



OCTOBER 2015

CRIMINAL LAW

PORTUGUESE LEGISLATION ON “DETECTION AND SUPPRESSION OF TERRORISM”

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The following laws came into force the day after the publication:

- **Law 55/2015 of 23 June** makes the fifth amendment to Law 5/2002 of 11 January, which establishes measures to combat organised an economic-financial crime;
- **Law 56/2015 of 23 June** makes the second amendment to Law 23/2007 of 4 July, which approves the legal framework on foreign citizens entering, remaining in and leaving Portugal as well as their removal from Portuguese territory;
- **Law 57/2015 of 23 June** makes the third amendment to Law 49/2008 of 27 August, which approves the Law of Organisation of Criminal Investigation;
- **Law 58/2015 of 23 June** makes the twenty-third amendment to the Code of Criminal Procedure;
- **Law 59/2015 of 24 June** makes the first amendment to Law 53/2008 of 29 August, which approves the Internal Security Law;
- **Law 60/2015 of 24 June** makes the fourth amendment to Law 52/2003 of 22 August (Law to Combat Terrorism);
- **Law 61/2015 of 24 June**, which makes the second amendment to Law 101/2001 of 25 August, which establishes the legal framework for covert actions to prevent and investigate crime;

■ **Law 62/2015 of 24 June** makes the sixth amendment to Law 25/2008 of 5 June, which establishes prevention and suppression measures to combat laundering of the proceeds of unlawful acts and financing of terrorism (which only came into force on 29 June, the fifth day after its publication).

Other important changes that have been made to the Portuguese legal system are made by the amendments to **Law 63/2015** (check the PLMJ newsletters about [Golden Visa: New Types of “investment”](#) and [Golden Visa: Change to the rules on foreign citizens entering, staying in and leaving Portugal, and on their removal from the country](#)) **Law 59/2015**, **Law 60/2015** and **Law 62/2015**.

The essential aim of the remaining legislative changes is to update the **definition of terrorism**. This now includes not only acts that constitute the crimes of terrorist organisations, terrorism and international terrorism, but also acts of financing terrorism, as provided for in Law 58/2015.

Therefore, **Law 59/2015** changes the composition of the High Council of Internal Security and, above all, defines and regulates in greater detail the functioning of the **Antiterrorism Coordination Unit** (*Unidade de Coordenação Antiterrorismo* – UCA). It is now clear, amongst other things, that the UCA operates in the context of the “internal security system and that it is responsible for coordinating plans to execute the actions provided for in the National Strategy to Combat Terrorism.

Under the international cooperation plan, it is also responsible for communication and coordination between the contact points for the various areas of intervention in matters of terrorism.

The amendments to **Law 60/2015** reflect an effort to adapt the new law to the current world situation. In light of this, the **Law to Combat Terrorism** is broadened to cover actions carried out through electronic communication. The law also creates a new crime of travelling to commit acts of terrorism.

As a result, the following are punishable as “terrorism”:

- Disseminating a message to the public inciting the commission of terrorist acts by means of electronic communication, accessible by the Internet (with a prison sentence of 1 to 6 years), and the use of the message by anyone with access to it, for the purpose of being recruited for acts preparing for those same acts of terrorism (with a prison sentence of up to 3 years or a fine);
- Rewarding or praising those acts of terrorism by means of social communication in a way that creates a danger of the commission of another crime of the same type (with a prison sentence of up to 3 years or a fine), including when done by means of electronic communication accessible through the Internet (with a prison sentence of up to 4 years or a fine);
- Travelling or attempting to travel to a territory other than their State of residence or nationality, with a view to training, providing logistical support, or instructing another to engage in acts of terrorism, with a view to joining a terrorist organisation or to engaging in the same acts (with a prison sentence of up to 5 years), as well as organising, financing or facilitating this travel or attempt to travel (with a prison sentence of up to 4 years).

Finally, **Law 62/2015** broadens the scope of application of the Law to combat laundering of the proceeds of unlawful acts and financing of terrorism. Entities that operate games of chance, odds betting and betting on horse racing, whether totalisator or odds-type, when played at a distance, by electronic, computer, telematic and interactive means, or by any other means (online games and betting) that operate in Portugal, are now covered by Law 25/2008, in respect of the measures established to prevent the use of the financial system and of professional activities especially designed for the purposes of money laundering and financing terrorism.

The aim of these laws is to bring the applicable legislation into line with the National Strategy to Combat Terrorism, approved by the Council of Ministers on 19 February 2015 which, in turn, is based on five central pillars:

- **Detect:** early identification of potential terrorist threats;
- **Prevent:** identification and knowledge of the causes of radicalisation, recruitment and terrorist processes;
- **Protect:** strengthening the security of priority targets;
- **Pursue:** neutralising terrorist initiatives (planned or being carried out) and subjecting terrorist phenomena to judicial action;
- **Respond:** operational management of all the means to be used in reacting to terrorist events.

In the words of the Minister of Internal Administration, “*this represents a commitment to mobilisation, coordination and cooperation of all national structures with direct and indirect responsibility in the area of the fight against this threat*”. It is inspired by the resolutions of the United Nations and by the European Union’s policy to fight terrorism.

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Who's Who Legal, 2015, 2011-2006
Chambers European Excellence Awards, 2014, 2012, 2009

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Financial Times - Innovative Lawyers Awards, 2014-2011