicted person, the activities that he or she must carry out, the respective phasing and the support and surveillance measures to be adopted by the social reintegration services.

2 - The social reintegration plan is made known to the convicted person, obtaining, whenever possible, their prior agreement.

3 - The court may impose the duties and rules of conduct referred to in articles 51 and 52 and other obligations that are relevant to the rehabilitation plan and the improvement of the condemned person's sense of social responsibility, namely:

a) Respond to calls from the magistrate responsible for execution and the social reintegration technician;

b) Receive visits from the social reintegration technician and communicate to him or make available to him information and documents proving his means of subsistence;

c) Inform the social reintegration technician about changes of residence and employment, as well as any travel longer than 8 days and the expected date of return;

d) Obtain prior authorization from the magistrate responsible for execution to travel abroad.

4 - In the cases provided for in paragraph 4 of the previous article, the probation regime must aim in particular at preventing recidivism, and for this purpose must always include technical monitoring of the convicted person as deemed necessary, namely through the attendance of rehabilitation programs to sexual offenders of children and young people.

#### Article 55 - Failure to comply with the suspension conditions

If, during the period of suspension, the convicted person negligently fails to comply with any of the imposed duties or rules of conduct, or does not comply with the reintegration plan, the court may:

a) Give a solemn warning;

b) Demand guarantees of compliance with the obligations that condition the suspension;

c) Impose new duties or rules of conduct, or introduce increased requirements in the reintegration plan;

d) Extend the period of suspension up to half of the period initially set, but not for less than 1 year nor in such a way as to exceed the maximum period of suspension provided for in paragraph 5 of article 50.

#### Article 56 - Revocation of suspension

1 - The suspension of the execution of a prison sentence is revoked whenever, during its execution, the convicted person:

a) Grossly or repeatedly violate the imposed duties or rules of conduct or the social reintegration plan; or

b) Committing a crime for which he will be convicted, and revealing that the purposes that were the basis for the suspension could not be achieved through it.

2 - The revocation determines the fulfillment of the prison sentence established in the sentence, without the convicted person being able to demand restitution of payments made.

#### Article 57 - Extinction of the sentence

1 - The sentence is declared extinct if, after the period of its suspension, there are no reasons that could lead to its revocation.

2 - If, at the end of the period of suspension, there is a pending case for a crime that could lead to its revocation or an incident due to failure to comply with duties, rules of conduct or the reinsertion plan, the sentence is only declared extinct when the process or the incident ends and there is no room for revocation or extension of the suspension period.

### Section III

#### Provision of work in favor of the community and admonition

#### Article 58 - Provision of work in favor of the community

1 - If a prison sentence of no more than two years is to be imposed on the offender, the court replaces it with the provision of work in favor of the community whenever it concludes, particularly due to the age of the convicted person, that, through this means, adequately and sufficiently, the purposes of punishment.

2 - The provision of work in favor of the community consists of the provision of free services to the state, to other legal entities governed by public law or to private entities whose purposes the court considers to be of interest to the community.

3 - For the purposes of paragraph 1, each day of imprisonment fixed in the sentence is replaced by one hour of work, a maximum of 480 hours.

4 - Work in favor of the community may be carried out on Saturdays, Sundays and public holidays, as well as on working days, but in this case the working periods cannot harm the normal working day, nor exceed, per day, what is permitted according to the applicable overtime regime.

5 - The penalty of providing work for the benefit of the community can only be applied with the convict's acceptance.

6 - The court may also apply to the convicted person the rules of conduct provided for in paragraphs 1 to 3 of article 52,

whenever it deems it appropriate to promote their reintegration into society.

#### Article 59 - Provisional suspension, revocation, extinction and replacement

1 - The provision of work in favor of the community may be provisionally suspended for serious medical, family or professional reasons, social or other, however, the execution time of the sentence cannot exceed 30 months.

2 - The court revokes the penalty of providing work in favor of the community and orders compliance with the prison sentence determined in the sentence if the offender, after conviction:

a) Intentionally putting oneself in a position to be unable to work;

b) If he refuses, without just cause, to perform work, or grossly violates the duties arising from the sentence to which he was sentenced; or

c) Committing a crime for which he will be convicted, and revealing that the purposes of the sentence of providing work in favor of the community could not be achieved through it.

3 - The provisions of article 57 are correspondingly applicable

4 - If, in the cases provided for in paragraph 2, the convicted person has to serve a prison sentence, but has already performed work in favor of the community, the court will deduct from the prison time to complete the days of work already performed, in accordance with paragraph 3 of the previous article.

5 - If the provision of work in favor of the community is considered satisfactory, the court may declare the sentence of not less than seventy-two hours extinct, once two thirds of the sentence has been served.

6 - If the agent is unable to perform the work to which he was sentenced for reasons not attributable to him, the court, depending on what is most appropriate for achieving the purposes of the punishment:

a) Replaces the prison sentence established in the sentence with a fine of up to 240 days, applying correspondingly the provisions of paragraph 2 of article 45; or

b) Suspends the execution of the prison sentence determined in the sentence, for a period fixed between one and three years, making it subject, in accordance with articles 51 and 52, to the fulfillment of appropriate duties or rules of conduct.

#### Article 60 - Admonition

1 - If the agent must be subject to a fine of no more than 240 days, the court may limit itself to issuing a warning.

2 - The admonition only takes place if the damage has been repaired and the court concludes that, by that means, the purposes of the punishment have been achieved in an adequate and sufficient manner.

3 - As a rule, admonishment is not applied if the offender, in the 3 years prior to the act, has been sentenced to any penalty, including that of admonishment.

4 - The admonition consists of a solemn oral censure given to the agent, in a hearing, by the court.

#### Section IV - Parole

##### Article 61 - Assumptions and duration

1 - The application of parole always depends on the consent of the convicted person.

2 - The court places the person sentenced to prison on parole when half of the sentence and at least 6 months have been served if:

a) It is reasonable to expect, taking into account the circumstances of the case, the offender's previous life, his personality and its evolution during the execution of the prison sentence, that the convict, once released, will lead his life in a socially responsible, without committing crimes; It is

b) The release proves compatible with the defense of the legal order and social peace.

3 - The court places the person sentenced to prison on parole when two thirds of the sentence and at least 6 months have been served, as long as the requirement set out in paragraph a) of the previous paragraph is met.

4 - Without prejudice to the provisions of the previous paragraphs, anyone sentenced to a prison sentence of more than 6 years is placed on parole as soon as they have served five-sixths of the sentence.

5 - In any of the modalities, conditional release has a duration equal to the remaining prison time, up to a maximum of five years, and the excess sentence is then considered extinguished.

6 - (Revoked.) Article 62 - Adaptation to probation

For the purpose of adapting to parole, if the assumptions set out in the previous article are met, placement on parole may be brought forward by the court for a maximum period of one year, with the convict remaining obliged during the period of anticipation, in addition to complying with the other conditions imposed on the residence regime, with supervision by technical means of remote control.

##### Article 63 - Conditional release in case of successive execution of several sentences

1 - If several prison sentences are to be executed, the execution of the sentence that must be served first is interrupted when half of the sentence has been served.

2 - In the cases provided for in the previous paragraph, the court decides on conditional release at the moment it can do so,

simultaneously, in relation to the totality of the sentences.

3 - If the sum of the sentences that must be served successively exceeds 6 years in prison, the court places the convicted person on probation, if he has not previously taken advantage of it, as soon as five-sixths of the sum of the sentences have been served.

4 - The provisions of the previous paragraphs are not applicable to the case in which the execution of the sentence results from the revocation of probation.

#### Article 64 - Conditional release regime

1 - The provisions of article 52, paragraphs 1 and 2 of article 53, article 54, subparagraphs a) to c) of article 55, no. 1 of article 56 and article 57

2 - The revocation of parole determines the execution of the prison sentence not yet served.

3 - In relation to the prison sentence that may be served, new conditional release may be granted under the terms of article 61.

### Chapter III

#### Additional penalties and effects of penalties

#### Article 65 - General principles

1 - No penalty involves the loss of civil, professional or political rights as a necessary effect.

2 - The law may make certain crimes correspond to the prohibition of exercising certain rights or professions.

#### Article 66 - Prohibition of exercising functions

1 - An employee who, in the exercise of the activity for which he was elected or appointed or because of that activity, commits a crime punishable by a prison sentence of more than 3 years, or whose sentence is waived if it is a crime of undue receipt or offer of advantage or corruption, is also prohibited from exercising those functions for a period of 2 to 8 years when the fact:

a) It is committed with a flagrant and serious abuse of the function or with a clear and serious violation of the duties inherent to it;

b) Revealing unworthiness in the exercise of the position; or

c) Imply the loss of confidence necessary to perform the function.

2 - The provisions of the previous paragraph are correspondingly applicable to professions or activities whose exercise depends on public title or authorization or approval from public authority.

3 - The provisions of paragraph 1 are also correspondingly applicable to the manager or administrator of a company of the type provided for in the commercial companies code that commits the crime of receiving or offering an undue advantage or corruption.

4 - The time in which the agent is deprived of liberty due to a measure of procedural coercion, penalty or security measure does not count towards the period of prohibition.

5 - The provisions of paragraphs 1 to 3 shall cease when, for the same reason, a security measure prohibiting activity takes place, in accordance with article 100.

6 - Whenever the holder of a public office, public servant or administrative agent is convicted of committing a crime, the court communicates the conviction to the court authority on which it depends and, in the case of managers or administrators of the companies referred to in paragraph 3, to the commercial register.

#### Article 67 - Suspension from performing duties

1 - The defendant definitively sentenced to a prison sentence, who is not disciplinary dismissed from the public function he performs, will be suspended from the function for the duration of the sentence.

2 - The suspension provided for in the previous paragraph includes the effects that, in accordance with the respective legislation, accompany the disciplinary sanction of suspension from the exercise of functions.

3 - The provisions of the previous paragraphs are correspondingly applicable to professions or activities whose exercise depends on public title or authorization or approval from public authority.

#### Article 68.<sup>9</sup> - Effects of prohibition and suspension of the exercise of function

1 - Unless otherwise specified, the prohibition and suspension of the exercise of a public function determines the loss of the rights and privileges attributed to the holder, employee or agent, for the corresponding period of time.

2 - The prohibition on the exercise of a public function does not preclude the holder, employee or agent from being appointed to a position or function that can be exercised without the conditions of dignity and trust that the position or function whose exercise was prohibited requires.

3 - The provisions of the previous paragraphs are correspondingly applicable to professions or activities whose exercise depends on public title or authorization or approval from public authority.

#### Article 69 - Prohibition of driving vehicles with engines and flying aircraft with or without engines

1 - Anyone who is punished is sentenced to a ban on driving vehicles with engines or a ban on flying aircraft with or without

engines, depending on the case, for a fixed period of between 3 months and 3 years:

a) For crimes of homicide or harm to physical integrity committed while driving a vehicle with an engine or piloting an aircraft with or without an engine, in violation of the rules of road traffic or the rules of the air, respectively, and for crimes provided for in articles 289, 291, 292 and 292-a;

b) For a crime committed using a vehicle or aircraft with or without an engine and whose execution was significantly facilitated by them; or

c) For the crime of disobedience committed through refusal to submit to the legally established tests to detect driving a vehicle or piloting an aircraft with or without an engine while under the influence of alcohol, narcotics, psychotropic substances or products with a similar effect.

2 - The prohibition takes effect as soon as the decision becomes final and may cover the driving of vehicles with engines of any category or the piloting of any aircraft, depending on the case.

3 - Within 10 days of the final judgment of the sentence, the convicted person delivers to the court secretariat, or to any police station, which refers to it, the driving license or aircraft pilot's license or title, if the even if it is not already seized in the process.

4 - The court secretariat communicates the prohibition of driving or piloting to the authority responsible for issuing the respective title or license within 20 days of the sentence becoming final, as well as informing the public prosecutor of situations of non-compliance with the provisions in the previous number.

5 - In the case of a road driving license issued in a foreign country with international value, the seizure may be replaced by an annotation on that title, by the mobility and transport institute, I.P. (IMT, I.P.), of the enacted ban.

6 - If the annotation referred to in the previous number is not viable, the secretariat, through the IMT, I.P., communicates the decision to the bodycompetent authority of the country that issued the title.

7 - In the case of an aircraft pilot title or license issued by a foreign country with international value, the secretariat, through the national civil aviation authority (ANAC), communicates the decision to the competent body of the country that issued the title or license.

8 - The time in which the agent is deprived of liberty due to a measure of procedural coercion, penalty or security measure does not count towards the period of the prohibition.

9 - The provisions of paragraph 1 shall cease when, for the same reason, the granting of a driving title or aircraft piloting title or license is revoked or banned under the terms of article 101.

#### Article 69.<sup>o</sup>-A - Declaration of succession unworthiness

The sentence that condemns the author or accomplice of the crime of intentional homicide, even if not consummated, against the author of the succession or against his/her spouse, descendant, ascendant, adopter or adoptee, may declare the succession indignity of the convicted person, under the terms and for the effects provided for in paragraph a) of article 2034 and in article 2037 of the civil code, without prejudice to the provisions of article 2036 of the same code.

#### Article 69.<sup>o</sup>-B - Prohibition of exercising functions for crimes against sexual self-determination and sexual freedom (in force from: 2024-03-01)

1 - You may be banned from exercising a profession, job, functions or activities, public or private, even if unpaid, the exercise of which involves regular contact with minors, for a period fixed between 2 and 20 years, taking into account the concrete gravity of the fact and its connection with the function performed by the agent, whoever is punished for a crime provided for in articles 163.<sup>o</sup> to 176.<sup>o</sup>-a and 176.<sup>o</sup>-c, when the victim is not a minor.

2 - Whoever is punished for a crime provided for in articles 163 may be banned from exercising a profession, job, functions or activities, public or private, the exercise of which involves regular contact with minors, for a period fixed between 5 and 20 years. to 176.<sup>o</sup>-a and 176.<sup>o</sup>-c, when the victim is a minor.

3 - Whoever is punished for a crime may be banned from carrying out public or private functions or activities, even if unpaid, in the establishments provided for in paragraph 1 of article 166. provided for in article 166.

#### Article 69.<sup>o</sup>-C - Prohibition of trusting minors and inhibition of parental responsibilities (in force from: 2024-03-01)

1 - You may be prohibited from assuming the trust of a minor, in particular adoption, guardianship, guardianship, foster care, civil sponsorship, delivery, custody or trust of minors, for a period fixed between 2 and 20 years, taking into account the specific circumstances gravity of the fact and its connection with the function performed by the agent, whoever is punished for a crime provided for in articles 163 to 176-a and 176-c, when the victim is not a minor.

2 - Whoever is punished may be prohibited from assuming the trust of a minor, in particular adoption, guardianship, curatorship, foster care, civil sponsorship, delivery, custody or trust of minors, for a fixed period of between 5 and 20 years. for a crime provided for in articles 163 to 176-a and 176-c, when the victim is a minor.

3 - Whoever is punished for a crime provided for in articles 163 to 176-a and 176-c, committed against a descendant of the agent, his spouse or a person with whom the agent maintains a relationship similar to that of spouses.

4 - The provisions of paragraphs 1 and 2 apply in relation to relationships already established.

## Chapter IV - Choice and measure of punishment

### Section I - General rules

#### Article 70 - Criteria for choosing the penalty

If a custodial sentence and a non-custodial sentence are applicable to the crime, alternatively, the court gives preference to the second whenever it adequately and sufficiently fulfills the purposes of the punishment.

#### Article 71 - Determination of the measure of the penalty

1 - The determination of the measure of the penalty, within the limits defined by law, is made according to the guilt of the agent and the prevention requirements.

2 - When specifically determining the penalty, the court takes into account all circumstances that, not being part of the type of crime, testify in favor of the offender or against him, considering, in particular:

a) The degree of illegality of the act, the manner in which it was carried out and the severity of its consequences, as well as the degree of violation of the duties imposed on the agent;

b) The intensity of the intent or negligence;

c) The feelings expressed when committing the crime and the purposes or reasons that determined it;

d) The agent's personal conditions and economic situation;

e) Conduct prior to the fact and subsequent to it, especially when this is intended to repair the consequences of the crime;

f) The lack of preparation to maintain lawful conduct, manifested in the fact, when this lack must be censured through the application of the penalty.

3 - The sentence expressly mentions the grounds for the measure of the penalty.

#### Article 72 - Special mitigation of the sentence

1 - The court specifically mitigates the penalty, in addition to the cases expressly provided for by law, when there are circumstances prior to or subsequent to the crime, or contemporaneous with it, which significantly reduce the illegality of the act, the guilt of the perpetrator or the need for the penalty .

2 - For the purposes of the provisions of the previous paragraph, the following circumstances are considered, among others:

a) The agent acted under the influence of a serious threat or under the ascendancy of a person on whom he or she depends or to whom he or she owes obedience;

b) The agent's conduct was determined by an honorable reason, by a strong request or temptation from the victim himself or by unfair provocation or undeserved offense;

c) There have been acts demonstrating sincere repentance on the part of the agent, namely repairing, as far as possible, the damage caused;

d) A lot of time has passed since the crime was committed, with the agent maintaining good conduct.

3 - Circumstances that, by themselves or together with other circumstances, give rise simultaneously to a mitigation specifically provided for by law and to that provided for in this article may only be taken into account once.

#### Article 73 - Terms of special mitigation

1 - Whenever there is room for special mitigation of the penalty, the following is observed regarding the limits of the applicable penalty:

a) The maximum prison sentence is reduced by one third;

b) The minimum limit of the prison sentence is reduced to one fifth if it is equal to or greater than 3 years and to the legal minimum if it is lower;

c) The maximum limit of the fine penalty is reduced by one third and the minimum limit reduced to the legal minimum;

d) If the maximum prison sentence does not exceed 3 years, it may be replaced by a fine, within the general limits.

2 - The specially attenuated penalty that has been specifically set is subject to replacement, under general terms.

#### Article 74 - Dispensation from sentence

1 - When the crime is punishable by a prison sentence not exceeding 6 months, or only by a fine not exceeding 120 days, the court may declare the defendant guilty but not impose any penalty if:

a) The illegality of the act and the guilt of the agent are minimal;

b) The damage has been repaired; It is

c) Exemption from punishment if there are no grounds for prevention.

2 - If the judge sees reasons to believe that compensation for the damage is about to occur, you can postpone the sentence to review the case within 1 year, on a date that you will soon schedule.

3 - When another norm allows, on an optional basis, the exemption from punishment, this only takes place if the requirements contained in the paragraphs of paragraph 1 are met.



## Section II - Recidivism

### Article 75 - Assumptions

1 - Anyone who, alone or under any form of co-operation, commits an intentional crime that must be punished with an effective prison term of more than 6 months, after having been convicted by a final sentence of a higher effective prison sentence, is punished as a repeat offender. to 6 months for another intentional crime, if, according to the circumstances of the case, the offender should be censured because the previous conviction or convictions did not serve as sufficient warning against the crime.

2 - The previous crime for which the agent was convicted does not qualify for recidivism if more than 5 years have passed between its commission and the next crime; This period does not include the time during which the agent served a procedural measure, sentence or security measure depriving his liberty.

3 - Convictions handed down by foreign courts count towards recidivism under the terms of the previous paragraphs, as long as the fact constitutes a crime under Portuguese law.

4 - The prescription of the sentence, amnesty, generic pardon and pardon do not prevent the verification of recidivism.

### Article 76 - Effects

1 - In the event of a repeat offense, the minimum limit of the penalty applicable to the crime is increased by one third and the maximum limit remains unchanged. The aggravation cannot exceed the measure of the most serious penalty imposed in previous convictions.

2 - The provisions relating to the relatively indeterminate penalty, when applicable, prevail over the rules governing the punishment of recidivism.

## Section III

### Punishment of concurrence of crimes and continued crime

#### Article 77 - Competition punishment rules

1 - When someone has committed several crimes before the conviction for any of them becomes final, they are sentenced to a single sentence. When measuring the penalty, the facts and the personality of the agent are considered together.

2 - The maximum limit for the applicable penalty is the sum of the penalties actually applied to the various crimes, and cannot exceed 25 years in the case of a prison sentence and 900 days in the case of a fine; and as a minimum limit the highest of the penalties actually applied to the various crimes.

3 - If the penalties applied to the crimes in competition are one of imprisonment and the other of a fine, the different nature of these remains in the single penalty resulting from the application of the criteria established in the previous paragraphs.

4 - Additional penalties and security measures are always applied to the agent, even if provided for by only one of the applicable laws.

#### Article 78 - Supervening knowledge of the competition

1 - If, after a final and unappealable conviction, it is shown that the offender committed another or other crimes prior to that conviction, the rules of the previous article apply, with the sentence that has already been served being deducted from the fulfillment of the single sentence. applied to the competition of crimes.

2 - The provisions of the previous paragraph are only applicable in relation to crimes for which the conviction has become final.

3 - The additional penalties and security measures applied in the previous sentence remain, except when they prove unnecessary in view of the new decision; if they are applicable only to the crime that remains to be assessed, they are only decreed if they are still necessary in light of the previous decision.

#### Article 79 - Punishment of continued crime

1 - The continued crime is punishable by the penalty applicable to the most serious conduct that is part of the continuation.O.

2 - If, after a final conviction, more serious conduct is known to be part of the continuation, the penalty applicable to it replaces the previous one.

## Section IV - Discount

### Article 80 - Procedural measures

1 - The detention, preventive detention and the obligation to remain in the residence suffered by the defendant are deducted in full from serving the prison sentence, even if they were applied in a process different from the one in which he was convicted, when the fact for which is convicted was committed prior to the final decision of the case in which the measures were applied.

2 - If a fine is imposed, detention, preventive detention and the obligation to remain in the home are discounted at the rate of 1 day of deprivation of liberty for at least 1 day of fine.

### Article 81 - Previous sentence

1 - If the penalty imposed by a final and unappealable decision is subsequently replaced by another, the previous penalty is deducted from this, to the extent that it has already been served.

2 - If the previous and subsequent penalties are of a different nature, the discount that appears equitable is made to the new penalty.

#### Article 82 - Procedural measure or penalty suffered abroad

Under the terms of the previous articles, any procedural measure or penalty that the agent has suffered, for the same or the same facts, abroad is discounted.

#### Chapter V - Relatively indeterminate sentence

##### Section I - Offenders by tendency

#### Article 83 - Assumptions and effects

1 - Whoever commits an intentional crime to which effective imprisonment for more than 2 years should specifically apply and has previously committed two or more intentional crimes, each of which has been or will be effectively imprisoned for more than 2 years, is punished with a relatively indeterminate sentence, whenever the joint assessment of the acts committed and the personality of the agent reveals a strong inclination towards crime, which at the time of conviction still persists.

2 - The relatively indeterminate sentence has a minimum corresponding to two thirds of the prison sentence that would specifically fit the crime committed and a maximum corresponding to this sentence plus 6 years, without exceeding 25 years in total.

3 - Any previous crime is no longer taken into account, for the purposes of paragraph 1, when more than 5 years have passed between its commission and the next crime; This period does not include the period during which the agent served a procedural measure, prison sentence or security measure depriving his liberty.

4 - In accordance with the previous paragraphs, facts judged in a foreign country that have led to the application of effective imprisonment for more than 2 years are taken into account, provided that, according to Portuguese law, a prison sentence of more than 2 years is applicable to them. 2 years.

#### Article 84 - Other cases of application of the penalty

1 - Whoever commits an intentional crime to which effective imprisonment should specifically apply and has previously committed four or more intentional crimes, for each of which an effective prison sentence has been or will be applied, is punished with a relatively indeterminate sentence whenever verify the remaining assumptions set out in paragraph 1 of the previous article.

2 - The relatively indeterminate penalty has a minimum corresponding to two thirds of the prison sentence that would specifically fit the crime and a maximum corresponding to this penalty plus 4 years, without exceeding 25 years in total.

3 - The provisions of paragraph 3 of the previous article are correspondingly applicable.

4 - In accordance with the previous paragraphs, facts judged in a foreign country that have led to the application of effective imprisonment are taken into account, provided that, according to Portuguese law, a prison sentence is applicable to them.

Article 85 - Restrictions1 - If the crimes are committed before the offender reaches 25 years of age, the provisions of articles 83 and 84 are only applicable if the offender has served a minimum prison sentence of 1 year.

2 - In the case of the previous paragraph, the maximum limit of the relatively indeterminate sentence corresponds to an increase of 4 or 2 years to the prison term that would specifically fit the crime committed, depending on whether the assumptions of article 83 or article 84 are met.

3 - The period referred to in paragraph 3 of article 83 is, for the purposes of this article, 3 years.

##### Section II - Alcoholics and similar

#### Article 86 - Assumptions and effects

1 - If an alcoholic or person with a tendency to abuse alcoholic beverages commits a crime to which effective imprisonment should specifically apply and has previously committed a crime to which effective imprisonment has also been applied, he is punished with a relatively indeterminate sentence whenever the crimes have been carried out in a state of intoxication or are related to alcoholism or the offender's tendency.

2 - The relatively indeterminate penalty has a minimum corresponding to two thirds of the prison sentence that would specifically fit the crime committed and a maximum corresponding to this penalty plus 2 years for the first conviction and 4 years for the remaining convictions, without exceeding 25 years in total .

#### Article 87 - Meaning of execution of the sentence

The execution of the sentence provided for in the previous article is aimed at eliminating the agent's alcoholism or combating his tendency to abuse alcoholic beverages.

#### Article 88 - Drug abuse

The provisions of articles 86 and 87 are correspondingly applicable to agents who abuse drugs.

##### Section III - Common provisions

#### Article 89 - Readaptation plan

1 - In the case of a relatively indeterminate sentence, an individual readaptation plan for the offender is drawn up as quickly as possible, based on the knowledge available about him and, whenever possible, with his agreement.

2 - During the course of serving the sentence, modifications required by the offender's progress and other relevant circumstances are made to the plan.

3 - The plan and its modifications are communicated to the offender.

#### Article 90 - Parole and probation

1 - Up to two months before reaching the minimum limit of the relatively indeterminate sentence, the prison administration sends the court a reasoned opinion on the granting of conditional release, applying correspondingly the provisions of paragraphs 1 and 3 of article 61. and in article 64.

2 - Conditional release has a duration equal to the time remaining to reach the maximum sentence limit, but will never exceed 5 years.

3 - If the conditional release, referred to in the previous paragraphs, is not granted, or is revoked, it applies accordingly, from the moment in which the sentence that specifically corresponds to the crime committed is shown to have been served, the provisions in paragraph 1 of article 92, in paragraphs 1 and 2 of article 93 and in articles 94 and 95.

#### Chapter VI - Legal entities

##### Article 90-A - Applicable penalties and determination of the penalty

1 - For the crimes set out in paragraph 2 of article 11, the main penalties of fine or dissolution are applicable to legal persons and similar entities.

2 - For the same crimes and those provided for in special legislation, the following additional penalties may be applied to legal persons and similar entities:

- a) Judicial injunction;
- b) Prohibition of carrying out activities;
- c) Prohibition of entering into certain contracts or contracts with certain entities;
- d) Deprivation of the right to subsidies, grants or incentives;
- e) Closing of and establishment;
- f) Publicity of the sentencing decision.

3 - For the same crimes and those provided for in special legislation, the following replacement penalties may be applied to legal persons and similar entities, as an alternative to a fine:

- a) Admonition;
- b) Good conduct bond;
- c) Judicial surveillance.

4 - The court specifically mitigates the penalty, in accordance with article 73 and in addition to the cases expressly provided for by law, in accordance with the provisions of article 72, also considering the circumstance that the legal person or similar entity has adopted and implemented, prior to the commission of the crime, an appropriate regulatory compliance program to prevent the commission of the crime or crimes of the same type.

5 - The court applies an additional penalty together with the main or replacement penalty, whenever this proves appropriate and necessary to achieve the purposes of the punishment, namely because the legal person has not yet adopted and implemented a regulatory compliance program appropriate to prevent the commission of crime or crimes of the same type.

6 - The court replaces the fine with an alternative penalty that adequately and sufficiently achieves the purposes of the punishment, considering, in particular, the adoption or implementation by the legal person or similar entity of an appropriate regulatory compliance program to prevent the practice crime or crimes of the same type.

##### Article 90-B - Fine penalty

1 - The minimum and maximum limits of the fine applicable to legal persons and similar entities are determined taking as a reference the prison sentence provided for natural persons.

2 - One month in prison corresponds, for legal persons and similar entities, to a 10-day fine.

3 - Whenever the penalty applicable to natural persons is determined exclusively or alternatively in a fine, the same fine days are applicable to legal persons or similar entities.

4 - The fine penalty is set in days, in accordance with the criteria established in paragraph 1 of article 71, and may be considered the circumstance that the legal person has adopted and executed, after the commission of the infraction and until the date of the trial hearing, a regulatory compliance program with appropriate control and surveillance measures to prevent crimes of the same nature or to significantly reduce the risk of their occurrence.

5 - Each day of fine corresponds to an amount between (euro) 100 and (euro) 10,000, which the court sets depending on the economic and financial situation of the convicted person and his/her expenses with the workers, with the provisions of paragraphs being applicable. 3 to 5 of article 47

6 - Once the deadline for paying the fine or any of its installments has passed without payment being made, the assets of the

legal person or similar entity will be executed.

7 - A fine that is not paid voluntarily or coercively cannot be converted into subsidiary imprisonment.

#### Article 90.<sup>9</sup>-C - Admonition

1 - If a legal person or similar entity must be subject to a fine of no more than 240 days, the court may limit itself to issuing a warning, applying correspondingly the provisions of paragraphs 2 and 3 of article 60 .<sup>9</sup>

2 - The admonition consists of a solemn oral censure given in a hearing, by the court, to the legal representative of the legal person or similar entity or, failing that, to another person who occupies a leadership position within it.

#### Article 90.<sup>9</sup>-D - Good conduct bond

1 - If a legal person or similar entity must be subject to a fine of no more than 600 days, the court may replace it with a good conduct bond, between (euro)1000 and (euro) 1,000,000, for a period of one to five years.

2 - The security deposit is declared lost in favor of the state if the legal person or similar entity commits a new crime for which it is convicted within the period, and will be returned if not.

3 - Security can be provided by means of deposit, pledge, mortgage, bank guarantee or guarantee.

4 - The court revokes the good conduct bond penalty and orders compliance with the fine determined in the sentence if the legal person or similar entity does not provide the bond within the set period.

#### Article 90.<sup>9</sup>-E - Judicial surveillance

1 - If a legal person or similar entity must be subject to a fine of no more than 600 days, the court may limit itself to ordering its monitoring by a judicial representative, for a period of 1 to 5 years, so that The latter shall monitor the activity that led to the conviction, as well as monitor effective compliance with a regulatory compliance program with suitable control and surveillance measures to prevent crimes of the same nature or to significantly reduce the risk of their occurrence.

2 - The court may limit itself to ordering the monitoring of the legal person or similar entity by a judicial representative, for a period of one to five years, so that this can control the adoption or implementation of an appropriate regulatory compliance program to prevent commission of the crime or crimes of the same type.

3 - The judicial representative does not have powers to manage the legal person or similar entity.

4 - The judicial representative informs the court of the evolution of the activity of the legal person or similar entity every six months or whenever deemed necessary.

5 - The court revokes the penalty of judicial supervision and orders compliance with the fine determined in the sentence if the legal person or similar entity:

a) Committing a crime, after conviction, for which she is convicted and revealing that the purposes of the judicial surveillance sentence could not be achieved through it; or

b) Failure to adopt or implement the regulatory compliance program.

#### Article 90-F - Penalty of dissolution

The penalty of dissolution is decreed by the court when the legal person or similar entity was created with the exclusive or predominant intention of committing the crimes indicated in paragraph 2 of article 11 or when the repeated practice of such crimes shows that the legal person or similar entity is being used, exclusively or predominantly, for this purpose, by whoever occupies a leadership position within it.

#### Article 90.<sup>9</sup>-G - Judicial injunction

1 - The court may order the legal person or similar entity:

a) The adoption and execution of certain measures, namely those necessary to cease the illicit activity or avoid its consequences; or

b) The adoption and implementation of a regulatory compliance program with appropriate control and surveillance measures to prevent crimes of the same nature or to significantly reduce the risk of their occurrence.

2 - The court determines the period within which the injunction must be complied with after the sentence becomes final.

3 - The penalty of judicial injunction is cumulative with the additional penalties of prohibition of concluding contracts and deprivation of the right to subsidies, grants or incentives.

#### Article 90-H - Prohibition of concluding contracts

The prohibition on entering into certain contracts or contracts with certain entities is applicable, for a period of one to five years, to a legal person or similar entity.

#### Article 90.<sup>9</sup>-I - Deprivation of the right to subsidies, grants or incentives

Deprivation of the right to subsidies, subsidies or incentives granted by the state and other public legal entities shall apply, for a period of one to five years, to a legal person or similar entity.

#### Article 90.<sup>9</sup>-J - Prohibition of the exercise of activity

1 - The court may order the prohibition of the exercise of certain activities for a period of three months to five years, when the crime

was committed in the exercise of such activities.

2 - When the legal person or similar entity commits a crime punishable by a fine of more than 600 days, the court may order the definitive prohibition of certain activities.

3 - In the case provided for in the previous paragraph, the court may rehabilitate the legal person or similar entity if it has conducted itself, for a period of five years after serving the main sentence, in a way that makes it reasonable to assume that it will not commit new crimes.

#### Article 90.<sup>o</sup>-L - Closure of establishment

1 - The court may order the closure of an establishment for a period of three months to five years, when the offence was committed within the scope of its activity. 2 - When a legal person or similar entity commits a crime punishable by a fine of more than 600 days, the court may order the definitive closure of the establishment.

3 - In the case provided for in the previous paragraph, the court may rehabilitate the legal person or similar entity and authorise the reopening of the establishment if it has conducted itself, for a period of five years after serving the main sentence, in a manner that makes it reasonable to assume that it will not commit new crimes.

4 - The transfer of the establishment or the assignment of rights of any nature related to the exercise of the activity, carried out after the commencement of the proceedings or after the commission of the crime, shall not prevent the application of the penalty of closure, unless the acquirer is acting in good faith.

5 - The closure of the establishment shall not constitute just cause for the dismissal of employees nor grounds for the suspension or reduction of the payment of their remuneration. Article 90-M - Publication of the conviction

1 - The conviction shall always be published in cases where the penalties provided for in Articles 90-C, 90-J and 90-L are applied, and may be published in other cases.

2 - Whenever the penalty of publicizing the conviction is applied, this shall be carried out, at the expense of the convicted party, in a media outlet to be determined by the court, as well as by posting a notice, for a period of no less than 30 days, in the commercial or industrial establishment itself or at the place where the activity is carried out, in a manner clearly visible to the public.

3 - The conviction shall be published in the form of an extract, which shall include the details of the offence and the penalties applied, as well as the identification of the legal persons or similar entities.

### Chapter VII - Security measures

#### Section I - Internment of non-imputable persons

##### Article 91 - Conditions and minimum duration

1 - Anyone who has committed a typical unlawful act and is considered non-imputable, under the terms of article 20, shall be ordered by the court to be interned in a cure, treatment or security establishment, whenever, due to the mental anomaly and the gravity of the act committed, there is a well-founded fear that he or she will commit other acts of the same nature.

2 - When the act committed by the non-imputable person corresponds to a crime against persons or a crime of common danger punishable by a prison sentence of more than 5 years, the internment shall have a minimum duration of 3 years, unless release proves to be compatible with the defence of the legal order and social peace.

##### Article 92 - Termination and extension of internment

1 - Without prejudice to the provisions of paragraph 2 of the previous article, the internment shall end when the court finds that the state of criminal danger that gave rise to it has ceased.

2 - Internment cannot exceed the maximum sentence corresponding to the type of crime committed by the unaccountable person.

##### Article 93 - Review of the inmate's situation

1 - If the existence of a justifying reason for the termination of hospitalization is invoked, the court examines the matter at all times.

2 - The assessment is mandatory, regardless of the request, one year after the beginning of the hospitalization or the decision that maintained it.

3 - In any case, the minimum period of hospitalization set out in paragraph 2 of article 91 is subject to consideration.

##### Article 94 - Freedom to test

1 - If the review referred to in the previous article results in that there are reasons to hope that the purpose of the measure can be achieved in an open environment, the court releases the interned person for proof.

2 - The period of freedom for probation is set between a minimum of 2 years and a maximum of 5, but cannot exceed the time remaining before the maximum duration of internment.

3 - The provisions of paragraphs 3 and 4 of article 98 are correspondingly applicable.

4 - If there are no reasons that lead to the revocation of freedom for the test, at the end of its duration the internment measure is declared extinct. If, at the end of the period of freedom for the test, there is a pending process or incident that could lead to

revocation, the measure is declared extinct when the process or incident ends and there is no place for revocation.

#### Article 95 - Revocation of freedom for testing

1 - Freedom to test is revoked when:

a) The agent's behavior reveals that hospitalization is essential; or

b) The agent is sentenced to a custodial sentence and the conditions for suspension of execution are not met, in accordance with paragraph 1 of article 50.

2 - Revocation determines readmission, with the provisions of article 92 being correspondingly applicable.

#### Article 96 - Review of the internment measure

1 - The execution of the internment security measure cannot begin, after a year or more after the decision that decreed it, without assessing the subsistence of the assumptions that supported its application.

2 - The court may confirm, suspend or revoke the ordered measure.

#### Article 97 - Non-imputable foreigners

Without prejudice to the provisions of an international treaty or convention, the measure of internment of an unaccountable foreigner may be replaced by expulsion from the national territory, under terms regulated by special legislation.

#### Section II - Suspension of internment

##### Article 98 - Assumptions and regime

1 - The court that orders the internment orders, instead, the suspension of its execution if it is reasonably expected that the purpose of the measure will be achieved with the suspension.

2 - In the case provided for in paragraph 2 of article 91, suspension can only take place if the conditions set out therein are met.

3 - The suspension decision imposes on the agent rules of conduct, in terms corresponding to those referred to in article 52, necessary to prevent danger, as well as the duty to undergo appropriate outpatient treatments and healing regimes and to provide examinations and observations in the places indicated.

4 - The agent whose internment is suspended is placed under the supervision of the social reintegration services. The provisions of articles 53 and 54 are correspondingly applicable

5 - Suspension of the execution of internment cannot be ordered if the offender is simultaneously sentenced to a custodial sentence and the conditions for suspending the execution of this sentence are not met.

6 - It is correspondingly applicable:

a) Suspension of the execution of internment as set out in article 92 and in paragraphs 1 and 2 of article 93;

b) The revocation of the suspension of the execution of internment, the provisions of article 95.

#### Section III - Execution of the sentence and security measure depriving liberty

##### Article 99 - Regime

1 - The internment measure is carried out before the prison sentence to which the agent has been sentenced and deducted from it.

2 - As soon as the confinement measure ends, the court places the agent on probation if the time corresponding to half of the sentence has been completed and release proves compatible with the defense of the legal order and social peace.

3 - If the confinement measure must cease, but the time corresponding to half of the sentence has not yet elapsed, the court may, at the request of the convicted person, replace the remaining prison time for half of the sentence, up to a maximum of 1 year, for providing work in favor of the community, in accordance with article 58, if this proves to be compatible with the defense of the legal order and social peace. Once the work is done, the offender is placed on probation.

4 - If the confinement measure must be terminated, but the offender has not been placed on parole under the terms of the previous paragraphs, this will be done once the time corresponding to two thirds of the sentence has been reached. At the request of the convicted person, the prison time remaining for two thirds of the sentence may be replaced, up to a maximum of 1 year, by providing work in favor of the community, in accordance with article 58.

5 - The provisions of paragraphs 1 and 4 of article 61 are correspondingly applicable.

6 - If the provision of work in favor of the community or conditional release is revoked, in accordance with paragraph 2 of article 59 or article 64, the court decides whether the offender must serve the rest of the sentence or continue hospitalization for the same period of time.

#### Section IV - Non-custodial security measures

##### Article 100 - Interdiction of activities

1 - Whoever is convicted of a crime committed with serious abuse of the profession, trade or industry he carries out, or with gross violation of the inherent duties, or is acquitted solely due to lack of imputability, is prohibited from carrying out the respective activity when, in view of the committed act and the personality of the agent, there is a well-founded fear that he may commit other acts

of the same type.

2 - The interdiction period is set between 1 and 5 years; but it may be extended for another period of up to 3 years if, at the end of the period set in the sentence, the court considers that it was not sufficient to remove the danger that justified the measure.

3 - The period of interdiction is counted from the moment the decision becomes final, without prejudice to the duration of any interdiction decreed, for the same fact, on a provisional basis.

4 - The period of interdiction is suspended for as long as the agent is deprived of liberty due to a measure of procedural coercion, penalty or security measure. If the suspension lasts 2 years or more, the court re-examines the situation that gave rise to the application of the measure, confirming or revoking it.

Article 101 - Revocation of the title or license and prohibition of granting the title to drive a vehicle with an engine or the title or license to pilot aircraft with or without an engine

1 - In the case of conviction for a crime committed while driving a vehicle with or related to an engine, or piloting an aircraft with or without an engine, or with a gross violation of the duties incumbent on a driver or pilot, or acquittal solely due to misconduct of imputability, the court decrees the revocation of the driving title or piloting title or license when, in view of the act committed and the person's personality:

- a) There is a well-founded fear that he may commit other acts of the same type; or
- b) Must be considered unfit to drive a vehicle with an engine or to pilot an aircraft with or without an engine.

2 - The practice, among others, of acts that include the crimes of:

a) Omission of assistance, under the terms of article 200, if it is foreseeable that it could result in serious harm to the life, body or health of any person;

b) Dangerous driving of a road vehicle or dangerous driving of a means of transport by air, in accordance with articles 291 and 289, respectively;

c) Driving a road vehicle or piloting an aircraft while drunk or under the influence of narcotics, psychotropic substances or products with a similar effect, in accordance with articles 292 and 292-a; or

d) Typical illicit act committed in a state of intoxication, in accordance with article 295, if the act committed is one of those referred to in the previous paragraphs.

3 - When decreeing the revocation of the title or license, the court determines that the agent cannot be granted a new title to drive vehicles with engines or a new title or license to pilot aircraft with or without engines, of any category, during the period duration of the revocation, with the provisions of paragraphs 3 to 8 of article 69 being correspondingly applicable.

4 - If the agent in respect of whom the assumptions in paragraphs 1 and 2 are met does not hold a driving title or a piloting title or license, the court is limited to decreeing the prohibition of granting a title or license, under the terms of the previous number, with the sentence being communicated to the IMT, I.P., or ANAC, as applicable, with the provisions of paragraph 8 of article 69 being correspondingly applicable.

5 - The provisions of paragraphs 2, 3 and 4 of article 100 are correspondingly applicable.

6 - If a prohibition on granting a title has already been issued against the agent in the five years prior to the commission of the act, the minimum period of prohibition is two years.

7 - When a driving license is revoked, obtaining a new license, whenever possible, always depends on a special examination.

Article 102 - Application of rules of conduct

1 - If the prerequisites for recidivism, provided for in article 75, are met, or if their absence is due solely to a lack of accountability, the court may require the agent to comply with the rules of conduct provided for in subparagraphs b) to f) of paragraph 2 of article 52, when they prove appropriate to prevent the practice of other illicit acts typical of the same type.

2 - The provisions of paragraphs 2 and 3 of article 51, paragraphs 2, 3 and 4 of article 100 and paragraphs 1 and 2 of article 103 are correspondingly applicable.

Article 103 - Extinction of measures

1 - If, after the minimum deadlines for the measures provided for in articles 100 and 102 have elapsed, it is found, at the request of the person interdicted, that the prerequisites for their application no longer exist, the court declares the measures that have been decreed to be extinguished.

2 - In case of rejection, a new application cannot be submitted before 1 year has passed.

Chapter VIII - Hospitalization of attributable sufferers of psychic anomalies

Article 104 - Previous psychic anomaly

1 - When the offender is not declared unaccountable and is sentenced to prison, but it is shown that, due to a psychological anomaly from which he was already suffering at the time of the crime, the regime of common establishments will be harmful to him, or that he will seriously disturb that regime, the court orders his confinement in an establishment intended for those without responsibility.

for the time corresponding to the duration of the sentence and on.

2 - The confinement provided for in the previous paragraph does not prevent the granting of conditional release under the terms of article 61, nor the placement of the offender in a common establishment, for the period of deprivation of liberty that remains to be served, as soon as the cause determining the offense ceases. internment.

#### Article 105 - Posterior psychic anomaly

1 - If a psychological anomaly, with the effects set out in paragraph 1 of article 91 or in article 104, occurs to the offender after the crime has been committed, the court orders confinement in an establishment intended for non-imputable individuals for the corresponding period of time. the duration of the sentence.

2 - For the hospitalization referred to in the previous paragraph, resulting from a mental anomaly with the effects set out in article 104, the regime set out in paragraph 2 of that article applies.

3 - The hospitalization referred to in paragraph 1, resulting from a mental anomaly with the effects set out in paragraph 1 of article 91, is deducted from the sentence. The provisions of paragraphs 2, 3, 4 and 5 of article 99 are correspondingly applicable.

#### Article 106 - Possible non-dangerous psychic anomaly

1 - If the psychic anomaly that occurs to the agent after committing the crime does not make him criminally dangerous, in terms that, if the agent were not responsible, would determine his effective internment, the execution of the prison sentence to which he was sentenced is suspended. until the state that gave rise to the suspension ceases.

2 - The provisions of paragraphs 3 and 4 of article 98 are correspondingly applicable.

3 - The duration of the suspension is deducted from the time of the sentence to be served, with the provisions of paragraphs 2, 3, 4 and 5 of article 99 being correspondingly applicable.

4 - The duration of the sentence to which the offender was sentenced may under no circumstances be exceeded.

#### Article 107 - Review of the situation

The provisions of paragraphs 1 and 2 of article 93 are correspondingly applicable to the measures provided for in articles 104, 105 and 106.

#### Article 108 - Simulation of psychic anomaly

Changes to the normal regime for executing the sentence, based on the provisions of the previous precepts of this chapter, expire as soon as it is shown that the agent's mental anomaly was simulated.

### Chapter IX - Loss of instruments, products and advantages

#### Article 109 - Loss of instruments

1 - Typical illicit acts are declared lost in favor of the state when, due to their nature or the circumstances of the case, they endanger the safety of people, morals or public order, or pose a serious risk of being used for the commission of new typical illicit acts, considering as instruments of typical illicit act all objects that have served or were intended to serve for its commission.

2 - The provisions of the previous paragraph apply even if no specific person can be punished for the act, including in the case of the death of the agent or when the agent has been declared habitual.

3 - If the instruments referred to in paragraph 1 cannot be appropriated in kind, the loss may be replaced by payment to the state of the respective value, and this replacement may operate at any time, even in the executive phase, with the limits set out in article 112-A.

4 - If the law does not determine a special destination for instruments lost under the terms of the previous paragraphs, the judge may order that they be totally or partially destroyed or put out of business.

#### Article 110 - Loss of products and benefits

1 - The following are declared lost in favor of the state:

a) Typical illicit products, considering as such all objects that have been produced by their practice; It is

b) The advantages of a typical illicit fact, considering as such all things, rights or advantages that constitute an economic advantage, directly or indirectly resulting therefrom and fact, for the agent or for someone else.

2 - The provisions of paragraph b) of the previous paragraph cover the reward given or promised to agents of a typical illicit act, already committed or to be committed, for themselves or for others.

3 - The loss of the products and advantages referred to in the previous paragraphs takes place even if they have been subject to eventual transformation or subsequent reinvestment, also covering any quantifiable gains that have resulted therefrom.

4 - If the products or advantages referred to in the previous paragraphs cannot be appropriated in kind, the loss is replaced by payment to the state of the respective value, and this replacement may operate at any time, even in the executive phase, with the limits set out in the article 112.<sup>o</sup>-A.

5 - The provisions of the previous paragraphs apply even if no specific person can be punished for the act, including in the case of the death of the agent or when the agent has been declared habitual.

6 - The provisions of this article do not prejudice the rights of the offended party.



Article 111 - Instruments, products or advantages belonging to third parties

1 - Without prejudice to the provisions of the following paragraphs, the loss does not take place if the instruments, products or advantages do not belong, on the date of the event, to any of the agents or beneficiaries, or did not belong to them at the time the loss was declared.

2 - Even if the instruments, products or advantages belong to a third party, loss is declared when:

- a) Its holder has contributed, in an objectionable manner, to its use or production, or has derived benefits from it;
- b) The instruments, products or advantages are, for whatever reason, acquired after the commission of the act, with the acquirer knowing or having to know their origin; or
- c) The instruments, products or advantages, or the value corresponding to them, have, for any reason, been transferred to the third party to avoid the loss decreed under the terms of articles 109 and 110, and such purpose is or must be known to him.

3 - If the products or advantages referred to in the previous paragraph cannot be appropriated in kind, the loss is replaced by payment to the state of the respective value, and this replacement may operate at any time, even in the executive phase, with the limits set out in the article 112.<sup>o</sup>-A.

4 - If the instruments, products or advantages consist of inscriptions, representations or records drawn up on paper, on another support or means of audiovisual expression, belonging to a third party in good faith, they will not be lost, with refunds being made after they have been erased. inscriptions, representations or records that integrate the typical illicit act. If this is not possible, the court orders the destruction, resulting in compensation under civil law.

Article 112 - Deferred payment or installments and mitigation

1 - When the application of the provisions of articles 109, 110 or 111 results, in concrete terms, in the payment of a monetary sum, the provisions of paragraphs 3 and 4 of the article are correspondingly applicable. 47th

2 - if, taking into account the socio-economic situation of the person in question, the application of paragraph 3 of article 109, paragraph 4 of article 110 or paragraph 3 of the previous article proves unfair or excessive severe, the court may equitably mitigate the value referred to in those precepts.

Article 112.<sup>o</sup>-a - Payment of declared value lost in favor of the state

1 - when, under paragraph 3 of article 109, paragraph 4 of article 110 or paragraph 3 of article 111, or even special legislation, the replacement of the loss in kind due to the payment to the state of the corresponding amount, the limitation periods provided for the penalty or security measure specifically applyapplied.

2 - in cases where no penalty or security measure has been applied, the limitation periods provided for in criminal proceedings shall apply.