

CRIMINAL CODE

Law no. 59/2007 of 4 September

(Twenty third amendment to the Criminal Code, approved by Decree-Law no. 400/82 of 23 September)

BOOK I

General Part

TITLE I

Criminal Law

SINGLE CHAPTER

General Principles

Article 1

Principle of legality

- 1 – An act may only be criminally punished if it had been made punishable by a law prior to the act's commission.
- 2 – A security measure may only be applicable to states of dangerousness which requirements are established in a law prior to its fulfilment.
- 3 – It is not possible to resort to analogy to qualify an act as criminal, to define a state of dangerousness or to determine their corresponding punishment or security measure.

Article 2

Temporal applicability

- 1 – Punishments and security measures are determined by the law in force at the time of the commission of the act or of the fulfilment of the requirements which they depend upon.
- 2 – The act punishable by the law in force at the time of its commission ceases to be punishable if a new law eliminates it from the number of infringements; in such case, if there has been a conviction, even if it has become final, its execution and criminal effects are extinguished.
- 3 – If a law is intended to be applicable for a specific period of time, an act committed during such period of time continues to be punishable.
- 4 – When the criminal provisions in force at the time of the commission of the punishable act are different from those established in subsequent laws, the regime which

is actually the most favourable to the agent is always applicable; if there has been a conviction, even if it has become final, its execution and criminal effects are extinguished as soon as the portion of the punishment which is already served reaches the maximum limit of the punishment foreseen in the subsequent law.

Article 3

Time of the commission of the act

An act is deemed to have been committed at the time the agent acted or, in the case of an omission, should have acted, regardless of the time when the typical result has occurred.

Article 4

Territorial applicability - General principle

Unless provided otherwise in an international treaty or convention, the Portuguese criminal law is applicable to acts committed:

- a) In Portuguese territory, regardless of the nationality of the agent; or
- b) On board of Portuguese ships or aircrafts.

Article 5

Acts committed outside the Portuguese territory

1 - Unless provided otherwise in an international treaty or convention, the Portuguese criminal law is also applicable to acts committed outside the national territory:

- a) When constituting the crimes foreseen in articles 221, 262 to 271, 308 to 321 and 325 to 345;
- b) Against portuguese, by portuguese customarily residents in Portugal at the time of their commission and found therein;
- c) When constituting the crimes foreseen in articles 159 to 161, 171, 172, 175, 176 and 278 to 280, provided that the agent is found in Portugal and cannot be extradited or handed over as a result of the execution of an European arrest warrant or other instrument of international cooperation which bounds the Portuguese State;
- d) When constituting the crimes foreseen in articles 144, 163 and 164, when the victim is a minor, provided that the agent is found in Portugal and cannot be extradited or handed over as a result of the execution of an European arrest warrant or other instrument of international cooperation which bounds the Portuguese State;

- e) By portuguese, or by foreigners against portuguese, whenever:
 - i) The agents are found in Portugal;
 - ii) Such acts are also punishable by the law of the place where they have been committed, unless the place of the act is not subject to any punitive power; and
 - iii) Such acts constitute a crime permitting extradition and such extradition cannot be granted or it is decided not to hand over the agent in execution of an European arrest warrant or other instrument of international cooperation which bounds the Portuguese State;
- f) By foreigners found in Portugal and whose extradition has been requested, when constituting crimes permitting extradition and such extradition cannot be granted or it is decided not to hand over the agent in execution of an European arrest warrant or other instrument of international cooperation which bounds the Portuguese State;
- g) By a legal person or against a legal person having its registered office in the Portuguese territory.

2 – The Portuguese criminal law is also applicable to acts committed outside the national territory to which the Portuguese State has, by international treaty or convention, bound itself to decide.

Article 6

Restrictions to the applicability of Portuguese law

1 – The applicability of Portuguese law to acts committed outside the national territory only takes place when the agent has not been tried in the country where the act has been committed or if he has evaded from the full or partial serving of the conviction.

2 – Although the Portuguese Law is applicable under the previous number, the act is tried according to the law of the country where the act has been committed whenever such law is actually more favourable to the agent. The applicable sentence is converted to its corresponding sentence in the Portuguese system, or, in the case of no direct correspondence, to the sentence which the Portuguese law foresees for the act.

3 – The regime set out in the previous number is not applicable to the crimes foreseen in paragraphs a) and b) of no. 1 of the previous article.

Article 7

Place of the commission of the act

1 – The act is deemed to be committed in the place where the agent has, totally or partially and under any form of participation, acted or, in the case of omission, should have acted as well as in the place where the typical result or the result not comprised in the type of crime has occurred.

2 – In case of an attempt, the act is also deemed to be committed in the place where, according to the agent's representation, the result should have occurred.

Article 8

Subsidiary applicability of the Criminal Code

The provisions of this code are applicable to acts punished by the military criminal law and by the mercantile marine law and by the remainder special legislation, unless a provision states otherwise.

Article 9

Special provisions for juveniles

Rules established in special legislation are applicable to juveniles over 16 years of age and less than 21 years of age.

TITLE II

Act

CHAPTER I

Requirements of punishment

Article 10

Commission by action and by omission

1 – When a legal type of a crime includes a certain result, the act comprises not only the proper action to produce it as well as the omission of the proper action to avoid it, unless the intention of the law requires otherwise.

2 – The commission of a result by omission is only punishable when the person omitting the action is under a legal duty which personally obliges him to avoid such result.

3 – In the case foreseen in the previous paragraph, the sentence can be specially mitigated.

Article 11

Responsibility of private individuals and legal persons

1 – Except for the following number and in those cases specially foreseen in the law, only private individuals are capable of criminal responsibility.

2 – Legal persons and equivalent entities, with the exception of the State, of other public legal persons and of international organisations of public law, are responsible for the crimes foreseen in articles 152-A and 152-B, in articles 159 and 160, in articles 163 to 166, when the victim is a minor, and in articles 168, 169, 171 to 176, 217 to 222, 240, 256, 258, 262 to 283, 285, 299, 335, 348, 353, 363, 367, 368-A and 372 to 374, when committed:

- a) In its name and in the collective interest by persons who hold in it a leadership position;
- b) By whoever acts under the authority of the persons referred to in the previous paragraph by virtue of a breach of the surveillance or control duties which are incumbent upon them.

3 – For the purposes of criminal law the expression public legal persons comprises:

- a) Legal persons governed by public law, in which the public corporations are included;
- b) Concessionaires of public services, regardless of their ownership;
- c) Further legal persons which perform public power prerogatives.

4 – The bodies and representatives of the legal person and whoever has the authority in it to exercise the control of its activity are deemed to hold a leadership position.

5 – Civil companies and de facto associations are considered, for criminal responsibility purposes, entities equivalent to legal persons.

6 – The responsibility of legal persons and equivalent entities is excluded when the agent acted against express orders or instructions from whom it concerned.

7 - The responsibility of legal persons and equivalent entities does not exclude the individual responsibility of the respective agents nor is dependent on them being responsible.

8 – The criminal responsibility of a legal person or of an equivalent entity is not extinguished by a demerger or by a merger, responding for the commission of the crime:

- a) The legal person or equivalent entity in which the merger has been executed; and
- b) The legal persons or equivalent entities which have arisen from the demerger.

9 – Without prejudice to the right of recourse, the persons holding a leadership position are subsidiary responsible for the payment of fines and compensations for which the legal person or equivalent entity is convicted of, in respect of crimes:

- a) Committed in the period in which such persons held the position, without their express opposition;
 - b) Committed in a prior moment, when it is of such persons' guilt that the property of the legal person or equivalent entity became insufficient for the respective payment;
- or
- c) Committed in a prior moment, when the final decision to apply them has been notified during the period in which such persons held the position and the lack of payment is imputable to them.

10 – In the case of several persons being responsible under the previous number, their liability is joint and several.

11 – If the fines or compensations are applied to an entity without legal personality, they shall be heard by the joint property and, in its absence or insufficiency, jointly and severally, by the property of each of the associates.

Article 12

Acting on behalf of another

1 – Whoever acts voluntarily as holder of a body of a legal person, company or mere de facto association, or in legal or voluntary representation of another, is punishable, even when the respective type of crime requires:

- a) Certain personal elements and these are only verified in the represented person;
- or
- b) That the agent commits the act in its own interest and the representative acts in the interest of the represented person.

2 – The ineffectiveness of the act which establishes the grounds of the representation does not prevent the applicability of the previous number.

Article 13

Wilful conduct and negligence

Only an act committed with wilful conduct is punishable or, in the cases specially foreseen in the law, with negligence.

Article 14

Wilful conduct

1 – Whoever, representing an act which fulfils a type of crime, carries it on with the intention of accomplishing it, acts with wilful conduct.

2 – Whoever, representing the accomplishment of an act which fulfils a type of crime as a necessary consequence of his conduct, also acts with wilful conduct.

3 – When the accomplishment of an act which fulfils a type of crime is represented as a possible consequence of the conduct, the wilful conduct exists if the agent acts accepting such accomplishment.

Article 15

Negligence

1 – Whoever, failing to exercise a duty of care to which, under the circumstances, is obliged to and is capable of:

- a) Represents as possible the accomplishment of an act which fulfils a type of crime but acts without accepting such accomplishment; or
- b) Does not even represent the possibility of accomplishment of the act;

Article 16

Mistake about circumstances of the act

1 – The mistake about matters of fact or of law of a type of crime or about prohibitions which knowledge is reasonably required in order for the agent to become aware of the unlawfulness of the act, excludes the wilful conduct.

2 – The previous number includes the mistake about a state of things which, if existing, would exclude the unlawfulness of the act or the agent's guilt.

3 – Punishment by negligence in the general terms remains unaffected.

Article 17

Mistake about unlawfulness

1 – Whoever acts without being aware of the unlawfulness of the act, acts without guilt, provided that his mistake is not censurable.

2 - If his mistake is censurable, the agent is punished with the sentence applicable to the respective crime committed with wilful conduct, which can be specially mitigated.

Article 18

Aggravation of sentence due to result

When the sentence applicable to an act is heavier by virtue of the production of a result, the aggravation is always subject to the possibility to impute such result to the agent, at least, by negligence.

Article 19

Lack of capacity to be criminally liable due to age

Minors under sixteen years of age lack of capacity to be criminally liable.

Article 20

Lack of capacity to be criminally liable due to mental disorder

1 – Whoever, by virtue of a mental disorder, is incapable, at the time of commission of the act, of assessing the unlawfulness of the act or of acting according to such assessment, lacks of capacity to be criminally liable.

2 – Whoever, by virtue of a serious mental disorder, not accidental and whose effects cannot be controlled by him, without being thereby censurable, has, at the time of commission of the act, the capacity to assess the unlawfulness of the act or to act according to such sensibly reduced assessment, may be declared without capacity to be criminally liable.

3 – The agent's proved incapacity of being influenced by the sentences may constitute a sign of the situation foreseen in the previous number.

4 – The capacity to be criminally liable is not excluded when the mental disorder has been caused by the agent with the intention to commit the act.

CHAPTER II

Forms of crime

Article 21

Preparatory acts

Preparatory acts are not punishable, unless a provision states otherwise.

Article 22

Attempt

1 – An attempt exists when the agent performs acts for the execution of a crime that he has decided to commit, without occurring completion of such crime.

2 – Execution acts are:

- a) Those acts which fulfil a constitutive element of a type of crime;
- b) Those acts suitable to produce a typical result; or
- c) Those acts that, according to the common experience and with the exception of unforeseeable circumstances, are of a kind which is expected to be followed by acts of the types referred to in the previous paragraphs.

Article 23

Punishment for an attempt

1 - Unless a provision states otherwise, an attempt is punishable only if to the respective completed crime corresponds a sentence higher than three years of imprisonment.

2 – An attempt is punishable with the sentence applicable to the completed crime, specially mitigated.

3 – An attempt is not punishable when it is clear that the mean used by the agent is improper or the object essential for the completion of the crime does not exist.

Article 24

Abandonment

1 – An attempt ceases to be punishable when the agent voluntarily abandons the further execution of the crime, or prevents its completion, or, notwithstanding its completion, prevents the verification of the result not comprised in the type of crime.

2 – When the completion or the verification of the result are prevented by an act independent from the conduct of the abandoning party, the attempt is not punishable if such party makes earnest efforts to prevent one or another.

Article 25

Abandonment in case of participation

If several agents participate in the act, the attempt of the agent that voluntarily prevents the completion or the verification of the result is not punishable nor of the agent that makes earnest efforts to prevent one or another, even if the other participants proceed with the execution of the crime or complete the crime.

Article 26

Perpetration

Whoever commits the act, by himself or through another, or takes direct part in its execution, in agreement or together with other persons as well as whoever intentionally induces another to commit an act is punishable as perpetrator, provided that there is execution or commencement of execution.

Article 27

Accessoryship

1 – Whoever, intentionally and by any form, renders material or moral assistance to the commission by another of an act with wilful conduct, is punishable as an accessory.

2 – The sentence determined to the perpetrator is applicable to the accessory, specially mitigated.

Article 28

Unlawfulness in the participation

1 – If the unlawfulness or the level of unlawfulness of the act depend upon certain qualities or special relationships of the agent, in order for the respective sentence to become applicable to all participants, it is sufficient that such qualities or relationships are verified in any of them, except if the intention of the incriminated rule is different.

2 – Whenever, by virtue of the rule foreseen in the previous number, results the applicability of a more severe sentence for any of the participants, this may, taking into account the circumstances of the case, be replaced by the sentence which would have been applicable if such rule did not intervene.

Article 29

Guilt in the participation

Each participant is punished according to his guilt, regardless of the punishment or of the level of guilt of the other participants.

Article 30

Concurrence of crimes and continuous crime

1 – The number of crimes is determined by the number of types of crimes effectively committed or by the number of times that the same type of crime is fulfilled by the agent's conduct.

2 – The multiple accomplishment of the same type of crime or of several types of crime, which basically safeguard the same legal asset, constitutes only one continuous crime, when executed in an essentially homogeneous manner and under the solicitation of a same external situation which considerably reduces the guilt of the agent.

3 – The previous paragraph does not comprise the crimes committed against eminent personal assets, unless if concerning the same victim.

CHAPTER III

Unlawfulness and guilt absolving excuses

Article 31

Unlawfulness absolving excuse

1 – An act is not punishable when its unlawfulness is excused by the legal system considered as a whole.

2 – Namely, the act is not unlawful when committed:

- a) In Self-defence;
- b) In the exercise of a right;
- c) In the compliance of a duty imposed by law or by a legitimate order of the authority; or
- d) With the consent of the holder of the injured legal interest.

Article 32

Self-defence

An act committed as a necessary mean to repel a current and unlawful aggression on legally protected interests of the agent or of a third party constitutes self-defence.

Article 33

Excessive self-defence

1 – If there is an excess in the means employed in the self-defence, the act is unlawful but the sentence may be specially mitigated.

2 – The agent is not punished if the excess is due to non-censurable disturbance, fear or fright.

Article 34

Necessity right

An act committed as an adequate mean to avert a current danger which threatens legally protected interests of the agent or of a third party is not unlawful, upon occurrence of the following requirements:

- a) The danger situation has not been voluntarily caused by the agent, unless in the case of protection of a third party's interest;
- b) The protected interest substantially outweighs the one interfered with; and
- c) It is reasonable to impose to the injured person the sacrifice of his interest, considering the type or the value of the threatened interest.

Article 35

Excused necessity state

1 – Whoever, faced with a current danger to life, bodily integrity, honour or to his or a third party's liberty, commits an unlawful act which is adequate to avert such danger, which cannot otherwise be averted, acts without guilt, when it is not reasonable to require from the agent, under such circumstances, a different behaviour.

2 – If the danger threatens legal interests different from those referred to in the previous number and if the remaining requirements described therein are verified, the sentence may be specially mitigated or, exceptionally, the agent discharged without punishment.

Article 36

Conflict of interests

1 – The act committed by a person who, in the event of a conflict in complying with legal duties or legitimate orders of an authority, fulfils a duty or an order of equivalent or higher value than the duty or order sacrificed, is not unlawful.

2 – The duty of hierarchical obedience ceases when leading to the commission of a crime.

Article 37

Excused undue obedience

The officer who complies with an order without knowing that such order leads to the commissioning of a crime acts without guilt, if it was not evident within the circumstances frame represented by him.

Article 38

Consent

1 - Besides the situations specially foreseen in the law, the consent excludes the unlawfulness of the act when referring to freely disposal legal interests and if the act does not offend the morality.

2 – The consent may be expressed by any mean which reveals a serious, free and clear will of the holder of the legally protected interest and may be freely revoked until the execution of the act.

3 – The consent is only effective if given by someone over 16 years of age and with the necessary judgment to assess its meaning and extension at the time in which the consent is given.

4 – If the consent is not known by the agent, the latest is punished with the sentence applicable to an attempt.

Article 39

Presumed consent

1 – Presumed consent is equivalent to effective consent.

2 – There is presumed consent when the situation in which the agent acts reasonably allows supposing that the holder of the legally protected interest would have effectively consented in the act, if he knew the circumstances in which the act is committed.

TITLE III

Legal consequences of the act

CHAPTER I

Preliminary provision

Article 40

Purposes of sentences and of security measures

1 – The applicability of sentences and of security measures aims the protection of legal assets and the agent’s reintegration into society.

2 - In no event the sentence may exceed the extent of guilt.

2 – The security measure may only be applicable if it is proportional to the seriousness of the act and to the dangerousness of the agent.

CHAPTER II

Sentences

SECTION I

Imprisonment and fine

Article 41

Length and counting of imprisonment terms

1 – The sentence of imprisonment has, as a rule, a minimum length of a month and a maximum length of twenty years.

2 – The maximum limit of the sentence of imprisonment is of twenty five years in the cases foreseen in the law.

3 – In no event the maximum limit established in the previous number may be exceeded.

4 – The counting of the imprisonment terms is made pursuant to the criteria set out in the criminal procedure law and, in its absence, in the civil law.

Article 42

Execution of the sentence of imprisonment

1 – The execution of the sentence of imprisonment, serving the society’s defence and preventing the commission of crimes, must be guided to the social reintegration of the convict, preparing him to lead his life in a socially responsible way, without committing crimes.

2 – The execution of the sentence of imprisonment is governed by own legislation, in which are established the rights and duties of convicts.

Article 43

Replacement of the sentence of imprisonment

1 – The sentence of imprisonment applied for not more than one year is replaced by a fine penalty or by other applicable non-custodial sentence, unless the execution of the imprisonment is required by the need to prevent the commission of future crimes. Article 47 is correspondently applicable.

2 – If the fine is not paid, the convict serves the sentence of imprisonment applied in the judgment. Number 3 of article 49 is correspondently applicable.

3 – The sentence of imprisonment applied for not more than three years is replaced by a prohibition sentence, for a period from two to five years, of the exercise of the profession, duty or activity, public or private, when the crime has been committed by the defendant in the respective exercise, whenever the court concludes that, by this mean, the punishment purposes are accomplished in an adequate and sufficient manner.

4 – In the case foreseen in the previous number, numbers 3 to 5 of article 66 and article 68 are applicable, with the necessary adjustments.

5 – The court revokes the prohibition sentence of the exercise of the profession, duty or activity and orders the serving of the sentence of imprisonment determined in the judgment if the agent, upon conviction:

- a) Breaches the prohibition;
- b) Commits a crime, for which turns out to be convicted and reveals that the purposes of the prohibition sentence of the exercise of the profession, duty or activity could not, by means of such sentence, be accomplished.

6 – Article 57 is correspondently applicable.

7 – If, in the cases of no. 5, the convict has to serve a sentence of imprisonment, but has already served prohibition of the exercise of the profession, duty or activity, the court deducts from the time of imprisonment to be served the time of prohibition already served.

8 – For the purposes of the previous article, each prison day is equivalent to the number of days of prohibition of the exercise of the profession, duty or activity, which proportionally corresponds to it pursuant to the judgment, being, whenever necessary, rounded down the number of days to be served.

Article 44

House arrest regime

1 – If the convict consents, the following sentences may be executed in house arrest regime, monitored by remote technical means, whenever the court concludes that this type of serving accomplishes in an adequate and sufficient manner the punishment purposes:

- a) The sentence of imprisonment for not more than one year;
- b) The remaining not higher than one year of the effective sentence of imprisonment which exceeds the time of deprivation of liberty to which the defendant has been subject to in detention regime, provisional custody or house arrest.

2 – The maximum limit foreseen in the previous number may be raised to two years upon verification, at the date of conviction, of personal or familiar circumstances of the convict which dissuade the deprivation of liberty in a penitentiary institution, namely:

- a) Pregnancy;
- b) Age less than 21 years or over 65 years;
- c) Serious disease or deficiency;
- d) Existence of a minor in his charge;
- e) Existence of a relative exclusively at his care.

3 – The court revokes the house arrest regime if the convict:

- a) Infringes, in a gross and continuous manner, the duties resulting from the sentence; or
- b) Commits a crime for which turns out to be convicted and reveals that the house arrest regime purposes could not, by such mean, be accomplished.

4 – The revocation implies the serving of the sentence of imprisonment determined in the judgment, being deducted in full the sentence already served in house arrest regime.

Article 45

Imprisonment by free days

1 – The sentence of imprisonment applied for not more than one year, which shall not be replaced by other type of sentence, is served in free days whenever the court concludes that, in the case, this type of serving accomplishes in an adequate and sufficient manner the punishment purposes.

2 – The imprisonment by free days consists of a deprivation of liberty for periods corresponding to weekends, which cannot exceed 72 periods.

3 – Each period has a minimum length of thirty six hours and a maximum length of forty-eight hours, which is equivalent to five days of continuous imprisonment.

4 – The public holidays prior to or immediate following a weekend may be used for execution of the imprisonment by free days, without prejudice to the maximum length set out for each period.

Article 46

Semi-detention regime

1 - The sentence of imprisonment applied for not more than one year, which shall not be replaced by another type of sentence or served in free days, may, with the convict's consent, be executed in semi-detention regime.

2 – The semi-detention regime consists of a deprivation of liberty which allows the convict to pursue his normal professional activity, his vocational training or studies, by virtue of way outs strictly limited to the compliance of his obligations.

Article 47

Fine penalty

1 – The fine penalty is established in days, pursuant to the criteria set out in no. 1 of article 71, having, as a rule, a minimum limit of 10 days and a maximum limit of 360.

2 – Each day of fine corresponds to an amount ranging from €5 to €500, which the court establishes in view of the convict's economic and financial situation and his personal charges.

3 – Whenever the economic and financial situation of the convict so justifies, the court may authorise the payment of the fine within a term not exceeding one year, or authorise the payment in instalments, which last instalment may not exceed two subsequent years from the date in which the conviction has become final.

4 – Within the limits referred to in the previous number and when subsequent reasons so justifies, the payment terms initially established may be amended.

5 – The lack of payment of one of the instalments implies the maturity of all of them.

Article 48

Replacement of fine by work

1 – Upon convict's request, the court may order that the fine penalty determined is, totally or partially, replaced by days of work in establishments, workshops or works of the State or of other legal persons governed by public law or also of private institutions

of social solidarity, when it concludes that such way of serving, accomplishes in an adequate and sufficient manner the punishment purposes.

2 – Numbers 3 and 4 of article 58 and number 1 of article 59 are correspondently applicable.

Article 49

Conversion of unpaid fine in subsidiary imprisonment

1 – If the fine, which has not been replaced by work, is not voluntarily or compulsorily paid, imprisonment is served as subsidiary penalty for the correspondent time reduced of two thirds, even if the crime was not punishable with imprisonment and for such purposes, the minimum limit of imprisonment days set out in no. 1 of article 41 is not applicable.

2 – The convict may, at all times, prevent, totally or partially, the execution of the imprisonment as subsidiary penalty, by paying, in whole or in part, the fine to which he was convicted for.

3 – If the convict proves that the reason for the non payment of the fine is not imputable to him, the execution of the imprisonment as subsidiary penalty may be suspended for a period from one to three years, provided that the suspension is subject to the compliance of duties or rules of conduct of non economic or financial contents. If the duties or rules of conduct are not complied with, the imprisonment as subsidiary penalty is executed; if they are complied with the sentence is extinguished.

4 – Numbers 1 and 2 are correspondently applicable to the case where the convict does not serve, with guilt, the number of days of work to which, upon his request, the fine was replaced by. If the default is not imputable to him, the previous number is correspondently applicable.

Section II

Suspension of the execution of the sentence of imprisonment

Article 50

Requirements and duration

1 – The court suspends the execution of the sentence of imprisonment applied for not more than 5 years if, considering the agent's personality, his life conditions, his previous and subsequent conduct to the crime and the crime circumstances, concludes

that the mere censure of the act and the threat of the imprisonment accomplish in an adequate and sufficient manner the punishment purposes.

2 – If the court deems convenient and adequate for the accomplishment of the punishment purposes, it subjects the suspension of the execution of the sentence of imprisonment, in the terms of the following articles, to the compliance of duties or to the observance of rules of conduct or determines that the suspension is accompanied by probation.

3 – The duties and the rules of conduct may be imposed together.

4 – The convictional sentence always specifies the grounds for suspension and its conditions.

5 – The suspension period has the same length as the sentence of imprisonment determined in the judgment but never less than one year, from the time in which the decision has become final.

Article 51

Duties

1 - The suspension of the execution of the sentence of imprisonment may be subject to the compliance of duties imposed to the convict and aimed to repair the harm of the crime, namely:

a) To pay, within a certain term, in whole or in the part that the court deems to be possible, the compensation due to the injured party or guarantee its payments by means of a suitable surety;

b) To give the injured party an adequate moral satisfaction;

c) To deliver to institutions, whether public or private, of social solidarity or to the State, a cash contribution or other contribution of equivalent value.

2 – The imposed duties may not, under any circumstance, represent to the convict obligations which performance is not reasonable to be requested.

3 – The imposed duties may be amended until the term of the suspension period upon the occurrence of subsequent relevant circumstances or which the court has subsequently become aware of them.

4 – The court may determine that the social reintegration services support and supervise the convict in the compliance of the duties imposed.

Article 52

Rules of conduct

1 – The court may subject the convict to the compliance, for the time of the suspension, of rules of conduct of positive contents, capable of supervision and aimed to promote his reintegration into society, namely:

- a) To reside in a certain place;
- b) To attend certain programs or activities;
- c) To comply with certain obligations.

2 – The court may, additionally, subject the convict to the compliance of other rules of conduct, namely:

- a) Not to perform certain professions;
- b) Not to attend certain environments or places;
- c) Not to reside in certain places or regions;
- d) Not to accompany, accommodate or receive certain persons;
- e) Not to attend certain associations or participate in certain meetings;
- f) Not to have in his possession objects capable of facilitating the commission of crimes.

3 – The court may also, with the prior consent of the convict, determine his submission to medical treatment or to a cure in an adequate institution.

4 – Numbers 2, 3 and 4 of the previous article are correspondently applicable.

Article 53

Suspension with probation

1 – The court may determine that the suspension is accompanied by probation, if deemed convenient and adequate to promote the reintegration of the convict into society.

2 – The probation is based on a social reintegration plan, executed with supervision and support, during the time of the suspension, from the social reintegration services.

3 – Probation is ordered whenever the convict has not yet completed, at the time of the crime, 21 years of age or when the sentence of imprisonment which execution was suspended has been applied for not more than three years.

Article 54

Social reintegration plan

1 – The social reintegration plan includes the re-socialization aims to be achieved by the convict, the activities which he shall develop, the respective stages and the support and supervision measures to be adopted by the reintegration services.

2 – The social reintegration plan is communicated to the convict, being his prior consent attained, whenever possible.

3 – The court may impose the duties and rules of conduct referred to in articles 51 and 52 and also further obligations which are of interest to the re-adaptation plan and to the improvement of the social responsibility feeling of the convict, namely:

- a) To respond to convene notices from the magistrate in charge of the execution and from the social reintegration technician;
- b) To receive visits by the social reintegration technician and inform him or make available to him information and documents which confirm his means of support;
- c) To inform the social reintegration technician as to changes of address and job as well as to any travelling for a period higher than eight days and of the foreseeable date of return;
- d) To attain prior authorisation from the magistrate in charge of the execution for journeys abroad.

Article 55

Lack of compliance of the suspension conditions

If the convict, during the suspension period, ceases with guilt from complying with any of the duties or rules of conduct to which he was subject to or does not correspond to the social reintegration plan, the court may:

- a) Give a solemn warning;
- b) Require guarantees for the compliance of the obligations which subject the suspension;
- c) Impose new duties or rules of conduct or introduce additional demands in the reintegration plan;
- d) Extend the suspension period until half of the term initially established, but not for a period less than one year or exceeding the maximum term of suspension foreseen in no. 5 of article 50.

Article 56

Revocation of the suspension

1 – The suspension of the execution of the sentence of imprisonment is revoked whenever, during its course, the convict:

- a) Infringes, in a gross and continuous way, the duties or rules of conduct imposed or the social reintegration plan; or
- b) Commits a crime for which turns out to be convicted and reveals that the purposes in which the suspension was based on could not, by means of such suspension, be accomplished.

2 – The revocation determines the serving of the sentence of imprisonment determined in the judgment, without the convict having the possibility to demand the return of the contributions made.

Article 57

Extinction of the sentence

1 – The sentence is declared extinguished if, after the course of the suspension period, there are no reasons that lead to its revocation.

2 – If, upon termination of the suspension period, a proceeding for a crime which may determine its revocation or an incident for the lack of compliance with the duties, rules of conduct or the reintegration social plan are outstanding, the sentence shall only be declared extinguished upon termination of the proceeding or incident and if there is no place for the revocation or to the extension of the suspension period.

Section III

Rendering of work in favour of community and admonition

Article 58

Rendering of work in favour of community

1 – If a sentence of imprisonment for not more than two years should be applicable to the agent, the court replaces it for rendering of work in favour of community whenever the court concludes that by this mean the punishment purposes are accomplished in an adequate and sufficient manner.

2 - Rendering of work in favour of community consists of the render of free services to the State, to other legal persons governed by public law or to private entities which purposes the court deems of interest for the community.

3 – For the purposes of no. 1, each imprisonment day established in the judgment is replaced by one hour of work, in a maximum of 480 hours.

4 – The work in favour of community may be rendered on Saturdays, Sundays and public holidays as well as in the business days, but in such cases the periods of work cannot impair the normal working hours nor exceed, per day, the number of hours permitted under the regime of extraordinary hours applicable.

5 – The sentence of rendering of work in favour of community may only be applicable with the convict's acceptance.

6 – The court may also apply to the convict the rules of conduct set out in nos. 1 to 3 of article 52, whenever deemed adequate to promote the respective reintegration into society.

Article 59

Temporary suspension, revocation, extinction and replacement

1 - Rendering of work in favour of community may be temporarily suspended by virtue of a serious medical reason, familiar, professional, social or another but the time for the execution of the sentence may not exceed 30 months.

2 – The court revokes the sentence of rendering of work in favour of community and orders the serving of the sentence of imprisonment determined in the judgment if the agent, after the conviction:

- a) Intentionally puts himself in conditions which prevent him from working;
- b) Refuses, without a fair ground, to render work, or infringes in a gross manner the duties resulting from the sentence to which he was convicted for; or
- c) Commits a crime for which turns out to be convicted and reveals that the purposes of the sentence of rendering of work in favour of community could not, by such mean, be accomplished.

3 – Article 57 is correspondently applicable.

4 – If, in the cases foreseen in no. 2, the convict has to serve a sentence of imprisonment but has already rendered work in favour of community, the court deducts from the time of imprisonment to be served the days of work already rendered, in accordance with no. 3 of the previous article.

5 – Should the rendering of work in favour of community be deemed as satisfactory, the court may declare the sentence not lower than 72 hours extinguished, once two thirds of the sentence are served.

6 – If the agent is not able to render the work to which he was convicted by a cause which is not imputable to him, the court, depending on which is more adequate to the accomplishment of the punishment purposes:

- a) Replaces the sentence of imprisonment determined in the judgment by a fine for not more than 240 days, being no. 2 of article 43 correspondently applicable; or
- b) Suspends the execution of the sentence of imprisonment determined in the judgment, for a period which he establishes between one to three years, subjecting it, pursuant to articles 51 and 52, to the compliance of adequate duties or rules of conduct.

Article 60

Admonition

1 – If a fine penalty for not more than 240 days should be applicable to the agent, the court may restrict to issue an admonition.

2 – The admonition only takes place if the damage has been repaired and the court concludes that, by such mean, the punishment purposes are accomplished in an adequate and sufficient manner.

3 – As a rule, the admonition is not applicable if the agent, in the three years prior to the act, has been convicted in any sentence, including admonition.

4 – The admonition consists of a verbal solemn censure made to the agent, in a hearing, by the court.

Section IV

Parole

Article 61

Requirements and length

1 – The applicability of parole is always subject to the convict's consent.

2 – The court releases the convict to imprisonment on parole when half of the sentence has already been served and in a minimum of six months if:

- a) There are grounds to expect, under the circumstances of the case, the previous life of the agent, his personality and its evolution during the execution of the sentence of imprisonment, that the convict, once in liberty, will lead his life in a socially responsible manner, without committing crimes; and
- b) The release reveals to be compatible with the order and social peace defence.

3 - The court releases the convict to imprisonment on parole when two thirds of the sentence are already served and in a minimum of six months, provided that the requirement referred to in paragraph a) of the previous number reveals to have been fulfilled.

4 – Without prejudice to the previous numbers, the convict to a sentence of imprisonment higher than six years is released on parole as soon as he has served five sixths of the sentence.

5 – In any of the said types, the parole has a length equal to the time of imprisonment which remains to be served, until a maximum of five years, after which the surplus of the sentence is deemed to be extinguished.

Article 62

Adaptation to parole

For the purposes of adaptation to parole, upon verification of the requirements foreseen in the previous article, the court may anticipate the release on parole, for a maximum period of one year, being the convict obliged to, during the anticipation period, besides the compliance of the further conditions imposed, the house arrest regime, monitored by remote technical means.

Article 63

Parole in case of consecutive execution of several sentences

1 – In the event of execution of several sentences of imprisonment, the execution of the sentence to be served in first place is interrupted upon serving half of the sentence.

2 – In the cases foreseen in the previous number, the court decides about the parole at the time in which the court may simultaneously decide in relation to the total amount of the sentences.

3 – Should the sum of the sentences to be consecutively served exceed six years of imprisonment, the court, as soon as five sixths of the sum of the sentences is served, releases the convict on parole, provided that the convict has not previously benefited from it.

4 – The previous numbers are not applicable to the case where the execution of the sentence results from the revocation of the parole.

Article 64

Parole regime

- 1 – Article 52, nos. 1 and 2 of article 53, article 54, paragraphs a) to c) of article 55, no. 1 of article 56 and article 57 are correspondently applicable to parole.
- 2 – The revocation of the parole determines the execution of the sentence of imprisonment which has not yet been served.
- 3 – In relation to the sentence of imprisonment to be served the grant of new parole can take place in the terms set out in article 61.

CHAPTER III

Accessory sentences and effects of the sentences

Article 65

General principles

- 1 – No sentence involves as a necessary effect the lost of civil, professional or political rights.
- 2 – The law may correspond to certain crimes the prohibition of the exercise of certain rights and professions.

Article 66

Prohibition of the exercise of a duty

- 1 – The holder of a public position, public officer or agent of the administration, who, in the performance of the activity to which he was elected or appointed to, commits a crime punished by sentence of imprisonment higher than three years is also prohibited of the performance of such duties for a period ranging from two to five years when the act:
 - a) Is committed with flagrant and serious abuse of the duty or with clear and serious breach of the inherent duties;
 - b) Reveals indignity in the exercise of the position; or
 - c) Implies the lost of the necessary reliance for the performance of the duty.
- 2 – The previous number is correspondently applicable to the professions or activities which performance is subject to a public title or to an authorisation or homologation from a public authority.

3 – The time in which the agent is deprived of liberty as a result of a procedural measure of constraint, sentence or security measure is not taken into account for the prohibition term.

4 – When, for the same act, a security measure of interdiction of activity is applicable in accordance with article 100, number 1 and 2 cease to be applicable.

5 – Whenever the holder of a public position, public officer or agent of the administration is convicted for the commission of a crime, the court communicates the conviction to the authority which he depends on.

Article 67

Suspension of the performance of a duty

1 – The defendant definitely convicted to a sentence of imprisonment, who is not disciplinarily dismissed from a public duty which he performs, is suspended from the duty while serving the sentence.

2 – The suspension foreseen in the previous number stands with the effects which, pursuant to the respective legislation, follow the disciplinary sanction of suspension of the performance of the duties.

3 – The previous numbers are correspondently applicable to professions or activities which performance is subject to a public title or to authorisation or homologation from a public authority.

Article 68

Effects of the prohibition and suspension of the performance of a duty

1 – Except for a provision stating otherwise, the prohibition and suspension of the performance of a public duty imply the lost of the rights and privileges granted to the holder, officer or agent, for the corresponding time.

2 - The prohibition of the exercise of a public duty does not impair the holder, officer or agent to be appointed to a position or duty which can be performed without the dignity conditions that the position or the duty which performance was forbidden require.

3 – The previous numbers are correspondently applicable to professions or activities which exercise is subject to a public title or to authorisation or homologation from a public authority.

Article 69

Prohibition to drive motor vehicles

1 – A person is convicted in the prohibition to drive motor vehicles for a period determined between three months and three years, if punished:

- a) For the crime foreseen in articles 291 or 292;
- b) For a crime committed with the use of a vehicle, the execution of which has been, in a relevant way, made easier by such person; or
- c) For a crime of disobedience committed by means of refusal to be submitted to evidences legally established for detection of driving under the effect of alcohol, narcotics, psychotropic substance or other products with similar effect.

2 – The prohibition produces effects from the time in which the decision has become final and may comprise the driving of any class of motor vehicles.

3 – Within a term of ten days from the time in which the judgement has become final, the convict delivers at the courts' registry or in any police post, which sends to the said registry, the driving title, if the same has not already been seized in the proceeding.

4 – The court's registry communicates the prohibition to drive to the Directorate-General for Traffic within a term of 20 days from the date in which the judgment has become final as well as reports to the Public Prosecution the default events to the previous number.

5 – In the event of a driving title issued in a foreign country with international value, the seizure may be replaced by a note in such title, by the Directorate-General for Traffic, of the prohibition declared. If the note is not possible, the registry, through the Directorate-General for Traffic, communicates the decision to the competent body of the country in which it has been issued.

6 - The time in which the agent is deprived of liberty as a result of a procedural measure of constraint, sentence or security measure is not taken into account in the prohibition term.

7 – When, for the same act, the withdrawal or interdiction to grant the driving title is applicable in accordance with articles 101 and 102, number 1 ceases to be applicable.

CHAPTER IV

Choice and extent of the sentence

SECTION I

General rules

Article 70

Criterion for the choice of the sentence

Should a custodial and a non-custodial sentence be, alternatively, applicable to the crime, the court gives preference to the latest whenever it accomplishes in an adequate and sufficient manner the punishment purposes.

Article 71

Determination of the extent of the sentence

1 – The determination of the extent of the sentence, within the limits established by law, is made on the basis of the agent's guilt and of the prevention requirements.

2 – In the determination of the concrete sentence, the court takes into consideration all circumstances that, although not taking part of the type of the crime, speak for or against the agent, namely:

- a) The level of unlawfulness of the act, the way of its execution and the seriousness of its consequences as well as the level of breach of the duties imposed to the agent;
- b) The intensity of the wilful conduct or of the negligence;
- c) The feelings evidenced in the committing of the crime and the purposes or motives that have determined it;
- d) The personal conditions of the agent and his economic situation;
- e) The prior and subsequent conduct to the act, especially when it is aimed to repair the consequences of the crime;
- f) The lack of preparation to maintain a lawful conduct, evidenced in the act, when such lack should be censured through the applicability of a sentence.

3 – The grounds of the extent of the sentence are expressly referred to in the sentence.

Article 72

Special mitigation of the sentence

1 – The court specially mitigates the sentence, beyond the cases expressly foreseen in the law, upon the existence of prior or subsequent circumstances to the crime, or contemporary to the crime, which substantially reduce the unlawfulness of the act, the agent's guilt or the need of the sentence.

2 – For the purposes of the previous number, the following circumstances are, amongst others, taken into consideration:

- a) The fact that the agent has acted under influence of serious threat or under influence of a person from whom he depends on or to whom he owes obedience;
- b) The fact that the agent's conduct has been determined by an honourable reason, by strong request or inducement of the own victim or by unfair affront or undeserved injury;
- c) The fact that the agent had acts which demonstrate his sincere regret, namely the repair, to the extent possible, of the damages caused;
- d) The fact that a long amount of time has elapsed from the commission of the crime and the agent maintains a good conduct.

3 – The circumstance, pursuant to which or, which together with other circumstances gives rise simultaneously to a special mitigation foreseen in the law and to the mitigation foreseen hereunder may only be taken into account once.

Article 73

Special mitigation terms

1 – Whenever the special mitigation of the sentence takes place, the following is observed in relation to the limits of the applicable sentence:

- a) The maximum limit of the sentence of imprisonment is reduced of one third;
- b) The minimum limit of the sentence of imprisonment is reduced to one fifth if it is equal or exceeds three years and to the legal minimum limit if it is lower;
- c) The maximum limit of the fine penalty is reduced of one third and the minimum limit reduced to the legal minimum limit;
- d) If the maximum limit of the sentence of imprisonment does not exceed three years, such sentence may be replaced by fine, within the general limits.

2 – The sentence specially mitigated which has been concretely determined is capable of replacement, including the suspension, in the general terms.

Article 74

Discharge without punishment

1 – When the crime is punishable with sentence of imprisonment for not more than six months, or only with fine penalty for not more than 120 days, the court may declare the defendant guilty but not apply any sentence if:

- a) The unlawfulness of the act and the agent's guilt are small;
- b) The damage has been repaired; and

- c) There are no prevention reasons opposing to the discharge without punishment.
- 2 – If the judge has reasons to believe that the repairing of the damage is soon to occur, he may adjourn the judgment to a review of the case within one year, in a day which will be immediately scheduled.
- 3 – When another rule allows on a facultative nature the discharge without punishment, this can only take place upon verification in the case of the requirements included in the paragraphs of number 1.

SECTION II

Recidivism

Article 75

Requirements

- 1 – Whoever, by himself or under any form of participation, commits a crime with wilful conduct which should be punished with effective imprisonment over six months, after having been convicted by a judgment which has become final in an effective sentence of imprisonment over six months by another crime with wilful conduct is punished as a recidivist if, according to the circumstances of the case, the agent should be censured for the fact that the conviction or the previous convictions have not been a sufficient warning against crime.
- 2 – The previous crime for which the agent has been convicted is not taken into account for recidivism purposes if between its commission and the commission of the crime have elapsed more than five years; in this term the time in which the agent has served a custodial procedural measure, sentence or a security measure is not computed.
- 3 – Convictions issued by foreign courts are taken into account for recidivism purposes in the terms set out in the previous numbers, provided that the fact constitutes a crime according to the Portuguese law.
- 4 – The forfeiture of the sentence, the amnesty, the general pardon and the reprieve do not prevent verification of the recidivism.

Article 76

Effects

- 1 – In the event of recidivism, the minimum limit of the sentence applicable to the crime is raised of one third and the maximum limit remains unaltered. The aggravation cannot exceed the extent of the most serious sentence in the previous convictions.

2 – The provisions in respect of the sentence relatively undetermined, when applicable, prevail upon the recidivism punishment rules.

SECTION III

Punishment of concurrence of crimes and of continuous crime

Article 77

Rules for punishment of concurrence

1 – When someone has committed several crimes before the conviction by any of them has become final is convicted in a single sentence. In the extent of the sentence are considered the facts together with the agent's personality.

2 – The applicable sentence has as maximum limit the sum of the sentences actually applied to the several crimes, which cannot exceed 25 years in the case of sentence of imprisonment and 900 days in the case of fine penalty; and as minimum limit the highest of the sentences actually applied to the several crimes.

3 – If the sentences applied to the crimes in concurrence are some of imprisonment and others of fine, the different nature of the same is maintained in the single sentence resulting from the applicability of the criteria set out in the previous numbers.

4 – The accessory sentences and the security measures are always applicable to the agent, even if only foreseen by one of the applicable laws.

Article 78

Subsequent knowledge of concurrence

1 – If, after a conviction which has become final, it is showed that the agent has committed, prior to such conviction, another crime or crimes, the rules of the previous article are applicable, being the sentence which has already been served deducted in the serving of the single sentence applied to concurrence of crimes.

2 – The previous number is only applicable to the crimes which conviction has become final.

3 - The accessory sentences and the security measures applied in the previous sentence are maintained, unless if deemed to be unnecessary in view of the new decision; if they are applicable only to the crime which remains to be judged, they are only adjudged if deemed necessary in view of the previous decision.

Article 79

Punishment of continuous crime

1 – The continuous crime is punished with the sentence applicable to the most serious conduct which integrates the continuation.

2 – If, after a conviction which has become final, a more serious conduct which integrates the continuation is known, the sentence applicable therein replaces the previous one.

SECTION IV

Deduction

Article 80

Procedural measures

1 – The detention, provisional custody and house arrest suffered by the defendant are deducted in full in the serving of the sentence of imprisonment, even if applied in a different proceeding from the one he is convicted, when the act for which he is convicted has been committed prior to the final decision of the proceeding under which the measures have been applied.

2 – In the event of the applicability of fine penalty, the detention, provisional custody or house arrest are deducted at the rate of one day of deprivation of liberty by, at least, one day of fine.

Article 81

Previous sentence

1 – If the sentence imposed by a decision which has become final is subsequently replaced by another, the previous sentence is deducted in the new sentence, to the extent that it has been served.

2 – If the previous and the subsequent sentence are of different nature, in the new sentence is made the deduction which deems to be equitable.

Article 82

Procedural measure or sentence suffered abroad

Any procedural measure or sentence that the agent has suffered, for the same act or acts, abroad is deducted under the terms set out in the previous articles.

CHAPTER V

Sentence relatively undetermined

SECTION I

Delinquents by propensity

Article 83

Requirements and effects

1 – Whoever commits a crime with wilful conduct to which should be concretely applicable effective imprisonment for more than two years and has previously committed two or more crimes with wilful conduct, to each of which has been or is applicable effective imprisonment also for more than two years, is punished by a sentence relatively undetermined, whenever the evaluation of the acts committed together with the agent's personality reveals a significant propensity to the crime, which still remains at the time of the conviction.

2 – The sentence relatively undetermined has a minimum corresponding to two thirds of the sentence of imprisonment which would concretely be applicable to the crime and a maximum corresponding to such sentence plus six years, without exceeding in its total amount twenty five years.

3 – No prior crime is taken into consideration for the purposes of no. 1, when between its commission and the commission of the subsequent crime has elapsed more than five years; in this term the time in which the agent has served a custodial procedural measure, sentence or a security measure is not computed.

4 – The acts decided in a foreign country which have led to the applicability of effective imprisonment for more than two years are taken into consideration under the previous numbers, provided that, pursuant to Portuguese law, a sentence of imprisonment over two years is applicable to such acts.

Article 84

Other cases of applicability of the sentence

1 – Whoever commits a crime with wilful conduct to which should be concretely applicable effective imprisonment and has previously committed four or more crimes with wilful conduct, to each of which has been or is applicable a sentence of effective imprisonment, is punished with a sentence relatively undetermined, whenever the remaining requirements established in no. 1 of the previous article occur.

2 – The sentence relatively undetermined has a minimum corresponding to two thirds of the sentence of imprisonment which would concretely be applicable to the crime and a maximum corresponding to such sentence plus four years, without exceeding in its total amount twenty five years.

3 – No. 3 of the previous article is correspondently applicable.

4 – The acts decided in a foreign country which have led to the applicability of effective imprisonment are taken into consideration under the previous numbers, provided that, pursuant to Portuguese law, a sentence of imprisonment is applicable to such acts.

Article 85

Restrictions

1 – In the event that the crimes are committed before the agent has completed 25 years of age, articles 83 and 84 are only applicable if the agent has served imprisonment for a minimum of one year.

2 – In the case of the previous number, the maximum limit of the sentence relatively undetermined corresponds to an increase of four or of two years to the imprisonment which would concretely be applicable to the crime committed, depending on the verification of the requirements of article 83 or of article 84.

3 – The term referred to in no. 3 of article 83 is, for the purposes of this article, of three years.

SECTION II

Alcoholics and equivalents

Article 86

Requirements and effects

1 – If an alcoholic or a person with tendency to abuse from alcoholic drinks commits a crime to which should be concretely applicable effective imprisonment and has previously committed a crime to which has also been applicable effective imprisonment, is punished with a sentence relatively undetermined, whenever the crimes have been committed in inebriation or are connected with alcohol or with the agent's tendency.

2 – The sentence relatively undetermined has a minimum corresponding to two thirds of the sentence of imprisonment which would concretely be applicable to the crime committed and a maximum corresponding to such sentence plus two years in the first

conviction and four years in the remaining, without exceeding in its total amount twenty five years.

Article 87

Purpose of the execution of the sentence

The execution of the sentence foreseen in the previous number is directed in a way to eliminate the alcohol dependence of the agent or to fight his tendency to abuse from alcoholic drinks.

Article 88

Abuse of narcotics

Articles 86 and 87 are correspondently applicable to agents abusing of narcotics.

SECTION III

Common provisions

Article 89

Re-adaptation plan

- 1 - In the event of the applicability of a sentence relatively undermined, it is drafted, as soon as possible, an individual re-adaptation plan of the delinquent on the basis of the knowledge which are available upon himself and, whenever possible, with his consent.
- 2 – In the course of the serving of the sentence, any amendments required due to the progress of the delinquent and by other relevant circumstances are made to the plan.
- 3 – The plan and its amendments are communicated to the delinquent.

Article 90

Parole and liberty on probation

- 1 – Until two months before accomplishing the minimum limit of the sentence relatively undetermined, the penitentiary management sends to the court a reasoned opinion about the granting of parole, being nos. 1 and 3 of article 61 and article 64 correspondently applicable.
- 2 – The parole has an equal length to the remaining time to accomplish the maximum limit of the sentence, but will never be higher than five years.
- 3 – If the parole, mentioned in the previous numbers, is not granted or is revoked, no. 1 of article 92, nos. 1 and 2 of article 93 and articles 94 and 95 are correspondently

applicable, from the moment in which the sentence which would concretely be applicable to the crime committed is showed to have been served.

CHAPTER VI

Legal persons

Article 90-A

Sentences applicable to legal persons

1 – For the crimes foreseen in no. 2 of article 11, the main fine penalties or the dissolution are applicable to legal persons and to equivalent entities.

2 – For the same crimes the following accessory sentences may be applicable to legal persons and to equivalent entities:

- a) Judicial order;
- b) Interdiction of the exercise of the activity;
- c) Prohibition to execute certain contracts or contracts with certain entities;
- d) Privation from the right to subsidies, subventions or incentives;
- e) Closing of establishment;
- f) Publicity of the convictional sentence.

Article 90-B

Fine penalty

1 – The minimum and maximum limits of the fine penalty applicable to legal persons and equivalent entities are determined by reference to the sentence of imprisonment foreseen for private individuals.

2 – A month of imprisonment corresponds to, for legal persons and equivalent entities, 10 days of fine.

3 – Whenever the sentence applicable to private individuals is determined exclusively or alternatively in fine, the same days of fine are applicable to legal persons and equivalent entities.

4 – The fine penalty is established in days, pursuant to the criteria set out in no. 1 of article 71.

5 – Each day of fine corresponds to an amount ranging from €100 to €10,000, which the court establishes in view of the economic and financial situation of the convict and of its charges with employees, being nos. 3 to 5 of article 47 applicable.

6 – Upon termination of the term for the payment of the fine or for the payment of any of its instalments without the payment being made, the enforcement of the property of the legal person or equivalent entities is carried out.

7 – The fine which is not voluntarily or compulsorily paid may not be converted into imprisonment as subsidiary penalty.

Article 90-C

Admonition

1 – If a fine penalty for not more than 240 days should be applicable to the legal person or equivalent entity, the court may restrict to issue an admonition, being nos. 2 and 3 of article 60 correspondently applicable.

2 – The admonition consists of a verbal solemn censure made in the hearing, by the court, to the legal representative of the legal person or equivalent entity or, in his absence, to another person holding a leadership position in it.

Article 90-D

Good practice surety

1 - If a fine penalty for not more than 600 days should be applicable to the legal person or equivalent entity, the court may replace it by a good practice surety between €1,000 and €1,000,000, for a term from one to five years.

2 – The surety is declared to be lost for the benefit of the State if the legal person or equivalent entity commits a new crime for which turns out to be convicted in the course of the term, otherwise being returned.

3 – The surety may be granted by means of a deposit, pledge, mortgage, bank security or personal security.

4 – The court revokes the sentence of good practice surety and orders the compliance of the fine penalty determined in the judgment if the legal person or equivalent entity does not grant the surety within the established term.

Article 90-E

Judicial surveillance

1 - If a fine penalty for not more than 600 days should be applicable to the legal person or equivalent entity, the court may restrict to determine its monitoring by a judicial

representative, for a term from one to five years, in order for such representative to proceed with the supervision of the activity which has determined the conviction.

2 – The judicial representative does not have management powers of the legal person or equivalent entity.

3 - The judicial representative informs the court of the development of the activity of the legal person or equivalent entity, twice a year or whenever deemed necessary.

4 - The court revokes the judicial surveillance sentence and orders the compliance with the fine penalty determined in the judgment if the legal person or equivalent entity, after the conviction, commits a crime for which turns out to be convicted and reveals that the purposes of the judicial surveillance sentence could not, by means of such sentence, be accomplished.

Article 90-F

Sentence of dissolution

The dissolution sentence is adjudged by the court when the legal person or equivalent entity has been incorporated with the exclusive or prevailing intention to commit the crimes foreseen in no. 2 of article 11 or when the repeated commission of such crimes shows that the legal person or equivalent entity is being, exclusively or predominantly, used by whom holds in it a leadership position, for such purposes.

Article 90-G

Judicial order

1 – The court may order to the legal person or equivalent entity to adopt certain procedures, namely those necessary to cease the unlawful activity or to avoid its consequences.

2 – The court determines the term in which the order must be complied with from the date in which the judgment has become final.

Article 90-H

Prohibition to execute contracts

The prohibition to execute certain contracts or contracts with certain entities is applicable, for a term from one to five years, to a legal person or equivalent entity.

Article 90-I

Privation from the right to subsidies, subventions or incentives

Privation from the right to subsidies, subventions or incentives granted by the State and further public legal persons is applicable, for a term from one to five years, to a legal person or equivalent entity.

Article 90-J

Interdiction of the exercise of the activity

1 - The court may order the interdiction of the exercise of certain activities, for a term from three months to five years, when the crime has been committed in the exercise of such activities.

2 – When the legal person or equivalent entity commits a crime punished with fine penalty over 600 days, the court may determine the definitive interdiction of certain activities.

3 – In the case foreseen in the previous number, the court may recover the legal person or equivalent entity if such legal person or equivalent entity has been conducted, for a term of five years following compliance with the main sentence, in a manner which makes reasonable to suppose that it will not commit new crimes.

Article 90-L

Closing of establishment

1 – The court may order the closing of an establishment, for a term from three months to five years, when the infringement has been committed in the scope of the respective activity.

2 - When the legal person or equivalent entity commits a crime punished with fine penalty over 600 days, the court may determine the definitive closing of the establishment.

3 - In the case foreseen in the previous number, the court may recover the legal person or equivalent entity and authorise the opening of the establishment if such legal person or equivalent entity has been conducted, for a term of five years following compliance with the main sentence, in a manner which makes reasonable to suppose that it will not commit new crimes.

4 – The transfer of the establishment or the assignment of rights of any nature, in connection with the exercise of the activity, executed after the proceeding had been

brought or after the commission of the crime, does not prevent the applicability of the sentence of closing, unless the acquirer is in good faith.

5 – The closing of the establishment does not constitute a justified reason for dismissal of the employees or a ground for suspension or reduction of the payment of the respective remunerations.

Article 90-M

Publicity of the convictional sentence

1 – The convictional sentence is always published in the cases where the sentences foreseen in articles 90-C, 90-J and 90-L are applicable, being able to be published in the remaining cases.

2 – Whenever the sentence of publicity of the convictional sentence is applicable, it is made, at the expense of the convict, in a media to be determined by the court, as well as through the fixing of public notice, for a period not less than 30 days, in the commercial or industrial establishment or in the place of exercise of the activity, in a way well visible to the public.

3 – The publicity of the convictional sentence is made through extract, in which is included the elements of the infringement and the applicable penalties as well as the identification of the legal persons or equivalent entities.

CHAPTER VII

Security measures

SECTION I

Internment of persons with lack of capacity to be criminally liable

Article 91

Requirements and minimum length

1 – Whoever committed a typical unlawful act and is considered, pursuant to article 20, without capacity to be criminally liable is ordered by the court to be interned in a cure, treatment or security establishment whenever, by virtue of the mental disorder and of the seriousness of the act committed, there is a reasonable fear that he will commit other acts of the same kind.

2 – When the act committed by a person with lack of capacity to be criminally liable corresponds to a crime against persons or to common danger crime punishable by sentence of imprisonment over five years, the internment has the minimum length of

three years, unless the release reveals to be compatible with the defence of the legal order and social peace.

Article 92

Cessation and extension of the internment

1 – Without prejudice of no. 2 of the previous article, the internment ceases upon verification by the court that the criminal state of dangerousness which gave origin to it has ceased.

2 – The internment may not exceed the maximum limit of the sentence corresponding to the type of crime committed by the person with lack of capacity to be criminally liable.

3 – If the act committed by the person with lack of capacity to be criminally liable corresponds to a crime punished with sentence over eight years and the danger of new acts of the same kind is serious in such a way that dissuades the release, the internment may be extended for consecutive periods of two years until the situation foreseen in no. 1 is verified.

Article 93

Revision of the internee situation

1 – If the existence of a justified reason for the cessation of the internment is invoked, the court assesses the issue at any time.

2 – The assessment is mandatory, regardless of any application, upon two years of the beginning of the internment or from the decision which has maintained it.

3 – The minimum term of internment established in no. 2 of article 91 is, in any case, safeguarded.

Article 94

Liberty on probation

1 – If from the revision referred to in the previous article results that there are grounds to expect that the measure purpose may be accomplished in an outdoor mean, the court releases the internee in liberty on probation.

2 – The liberty period on probation is established between a minimum of two years and a maximum of five, which cannot exceed, however, the remaining amount of time for the maximum limit of length of the internment.

3 – Numbers 3 and 4 of article 98 are correspondently applicable.

4 – If there are no grounds leading to the revocation of the liberty on probation, upon its term the internment measure is declared to be extinguished. If, upon the term of the liberty period on probation, a proceeding or an incident which may lead to the revocation are outstanding, the measure is declared extinguished when the proceeding or incident cease and there is no place to the revocation.

Article 95

Revocation of liberty on probation

1 – The liberty on probation is revoked when:

- a) The agent's behaviour reveals that the internment is indispensable; or
- b) The agent is convicted with a custodial sentence and the requirements for the suspension of the execution are not verified, pursuant to no. 1 of article 50.

2 – Revocation determines the re-internment, being article 92 correspondently applicable.

Article 96

Re-examination of the internment measure

1 – The execution of the security measure of interment may not begin, after having elapsed two years or more from the decision which has ordered it, without being assessed the maintenance of the requirements in which its applicability was based on.

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

Article 97

Foreigners with lack of capacity to be criminally liable

Without prejudice of an international treaty or convention, the internment measure of a foreigner with lack of capacity to be criminally liable may be replaced by expulsion from the national territory, according to the conditions governed by special legislation.

SECTION II

Suspension of the execution of the internment

Article 98

Requirements and regime

- 1 – The court which has ordered the internment determines, in lieu of it, the suspension of its execution if it is reasonable to expect that with the suspension the measure purpose is accomplished.
- 2 – In the case foreseen in no. 2 of article 91, the suspension may only take place upon verification of the conditions mentioned therein.
- 3 – The suspension decision imposes to the agent rules of conduct, in corresponding terms to those mentioned in article 52, necessary for the prevention of the dangerousness as well as the duty to be submitted to appropriate treatments and regimes of ambulant cure and to be submitted to examinations and observations in the places which are indicated to him.
- 4 – The agent whose internment is suspended is placed under tutelary surveillance of the social reintegration services. Articles 53 and 54 are correspondently applicable.
- 5 – The suspension of the execution of the internment may not be determined if the agent is simultaneously convicted in a custodial sentence and the requirements for the suspension of its execution are not verified.
- 6 – It is correspondently applicable:
 - a) Article 92 and nos. 1 and 2 of article 93 to the suspension of the execution of the internment;
 - b) Article 95 to the revocation of the suspension of the execution of the internment.

SECTION III

Execution of custodial sentence and security measure

Article 99

Regime

- 1 – The internment measure is executed before the sentence of imprisonment to which the agent has been convicted and deducted thereof.
- 2 – As soon as the internment measure should cease, the court releases the agent on parole if the amount of time corresponding to half of the sentence is served and the release reveals to be compatible with the defence of the legal order and social peace.
- 3 – If the internment measure should cease, but the amount of time corresponding to half of the sentence has not yet elapsed, the court may, upon the convict's application, replace the remaining imprisonment time for half of the sentence, until a maximum of

one year, by rendering of work in favour of community, in the terms set out in article 58, if such reveals to be compatible with the defence of the legal order and social peace. Upon rendering of the work, the delinquent is released on parole.

4 - If the internment measure should cease, but the delinquent has not been released on parole under the previous numbers, once achieved the time correspondent to two thirds of the sentence the delinquent is released on parole. Upon the convict's application, the remaining time of imprisonment for two thirds of the sentence may be replaced, until a maximum of one year, for rendering of work in favour of community, under the terms of article 58.

5 – Numbers 1 to 5 of article 61 are correspondently applicable.

6 – Should the rendering of work in favour of community or the parole be revoked, under the terms of no. 2 of article 59 or article 64, the court decides whether the agent should serve the remaining sentence or continue the internment for the same amount of time.

SECTION IV

Non-custodial security measures

Article 100

Interdiction of activities

1 – Whoever is convicted for a crime committed with a serious abuse of a profession, business or industry which he carries out, or with gross breach of the inherent duties, or from which is acquitted only due to the lack of capacity to be criminally liable, is interdict of the exercise of the respective activity when, in view of the act committed and the agent's personality, there is a reasonable fear that he may commit other acts of the same kind.

2 – The interdiction period is established between one to five years but may be extended for a further period until three years if, upon the end of the term established in the judgment, the court considers that such period was not sufficient to remove the danger in which the measure was based on.

3 – The interdiction period is calculated from the date in which the decision has become final, without prejudice of being imputed in it the length of any interdiction determined, for the same act, on a temporarily basis.

4 – The course of the interdiction period is suspended during the time in which the agent is deprived of his liberty as a result of a procedural measure of constraint,

sentence or security measure. If the suspension lasts two years or more, the court re-examines the situation in which the applicability of the measure was based on, confirming it or revoking it.

Article 101

Withdrawal of the title and interdiction from granting a motor vehicle driving title

1 – In the event of a conviction for a crime committed in driving of a motor vehicle or in connection therein, or with gross breach of the duties of a driver, or acquittal only due to the lack of capacity to be criminally liable, the court orders the withdrawal of the driving title when, in view of the act committed and of the agent's personality:

- a) There is a reasonable fear that other acts of the same kind may be committed; or
- b) The agent should be considered incapable for the driving of a motor vehicle.

2 – The commission, amongst others, of acts which integrate the following crimes is capable of revealing the incapability referred to in paragraph b) above:

- a) Failure to render assistance, in the terms set out in article 200, if it is foreseeable that from such omission could result serious damages for life, body or health of any person;
- b) Dangerous driving of road vehicle, in the terms set out in article 291;
- c) Driving of vehicles in inebriation or under the influence of narcotics, psychotropic substances or products with equivalent effects, under the terms of article 292; or
- d) Typical unlawful act committed in inebriation, under the terms set out in article 295, if the act committed is one of the acts referred to in the previous paragraphs.

3 – When ordering the withdrawal of the title, the court determines that the agent may not be granted a new motor vehicles driving title, of any class, during the term of the withdrawal. Numbers 3, 4, 5 and 6 of article 69 are correspondently applicable.

4 – If the agent in relation to whom the requirements of nos. 1 and 2 are verified is not holder of a driving title, the court only orders the interdiction from granting a title, in the terms of the previous number, being the judgment communicated to the General-Directorate for Traffic. Number 6 of article 69 is correspondently applicable.

5 – Numbers 2, 3 and 4 of article 100 are correspondently applicable.

6 – If the interdiction from granting a title has already been ordered against the agent in the five years prior to the commission of the act, the minimum term for the interdiction is of two years.

2 – Upon order of the withdrawal of the driving title, the attainment of a new title, when possible, is always subject to a special examination.

Article 102

Applicability of rules of conduct

1 – Upon verification of the recidivism requirements, foreseen in article 75, or if their absence is only due to the lack of capacity to be criminally liable, the court may impose on the agent the compliance with the rules of conduct foreseen in paragraphs b) to f) of no. 2 of article 52, when they reveal to be adequate to avoid the commission of other typical unlawful acts of the same kind.

2 – Numbers 2 and 3 of article 51, nos. 2, 3 and 4 of article 100 and nos. 1 and 2 of article 103 are correspondently applicable.

Article 103

Extinction of the measures

1 – If, upon elapsing of the minimum terms of the measures foreseen in articles 100 and 102, it is verified, upon convict's application, that the requirements for their applicability are no longer maintained, the court declares the measures ordered extinguished.

2 – In the event of refusal, a new application may not be submitted before elapsing one year.

CHAPTER VIII

Internment of persons with capacity to be criminally liable with mental disorder

Article 104

Previous mental disorder

1 – When the agent is not declared without capacity to be criminally liable and is convicted in imprisonment, but if he shows that, by virtue of mental disorder which he already suffered at the time of the crime, the regime of the common establishments will be harmful for him, or that he will seriously disturb such regime, the court orders his internment in an establishment intended for persons with lack of capacity to be criminally liable for the amount of time corresponding to the length of the sentence.

2 – The internment foreseen in the previous number does not prevent the release on parole in the terms of article 61 or the placing of the delinquent in a common

establishment for the remaining time of deprivation of liberty to be served, as soon as the cause which has determined the internment ceases.

Article 105

Subsequent mental disorder

1 – If a mental disorder, with the effects foreseen in no. 1 of article 91 or in article 104, comes upon the agent after the commission of the crime, the court orders the internment in an establishment intended for persons with lack of capacity to be criminally liable for the amount of time corresponding to the length of the sentence.

2 – To the internment referred to in the previous number resulting from mental disorder with the effects foreseen in article 104, is applicable the regime foreseen in number 2 of such article.

3 – The internment referred to in no. 1, resulting from mental disorder with the effects foreseen in no. 1 of article 91 is deducted in the sentence. Numbers 2, 3, 4 and 5 of article 99 are correspondently applicable.

Article 106

Subsequent mental disorder without dangerousness

1 – If the mental disorder that came upon the agent after the commission of the crime does not turn him criminally dangerous, in such terms as, if the agent lacked of capacity to be criminally liable, would determine his effective internment, the execution of the sentence of imprisonment for which he was convicted is suspended until ceasing of the state in which the suspension was based on.

2 – Numbers 3 and 4 of article 98 are correspondently applicable.

3 – The suspension duration is deducted from the time of the sentence to be served, being nos. 2, 3, 4 and 5 of article 99 correspondently applicable.

4 – The amount of time of the sentence in which the agent was convicted may not, under any case, be exceeded.

Article 107

Revision of the situation

Numbers 1 and 2 of article 93 are correspondently applicable to the measures foreseen in articles 104, 105 and 106.

Article 108

Simulation of mental disorder

The amendments to the normal regime of execution of the sentence based on the contents of the previous provisions of this chapter, become invalid upon demonstration that the mental disorder of the agent was simulated.

CHAPTER IX

Loss of instruments, proceeds and advantages

Article 109

Loss of instruments and proceeds

1 – The objects used or intended to be used for the commission of a typical unlawful act, or which have been produced thereof, are declared to be lost for the benefit of the State when, by virtue of their nature or of the circumstances of the case, endanger the safety of the persons, the morality or the public order or offer a serious risk to be used for the commission of new typical unlawful acts.

2 – The previous number is also applicable even if no determined person may be punished for the act.

3 – If the law does not determine a special purpose to the objects lost pursuant to the previous numbers, the judge may order that they are, totally or partially, destroyed or placed out of trade.

Article 110

Objects belonging to a third party

1 – Without prejudice of the following numbers, the loss does not take place if the objects do not belong, at the date of the act, to any of the agents or beneficiaries, or if they do not belong to them at the time in which the loss was ordered.

2 – Even if the objects belong to a third party, the loss is ordered when its owners have concurred, in a censurable manner, to their use or production, or have taken advantages from the act; or also when the objects are, by any title, acquired after commission of the act and the acquirers are aware of their origin.

3 – If the objects consist of inscriptions, representations or registrations drafted in a paper, in another support or audiovisual expression mean, belonging to a third party in good faith, the loss will not take place, being its return made after deletion of the inscriptions, representations or registrations which integrate the typical unlawful act. If

such is not possible, the court orders their destruction with entitlement to compensation in the terms of the civil law.

Article 111

Loss of advantages

1 – Any reward given or promised to the agents of a typical unlawful act, for themselves or for another person, is lost for the benefit of the State.

2 – The property, rights or advantages that, through the typical unlawful act, have been directly acquired, for himself or for another person, by the agents and represent a property advantage of any kind are also lost for the benefit of the State, without prejudice to the rights of the offended party or of third parties in good faith.

3 – The previous numbers are applicable to the property or rights attained by means of a transaction or exchange of the property or rights directly achieved by means of the typical unlawful act.

4 – If the reward, the rights, property or advantages referred to in the previous numbers cannot be taken into possession in kind, the loss is replaced by the payment to the State of the respective value.

Article 112

Differed payment or in instalments and mitigation

1 – When the applicability of the previous article means, in concrete, the payment of money, numbers 3 and 4 of article 47 are correspondently applicable.

2 – If, considering the social-economic situation of the person in question, the applicability of no. 4 of the previous article is deemed to be unfair or too severe, the court may reasonably mitigate the amount referred to in such provision.

TITLE IV

Complaint and private prosecution

Article 113

Holders of the right to file a complaint

1 – When the criminal procedure depends upon complaint, the offended party, considered as the holder of the interests which the law specially intended to protect with the criminalisation, is entitled to file a complaint, unless a provision states otherwise.

2 – If the offended party dies without having filed a complaint and without having waived thereof, the right to file a complaint belongs to the persons mentioned below, unless if any of them has participated in the crime:

a) To the surviving spouse not legally separated from bed and board, of a different or of the same sex, who lived with the offended party in equal conditions as those of the spouses, to the descendants and to the adopted persons and to the ascendants and adopting persons; and, in their absence

b) To the brothers and their descendants.

3 – Any of the persons belonging to one of the classes referred to in the paragraphs of the previous number may file a complaint regardless of the others.

4 – If the offended party is less than 16 years of age or if he does not have the judgment to understand the extent and meaning of the exercise of the right to file a complaint, such right belongs to the legal representative and, in his absence, to those persons successively mentioned in the paragraphs of no. 2, being the previous number applicable.

5 - When the criminal procedure depends upon complaint, the Public Prosecution may initiate the proceeding within a term of six months from the date in which he had knowledge of the act and of its perpetrators, whenever the interest of the offended party so advises and:

a) The offended party is a minor and does not have the judgment to understand the extent and meaning of the exercise of the right to file a complaint; or

b) The right to file a complaint cannot be exercised as its entitlement would only belong to the agent of the crime.

6 – If the right to file a complaint is not exercised within the terms of no. 4 nor the criminal proceeding is initiated pursuant to paragraph a) of the previous number, the offended party may exercise such right from the date in which he completes 16 years of age.

Article 114

Extent of the effects of the complaint

Filing of a complaint against one of the participants in the crime extends the criminal proceeding to the remaining participants.

Article 115

Extinction of the right to file a complaint

- 1 – The right to file a complaint is extinguished within a term of six months from the date in which the holder became aware of the act and its perpetrators, or from the death of the offended party, or from the date in which he has become incapable.
- 2 - The right to file a complaint foreseen in no. 6 of article 113 is extinguished within a term of six months from the date in which the offended party completes 18 years of age.
- 3 – The non exercise, in due time, of the right to file a complaint in relation to one of the participants in the crime benefits the other participants, in the cases where these also cannot be pursued without a complaint.
- 4 – In the event of several holders of the right to file a complaint, the term is autonomously counted for each one of them.

Article 116

Waiver and withdrawal of complaint

- 1 – The right to file a complaint may not be exercised upon express waiver of the holder thereof or if he has carried out acts from which the waiver is necessarily concluded.
- 2 – The offended party may withdraw the complaint, provided that the defendant does not oppose to it, until publication of the judgment in the first instance. Withdrawal prevents the complaint from being renewed.
- 3 – The withdrawal of the complaint in relation to one of the participants in the crime benefits the other participants, unless their opposition, in the cases where these also cannot be pursued without a complaint.
- 4 – After completing 16 years of age, the offended party may request that the proceeding is closed, in the conditions foreseen in nos. 2 and 3, upon exercise of the right to file a complaint in the terms of no. 4 of article 113 or if the criminal procedure has been initiated according to paragraph a) of no. 5 of article 113.

Article 117

Private prosecution

The articles of this title are correspondently applicable to those cases where the criminal procedure depends upon private prosecution.

TITLE V

Extinction of criminal responsibility

CHAPTER I

Forfeiture of the criminal procedure

Article 118

Forfeiture terms

1 – The criminal procedure is extinguished due to forfeiture as soon as the following terms have elapsed from the commission of the crime:

- a) Fifteen years, when regarding crimes punishable with sentence of imprisonment which maximum limit is of ten years;
- b) Ten years, when regarding crimes punishable with sentence of imprisonment which maximum limit is equal or higher than five years but which does not exceed ten years;
- c) Five years, when regarding crimes punishable with sentence of imprisonment which maximum limit is equal or higher than one year, but less than five years;
- d) Two years, in the remaining cases.

2 – For the purposes of the previous number, in the determination of the maximum sentence applicable to each crime are considered the elements pertaining to the type of crime but not the aggravating or mitigating circumstances.

3 – If the criminal procedure relates to a legal person or equivalent entity, the terms foreseen in no. 1 are determined on the basis of the sentence of imprisonment, prior to proceeding with the conversion foreseen in nos. 1 and 2 of article 90-B.

4 – When the law establishes for any crime, alternatively, a sentence of imprisonment or a fine penalty, only the first one is considered for the purposes of this article.

5 – In the crimes against sexual liberty and self-determination of minors, the criminal procedure is not ceased, as a result of forfeiture, before the offended party completes 23 years of age.

Article 119

Commencement of the term

1 – The term of forfeiture of the criminal procedure runs from the date in which the act was completed.

2 – The term of forfeiture only runs:

- a) In permanent crimes, from the date in which the completion ceases;

- b) In continuous and habitual crimes, from the date of commission of the last act;
- c) In crimes not completed, from the day of the last execution act.

3 – In the event of accessoryship, it is always considered, for the purposes of this article, the act of the perpetrator.

4 – When the verification of the result not comprised in the type of crime is relevant, the term of forfeiture only runs from the day in which such result is verified.

Article 120

Suspension of forfeiture

1 – Forfeiture of the criminal procedure is suspended, besides the cases specially foreseen in the law, during the time in which:

- a) The criminal procedure cannot be legally initiated or continued by lack of legal authorisation or of a judgment to be issued by a non criminal court or as a result of the return of a preliminary issue to a non criminal jurisdiction;
- b) The criminal procedure is outstanding from the notice of the prosecution or, in the case where the prosecution was not issued, from the notice of the decision of enquiry which sends the defendant to trial or from the application for the applicability of a penalty in the simplest procedure;
- c) The contumacy judgment is in force;
- d) The judgment cannot be notified to the defendant judged in his absence; or
- e) The delinquent serves a custodial sentence or security measure abroad.

2 – In the case foreseen in paragraph b) of the previous number the suspension may not exceed three years.

3 – The forfeiture runs again from the day in which the suspension cause ceases.

Article 121

Interruption of forfeiture

1 – Forfeiture of the criminal procedure is interrupted:

- a) With the constitution as defendant;
- b) With the notice of the prosecution or, in the case where the prosecution was not issued, with the notice of the decision of enquiry which sends the defendant to trial or with the notice of the application for the applicability of a penalty in the simplest procedure;
- c) With the contumacy judgment;

d) With the notice of the order which appoints a day for the hearing in the absence of the defendant.

3 – After each interruption runs a new forfeiture term.

4 – Without prejudice of no. 5 of article 118, forfeiture of the criminal procedure always takes place when, from its commencement and with the exception of the suspension time, has elapsed the normal term of forfeiture plus half. When, by virtue of a special provision, the forfeiture term is lower than two years the maximum term of the forfeiture corresponds to the double of such term.

CHAPTER II

Forfeiture of sentences and of security measures

Article 122

Forfeiture terms of sentences

1 – The sentences forfeit in the following terms:

- a) Twenty years, if over ten years of imprisonment;
- b) Fifteen years, if equal or higher than five years of imprisonment;
- c) Ten years, if equal or higher than two years of imprisonment;
- d) Four years, in the remaining cases.

2 – The forfeiture term commences to run in the day in which the decision that has applied the sentence has become final.

3 – Number 3 of article 118 is correspondently applicable.

Article 123

Effects of forfeiture of the main sentence

Forfeiture of the main sentence involves forfeiture of the accessory sentence which has not been executed as well as the effects of the sentence which have not yet been verified.

Article 124

Forfeiture terms of security measures

1 – Security measures forfeit within a term of 15 or 10 years, depending if they are custodial or non custodial measures.

2 – The security measure of withdrawal of the driving licence forfeits within a term of five years.

Article 125

Suspension of forfeiture

1 – Forfeiture of the sentence and of the security measure is suspended, besides the cases specially foreseen in the law, during the time in which:

- a) By virtue of the law, the execution cannot be initiated or continue to take place;
- b) The contumacy judgment is in force;
- c) The convict is serving other custodial sentence or security measure; or
- d) The extension for the payment of the fine endures.

2 - Forfeiture runs again from the day in which the suspension cause ceases.

Article 126

Interruption of forfeiture

1 – Forfeiture of the sentence and of the security measure is interrupted:

- a) With its execution; or
- b) With the contumacy judgment;

2 – After each interruption runs a new forfeiture term.

4 – Forfeiture of the sentence and of the security measure always takes place when, from its commencement and with the exception of the suspension time, has elapsed the normal term of forfeiture plus half.

CHAPTER III

Other grounds for extinction

Article 127

Death, amnesty, general pardon, reprieve and dissolution

1 – The criminal responsibility is also extinguished by the death, amnesty, general pardon and by reprieve.

2 – In the event of the dissolution of a legal person or equivalent entity, the respective property is responsible for the fines and compensations for which the legal person or equivalent entity is convicted.

Article 128

Effects

1 – The agent's death extinguishes not only the criminal procedure but also the sentence or security measure.

2 – The amnesty extinguishes the criminal procedure and, in the case of a conviction, ceases the execution of the sentence and its effects as well as the security measure.

3 – The general pardon extinguishes the sentence, in whole or in part.

4 – The reprieve extinguishes the sentence, in whole or in part, or replaces it for a more favourable one foreseen in the law.

TITLE VI

Compensation for losses and damages due to crime

Article 129

Civil responsibility resulting from crime

Compensation for losses and damages resulting from crime is governed by civil law.

Article 130

Compensation to the injured party

1 – The conditions in which the State may assure the compensation due as a result of the commission of acts criminally typified is established in special legislation, whenever such compensation cannot be satisfied by the agent.

2 – In those cases not covered by the legislation mentioned in the previous number, the court may give to the injured party, upon his application and until the limit of the damage caused, the objects declared to be lost or the proceeds of their sale, or the corresponding price or value to benefits resulting from the crime, paid to the State or transferred for its benefit by virtue of articles 109 and 110.

3 – Outside the cases foreseen in the legislation mentioned in no. 1, if the damage caused by the crime is serious in such a way that the injured party is deprived from means of support and, if it is foreseeable that the agent will not repair it, the court grants the said injured party, upon his application, in whole or in part and until the limit of the damage, the amount of the fine.

4 – The State becomes subrogate in the right of the injured party to the compensation until the amount which it has paid.

BOOK II

Special part

TITLE I

Crimes against persons

CHAPTER I
Crimes against life

Article 131

Murder

Whoever kills another person is punished with sentence of imprisonment from eight to sixteen years.

Article 132

Qualified murder

1 - If the death is produced in circumstances which reveal special censurability or perversity, the agent is punished with sentence of imprisonment from twelve to twenty five years.

2 – It is capable of revealing the special censurability or perversity to which the previous number refers to, amongst others, the circumstance that the agent:

- a) Is a descendant or ascendant, adopted or adopting person, of the victim;
- b) Commits the act against spouse, ex-spouse, person of a different or of the same sex with whom the agent maintains or has maintained a relationship equal to a relationship of spouses, even if without cohabitation, or against progenitor of common descendant in first degree;
- c) Commits the act against a person particularly undefended, due to age, deficiency, disease or pregnancy;
- d) Employs torture or a cruelty act to increase the suffering of the victim;
- e) Is determined by greediness, by the pleasure of killing or of causing suffering, for excitement or satisfaction of the sexual instinct or by any ignoble or vain reason;
- f) Is determined by racial, religious, political hate or generated by colour, ethnical or national origin, by sex or by the sexual orientation of the victim;
- g) Has in view the preparation, facilitation, execution or concealing of another crime, facilitate the escape or assure the impunity of the agent of the crime;
- h) Commits the act together with, at least, two more persons or uses a particularly dangerous mean or which consists of the commission of common danger crime;
- i) Uses poison or any other insidious mean;
- j) Acts with coolness of mind, with thought in respect of means employed or has persisted in the intention to kill for more than twenty four hours;

- l) Commits the act against a member of a sovereign body, of the Council of State, Representative of the Republic, magistrate, member of a government body of the Autonomous Regions, Ombudsman, civil governor, member of a body of the local authorities or of service or body with public authority, commander of public force, member of the jury, witness, attorney, all that perform duties within the scope of out-of-court dispute resolution's procedures, agent of the security forces or services, public, civil or military officer, member of the police force or citizen entrusted with a public service, teacher, examiner or member of school community or minister of religious cult, judge or sports referee under the jurisdiction of the sportive federations, in the performance of their duties or by virtue of the same;
- m) Is an officer and commits the act with serious abuse of authority.

Article 133

Manslaughter

Whoever kills another person dominated by comprehensible violent emotion, compassion, despair or by a reason of relevant social or moral value, which substantially reduces his guilt, is punished with sentence of imprisonment from one to five years.

Article 134

Homicide upon victim's request

1 - Whoever kills another person determined by a serious, instant and express request that the victim has made is punished with sentence of imprisonment for not more than three years.

2 – An attempt is punishable.

Article 135

Incitement or assisted suicide

1 – Whoever incites another person to commit suicide or renders assistance for such purpose, is punished with sentence of imprisonment for not more than three years, if the suicide is effectively attempted or completed.

2 – If the incited person or to whom assistance is rendered is less than 16 years of age or has, by any reason, his capacity of evaluation or determination sensibly reduced, the agent is punished with sentence of imprisonment from one to five years.

Article 136

Infanticide

The mother who kills her son during, or immediately after, the birth and who is still under its disturbing influence is punished with sentence of imprisonment from one to five years.

Article 137

Negligent Homicide

1 - Whoever kills another person by negligence is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – In case of gross negligence, the agent is punished with sentence of imprisonment for not more than five years.

Article 138

Exposure or abandonment

1 – Whoever endangers the life of another person:

- a) By exposing such person in a place which subjects him to a helpless situation; or
- b) By abandoning such person without defence, whenever the agent is under a duty to protect, watch over or assist such person;

is punished with sentence of imprisonment from one to five years.

2 – If the act is committed by an ascendant or descendant, adopting person or adopted of the victim, the agent is punished with sentence of imprisonment from two to five years.

3 – If from the act results:

- a) Grievous bodily injury, the agent is punished with sentence of imprisonment from two to eight years;
- b) The death, the agent is punished with sentence of imprisonment from three to ten years.

Article 139

Advertising to suicide

Whoever, by any means, makes advertising or publicity of a product, object or method recommended as a mean to produce the death, in an adequate manner to produce suicide, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

CHAPTER II

Crimes against the intra-uterine life

Article 140

Abortion

1 – Whoever, by any means and without the consent of the pregnant woman, makes her abort is punished with sentence of imprisonment from two to eight years.

2 - Whoever, by any mean and with the consent of the pregnant woman, makes her abort is punished with sentence of imprisonment for not more than three years.

3 – The pregnant woman who gives consent to the abortion executed by a third party, or that, by an own or another's act, makes herself abort, is punished with sentence of imprisonment for not more than three years.

Article 141

Aggravated abortion

1 – When from the abortion or from the means employed results the death or a grievous bodily injury of the pregnant woman, the limits of the sentence applicable to whom makes her abort are raised of one third.

2 – The aggravation is also applicable to the agent who customarily pursues the commission of abortions punishable in the terms set out in nos. 1 and 2 of the previous article or makes it with a profitable intention.

Article 142

Non punishable interruption of pregnancy

1 – The interruption of pregnancy made by a doctor, or under his direction, in an official health care institution or officially recognised and with the consent of the pregnant woman is not punishable, when:

a) It constitutes the only mean to remove the danger of death or of serious or irreversible injury for the body or for the physical or mental heath of the pregnant woman;

b) It is suitable to avoid the danger of death or of serious and continuous injury for the body or for the physical or mental heath of the pregnant woman and is executed in the first twelve weeks of pregnancy;

c) There are safe reasons to foresee that the conceived will suffer, in an incurable manner, of a serious disease or congenital anomaly and is executed in the first 24 weeks of pregnancy, with the exception of those situations of nonviable fetus, in which case the interruption may be executed at all times;

d) The pregnancy has resulted from a crime against sexual liberty and self-determination and the interruption is executed within the first 16 weeks;

e) Is executed, by choice of the pregnant woman, in the first 10 weeks of pregnancy.

2 – The verification of the circumstances which make the interruption of pregnancy not punishable is certified in a medical certificate, written and signed prior to the operation, by a different doctor from whom, or under whose direction, the interruption is executed, without prejudice of the following number.

3 – In the situation foreseen in paragraph e) of no. 1, the certification referred to in the previous number is restricted to confirmation that the pregnancy does not exceed 10 weeks.

4 – The consent is given:

a) In the cases mentioned in paragraphs a) to d) of no. 1, in a document signed by the pregnant woman or at her request and, whenever possible, with, at least, three days in advance from the date of the operation;

b) In the case mentioned in paragraph e) of no. 1, in a document signed by the pregnant woman or at her request, which must be delivered at the health care institution until the time of the operation and always after a reflection period not less than three days following the first consultation aimed to give access to the pregnant woman to the relevant information for the making of her free, conscious and responsible decision.

5 – In the case where the pregnant woman is less than 16 years of age or mentally incapable, the consent is, respectively and successively, depending on the cases, given by the legal representative, by ascendant or descendant or, in their absence, by any relatives of collateral line.

6 – If it is not possible to attain the consent under the previous numbers and the execution of the interruption of the pregnancy is urgent, the doctor, in view of the situation, makes a conscientious decision, resorting, whenever possible, to the opinion of another or other doctors.

7 – For the purposes of the previous article, the number of weeks of pregnancy is confirmed by ultrasound or by another adequate mean according to *leges artis*.

CHAPTER III

Crimes against bodily integrity

Article 143

Simple bodily injury

1 – Whoever harms the body or the health of another person is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – The criminal procedure depends upon complaint, unless the harm is committed against agents of the security forces or services, in the performance of their duties or because of them.

3 – The court may discharge without punishment:

- a) In the case of reciprocal injuries and if it was not proved which one of the contenders has attacked in first place; or
- b) In the case where the agent has solely exercised retort over the aggressor.

Article 144

Grievous bodily injury

1 - Whoever harms the body or the health of another person in a way that:

- a) Deprives him from important organ or limb, or deforms him in a serious and permanent manner;
- b) Takes or affects, in a serious way, his work capacity, intellectual capacities, of procreation or of sexual enjoyment or the possibility to use the body, the senses or the language,
- c) Causes him a particularly painful or permanent disease, or grievous mental disorder or incurable; or
- d) Causes a danger for his life;

is punished with sentence of imprisonment from two to ten years.

Article 145

Qualified bodily injury

1 - If the injuries to bodily integrity are produced in circumstances that reveal a special censurability or perversity of the agent, the latest is punished:

- a) With sentence of imprisonment for not more than four years in the case of article 143;

b) With sentence of imprisonment for not more than twelve years in the case of article 144.

2 - The circumstances foreseen in no. 2 of article 132 are capable, amongst others, of revealing the special censurability or perversity of the agent.

Article 146

Less serious case of bodily injury

1 - If the injuries to bodily integrity are produced in the circumstances foreseen in article 133, the agent is punished:

a) With sentence of imprisonment for not more than two years or with fine penalty in the case of article 143;

b) With sentence of imprisonment from six months to four years in the case of article 144.

Article 147

Aggravation due to result

1 – If from the injuries foreseen in articles 143 to 146 results the death of the victim, the agent is punished with the sentence applicable to the respective crime aggravated of one third in its minimum and maximum limits.

2 - If from the injuries foreseen in article 143, in paragraph a) of no. 1 of article 145 and in paragraph a) of article 146 result the injuries foreseen in article 144, the agent is punished with the sentence applicable to the respective crime aggravated of one fourth in its minimum and maximum limits.

Article 148

Negligent bodily injury

1 – Whoever, by negligence, harms the body or the health of another person is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – In the case foreseen in the previous number, the court may discharge without punishment when:

a) The agent is a doctor in the performance of his profession and from the medical act does not result disease or work incapacity for more than eight days; or

b) From the injury does not result disease or work incapacity for more than three days.

3 – If from the act results grievous bodily injury, the agent is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

4 – The criminal proceeding depends upon complaint.

Article 149

Consent

1 – For consent purposes the bodily integrity is considered to be freely disposable.

2 – In order to decide whether the harm to the body or health contradicts the morality are taken into consideration, namely, the motives and the purposes of the agent or of the offended party as well as the means employed and the foreseeable extent of the injury.

Article 150

Operations and medical-surgical treatments

1 – The operations and treatments that, pursuant to the state of knowledge and to medical experience, are deemed to be suitable and are carried out, pursuant to *leges artis*, by a doctor or by another person legally authorised, with the intent to prevent, diagnose, cure or reduce disease, suffering, injury or bodily exhaustion or mental disturbance are not considered as bodily injury.

2 – The persons mentioned in the previous number that, in view of the purposes mentioned therein, execute operations or treatments in breach of the *leges artis* and create, by such way, a danger for the life or a danger of grievous bodily or health injury are punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days, if a more serious sentence is not applicable to them by virtue of another legal provision.

Article 151

Participation in a brawl

1 - Whoever intervenes or takes part in a brawl of two or more persons, from which results death or grievous bodily injury, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – Participation in a brawl is not punishable when determined by a non censurable reason, namely when intended to react against an assault, defend another or separate the contenders.

Article 152

Domestic violence

1 – Whoever, in a repetitive manner or not, imposes physical or mental abuses, including bodily punishments, deprivations of liberty and sexual offences:

- a) To the spouse or ex-spouse;
- b) To a person of another or of the same sex with whom the agent maintains or has maintained a relationship equal to a relationship of spouses, even if without cohabitation;
- c) To progenitor of common descendant in first degree; or
- d) To a person particularly undefended, due to age, deficiency, disease, pregnancy or economic dependency, who cohabitates with him;

is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – In the case foreseen in the previous number, if the agent commits the act against a minor, in the presence of a minor, in the common domicile or in the victim's domicile is punished with sentence of imprisonment from two to five years.

3 – If, from the acts foreseen in no. 1 result:

- a) Grievous bodily injury, the agent is punished with sentence of imprisonment from two to eight years;
- b) The death, the agent is punished with sentence of imprisonment from three to ten years.

4 – In the cases foreseen in the previous numbers, the accessory sentences of prohibition to contact with the victim and of prohibition to use and carry weapons may be applicable to the defendant, for a period from six months to five years, and of obligation to attend specific programs for prevention of domestic violence.

5 - The accessory sentence of prohibition to contact with the victim may include the distance from the victim's residence or place of work and its compliance may be supervised by remote technical means.

6 – Whoever is convicted by a crime foreseen in this article may, considering the concrete seriousness of the act and its connection with the function performed by the

agent, be hindered from the paternal power, tutorship or curatorship for a period from one to ten years.

Article 152-A

Physical abuse

1 - Whoever, having under his care, protection, under the responsibility of his direction or education or working at his service, a minor or particularly undefended person, due to age, deficiency, disease or pregnancy, and:

- a) Imposes to such person, in a repetitive manner or not, physical or mental abuses, including bodily punishments, deprivations of liberty and sexual offences or treats such person cruelly;
- b) Uses such person in danger activities, inhuman or prohibited; or
- c) Saddles such person with excessive works;

is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 - If from the acts foreseen in the previous numbers result:

- a) Grievous bodily injury, the agent is punished with sentence of imprisonment from two to eight years;
- b) The death, the agent is punished with sentence of imprisonment from three to ten years.

Article 152-B

Breach of security rules

1 – Whoever, not complying with legal or regulatory provisions, subjects an employee to a danger to life or to a danger of a grievous body or health injury, is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – If the danger foreseen in the previous number is caused by negligence the agent is punished with sentence of imprisonment for not more than three years.

3 - If from the acts foreseen in the previous numbers result grievous bodily injury the agent is punished:

- a) With sentence of imprisonment from two to eight years in the case of no. 1;
- b) With sentence of imprisonment from one to five years in the case of no. 2.

4 - If from the acts foreseen in nos. 1 and 2 results the death the agent is punished:

- a) With sentence of imprisonment from three to ten years in the case of no. 1;
- b) With sentence of imprisonment from two to eight years in the case of no. 2.

CHAPTER IV

Crimes against personal freedom

Article 153

Threat

1 – Whoever threatens another person with the commission of a crime against life, bodily integrity, personal freedom, sexual liberty and self-determination or property of considerable value, in an adequate way to cause him fear or worry or to impair his liberty of determination, is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days.

2 - The criminal proceeding depends upon complaint.

Article 154

Coercion

1 – Whoever, by means of violence or threat with an appreciable harm, constrains another person to an action or omission or to bear an activity, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 – The act is not punishable:

- a) If the use of the mean to accomplish the intended purpose is not censurable; or
- b) If it is aimed to avoid suicide or the commission of a typical unlawful act.

4 – If the act occurs between spouses, ascendants and descendants, adopting persons and adopted, or between persons, of a different or of the same sex, who live in equal conditions as those of spouses, the criminal procedure depends upon complaint.

Article 155

Aggravation

1 – When the acts foreseen in articles 153 to 154 are carried out:

- a) By means of threat with the commission of a crime punishable with sentence of imprisonment over three years; or
- b) Against a person particularly undefended, due to age, deficiency, disease or pregnancy;

c) Against any of the persons mentioned in paragraph 1) of no. 2 of article 132, in the performance of their duties or because of them;

d) By an officer with serious abuse of authority;

the agent is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days, in the case of article 153 and with sentence of imprisonment from one to five years, in the case of no. 1 of article 154.

2 – The same sentences are applicable if, by virtue of the threat or coercion, the victim or the person upon whom the harm shall fall commits suicide or attempts to commit suicide.

Article 156

Arbitrary operations and medical-surgical treatments

1 – Persons mentioned in article 150 that, in view of the purposes mentioned therein, carry out operations or treatments without the patient's consent are punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – The act is not punishable when the consent:

a) May only be attained with delay which implies danger for life or serious danger for the body or for health; or

b) Has been given to a certain operation or treatment, but has been carried out a different one which has revealed to be imposed by the state of knowledge and medical experience as a mean to avoid a danger for life, body and health;

and there are no circumstances that allow concluding with safety that the consent would be refused.

3 – If, by gross negligence, the agent falsely represents the consent requirements is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 60 days.

4 - The criminal proceeding depends upon complaint.

Article 157

Duty of clarification

For the purposes of the previous number, the consent is only effective when the patient has been duly clarified about the diagnose and the nature, extent and dimension and possible consequences of the operation or treatment, unless such implies the

communication of circumstances which, if known by the patient, would endanger his life or were capable of causing him a serious damage to physical or mental health.

Article 158

Illegal restraint

1 – Whoever detains, arrests, maintains arrested or detained another person or by any way deprives such person from liberty is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – The agent is punished with sentence of imprisonment from two to ten years if the deprivation of liberty:

- a) Lasts more than two days;
- b) Is preceded or followed by grievous bodily injury, torture or other cruel, degrading or inhuman treatment;
- c) Is committed under the false reason that the victim suffered from mental disorder;
- d) Results in suicide or grievous bodily injury of the victim;
- e) Is committed against a person particularly undefended, due to age, deficiency, disease or pregnancy;
- f) Is committed against one of the persons mentioned in paragraph 1) of no. 2 of article 132, in the performance of their duties or because of them;
- g) Is committed under simulation of public authority or by an officer with serious abuse of authority.

3 – If from the deprivation of liberty results the death of the victim the agent is punished with sentence of imprisonment from three to fifteen years.

Article 159

Slavery

Whoever:

- a) Reduces another person to the state or condition of slave; or
 - b) Sells, assigns or acquires a person or takes possession of such person with the intention to maintain him in the situation foreseen in the previous paragraph;
- is punished with sentence of imprisonment from five to fifteen years.

Article 160

Trafficking of persons

1 – Whoever offers, delivers, allures, accepts, carries, accommodates or receives a person for sexual exploitation purposes, work exploitation or organs removal:

- a) By means of violence, kidnapping or serious threat;
- b) Through artifice or fraudulent manipulation;
- c) With abuse of authority resulting from a hierarchical, economic, working or familiar dependence relationship;
- d) Taking advantage of mental incapacity or of a situation of special vulnerability of the victim; or
- e) By means of the attainment of the consent of the person who has control over the victim;

is punished with sentence of imprisonment from three to ten years.

2 – The same sentence is applicable to whomever, by any means, allures, carries, proceeds to the accommodation or receiving of a minor, or delivers him, offers him or accepts him, for sexual exploitation purposes, work exploitation or organs removal.

3 – In the case foreseen in the previous number, if the agent uses any of the means foreseen in the paragraphs of no. 1, or acts professionally or with profitable intention, is punished with sentence of imprisonment from three to twelve years.

4 – Whoever, against payment or other compensation, offers, delivers, requests or accepts a minor, or attains or grants consent for his adoption, is punished with sentence of imprisonment from one to five years.

5 – Whoever, being aware of the commission of the crime foreseen in nos. 1 and 2, uses the services or organs of the victim is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

6 – Whoever retains, hides, damages or destroys identification or travel documents of a person victim of a crime foreseen in nos. 1 and 2 is punished with sentence of imprisonment for not more than three years, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 161

Kidnapping

1 – Whoever, by means of violence, threat or astuteness, kidnaps another person with the intention to:

- a) Submit the victim to extortion;
- b) Commit a crime against the sexual liberty and self-determination of the victim;
- c) Attain ransom or reward; or
- d) Constrain the public authority or a third party to an action or omission, or to bear an activity;

is punished with sentence of imprisonment from two to eight years.

2 – Upon verification in the case of the situations foreseen:

- a) In no. 2 of article 158, the agent is punished with sentence of imprisonment from three to fifteen years;
- b) In no. 3 of article 158, the agent is punished with sentence of imprisonment from eight to sixteen years.

3 – If the agent voluntarily waives from his aim and releases the victim, or if he makes earnest efforts to achieve it, the sentence may be specially mitigated.

Article 162

Hostage-taking

1 – Whoever, with the intent to achieve political, ideological, philosophical or confessional purposes, restrains or kidnaps another person, threatening to kill such person, to impose grievous bodily injuries or to maintain detained, aiming, by such way, to constrain the State, an international organisation, a legal person, a group of persons or a private individual to an action or omission, or to bear an activity, is punished with sentence of imprisonment from two to ten years.

2 – No. 2 of the previous article is correspondently applicable.

3 – Whoever takes advantage of the hostage-taking committed by another, with the intent and for the constraint purposes mentioned in no. 1, is punished with the sentences foreseen in the previous numbers.

4 - No. 3 of the previous article is correspondently applicable.

CHAPTER V

Crimes against sexual liberty and self-determination

SECTION I

Crimes against sexual liberty

Article 163

Sexual coercion

1 – Whoever, by means of violence, serious threat or after having rendered, for such purposes, another person unconscious or incapable of resisting, constrains such person to suffer or to commit, with himself or with a third party, a relevant sexual intercourse is punished with sentence of imprisonment from one to eight years.

2 – Whoever, by any other mean not foreseen in the previous number and by abusing of the authority resulting from a familiar relationship, tutorship or curatorship or from hierarchical, economic or work dependence, or by taking advantage of the dread that has caused, constrains another person to suffer or to commit a relevant sexual intercourse with himself or with a third party, is punished with sentence of imprisonment for not more than two years.

Article 164

Rape

1 - Whoever, by means of violence, serious threat or after having rendered, for such purposes, another person unconscious or incapable of resisting, constrains such person:

- a) To suffer or to commit, with himself or with a third party, copula, coitus per anum or oral sexual intercourse; or
- b) To suffer vaginal penetration or per anum of parts of the body or objects;

is punished with sentence of imprisonment from three to ten years.

2 - Whoever, by any other mean not foreseen in the previous number and by abusing of the authority resulting from a familiar relationship, tutorship or curatorship or from hierarchical, economic or work dependence, or by taking advantage of the dread that has caused, constrains another person:

- a) To suffer or to commit, with himself or with a third party, copula, coitus per anum or oral sexual intercourse; or
- b) To suffer vaginal penetration or per anum of parts of the body or objects;

is punished with sentence of imprisonment for not more than three years.

Article 165

Sexual abuse of person incapable of resisting

1 – Whoever commits a relevant sexual intercourse with an unconscious person or incapable, by another reason, to oppose resistance, taking advantage of his state or incapacity, is punished with sentence of imprisonment from six months to eight years.

2 – If the relevant sexual intercourse consists of copula, coitus per anum, oral sexual intercourse or vaginal penetration or per anum of parts of the body or objects, the agent is punished with sentence of imprisonment from two to ten years.

Article 166

Sexual abuse of interned person

1 – Whoever, taking advantage of the duties or from the position that, at any title, performs or holds in:

- a) Institution where custodial criminal consequences are executed;
- b) Hospital, hospice, asylum, recovery or health clinic or other institution aimed for assistance or treatment; or
- c) Education or correction institution;

commits a relevant sexual intercourse with a person interned therein and who is, in any way, entrusted to him or under his care, is punished with sentence of imprisonment from six months to five years.

2 - If the relevant sexual intercourse consists of copula, coitus per anum, oral sexual intercourse or vaginal penetration or per anum of parts of the body or objects, the agent is punished with sentence of imprisonment from one to eight years.

Article 167

Sexual fraud

1 – Whoever, fraudulently taking advantage of a mistake about his personal identity, commits a relevant sexual intercourse with another person is punished with sentence of imprisonment for not more than one year.

2 - If the relevant sexual intercourse consists of copula, coitus per anum, oral sexual intercourse or vaginal penetration or per anum of parts of the body or objects, the agent is punished with sentence of imprisonment for not more than two years.

Article 168

Assisted reproduction not consented

Whoever commits an act of assisted reproduction in a woman, without her consent, is punished with sentence of imprisonment from one to eight years.

Article 169

Pandering

1 – Whoever, professionally or with profitable intention, incites, favours or facilitates another person's engagement in prostitution is punished with sentence of imprisonment from six months to five years.

2 – If the agent commits the crime foreseen in the previous number:

- a) By means of violence or serious threat;
- b) Through artifice or fraudulent manipulation;
- c) With abuse of authority resulting from a familiar relationship, tutorship or curatorship or from hierarchical, economic or work dependence; or
- d) Taking advantage of mental incapacity or of a situation of special vulnerability of the victim;

is punished with sentence of imprisonment from one to eight years.

Article 170

Sexual importunacy

Whoever importunes another person committing before such person exhibitionist acts or constrains such person to a contact of sexual nature is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

SECTION II

Crimes against sexual self-determination

Article 171

Sexual abuse of children

1 – Whoever commits a relevant sexual intercourse with, or on a minor less than 14 years of age, or leads him to commit it with another person, is punished with sentence of imprisonment from one to eight years.

2 - If the relevant sexual intercourse consists of copula, coitus per anum, oral sexual intercourse or vaginal penetration or per anum of parts of the body or objects, the agent is punished with sentence of imprisonment from three to ten years.

3 – Whoever:

a) Importunes a minor less than 14 years of age, committing act foreseen in article 170; or

b) Acts over a minor less than 14 years of age, by means of a pornographic conversation, writing, show or object;

is punished with sentence of imprisonment for not more than three years.

4 – Whoever commits acts described in the previous number with profitable intention is punished with sentence of imprisonment from six months to five years.

Article 172

Sexual abuse of dependant minors

1 – Whoever commits or leads to the commission of act described in nos. 1 or 2 of the previous article, in relation to a minor between 14 and 18 years of age who has been entrusted to him for education or assistance, is punished with sentence of imprisonment from one to eight years.

2 - Whoever commits act described in the paragraphs of no. 3 of the previous article, in relation to a minor included in the previous number of this article and in the conditions mentioned therein, is punished with sentence of imprisonment for not more than one year.

3 - Whoever commits the acts described in the previous number with profitable intention is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 173

Sexual intercourse with adolescents

1 – Whoever, of legal age, commits a relevant sexual intercourse with a minor between 14 and 16 years of age, or leads him to commit it with another person, abusing from his inexperience, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 - If the relevant sexual intercourse consists of copula, oral sexual intercourse, coitus per anum or vaginal penetration or per anum of parts of the body or objects, the agent is

punished with sentence of imprisonment for not more than three years, or with fine penalty for not more than 360 days.

Article 174

Resort to minors' prostitution

1 - Whoever, of legal age, commits a relevant sexual intercourse with a minor between 14 and 18 years of age, against payment or other compensation, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 - If the relevant sexual intercourse consists of copula, coitus per anum, oral sexual intercourse or vaginal penetration or per anum of parts of the body or objects, the agent is punished with sentence of imprisonment for not more than three years, or with fine penalty for not more than 360 days.

3 – An attempt is punishable.

Article 175

Minors' pandering

1 - Whoever incites, favours or facilitates a minor's engagement in prostitution is punished with sentence of imprisonment from one to five years.

2 – If the agent commits the crime foreseen in the previous number:

- a) By means of violence or serious threat;
- b) Through artifice or fraudulent manipulation;
- c) With abuse of authority resulting from a familiar relationship, tutorship or curatorship or from hierarchical, economic or work dependence;
- d) Acting professionally or with profitable intention; or
- e) Taking advantage of mental incapacity or of a situation of special vulnerability of the victim;

is punished with sentence of imprisonment from two to ten years.

Article 176

Minors' pornography

1 – Whoever:

- a) Uses a minor in a pornographic show or allures him for such purpose;

- b) Uses a minor in a pornographic photograph, film or recording, regardless of their support, or allures him for such purpose;
- c) Produces, distributes, imports, exports, discloses, exhibits or assigns, at any title or by any means, the materials foreseen in the previous number;
- d) Acquires or holds materials foreseen in paragraph b) with the intent to distribute them, import, export, disclose, exhibit or assign them;

is punished with sentence of imprisonment from one to five years.

2 – Whoever commits the acts described in the previous number professionally or with profitable intention is punished with sentence of imprisonment from one to eight years.

3 - Whoever commits the acts described in paragraphs c) and d) of no. 1 using pornographic material with realist representation of minor is punished with sentence of imprisonment for not more than two years.

4 – Whoever acquires or holds the materials foreseen in paragraph b) of no. 1 is punished with sentence of imprisonment for not more than one year or with fine penalty.

5 – An attempt is punishable.

Article 177

Aggravation

1 – The sentences foreseen in articles 163 to 165 and 167 to 176 are aggravated of one third, in their minimum and maximum limits, if the victim:

- a) Is ascendant, descendant, adopting person, adopted, relative or in-law until second degree of the agent; or
- b) Is in a familiar relationship, tutorship or curatorship or in hierarchical, economic or work dependence of the agent and the crime is committed by taking advantage from such relationship.

2 – The aggravations foreseen in the previous number are not applicable in the cases of no. 2 of article 163, no. 2 of article 164, paragraph c) of no. 2 of article 169 and of paragraph c) of no. 2 of article 175.

3 - The sentences foreseen in articles 163 to 167 and 171 to 174 are aggravated of one third, in their minimum and maximum limits, if the agent is holder of a disease sexually transmissible.

4 - The sentences foreseen in articles 163 to 168 and 171 to 174 are aggravated of one half, in their minimum and maximum limits, if from the behaviours described therein

results pregnancy, grievous bodily injury, transmission of pathogenic agent which endangers life, suicide or death of the victim.

5 - The sentences foreseen in articles 163, 164, 168, 174, 175 and in no. 1 of article 176 are aggravated of one third, in their minimum and maximum limits, if the victim is less than 16 years of age.

6 - The sentences foreseen in articles 163, 164, 168, 174, 175 and in no. 1 of article 176 are aggravated of one half, in their minimum and maximum limits, if the victim is less than 14 years of age.

7 – If in the same behaviour concur more than one of the circumstances referred to in the previous numbers, it is only considered for purposes of determination of the applicable sentence the one with the strongest aggravation effect, being the remaining ones valorised in the extent of the sentence.

Article 178

Complaint

1 – The criminal procedure for the crimes foreseen in articles 163 to 165, 167, 168 and 170 depends upon complaint, unless committed against a minor or if from such crimes result suicide or death of the victim.

2 – The criminal procedure for the crime foreseen in article 173 depends upon complaint, unless if from such crime results suicide or death of the victim.

3 – In the crimes against sexual liberty and self-determination of minor not aggravated by the result, the Public Prosecution may, considering the interest of the victim, determine the temporarily suspension of the proceeding, with the agreement of the investigating judge and of the defendant, provided that a similar measure for a crime of the same nature has not been previously applicable.

4 – In the case foreseen in the previous number, the suspension period may occur for a period up to five years.

Article 179

Hinder of the paternal power and prohibition to perform duties

Whoever is convicted for a crime foreseen in articles 163 to 176 may, on the basis of the concrete seriousness of the case and its connection with the duty performed by the agent, be:

- a) Hindered from the exercise of the paternal power, of the tutorship or of the curatorship; or
- b) Prohibited from the performance of profession, duty or activity which implies having minors under his responsibility, education, treatment or surveillance;
for a period from two to fifteen years.

CHAPTER VI

Crimes against honour

Article 180

Defamation

1 – Whoever, directing to a third party, imputes to another person, even in a form of a suspicion, a fact or expresses over such person a judgment, which are offensive of the honour or consideration of such person, or reproduces such an imputation or judgment, is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 240 days.

2 – The conduct is not punishable when:

- a) The imputation is made to accomplish legitimate interests; or
- b) The agent proves the truth of such imputation or if he had a serious ground, in good faith, to consider it as being true.

3 – Without prejudice of paragraphs b), c) and d) of no. 2 of article 31, the previous number is not applicable when concerning the imputation of a fact in relation to the intimacy of private and familiar life.

4 – The good faith referred to in paragraph b) of no. 2 is excluded when the agent has not complied with the information duty, which was imposed by the circumstances of the case, about the truth of the imputation.

Article 181

Insult

1 – Whoever insults another person, by imputing facts to such person, even in a form of a suspicion, or by addressing words, which are offensive of the honour or consideration of such person, is punished with sentence of imprisonment for not more than three months or with fine penalty for not more than 120 days.

2 – In what concerns the imputation of facts, nos. 2, 3 and 4 of the previous article are correspondently applicable.

Article 182

Equivalency

Defamations and insults made in writing, by gestures, by images or by any other mean of expression are equivalent to verbal defamations and insults.

Article 183

Publicity and libel

1 – If in the cases foreseen in articles 180, 181 and 182:

a) The offence is committed through means or in circumstances which make its disclosure easier; or

b) In what concerns the imputation of facts, it is determined that the agent knew the falsity of the imputation;

the defamation or insult sentences are raised in one third in their minimum and maximum limits.

2 – If the crime is committed through media the agent is punished with sentence of imprisonment for not more than two years, or with fine penalty not less than 120 days.

Article 184

Aggravation

The sentences foreseen in articles 180, 181 and 183 are raised of one half in their minimum and maximum limits if the victim is one of the persons referred to in paragraph 1) of no. 2 of article 132, in the performance of his duties or because of them, or if the agent is an officer and commits the act with serious abuse of authority.

Article 185

Offence to the memory of deceased person

1 – Whoever, by any way, seriously offends the memory of a deceased person is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 240 days.

2 – The following are correspondently applicable:

a) Numbers 2, 3 and 4 of article 180; and

b) Article 183.

2 – The offence is not punishable when more than 50 years have elapsed from the decease.

Article 186

Discharge without punishment

1 – The court releases the agent without punishment when such agent gives in court clarifications or explanations of the offence for which he is charged of, if the offended party, whoever represents him or integrates his will as holder of the right to file a complaint or private prosecution, accepts them as reasonable.

2 - The court may also release without punishment if the offence has been caused by an unlawful or reprehensive conduct of the offended party.

3 – If the offended party reciprocates, in the same act, with an offence to other offence, the court may release without punishment both agents or only one of them, depending on the circumstances.

Article 187

Offence to body, service or legal person

1 – Whoever, without having grounds to, in good faith, repute as true, affirms or divulges untruthful acts capable of offending the credibility, prestige or the confidence which are due to a body or service exercising public authority, legal person, institution or corporation is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 240 days.

2 - The following are correspondently applicable:

- a) Article 183; and
- b) Numbers 1 and 2 of article 186.

Article 188

Criminal procedure

1 – The criminal procedure for the crimes foreseen in this chapter depends upon private prosecution, with the exception of the following cases:

- a) Article 184; and
- b) Article 187, whenever the offended party exercises public authority;

in which the complaint or report is sufficient.

2 – The right of public prosecution for the crime foreseen in article 185 is entrusted to the persons mentioned in no. 2 of article 113, with the order established therein.

Article 189

Public knowledge of the conviction

1 – In the case of a conviction, even if discharged without punishment, pursuant to article 183, paragraph b) of no. 2 of article 185 or paragraph a) of no. 2 of article 187, the court orders, at the expense of the agent, the adequate public knowledge of the judgment, upon request, until closing of the hearing in first instance, of the person entitled to file a complaint or private prosecution.

2 – The court establishes the concrete terms pursuant to which the public knowledge of the judgment shall take place.

CHAPTER VII

Crimes against the realm of private life

Article 190

Breach of domicile or disturbance of private life

1 – Whoever, without consent, entries in the residence of another person or remains therein after being requests to leave is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 240 days.

2 – Whoever, with the intent to disturb the private life, the peace and quietness of another person, calls to his residence or to his mobile incurs in the same sentence.

3 – If the crime foreseen in no. 1 is committed at night or in a deserted place, by means of violence or threat of violence, with the use of a weapon or by means of breaking, climbing or false key or by three or more persons, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 191

Entry in place interdicted to the public

Whoever, without consent or authorisation from whom it concerned, entries or remains in courtyards, gardens or fenced areas annexed to a residence, in boats or in other means of transport, in an interdicted place allotted to public service or company, to transport service or to the exercise of professions or activities, or in any other place interdicted and not freely accessible to the public, is punished with sentence of imprisonment for not more than three months or with fine penalty for not more than 60 days.

Article 192

Private life abuse

1 - Whoever, without consent and with the intent to abuse of the private life of persons, namely the intimacy of the familiar or sexual life:

- a) Intercepts, records, registers, uses, transmits or discloses a conversation, telephone communication, electronic mail messages or detailed invoicing;
- b) Captures, photographs, films, registers or discloses images of persons or objects or intimate areas;
- c) Secretly observes or hears persons in a private place; or
- d) Discloses facts regarding the private life or a serious disease of another person;

is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 240 days.

2 – The act foreseen in paragraph d) of the previous number is not punishable when committed as an adequate mean to accomplish a legitimate and relevant public interest.

Article 193

Computer abuse

1 – Whoever creates, maintains or uses an automate file of data individually identified and in respect of political, religious or philosophical beliefs, of party or syndical filiations, of private life or ethnic origin, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

2 – An attempt is punishable.

Article 194

Breach of correspondence or telecommunications

1 – Whoever, without consent, opens a package, letter or any other writing which is closed and which is not addressed to him, or becomes aware, by technical procedures, of their contents, or prevents, by any way, that they are received by the recipient, is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 240 days.

2 – Whoever interferes, without consent, in the contents of telecommunications or becomes aware of it incurs in the same sentence.

3 - Whoever, without consent, discloses the contents of letters, packages, closed writings or telecommunications to which the previous numbers refer to is punished with

sentence of imprisonment for not more than one year, or with fine penalty for not more than 240 days.

Article 195

Breach of secrecy

Whoever, without consent, reveals another's secret of which became aware due to his situation, occupation, job, profession or art is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 240 days.

Article 196

Improper advantage of secrecy

Whoever, without consent, takes advantage of a secret related to another's commercial, industrial, professional or artistic activity, of which became aware due to his situation, occupation, job, profession or art, and causes, by such way, a damage to another person or to the State, is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 240 days.

Article 197

Aggravation

The sentences foreseen in articles 190 to 195 are raised of one third in their minimum and maximum limits if the act is committed:

- a) To obtain a reward or enrichment, for the agent or for another person, or to cause damage to another person or to the State; or
- b) Through media.

Article 198

Complaint

1 – With the exception of the case of article 193, the criminal procedure for the crimes foreseen in this chapter depends upon complaint or report.

CHAPTER VIII

Crimes against other personal legal assets

Article 199

Unlawful recordings and photographs

1 - Whoever, without consent:

- a) Records words issued by another person and not intended to the public, even if directed to him; or
- b) Uses or allows the use of the recordings referred to in the previous paragraph, even if lawfully produced;

is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 240 days.

2 - In the same sentence incurs whoever, against will:

- a) Photographs or films another person, even in events in which he has legitimately participated in; or
- b) Uses or allows the use of photographs or films referred to in the previous paragraph, even if lawfully attained.

3 – Articles 197 and 198 are correspondently applicable.

Article 200

Failure to render assistance

1 – Whoever, in case of serious necessity, namely caused by disaster, accident, public calamity or common danger situation, which endangers the life, bodily integrity or the liberty of another person, fails to render the necessary assistance to remove the danger, either by personal action or promoting the assistance, is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days.

2 – If the situation referred to in the previous number has been caused by the one failing to render due assistance, the omitting person is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

3 – Failure to render assistance is not punishable upon verification of serious risk to life or bodily integrity of the omitting person or when, by another relevant reason, such person is not required to render assistance.

Article 201

Subtraction to guarantees of Portuguese Rule of law

1 – Whoever, by means of violence, threat or any artifice mean, makes that another person leaves the scope of protection of the Portuguese criminal law and is exposed to be pursued by political reasons, with risk to life, bodily integrity or liberty, becoming subject to violence or to measures in opposition to the basic principles of the Portuguese Rule of law, is punished with sentence of imprisonment from two to ten years.

2 – Whoever, by the same means, prevents another person to abandon the danger situation referred to in the previous number or forces such person to remain therein incurs in the same sentence.

TITLE II

Crimes against property

CHAPTER I

Preliminary provision

Article 202

Legal definitions

For the purposes of the following numbers is considered:

- a) High value – the value exceeding 50 units of account evaluated at the time of the commission of the act;
- b) Considerably high value - the value exceeding 200 units of account evaluated at the time of the commission of the act;
- c) Slight value - the value not exceeding 1 unit of account evaluated at the time of the commission of the act;
- d) Breaking – the rupture, fracture or destruction, in whole or in part, of device aimed to close or prevent the entry, exteriorly or interiorly, of a house or of a closed place dependent thereof;
- e) Climbing – the entry in house or in a closed place dependent thereof, from a place normally not intended for entry, namely by roofs, terrace or balcony doors, windows, walls, subterranean openings or by any device aimed to close or prevent the entry or passage;
- f) False keys:
 - i) Those imitated, counterfeited or modified;

- ii) The true ones when, casually or stealthily, are outside the power of who is entitled to use them; and
- iii) Skeleton-keys or any other instruments which can be used to open locks, or other security devices;
- g) Boundary marker- any construction, plantation, fence, hedge or another sign aimed to establish the limits between different properties, placed by judicial decision or with the agreement of who is legitimately authorised to give it.

CHAPTER II

Crimes against property

Article 203

Theft

- 1 – Whoever, with the intent of unlawfully appropriating for himself or for another person, steals another’s movable property is punished with sentence of imprisonment for not more than three years or with fine penalty.
- 2 – An attempt is punishable.
- 3 – Criminal procedure depends upon complaint.

Article 204

Qualified theft

- 1 – Whoever steals another’s movable property:
 - a) Of high value;
 - b) Placed or carried in a vehicle or placed in a location aimed for the deposit of objects or carried by passengers’ users of public transport, even if stealing occurs in the station, platform or quay;
 - c) Allocated to religious cult or to the veneration of the memory of the deceased and which is in a place aimed for the cult or in a cemetery;
 - d) Exploiting a situation of special debility of the victim, of disaster, accident, public calamity or common danger;
 - e) Closed in a drawer, safe or other receptacle equipped with lock or other device specially allotted to its security;
 - f) Unlawfully intruding in a residence, even if movable, commercial or industrial establishment or closed area or hiding therein with the intention to steal;

g) With misuse of title, uniform or insignia of public, civil or military employee or alleging false order of public authority;

h) Making of the commission of thefts his way of living; or

i) Leaving the victim in a difficult economic situation;

is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days.

2 - Whoever steals another's movable property:

a) Of considerably high value;

b) Which has an important meaning for the technological or economic development;

c) Which, by its nature, is highly dangerous;

d) Which has an important scientific, artistic or historical value and is in a public collection or exhibition or accessible to the public;

e) Intruding in residence, even if movable, commercial or industrial establishment or another closed area, by breaking, climbing or false keys;

f) Bringing, at the time of the crime, visible or hidden weapon;

g) As a member of a gang aimed for the repeated commission of crimes against property, with the cooperation of, at least, another member of the gang;

is punished with sentence of imprisonment from two to eight years.

3 – If in the same conduct concurs more than one of the requirements referred to in the previous numbers, it is only considered for purposes of determination of the applicable sentence the one with the strongest aggravation effect, being the remaining ones valorised in the extent of the sentence.

4 – If the object stolen is of slight value there is no place for qualified theft.

Article 205

Embezzlement

1 – Whoever unlawfully appropriates of movable property which has been handed to him by a title pursuant to which the property is not transferred is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 – The criminal procedure depends upon complaint.

4 – If the property referred to in no. 1 is:

a) Of high value, the agent is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days;

b) Of considerably high value, the agent is punished with sentence of imprisonment from one to eight years.

5 – If the agent has received the property in deposit imposed by law due to occupation, job or profession or in the capacity as tutor, curator or legal custodian, is punished with sentence of imprisonment from one to eight years.

Article 206

Return or repair

1 – In the cases foreseen in paragraphs a), b) and e) of no. 1 and in paragraph a) of no. 2 of article 204 and in no. 4 of article 205, the criminal responsibility is extinguished, by means of an agreement of the offended party and of the defendant, until publication of the judgment in first instance and without an illegitimate third party's damage, provided that the property stolen or unlawfully appropriated has been returned or there has been a full repair of the damages caused.

2 – Upon return of the stolen or unlawfully appropriated property or full repair of the damage caused, until the beginning of the hearing of trial in first instance and without an illegitimate third party's damage, the sentence is specially mitigated.

3 – In the case of a partial return or repair, the sentence may be specially mitigated.

Article 207

Private prosecution

In the case of article 203 and of no. 1 of article 205, the criminal procedure depends upon private prosecution if:

a) The agent is spouse, ascendant, descendant, adopting person, adopted, relative or in-law until the second degree of the victim or lives with the victim in equal conditions as those of spouses; or

b) The stolen or unlawfully appropriated property is of slight value and aimed to immediate use and indispensable to the satisfaction of a need of the agent or of another person mentioned in paragraph a).

Article 208

Unauthorised use of vehicle

1 – Whoever uses a car or another motor vehicle, aircraft, boat or bicycle, without authorisation from whom it concerned, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days, if a more serious sentence is not applicable o him by virtue of another legal provision.

2 – An attempt is punishable.

3 – The criminal procedure depends upon complaint or, in the cases foreseen in article 207, of private prosecution.

Article 209

Unlawful appropriation in case of accession or of lost property

1 – Whoever unlawfully appropriates of another’s property which has entered into his possession or holding by virtue of a natural force, mistake, fortuitous case or by any way regardless of his will is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days.

2 – Whoever unlawfully appropriates of another’s property which he has found incurs in the same sentence.

3 - The criminal procedure depends upon complaint. Articles 206 and 207 are correspondently applicable.

Article 210

Robbery

1 - Whoever, with the intent of unlawfully appropriating for himself or for another person, steals or constrains to be delivered to him, another’s movable property, by means of violence against a person, threat with imminent danger to life or to bodily integrity, or putting such person incapable of resisting, is punished with sentence of imprisonment from one to eight years.

2 – The sentence is of imprisonment from three to fifteen years if:

a) Any of the agents produces danger to the life of the victim or imposes, at least by negligence, grievous bodily injury; or

b) If any of the requirements referred to in nos. 1 and 2 of article 204 are, individually or cumulatively, verified, being no. 4 of the same article correspondently applicable.

3 – If from the act results the death of another person the agent is punished with sentence of imprisonment from eight to sixteen years.

Article 211

Violence after subtraction

The sentences foreseen in the previous article are, depending on the cases, applicable to whoever uses the means foreseen therein to, when found in the act of committing the theft, keep or not return the property stolen.

Article 212

Damage

1 – Whoever destroys, in whole or in part, damages, deforms or renders unusable another's property is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 - The criminal procedure depends upon complaint.

4 - Articles 206 and 207 are correspondently applicable.

Article 213

Qualified damage

1 - Whoever destroys, in whole or in part, damages, deforms or renders unusable:

- a) Another's property of high value;
- b) A public monument;
- c) A property aimed for public use and utility or to public bodies or services;
- d) A property belonging to cultural heritage and legally classified or about to be classified; or
- e) Another's property allocated to religious cult or to the veneration of the memory of the deceased and which is in a place aimed for the cult or in a cemetery;

is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days.

2 - Whoever destroys, in whole or in part, damages, deforms or renders unusable another's property:

- a) Of considerably high value;

- b) Natural or produced by human being, officially retaken or under official protection by law;
- c) Which has an important scientific, artistic or historical value and is in a public collection or exhibition or accessible to the public; or
- d) Which has an important meaning for the technological or economic development;

is punished with sentence of imprisonment from two to eight years.

3 – Numbers 3 and 4 of article 204, nos. 2 and 3 of article 206 and paragraph a) of article 207 are correspondently applicable.

4 – Number 1 of article 206 is applicable in the cases of paragraph a) of no. 1 and of paragraph a) of no. 2.

Article 214

Damage with violence

1 – If the acts described in articles 212 and 213 are committed with violence against a person or threat with imminent danger to life or to bodily integrity, or by putting such person incapable of resisting, the agent is punished:

- a) In the case of article 212, with sentence of imprisonment from one to eight years;
- b) In the case of article 213, with sentence of imprisonment from three to fifteen years;
- c) If from the acts results the death of another person, with sentence of imprisonment from eight to sixteen years.

2 – The sentences foreseen in the previous number are applicable to those using the means described therein to, when found in the act of committing damage, continue the criminal act.

Article 215

Usurpation of real estate

1 – Whoever, by means of violence or serious threat, invades or occupies another's real estate, with the intent to exercise a property right, possession, use or easement not protected by law, judgment or administrative act, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days, if a more serious sentence is not applicable to him by virtue of the mean used.

2 – The sentence foreseen in the previous number is applicable to whom, by the means mentioned in the previous number, deviates or blocks waters, without being entitled to such, with the intent of achieving, for himself or for another person, unlawful benefit.

3 – The criminal procedure depends upon complaint.

Article 216

Modification of boundary markers

1 – Whoever, with the intent of appropriating, in whole or in part, another's movable property, for himself or another person, pulls or modifies a boundary marker is punished with sentence of imprisonment for not more than six months, or with fine penalty for not more than 60 days.

2 - The criminal procedure depends upon complaint.

3 - Articles 206 and 207 are correspondently applicable.

CHAPTER III

Crimes against the property in general

Article 217

Fraud

1 – Whoever, with the intent to obtain for himself or a third party illegitimate enriching, by means of mistake or deceit about facts which he has caused with astuteness, determines another person to the commission of acts which causes to such person, or causes to another person, a property loss is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 – The criminal procedure depends upon complaint.

4 - Articles 206 and 207 are correspondently applicable.

Article 218

Qualified fraud

1 – Whoever commits the act foreseen in no. 1 of the previous article is punished, if the property loss is of high value, with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days.

2 – The sentence is of imprisonment between two to eight years if:

a) The property loss is of considerably high value;

- b) The agent makes of fraud is way of living;
- c) The agent exploits a situation of special vulnerability of the victim, due to age, deficiency or disease; or
- d) The damaged person remains in a difficult economic situation.

3 – Number 2 and 3 of article 206 are correspondently applicable.

4 – Number 1 of article 206 is applicable in the cases of no. 1 and paragraphs a) to c) of no. 2.

Article 219

Insurance fraud

1 – Whoever receives or makes another person to receive an amount totally or partially insured:

a) By giving rise or sensibly aggravating a result caused by an accident which risk was covered; or

b) By causing, to himself or to another person, bodily injury or aggravating the consequences of a bodily injury caused by an accident which risk is covered;

is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 – The criminal procedure depends upon complaint.

4 – If the property loss caused is:

a) Of high value, the agent is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days;

b) Of considerably high value, the agent is punished with sentence of imprisonment between two to eight years.

5 - Article 206 is correspondently applicable.

Article 220

Fraud for attainment of food, drinks or services

1 – Whoever, with the intent of not paying:

a) Serves himself of food or drinks in an establishment which makes of its supply business or industry;

b) Uses an hotel room or service or equivalent establishment; or

c) Uses a mean of transport or entries into any public place knowing that such supposes the payment of a price;

and refuses to settle the debt is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 60 days.

2 - The criminal procedure depends upon complaint.

3 - Articles 206 and 207 are correspondently applicable.

Article 221

Computer and communications fraud

1 - Whoever, with the intent to obtain for himself or for a third party illegitimate enriching, causes another person a property loss, by influencing the result of data treatment or through improper configuration of informatics program, use of incorrect or incomplete data, unauthorised use of data or unauthorised influence by any other way in the processing, is punished with sentence of imprisonment for not more than three years or with a fine penalty.

2 – The same sentence is applicable to whomever, with the intent to obtain for himself or for a third party an unlawful benefit, causes another person a property loss, by using programs, electronic devices or other means that, individually or together, are aimed to reduce, modify or impair, totally or partially, the normal functioning or exploitation of telecommunications services.

3 – An attempt is punishable.

4 - The criminal procedure depends upon complaint.

5 – If the loss is:

a) Of high value, the agent is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days;

b) Of considerably high value, the agent is punished with sentence of imprisonment between two to eight years.

6 - Article 206 is correspondently applicable.

Article 222

Work or job fraud

1 - Whoever, with the intent to obtain for himself or for a third party illegitimate enriching, causes another person a property loss, through allurement or with a promise

of work or job abroad, is punished with sentence of imprisonment for not more than five years, or with fine penalty for not more than 600 days.

2 - The same sentence is applicable to whomever, with the intent to obtain for himself or for a third party an illegitimate enriching, causes to a person resident abroad a property loss, through allurement or with a promise of work or job in Portugal.

3 - Numbers 2 and 3 of article 206 and no. 2 of article 218 are correspondently applicable.

Article 223

Extortion

1 - Whoever, with the intent to achieve for himself or a third party illegitimate enriching, constrains another person, by means of violence or threat with an appreciable harm, to a property disposal which causes, for such person or another, a loss, is punished with sentence of imprisonment for not more than five years.

2 – If the threat consists of disclosure, through media, of facts which may seriously harm the reputation of the victim or of another person, the agent is punished with sentence of imprisonment from six months to five years.

3 – Upon verification of the requirements mentioned:

a) In paragraphs a), f) or g) of no. 2 of article 204 or in paragraph a) of no. 2 of article 210, the agent is punished with sentence of imprisonment from three to fifteen years;

b) In no. 3 of article 210, the agent is punished with sentence of imprisonment from eight to sixteen years.

4 – The agent is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days if he attains, as debt guarantee and abusing from the situation of need of another person, document which may give rise to a criminal procedure.

Article 224

Unfaithfulness

1 – Whoever, having been entrusted, by law or by legal act, the charge of disposal of property interests of another or their management or supervision, causes to such interests, intentionally and with serious breach of the duties incumbent upon him, a

significant property loss is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 - The criminal procedure depends upon complaint.

4 - Number 2 and 3 of article 206 and paragraph a) of article 207 are correspondently applicable.

Article 225

Misuse of guarantee or credit card

1 – Whoever, abusing of the possibility, conferred by the possession of a guarantee or credit card, to lead the issuer to make a payment, causes a loss to the latest or to a third party is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 - The criminal procedure depends upon complaint.

4 - Articles 206 and 207 are correspondently applicable.

5 - If the loss is:

a) Of high value, the agent is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days;

b) Of considerably high value, the agent is punished with sentence of imprisonment between two to eight years.

6 – Article 206 is correspondently applicable to the case foreseen in the previous number.

Article 226

Usury

1 - Whoever, with the intent to achieve for himself or a third party a property benefit, by exploiting a situation of need, mental disorder, incapacity, ineptitude, inexperience or weakness of character of the debtor or his dependence relationship, makes him assume the obligation to grant or promise, under any way, for his benefit or of another person, a cash benefit which is, under the circumstances of the case, clearly disproportionate to the consideration is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – An attempt is punishable.

3 - The criminal procedure depends upon complaint.

4 – The agent is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days if he:

- a) Makes of the usurious practice his way of living;
- b) Deceives the illegitimate cash benefit demanding bill of exchange or simulating contract; or
- c) Causes consciously, by means of usury, the property ruin of the victim.

5 – The sentences referred to in the previous numbers are specially mitigated or the act is no longer punishable if the agent, until the commencement of the hearing in first instance:

- a) Waives from delivery of the cash benefit aimed;
- b) Delivers the excess cash received, accrued at the legal rate from the date of receipt; or
- c) Modifies the business, in agreement with the counterparty, according with good faith rules.

CHAPTER IV

Crimes against property rights

Article 227

Intentional insolvency

1 – The debtor who, with the intent to harm the creditors:

- a) Destroys, damages, renders unusable or makes disappear part of his property;
- b) Fictitiously reduces his assets, deceiving property, claiming supposed debts, recognising fictitious credits, inciting third parties to submit them, or otherwise simulating, a property situation lower than the actual one, namely by means of inaccurate accountability, false balance sheet, destruction or hiding of accounting documents or by not organising the accountability although due;
- c) Artificially creates or aggravates losses or reduces profits; or
- d) To delay bankruptcy, purchases goods in credit, with the intent to sell them or use as payment for a price sensibly lower than the current one;

is punished, if the insolvency situation occurs and turns out to be judicially recognised, with sentence of imprisonment for not more than five years, or with fine penalty for not more than 600 days.

2 – A third party who commits any of the acts foreseen in no. 1 of this article, with the debtor's knowledge or in his benefit, is punished with the sentence foreseen in the previous numbers, specially mitigated.

3 – Without prejudice to article 12, in the case that the debtor is a legal person, company or mere association de facto, whoever effectively performed the respective management or direction and committed any of the acts foreseen in no. 1 is punishable under nos. 1 and 2 of this article.

Article 227-A

Frustration of credits

1 – The debtor who, after pronouncement of the feasible conviction, destroys, damages, makes disappear, hides or conceals part of his property, in order to, by such way, intentionally frustrate, totally or partially, the satisfaction of a credit of another person, is punished, if, upon bringing of an enforcement proceeding, the rights of the creditor cannot be fully satisfied therein, with sentence of imprisonment for not more than three years or with fine penalty.

2 – Numbers 2 and 3 of the previous article are correspondently applicable.

Article 228

Negligent insolvency

1 - The debtor that:

a) By serious carelessness or imprudence, prodigality or clearly excessive expenses, ruinous speculations or serious neglect in the performance of his activity, creates an insolvency situation; or

b) Being aware of the economic and financial needs of his company, does not request in due time any recover measure;

is punished, if the insolvency situation occurs and turns out to be judicially recognised, with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – Number 3 of article 227 is correspondently applicable.

Article 229

Favouring of creditors

1 – The debtor who, being aware of his own insolvency situation or foreseeing its imminence and with the intent of favouring certain creditors in detriment of others, liquidates debts which are not yet due or liquidates them in a different manner from payment in cash or usual values, or grants guarantees for his debts to which he was not obliged to, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days, if the insolvency turns out to be judicially recognised.

2 - Number 3 of article 227 is correspondently applicable.

Article 229-A

Aggravation

The sentences foreseen in no. 1 of article 227, no. 1 of article 227-A, no. 1 of article 228 and in no. 1 of article 229 are aggravated of one third in their minimum and maximum limits, if, as a consequence of the commission of any of the acts described therein, result frustration of employment credits, within an enforcement procedure or special insolvency proceeding.

Article 230

Disturbance of adjudications

Whoever, with the intent to prevent or impair the results of judicial adjudication or of another public adjudication or imposed by law as well as tender governed by public law, achieves, by means of a gift, promise, violence or threat with appreciable harm, that someone does not launch or does not concur, or that in any way impairs the freedom of the respective acts, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 231

Receiving of stolen property

1 - Whoever, with the intent to obtain for himself or a third party a property benefit, deceives a property which was attained by another by means of a typical unlawful act against the property, receives it in pledge, acquires it by any title, maintains it, keeps it,

transfers it or contributes to its transfer, or by any way assures, for himself or another person, its possession, is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days.

2 – Whoever, without previously having assured of its legitimate origin, acquires or receives, at any title, a property that, by its quality or condition of who offers it or by the amount of the proposed price, makes it reasonable to expect that it arises from a typical unlawful act against the property is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 120 days.

3 – It is correspondently applicable:

- a) Article 206; and
- b) Paragraph a) of article 207, if the familiar relationship intercedes between the receiver and the victim of the typical unlawful act against property.

4 – If the agent makes of the receiving of stolen goods his way of living, is punished with sentence of imprisonment from one to eight years.

Article 232

Material assistance

1 – Whoever renders assistance to another person to take advantage from the benefit of a thing attained by means of a typical unlawful act against property is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

2 – Number 3 of article 231 is correspondently applicable.

Article 233

Scope of the stolen property received

The values or proceeds directly attained with the property mentioned in article 231 are equivalent to it.

CHAPTER V

Crimes against public or cooperative sector aggravated by the capacity of the agent

Article 234

Misappropriation

1 – Whoever, by virtue of the position performed, holds the administration, management or simple capacity to dispose of assets of the public or cooperative sector, and by any way misappropriates them, or intentionally allows another person to misappropriate them, is punished with the sentence applicable to the respective crime aggravated of one third in their minimum and maximum limits.

2 – An attempt is punishable.

Article 235

Harmful management

1 – Whoever, intentionally infringing rules of control or economic rules of a rational management, causes appreciable property damage in an economic unit of the public or cooperative sector is punished with sentence of imprisonment for not more than five years or with fine penalty for not more than 600 days.

2 – Punishment does not take place if the damage occurs against the reasonable expectation of the agent.

TITLE III

Crimes against cultural identity and personal integrity

Article 236

Incitement to war

(Revoked by Law no. 31/2004, of 22 July)

Article 237

Allurement of armed forces

(Revoked by Law no. 100/2003, of 15 November)

Article 238

Recruitment of mercenaries

(Revoked by Law no. 31/2004, of 22 July)

Article 239

Genocide

(Revoked by Law no. 31/2004, of 22 July)

Article 240

Racial, religious or sexual discrimination

1 – Whoever:

a) Founds or incorporates organisation or develops activities of organised advertisement which incite to discrimination, hate or violence against person or group of persons due to their race, colour, ethnic or national origin, religion, sex or sexual orientation, or which encourage it; or

b) Participates in the organisation or activities mentioned in the previous number or renders assistance, including their financing;

is punished with sentence of imprisonment from one to eight years.

2 – Whoever, in a public meeting, by writing aimed to disclosure or through any media or informatics system aimed to disclosure:

a) Gives rise to acts of violence against a person or group of persons due to their race, colour, ethnic or national origin, religion, sex or sexual orientation; or

b) Defames or insults a person or group of persons due to their race, colour, ethnic or national origin, religion, sex or sexual orientation, namely through the denial of war crimes or against peace and humanity; or

c) Threats a person or group of persons due to their race, colour, ethnic or national origin, religion, sex or sexual orientation;

with the intent to incite to racial, religious or sexual discrimination, or to encourage it, is punished with sentence of imprisonment from six months to five years.

Article 241

War crimes against civilians

(Revoked by Law no. 31/2004, of 22 July)

Article 242

Destruction of monuments

(Revoked by Law no. 31/2004, of 22 July)

Article 243

Torture and other cruel, degrading or inhuman treatments

1 – Whoever, having as duty the prevention, pursuit, investigation or knowledge of criminal, administrative or disciplinary infringements, the enforcement of penalties of the same nature or the protection, custody or surveillance of detained or arrested person, tortures or treats such person in a cruel, degrading or inhuman way in order to:

- a) Obtain from such person or from another confession, testimony, statement or information;
- b) Punish such person for an act committed or supposedly committed by such person or by another; or
- c) Intimidate such person or to intimidate another;

is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – In the same sentence incurs whoever, by own initiative or by a superior order, usurps the duty mentioned in the previous number to commit any of the acts described therein.

3 – The act consisting of imposing keen physical or mental suffering, serious physical or mental exhaustion or in the employment of chemical products, drugs or other, natural or artificial, means, with the intent to disturb the capacity of determination or the free expression of wish of the victim are considered as torture, cruel, degrading or inhuman treatment.

4 – The inherent sufferings to the execution of the penalties foreseen in no. 1 or resulting thereof as well as the legal custodial or restrictive of liberty measures are not covered by the previous number.

Article 244

Grievous torture and other cruel, degrading or inhuman treatments

1 – Whoever, under the terms and conditions referred to in the previous number:

- a) Causes a grievous bodily injury;
- b) Employs particularly serious means or methods of torture, namely beatings, electroshocks, execution simulacrums or hallucinatory substances; or
- c) Usually commits the acts referred to in the previous article;

is punished with sentence of imprisonment from three to twelve years.

2 – If from the acts described hereunder or in the previous article results the suicide or death of the victim, the agent is punished with sentence of imprisonment from eight to sixteen years.

Article 245

Omission of denunciation

The hierarchical superior who, being aware of the commission, by subordinate, of an act described in articles 243 or 244, does not make the denunciation within a maximum term of three days upon acknowledgment thereof, is punished with sentence of imprisonment from six months to three years.

Article 246

Incapacities

1 - Whoever is convicted for the crime foreseen in articles 240 and 243 to 245 may, on the basis of the concrete seriousness of the act and its projection in the civic suitability of the agent, be made incapable to elect the President of the Republic, the deputies for the Assembly of the Republic, deputies for the European Parliament, deputies to Legislative Assemblies of the Autonomous Regions and the holders of the bodies of the local authorities, to be elected as such or to be a member of a jury, for a period between two to ten years.

TITLE IV

Crimes against life in society

CHAPTER I

Crimes against family, religious feelings and respect due to deceased

SECTION I

Crimes against family

Article 247

Bigamy

Whoever:

- a) Being married, contracts another marriage; or
- b) Contracts marriage with married person;

is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

Article 248

Falsification of marital status

Whoever:

- 1 – Makes appear in the civil registry an inexistent birth; or
- 2 – In order to endanger the official verification of marital status or of familiar legal position, usurps, amends, conceives or hides his marital status or the familiar legal position of another person;

is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

Article 249

Subtraction of minor

1 – Whoever:

- a) Subtracts a minor;
- b) By means of violence or threat with an appreciable harm determines a minor to escape; or
- c) Refuses to hand over a minor to the person who exercises paternal power over such minor or tutorship, or to whom the minor is legitimately entrusted to;

is punished with sentence of imprisonment from one to five years.

- 2 – The agent is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days, if he is ascendant, adopting person or if he has exercised tutorship over the minor.

Article 250

Breach of alimony obligation

1 – Whoever, being legally obliged to grant alimony and in conditions to grant them, does not comply with the obligation, endangering the satisfaction, without a third party's assistance, of the basic needs of who is entitled to them, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

2 – In the same sentence incurs whoever, with the intent not to grant alimony, places himself in the impossibility to grant them and breaches the obligation to which he is subject to creating the danger foreseen in the previous number.

3 – The criminal procedure depends upon complaint.

4 - If the obligation turns out to be complied with, the court may release without punishment or declare extinguished, in whole or in part, the sentence not served yet.

SECTION II

Crimes against religious feelings

Article 251

Insult due to religious belief

1 – Whoever publicly insults another person or mocks on such person due to his religious belief or duty, in an adequate way capable of disturbing the public peace, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – In the same sentence incurs whoever profanes a place or object of religious cult or veneration, in an adequate way capable of disturbing the public peace.

Article 252

Obstruction, disturbance or insult to an act of cult

Whoever:

a) By means of violence or threat with an appreciable harm obstructs or disturbs the legitimate exercise of the religious cult; or

b) Defames publicly a religious act of cult or mocks on it;

is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

SECTION III

Crimes against respect due to deceased

Article 253

Obstruction or disturbance of a funeral service

Whoever, by means of violence or threat with an appreciable harm, obstructs or disturbs the execution of a funeral procession or service is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

Article 254

Profanation of corpse or of funeral place

1 – Whoever:

- a) Without authorisation from whom it concerned, takes, destroys or hides a corpse or part of it, or ashes of a deceased person;
- b) Profanes a corpse or part of it, or ashes of a deceased person, committing offensive acts of the respect due to deceased; or
- c) Profanes place where a deceased rests or a monument built therein in his memory, committing offensive acts of the respect due to deceased;

is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – An attempt is punishable.

CHAPTER II

Crimes against falsification

SECTION I

Preliminary provision

Article 255

Legal definitions

For the purposes of this chapter is considered:

- a) Document – the statement made in writing, or registered in a disk, recorded tape or any other technical mean, comprehensible for the generality of people or for a specific circle of people, that, by allowing the recognition of the issuer is suitable to prove a legally relevant fact, whether such purpose is granted at the time of its issuance whether subsequently; as well as the sign materially made, given or placed in a thing to prove a legally relevant fact and that allows the recognition by the generality of people or by a specific circle of people of its purpose and the evidence resulting thereof;
- b) Technical annotation - the annotation of a value, weight or measure, of a state or course of an event, made through a technical apparatus which, totally or partially, operates automatically, which allows the recognition by the generality of people or by a specific circle of people of its results and is aimed to prove a legally relevant fact, whether such purpose is granted at the time of its execution whether subsequently;
- c) Identification or travel document – the citizen's card, the identity card, the passport, the visa, the residence authorisation or title, the driving licence, the birth

bulletin, the certificate or other certificates or statements to which the law grants force for the identification of persons, or of their state or professional situation, from which may result rights or advantages, namely in what concerns livelihood, quartering, travelling, assistance, health or life-gains means or to improve its level;

d) Money – the paper money, comprising banknotes and metallic coin, which have, is legally foreseen that will have or which had in the last 20 years legal tender in Portugal or abroad.

SECTION II

Forgery of documents

Article 256

Forgery or counterfeit of document

1 – Whoever, with the intent to cause damage to another person or to the State, to obtain for himself or for another person an unlawful benefit or to prepare, facilitate, execute or hide another crime:

- a) Makes or drafts a false document or any of the components aimed to comprise it;
- b) Forges or amends a document or any of the components which integrate it;
- c) Abuses from the signature of another person to forge or counterfeit a document;
- d) Falsely includes in a document or in any of its components a legally relevant fact;
- e) Uses a document to which the previous paragraphs refer to; or
- f) By any means, grants or holds a forged or counterfeit document;

is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 – If the acts referred to in no. 1 relate to an authenticated document or with equal force, to a closed will, to a postal money order, bill of exchange, cheque or to another commercial document transferable by endorse or to any other credit certificate not comprised in article 267, the agent is punished with sentence of imprisonment from six months to five years or with fine penalty from 60 to 600 days.

4 - If the acts mentioned in nos. 1 and 3 are committed by an officer, in the performance of his duties, the agent is punished with sentence of imprisonment from one to five years.

Article 257

Forgery made by officer

The officer who, in the performance of his duties:

- a) Omits in a document, to which the law grants full faith and credit, the fact that such document is aimed to certify or authenticate; or
- b) Inserts act or document in protocol, registration or official book, without compliance with the legal requirements;

with the intent to cause damage to another person or to the State or to obtain for himself or for another person unlawful benefit, is punished with sentence of imprisonment from one to five years.

Article 258

Forgery or technical annotation

1 - Whoever, with intent to cause damage to another person or to the State, or to obtain for himself or for another person an unlawful benefit:

- a) Makes a false technical annotation;
- b) Forges or amends a technical annotation;
- c) Falsely includes in a technical annotation a legally relevant fact; or
- e) Uses a technical annotation to which the previous paragraphs refer to, forged by another person;

is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – The disturbing action over technical or automatic devices which interferes with the annotation results are equivalent to forgery of technical annotations.

3 – An attempt is punishable.

4 – Number 4 of article 256 is correspondently applicable.

Article 259

Damaging or abstraction of document and technical annotation

1 - Whoever, with the intent to cause damage to another person or to the State, or to obtain for himself or for another person an unlawful benefit, destroys, damages, renders unusable, makes disappear, dissimulates or abstracts document or technical annotation, from which cannot, or cannot exclusively, dispose of, or from which another person

may legally require its delivery or submission, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – An attempt is punishable.

3 – Number 4 of article 256 is correspondently applicable.

4 – When the offended parties are private individuals, the criminal procedure depends upon complaint.

Article 260

False certificate

1 – The doctor, dentist, nurse, midwife, director or employee of laboratory or of research institution for medical purposes, or person in charge of autopsies, that issues a statement or certificate knowing that it does not correspond to the truth, about the state of the body or of physical or mental health, the birth or death of a person, aimed to be authentic before a public authority or to harm interests of another, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – In the same sentence incurs the veterinary that issues certificates in the same terms and with the purposes described in the previous number in respect of animals.

3 - In the same sentence incurs the persons mentioned in the previous numbers that issue a statement or certificate ignoring if the facts described therein correspond to the truth.

4 - In the same sentence incurs whoever issues a statement or certificate referred to in nos. 1 and 2 falsely claiming capacities and duties described therein.

5 – Whoever uses the referred to false certificates or statements, with the purpose to deceive a public authority or to harm interests of another, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

Article 261

Use of another's identification or travel document

1 - Whoever, with the intent to cause damage to another person or to the State, to obtain for himself or for another person an unlawful benefit, or to prepare, facilitate, execute or hide another crime, uses an identification or travel document issued for the benefit of

another person, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – In the same sentence incurs whoever, with the intent to render possible the act described in the previous number, grants an identification or travel document to a person for the benefit of whom it was not issued.

SECTION III

Counterfeiting of money, credit certificate and sealed value

Article 262

Counterfeiting of money

1 – Whoever counterfeits money, with the intent to bring it into circulation as legitimate, is punished with sentence of imprisonment from three to twelve years.

2 – Whoever, with the intent to bring it into circulation, fakes or amends the face value of legitimate money to a higher value is punished with sentence of imprisonment from two to eight years.

Article 263

Depreciation of the value of metallic coin

1 - Whoever, with the intent to bring it into circulation as completeness, depreciates legitimate metallic coin, reducing by any way its value, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – Whoever, without legal authorisation and with the intent to pass it or to bring it into circulation, produces metallic coin with the same or with a higher value than the legitimate one is punished with the same sentence.

3 – An attempt is punishable.

Article 264

Passing of counterfeit money in agreement with the counterfeiter

1 – In the sentences mentioned in articles 262 and 263 incurs whoever, in agreement with the agent of the acts described therein, passes or brings into circulation by any way, including offering for sale, the said money.

2 – An attempt is punishable.

Article 265

Passing counterfeit money

1 – Whoever, by any way, including offering for sale, passes or brings into circulation:

- a) As legitimate or intact, counterfeit money or counterfeited;
- b) Depreciated metallic coin, by its full value; or
- c) Metallic coin with the same or with a higher value than the legitimate one, but produced without legal authorisation;

is punished, in the case of paragraph a), with sentence of imprisonment for not more than five years and, in the cases of paragraphs b) and c), with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – If the agent only becomes aware that the money is counterfeit or counterfeited after having received it, is punished:

- a) In the case of paragraph a) of the previous number, with sentence of imprisonment for not more than one year, or with fine penalty for not more than 240 days;
- b) In the cases of paragraphs b) and c) of the previous number with fine penalty for not more than 90 days.

3 – An attempt is punishable in the case of paragraph a) of no. 1.

Article 266

Acquisition of counterfeit money to be brought into circulation

1 – Whoever acquires, receives in deposit, carries, exports, imports or otherwise brings into Portuguese territory, for himself or for another person, with the intent to, by any mean, including exposure to sale, pass it or bring it into circulation:

- a) As legitimate or intact, counterfeit money or counterfeited;
- b) Depreciated metallic coin, by its full value; or
- c) Metallic coin with the same or with a higher value than the legitimate one, but produced without legal authorisation;

is punished, in the case of paragraph a), with sentence of imprisonment for not more than three years and, in the cases of paragraphs b) and c), with sentence of imprisonment for not more than six months, or with fine penalty for not more than 60 days.

2 – An attempt is punishable.

Article 267

Certificates equivalent to money

1 – For the purposes of articles 262 to 266, the following are equivalent to money:

- a) The national or foreign credit certificates included, by law, in a type of paper and printing specially aimed to secure them against the danger of imitations and that, by its nature and purpose, cannot, on its own, cease to incorporate an economic value;
- b) The tickets or fractions of national lottery; and
- c) The guarantee or credit cards.

2 – The previous number does not comprise faking regarding elements to which security and identification the use of the paper or printing are not specially intended for.

Article 268

Counterfeiting of sealed values

1 – Whoever, with the intent to use them or to, by any way, including the offering for sale, bring them into circulation as legitimate and intact, counterfeits or fakes sealed or stamped values which supply is exclusive of the Portuguese State, namely letter sealed paper, tax or postal stamps, is punished with sentence of imprisonment from one to five years.

2 – Whoever:

- a) Uses as legitimate or intact the referred to sealed or stamped values, when counterfeit or counterfeited; or
- b) With the intent mentioned in no. 1, acquires, receives in deposit, imports or otherwise brings into Portuguese territory, for himself or for another person, the said sealed or stamped values, when counterfeit or counterfeited;

is punished with sentence of imprisonment for not more than three years or with fine penalty.

3 – If, in the case of paragraph a) of the previous number, the agent only became aware that the sealed or stamped values were counterfeit or counterfeited after having received them, is punished with fine penalty for not more than 90 days.

4 – If the counterfeit consists of making disappear from the said sealed or stamped values the sign of already used, the agent is punished with fine penalty for not more than 60 days.

SECTION IV

Faking of dies, weights and equivalent objects

Article 269

Counterfeit of seals, dies, marks or stamps

1 – Whoever, with the intent to use them as authentic or intact, counterfeits or fakes seals, dies, marks or stamps of any authority or public office is punished with sentence of imprisonment from one to five years.

2 – Whoever, with the said intent, acquires, receives in deposit, imports or otherwise brings into Portuguese territory, for himself or for another person, the objects mentioned in the previous number, when false or faked, is punished with sentence of imprisonment for not more than three years or with five penalty.

3 - Whoever, with the intent to cause damage to another person or to the State, uses, without authorisation from whom it concerned, objects mentioned in no. 1, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 270

False weights and measures

1 - Whoever, with the intent to cause damage to another person or to the State:

- a) Sets on weights, measures, balances or other measure instruments a false punch or has faked the existent;
 - b) Amends, regardless of its nature, weights, measures, balances or other measure instruments which are legally subject to the existence of a punch; or
 - c) Uses weights, measures, balances or other measures instruments, false or faked;
- is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – An attempt is punishable.

SECTION V

Common provision

Article 271

Preparatory acts

1 – Whoever prepares the execution of the acts mentioned in articles 256, 262, 263, in no. 1 of article 268, in no. 1 of article 269 or in article 270, by producing, importing, acquiring, for himself or for another person, supplying, offering for sale or retaining:

a) Forms, dies, clichés, die presses, punches, negatives, photographs or other instruments which, by their nature, are usable to execute crimes; or

b) Paper, hologram or other equal element or capable of being confused with those which are particularly produced to avoid imitations or used in the production of an authenticated document or of equal value, money, credit certificate or sealed value;

is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – The previous number is correspondently applicable to the counterfeit of the certificates set out in article 267.

3 – Whoever, voluntarily:

a) Abandons the execution of the prepared act and prevents the danger, caused by it, that another person continues to prepare the act or execute it, or makes earnest efforts in such direction or prevents its completion; and

b) Destroys or make useless the means or objects mentioned in the previous numbers, or gives the public authority knowledge of them or delivers them to the public authority;

is not punishable by the previous numbers.

CHAPTER III

Common danger crimes

Article 272

Fires, explosions and other especially dangerous conducts

1 – Whoever:

a) Causes a relevant fire, namely by setting fire to a building, construction or mean of transport;

b) Causes an explosion by any way, namely by the use of explosives;

c) Releases toxic or asphyxiating gases;

d) Issues radiations or releases radioactive substances;

e) Causes flood, slide of avalanche, earth mass or rocks; or

f) Causes landslide or crumbling of construction; and thereby endangers the life or bodily integrity of another or property of another of high value, is punished with sentence of imprisonment from three to ten years.

2 – If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment from one to eight years.

3 – If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than five years.

Article 273

Nuclear energy

If the acts described in the previous number are committed through release of nuclear energy, the agent is punished with sentence of imprisonment:

- a) From five to fifteen years in the case of no. 1;
- b) From three to ten years in the case of no. 2;
- c) From one to eight years in the case of no. 3.

Article 274

Forest fire

1 – Whoever causes fire in a forest, copse, grove of trees or corm-field, of his own or of another's, is punished with sentence of imprisonment from one to eight years.

2 – If, from the conduct mentioned in the previous number the agent:

- a) Endangers the life or bodily integrity of another or property of another of high value;
- b) Leaves the victim in a difficult economic situation; or
- c) Acts with the intent to obtain an economic benefit;

is punished with sentence of imprisonment from three to twelve years.

3 - If the danger mentioned in paragraph a) of no. 2 is caused by negligence, the agent is punished with sentence of imprisonment from two to ten years.

4 - If the conduct foreseen in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

5 - If the conduct foreseen in the previous number is committed with gross negligence or endangers the life or bodily integrity of another or property of another of high value, the agent is punished with sentence of imprisonment for not more than five years.

6 – Whoever prevents the fight of fires mentioned in the previous numbers is punished with sentence of imprisonment from one to eight years.

7 – Whoever obstructs the extinction of the fires mentioned in the previous numbers, namely by destroying or rendering unusable the material aimed to extinguish them, is punished with sentence of imprisonment from one to five years.

8 – The execution of works and other operations that, according to the knowledge and the forest technical experience, are deemed to be adequate and are carried out, pursuant to the applicable rules, by a qualified or duly authorised person, to fight fires, prevent, extinguish or reduce the deterioration of the forest or guarantee its defence or preservation is not included in nos. 1 to 5.

9 – When any of the crimes foreseen in the previous numbers is committed by a person with lack of capacity to be criminally liable, the security measure foreseen in article 91 is applicable, under the form of intermittent and coincident internment with the months of higher risk of fires occurrence.

Article 275

Preparatory acts

Whoever, to prepare the execution of any of the crimes foreseen in articles 272 to 274, manufactures, dissimulates, acquires for himself or for another person, delivers, holds or imports an explosive substance or capable of producing nuclear or radioactive explosion or suitable for the manufacturing of toxic or asphyxiating gases, or necessary devices for the execution of such crimes, is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 276

Telephone tapping instruments

Whoever imports, manufactures, keeps, purchases, sells, assigns or acquires at any title, carries, distributes or holds an instrument or device specifically aimed to the set of telephone tapping, or to the breach of correspondence or telecommunications, outside the legal conditions or in opposition to the rules of the competent authority, is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

Article 277

Infringement of construction rules, damage in installations and disturbance of services

1 – Whoever:

- a) In the scope of his professional activity infringes legal, regulatory or technical rules which must be observed in the planning, direction or execution of construction, demolition or installation or in its modification or preservation;
- b) Destroys, damages or renders unusable, totally or partially, devices or other existent means in a working place and aimed to prevent accidents or, infringing legal, regulatory or technical rules, omits the installation of such means or devices;
- c) Destroys, damages or renders unusable, totally or partially, installation for gain, production, storage, importation or distribution of water, oil, fuel, heat, electricity, gas or nuclear energy or for protection against nature forces; or
- d) Prevents or disturbs the exploitation of communications services or the supply to the public of water, light, energy or heat, removing or deviating, destroying, damaging or rendering unusable, total or partially, a thing or energy which serves such services; and thereby endangers the life or bodily integrity of another or property of another of high value, is punished with sentence of imprisonment from one to eight years.

2 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment for not more than five years.

3 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 278

Damages against nature

1 – Whoever, not complying with legal, regulatory provisions or obligations imposed by the competent authority in compliance with such provisions:

- a) Eliminates exemplars of fauna or flora in a significant number or of protected specie or threatened of extinction;
- b) Destroys protected natural habitat or natural habitat causing to it losses of legally protected species of wild fauna or flora or in a significant number;
- c) Seriously affects subsoil resources;

is punished with sentence of imprisonment for not more than three years or with fine for not more than 600 days.

2 – Whoever markets or holds for marketing exemplar of fauna or flora of protected specie, alive or dead, as well as any part or product obtained thereof, is punished with sentence of imprisonment for not more than six months or with fine for not more than 120 days.

3 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than one year or with fine penalty.

Article 279

Pollution

1 – Whoever, not complying with legal, regulatory provisions or obligations imposed by the competent authority in compliance with such provisions:

- a) Pollutes waters or soils or, by any way, degrades their qualities;
- b) Pollutes the air by means of the use of technical devices or installations; or
- c) Causes noise pollution through the use of technical devices or installations, particularly machines or land, fluvial, maritime or air vehicles of any kind;

in a serious way, is punished with sentence of imprisonment for not more than three years or with fine penalty for not more than 600 days.

2 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than one year or with fine penalty.

3 – For the purposes of the previous numbers, the agent acts in a serious way when:

- a) Impairs, in a continuous manner, the welfare of the people in the enjoyment of the nature;
- b) Impairs, in a continuous manner, the use of a natural resource; or
- c) Endangers the dissemination of micro-organism or harmful substance for the body or health of people.

Article 280

Pollution with common danger

Whoever, by means of the conduct described in the paragraphs of no. 1 of the previous article, endangers the life or bodily integrity of another or property of another of high value or cultural or historical monuments is punished with sentence of imprisonment:

- a) From one to eight years, if the conduct and the creation of the danger are carried out with wilful conduct;
- b) For not more than five years, if the conduct is carried out with wilful conduct and the creation of the danger occurs by negligence.

Article 281

Danger relating to animals or vegetable

1 – Whoever:

- a) Spreads noxious disease, plague, plant or animal; or
- b) Manipulates, manufactures or produces, imports, stores or brings for sale or into circulation, food or fodder allotted to another's domestic animals;

and thereby endangers a damage to a considerable number of animals of another, domestic or useful to human beings, or to cultures, plantations, or forests of another, is punished with sentence of imprisonment for not more than to years or with fine penalty.

2 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 240 days.

3 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 120 days.

Article 282

Corruption of food or medical substances

1 – Whoever,

- a) In the gaining, production, completion, manufacture, package, transport, treatment, or another activity which falls upon them, of substances allotted to another's consumption, to be eaten, chewed, drunk, for medical or surgical purposes, corrupts them, forges them, alters them, reduces their nutritional or therapeutic values or joins ingredients to them; or

b) Imports, dissimulates, sells, offers for sale, holds in deposit for sale or by any other way, delivers to another's consumption substances which are the object of the activities mentioned in the previous paragraph or which are used after their expiry date or are damaged, corrupted or altered due to the action of time or of the agents to which action are exposed to;

and thereby endangers the life or bodily integrity of another is punished with sentence of imprisonment from one to eight years.

2 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment for not more than five years.

3 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 283

Spread of disease, modification of analysis or prescription

1 – Whoever:

a) Spreads a contagious disease;

b) As a doctor or his employee, nurse or laboratory employee or person legally authorise to make an examination or auxiliary registration of diagnostic or medical or surgical treatment, provides inaccurate data or results; or

c) As pharmaceutical or pharmacy employee provides medical substances in opposition with the prescription;

and thereby endangers the life or bodily integrity of another is punished with sentence of imprisonment from one to eight years.

2 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment for not more than five years.

3 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 284

Doctor's refusal

The doctor who refuses assistance of his profession in case of danger to life or of grievous danger to bodily integrity of another person, which cannot be otherwise removed, is punished with sentence of imprisonment for not more than five years.

Article 285

Aggravation due to result

If from the crimes foreseen in articles 272 to 274, 277, 280 or 282 to 284 results the death of grievous bodily injury of another person, the agent is punished with the sentence which would be applicable, aggravated of one third in its minimum and maximum limits.

Article 286

Special mitigation and discharged without punishment

If, in the cases foreseen in articles 272 to 274, 277 or 280 to 284, the agent voluntarily removes the danger before a considerable damage is verified, the sentence is specially mitigated or the discharge without punishment may take place.

CHAPTER IV

Crimes against the safety of telecommunications

Article 287

Capture or deviation of aircraft, ship, train or passengers' public transport vehicle

1 – Whoever takes possession of, or deviates from its normal route, an aircraft in flight or a ship in course of navigation with people therein, is punished with sentence of imprisonment from five to fifteen years.

2 – Whoever takes possession of a train in circulation with people therein or deviates it from its normal route, is punished with sentence of imprisonment from two to ten years.

3 – Whoever takes possession of, or deviates from its normal route, a passengers' public transport vehicle in transit, is punished with sentence of imprisonment from one to eight years.

4 – It is considered:

- a) An aircraft in flight from the moment in which, after the boarding, all exterior doors have been closed until the moment in which any of such doors is opened for disembark. In the case of a forced landing the flight is considered to be in course until the competent authority takes responsibility for the aircraft as well as for the people and assets on board;
- b) A ship in course of navigation from the moment in which the land staff or the crew initiate the preparatory operations of a certain trip until the arrival at the destination;
- c) A train in course of circulation from the moment in which, after boarding of the passengers, the running is initiated until the moment in which the deboarding should take place;
- d) A passengers' public transport vehicle in transit from the moment in which, after boarding of the passengers, the running is initiated until the moment in which the deboarding should take place.

Article 288

Attempt to the safety of air, water or railway transport

1 – Whoever attempts against the safety of air, water or railway transport:

- a) Destroying, suppressing, damaging or rendering unusable installation, material or sign;
- b) Placing obstacle to the operation or circulation;
- c) Giving false warning or sign; or
- d) Committing an act from which may result an accident;

is punished with sentence of imprisonment from one to eight years.

2 – If, from the conduct mentioned in the previous number, the agent endangers the life or bodily integrity of another or property of another of high value is punished with sentence of imprisonment from three to ten years.

3 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment from two to eight years.

4 - If the conduct mentioned in no. 2 is committed with negligence, the agent is punished with sentence of imprisonment for not more than five years.

Article 289

Dangerous driving of air, water or railway mean of transport

1 – Whoever drives a vehicle allotted for air, water or railway transportation, without being in conditions to drive the vehicle with safety or grossly breaching the driving rules, and thereby endangers the life or bodily integrity of another or property of another of high value is punished with sentence of imprisonment from one to eight years.

2 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment for not more than five years.

3 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 290

Attempt to the safety of road transport

1 – Whoever attempts against the safety of a road transport:

- a) Destroying, suppressing, damaging or rendering unusable road, structure, installation or sign;
- b) Placing obstacle to the operation or circulation;
- c) Giving false warning or sign; or
- d) Committing an act from which may result an accident;

is punished with sentence of imprisonment from one to five years.

2 – If, from the conduct mentioned in the previous number, the agent endangers the life or bodily integrity of another or property of another of high value is punished with sentence of imprisonment from two to eight years.

3 - If the danger mentioned in the previous number is caused by negligence, the agent is punished with sentence of imprisonment from one to five years.

4 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than two years or with fine penalty.

Article 291

Dangerous driving of road vehicle

1 – Whoever drives a vehicle, with or without motor, in a public road or equivalent:

a) Without being in conditions to drive the vehicle with safety, due to inebriation, or to be under the influence of alcohol, narcotics, psychotics substances or products with similar effects, or due to physical or mental deficiency or excessive exhaustion; or

b) Grossly breaching the road circulation rules regarding priority, obligation to stop, overtaking, change of direction, pedestrians passage, forward and reverse motion in motorways or in roads outside villages, reversing in motorways or in roads outside villages, speed limit or the obligation to circulate in the right roadway;

and thereby endangers the life or bodily integrity of another or property of another of high value, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 - Whoever drives a vehicle, with or without motor, in a public road or equivalent and executes therein non authorised activities, of sportive nature or similar, which breach the rules foreseen in paragraph b) of the previous number, is punished with sentence of imprisonment for not more than three years or with fine penalty.

3 - If the danger mentioned in no. 1 is caused by negligence, the agent is punished with sentence of imprisonment for not more than two years or with fine penalty for not more than 240 days.

4 - If the conduct mentioned in no. 1 is committed with negligence, the agent is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days.

Article 292

Driving of vehicle in inebriation or under the influence of narcotics or psychotics substances

1 – Whoever, at least with negligence, drives a vehicle, with or without motor, in a public road or equivalent, with a rate of alcohol in the blood equal or higher than 1.2g/l, is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – In the same sentence incurs whoever, at least with negligence, drives a vehicle, with or without motor, in a public road or equivalent, without being in conditions to drive the vehicle with safety, due to be under the influence of narcotics, psychotics substances or products with similar effects disturbers of physical, mental or psychological capacity.

Article 293

Launch of projectile against vehicle

Whoever throws a projectile against a vehicle in movement, of air, water or road transport, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 294

Aggravation, special mitigation and release without punishment

1 – When the crimes foreseen in articles 291 to 292 are committed in the performance of the respective activity by drivers of vehicles of school transport, light lease vehicles for public lease transport, heavy vehicle of passengers or of goods or of transport of dangerous goods, the agent is punished with the sentence which would be applicable to the case, aggravated of a third in its minimum and maximum limits.

2 – The previous number is applicable to drivers of help or emergency vehicles that commit crimes foreseen in paragraph a) of no. 1 and in nos. 2 and 3 of article 291 and in article 292.

3 – Articles 285 and 286 are applicable to those cases foreseen in articles 287 to 291, even if with the aggravations foreseen in the previous numbers.

CHAPTER V

Crimes against public order and tranquillity

SECTION I

Crimes of dangerous anti-sociability

Article 295

Inebriety and intoxication

1 – Whoever, at least with negligence, places himself in state of lack of capacity to be criminally liable as a result of the ingestion or consumption of alcoholic drink or toxic substance and, in such state, commits a typical unlawful act is punished with sentence of imprisonment for not more than five years, or with fine penalty for not more than 600 days.

2 – The sentence cannot exceed the one foreseen for the typical unlawful act committed.

3 – The criminal procedure depends upon complaint or upon private prosecution if the procedure for the typical unlawful act is also dependent of one or another.

Article 296

Use of minor for vagrancy

Whoever uses minor or mental incapable person for vagrancy is punished with sentence of imprisonment for not more than three years.

SECTION II

Crimes against public peace

Article 297

Public instigation to a crime

1 – Whoever, in a public meeting, through media, by disclosure of writing or other mean of technical reproduction, gives rise or instigates the commission of a specific crime is punished with sentence of imprisonment for not more than three years or with fine penalty, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – Number 2 of article 295 is correspondently applicable.

Article 298

Public apology of a crime

1 - Whoever, in a public meeting, through media, by disclosure of writing or other mean of technical reproduction, rewards or exalts another person for having committed a crime, in an adequate manner to endanger the commission of another crime of the same kind, is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 60 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 - Number 2 of article 295 is correspondently applicable.

Article 299

Criminal association

1 – Whoever promotes or founds a group, organisation or association which purpose or activity is directed to the commission of one or more crimes is punished with sentence of imprisonment from one to five years.

2 – In the same sentence incurs whoever takes part of such groups, organisations or associations or whoever supports them, namely by supplying weapons, munitions, crime

instruments, shelter or places for meetings or any assistance for the recruitment of new elements.

3 – Whoever leads or directs the groups, organisations or associations mentioned in the previous numbers is punished with sentence of imprisonment from two to eight years.

4 – The referred to sentences may be specially mitigated or the punishment may not take place if the agent impairs or makes earnest efforts to impair the continuation of the groups, organisations or associations, or communicates to the authority their existence in order for such to be able to avoid the commission of crimes.

5 – For the purposes of this article, a group, organisation or association is deemed to exist upon a set of, at least, three persons, acting in agreement during a certain period of time.

Article 300

Terrorist organisations

(Revoked by Law no. 52/2003, of 22 August)

Article 301

Terrorism

(Revoked by Law no. 52/2003, of 22 August)

Article 302

Participation in riot

1 – Whoever takes part in a riot during which violence is collectively committed against people or property is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – If the agent has caused or leaded the riot is punished with sentence of imprisonment for not more than three years or with fine penalty.

3 – The agent is not punished if he has retired from the riot by order or admonition of the authority without having committed or caused violence.

Article 303

Participation in an armed riot

1 – The minimum and maximum limits of the sentences foreseen in nos. 1 and 2 of the previous article are raised to the double if the riot is armed.

2 – The riot in which one of the participants is holder of an ostensible firearm or in which a large number of participants are holders of, ostensible or hidden, firearms or of, ostensible or hidden, objects capable of being used as such is considered an armed riot.

3 – For the purposes of the previous number the following is not considered as an armed riot:

a) The riot in which the arms are accidentally brought and without the intent to use them; or

b) When the participants carrying arms immediately retire or are expelled.

4 – Whoever brings an arm without the others being aware is punished as if he effectively participates in an armed riot.

5 – Number 3 of the previous article is correspondently applicable.

Article 304

Disobedience to an order of dispersion from a public meeting

1 – Whoever does not obey to a legitimate order to retire from an assembly or public meeting, given by a competent authority, with the warning that disobedience constitutes a crime, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – If the disobedient is promoter of the meeting or assembly is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 305

Threatening to commit crime

Whoever, by means of a threat to commit crime, or feignedly making believe that a crime will be committed, causes alarm or worry amongst population is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 306

Abuse and simulation of danger signs

Whoever uses with abuse a sign or a call of alarm or help, or feignedly makes believe that another's assistance is necessary by virtue of accident, danger or situation of public necessity, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

SECTION III

Crimes against identification signs

Article 307

Misuse of title, sign or uniform

1 – Whoever, illegitimately and with the intent to make believe that belongs to him, utilises or uses title, sign, uniform or cloth exclusive of a, national or foreign, public service duty, is punished with sentence of imprisonment for not more than six months, or with fine penalty for not more than 60 days.

2 – If the title, sign, uniform or cloth is exclusive of a person with public authority, the agent is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

TITLE V

Crimes against the State

CHAPTER I

Crimes against the State security

SECTION I

Crimes against national sovereignty

SUBSECTION I

Crimes against national independency and integrity

Article 308

High treason

1 – Whoever, by means of usurpation or abuse of sovereignty duties:

- a) Tries to separate from the Motherland or hands over to a foreign country or submits to foreign sovereignty all the Portuguese territory or part of it; or
- b) Offends or endangers the independency of the Country;

is punished with sentence of imprisonment from ten to twenty years.

Article 309

Military service in enemy armed forces

(Revoked by Law no. 100/2003, of 15 November)

Article 310

Intelligences with abroad to cause war

(Revoked by Law no. 100/2003, of 15 November)

Article 311

Commission of adequate acts to cause war

(Revoked by Law no. 100/2003, of 15 November)

Article 312

Intelligences with abroad to constrain the Portuguese State

(Revoked by Law no. 100/2003, of 15 November)

Article 313

Assistance to enemy armed forces

(Revoked by Law no. 100/2003, of 15 November)

Article 314

Campaign against war effort

(Revoked by Law no. 100/2003, of 15 November)

Article 315

Sabotage against national defence

(Revoked by Law no. 100/2003, of 15 November)

Article 316

Breach of State secret

1 – Whoever, endangering interests of the Portuguese State in respect of national independency, unit and entireness of the State or to its internal or external safety, transmits, makes accessible to a non authorised person, or makes public a fact or

document, plan or object which shall, on behalf of such interests, be maintained in secrecy is punished with sentence of imprisonment from two to eight years.

2 – Whoever destroys, takes or forges a document, plan or object mentioned in the previous number, endangering interests mentioned therein, is punished with sentence of imprisonment from two to eight years.

3 – If the agent commits an act described in the previous numbers by breaching a duty specifically imposed by the status of his function or service, or mission which was entrusted to him by a competent authority, is punished with sentence of imprisonment from three to ten years.

4 - If the agent commits the acts mentioned in nos. 1 and 2 with negligence, having access to the objects or secrets of the State by virtue of his function or service, or mission which was entrusted to him by a competent authority, is punished with sentence of imprisonment for not more than three years.

Article 317

Espionage

1 – Whoever:

a) Cooperates with foreign government, association, organisation or intelligence services or with their agent, with the intent to commit an act mentioned in the previous article; or

b) Recruits, shelters or receives agent that commits an act mentioned in the previous article or in the previous number, or, favours, in any way, the commission of such act;

is punished with sentence of imprisonment from three to ten years.

2 - If the agent commits an act described in the previous numbers breaching duty specifically imposed by the status of his function or service, or mission which was entrusted to him by a competent authority, is punished with sentence of imprisonment from five to fifteen years.

Article 318

Evidences of national interest

1 – Whoever forges, takes, destroys, renders unusable, makes disappear or dissimulates evidence regarding a fact in respect of relationships between Portugal and a foreign

State or international organisation, adequate to endanger national rights or interests, is punished with sentence of imprisonment from one to eight years.

2 – If the action consists of pulling, moving, falsely placing, making unrecognisable or, in any way, deleting boundary markers, landmarks or other indicative signs of the limits of the Portuguese territory the agent is punished with sentence of imprisonment for not more than three years.

Article 319

Diplomatic unfaithfulness

1 – Whoever, officially representing the Portuguese State, with the intent to cause damage to national rights or interests:

- a) Conducts a State business with foreign government or international organisation;
- or
- b) Undertakes before them commitments without being duly authorised for such on behalf of Portugal;

is punished with sentence of imprisonment from one to eight years.

2 – The criminal procedure depends upon report from the Portuguese Government.

Article 320

Usurpation of Portuguese public authority

Whoever, in Portuguese territory, with usurpation of duties, carries out, for the benefit of a foreign State or of its agent, an exclusive act of Portuguese authority, is punished with sentence of imprisonment for not more than five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 321

Unlawful hand over of a person to foreign entity

Whoever, in Portuguese territory, commits acts which lead to the unlawful hand over of a person, national or foreigner, to a foreign State, to any of its agents or to any public or private entity existing in such State, using for such violence or fraud purpose, is punished with sentence of imprisonment for not more than five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

SUBSECTION II

Crimes against foreign States and international organisations

Article 322

Crimes against person under international protection

1 – Whoever attempts against the life, bodily integrity or liberty of a person under international protection, being the offended party in Portugal in the performance of official duties, is punished with sentence of imprisonment from one to eight years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – Whoever offends the honour of a person under international protection and that is under the conditions mentioned in the previous number is punished with sentence of imprisonment for not more than two years or with fine penalty, if a more serious sentence is not applicable to him by virtue of another legal provision.

3 – For the purposes of the previous numbers the following are under international protection:

- a) The Head of State, including member of a collective body who performs, in the constitutional terms, the duties of Head of State, the Head of Government or Minister of Foreign Affairs as well as family members accompanying them; and
- b) The Representative or officer of a foreign State or agent of international organisation who, at the time of the crime, is under special protection pursuant to international law as well as the family members living with him.

Article 323

Insult of foreign symbols

Whoever, publicly, by words, gestures, disclosure of writing or other communication mean with the public, insults official flag or other symbol of sovereignty of foreign State or of international organisation from which Portugal is a member thereof, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

Article 324

Punishment and procedurally conditions

1 – The criminal procedure for the crimes foreseen in this subsection depends upon, unless an international treaty or convention stating otherwise, report from the Portuguese Government. In the case of a crime against the honour it is also necessary

that report is made by the foreign government or by the representative of international organisation.

2 – In relation to a foreign State, its representative or officer, it is necessary for the applicability of the provisions of this subsection that:

- a) Portugal maintains with the foreign State diplomatic relationships; and
- b) There is reciprocity in the criminal treatment of the act, at the time of its commission and trial.

SECTION II

Crimes against the course of the Rule of law

Article 325

Violent alteration of the Rule of law

1 – Whoever, by means of violence or threat of violence, tries to destroy, alter or subvert the Rule of law constitutionally established is punished with sentence of imprisonment from three to twelve years.

2 – If the act described in the previous number is committed with armed violence, the agent is punished with sentence of imprisonment from five to fifteen years.

3 – In the case foreseen in the previous number the sentence is specially mitigated if the agent, who has not performed command duties, surrenders without resistance or delivers or abandons the arms before or immediately after warning by the authority.

Article 326

Incitement to civil war or to violent alteration of the Rule of law

1 – Whoever publicly incites habitants of the Portuguese territory or military forces, militarised or of security at Portugal's service to civil war or to the commission of the conduct mentioned in the previous number is punished with sentence of imprisonment from one to eight years.

2 – If the act described in the previous number is accompanied by distribution of arms, the agent is punished with sentence of imprisonment from five to fifteen years.

Article 327

Attempt against the President of the Republic

1 – Whoever attempts against the life, bodily integrity or liberty of the President of the Republic or of whoever constitutionally replaces him is punished with sentence of

imprisonment from five to fifteen years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 - In the event of completion of crime against life, bodily integrity or liberty, the agent is punished with the correspondent sentence to the crime aggravated of a third in its minimum and maximum limits.

Article 328

Insult to the honour of the President of the Republic

1 – Whoever insults or defames the President of the Republic, or whoever constitutionally replaces him, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – If the insult or defamation are made by means of words issued publicly, of publicity of writing or drawing, or by any technical mean of communication with the public, the agent is punished with sentence of imprisonment from six months to three years, or with fine penalty not less than 60 days.

3 – The criminal procedure ceases if the President of the Republic expressly declares that he gives up from it.

Article 329

Sabotage

Whoever destroys, renders impossible the functioning or deviates from their normal purposes, definitively or temporarily, totally or partially, means or ways of communication, public services installations or allotted to the supply or satisfaction of vital needs of the population, infrastructures of considerable value to the economy, the security or national defence, with the intent to destroy, alter or subvert the Rule of law constitutionally established, is punished with sentence of imprisonment from three to ten years.

Article 330

Incitement to collective disobedience

1 – Whoever, with the intent to destroy, alter or subvert by violence the Rule of law constitutionally established, incites, in a public meeting or by any mean of communication with the public, to the collective disobedience of public order laws, is

punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – In the same sentence incurs whoever, with the intent mentioned in the previous number, publicly or by any mean of communication with the public:

- a) Discloses false or tendentious news capable of causing alarm or worry in the population;
- b) Causes, or tries to cause, by the means mentioned in the previous paragraph, divisions amongst the Armed Forces, between these and the militarised or security forces or between any of these and the sovereignty bodies; or
- c) Incites to political struggle by means of violence.

Article 331

Connections with abroad

Whoever, with the intent to destroy, alter or subvert by violence the Rule of law constitutionally established, puts himself in connection with government of foreign State, party, association, institution or foreign group or with any of its agents to:

- a) Receive instructions, directives, money or values; or
- b) Cooperate in activities consisting of:
 - i) Collection, preparation or public disclosure of false or grossly deformed news;
 - ii) Allurement of agents or in facilitating such activities, providing places for meetings, financing them or making its advertisement;
 - iii) Promises or gifts; or
 - iv) Threatening another person or using fraud against such person;

is punished with sentence of imprisonment for not more than five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 332

Insult of national and regional symbols

1 - Whoever publicly, by words, gestures, disclosure of writing or other communication mean with the public, insults the National Republic, Flag or Anthem, the arms or emblems of the Portuguese sovereignty or lacks with the respect which is due to them, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – If the acts described in the previous numbers are committed against the Autonomous Regions, the Regional Flags or Anthems, or the emblems of the respective autonomy, the agent is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

Article 333

Coercion against constitutional bodies

1 – Whoever, by means of violence or threat of violence, prevents or constrains the free exercise of the duties of a sovereignty body or of a minister of the Republic is punished with sentence of imprisonment from one to eight years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 - If the acts described in the previous numbers are committed against a body of own government of the Autonomous Regions, the agent is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

3 - If the acts described in no. 1 are committed against a body of local authority, the agent is punished with sentence of imprisonment for not more than three years.

4 - If the acts described in no. 1 are committed:

- a) Against a member of the body mentioned in no. 1, the agent is punished with sentence of imprisonment for not more than five years;
- b) Against a member of the body mentioned in no. 2, the agent is punished with sentence of imprisonment for not more than three years;
- c) Against a member of the body mentioned in no. 3, the agent is punished with sentence of imprisonment for not more than two years.

Article 334

Disturbing of the functioning of a constitutional body

Whoever, with riots, disorders or clamours, illegitimately disturbs:

- a) The functioning of a body mentioned in no. 1 or in no. 2 of the previous article, without being a member thereof, is, respectively, punished with sentence of imprisonment for not more than three years or with sentence of imprisonment for not more than one year;
- b) The performance of the duties of a person mentioned in no. 4 of the previous article is punished with sentence of imprisonment for not more than two years in the

case of paragraph a) or with sentence of imprisonment for not more than six months in the case of paragraph b).

Article 335

Trafficking of influence

1 – Whoever, by himself or through another, with his consent or ratification, requests or accepts, for himself or for a third party, a benefit, whether of economic nature or not, or its promise, to abuse of his influence, actual or supposed, before any public entity, is punished:

- a) With sentence of imprisonment from six months to five years, if a more serious sentence is not applicable to him by virtue of another legal provision, if the purpose is to obtain any unlawful favourable decision;
- b) With sentence of imprisonment for not more than six months, or with fine penalty for not more than 60 days, if a more serious sentence is not applicable to him by virtue of another legal provision, if the purpose is to obtain any lawful favourable decision.

2 - Whoever, by himself or through another, with his consent or ratification, gives or promises, a benefit, whether of economic nature or not, to the persons mentioned in the previous number for the purposes mentioned in paragraph a) is punished with sentence of imprisonment for not more than three years or with fine penalty.

SECTION III

Electoral crimes

Article 336

Forgery of electoral register

1 - Whoever:

- a) Causes his registration in the electoral register providing false data;
- b) Registers another person in the electoral register knowing that such person has no right to be registered therein;
- c) Prevents the registration of another person knowing that such person has the right to be registered therein; or
- d) Forges, by any means, the electoral register;

is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – Whoever, as a member of a census committee, with a fraudulent intent, does not proceed with the draft or correction of the register of electors is punished with sentence of imprisonment for not more than three years or with fine penalty.

3 – An attempt is punishable.

Article 337

Obstruction to the registration of voter

1 – Whoever, by means of violence, threat of violence or fraudulent artifice, determines a voter not to be registered in the electoral register or to be registered outside the geographical unit or of the proper place, or beyond the term, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 - An attempt is punishable.

Article 338

Disturbance of an election

1 - Whoever, by means of violence, threat of violence or by participating in a riot, disorder or clamour, prevents or seriously disturbs the execution, functioning or determination of results of an electoral assembly or college, aimed, pursuant to law, to the election of a sovereignty body, of a deputy to the European Parliament, of a body of the Autonomous Region or of a local authority, or of referendums is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – Whoever enters armed in an electoral assembly or college, not belonging to a duly authorised public force, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

3 - An attempt is punishable.

Article 339

Election fraud

1 – Whoever, in an election mentioned in no. 1 of the previous article:

a) Votes in more than one section or electoral office, more than once or with several lists in the same section or electoral office or acts by any way which leads to a false determination of the ballot; or

b) Forges the determination, publication or the official minutes of the voting result; is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 - An attempt is punishable.

Article 340

Coercion of voter

Whoever, in an election mentioned in no. 1 of article 338, by means of violence, threat of violence or of an appreciable harm, constrains a voter to vote, prevents him from voting or forces him to vote in a certain manner, is punished with sentence of imprisonment for not more than five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 341

Fraud and corruption of voter

1 - Whoever, in an election mentioned in no. 1 of article 338:

a) By means of a fraudulent artifice, leads a voter to vote, prevents him from voting or leads him to vote in a certain manner; or

b) Purchases or sells vote;

is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days.

2 - An attempt is punishable.

Article 342

Breach of the secrecy of elections

Whoever, in an election mentioned in no. 1 of article 338, made by secret voting, breaching a legal provision aimed to assure the secrecy of the elections, becomes aware or gives another person knowledge as to how a voter has voted is punished with sentence of imprisonment for not more than one year or with fine penalty for not more than 120 days.

Article 343

Aggravation

The sentences foreseen in the articles of this section, with the exception of the sentence foreseen in n. 2 of article 336, are aggravated of one third in their minimum and maximum limits if the agent is a member of a census committee, of section or electoral office or if he is a delegate of a political party to the committee, section or office.

SECTION IV

Common provisions

Article 344

Preparatory acts

The preparatory acts of the crimes foreseen in articles 308 to 317 and in articles 325 to 327 are punished with sentence of imprisonment for not more than three years.

Article 345

Special mitigation

When a crime foreseen in this chapter supposes the production of a danger, the sentence is specially mitigated if the agent voluntarily reduces in a considerable manner the danger produced by the conduct or removes it.

Article 346

Accessory sentences

Whoever is convicted by a crime foreseen in this chapter may, on the basis of the concrete seriousness of the act and its projection in the civic suitability of the agent, be made incapable to elect the President of the Republic, a member of legislative assembly or of local authority, to be elected as such or to be a member of a jury, for a period from two to ten years.

CHAPTER II

Crimes against public authority

SECTION I

Resistance and disobedience to public authority

Article 347

Resistance and coercion over officer

1 – Whoever uses violence, including serious threat or bodily injury, against officer or member of the Armed Forces, militarised or of security, to oppose that such officer or member carries out an act pertaining to the performance of his functions, or to constrain him to carry out an act pertaining to the performance of his functions, but in opposition with his duties, is punished with sentence of imprisonment for not more than five years.

2 – The same sentence is applicable to whomever disobeys to the stop sign and directs against an officer or member of the Armed Forces, militarised or of security, vehicle, with or without motor, which drives in a public road or equivalent, or boat, which pilots in interior river or sea waters, in order to oppose that he carries out an act pertaining to the performance of his functions, or to constrain him to carry out an act pertaining to the performance of his functions, but in opposition with his duties, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 348

Disobedience

1 – Whoever lacks to the obedience due to a legitimate order or warrant, regularly communicated and from a competent authority or officer, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days if:

- a) A legal provision sanctions, in the case, the punishment of simple disobedience; or
- b) In the absence of a legal provision, the authority or officer make the correspondent sanction.

2 – The sentence is of imprisonment for not more than two years or of fine penalty for not more than 240 days in the cases where a legal provision sanctions the punishment of qualified disobedience.

SECTION II

Freeing and prison breaking and breach of obligations imposed by criminal judgment

Article 349

Freeing of prisoners

1 – Whoever:

- a) By means of violence, threat or artifice, frees a person legally deprived of liberty; or
- b) Incites, promotes or, by any way, assists the escape of a person legally deprived of liberty;

is punished with sentence of imprisonment for not more than five years.

Article 350

Assistance by officer to escape

1 – The officer in charge of the guard of a person legally deprived of liberty that frees such person, lets him escape or facilitates, promotes or, by any way, assists his escape is punished with sentence of imprisonment from one to eight years.

2 – The officer who, although not in charge of the guard, is obliged, by virtue of the duty performed, to exercise surveillance over a person legally deprived of liberty or to prevent his escape and commits the conduct mentioned in the previous number is punished with sentence of imprisonment for not more than five years.

Article 351

Negligence in guard

The officer in charge of the guard of a person legally deprived of liberty who, by gross negligence, allows his escape is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 352

Escape

1 - Whoever, being legally deprived of his liberty, escapes is punished with sentence of imprisonment for not more than two years.

2 – If the agent spontaneously turns himself to authorities until the contumacy judgement, the sentence may be specially mitigated.

Article 353

Breach of impositions, prohibitions or interdictions

Whoever breaches impositions, prohibitions or interdictions determined by criminal judgment, as sentence applicable in simplest procedure, as accessory sentence or as non-custodial security measure, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 354

Prisoners' riot

The prisoners, detained or interned who rout, join forces and:

- a) Assault an officer legally in charge of their guard, treatment or surveillance, or constrain him, by means of violence or threat of violence, to commit an act or to omit to commit it; or
 - b) Promote their escape or the escape of a third party;
- are punished with sentence of imprisonment from one to eight years.

SECTION III

Breach of public measures

Article 355

Straying or destruction of objects placed under public power

Whoever destroys, damages or renders unusable, totally or partially, or, by any way, takes from the public power to which it is subject to, document or other movable object as well as property which has been seized, apprehended or is the object of a provisional order, is punished with sentence of imprisonment for not more than five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 356

Breaking of marks and seals

Whoever opens, breaks or renders unusable, totally or partially, marks or seals, affixed legitimately, by a competent officer, to identify or maintain any property inviolable, or to certify that over such property a seizure, apprehension or provisional order has fallen, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 357

Tearing, destruction or modification of public notices

Whoever tears, destroys, damages, modifies or, by any way, prevents that a public notice affixed by a competent officer is known is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

SECTION IV

Usurpation of duties

Article 358

Usurpation of duties

1 – Whoever:

- a) Without being authorised thereof, performs duties or carries out acts pertaining to an officer, to a military command or to a public security force, claiming, expressly or tacitly, such capacity;
- b) Exercises a profession or carries out acts pertaining to a profession for which the law requires a title or fulfilment of certain conditions, claiming, expressly or tacitly, to possess such title or to fulfil such conditions, when does not have it or fulfil them; or
- c) Continues in the performance of public duties, after being officially notified of his dismissal or suspension of duties;

is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

CHAPTER III

Crimes against the course of justice

Article 359

Falsity of testimony or statement

1 – Whoever gives false statements in a party's testimony in relation to facts over which shall testify, after taking oath and having been warned of the criminal consequences to which he is exposed with the false testimony, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – In the same sentence incur the private prosecutor and the civil parties regarding statements given in a criminal procedure as well as the defendant as regards statements about the identity and criminal record.

Article 360

Falsity of testimony, expertness, interpretation or translation

1 – Whoever, as a witness, expert, technician, translator or interpreter, before a court or competent officer to receive as a mean of evidence, testimony, report, information or translation, gives testimony, submits report, gives information or makes false translations, is punished with sentence of imprisonment from six months to three years, or with fine penalty not less than 60 days.

2 - In the same sentence incurs whoever, without a justified reason, refuses to testify or to submit report, information or translation.

3 – If the act mentioned in no. 1 is committed after the agent has taken oath and having been warned of the criminal consequences to which he is exposed, the sentence is of imprisonment for not more than five years or of fine penalty for not more than 600 days.

Article 361

Aggravation

1 - The sentences foreseen in articles 359 and 360 are aggravated of one third in their minimum and maximum limits if:

- a) The agent acts with a profitable intention;
- b) From the act results dismissal from place, loss of professional position or destruction of the familiar or social relationships of another person; or
- c) From the act results that, in lieu of the agent, another person is convicted for the crime which he has committed.

2 – If from the conducts described in articles 359 or 360 result deprivation of liberty of a person, the agent is punished with sentence of imprisonment from one to eight years.

Article 362

Withdrawal

1 – The punishment for articles 359, 360 and 361, paragraph a) does not take place if the agent voluntarily withdraws, in time for such withdrawal to be taken into account in the decision and before having result from the false testimony, report, information or translation, a damage to a third party.

2 – The withdrawal can be made, depending on the cases, before the court, the Public Prosecution or a body of the criminal police.

Article 363

Bribe

Whoever persuades or tries to persuade another person, through a gift or promise of a benefit of economic nature or not, to commit the acts foreseen in articles 359 or 360, without such acts being committed, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 364

Special mitigation and release without punishment

The sentences foreseen in articles 359, 360 and 363 are specially mitigated and the release without punishment may occur when:

- a) The falsity concerns circumstances which do not have an essential meaning for the evidence to which the testimony, report, information or translation is aimed for; or
- b) The act has been committed to avoid that the agent, spouse, an adopting person or adopted, the relatives or in-laws until the second degree or the person, of a different or of the same sex, who lives with the agent in equal conditions as those of spouses, were exposed to the danger of being subject to a sentence or security measure.

Article 365

Calumnious denunciation

1 – Whoever, by any means, before an authority or publicly, with the conscious of the falsity of the imputation, denounces or releases over a certain person the suspicion of the commission of a crime, with the intent that a procedure is brought against such person, is punished with sentence of imprisonment for not more than three years, or with fine penalty.

2 – If the conduct consists of the false imputation of an administrative penalty or disciplinary fault, the agent is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

3 – If the mean used by the agent consists of the submission, alteration or misconstrue of a mean of evidence, the agent is punished;

- a) In the case of no. 1, with sentence of imprisonment for not more than five years;
- b) In the case of no. 2, with sentence of imprisonment for not more than three years or with fine penalty.

4 – If from the act results deprivation of liberty of the offended party, the agent is punished with sentence of imprisonment from one to eight years.

5 – Upon request of the offended party, the court orders the public knowledge of the convictional sentence, pursuant to article 189.

Article 366

Simulation of crime

1 – Whoever, without imputing it to a specific person, denounces a crime or creates a suspicion of its commission to the competent authority, knowing that such crime has not occurred, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – If the act concerns an administrative penalty or disciplinary offence, the agent is punished with fine penalty for not more than 60 days.

Article 367

Personal favouring

1 – Whoever, totally or partially, prevents, frustrates or deceives an evidence or preventive activity of a competent authority, with the intent or conscious to avoid that another person, who has committed a crime, is subject to a sentence or security measure, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – In the same sentence incurs whoever renders assistance to another person, with the intent or conscious to, totally or partially, prevent, frustrate or deceive the execution of a sentence or security measure which has been applicable to such person.

3 – The sentence that the agent turns out to be convicted of, pursuant to the previous numbers, may not exceed the sentence foreseen in the law for the act committed by the person for whose benefit the agent has acted.

4 – An attempt is punishable.

5 – Is not punishable:

a) The agent who, with the act, procures at the same time to avoid that against him is imposed a sentence or a security measure; or

b) The spouse, adopting persons or adopted, the relatives or in-laws until the second degree or the person, of a different or of the same sex, who lives in equal conditions as those of spouses with whom for whose benefit has acted.

Article 368

Personal favouring committed by officer

When the favouring foreseen in the previous article is committed by an officer who intervenes or has competence to intervene in the proceeding, or by whom has competence to order the execution of the sentence or of the security measure, or has been incumbent to enforce it, the agent is punished with sentence of imprisonment for not more than five years.

Article 368-A

Laundering

1 – For the purposes of the following numbers, the assets arising from the commission, under any form of participation, of the typical unlawful acts of pandering, sexual abuse of children or of dependant minors, extortion, trafficking of narcotics and psychotropic substances, trafficking in arms, trafficking of organs or human tissue, trafficking of protected species, tax fraud, trafficking of influence, corruption and further infringements mentioned in no. 1 of Law no. 36/94 of 29 September and of the typical unlawful acts punishable with sentence of imprisonment of minimum length over six months or with a maximum length over five years as well as the assets which are obtained thereof are considered as benefits.

2 – Whoever converts, transfers, assists or facilitates any conversion transaction or transfer of benefits, obtained by himself or by a third party, directly or indirectly, with the intent to deceive its unlawful origin, or to avoid that the perpetrator or participant of such infringements is criminally pursued or subject to a criminal consequence, is punished with sentence of imprisonment from two to twelve years.

3 – In the same sentence incurs whoever hides or deceives the true nature, origin, location, disposal, movement or ownership of benefits or the rights related therein.

4 – The punishment for the crimes foreseen in nos. 2 and 3 occurs even if the acts which integrate the underlying infringement have been committed outside the national territory, or even if the place of the commission of the act is not known or the identification of their perpetrators.

5 – The act is not punishable when the criminal procedure in relation to the typical unlawful acts from which the benefits arise depends upon complaint and such complaint has not been filed in due time.

6 – The sentence foreseen in nos. 2 and 3 is aggravated of one third if the agent commits the conducts in a customarily way.

7 – Upon full repair of the damage caused to the offended party by the unlawful typical act from which commission the benefits arise, until the commencement of the hearing for trial in first instance and without an illegitimate damage to a third party, the sentence is specially mitigated.

8 – Upon verification of the requirements foreseen in the previous number, the sentence may be specially mitigated if the repair is partial.

9 - The sentence may be specially mitigated if the agent actually assists in the collection of the decisive evidences for the identification or arrest of the responsible parties for the typical unlawful acts from which the benefits arise.

10 - The sentence applicable pursuant to the previous numbers may not exceed the maximum limit of the highest sentence amongst those foreseen for the typical unlawful acts from which the benefits arise.

Article 369

Denial of justice and prevarication

1 – The officer who, in the scope of a procedural inquiry or judicial, administrative penalty or disciplinary proceeding, consciously and against right, promotes or not, leads, decides or not, or commits an act in the performance of the powers arising from the position that he holds, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 120 days.

2 - If the act is committed with the intent to harm or benefit anyone, the officer is punished with sentence of imprisonment for not more than five years.

3 – If, in the case of no. 2, results deprivation of liberty of a person, the agent is punished with sentence of imprisonment from one to eight years.

4 –The officer who, being competent thereof, orders or executes a custodial measure in an illegal manner, or omits to order it or execute it pursuant to the terms of the law, incurs in the sentence foreseen in the previous number.

5 – In the case foreseen in the previous number, if the act is committed with gross negligence, the agent is punished with sentence of imprisonment for not more than two years or with fine penalty.

Article 370

Prevarication of attorney or of solicitor

- 1 – The attorney or solicitor that intentionally harms a cause delivered for his support is punished with sentence of imprisonment for not more than three years or with fine penalty.
- 2 – In the same sentence incurs the attorney or solicitor that, in the same cause, supports or renders solicitors' services to persons whose interests are in conflict, with the intent to act for the benefit or harm of any of them.

Article 371

Breach of investigation secrecy

- 1 – Whoever, regardless of having contacted with the proceeding, illegitimately gives knowledge, in whole or in part, of the contents of an act of a criminal proceeding which is covered by investigation secrecy, or to which course is not admissible the assistance of the public in general, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days, unless another sentence is applicable to the case by the procedure law.
- 2 – If the act described in the previous number relates to:
 - a) An administrative penalty proceeding, until the decision of the administrative authority; or
 - b) A disciplinary proceeding, while the secrecy is legally maintained;the agent is punished with sentence of imprisonment for not more than six months or with fine penalty for not more than 60 days

CHAPTER IV

Crimes committed in the performance of public duties

SECTION I

Corruption

Article 372

Passive corruption for unlawful act

- 1 – The officer who by himself, or through another person, with his consent or ratification, demands or accepts, for himself or a third party, without such being due, a benefit of economic nature or not, or its promise, for any act or omission in opposition

to the duties of his position, even if prior to such demand or acceptance, is punished with sentence of imprisonment from one to eight years.

2 – If the agent, prior to the commission of the act, voluntarily refuses the offering or promise that he has accepted, or returns the benefit, or in the case of a fungible thing its value, is release without punishment.

3 – The sentence is specially mitigated if the agent actually assists in the collection of the decisive evidences for the identification or arrest of other responsible parties.

Article 373

Passive corruption for lawful act

1 – The officer who by himself, or through another person, with his consent or ratification, demands or accepts, for himself or a third party, without such being due, a benefit of economic nature or not, or its promise, for any act or omission which are not in opposition to the duties of his position, even if prior to such demand or acceptance, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

2 – In the same sentence incurs the officer who by himself, or through another person, with his consent or ratification, demands or accepts, for himself or a third party, without such being due, a benefit of economic nature or not from a person that before him had, has or will have any claim dependent from the performance of his public duties.

3 – Paragraph b) of article 364 and numbers 3 and 4 of the previous article are correspondently applicable.

Article 374

Active corruption

1 – Whoever by himself, or through another person, with his consent or ratification, gives or promises to an officer, or to a third party with the officer's knowledge, a benefit of economic nature or not which is not due to such officer, with the purpose mentioned in article 372, is punished with sentence of imprisonment from six months to five years.

2 – If the purpose is the one mentioned in article 373, the agent is punished with sentence of imprisonment for not more than six months, or with fine penalty for not more than 60 days.

3 – Paragraph b) of article 364 is correspondently applicable.

SECTION II

Misappropriation of money or property by officer

Article 375

Misappropriation of money or property by officer

1 – The officer who illegitimately appropriates, in own benefit or for the benefit of another, of money or any movable property, public or private, which has been handed to him, is in his possession or is accessible to him by virtue of his duties, is punished with sentence of imprisonment from one to eight years, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – If the objects or values mentioned in the previous number are of slight value, pursuant to paragraph c) of article 202, the agent is punished with sentence of imprisonment for not more than three years or with fine penalty.

3 – If the officer grants as loan, pledges or otherwise encumbers values or objects mentioned in no. 1, is punished with sentence of imprisonment for not more than three years or with fine penalty, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 376

Unauthorised use of vehicles, property or money by officer

1 – The officer who makes use or allows that another person makes use, for other purposes than the ones to which they are allotted to, of vehicles or other movable property of appreciable value, public or private, which have been handed to him, are in his possession or are accessible to him by virtue of his duties, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

2 – If the officer, without any special reasons of public interest justifying it, gives to public money a public use purpose different from the one to which it is legally allocated, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

Article 377

Economic participation in business

1 – The officer who, with the intent to obtain, for himself or for a third party, unlawful economic participation, injures in a legal business the economic interests which, in

whole or in part, are, by virtue of his duty, of his responsibility to manage, supervise, defend or execute, is punished with sentence of imprisonment for not more than five years.

2 – The officer who, by any way, receives for himself or for another person, an economic benefit as a result of a legal-civil act in respect of interests that he had, by virtue of his duties, at the time of the act, totally or partially, the disposal, management or supervision of, even if without damaging them, is punished with sentence of imprisonment for not more than six months, or with fine penalty for not more than 60 days.

3 - The sentence foreseen in the previous number is also applicable to the officer who receives, for himself or for a third party, by any way, an economic benefit as a result of collection, receiving, liquidation or payment that, by virtue of his duties, he is, totally or partially, in charge of ordering or do, provided that it is not verified a loss to the National Treasury or to the interests which are entrusted to him.

SECTION III

Abuse of authority

Article 378

Breach of domicile by officer

The officer who, abusing of the inherent powers to his duties, commits the crime foreseen in no. 1 of article 190 or breaches the professional domicile of whoever, by the nature of his activity, is bound to the duty of secrecy is punished with sentence of imprisonment for not more than three years or with fine penalty.

Article 379

Fraudulent receipt of economic benefit by officer

1 – The officer who, in the performance of his duties or powers resulting therein, by himself or through another person, with his consent or ratification, receives, for himself, for the State or for a third party, by leading into error or taking advantage of an error of the victim, an economic benefit which is not due to him, or which is higher to the one due, namely contribution, duty, fee, fine or administrative penalty, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days, if a more serious sentence is not applicable to him by virtue of another legal provision.

2 – If the act is committed by means of violence or threat with an appreciable harm, the agent is punished with sentence of imprisonment from one to eight years, if a more serious sentence is not applicable to him by virtue of another legal provision.

Article 380

Use of public force against execution of the law or of legitimate order

The officer who, being competent to request or order the use of public force, requests or orders such use to prevent the execution of a law, legal regular warrant or legitimate order of a public authority, is punished with sentence of imprisonment for not more than two years, or with fine penalty for not more than 240 days.

Article 381

Refusal of cooperation

The officer who, having received a legal request from a competent authority to grant the due cooperation to the administration of justice or to any public service, refuses to grant it or without a legitimate reason does not grant it, is punished with sentence of imprisonment for not more than one year, or with fine penalty for not more than 120 days.

Article 382

Abuse of power

The officer who, outside the cases foreseen in the previous articles, abuses of powers or breaches obligations inherent to his duties, with the intent to obtain, for himself or for a third party, an unlawful benefit or cause harm to another person, is punished with sentence of imprisonment for not more than three years or with fine penalty, if a more serious sentence is not applicable to him by virtue of another legal provision.

SECTION IV

Breach of secrecy

Article 383

Breach of secrecy by officer

1 - The officer who, without being duly authorised, reveals a secret from which became aware or which has been trusted to him in the performance of his duties, or which knowledge has been made easy for him by virtue of the position that he holds, with the

intent to obtain, for himself or for a third party, a benefit, or with conscious to cause a harm to the public interest or to third parties, is punished with sentence of imprisonment for not more than three years or with fine penalty.

2 – If the officer commits the act foreseen in the previous number endangering the life, bodily integrity of another or property of another of high value is punished with sentence of imprisonment from one to five years.

3 – The criminal procedure depends upon report from the entity supervising the respective service or upon complaint of the offended party.

Article 384

Breach of correspondence or telecommunications secrecy

The officer of the post, telegraph, telephones or telecommunications services who, without being duly authorised:

- a) Eliminates or removes letter, telegram or other communication trusted to such services and which is accessible to him due to his duties;
- b) Opens letter, package or other communication which is accessible to him due to his duties or, without opening it, becomes aware of his contents;
- c) Reveals to third parties communications between certain persons, made by post, telegraph, telephone or other telecommunication means of such services, that he became aware by virtue of his duties;
- d) Records or reveals to a third party the contents, in whole or in part, of the referred to communications or renders possible for such party to hear them or to become aware of them; or
- e) Allows or promotes the acts foreseen in the previous numbers;

is punished with sentence of imprisonment from six months to three years, or with fine penalty not less than 60 days.

SECTION V

Abandonment of duties

Article 385

Abandonment of duties

The officer who illegitimately, with the intent to prevent or interrupt a public service, abandons his duties or neglects their compliance is punished with sentence of

imprisonment for not more than one year, or with fine penalty for not more than 120 days.

SECTION VI

General provision

Article 386

Concept of officer

1 – For the purposes of criminal law the expression officer comprises:

- a) The civil officer;
- b) The administrative agent; and
- c) Whoever, even provisionally or temporarily, against remuneration or freely, voluntarily or compulsorily, has been called to perform or participate in the performance of an activity comprised in the public administrative or judicial function or, in the same circumstances, performs duties in public utility bodies or participates therein.

2 – The managers, the members of the supervision bodies and the employees of public companies, nationalised, State-owned or which majority of the share capital is public as well as of concessionaires of public services are equivalent to officers.

3 – For the purposes of articles 372 to 374, are also equivalent to officers:

- a) The magistrates, officers, agents and equivalents of the European Union, regardless of the nationality and residence;
- b) The officers' nationals of another State Members of the European Union, when the infringement has been committed, totally or partially, in Portuguese territory;
- c) All that perform duties equal to those described in no. 1 in the scope of any international organisation governed by public law to which Portugal is a member thereof, when the infringement has been committed, totally or partially, in Portuguese territory;
- d) All that perform duties in the scope of out of court dispute resolution procedures.

4 – The equivalency to officer, for the purposes of criminal law, of who performs political duties is governed by special law.