



PARDON AND AMNESTY FOR OFFENCES

Law n.º 38-A/2023, of 2 of August

Law 38-A/2023 of 2 August came into force on 1 September, establishing a pardon for sentences and an amnesty for offences on the occasion of World Youth Day in Portugal.

AMNESTY VS PARDON

While an **amnesty** refers to a measure of clemency granted by the state, cancelling the completion of certain legal types of crimes until a certain date, a **pardon** extinguishes the sentence, in whole or in part.

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Specifically, Law nº 38-A/2023 establishes:

- A one-year pardon for all prison sentences of up to eight years - including those under house arrest;
- The pardon of fines of up to one hundred and twenty days, either as a principal penalty or as a substitute for prison sentences;
- The pardon of substitute penalties, except those subject to the fulfilment of duties or rules of conduct or accompanied by probation;

- The pardon of ancillary sanctions for administrative offences where the maximum applicable fine does not exceed €1,000.00 (one thousand euros);
- The amnesty for disciplinary offences for which the applicable penalty is no more than disciplinary suspension or imprisonment;
- The amnesty for offences punishable by no more than one year in prison or a fine of one hundred and twenty days.

EXCLUSIONS

All those convicted of crimes such as murder, infanticide, domestic violence, ill-treatment, offences against serious or qualified physical integrity, kidnapping, money laundering, corruption, terrorism, among others, are excluded from the pardon/amnesty.

In addition, the pardon/amnesty will not be applied to repeat offenders or offences committed under the influence of alcohol or drugs.

FINAL NOTES

It should be noted that **amnesty does not extinguish civil responsibility arising from the amnestied facts**, so the injured party will always be able to continue with the process with a view to assessing the claim for civil compensation.

In addition, **instruments that have been used in the commission of an amnestied offence, or that have been produced by it, will continue to be declared forfeited in favour of the State** when, due to their nature or the circumstances of the case, they pose a serious risk of being used to commit new offences. The products and the advantages derived from the commission of an amnestied offence will also continue to be declared forfeit in favour of the state.

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