

Law 6/97/M, of 30 July

Law against Organized Crime

The Legislative Assembly decrees, pursuant to Article 31 (2)(a) and Article 31(3)(c) of the Organic Statute of Macao, to be taken as law, the following:

CHAPTER I

Criminal provisions

Article 1

Definition of secret association or society

1. For the purposes of this law, a secret association or society is an organization established to obtain illicit advantages or benefits and whose existence is demonstrated by an agreement, pact or by any other means, including the commission, concurrently or not, of the following criminal offences:

- a) Homicide or offences against physical integrity;
- b) Abduction, kidnapping, and international trafficking in persons;
- c) Threat, coercion, and extortion under the pretext of protection;
- d) Exploitation of prostitution, procurement, procurement of minors and pornography of a minor;
- e) Criminal usuary;
- f) Theft, robbery, and damage;
- g) Enticing and assisting clandestine migration;
- h) Illegal gaming, lotteries or pool betting, and illicit gambling cartels;
- i) Offences related to animal racing;
- j) Usuary for the purpose of gambling;
- l) Import, export, purchase, sale, manufacture, use, bearing and possession of prohibited arms and munitions and explosive or incendiary substances, or any devices or artifacts suitable for the commission of the crimes referred to in Articles 264 and 265 of the Criminal Code;
- m) Offences related to electoral rolls and elections;
- n) Speculation involving transportation tickets;
- o) Counterfeiting of currency, negotiable instruments, credit cards, and identity and travel documents;
- p) Active corruption;
- q) Extortion of document;
- r) Unlawful withholding of identity or of travel documents;
- s) Abuse of debit or credit cards;
- t) Foreign trade transactions outside of the authorized premises;
- u) Money laundering;
- v) Illegal possession of technical equipment susceptible of actively or passively interfering in the communications of the police forces and services or security forces.

2. The existence of a secret association or society referred to in the previous paragraph does not require that:

- a) It has headquarters or a designated place for meetings;
- b) The members know one another and meet periodically;
- c) It has a command, direction, or organized hierarchy that gives it unity and impetus; or
- d) It has a written agreement regulating its incorporation or activity, or the distribution of its profits or expenses.

Article 2

Crime of secret association or society

1. Whoever promotes or establishes a secret association or society shall be punished with a penalty of 5 to 12 years' imprisonment.

2. Whoever is a member of a secret association or society or supports it, by means of:

- a) providing arms, munitions, instruments for the commission of crimes, guards, or premises for meetings,
- b) obtaining submissions, demanding and providing funds or any assistance for the recruitment of new members, including by means of bribing or making propaganda,
- c) keeping or having control over books, parts of books or accounts of a secret association or society, list of members or apparel specifically suitable for the ritual ceremonies of the association or society,
- d) participating in meetings or ritual ceremonies of the secret association or society, or,
- e) using passwords or codes of any nature which are characteristic of a secret association or society, shall be punished by with a penalty of 5 to 12 years' imprisonment.

3. Whoever performs the roles of direction or leadership, in any degree, of a secret association or society, in particular, by using passwords, codes, or numerals characteristic of those roles shall be punished with a penalty of 8 to 15 years' imprisonment.

4. The penalty provided for in paragraph 1 is aggravated by one-third in its minimum and maximum limits if the recruitment, enticement, propaganda, or demand of funds is directed to persons under 18 years of age.

5. If the crimes provided for in the previous paragraphs are committed by a civil servant, the respective penalties are aggravated by one-third in its minimum and maximum limits.

Article 3

Extortion under the pretext of protection

1. Whoever by way of threatening with reprisals against persons or property, proposes protection for persons or property on behalf of a secret association or society, or by invoking it, with the intention of obtaining material or other advantages, shall be punished with a penalty of 2 to 10 years' imprisonment.

2. The same penalty applies to whomever, by way of threatening with reprisals against persons or property, demands on behalf of a secret association or society, or by invoking it, a consideration for the obtaining of employment, the opening of a commercial premises or the exercise of a profitable activity.

3. The crimes provided for in the previous paragraphs shall be deemed to be committed even in the event that the threat of reprisals, the demand for remuneration or the invocation of the secret association or society is not declared outright, provided that such acts are performed in a way that would reasonably lead the victim to infer their existence.

4. If such reprisals are carried out, the offender shall be punished, concurrently with the penalty provided for in paragraph 1, with a penalty of 2 to 10 years' imprisonment, unless a more serious penalty is applicable.

Article 4

Invocation of membership in a secret association or society

1. Whoever invokes membership in, or a relationship with, a secret association or society, or with members thereof, or leads another person to reasonably infer such membership or relationship, so as to provoke fear or uneasiness in another person, or to prejudice his/her freedom of determination, in particular by coercing him/her to perform an act or omission or to tolerate an activity shall be punished by with a penalty of 1 to 3 years' imprisonment.

2. If the requisite of Article 149 (1) (a) of the Criminal Code occurs in the commission of the coercion provided for in the previous paragraph, the offender shall be punished with a penalty of 3 to 5 years' imprisonment.

3. Attempt to commit the crime provided for in paragraph 1 is punishable.

Article 5

Special framework

When the offender prevents or seriously undertakes to prevent the continuation of the secret association or society, or communicates its existence to the authorities, in particular by declaring the identity of other members or supporters, and by revealing the purposes, plans or activities of such associations, so as to enable the authorities to prevent the commission of crimes, the penalties provided for in Articles 2 to 4 may be specially reduced or replaced by a penalty not entailing the deprivation of liberty or the offender may be exempted from penalty.

Article 6

Unlawful withholding of document

Whoever withholds an identity or travel document belonging to another person with the intention of obtaining an unlawful benefit for himself/herself or for a third person or of causing harm to another person or of coercing him/her to perform an act or omission or to tolerate an activity, shall be punished with a penalty of 1 to 5 years' imprisonment.

Article 7

Article 8

Exploitation of prostitution

1. Whoever entices, attracts, or diverts another person, even with his/her agreement, with a view to prostitution, or exploits the prostitution of another person, even with his/her consent, shall be punished with a penalty of 1 to 3 years' imprisonment.
2. Whoever seeks to obtain clients for persons who prostitute themselves or, by any means promotes or facilitates the exercise of prostitution, irrespective of remuneration, shall be punished with a penalty of up to 3 years' imprisonment.
3. Attempt to commit the aforementioned crime is punishable.

Article 9
Punishable conduct in public places

Whoever in public places or places accessible to the public, including those with limited access:

- a) Disturbs or molests persons,
- b) Displays an attitude susceptible of provoking a reasonable concern as to the security or well-being of a person, or
- c) Without justification withholds, demands or coerces another person into surrendering, whether in a concealed or in an open manner, money or other items of value, shall be punished with a penalty of up to 1 year' imprisonment.

Article 10

Article 11
Illicit gambling cartel

Whoever, in a concerted manner, controls, directs, or by any means manipulates or defrauds the operation of commercial games of chance or the distribution of a prize, dividend or equivalent, shall be punished with a penalty of 1 to 5 years' imprisonment.

Article 12
Inflammable or corrosive substances or materials

The crimes provided for in Article 262 (1), (2) (a), and Article 266 of the Criminal Code are deemed to have been committed whenever the committed acts relate to an inflammable or corrosive substance or material.

Article 13
Breach of judicial secrecy

1. Whoever unlawfully provides knowledge, in full or in part, of the factual content or act of criminal procedure, with respect to a crime provided for and punished by this law, that is covered by judicial secrecy or for which attendance is not allowed to the public, shall be punished with a penalty of 1 to 5 years' imprisonment.
2. If the crime provided for in the previous paragraph is committed by revealing or disclosing the identity of the persons intervening in the proceedings provided for in Article 26(2) and Article 28(4), the perpetrator shall be punished with a penalty of 2 to 8 years' imprisonment.

3. Whenever the revelation or disclosure is made by a person covered by professional secrecy, the court shall order that a statement be given, therefore breaking the secrecy.

4. Protection of the identity of the persons intervening in proceedings referred to in paragraph 2 above shall remain a judicial secrecy for a period of 10 years, even after the judicial decision has acquired the force of *res judicata*, including judicial decisions ordering the procedures to be filed.

Article 14

Article 15

Non-punishable conducts

1. The conduct of a criminal investigative officer or a third person acting under the control of a criminal police authority who, for purposes of crime prevention or enforcement, hiding his/her capacity or identity, infiltrates the secret association or society, becomes a member, and who consequently, at the request of someone dedicated to criminal activities of association, accepts, detains, keeps, transports, or delivers arms, munitions, or instruments of crime, harbors members, seeks to obtain submissions or provides premises for meetings, shall not be punishable.

2. The conduct referred to in the previous paragraph depends on the prior authorization of the competent judiciary authority, to be given within no more than 5 days, and to be granted for a given period.

3. In the event of an urgent situation related to the collection of evidence, the conduct referred to in paragraph 1 may be carried out before obtaining authorization from the competent judiciary authority, but it must be validated by that authority on the first subsequent working day, under penalty of nullity.

4. The criminal police authority shall render the report of the intervention of the public employee or of the third person to the competent judiciary authority within the maximum delay of 48 hours after the end of that intervention.

Article 16

Probation

In the event of recidivism of the crimes provided for in Articles 2, 3, 7, 10 (1)(a) and (b), and 13 (2), probation may not be granted.

Article 17

Suspension of the penalty

In the case of the crimes referred to in Articles 2, 3, 7, 10 (1)(a) and (b), and 13 (2), the penalty of imprisonment imposed shall not be suspended, unless the conditions of Article 5 are met.

Article 18

Accessory penalties

1. One who is convicted of the crimes provided for in Articles 2, 3, 7, 9 and 10 (1) (a) and (b), considering the gravity of the act and what it says about the suitability of the perpetrator for civic life, may be:

- a) Suspended from the exercise of his/her political rights for a period of 2 to 10 years;
- b) Prohibited from holding public office for a period of 10 to 20 years;
- c) Prohibited from exercising a profession or activity that depends on a public title or on authorization of or approval by the public authority, for a period of 2 to 10 years;
- d) Prohibited from exercising the functions of administration, oversight, or of any nature in public collective persons, in corporations which the entirety or majority of whose capital is public, or in corporations that are concessionaires of public services or goods, for a period of 2 to 10 years;
- e) Prohibited from the exercise of any functions in corporations that exploit activities under an exclusive regime, for a period of 2 to 10 years;
- f) Prohibited from contacting certain persons, for a period of 2 to 5 years;
- g) Prohibited from frequenting certain social spheres or places, for a period of 2 to 10 years;
- h) Inhibited from exercising the powers of parent, guardian, curator, or administrator of properties, for a period of 2 to 10 years;
- i) Inhibited from driving motorized vehicles and from piloting airplanes or vessels, for a period of 2 to 5 years;
- j) Prohibited from leaving the territory, or from leaving without authorization, for a period of 2 to 5 years;
- l) Expelled and prohibited from entering the territory, when he/she is a non-resident, for a period of 5 to 10 years.

2. The accessory punishment provided for in subparagraph 1(b) above, shall always be applied when the perpetrator is a public employee.

3.

4.

5.

6. The accessory penalties may be applied concurrently.

7. The time in which the perpetrator is deprived of liberty by judicial decision does not count for the time periods referred to in paragraph 1.

Article 19

Judicial dissolution of legally incorporated associations or societies

The associations or societies referred to in Article 1 that are legally incorporated shall be dissolved in the judicial decision that found guilty any of the respective members.

Article 20

Recidivism

The fact that more than 5 years have elapsed between the crimes provided for in Articles 2, 3, 7, 10 (1) (a) and (b), and 13(2) does not stand in the way of a finding of recidivism.

Article 21
Extension of the penalty

1. The effective prison term for the crime provided for in Article 2 shall be extended for two successive periods up to 3 years each if:

a) The perpetrator had previously committed a crime provided for in the same Article or set forth in Article 1(1), to which effective imprisonment had also been applied, and

b) Upon expiration of the penalty, or of its first extension, it were to be anticipated, with reasonable grounds, in view of the circumstances of the case, the previous life of the perpetrator, his/her character and respective evolution during the execution of the penalty, and of the *facto indicia* of continuity with the linkage or relationship with the secret association or society, that the convicted, once released, will not conduct his/her life in a socially responsible manner without committing crimes.

2. For purposes of extending the penalty, the effective prison terms applied outside of Macao for the crimes referred to in paragraph 1(a) above shall be considered.

Article 22
Confinement of minors

Minors who cannot be prosecuted who perform any of the illicit acts provided for and punished at Articles 2, 3, 7, and 10 (1) (a) and (b) are subject to a regime of confinement according to their age and dangerousness.

Article 23
Criminal proceedings

The filing of criminal proceedings for the crimes provided for and punished in this law does not depend on a complaint.

CHAPTER II
Criminal procedure provisions

Article 24

Article 25
Publicity

In proceedings for the crime of secret association or society, certain procedural acts may take place with the exclusion of publicity.

Article 26

Record and declarations for future memory

1. The written record of the proceeding regarding the taking of declarations or statements and the questioning of the accused should, whenever possible, be accompanied by a taped record, by audio or audiovisual means, pursuant to the provisions of Article 91(3) of the Criminal Procedure Code.
2. Where there are reasons to believe that the offended person, a witness, the private prosecutor, the civil party or expert, may, namely for fear of reprisals, should come to travel abroad, or by any means state the impossibility of being heard in trial, the statements shall be taken for future memory, in the terms of Articles 253 and 276, with the effects of Article 337(2)(a) of the Criminal Procedure Code.

Article 27

Admissible means of proof

1. At the court hearing, the reading of previous statements made by the offended person, the private prosecutor, the witness, the expert witness or the civil party, even if provided before a criminal police body, when there are significant contradictions or discrepancies between them and those made in the hearing shall be admissible.
2. Computer, videotape, or audio data recorded in places of public access even if of a private character shall be admitted into evidence.

Article 28

Protection of infiltrated public employees and third persons

1. The judiciary authority merely orders the inclusion in the proceedings referred to in Article 15 (4) if it is deemed to be absolutely indispensable in evidentiary terms, guaranteeing the secrecy of the identity of the public employee or of the third person.
2. The assessment of whether it is indispensable may be deferred to the conclusion of the investigation or of the criminal inquiry; the file shall, however, by prior registration, remain in the possession of the criminal police authority.
3. In those cases in which the judge determines that the infiltrated public employee or third person shall appear in a hearing in the trial because such evidence is indispensable, the provisions of Article 86 (1) of the Criminal Procedure Code shall always be observed.
4. The judge shall take the appropriate measures to prevent revealing the identity of the public employee or third person, which shall be protected by judicial secrecy.

Article 29

Pre-trial detention

If the crime imputed were one of those provided for in Articles 2, 3, 7, 10 (1) (a) and (b) and 13 (2), the judge shall impose the pre-trial detention to the accused.

Article 30

Identification of the suspect and request for information

In the cases provided for in Article 233 (2) and (3) of the Criminal Procedure Code, when the term referred to in the previous paragraph cannot be met, the situation is immediately communicated with sufficient justification, to the highest-level officer of the respective criminal police body, who may authorize its extension for up to a maximum of 24 hours.

Article 31

Seizure of goods and rights

1. The judiciary authority shall proceed with the seizure of real or movable property, rights, securities, any value, sums of money and any other objects deposited in banks or other credit institutions, even in individual personal safe-deposit boxes under the name of the accused or of a third person, when there are well-founded reasons to believe that they are related to the crimes provided for and punished by this law, are earmarked for the criminal activity of secret association or society, constitute the proceeds or profit of such activity or the compensation from crimes provided for and punished by this law or that they result from transformation or conversion of the proceeds, profits or compensation from such illicit activities.
2. The financial or similar institutions, associations, civil associations or commercial partnerships, registry or tax offices and all other public or private entities cannot refuse to follow through in response to a request for information or for presentation of documents by the judge with respect to assets, deposits or values referred to in the previous paragraph.
3. In the case of the crimes provided for and punished by this law, the accused is obliged to respond truthfully to the questions put to him/her by the judiciary authority regarding his/her economic and financial situation, income from professional activity and ownership of assets, under penalty of the punishment provided for in Articles 312 or 323 of the Criminal Code.
4. The non-proportionality of the assets, deposits or values referred to in paragraph 1 when compared to the income declared by the accused and the impossibility of determining their lawful origins, shall constitute *de facto indicia* of their illicit origin.

Article 32

Defense of rights of a third person in good faith

1. Once a third person acknowledges of the seizure, the third person who invokes his/her ownership over goods, rights or values seized in the terms of the previous Article may, in the proceeding, defend his/her rights through a well-founded motion alleging good faith.
2. Good faith is understood to mean excusable ignorance that the goods, rights or values were related to illicit activities.
3. The motion referred to in paragraph 1 is attached to the proceedings, thus informing the Procuratorate so that it may raise any opposition within 10 days.
4. The decision is proffered by the judge once the steps deemed necessary have been taken, unless if, with respect to ownership of the goods, rights or values, the issue turns out to be complex or susceptible to disturbing the normal operation of proceedings, in which case the judge may remit the third person to civil proceedings.

5. The provisions of the previous paragraphs are applicable, even if the third person acting in good faith has only had knowledge of the dispossession of the goods, rights or values seized after they have been declared confiscated by the territory.

Article 33
Prohibition on entry to the territory

1. The entry to the territory of non-residents with respect to whom there is the following information shall be prohibited:

a) Conviction of a crime provided for in Article 2, or identical in nature, even if by a court outside of Macao;

b) Existence of strong *indicia* of membership in or relationship to a criminal association, particularly of the type of secret association or society, even if it does not carry out any activity here;

c) Existence of strong *indicia* of an intent to perpetrate a serious crime;

d) Existence of strong *indicia* that they constitute a threat to public order or to the security of the territory;

e) The period during which a prohibition on entering the territory is still in effect.

2. The decision of the competent administrative authority may be challenged in the terms that are generally provided for doing so.

CHAPTER III

Complementary provisions

Article 34
Prohibition on entry into gambling halls

Whoever engages in any of the forms of conduct provided for in Article 9 may be prohibited, by the Gaming Inspection and Coordination Bureau, from entering gambling halls for a period of 2 to 5 years.

Article 35
Prostitution

1. Whoever, in a public place or place of public access, solicits or makes a proposal to engage in sexual acts for the purpose of obtaining a pecuniary remuneration or other economic advantage, shall be punished by a fine of 5,000 patacas.

2. Non-residents to whom a fine referred to in the previous paragraph is applied shall be expelled from the territory.

3. Non-residents to whom the measure provided for in the previous paragraph is applied in case of re-entering in the territory within two years, shall be understood as having committed the crime of disobedience.

4. The commander of the Public Security Police Force has authority to apply the sanction provided for in paragraph 1 and to order the expulsion provided for in paragraph 2.

Article 36
Communication of the sentence

1. For the purposes of prohibiting the entry into the territory or of an eventual administrative decision, particularly the cancellation of a license or declassification of an establishment, the court shall forward to the competent authorities a certificate of the sentence having acquired the force of *res judicata*, proffering a conviction for crimes provided for and punished in this law, related to:

- a) Persons who are non-residents;
- b) Legal persons and all other entities provided for in Article 14 (1) and their members, whether founders or not, holders of the positions of direction or leadership, when in the performance of their functions, or by their representatives or agents acting on behalf and in the interest of such entities.

2. The court shall also forward to the competent authorities a certificate of the sentence, having acquired the force of *res judicata*, for crimes that have occurred in an establishment subject to any licensing or classification.

CHAPTER IV

Final and transitory provisions

Article 37
Public crimes

Criminal proceedings for the following crimes do not depend on a complaint being lodged/filed:

- a) Robbery of and damage to motorized vehicles;
- b) Robbery of and damage to items of value greater than 10,000 patacas;
- c) Simple assault on physical integrity that results in disease or a condition due to which it is impossible to work for more than 10 days;
- d) Violation of secrecy by a public employee;
- e) Simple assault on physical integrity and actionable words against an agent or official vested with public authority.

Article 38
Special review of the sentence

1. Without prejudice to the provisions of Article 431 of the Criminal Procedure Code, a review of a judicial decision which acquired the force of *res judicata* and proffered a conviction resulting in imprisonment for any crime shall be admissible; such admissibility depends if the person convicted adopts any of the forms of conduct mentioned in Article 5 in a meaningful way.

2. The provisions of Articles 434, 437, 438 and 447 of the Criminal Procedure Code to the review provided for in the previous paragraph shall be applicable, *mutatis mutandis*.

Article 39
Procedure

1. The person convicted or his/her legal counselor shall present the motion to request a review to the representative of the Procuratorate attached to the Superior Court of Justice, indicating the conducts that the convicted proposes to adopt or has adopted.
2. If, after analyses of the request, the Procuratorate finds that the conditions for application of any of the measures provided for in Article 5 have been met, the measure intended to be proposed shall be communicated to the moving party in order for him/her to take a position concerning it within 5 days.
3. If the person convicted accepts the proposed measure, the Procuratorate shall file the proceedings in court, being dully substantiated and documented, including the reduction in writing or the full reproduction, by any means, of the statements made by the person convicted.
4. If the person convicted does not accept the proposal of the Procuratorate provided for in paragraph 2, and in reason of his/her later conduct, in the terms of Article 5, the measure proposed is not altered, the procedure will be filed and it will remain protected under judicial secrecy under the terms of Article 13 (4).
5. It is up to the Superior Court of Justice to make the decision on the review proposed by the Procuratorate.
6. The decision of the Superior Court of Justice is not subject to appeal.

Article 40

Imprisonment of the person convicted

Once the imprisoned convicted person has expressed the desire to adopt any of the forms of conduct provided for in Article 5, the competent authority shall adopt the measures appropriate for safeguarding his/her physical integrity.

Article 41

Application of the special review procedure

The provisions of Articles 38 to 40 shall be applied to the persons convicted who request for them, within six months after the entry into force of this law.

Article 42

Subsidiary law

In the absence of a specific provision in this law, the provisions of the Criminal Code and of the Criminal Procedure Code shall apply on a subsidiary basis.

Article 43

Abrogation clause

Law 1/78/M, of February 4 is hereby abrogated.