

Supplement: Legal Framework and Possible Charges *February 2023*

This document accompanies the **Legal Support Manual v.6** and should be read according to the recommendations in it.

We present the most extreme situations and maximum penalties. However, there is a whole system of aggravating and mitigating factors, and a whole social and political context that runs parallel to the application of justice. This list may be incomplete and may become outdated. (Please note that the consequences are worse if the person has a criminal history)

This is a compilation of the **laws that we have seen used in prosecutions around the world against activists**. We recognize that many of them have never been used against social and climate justice activists in Portugal.

Our understanding is that the climate justice movement puts the care of the planet and people at the center, which does not guarantee that these laws will never be used by the state as tools of intimidation and deterrence.

Crime / Prosecution	Item No	Related maximum penalty	Examples where the Public Prosecutor can consider
Offense against simple physical integrity	Article 143 Penal Code	Penalty of imprisonment up to 3 years or a fine. (It depends on complaint, which means that there is only prosecution if the "victim" person files a complaint.)	people being hurt during a protest for any reason

Qualified offense against physical integrity	Article 145 Penal Code	Penalty of up to 4 years in prison in case of article 143	
Pursuit	Article 154 Penal Code	Penalty of imprisonment up to 3 years or a fine, if a more serious penalty is not applicable by virtue of another legal provision. Attempt is punishable and depends on the victim's complaint.	ongoing denunciation protests against a person responsible for the climate and social crisis
Kidnapping	Article 158 Penal Code	Penalty of imprisonment up to 3 years or a fine. If the deprivation of liberty is committed against a member of authority: imprisonment for 2 to 10 years.	employees in a building are unable to leave because of a protest underway in the building or in front of the building
Hostage-taking	Article 162 Penal Code	Penalty of imprisonment from 2 to 10 years.	
Slander	Article 180 Penal Code	Penalty of imprisonment up to 6 months or a fine up to 240 days.	altered ads or new ads placed criticizing an entity or a person
Publicity and slander (Defamation by means or under circumstances that facilitate its dissemination)	Article 183 Penal Code	Penalty of imprisonment up to 2 years or a fine of not less than 120 days.	fake news and false press releases
Verbal attack on police or security guard	Article 184 of the Penal Code	Penalty of imprisonment up to 3 months or a fine up to 120 days.	In Portugal, the police have already pressed charges against posters with the letters A.C.A.B.
Offense to a institution, service or legal person	Article 187 Penal Code	Penalty of imprisonment up to 6 months or a fine up to 240 days.	any criticism or slogan that includes swearing and insults

Introduction in a place closed to the public	Article 191 Penal Code	Penalty of imprisonment up to 3 months or a fine up to 60 days. In public buildings: a) If they are sovereign bodies, "disturbance of the operation of a constitutional body" can be invoked - Article 334 of the Penal Code: Penalty of imprisonment up to 3 years; b) Impediment to exercise functions: Penalty of up to 2 years imprisonment or up to 6 months. c) If the functioning of a sovereign body is prevented or constrained by violence, coercion against constitutional bodies may be invoked, a crime under article 333 of the Penal Code: Penalty of imprisonment from 1 to 8 years.	enter a coal mine (e.g. Ende Gelände)
Invasion of privacy, illicit recordings and photographs	Articles 192 and 199 of the Penal Code	Penalty of up to 1 year in prison or a fine of up to 240 days.	filming inside a closed meeting without authorization and disseminating
Theft	Article 203 Penal Code	Penalty of imprisonment up to 3 years or a fine.	In the 2010s in France, activists pulled the chairs out of a bank headquarters "in compensation" for the debt crisis it had created.
Grand theft	Article 204 Penal Code	Penalty of imprisonment up to 5 years or a fine up to 600 days or Penalty of imprisonment from 2 to 8 years.	
Theft from vehicle use	Article 208 Penal Code	Penalty of up to 2 years in prison or a fine of up to 240 days, if a more serious penalty is not applicable under any other legal provision.	In 2013 in Turkey, activists used a bulldozer that found in a construction site against the policeman's water trucks.

Damage	Article 212 Penal Code	Penalty of imprisonment up to 3 years or a fine.	the floor of a space gets dirty during a protest
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Qualified Damage	Article 213 Penal Code	Penalty of imprisonment up to 5 years or a fine up to 600 days or imprisonment from 2 to 8 years.	
Damage with violence	Article 214 Penal Code	Penalty of imprisonment from 1 to 8 years; In case it is a qualified damage with violence: Penalty of imprisonment from 3 to 15 years.	
Usurpation of immovable property	Article 215 Penal Code	Penalty of up to 2 years in prison or a fine of up to 240 days, if a more serious penalty is not applicable in view of the means used.	the various occupations of empty residential buildings are examples
Falsification or counterfeiting of documents	Article 256 Penal Code	Penalty of imprisonment up to 3 years or a fine.	Everything the Yes Men did in the USA (mock news, false identifications)

Fires, explosions and other particularly dangerous pipelines a) Causing a relief fire, namely by setting fire to a building, construction or means of transport; b) Provoke an explosion in any way, namely by using explosives; f) Causing a landslide or building collapse; and thereby create danger to the life or physical integrity of others, or to other people's property of high value.	Article 272 Penal Code	Penalty of imprisonment from 3 to 10 years.	Barricades at the demonstrations
Preparatory acts	Article 275 Penal Code	Penalty of imprisonment up to 3 years or a fine.	

Infraction of building rules, damage to facilities and disturbance of services c) Destroying, damaging or rendering totally or partially unusable, installation for utilization, the production, storage, conduction or distribution of water, oil, gasoline, heat, electricity, gas or nuclear energy, or for protection against natural forces; or d) Impede or disrupt the operation of communication services or of supplying the public with water, light, energy or heat by subtracting or by diverting, destroying, damaging or rendering totally or partially unusable partially, thing or energy that serves such services; and thereby create danger to the life or physical integrity of others, or to other people's property of high value,	Article 277 Penal Code	Penalty of imprisonment from 1 to 8 years.	
Seizure or hijacking of aircraft, ship, convoy or transport vehicle public passenger transport	Article 287 Penal Code	Aircraft or Ship in voyage: Penalty of 5 to 15 years in prison. Running train: Penalty of imprisonment from 2 to 10 years. Transit passenger collective transport vehicle: Penalty of imprisonment from 1 to 8 years.	We think it is possible (but not very likely) that the Extinction Rebellion activists who stuck to the planes at boarding time could be accused of this.

Attempting to secure transport by air, water, or rail (destroy, suppress, damage a installation, material or signage that hinders the operation of the traffic)	Article 288 Penal Code	Penalty of 1 to 8 years in prison	We think it is possible (but not very likely) that the Extinction Rebellion activists who stuck to the planes at boarding time could be accused of this.
Attack on road transport safety	Article 290 Penal Code	Penalty of imprisonment from 1 to 5 years. If you have endangered life or limb: Penalty of imprisonment from 2 to 8 years.	The police in Portugal think that any demonstration can cause this.
Public incitement to a crime	Article 297 Penal Code	Penalty of imprisonment up to 3 years or a fine, if a more serious penalty is not applicable by virtue of another legal provision.	Roger Hallam was jailed in the UK for several months in late 2022 because of a lecture.
Public apology for a crime (rewarding or praising another person for having committed a crime)	Article 298 Penal Code	Penalty of up to 6 months in prison or a fine of up to 60 days, if a more serious penalty is not applicable by virtue of another legal provision.	

Criminal association	Article 299 Penal Code	Whoever promotes or founds a group, organization or association or provides weapons, ammunition, instruments of crime, safekeeping or places for meetings, or any help in recruiting new elements: Penalty of imprisonment from 1 to 5 years. Whoever heads or directs the groups, organizations or associations referred to in the previous numbers: Penalty of imprisonment from 2 to 8 years.	The Turkish state has used equivalent laws to ban all Kurdish organizations for decades.
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Abuse and simulation of danger signals	Article 306 Penal Code	Penalty of imprisonment up to 1 year or a fine up to 120 days.	
Abuse of designation, sign or uniform	Article 307 Penal Code	Penalty of imprisonment up to 6 months or a fine up to 60 days. Designation, sign, or uniform of a person exercising public authority: Penalty of up to 1 year in prison or a fine of up to 120 days.	

Sabotage (Whoever destroys, makes impossible operation or divert from its normal purposes, definitive or satisfaction of vital needs of the population, infrastructures of relevant value to the economy with intent to destroy, alter or subvert the constitutionally established rule of law)	Article 329 Penal Code	Penalty of imprisonment from 3 to 10 years.	See the actions of Soulèvements de la Terre in France.
Incitement to collective disobedience	Article 330 Penal Code	Penalty of imprisonment up to 2 years or a fine up to 240 days.	Roger Hallam was jailed in the UK for several months in late 2022 because of a lecture.

Outrage of national and regional symbols	Article 332 Penal Code	Penalty of imprisonment up to 2 years or a fine up to 240 days.	the national flag is damaged, altered or soiled
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Disruption of functioning of constitutional body	Article 334 Penal Code	If they are sovereign bodies: Penalty of imprisonment up to 3 years; Whether it prevents members of the sovereignty from exercising their functions: Penalty of imprisonment for up to 2 years or with imprisonment for up to 6 months.	Grandolar protests in Assembly of the Republic
Disobeying the order to disperse (in case of a public meeting or demonstration without having given 48 hours notice to the authorities).	Article 348 Penal Code	Penalty of imprisonment up to 1 year or a fine of 120 days. If there is a "promoter of the meeting or gathering": Subject to a prison sentence of up to 2 years or a fine of up to 240 days (Article 304 of the Penal Code).	The main charge against FLUL students in the Occupy - End the Fossil protests in November 2022
Terrorist Organizations	Article 2 Law of Combat Terrorism	Anyone who promotes, starts a group, or supports it with information and materials: Penalty of imprisonment from 8 to 15 years. Anyone who heads or directs a terrorist group: Penalty of 15 to 20 years in prison. Who commits preparatory acts	These are laws created after the 9/11 attack in New York all over the world, as a pretext to make it easier and faster investigation against any organization and association.

		Penalty of imprisonment from 1 to 8 years.	
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Terrorism	Article 4 Terrorism	Penalty of imprisonment from 1 to 5 years. By means of electronic communication, accessible by Internet: Penalty of imprisonment from 1 to 6 years.	
Terrorism (rewarding or praising another person for having committed a crime)	Art. 4.law of Combat Terrorism	Penalty of imprisonment up to 3 years or a fine up to 360 days.	