



## REINFORCING PROTECTION FOR VICTIMS OF DISCLOSURE OF INTIMATE CONTENT

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Last October, Draft Law 347/XV/1 [PS] of 30.09.2022 was approved, in order to strengthen the protection of victims with regard to the disclosure of intimate and sexual content without consent.

The problem related with the sharing of this type of content is not new: the increasing use of new technologies, especially by younger generations, has contributed to the increase in the dissemination of this content, at an ever-faster rhythm.



JOANA GONÇALVES VICENTE  
LAWYER



MÓNIA FIGUEIREDO  
LAWYER



The Portuguese Criminal Code establishes a penalty for this type of conduct, considering it as a crime of invasion of privacy and by means of computers. However, it is understood by most that the criminal framework is not enough, by itself, to stop the damage caused to the victim.

It is important to understand that this type of crime, consists in the unwanted disclosure of people's private lives, mostly intimate content of a sexual nature. Although the victims have full freedom to consent to the recording or capture of their images, it can never be admissible that such content be shared without their consent. The unwanted exposure of this type of content can have a significant impact on the victim's life and can cause damage, such as feelings of humiliation, shame and fear, as well as the social ostracization suffered in these situations.

In this sense, several projects of law were presented by different parties, which briefly all intended to reinforce the protection of victims by increasing the penalties, including the creation of the crime of non-consensual disclosure of intimate contents and the crime of non-consensual pornography.

The truth is that although different, they all have a common objective: to reinforce the protection of victims, as well as to increase the penalties for those who commit this type of conduct.

The project of law approved was the one presented by the Socialist Party, which establishes the reinforcement of protection for victims of sharing of intimate and sexual content without consent, through amendments to the Portuguese Criminal Code and the law that regulates the electronic commerce in the internal market and the treatment of personal data.

Therefore, in the Portuguese criminal code, it is proposed to increase the penalties for the crimes of invasion of privacy and the invasion by computer means, established in articles 192 and 193 of the referred Code, respectively.

For the first crime, the criminal framework is increased to a penalty of prison of up to 3 years or a penalty of up to 340 days, instead of the current penalty of 1 year imprisonment or a fine of up to 240 days, and may go as far as the fixing of a penalty of prison until 5



years if there is disclosure through the media, Internet or other generalized public means. For the second crime, it is proposed that the criminal framework be increased to 3 years of prison or a penalty up to 240 days, as opposed to the current penalty of 2 years' imprisonment or a fine of up to 240 days.

On the other hand, it is established in the referred project, that the intermediary network service providers should inform the Public Prosecutor's Office, as soon as they detect contents that may constitute a crime of invasion of privacy or crime of invasion by computer means, whether they are made available by means of the services they provide or in case of access to them.

In addition to the approval of this law, a petition for a legal amendment so that the sharing of sexual content would become a public crime was also discussed. According to the content of the petition, since the crime is in fact public, and since there are a large amount of people having access to the offensive content, it would make sense that

the crime would also be public, so that anyone could report the facts, removing from the victim the burden of this responsibility, all the more so when, in the majority of cases, the victim is the last to learn of the crime being committed against him or her.