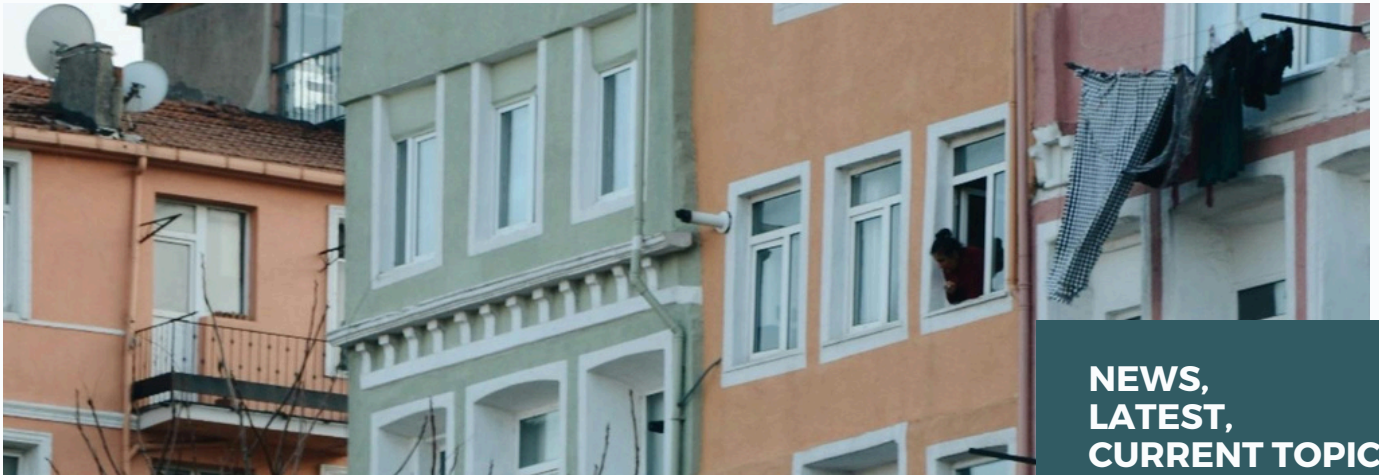


PROTECTION OF PROPERTY AND ILLEGAL OCCUPATION OF REAL ESTATE



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“(…) THE NEW LAW SEEKS TO STRIKE A BALANCE BETWEEN TWO CONSTITUTIONALLY RELEVANT VALUES: THE PROTECTION OF THE RIGHT TO PRIVATE PROPERTY AND THE NEED FOR ADEQUATE SOCIAL RESPONSES.”

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On November 25, 2025, Law No. 67/2025 came into force, which carried out one of the most relevant recent reforms in the criminal and procedural protection of property rights in Portugal. The law in question introduces substantial changes to Article 215 of the Criminal Code (usurpation of immovable property) and Articles 200 and 204 of the Code of Criminal Procedure, establishing a faster and more effective regime for reacting to the illegal occupation of real estate, while integrating social safeguards when the property belongs to the public housing stock.

In a context of growing public concern about illegal occupation phenomena, the new law seeks to strike a balance between two constitutionally relevant values: the protection of the right to private property and the need for adequate social responses. This is a direct response to the weaknesses felt by property owners who, until now, were faced with long and ineffective civil processes to recover their assets.

THE RIGHT TO PROPERTY AND ITS LEGAL PROTECTION

The right to property, enshrined in Article 62 of the Constitution of the Portuguese Republic, is a fundamental right that confers on its holder the powers to use, enjoy and dispose of the goods that belong to him, as well as the right not to be arbitrarily deprived of them.

Although not absolute, its protection assumes special importance when faced with usurpation phenomena, in which third parties take other people's properties without legitimacy.

The proliferation of illegal occupations has resulted in the involvement of affected owners in lengthy legal proceedings.

In this context, the law proved incapable of providing immediate tools for the recovery of possession of the property. Law No. 67/2025 aims to fill these gaps, focusing on two main axes: a more severe and comprehensive penalty; and the possibility of immediate return of the property to the owner.

THE NEW criminal REGIME

The new wording of Article 215 of the Criminal Code significantly reinforces the criminal repression of the occupation of other people's properties, significantly aggravating penalties and introducing new types of crime.

The occupation or invasion of another's property without authorization is now punishable by imprisonment for up to 2 years or a fine of up to 240 days, with an increased prison sentence of up to 3 years if there has been violence or serious threat, or when the property is for one's own permanent residence.



A new type was also introduced, aggravated with a prison sentence of 1 to 4 years, for professional performance or with the intention of profit. This new legal provision is one of the most relevant innovations of the reform, aimed at organized groups that occupy real estate in a systematic and profitable way, a phenomenon that has been increasing both in Portugal and in other European countries.

In addition, the criminalization of the attempt reinforces the preventive function of the norm, allowing a criminal intervention even without consummation of the occupation.

PROCEDURAL MEASURES - IMMEDIATE RETURN OF THE PROPERTY TO THE OWNER

To date, criminal remedies have often been ineffective in regaining possession of the property within reasonable timeframes, sending owners to rather lengthy proceedings.

With this new amendment, the judge may now determine, still during the investigation, the coercive measure of immediate return of the property to its legitimate owner when there are

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strong indications of the commission of the crime of article 215, and of the ownership of the property by the complainant.

This measure does not depend on the traditional requirements of coercive measures, but functions as an autonomous mechanism created specifically for this type of unlawful act. In practice, the owner is allowed the possibility of quickly regaining possession of his property, even before the end of the criminal investigation, constituting the most impactful change for the injured owner.

SPECIFIC REGIME FOR PROPERTIES IN THE PUBLIC HOUSING STOCK

In cases where the occupation focuses on properties in the public housing stock, the legislator introduces a balanced solution. Before filing a complaint, the competent authority must assess the socio-economic situation of the occupants; and activate appropriate social or housing responses, such as social support, rehousing, or municipal programs.

If the occupants vacate the property voluntarily after the intervention of the competent authorities, the public entity may waive the filing of the complaint, in order to protect the public property, and at the same time avoid situations of social fragility being dealt with only by criminal means.

PRACTICAL IMPACTS FOR OWNERS, COMPANIES AND PUBLIC ENTITIES

Law No. 67/2025 represents a significant step forward in the protection of the right to property in Portugal, enshrined in Article 62 of the Constitution of the Portuguese Republic, reinforcing legal certainty and offering a faster response to situations of illegal occupation. For owners and investors, the new legislation provides greater protection for their own and permanent housing, a faster criminal reaction and the possibility of immediate restitution of the property. For wealth managers and real estate developers, the legal and financial risk associated with invasions is reduced and the ability to act in recent cases is reinforced. For public entities, the regime requires greater articulation with social services and the review of internal procedures, allowing solutions that do not involve criminal accusations whenever appropriate.

This new framework seeks to balance effectiveness in the restitution of possession with social sensitivity, recognizing that some occupations stem from situations of vulnerability. The result is a more robust regime, which more consistently protects the constitutional right to property, ensuring that owners now have new instruments to defend their property.