

EDITORIAL

We are pleased to introduce **Issue 37 of the *Revista Jurídica Portucalense***, covering January–June 2025. This number gathers twenty-four peer-reviewed research articles and two jurisprudential commentaries that collectively map the shifting fault-lines of contemporary legal debate—from the geopolitics of European integration and the Green-Digital transition to the doctrinal aftershocks of big-data forensics and neurolaw. For ease of reference, the contributions are discussed below in thematic clusters, even though they appear in the journal in the sequence in which each paper satisfied all editorial and technical requirements for publication.

The opening group concerns ***International and European Law***:

Ana Filipa Neves & Carlos Nolasco look at how the EU Long-Term Residents (LTR) Directive 2003/109/EC has been transposed into, and actually functions within, the Portuguese legal system. Using documentary analysis plus interviews and focus-groups with long-term migrants in 2021, the authors assess whether the three pillars of the Directive—equal treatment, enhanced protection against expulsion, and intra-EU mobility—are working on the ground.

Viktoriiia Anatiichuk, Iryna Banasevych, Ruslana Heints & Uliana Gryshko trace the 30-year drive to harmonise EU contract law and gauges what that means for national legal orders. Drawing on EU legislative dossiers, academic literature and comparative legal analysis, the authors unpack both the benefits (lower transaction costs, greater legal certainty, stronger consumer protection) and the persistent road-blocks (cultural-legal diversity, political inertia, costly consensus-building) on the path to a common European contract regime.

Eugénio Lucas traces the decades-long effort that culminated in the Unified Patent Court and gauges what its launch means for patent protection across Europe. Drawing on EU treaty history, UPC case law and comparative analysis with the U.S. Federal Circuit, he unpacks both the benefits (centralised jurisdiction, faster decisions, lower forum-shopping incentives) and the lingering road-blocks (language-regime costs, opt-out uncertainty, constitutional challenges) on the path to a truly unitary European patent system.

Catherine Maia & Aklesso Jacques Akpe trace the path that led to the first-ever inter-State case before the African Court on Human and Peoples' Rights—DRC v. Rwanda—and gauge what a merits ruling could mean for state-responsibility litigation

across Africa. Drawing on UN expert reports, Great-Lakes conflict dossiers and comparative jurisprudence from the ICJ, Inter-American system and African Commission, they unpack both the possible gains (clearer attribution thresholds, victim-centred reparations, a stronger regional bench) and the persistent hurdles (compliance gaps, political push-back, evidentiary complexity) on the road to an effective continental human-rights enforcement regime.

Viktoria Lomaka, Yevhen Novikov, Ivan Yakoviyk, Olesia Tragniuk & Maksym Sych trace how the EU (and NATO) accession process is reshaping Ukrainians' legal consciousness and gauge what this means for the country's understanding of sovereignty, citizenship and rights in the middle of Russia's war. Drawing on EU-Ukraine legal approximation dossiers, a 2023-24 nationwide survey plus focus-group interviews, the authors unpack both the upsides—rising human-rights literacy, stronger civic responsibility, growing demand for rule-of-law reforms—and the enduring hurdles—regional value-gaps, wartime security fears, lingering distrust of state institutions—on the path to a European-oriented legal culture.

Turning to ***Public Law and Regulation***:

Wahid Winarto & Parwoto trace the rapid rise of green digital finance and gauge what a truly international regulatory framework could mean for steering fintech innovation toward the Sustainable Development Goals. Drawing on climate-finance policy papers, SDG metrics and a comparative scan of blockchain, AI, big-data and IoT use-cases, they unpack both the benefits—cheaper, data-rich capital flows for green projects, real-time transparency and cross-border crowdfunding—and the persistent hurdles—cyber-security gaps, fragmented disclosure standards, consumer-protection blind spots and slow-moving regulators—on the path to a coherent global green-digital finance architecture.

Daniel Taborda & Nuno Lemos Jorge trace the piecemeal evolution of Portugal's corporate-income-tax exemption for associações de municípios and gauge what a sharper perimeter would mean for local-government finance and litigation. Drawing on four decades of Article 9(1)(b) CIRC amendments, a string of 2022-23 Supreme Administrative Court rulings and comparative fiscal-law doctrine, they unpack both the gains—clearer legal certainty, lighter compliance work, fewer court battles and better protection of public-service budgets—and the lingering hurdles—blurred lines between “public task” and “economic activity”, potential competition distortions, revenue-loss fears and patchy guidance to municipalities—on the road to a coherent, litigation-proof exemption regime.

Ana Regina Ribeiro, Ana Dinis & Sara Serra trace how Portugal's Tax and Customs Authority (AT) audits the R&D tax-credit scheme SIFIDE II and gauge what the growing stack of arbitral rulings from the Administrative Arbitration Centre (CAAD) means for fiscal certainty and corporate innovation. Drawing on eight years of CAAD awards, AT audit manuals and OECD R&D-accounting guidelines, the authors unpack both the upside—clearer jurisprudential guidance on eligible R&D costs, a taxpayer-friendly success rate that encourages investment, and stronger pressure on AT to sharpen its risk-selection models—and the persistent hurdles—opaque audit triggers, uneven evidentiary standards, a high reversal rate of AT corrections, mounting litigation costs, and the threat of retroactive claw-backs—on the road to a coherent, litigation-proof SIFIDE framework.

Anwar Noori Khaleel & Raid Naji Ahmed trace the treaty-based and constitutional foundations for subjecting income from intellectual-property rights to income tax in Iraq (and peer MENA systems) and gauge what that architecture means for future tax-policy design. Drawing on double-taxation agreements, OECD model conventions, national constitutions and income-tax statutes from Iraq, Jordan, Egypt and France, the authors unpack both the gains—stronger treaty-compliance, clearer legal certainty for multinational licensors, prevention of double-non-taxation and a broader revenue base for governments—and the sticking points—conflicting hierarchy of norms (treaties vs. domestic law), patchy legislative wording, administrative-capacity gaps and the risk of discouraging innovation if rates outpace regional competitors—on the road to a coherent, treaty-aligned regime for taxing IP income.

Ilimbek Kubatov, Alimardonbek Mamasaidov, Makhmud Oitemirov, Urmat Amanaliev & Nargiza Kuramaeva trace how Kyrgyzstan's executive authorities coordinate (or fail to coordinate) in the pursuit of tax security and gauge what deeper inter-agency cooperation plus digitalisation could mean for shrinking the shadow economy. Drawing on Kyrgyz constitutional and tax-code provisions, UN-OECD anti-evasion programmes, and comparative case studies from Estonia, the Netherlands, Singapore, Sweden, Germany and Canada, the authors unpack both the gains—quicker e-reporting, richer risk analytics, lower evasion rates and a demonstrably smaller shadow economy (10-15 % of GDP in highly digitalised Estonia)—and the persistent hurdles—legal overlaps, weak data-sharing protocols, under-funded IT systems and limited human-capital in tax, customs and financial-crime units—on the road to a coherent, digitally-enabled tax-security framework.

Ricardo Sousa da Cunha interrogates the entrenched “immunities of power” and the “guarantee-laden reticence” that have long distorted scholarly reflection on administrative discretion, reframing the issue as a methodological challenge that seamlessly traverses both the interpretation and the application of law. In his view, every administrative norm is unavoidably indeterminate and thus demands empirical–factual completion, intelligible only within a genuinely constitutional division of labour among legislature, administration and courts. He shows first how the separation-of-powers principle now operates as a zero-sum game: the scope granted to each State function waxes or wanes in proportion to the legislative density of administrative mandates and the stringency of judicial review. He then demonstrates that the administration, no longer a “secondary function”, has acquired a creative role in shaping the applicable law, a shift that intensifies substantive duties of reasoning, proportionality, good administration and evidence-based decision-making. A comparative survey—from the reversal of Chevron deference in the United States to Article 20(3) of the German Basic Law—confirms that diverse systems are extending judicial oversight of administrative interpretation without extinguishing discretion itself. Cunha concludes that the decisive fault-line is no longer between bound and discretionary acts, but between rigorous and lax modes of fact-finding and justification; hence his proposal for “parity binding”, which holds the legislator accountable for the (in)determinacy of norms, the administration for investigation and decision, and the judiciary for constitutional coherence. The article therefore calls for a renewal of administrative-law methodology—plural, open and cosmopolitan—so that the pursuit of the public interest may break with exceptions of power and emerge as an exercise fully amenable to judicial scrutiny and empirical validation.

Adélio Geraldino do Rosário Câmara & José Noronha Rodrigues trace a century of disciplinary law inside Portugal’s National Republican Guard (GNR)—zeroing in on Article 124 RDGNR’s compulsory, non-suspensive hierarchical appeal—and weigh what aligning that rule with Articles 20 and 268 of the Constitution would mean for effective judicial protection. Drawing on Constitutional-Court precedents, the 1999 (and 2014-amended) GNR Discipline Regulation, the 2015 Code of Administrative Procedure and EU gendarmerie comparators, they highlight advantages—preserved military discipline, an internal self-correction filter, and tolling of limitation periods—and issues—delayed court access, onerous proof burdens on rank-and-file, mixed guidance on suspensive effect and lingering constitutional doubt—pointing toward a streamlined, constitution-proof disciplinary-appeal regime.

Luís Manuel Pica traces Portugal’s ever-shifting rules on reinvesting real-estate capital gains in order to avoid personal-income-tax (IRS) liability and gauges what the

latest tweaks—Law 56/2023 and Decree-Law 57/2024—mean for taxpayers’ constitutional rights. Drawing on decades of Constitutional Court case-law, Article 10-CIRS doctrine and fresh anti-abuse jurisprudence from CAAD and the Southern Administrative Court, he unpacks both the upside—narrower loopholes, stronger anti-abuse screening (12-month tax-domicile test), a closer link to the ability-to-pay principle and greater horizontal equity—and the stubborn hurdles—possible “inauthentic retroactivity” that upsets legitimate expectations, formalistic proof burdens, lingering legal uncertainty and heavier compliance costs for ordinary home-sellers—on the road to a constitution-proof, trust-enhancing regime for real-estate capital-gains reinvestment.

In the sphere of ***Criminal Law and Forensic Investigation***:

Lala Mammadova traces how Azerbaijan’s 2023-24 criminal-procedure reforms brought in *absentia* trials into the code and gauges what that infusion means for the country’s struggle to balance judicial efficiency with Article 6 ECHR fair-trial rights during its post-Soviet legal transition. Drawing on ECHR case law (*Sejdovic, Poitrimol*), Chapter LIV-II of the new Criminal Procedure Code, and a comparative reading of the more mature frameworks in Italy, Germany and Turkey, she unpacks both the gains—faster resolutions for terrorism and organised-crime cases, mandatory defence counsel, appeal rights, a visible step toward SDG 16 “peace, justice & strong institutions”—and the lingering hurdles—patchy defendant notification, weak post-trial remedy enforcement, limited judicial experience and the ever-present risk that efficiency will trump due-process guarantees—on the road to a rights-compatible, credibility-enhancing regime for trials in *absentia*.

Joaquim Ramalho traces the long-running doctrinal hunt for what counts as a “criminally relevant action” and gauges what bringing modern neuroscience into the debate means for culpability in Portuguese (and wider continental) criminal law. Drawing on classic and post-finalist action theory, recent Portuguese scholarship and breakthrough research on reflex arcs and unconscious motor responses, he unpacks both the upsides—a sharper boundary between voluntary conduct and involuntary reflexes, fairer limits on criminal liability, and a doctrinal bridge to the emerging field of *neurolaw*—and the stubborn hurdles—evidentiary headaches in proving whether behaviour was truly reflexive, doctrinal fragmentation over free will vs. determinism, and the risk that over-reliance on brain science could blur normative judgments—on the road to a neuroscience-aware, rights-protective model of criminal attribution.

Viktor Sezonov, Oleksandr Yukhno, Olena Martovytska, Hennadii Hlovenko & Inna Strok trace how Ukraine's law-enforcement system is refocusing forensic expertise to confront a surge in digital-document forgery and cryptocurrency crime, and gauge what a tighter procedural framework would mean for investigators, courts and economic security alike. Drawing on Ukraine's Criminal Procedure Code, recent case files and comparative forensics literature, the authors unpack both the upside—specialised economic-forensics tools that can follow blockchain money trails, multi-disciplinary labs that combine handwriting, technical-document and computer examinations, and clearer asset-recovery routes—and the stubborn hurdles—no standard methodology for analysing blockchain-based assets, patchy legislation, uneven sample quality and the need to enshrine complex, repeated and commission-based examinations (they propose amending CPC art. 69)—on the road to a coherent, technology-ready forensic regime

In our single contribution to ***Private Law***:

Maria José Magalhães Silva traces how Portugal's execution courts and registry offices grapple with the attachment (*penhora*) of a motor-vehicle that is already encumbered by a retention-of-title clause in favour of the very creditor who is enforcing the debt—and gauges what firmer registry guidelines would mean for financiers, debtors and registrars alike. Drawing on four decades of Civil-Code commentary, the Supreme Court's uniform judgment 10/2008, recent IRN circulars and front-line registry practice, she unpacks both the upside—clearer priority rules, smoother simultaneous cancellation of the reservation and entry of the seizure, and less forum-shopping among enforcement agents—and the stubborn hurdles—doctrinal splits over third-party reservations, conflicting registry options (definitive record, provisional note or outright refusal), timing gaps that could leave the creditor briefly unsecured, and persisting uncertainty about whether Article 824 CC cancels the reservation automatically at the auction stage—on the road to a litigation-proof, registration-friendly model for enforcing secured vehicle sales.

Finally, five articles address questions in ***Legal Theory and Political Thought***:

Nguyen Vo Anh examines how the United States and China design public-sector talent-management regimes and considers what those contrasting models can teach Viet Nam as it reforms its own civil service. Drawing on civil-service statutes, national talent strategies, government reports, and a broad corpus of HR-management scholarship, the author disentangles both the pay-offs—clearer recruitment pipelines,

merit-based promotion, competitive (often non-salary) benefits, and workforce planning aligned with long-term national goals—and the persistent obstacles—tension between political loyalty and meritocracy, fragmented agency co-ordination, budgetary constraints, and uneven training standards—on the road to a modern, cohesive Vietnamese talent policy.

Delia Magherescu investigates how a confluence of crises—the Covid-19 pandemic, Russia’s war in Ukraine, irregular migration surges, and the post-2022 energy-inflation shock—has reshaped trafficking in human beings (THB) across South-East Europe, and analyses what this multi-crisis setting implies for criminal-justice policy, victim protection, and regional security. Drawing on Directive 2011/36/EU, Eurostat and UN data, more than a dozen recent THB judgments from Greek, Romanian, Bulgarian, and Serbian courts, and an extensive criminological literature, she highlights both the potential gains—sharper risk-profiling tools, stronger cross-border police co-operation, jurisprudence that flags pandemic-era *modus operandi*, and new leverage for victim-centred remedies—and the enduring challenges—resource-starved agencies juggling overlapping emergencies, blurred lines between smuggling and trafficking, economic vulnerabilities that enlarge the victim pool, and legal fragmentation that still allows traffickers to exploit jurisdictional gaps—on the path to a crisis-resilient, prevention-driven anti-trafficking framework.

Matanat Asgarova & Mehriban Eldar Kizi Babakhanova explore how even the world’s most developed democracies continue to impose—and often over-extend—limits on civil-society freedoms, and assess what tightening or loosening those limits means for the daily enjoyment of human rights in the 2020s. Drawing on thirty-eight scholarly and official sources, ECHR case-law (*A v United Kingdom; Handyside*), workplace-discrimination statistics from the EU and United States, and a comparative survey of the United States, France, Germany, the United Kingdom, and Turkey, the authors outline both the prospective gains—clear criteria for a vibrant civil society (private property, a market economy, democratic institutions, openness, and international engagement) and a roadmap for balancing security with liberty—and the stubborn hurdles—pervasive discrimination by race, religion, gender, and sexuality; the use of national-security rhetoric to curb speech and assembly; unequal access to education and health; and the persistent risk that emergency measures become permanent—on the path to a rights-protective yet security-conscious democratic order.

Serhii Ablamskyi, Anna Kavunska, Oleksandr Perederij, Oleksandr Tymofiiv & Achmad Zuhdi analyse Ukraine’s efforts to retrofit its legal system for the age of hyper-

digitalisation and evaluate what a unified, EU-aligned reform strategy could mean for cybersecurity, public services, and economic resilience. Drawing on Ukraine's post-2019 digital statutes, 2023 cyber-crime metrics, a side-by-side comparison with EU, US, Chinese, and Japanese digital-law models, and forecasting methods borrowed from technology-policy studies, the authors set out both the anticipated benefits—clearer rules for digital entrepreneurship, nationwide 'Diia-style' e-government services, blockchain-anchored transparency, and stronger e-justice and anti-corruption toolkits—and the formidable barriers—Russian cyber-warfare pressure, regulatory fragmentation, weak inter-agency co-ordination, a yawning digital divide, and fragile public trust—on the road to a coherent, crisis-proof digital-legal framework for Ukraine.

Álvaro González-Juliana & Maria Júlia Ildefonso Mendonça examine the rapid drive to subject public-sector algorithms to meaningful social scrutiny and consider what opening the 'black box' would entail for democratic accountability in Portugal—and, by extension, in the European Union. Drawing on the recently adopted EU Artificial Intelligence Act (Reg. 2024/1689), Portugal's LADA access-to-information statute, and a century of transparency doctrine, they outline both the promised dividends—a human-in-the-loop safeguard (*'reserva de humanidade'*), real-time civic oversight, error correction before harm spreads, and a trust dividend for digital government—and the persistent constraints—trade-secret shields, profound technical opacity, missing human-readable documentation, and an overstretched administration that still lacks AI-literate staff—on the path to an explainable, rights-compliant model of AI governance.

Two ***Jurisprudential, Case-law Commentaries*** conclude this issue.

Gil Moreira dos Santos revisits the Porto Court of Appeal's judgment of 8 April 2024 (Proc. 24620/15.1T9PRT-P1) to test how far Portuguese law will stretch the duty on condominium buyers to give timely notice of construction defects when a development is rolled out block by block. Building on Article 1224-1225 Civil Code, the 2003 Consumer-Sales Decree and Article 1438-A's regime for "complex condominiums", he rejects the idea that every newly finished block automatically restarts the notice period; the clock, he argues, starts only once control of the common parts has passed to an administrator independent of the developer, echoing settled Supreme Court case-law. This stance curbs "wait-and-see" tactics that could leave builders indefinitely exposed, yet still grants purchasers a full two- or five-year warranty window once genuine autonomy exists. The article applauds the Porto ruling for condemning conflicts of interest that arise when a developer's nominee runs the condominium, but criticises its suggestion that pending sales might suspend limitation periods, warning that such

indeterminacy would erode contractual certainty. Moreira dos Santos' roadmap towards a litigation-proof system urges: precise contractual dating of each hand-over; documentary proof of when the owners' association assumes power; and clear rules on cost-sharing so that late-moving owners cannot freeload on neighbours who acted diligently. In short, he seeks to balance unity of the estate with the practical autonomy of each block, delivering both legal certainty and substantive fairness for multi-phase condominiums.

Jeovet Baca Virgínia examines how the European Court of Human Rights addressed non-retroactivity and *lex mitior* in the war-crimes case *Maktouf & Damjanović v Bosnia-Herzegovina* and considers what Judge Paulo Pinto de Albuquerque's concurring opinion (joined by Judge Vučinić) implies for the moral authority of criminal law in transitional-justice settings. Drawing on Article 7 ECHR, a century of *nullum crimen* doctrine, and comparative sentencing practice, the author delineates both the advances—a renewed insistence that even atrocity trials must apply the kinder law, a separation-of-powers reading that elevates judicial guardianship of human dignity, and an interpretive bridge between European and universal human-rights instruments—and the difficulties—domestic pressure for harsher retroactive penalties, divergent national sentencing grids that complicate *lex mitior* calculus, and the enduring moral tension between retribution and legality—on the path towards a principled, rights-compliant model of post-conflict criminal justice.

As an open-access journal indexed in Scopus (Q1) and Web of Science – ESCI, the *Revista Jurídica Portucalense* remains committed to rigorous, internationally relevant scholarship in Portuguese, English, French, and Spanish. We warmly thank all authors for their contributions and extend particular gratitude to the peer reviewers of Issue 37—Armando Rocha, Bella Gjylbehare Murati, Bruno Leonardo Câmara Carrá, Catarina Salgado, Clotilde Celorico Palma, Clovis Alberto Volpe Filho, Daniela Castilhos, Deolinda Meira, Douglas Cesar Lucas, Ehlimana Mimisevic, Evanthia Balla, Eva Dias Costa, Eva Macedo, Fátima Pacheco, Fernando Horta Tavares, Gil Moreira dos Santos, Gonçalo Sopas de Melo Bandeira, Hugo Ramos Alevs, Huyen Nguyen Thanh, João Ferreira Dias, João Proença Xavier, José Augusto Silva Lopes, José Augusto Guerreiro, José Noronha Rodrigues, Joana Covelo Abreu, Jorge Morais de Carvalho, Junior Mumbala Abelungu, Julio Jorge Urbina, Margarita Orozco González, Manuel Lopes, Maria Emília Teixeira, Maria Miguel Carvalho, Marisa Dinis, Miguel Serra, Nguyen Thi Anh Hong, Olena Martovytska, Olívia Carvalho, Pablo García Molina, Pascoal Pereira, Patrícia Anjos Azevedo, Paula Castro Silveira, Paulo Alves Sousa Vasconcelos, Paulo Gomes, Paulo Renato Jesus, Pedro Amauri Oliveira, Pinar Kadioglu, Renato Neto, Rita

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We are grateful to Mónica Martinez de Campos, who led the journal as General Editor from 2013 until January 2025 and whose counsel continues to enrich our vision. We also take this opportunity to welcome our new Editorial Board members—Holger Hestermeyer, Paulo Canelas de Castro, and Zekeriya Kursat—and our new Assistant Editors: Rui Garrido, Cátia Marques Cebola and André Pereira Matos (appointed February 2025), Maria Emília Teixeira (appointed March 2025), and Ana Rita Gil (appointed April 2025).

We trust that this issue will offer stimulating perspectives and foster meaningful academic debate.

The Editor-in-Chief
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