



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### ASSEMBLEIA DA REPÚBLICA

[Portuguese Parliament]

**Act no. 53/2008**

**of 29 August**

### **Approves the Internal Security Act**

The Assembleia da República decrees, under article 161(c) of the Constitution, as follows:

#### CHAPTER I

#### **General Principles**

##### Section 1

#### **Definitions and aims of internal security**

1. Internal Security is the activity developed by the State to guarantee public order, safety and tranquillity, protect people and goods, prevent and suppress crime and contribute to ensure the proper functioning of democratic institutions, the regular exercise of fundamental rights, freedoms and guarantees of citizens and respect for democratic legality.
2. The activity of internal security is carried out under the Constitution and the law, in particular the criminal and criminal procedure legislation, the framework law on criminal policy, the criminal policy legislation and the organic laws of the security forces and services.
3. The measures set forth in the present act aim, in particular, to protect the life and integrity of people, public peace and democratic order, namely against terrorism, violent or highly organised crime, sabotage and espionage, to prevent and react to



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

serious accidents and disasters, to defend the environment and to preserve public health.

### Section 2

#### **Fundamental principles**

1. The activity of internal security is guided by compliance with the principles of democratic rule of law, rights, freedoms and guarantees and general police rules.
2. The police measures are those established by law and shall not be used beyond what is strictly necessary and shall comply with the exigencies of adequacy and proportionality.
3. The regime of the security forces and services, each with a single organisational structure for the whole of the national territory, shall be established by law.

### Section 3

#### **Internal security policy**

The internal security policy comprises the set of principles, aims, priorities, guidelines and measures aimed at achieving the goals set forth in section 1.

### Section 4

#### **Territorial scope**

1. Internal security is developed in all the space under the jurisdictional powers of the Portuguese State.
2. In the framework of the international commitments and the applicable rules of international law, the security forces and services may act outside the space referred to in the preceding subsection in cooperation with bodies and services of foreign states or with international organisations of which Portugal is a member, with the purpose, in



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

particular, of developing the space of freedom, security and justice of the European Union.

### Section 5

#### **General and special duties of cooperation**

1. The citizens have the duty to cooperate to achieve the goals of internal security by complying with the preventive measures set forth by law, following legitimate orders from the authorities and not obstructing the normal exercise of the powers of the staff and agents of the security forces and services.
2. The civil servants, as defined by the Criminal Code, and the military personnel have a special duty of cooperation with the security forces and services, as provided for by law.
3. Without prejudice to the obligation to report set forth in the Code of Criminal Procedure, the civil servants, as defined by the Criminal Code, and the military personnel have the duty to promptly report to the competent security forces and services the facts of which they become aware while carrying out their duties or because of such duties, related to the preparation or execution of facts which may be classified, under the Code of Criminal Procedure, as offences of terrorism or violent, particularly violent or highly organised crime, as well as sabotage or espionage.

### Section 6

#### **Coordination and cooperation of the security forces**

1. The security forces and services carry out their activity in accordance with the principles, aims, priorities, guidelines and measures of the internal security policy and within the scope of the corresponding organisational framework.
2. Without prejudice to what is set forth in the preceding subsection, the security forces and services shall cooperate among themselves, namely by relaying information which



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

is not only of interest to achieve each of their specific aims, but also necessary to the achievement of the aims of others, safeguarding the legal regimes of the secrecy of investigations and State secrecy.

### CHAPTER II

#### **Internal Security Policy**

##### Section 7

##### Assembleia da República

1. The Assembleia da República contributes, through the exercise of its political, legislative and financial powers, to provide a framework for the internal security policy and to monitor its execution.
2. The opposition parties represented in the Assembleia da República have the right to be previously consulted by the Government on the general guidelines for the internal security policy.
3. The Assembleia da República shall, on an annual basis, assess a report to be submitted by the Government until 31 March on the situation of the country with regard to internal security, as well as on the activity of the security forces and services carried out in the previous year.

##### Section 8

#### **Government**

1. The power to conduct the internal security policy belongs, under the Constitution, to the Government.
2. The Cabinet shall:



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- a) Set out the broad outlines of the internal security policy and the guidelines for its execution;
- b) Programme and ensure the means for the execution of the internal security policy;
- c) Approve the coordination, control and operational command plan of the security forces and services and guarantee their proper functioning;
- d) Set, as provided for by law, the rules for the classification and control of the circulation of official documents and the accreditation of people who should have access to classified documents.

### Section 9

#### **Prime Minister**

1. The Prime Minister is politically responsible for directing the internal security policy, and he shall, namely:
  - a) Inform the President of the Republic on matters regarding the conducting of the internal security policy;
  - b) Convene the High Council for Internal Security and chair the corresponding meetings;
  - c) Propose to the Cabinet the coordination, control and operational command plan of the security forces and services;
  - d) Direct the inter-ministerial activity aimed at adopting of the appropriate measures to safeguard internal security;
  - e) Coordinate and guide the action of the members of Government in matters of internal security;
  - f) Appoint and remove the Secretary-General of the Internal Security System on the basis of a joint proposal from the ministers of Home Affairs and Justice, after hearing the nominee in a parliamentary commission;



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- g) Appoint and remove the Deputy Secretary-General of the Internal Security System on the basis of a joint proposal from the ministers of Home Affairs and Justice, after hearing the Secretary-General.
2. The Prime Minister may delegate, in full or in part, the powers mentioned in paragraphs (b) and (d) of the preceding subsection to the Minister of Home Affairs.
3. Whenever the measures for the coordination and cooperation of the security forces and services under different ministries don't emanate from the Prime Minister, pursuant to subsection 1, said measures shall be agreed upon by the Minister of Home Affairs and the competent ministers.

### Section 10

#### **Autonomous regions**

The measures for the coordination and cooperation of the security forces and services under different ministries applied to the Autonomous Regions shall be executed without prejudice to the powers of the Representatives of the Republic in the Autonomous Regions and of the governmental bodies of the Region.

### CHAPTER III

#### **Internal Security System**

### Section 11

#### **Bodies of the Internal Security System**

The Internal Security System comprises the High Council for Internal Security, the Secretary-General and the Security Coordinating Office.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 12

#### **Nature and composition of the High Council for Internal Security**

1. The High Council for Internal Security is the inter-ministerial hearing and advisory body in matters of internal security.
2. The High Council for Internal Security is chaired by the Prime Minister and consists of the following members:
  - a) The Vice-Prime Ministers, if any;
  - b) The Ministers of State and Presidency, if any;
  - c) The Ministers of Home Affairs, Justice, National Defence, Finance, as well as Public Works, Transports and Communications;
  - d) The Presidents of the Regional Governments of the Azores and Madeira;
  - e) The Secretary-Generals of the Internal Security System and of the Portuguese Intelligence System;
  - f) The Chief of the General Staff of the Armed Forces;
  - g) Two Members of Parliament appointed by the Assembleia da República by a two-thirds majority of the Members of Parliament present, provided that such majority is greater than the absolute majority of Members on effective duty;
  - h) The Commandant-General of the National Republican Guard, the national directors of the Public Security Police, the Criminal Police and the Aliens and Borders Service and the directors of the Strategic Defence Intelligence Service and of the Security Intelligence Service;
  - i) The National Maritime Authority;
  - j) The person in charge of the Aeronautics Authority System;
  - l) The person in charge of the Integrated System of Protection and Relief Operations;
  - m) The Director-General of the Prison Services.
3. The Representatives of the Republic in the Autonomous Regions take part in Council meetings dealing with matters of concern for their respective Region.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

4. The Prosecutor-General may attend the Council's meetings on his own initiative, whenever he sees fit or when invited by its chairman.
5. For the purposes of the preceding subsection, the Prosecutor-General is informed of the dates of the meetings and their agenda.
6. Whenever he deems it necessary, the chairman may invite to attend the meetings the ministers responsible for criminal police bodies with specific competence or other entities with special responsibilities regarding the prevention and suppression of crime or the research and generation of relevant information for internal security purposes, in particular the senior managers of other criminal police bodies with specific competence.

### Section 13

#### **Powers of the High Council for Internal Security**

1. The Council assists the Prime Minister in the exercise of his duties in internal security matters, in particular when adopting the necessary measures in situations of serious threat to internal security.
2. The Council, as advisory body, is competent to provide opinions, in particular on:
  - a) Setting out the broad outlines of the internal security policy;
  - b) The general basis for the organisation, functioning and discipline of the security forces and services, as well as the definition of their powers;
  - c) Bills containing general provisions regarding the tasks and powers of the security forces and services;
  - d) The broad guidelines for the training, specialisation, updating and further training of members of the security forces and services.
3. The Council draws up its own rules of procedure and submits them to the approval of the Cabinet.





S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 14

#### **Secretary-General of the Internal Security System**

1. The Secretary-General of the Internal Security System reports directly to the Prime Minister or, by delegation, to the Minister of Home Affairs.
2. The position of Secretary-General of the Internal Security System is equivalent to that of of Secretary of State for all legal purposes, except as regards his appointment and removal.
3. The Secretary-General of the Internal Security System is assisted by a support office, which is covered by the legal regime of ministerial offices.
4. The Secretary-General of the Internal Security System may choose to be paid according to his original remuneration scheme whenever he is an employee exercising public duties or whenever he belongs to the Judiciary, the Public Prosecution Service, the Armed Forces or the security forces and services.

### Section 15

#### **Powers of the Secretary-General of the Internal Security System**

The Secretary-General of the Internal Security System has powers of coordination, direction, control and operational command.

### Section 16

#### **Coordination powers**

1. In the scope of his coordination powers, the Secretary-General of the Internal Security System is vested with the necessary powers for purposes of harmonising measures, plans or operations between different security forces and services, harmonising such forces and services with other services or with public or private entities, and for



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- cooperating with international or foreign counterparts, in line with the coordination, control and operational command plan of the security forces and services.
2. It is incumbent upon the Secretary-General of the Internal Security System, in the scope of his coordination powers and through the respective senior managers, to coordinate the security forces and services needed in order to:
    - a) Coordinate action taken by the security forces and services, ensuring compliance with the coordination, control and operational command plan of the security forces and services, as approved by the Government;
    - b) Coordinate the joint training, further training and practice programmes of the security forces and services;
    - c) Enhance cooperation between all security forces and services, ensuring their access to all necessary information;
    - d) Develop in the national territory the European area of freedom, security and justice action plans and strategies which require harmonised action by the security forces and services.
  3. It is further incumbent upon the Secretary-General of the Internal Security System to:
    - a) Ensure articulation of the security forces and services with the prison system with a view to rendering crime prevention and suppression more effective;
    - b) Ensure coordination between the security forces and services and the Integrated System of Protection and Relief Operations;
    - c) Establish with the Secretary-General of the Portuguese Intelligence System adequate institutional cooperation mechanisms so as to ensure the sharing of information, whilst complying with the legal regimes of secrecy of investigations and State secrecy, as well as compliance with the principle of availability when exchanging information with the security structures of the European Union Member States;



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- d) Ensure coordination between the security forces and services and the services of medical emergency, road safety and transport and environmental safety, in the scope of the definition and execution of security and crisis management plans;
- e) Articulate national institutions with local ones, including, in particular, municipal police forces and security municipal councils;
- g) Establish a link with private structures, namely with private security companies.

### Section 17

#### **Managerial powers**

- 3. In the scope of his managerial powers, the Secretary-General of the Internal Security System is vested with administrative, logistics and operational organisation and management powers as regards the services, systems, technological means and other common resources of the security forces and services.
- 1. It is incumbent upon the Secretary-General of the Internal Security System, in the scope of his managerial powers, to:
  - a) Grant the security forces and services access to and use of common services, namely in the scope of the Integrated System of Portuguese Emergency and Security Networks and of the Emergency Telephone Number 112;
  - b) Ensure interoperability between the information systems of the entities which are part of the Internal Security System and access by all of them, depending on their needs and powers, to those systems and to international police cooperation mechanisms via the different national contact points;
  - c) Coordinate the introduction of geo-referenced information systems on the contingent and the resources of the security forces and services and protection and relief services, as well as on crime;
  - d) Carry out the integrated processing, consolidation, analysis and disclosure of statistics on crime, take part in the carrying out of surveys on crime victims and insecurity and draw up the annual internal security report;



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- e) Be the permanent national contact point for situations of alert and swift response to threats posed to internal security, in the scope of the European Union mechanisms.

### Section 18

#### **Control powers**

1. In the scope of his control powers, the Secretary-General of the Internal Security System is vested with powers to coordinate the security forces and services with regard to the performance of specific missions or tasks, limited by their nature, time or space, which entail a joint action, according to the coordination, control and operational command plan of the security forces and services.
2. It is incumbent upon the Secretary-General of the Internal Security System, in the scope of his control powers and through the respective senior managers, to coordinate the security forces and services needed for purposes of:
  - a) Policing large or international events or other planned operations posing a high risk or threat, on the basis of a joint resolution from the Ministers of Justice and Home Affairs;
  - b) Tackling serious tactical-police incidents referred to in the following subsection.
3. Serious tactical-police incidents, apart from those classified as such by the Ministers of Justice and Home Affairs, are those which require the joint and combined intervention of more than one security force or service and which involve:
  - a) Attacks on sovereign bodies, hospital, prison or educational establishments, infrastructures designed to supply and meet the vital needs of the population, means and routes of communication or means of public passenger transport and infrastructures classified as crucial national infrastructures;
  - b) Use of firearms under circumstances which endanger the life or the physical integrity of several people;



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- c) Use of explosive, incendiary, nuclear, radiological, biological or chemical substances;
- d) Illegal restraint and hostage-taking.

### Section 19

#### **Operational command powers**

1. Under extraordinary circumstances, determined by the Prime-Minister following a reasoned communication submitted to the President of the Republic, arising from terrorist attacks or serious accidents or disasters which require a joint and combined intervention of different security forces and services and, possibly, of the Integrated System of Protection and Relief Operations, these shall be placed under the operational authority of the Secretary-General of the Internal Security System, via their senior managers.
2. In the scope of the extraordinary powers set forth in the preceding subsection, the Secretary-General of the Internal Security System has powers to plan and assign missions or tasks which require the combined intervention of different security forces and services and to control the corresponding execution, according to the coordination, control and operational command plan of the security forces and services.

### Section 20

#### **Deputy Secretary-General of the Internal Security System**

1. It is incumbent upon the Deputy Secretary-General of the Internal Security System to:
  - a) Assist the Secretary-General of the Internal Security System in the performance of his duties;
  - b) Exercise the coordination and managerial powers delegated on him by the Secretary-General of the Internal Security System;



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

- c) Substitute the Secretary-General of the Internal Security System during his absence or inability to perform his duties.
2. The position of Deputy Secretary-General of the Internal Security System is equivalent to that of holder of a 1<sup>st</sup> grade senior managerial position.

### Section 21

#### **Nature and composition of the Security Coordinating Office**

1. The Security Coordinating Office is the specialised consultancy and advisory body for the technical and operational coordination of the activities developed by the security forces and services and it reports directly to the Prime Minister or, by delegation, to the Minister of Home Affairs.
2. The Office comprises the entities referred to in sections 12(2)(e) and (h) to (m).
3. The Office is chaired by the Secretary-General of the Internal Security System.
4. The Office meets:
  - a) Ordinarily, once every quarter;
  - b) Extraordinarily, when convened by its chairman, on his own initiative or at the request of any of its members.
5. The Secretary-General of the Internal Security System coordinates the Office's permanent secretariat composed of liaison officers from the entities referred to in section 12(2)(h) to (m) above.
6. The Office has a situation room where serious threats to the internal security are followed up.
7. The office referred to in section 14(3) provides technical and administrative assistance to the Security Coordinating Office.
8. The SIRENE Office is incorporated in the Security Coordinating Office.
9. The National Authority for Security and its office are attached to the Security Coordinating Office.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 22

#### **Powers of the Security Coordinating Office**

1. The Security Coordinating Office assists the Secretary-General of the Internal Security System on a permanent and regular basis, in the exercise of his powers of coordination, management, control and operational command. Furthermore, it is particularly entrusted with the study and proposal of:
  - a) Public policies on internal security;
  - b) Security forces and services cooperation schemes;
  - c) Improvement of the contingent of the security forces and services;
  - d) Staff employment conditions, premises conditions and other resources, rules of practice and procedures of the security forces and services, to be implemented in situations of serious threat to internal security;
  - e) International coordination and cooperation mechanisms of the security forces and services;
  - f) National strategies and action plans in the field of crime prevention.
  
2. It is further incumbent on the Security Coordinating Office:
  - a) To provide opinions regarding bills on the planning of premises and resources for the security forces;
  - b) To collect, analyse and disclose information on reported criminal offences and any other information needed to prepare the internal security report.
  
3. For purposes of the preceding subsection, the Secretary-General of the Internal Security System may:
  - a) Set out the measures deemed essential for the Office's proper operation;
  - b) Issue guidelines and instructions on the activities to be developed.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 23

#### **Counter Terrorism Coordinating Unit**

1. The Counter Terrorism Coordinating Unit comprises representatives of the entities referred to in section 12(2)(e), (h) and (i).
2. It is incumbent upon the Counter Terrorism Coordinating Unit to ensure the coordination and the sharing of information among the services comprised in the Unit, as regards the fight against terrorism.

### Section 24

#### **Regional and District Security Coordinating Offices**

1. The security coordinating offices for the Autonomous Regions of the Azores and Madeira are chaired by a person to be appointed by the Secretary-General of the Internal Security System, on the basis of a proposal from the President, and they comprise the persons responsible, at regional level, for the security forces and services referred to in section 12(2)(h)(m).
2. The district security coordinating offices are chaired by the *governadores civis* [administrative representatives of the Government in different districts], and they comprise the persons responsible, at district level, for the security forces and services referred to in section 12(2)(h) to (m).
3. The regional and district security coordinating offices are entrusted with the advisory powers set forth in section 22(1), within their respective geographical areas.
4. Upon invitation of the respective chairman, the chiefs of the municipal police forces may participate in the meetings held by the regional and district security coordinating offices.
5. The Secretary-General of the Internal Security System informs the Representatives of the Republic in the Autonomous Regions on any matters of interest to the concerned Region.





S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### CHAPTER IV

#### **Security forces and services**

##### Section 25

#### **Security forces and services**

1. The security forces and services are public bodies, serve only the Portuguese people, are strictly non-partisan and contribute to guarantee internal security.
2. The following carry out duties of internal security:
  - a) The National Republican Guard;
  - b) The Public Security Police;
  - c) The Criminal Police;
  - d) The Aliens and Borders Service;
  - e) The Security Intelligence Service.
3. The following also perform security functions, in the cases and in the conditions set forth in the corresponding legislation:
  - a) The bodies of the National Maritime Authority;
  - b) The bodies of the Aeronautics Authority System.
4. The organisation, remit and competences of the security forces and services are set in the corresponding organisational laws and other complementing legislation.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 26

#### **Police authorities**

For the purposes of this act and within the scope of their corresponding powers, “police authorities” shall mean the senior officers named as such in the organisational legislation of the security forces and services.

### Section 27

#### **Control of communications**

The Criminal Police have exclusive powers to carry out the control of communications under judicial authorisation.

## CHAPTER V

### **Police measures**

#### Section 28

#### **Police measures**

1. The following are police measures:
  - a) Identification of suspect persons found or moving in a space which is public, open to the public or under police surveillance;
  - b) Temporary prohibition of access and movement of persons and means of transport to a place, by land, river, sea or air;
  - c) Temporary evacuation or abandonment of places or means of transport.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

2. The removal of objects, vehicles or other obstacles placed in public spaces without permission which prevent or condition the passage in order to ensure safe freedom of movement is also considered a police measure.

### Section 29

#### **Special police measures**

The following are special police measures:

- a) Body searches and searches in vehicles and spaces which are public, open to the public or under police surveillance with the purpose of detecting the presence of weapons, pyrotechnic or explosive substances or devices, forbidden objects or objects which may enable acts of violence and wanted persons or persons who are in the national territory illegally or deprived of their freedom;
- b) Temporary seizure of weapons, ammunitions, explosives and forbidden or dangerous substances or objects, as well as those which are subject to prior administrative licensing;
- c) Monitoring actions in establishments or other places which are public or open to the public;
- d) Inspections or installation of security equipment;
- e) Temporary closure of weaponry or explosives magazines, warehouses or factories, and the corresponding components;
- f) Cancellation or suspension of permits to owners of the establishments mentioned in the preceding paragraph;
- g) Temporary closure of establishments which sell weapons and explosives;
- h) Termination of the activity of companies, groups, organisations or associations dedicated to terrorism or violent or highly organised crime;
- i) Prohibition of broadcasting from private or public radio communications systems and electromagnetic isolation or barring of telephone services in certain spaces.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 30

#### **Principle of necessity**

Except for the case of section 28.2, police measures can only be adopted under the conditions set forth in the Constitution and in law, whenever such measures are deemed necessary, for the period strictly necessary to ensure the safety and protection of persons and goods and insofar as there is evidence of preparation of criminal activities or of serious or violent disturbance of public order.

### Section 31

#### **Duty of identification**

The police agents and staff in plain-clothes who, under the law, adopt a police measure or issue a legitimate order shall previously show proof of their capacity.

### Section 32

#### **Competence to determine adoption**

1. While performing their activity of internal security, police authorities may determine the adoption of police measures within the scope of their corresponding powers.
2. In urgent cases and when the delay poses a risk, the adoption of the police measures set forth in sections 28 and 29(a) and (b) may be determined by the agents of the security forces and services, in which case the competent police authority should be immediately informed in order to confirm it.
3. Except for urgent cases and when the delay poses a risk, the adoption of the police measures set forth in section 29(e) to (h) shall be previously authorised by the examining judge of the place where the police measure is to be adopted.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 33

#### **Information to court**

1. The adoption of the measures set forth in section 29 shall, under penalty of nullity, be reported to the competent court in the shortest possible time, but not later than forty eight hours afterwards, and be assessed by the judge in order to validate it in the maximum period of eight days.
2. The provision set forth in the preceding subsection shall not apply if the adoption of the police measure was previously authorised under subsection 3 of the preceding section.
3. For purposes of the provision set forth in subsection 1, the examining judge of the place where the police measure has been adopted is competent.
4. The evidence gathered in the scope of special police measures adopted without previous authorisation or validation cannot be used in criminal proceedings.

### Section 34

#### **Coercive measures**

1. The agents of the security forces and services may only use coercive measures in the following cases:
  - a) To repel a current and unlawful aggression against legally protected interests, in self defence or in defence of third parties;
  - b) To overcome resistance to the execution of a service while carrying out their duties, after having formally notified those who are resisting to obey and having exhausted the other means to achieve it.
2. The recourse to the use of firearms and explosives by the security forces and services is regulated in a separate act.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### CHAPTER VI

#### **Final provisions**

##### Section 35

#### **Armed Forces**

The Armed Forces collaborate in internal security matters under the Constitution and the law, and the Secretary-General of the Internal Security System and the Chief of the General Staff of the Armed Forces shall ensure operational coordination among themselves.

##### Section 36

#### **Transitional provision**

The performance appraisal of the members of the security forces and services shall be subject to the corresponding statutory regimes and shall be regulated in special legislation and the disposition set forth in section 113 of Law no. 12-A/2008 of 27 February shall not apply.

##### Section 37

#### **Revocation**

1. Law no. 20/87 of 12 June, altered by Law no. 8/91 of 1 April, is revoked.
2. Decree-Law no. 61/88 of 27 February, altered by Decree-Laws no. 51/96 of 16 May and 149/2001 of 7 May, is revoked.
3. Decree-Law no. 173/2004 of 21 July is revoked.



S. R.

MINISTÉRIO DA JUSTIÇA

## POLÍCIA JUDICIÁRIA

UNIDADE DE PLANEAMENTO, ASSESSORIA TÉCNICA E DOCUMENTAÇÃO

### Section 38

#### **Entry into force**

This act enters into force 30 days after its publication date.

Approved on 11 July 2008.

The President of the Assembleia da República, *Jaime Gama*.

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