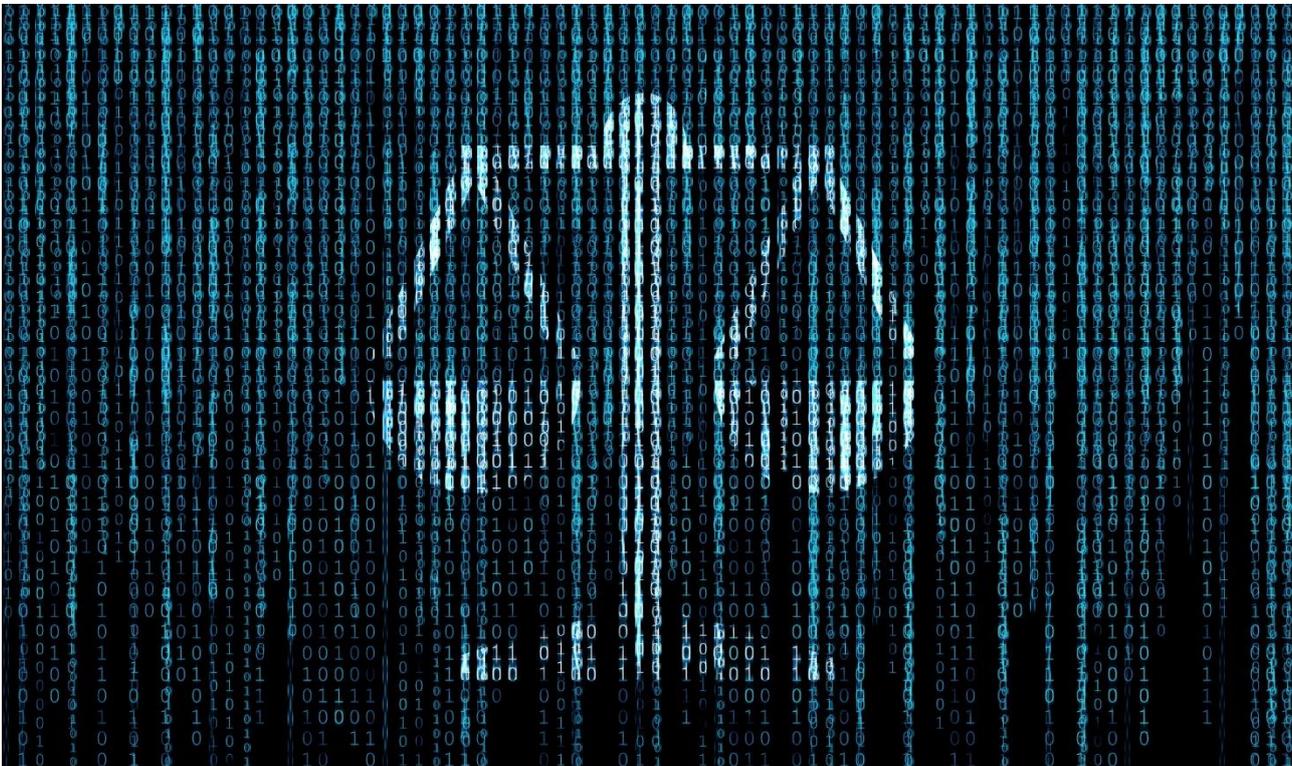


LEGAL ALERT

AMENDMENTS TO THE CYBERCRIME LAW

April 27, 2020



Following the recent amendments to Law no. 11/2009, of 6 June (Cybercrime Law), the Macau Legislative Assembly has passed further adjustments on 16 April 2020, with the introduction of three new articles.

The new provisions introduce two separate offences, namely:

- Fraudulent mobile telecommunications service station operations; and
- Improper disclosure of a cybersecurity flaw.

The crime of **fraudulent mobile telecommunications service station operations** relates to the usage of computer programs or devices, associated with other instruments or appliances, in order to simulate the operations of a telecommunications service station's operations – a conduct now punishable with a **fine** or **up to three years of imprisonment**. However, when carried out with lucrative intent or for the commission of other crimes, or to spread illegal advertisements or issuing of pornographic content, prostitution or illegal gaming, or inducing others to practice or consume such contents, the conduct will be punishable with **imprisonment between one to five years**.

The crime of **improper disclosure of a cybersecurity flaw** targets specific persons who, in the course of their activities or because of them, become aware of a serious cybersecurity flaw, and with any illegitimate intent discloses the existence of this flaw to another person, thus facilitating the commission of any cybercrime. This behavior is punishable with a **fine** or **up to three years of imprisonment**. It should also be noted that the law sets out the definition of a **serious cybersecurity flaw** in a very broad manner so as to prevent any possible loopholes of punishment, encompassing all hardware and software flaws or insufficiencies that may cause a considerably high damage to the user or owner of the computer system or device.

The new provisions also adopt a systematic organization from a criminal procedure standpoint, by setting out that criminal investigation of the following conducts will depend on formal complaint by the affected party:

- Illegitimate access to a computer system;

- Illegitimate collection, use or disclosure of computer data;
- Damage to computer data;
- Computer fraud.

Nevertheless, given that cybercrime mainly jeopardizes public interests, the law has maintained the public nature of most of the offences, meaning that formal complaint is not required by the Public Prosecution Office to initiate an investigation. Even in the few exceptions aforementioned, the legislator has foreseen cases under which the relevant offences acquire public nature – for instance, whenever computer fraud causes significant financial loss, criminal procedure will be commenced without the need of a formal complaint.

The amended law will come into force on 1 July 2020.

[Francisco Leitão \[+info\]](#)

[José Leitão \[+info\]](#)

[Daniela Guerreiro \[+info\]](#)