

Annex 2 [Note verbale reference: CU 2023/225/DTA/CEB/CSS]

“Progress made and challenges encountered in implementing resolution 9/1”

States parties are invited to provide relevant information in line with paragraph 25 of resolution 9/1, entitled Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery, in which the Conference:

*[Requested] the secretariat to submit to the Conference of the States Parties at its tenth session a report on **progress made and challenges encountered in implementing [resolution 9/1]**¹.*

A. Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: *Portugal*

Government Agency: *Ministry of Justice*

Department: *Directorate General for Justice Policy*

[REDACTED]

¹ Please note that the secretariat has collected information on the implementation of paragraphs 22 and 23 of resolution 9/1 separately.

B. Questions

1. Progress made

Please describe the measures or steps your country has taken (or is planning to take, together with the related appropriate time frame) to implement operative paragraphs 1 to 21 of resolution 9/1. *Please state the relevant operative paragraphs in your answer.*

General remarks

In a general overview the implementation of Resolution 9/1 in Portugal has included, namely, the following measures, taken in the last few years in Portugal:

- Legal Framework: Portugal has approved and implemented legislation and regulations in line with concerns and objectives expressed in Resolution 9/1. This includes legislation and regulations addressing corruption, money laundering, other corruption-related offenses, asset recovery, confiscation, inter alia.
- Anti-Corruption Agencies: Portugal has established specialized agencies and units to investigate and prosecute corruption cases. For instance, the Central Department for Criminal Investigation and Prosecution (DCIAP) is responsible for handling complex criminal cases, namely corruption and corruption-related offenses. On the other hand, in the Criminal Police (PJ) the National Anti-Corruption Unit (UNCC) is specialized in such matters.
- Whistleblower Protection: Portugal has introduced measures to protect whistleblowers who report corruption and other wrongdoings. Legal provisions safeguard whistleblowers from retaliation and provide mechanisms for reporting.
- Asset Recovery: Portugal has taken steps to recover assets obtained through corrupt practices. This includes collaborating with international counterparts to trace, freeze, and repatriate illicitly acquired assets, and proceeding so that these and other assets (namely through mechanisms of extended loss) are confiscated.
- International Cooperation: Portugal participates actively in international efforts to combat corruption, including cooperating with other countries on investigations, extradition requests, and mutual legal assistance.
- Transparency and Accountability: Efforts have been made to enhance transparency and accountability in public administration and in other fields. This includes initiatives to improve public procurement processes and ensure the proper use of public funds.
- Civil Society Engagement: Civil society organizations in Portugal are involved in advocating for transparency, integrity, and accountability in government and public administration. These entities play a role in monitoring implementation and raising awareness about corruption-related matters.
- Education and Training: Efforts are made to educate and to raise awareness about corruption and its negative impacts. On the other hand, training programs for public officials, law enforcement, and the judiciary have been conducted to enhance their capacity to combat corruption effectively.
- Corruption Prevention Measures: Portugal has implemented measures to prevent corruption in various sectors, including the public sector, private businesses, and civil society. Codes of conduct have been introduced and compliance programs are now mandatory for a wide range of sectors and entities.

- Reporting Mechanisms: Portugal has mechanisms for reporting and investigating corruption cases. Individuals can report corruption (also anonymously) through designated channels, and law enforcement agencies are responsible for conducting thorough investigations.

Corruption is a priority for the Portuguese Government. Therefore, at the end of 2019, a group of experts was established reporting directly to the Minister of Justice in order to define a national strategy against corruption, including prevention and repression perspectives.

The work developed was the base to the National Anti-Corruption Strategy for 2020-2024 approved by the Government and accompanied by a proposal to revise, namely, the criminal legal framework.

After being subject to a public consultation, the National Anti-Corruption Strategy for 2020-2024 was approved by the Council of Ministers on 18 March 2021.

The strategy aimed at creating a coherent and robust anti-corruption framework and included measures to better detect, prevent and prosecute corruption, and to ensure that the judicial system can timely and efficiently respond and impose adequate sanctions on offenders.

As a first step in its implementation, on 29 April 2021 the Government approved a set of proposals to amend existing legal provisions, notably in the criminal law area.

The 2021-2022 anti-corruption legislative package produced an important improvement in the regulatory environment with a view to increasing:

- a. Prevention, and
- b. Repression.

As to prevention, namely through the approval of:

- a. The General Legal Regime for the Prevention of Corruption, and
- b. The National Anti-Corruption Mechanism.

As to repression, namely through the approval of:

- a. A law implementing measures of the National Anti-Corruption Strategy;
- b. A Whistleblower Protection Law;
- c. A law extending the reporting obligations of holders of political and high-ranking public offices (*including illicit enrichment matters*);
- d. A law facilitating the use of financial and other information.

Decree-Law no. 109-E/2021 published in December 9 2021, set out the National Anticorruption Mechanism ("MENAC"), a new entity independent from the Government and the Parliament and has approved the General Regime for Prevention of Corruption (RGPC).

This piece of legislation is included in the scope of the National Anti-Corruption Strategy 2020-2024, which recognizes that in addition to the implementation of measures within the scope of repression of corruption and related offences, an effective compliance system must be implemented in public and private entities to prevent these phenomena.

For that purpose, the RGPC obliges the required entities to implement corruption prevention programs and establish internal control systems, specifying the parameters of each, and establishing a system of sanctions for non-compliance/insufficient application.

Concerning the scope of application, the entities obliged to comply with the rules of the RGPC are:

- a) All private legal persons having their head office or branch in Portugal, who employ 50 or more workers;
- b) All public services of the Direct, Indirect and Autonomous Administration of the State, including the public corporate sector, municipal councils, parish councils, and other entities that employ 50 or more workers;
- c) Independent administrative entities.

Regarding the corruption preventive measures, the obliged entities must adopt an internal Plan of Prevention of Corruption (PPC), with the aim of preventing, detecting and sanctioning acts of Corruption and related offences carried out against or through the entity and which includes, at least:

- (i) A plan for the prevention of risks of corruption and related infractions (PPR) covering all its organization and activity;
- (ii) A code of conduct that establishes the set of principles, values and rules of action of all managers and employees in matters of professional ethics;
- (iii) An internal training program, carried out by the entities covered, aimed at all their managers and employees, so that they are aware of and understand the policies and procedures for the prevention of corruption and related infractions implemented; and
- (iv) An internal whistleblowing channel - which meets the requirements set out in the respective EU Directive.

They also need to implement policies and procedures that ensure compliance, monitoring and evaluation of these programs. To this end, a Compliance Responsible has to be appointed.

The adoption and implementation of regulatory compliance programs is a responsibility of the management body of the entities covered.

In relation to the provisions applicable to public entities, in addition to adopting the PPC and the code of conduct, public entities are now required to:

- a) Publish on its website several documents - foreseen in the RGPC - that guarantee the transparency of the performance, structure and services of the Public Administration.
- b) Implement an Internal Control System proportional to the nature, dimension and complexity of the activity, which allows implementing, monitoring and evaluating the application of the rules of the RGPC in the entity.
- c) Adopt measures to promote competition in public procurement and remove administrative barriers to competition.

In relation to the provisions applicable to private entities, in addition to the measures already mentioned above, the covered private entities must also:

- a) implement internal control procedures and mechanisms covering the main corruption risks identified in the PPR;
- b) prior risk assessment procedures in relation to third parties acting on their behalf; suppliers; and clients.

In what concerns the sanctioning regime, without prejudice to any criminal, civil or disciplinary liability, the RGPC determines the application of administrative sanctions - both to the public

and private sectors - for the non-adoption or deficient/incomplete adoption of compliance programs.

Additionally, for the effective control of the application of the RGPC and the procedure and sanctioning of administrative offences for non-compliance therewith, an independent administrative authority has been established, the MENAC, as mentioned above. The MENAC is an independent administrative body, with legal personality governed by public law and powers of authority, and endowed with administrative and financial autonomy. Its mission is to promote transparency and the integrity of public action and ensure the effectiveness of the policies to prevent corruption and related offences.

Several institutions, even before entering into force the new legislation, have raised awareness about the need to address corruption risks, namely those triggered by the COVID-19 pandemic. During the pandemic period, several initiatives were carried out in order to ward off the risks of corruption, namely stimulated by the Council for the Prevention of Corruption: https://www.cpc.tcontas.pt/imprensa/noticias/2021/noticia_2021-01-25_01_cpc.html

Within the context of emergency measures to respond to the pandemic outbreak, the Council for the Prevention of Corruption, former entity in charge of the Prevention of Corruption, published a recommendation on the Prevention of Risks of Corruption and Related Infractions. The recommendation highlighted the need for all decision-makers and public officials to maintain the highest levels of transparency, ethics and integrity, and asked for the adoption of measures to prevent and mitigate corruption risks in the exercise of their public activities.

The full text of the recommendation is as follows:

RECOMMENDATION 2/2020 ABOUT

Prevention of risks of corruption and related offenses within the scope of measures to respond to the Covid-19 pandemic outbreak

The pandemic situation we are going through, caused by the Covid-19 outbreak, is generating huge socio-economic impacts, with a particular focus on the health, safety of citizens and the economy, on a global scale.

In order to face the problem, which presented itself in an unexpected and exceptional way, the States, through political decision-makers and public administrations, were suddenly faced with the need to adopt measures to prevent, contain, mitigate and treat the epidemiological infection of Covid-19.

The adoption of these measures implies the mobilization of large amounts for the acquisition of hospital equipment and medicines, among others, as well as the adoption of solutions in the scope of social benefits and public aid to companies and other private entities, with a view to relaunching the economic activity and ensuring social cohesion.

In this context, the risks associated with State interventions in the corporate public sector and in private entities cannot be ignored, as this exceptional framework is conducive to the development of fraudulent and corruption phenomena, which must be fought in a order to

guarantee that the enormous effort made is not weakened and that the normal functioning of the institutions is guaranteed.

The need to mitigate the risks of fraud and corruption associated with the measures adopted in the context of the Pandemic has been underlined by several international entities, namely by GRECO (Corruption Risks and Useful Legal References in the context of COVID-19), by the OECD (Public Integrity). for an Effective COVID-19 Response and Recovery), by the International Monetary Fund (IMF Special Series on COVID-19 - Keeping the Receipts), by Transparency International (Corruption and the coronavirus), by the World Economic Forum (Corruption can have no place in our COVID-19 recovery), by U4 - Anti-Corruption Resource (Corruption in the time of COVID-19: A double-threat for low income countries), as well as by Corporate Counsel – Law.com (Addressing Anti-Corruption Risks From the Coronavirus). In this context, the Council for the Prevention of Corruption considers it relevant that all decision-makers and operators in the field of public management maintain the proper care of a culture that promotes the highest levels of transparency, ethics and integrity, through the adoption of preventive measures and risk mitigation within the scope of its conduct, including the strengthening of internal control instruments.

In these terms, pursuant to article 2 of law no. 54/2008, of 4 September, at a meeting of 6 May 2020, the Council for the Prevention of Corruption decides to recommend to all public bodies and entities and to all other entities, regardless of their nature, that they intervene in the management or control of monies and other public values, that:

- 1 - Ensure the necessary control to guarantee the absence of conflicts of interest, the transparency of public procurement procedures and integrity in the execution of public contracts, especially in the areas of health and infrastructure.*
- 2 - Reinforce the necessary means and instruments to guarantee transparency, impartiality and integrity in the attribution of public aid and social benefits, with the possible use of digital information platforms or transparency portals.*
- 3 -Ensure the creation of instruments for monitoring and evaluating the concomitant application of public aid, in compliance with the principle of efficiency and effectiveness in the application of public funds.*
- 4 - Exercise effective control over public intervention operations in the Business Sector and in other beneficiary Private Entities, considering, in particular, the warning signs of risk of irregularities, in order to safeguard legality, the correct application of resources and their allocation to the intended purposes.*

Lisbon, May 6, 2020

We will now seek to recall the paragraphs of the declaration and give examples of the way they are being addressed in Portugal:

1. *Encourages* States parties to further the full and effective use of the United Nations Convention against Corruption to develop, put in place and, where appropriate, improve and strengthen anti-corruption policies and strategies, in accordance with domestic law, to ensure emergency preparedness and address corruption during times of emergencies and crisis response and recovery;

As referred in the initial remarks above Portugal has developed workings that have permitted to approve the National Anti-Corruption Strategy for 2020-2024, which has been approved by the Government and accompanied by a proposal to revise, namely, the criminal legal framework.

After being subject to a public consultation, the National Anti-Corruption Strategy for 2020-2024 was approved by the Council of Ministers on 18 March 2021.

The strategy aims at creating a coherent and robust anti-corruption framework and included measures to better detect, prevent and combat corruption, and to ensure that the judicial system can timely and efficiently respond and impose adequate sanctions on offenders. Its implementation is well underway.

2. *Also encourages* States parties to continuously monitor and review the anti-corruption measures implemented during the ongoing coronavirus disease (COVID-19) pandemic and other times of emergencies and crisis response and recovery and to monitor the impact of the COVID-19 pandemic on corruption-related trends, keeping in mind that corruption risks may have increased during the pandemic;

As referred in the initial remarks above and in the answer to question 1 Portugal has implemented several measures during the pandemic.

The already mentioned approval of the National Anti-Corruption Strategy 2020-2024, in March 2021 is to be stressed. It enshrines several mechanisms and strategies to improve the prevention and fight against corruption (<https://justica.gov.pt/Estrategia-Nacional-de-Combate-a-Corruptao-ENCC>).

Several measures and actions described in other answers on this questionnaire could also be pointed out.

It is also worth noting that during the COVID-19 pandemic the Government set up a “*task force for the coordination of COVID-19 vaccination*”, at the same time the Public Prosecution Service delegated in the Criminal Police the investigation of cases linked to all irregularities concerning COVID-19 crimes related. Following this delegation, the Criminal Police began a cooperation with the task force, so that all situations detected by the task force should be forwarded, so that an analysis could be made and criminal cases opened. The same cooperation was established with the General Inspection for Health Activities concerning the disciplinary forum. Within the Criminal Police, a special investigative and analysis group was organised, and there was a national coordination of all cases identified.

3. *Further encourages* States parties, in accordance with the fundamental principles of their legal system, to afford anti-corruption bodies, supreme audit institutions and other relevant entities the appropriate mandates and the necessary independence and resources to carry out their functions effectively and free from undue influence, including, where relevant, in coordinating anti-corruption efforts, during times of emergencies and crisis response and recovery, and to strengthen political will in this regard;

As referred in the initial remarks above Portugal has implemented several measures in this regard.

It is to be highlighted that, as mentioned in the chapter on the rule of law situation in Portugal of the European Union 2023 Rule of Law Report Country², the institutional anti-corruption framework in Portugal has undergone major changes.

The National Anti-Corruption Mechanism (MENAC), established in 2021, has been instated on June 2023 and it is expected to contribute to improving the prevention capacity by taking over the tasks of the former Council for the Prevention of Corruption that previously operated under the Court of Auditors and having an important wider mandate. The Transparency Entity, tasked with monitoring and verifying declarations of assets and interests of political office-holders and high-ranking appointed officials, is expected to start operating soon.

The Central Department of Criminal Investigation and Penal Action (DCIAP), established within the Public Prosecutors Service, is in charge of the investigation and prosecution of serious offences, including corruption and economic and financial crimes, and coordinates the inquiries that are carried out by the National Unit for Combating Corruption (UNCC), an investigative unit of the Criminal Police. In this area a series of recruitments meant to address the resources issue took place or have been launched recently. During 2022, 197 new inspectors entered the National Anti-Corruption Unit of the criminal police (100 in March 2022 and 97 in September 2022). A competition for 65 forensic specialists has also been carried out.

And in the context of the National Anti-Corruption Strategy and the measures to strengthen the fight against corruption, fraud and economic and financial crime, the programme for recruiting staff for criminal investigation careers, specialists in the forensic and security field of the Criminal Police, was approved for the five-year period from 2022 to 2026. As a result, by 2026, 1.100 new recruitments are planned to have strengthened criminal investigation, forensic and security careers in the Criminal Police, being the number of criminal investigators of 750.

As to the Court of Auditors, please consult the response from Portugal to UNODCs request made under CU 2023/248(A)/DTA/CEB/TSS, in the framework of resolution 9/3 entitled “*Follow-up to the Abu Dhabi declaration on enhancing collaboration between the supreme audit institutions and anti-corruption bodies to more effectively prevent and fight corruption, and the use of information and communications technologies*” adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its ninth session, held in Sharm el-Sheikh, Egypt, from 13 to 17 December 2021.

As to **paragraphs 4 and 5**, namely as regards the **prevention of and fight against corruption in public procurement**:

4. *Calls upon* States parties to prevent opportunities for public officials to use their status, influence or insider knowledge to profit from procurement processes or the design, allocation, distribution or management of crisis response and recovery measures by requiring public officials to disclose potential conflicts of interest and ensuring appropriate review, management and sanction mechanisms, in accordance with domestic law;

5. *Urges* States parties to establish and, where necessary and appropriate, further strengthen, through the whole public procurement cycle, transparent, competitive and objective public procurement systems conducted by electronic means, if feasible within their means and in accordance with their domestic law, and to develop and improve guidelines for the use and

² Available here: [2023 Rule of law report - Communication and country chapters \(europa.eu\)](https://www.europa.eu).

governing of emergency procurement procedures that integrate anti-corruption safeguards to help ensure transparency, oversight and accountability during times of emergencies and crisis response and recovery, including by supreme audit institutions and other oversight bodies; Portugal has implemented several measures in this regard, we will highlight some of the most important.

Portugal amended Article 1-A(2) of the Public Procurement Code, included in that Code through Law 30/2021, of May 21, "(...) the contracting authorities must ensure, in the formation and execution of public contracts, that economic operators respect the applicable rules in force on (...) preventing and combating corruption arising from international, European, national or regional law".

In addition, another amendment included in such Public Procurement Code through Law 30/2021, of May 21, established that in public contracts worth more than EUR 750 000, the body competent for the procurement decision must request the contractor, whenever it is a Large Company, to submit a plan for the prevention of corruption and related offences (Article 81(9) of the Public Procurement Code - "CCP").

The awarding authorities must comply with the guarantees of impartiality provided for in the Public Procurement Code and the Administrative Procedure Code, being prevented from receiving advantages that jeopardise the principle of impartiality, thus requiring the preservation of administrative impartiality and confidence in such impartiality (Article 1-A(1)(3)(4) of the Public Procurement Code and Articles 9, 69 to 76 of the Administrative Procedure Code).

Conflicts of interest

One of the main measures to prevent corruption is based on compliance with a robust conflict of interest regime (Article 1-A(3) of the CCP).

Thus, the various "administrative" parties involved in the public procurement procedure, for example the jury (Article 67(5) of the CCP) and the contract manager (Article 290-A(7) of the CCP) are required to sign a declaration of conflicts of interest.

With regard to the resolution of conflicts of interests, the regime of conflicts of interests is immediately relevant as an impediment (private and administrative), as provided for in Article 55(1)(k) of the CCP, and may have effects/consequences on the candidate or tenderer (exclusion) or on the public servant (removal from the administrative procedure of formation of the contract). However, only in extreme situations may participation in a public procurement procedure be prevented on the grounds of conflict of interest on the part of a candidate, competitor or integration in any grouping. In this sense, Article 55(2) of the CCP provides that certain measures less onerous than exclusion may be considered.

Impediments and self-cleaning

It is also important to take into account the regime of impediments to candidates and competitors provided for in Article 55(1), paragraph h), sub-paragraph ii) of the CCP, which provides that "[n]o entities may be candidates, tenderers or integrate any grouping which (...) h) have been convicted by a final judgment of any of the following crimes, if their rehabilitation has not occurred in the meantime, in the case of natural persons, or, in the case of legal persons, the legal person and the members of its board of directors, executive board or management have been convicted of the same crimes and are in office, if their rehabilitation has not occurred in the meantime: (...) ... ii) Corruption as defined in Article 3 of the Convention on the fight

against corruption involving officials of the European Union or officials of Member States of the European Union and in Article 2(1) of the Council Framework Decision 2003/568/JHA of 22 July 2003 and in Articles 372 to 374-B of the Criminal Code”.

The CCP also provides for rules on self-cleaning or relief of impediments, Article 55-A, on the relief of impediments, in particular, number 2, the relief of certain impediments, namely those related to the referred paragraph h). Once the reason(s) for the relevance of the impediment has been demonstrated, it is up to the contracting entity, pursuant to Article 55-A(3), to decide on its relevance in light of the "seriousness" and "specific circumstances of the infringement or misconduct committed".

In order to ensure that economic operators who have been convicted of corruption offences by a final judgment are not awarded contracts (with the exception of the possible relief of impediments), the contracting entity must, in each public procurement procedure, request the qualification documents proving that the economic operators are not in the situation referred to therein, as set out in Article 55(1)(h)(ii) and Article 81(1)(b) of the CCP.

Regardless of whether or not the impediment was verified at an earlier stage, should the impediment of the candidate or tenderer, now awarded the contract, be verified, the latter would be ineligible/inhibited from signing the contract, since, in accordance with the provisions of Article 86(1) of the CCP, the awarding of the contract lapses if, for reasons attributable to him, the successful tenderer fails to present the qualification documents.

The creation of CIMEC, the Independent Commission for Monitoring and Supervision of Special Public Procurement Measures (CIMEC), in 2021

It is important to highlight that Law n. 30/2021, of May 21, which has approved the special measures for public procurement and amended the Public Procurement Code, having created an independent body – the Independent Commission for Monitoring and Supervision of Special Public Procurement Measures (CIMEC) - to whom it is assigned the mission of monitoring and supervising the procedures adopted under the special measures of public procurement in terms of projects financed or jointly financed by European funds, of housing and decentralization, of information and knowledge technologies, of health and social support, of implementation of the Economic and Social Stabilization Program (PEES) and the Recovery and Resilience Plan (PRR), of fuel management within the scope of the Integrated Management System for Rural Fires (SGIFR) and also of agri-food products (MEC).

CIMEC acts independently in the pursuit of its attributions and in the exercise of its powers, and it is incumbent upon it, in the performance of its mission:

- To prepare and send general or specific recommendations to the contracting authorities on the processing of proceedings, on the conclusion and on the execution of the respective contracts, which are published on the web in “Portal Base”;
- To prepare every six-months evaluation reports on the processing of proceedings, on the conclusion and on the execution of the respective contracts; such reports are sent to the Government, the Parliament, the Court of Auditors and the Public Prosecution Service (PPS) and are subject to publication on the web in “Portal Base”; in the case of contracts intended for the execution of projects financed or co-financed by European funds, these are subject to publication on the Transparency Portal provided for in article 360 of Law n. 75-B/2020, of December 31.

Contracting entities, whether public or private, must cooperate with CIMEC, providing it with all the information requested by it, being obliged to provide it in a timely manner and to provide additional clarifications and collaboration that are requested; when not doing so, penalties of disclosure and publicizing in the half-yearly reports such failure to comply with the duty to provide information and of the participation to the PPS, in order to determine possible responsibilities, may apply.

Thus, several generic recommendations were issued, published on the CIMEC website, on the Portal Base and on the Transparency Portal regarding the following topics:

- i) Mandatory submission of all contracts concluded under the MEC to the Court of Auditors;
- ii) Requirement that the pre-contractual procedures adopted under the terms of the MEC, under the terms set out in article 2 of Law n. 30/2021, can only be initiated after a previous financing or joint financing by European funds is ensured;
- iii) Scope and legal regime of the procedures processed and contracts concluded under the MEC.

The semi-annual report of 31 May 2022 has analyzed the data relating to the procedures and contracts entered into under the MEC and examples of “Best Practices and Warning Signs” were described, namely recommending the assessment of the risks and benefits of choosing simplified and/or closed procedures and the adoption of measures to enhance transparency and competition.

The half-yearly reports of May 31 and December 22, 2022, and June 30, 2023, were also published by CIMEC, where data on procedures and contracts concluded under the MEC were analyzed and where measures to protect transparency and competition were recommended.

MECs are subject to a reinforced monitoring and inspection regime, in addition to the inspection exercised in general over public and private entities, namely, the supervision exercised by CIMEC, the Court of Auditors, the IMPIC and the European funds management entities.

Thus, within the scope of the MEC, whether one adopts (i) one of the simplified tendering procedures or simplified prior consultation, (ii) the “normal” simplified direct award or the “normal” direct award and prior consultation as provided for in this regime:

- The remittance to the Court of Auditors of all contracts concluded following any MEC procedures is mandatory – even if the value is lower than that set for submission to prior inspection - and this remittance to the Court of Auditors constitutes a condition of the effectiveness of such contracts, namely for the purposes of any payments (Article 17);
- It is mandatory to publish all procedures and contracts on the Portal Base, in the specific section dedicated to MEC (Article 19(7)), which presupposes a duty to send to the IMPIC all procedures and contracts entered into following any MEC procedures, including procedures that do not go through an electronic platform;
- The minimum and maximum amounts of fines applicable in the case of misconduct sanctioned as administrative offences, provided for in articles 456 to 458 of the Public Procurement Code, are doubled (article 20).

IMPIC and CIMEC jointly held a Congress under the motto “ *15 Years of the Public Procurement Code and the Intelligent Future of Public Procurement* ”, in which the current challenges and future of public procurement were addressed, as well as the role that artificial intelligence can play in speeding up and in the transparency of procedures. This congress took place on June 6, 2023, and was attended by specialists in the area of public procurement - both in the academic and practical aspects -, representatives of contracting authorities, State purchasing centers and economic operators, as well as electronic public procurement platforms. Also intervening, among others, were the President of the Competition Authority and the Vice-President of the National Anti-Corruption Mechanism (MENAC).

As to paragraphs 6 and 7:

6. *Also urges* States parties to have in place sufficient internal audit systems and, where necessary, to strengthen them to help monitor the allocation and distribution of emergency relief and ensure the implementation of measures to prevent corruption during times of emergencies and crisis response and recovery, in accordance with their domestic legal frameworks;

7. *Encourages* States parties to have in place transparency and accountability measures in managing public finances during times of emergencies and crisis response and recovery and, where necessary, to enhance them, including by presenting budget items to ensure that budgets and accounts are available for public access, using flexible and effective financial distribution policies to manage funds allocated for relief and enabling supreme audit institutions and other relevant entities to perform their functions in this regard, especially by upholding policies and procedures for the management of public finances, in accordance with the fundamental principles of domestic law, with a view to easing the burden on, and improving the conditions of, people in vulnerable situations;

We've requested inputs from other entities and we will forward those inputs as soon as received and processed.

Decree-Law no. 109-E/2021, of December 9, set out the National Anticorruption Mechanism ("MENAC"), and approved the General Regime for Prevention of Corruption (RGPC). The implementation of MENAC and the new institutional dynamic provided for is key to have in place sufficient internal audit systems and the strengthening of the integrity and anticorruption efforts being made (please check also above the general remarks already made).

Among the MENAC's duties we have, namely (Article 2(3)(e)(f)(o) of Decree-Law no. 109-E/2021, of December 9):

e) Plan the control and monitoring of the RGPC, in conjunction with the general inspections or similar entities and with the regional inspections in relation to the public sector;

f) Monitor, in liaison with the general inspections or similar entities and with the regional inspections, the execution of the RGPC;

o) Monitor, in conjunction with the relevant general inspections or similar entities and regional inspections, the quality, effectiveness and updating of the regulatory compliance instruments adopted by the Public Administration and the public business sector to prevent corruption and related offences.

The MENAC may also request the competent member of Government that the general inspections or similar entities and the regional inspections carry out inspection and auditing actions (Article 7(2) of Decree-Law no. 109-E/2021, of December 9).

The RGPC establishes additionally, namely in articles 4 (Monitoring and competence) and 34 (Inspection and audit), the following:

Article 4

Monitoring and competence

1 - The application of the present regime is monitored by the National Anti-Corruption Mechanism (MENAC), which is responsible for, without prejudice to the other competencies foreseen in the law:

- a) To issue guidelines and directives to which the design and terms of execution of the compliance programs must obey;*
- b) To assess the application of this regime;*
- c) To define the planning of the control and supervision of this regime;*
- d) To supervise compliance with the provisions established in this regime, without prejudice to the competence of other entities;*
- e) To initiate, investigate and decide upon the proceedings relating to the practice of the administrative offences provided for in the present regime;*
- f) To manage the information on the compliance with the provisions established in this regime.*

2 - The requests, communications, notifications or any other statements within the scope of this regime may be made electronically, without prejudice to the provisions applicable to administrative offence proceedings.

...

Article 34

Inspection and audit

1 - Without prejudice to the provisions of article 4, the general-inspections or similar entities and the regional inspections shall be responsible for carrying out periodic inspections and audits of the services or organisms of the respective governmental area in order to assess compliance with the provisions established in the present regime concerning the existence of regulatory compliance programs.

2 - The planning of the inspections and audits referred to in the previous number is communicated to MENAC for the purpose of articulation of the respective activity plans.

3 - From the inspections and audits carried out, the respective report is prepared under the terms foreseen in the respective regulations, which is communicated to MENAC and to the entity with disciplinary competence.

4 - Without prejudice to the provisions of the preceding paragraph, the general-inspections or similar entities and the regional inspections shall communicate to MENAC, within 15 working days, the beginning of the practice of an administrative offence foreseen in the present regime.

As to the Court of Auditors, please consult the response from Portugal to UNODCs request made under CU 2023/248(A)/DTA/CEB/TSS, in the framework of resolution 9/3 entitled “Follow-up to the Abu Dhabi declaration on enhancing collaboration between the supreme

audit institutions and anti-corruption bodies to more effectively prevent and fight corruption, and the use of information and communications technologies” adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its ninth session, held in Sharm el-Sheikh, Egypt, from 13 to 17 December 2021.

8. *Reaffirms* States parties’ commitment to improving their understanding of the linkages between gender and corruption, including the ways in which corruption can affect women and men differently, including during times of emergencies and crisis response and recovery, and to continuing to promote gender equality and the empowerment of women in this regard, including by mainstreaming it in relevant legislation, policy development, research, projects and programmes, as appropriate and in accordance with the fundamental principles of domestic law;

In Portugal, the gender impact assessment of legislative acts is provided for through different instruments:

- The regime of organization and functioning of the XXIII Constitutional Government, approved by Decree-Law no. 32/2022, of 9 May, which establishes that draft legislative drafts shall be accompanied by a statement of reasons containing, in detail and in all cases, in particular, the gender impact assessment. In the case of draft laws, they must be accompanied by a prior gender impact assessment form, pursuant to Law no. 4/2018, of 9 February (see article 55 of said Decree-Law).
- Regulation of the Assembly of the Republic no. 1/2020, of 31 August [point h) of paragraph 2 and paragraph 1 of article 131], establishing that Parliament's services shall draw up a technical note for each of the draft laws, which shall contain, where possible, a gender impact assessment report drawn up under the standards set out in Law No 4/2018.
- Law no. 4/2018, of 9 February, establishing the legal framework of gender impact assessment of normative acts: it determines that draft normative acts prepared by the central and regional administration, as well as drafts and proposals of laws submitted to the Assembly of the Republic, are subject to prior gender impact assessment. The successive gender impact assessment may take place at any time on a proposal from the person responsible for the prior assessment or from the body responsible for approving the legislative act.
- The Action Plan for Equality (PAIMH 2018-2021) - Project to create an instrument for assessing the gender impact of legislation: the implementation of this measure was prepared by the Commission for the Citizenship and Gender Equality (CIG) in collaboration with Competence Center for Planning, Policy and Foresight (PLANAAP), a new broader and more in-depth instrument to be applied in the elaboration of Laws and Decree-Laws.

As to **paragraphs 9 and 10:**

9. *Urges* States parties to incorporate and implement corruption risk management processes, in particular in institutions responsible for or concerned with crisis response and recovery, to help identify and mitigate potential corruption risks when designing, administering

and managing the whole cycle of public procurement and relief measures, in accordance with the fundamental principles of their legal systems;

10. *Calls upon* States parties, where appropriate, to adopt or strengthen the anti-corruption measures necessary for private sector compliance with applicable laws and regulations, including with due regard for data protection and privacy rights, and to continue efforts to promote the development of codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest;

As mentioned in the general remarks made in the beginning of this document, Decree-Law n. 109-E/2021 published in December 9 2021, set out the National Anticorruption Mechanism ("MENAC"), a new entity independent from the Government and the Parliament and has approved the General Regime for Prevention of Corruption (RGPC).

This law is included in the scope of the National Anti-Corruption Strategy 2020-2024, which recognizes that in addition to the implementation of measures within the scope of repression of corruption and related offences, an effective compliance system must be implemented, both in public and private entities to prevent these phenomena.

For that purpose, the RGPC obliges the required entities to implement corruption prevention programs and establish internal control systems, specifying the parameters of each, and establishing a system of sanctions for non-compliance/insufficient application.

Concerning the scope of application, the entities obliged to comply with the rules of the RGPC are:

- a) All private legal persons having their head office or branch in Portugal, who employ 50 or more workers;
- b) All public services of the Direct, Indirect and Autonomous Administration of the State, including the public corporate sector, municipal councils, parish councils, and other entities that employ 50 or more workers;
- c) Independent administrative entities.

Regarding the corruption preventive measures, the obliged entities must adopt an internal Plan of Prevention of Corruption (PPC), with the aim of preventing, detecting and sanctioning acts of Corruption and related offences carried out against or through the entity and which includes, at least:

- a) A plan for the prevention of risks of corruption and related infractions (PPR) covering all its organization and activity;
- b) A code of conduct that establishes the set of principles, values and rules of action of all managers and employees in matters of professional ethics;
- c) An internal training program, carried out by the entities covered, aimed at all their managers and employees, so that they are aware of and understand the policies and procedures for the prevention of corruption and related infractions implemented; and
- d) an internal whistleblowing channel - which meets the requirements set out in the respective EU Directive.

They also need to implement policies and procedures that ensure compliance, monitoring and evaluation of these programs. To this end, a Compliance Responsible has to be appointed.

The adoption and implementation of regulatory compliance programs is a responsibility of the management body of the entities covered.

In relation to the provisions applicable to public entities, in addition to adopting the PPC and the code of conduct, public entities are now required to:

- a) Publish on its website several documents - foreseen in the RGPC - that guarantee the transparency of the performance, structure and services of the Public Administration;
- b) Implement an Internal Control System proportional to the nature, dimension and complexity of the activity, which allows implementing, monitoring and evaluating the application of the rules of the RGPC in the entity.
- c) Adopt measures to promote competition in public procurement and remove administrative barriers to competition.

In relation to the provisions applicable to private entities, in addition to the measures already mentioned above, the covered private entities must also:

- a) Implement internal control procedures and mechanisms covering the main corruption risks identified in the PPR;
- b) Prior risk assessment procedures in relation to third parties acting on their behalf; suppliers; and clients.

In what concerns the sanctioning regime, without prejudice to any criminal, civil or disciplinary liability, the RGPC determines the application of administrative sanctions - both to the public and private sectors - for the non-adoption or deficient/incomplete adoption of compliance programs.

In addition, for the effective control of the application of the RGPC and the procedure and sanctioning of administrative offences for non-compliance therewith, an independent administrative authority has been established, the MENAC, as mentioned above. This decree-law entered into force on June 7th, 2022.

11. *Reaffirms* States parties' commitment to making efforts in international cooperation and taking appropriate measures to enhance beneficial ownership transparency by ensuring that adequate, accurate and timely beneficial ownership information is available and accessible to competent authorities and by promoting beneficial ownership disclosures and transparency, such as through appropriate registries, where consistent with the fundamental principles of domestic legal systems, and encourages States parties to take such measures also during times of emergencies and crisis response and recovery;

- Within the scope of the prevention and fight against money laundering and terrorist financing, a set of measures was approved by Law no. 83/2017, of 18 August, later amended by Law no. 58/2020, of 31 August, which partially transposed Directive 2015/849/EU of the European Parliament and of the Council, of 20 May 2015.

In view of this Law the Institute of Registries and Notary (IRN) is considered an entity equivalent to a sectoral authority, which, together with the Order of Notaries, is responsible for assisting the member of the Government responsible for the area of Justice, in verifying the fulfilment by notaries of the duties and obligations arising from the aforementioned Law and the respective regulatory diplomas, throughout the national territory.

Under the same Law, registrars and registry officers (IRN employees) are considered auxiliary entities in the prevention and fight against money laundering and terrorist financing and, in the exercise of their functions, are subject to the duty to immediately inform the Central Department of Investigation and Criminal Action of the Attorney General's Office (DCIAP) and the Financial Intelligence Unit (FIU), at the same time, whenever they know, suspect or have reasonable grounds to suspect that certain funds or other property, regardless of the amount or value involved, are derived from criminal activities or are related to terrorist financing (Article 43).

The duty to collaborate with DCIAP, UIF and other judicial and police authorities, sectoral authorities and the Tax and Customs Authority, in everything requested of them in this context (Article 53), the duty of non-disclosure of communications made in fulfilment of the duties of communication and collaboration (Article 54), and also the duty to examine abstention whenever acts of securitisation are involved (Article 7(3)) are present.

In order to assess whether a given act is suspicious or may be suspicious, registrars and registry officers, in the exercise of their duty to report, must make an assessment of the specific circumstances, in the light of the diligence criteria required of a professional, in analysing the situation, taking into account, in particular, the list of indicators published in the annex to the Resolution of the IRN Board of Directors No 33/CD/2018, of 26 December.

- Law no. 89/2017, of 21 August, subsequently amended by Law no. 58/2020, of 31 August, approved the legal regime of the central register of the beneficial owner, referred to in article 34 of Law no. 38/2014, and transposed into the national legal order chapter III of the aforementioned Directive 2015/849/EU, the said legal regime being regulated by Ordinance no. 233/2018, of 21 August.

The Central Registry of Beneficial Owners (RCBE) consists of a database, the purpose of which is to organise and keep up-to-date sufficient and accurate information on the natural person or persons who, even indirectly or through a third party, have ownership or effective control of the entities subject to it, with a view to enhancing transparency in commercial relations and complying with the duties to prevent and combat money laundering and terrorist financing established in Law no. 83/2017.

A wide range of entities, provided for in Article 3 of the aforementioned regime, are mandatorily subject to the RCBE, with the exception of those provided for in Article 4. The registration is free of charge and declared by one of the members of the bodies of the entities subject, by a lawyer, notary, solicitor, certified accountant or by a proxy, with special powers to perform the act.

IRN is the managing entity of the RCBE database and responsible for its processing. This database can be accessed in different levels by the competent authorities (judicial, police, sectoral and Tax and Customs Authority), Financial and Credit Institutions and also by obliged entities, within the scope of their duties to prevent and combat money laundering and terrorist financing.

In order to implement the RCBE, IRN promoted a strong dissemination and awareness-raising campaign through the various media for the general public; and held several training actions and workshops with the competent authorities mentioned, the various

professional associations involved (Lawyers, Solicitors, Notaries and Certified Accountants), and also the respective registrars and registration officers, and participated in others, for instance, organised by Non-Governmental Organisations (NGOs), such as Transparency International.

The Completion Support Centres (CPO) were created in Lisbon and Coimbra, to clarify doubts and support citizens in completing and submitting RCBE declarations, in addition to the Registries Helpline.

- As the managing entity of the RCBE, IRN is currently working to connect the RCBE database with the Beneficial Ownership Registers Interconnection System ("BORIS"), thus contributing to the existence of a decentralised system that interconnects the national central registers of beneficial owners through the European e-Justice Portal, through the central European platform.
- The Recovery and Resilience Programme (RRP), in its "Digital Transition" dimension, approved for IRN, foresees, among others, the creation of the Corporate Life Cycle (CVE), where the RCBE is inserted.

In this context, the design of a new RCBE is planned, where interoperability between Public Administration data, in real time, if feasible, could act as a lever for the existence of an enhanced database with adequate, accurate and timely beneficial ownership information.

- At European Union level, IRN collaborates, among others, with the Planning, Strategy, Evaluation and International Relations Office of the Ministry of Finance (GPEARI), providing, through it, the contributions requested by the European Commission, Council and European Parliament, either by filling in questionnaires or by commenting on the legislative packages amending the Directives and Regulations on preventing and combating money laundering and terrorist financing, with emphasis on the latest concerning the 6th Directive, AMLA, AML and AMLR, which may have a strong impact on the various Member States, in particular through the creation of the Anti-Money Laundering Authority (AMLA).
- Reference should also be made to the approval of Law 97/2017, of 23 August, which regulates the application and enforcement of restrictive measures approved by the United Nations or the European Union and establishes the sanctioning regime applicable to the violation of these measures.

Internally, the restrictive measures are implemented by the competent national authorities and the national implementing entities, which are, among others, the Ministry of Justice (through the IRN and the Criminal Police), which is responsible for the application of restrictive measures according to their respective attributions, in this case, the freezing of economic resources.

- In February 2023, IRN became a formal member of the Executive Committee of the Commission for the Coordination of Policies to Prevent and Combat Money Laundering and Terrorist Financing, created by Council of Ministers Resolution No. 88/2015 of 1 October, having been part of the Working Group that partially transposed Directive 215/849/EU, following which the aforementioned Laws No. 83/2017 and 89/2017 were approved.

- Also at European level, IRN is a member of the European Business Registry Association (EBRA), actively participating in its meetings and providing its contributions, whenever requested, having been a host member of the meeting held last May in Lisbon.

12. *Calls upon* States parties to investigate and prosecute offences established in accordance with the Convention against Corruption that result in unfair commercial practices, such as price gouging and the manipulation of the prices of essential goods and services or bids, especially those needed to respond during times of emergencies and crisis;

It is to be stressed that in Portugal all the offences established in accordance with the Convention against Corruption are investigated by the Portuguese authorities.

In that regard please find attached some of our statistics regarding corruption crimes, namely with numbers of those crimes recorded by the police forces, cases in courts, defendants and convictions



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13. *Encourages* States parties to reinforce and enhance inter-agency cooperation at all levels to prevent individuals and companies, other legal entities, and systems used to transfer money, as well as non-regulated or unregistered financial or commercial or non-commercial entities at serious risk of being abused for corruption and money-laundering, from committing or being used to facilitate acts of corruption, including during times of emergencies and crisis response and recovery, and to encourage and support companies and financial institutions in this regard, including to make better use of resources already expended;

We've requested inputs from other entities and we will forward those inputs as soon as received and processed.

The *Comissão de Coordenação das Políticas de Prevenção e Combate ao Branqueamento de Capitais e ao Financiamento do Terrorismo*, the AML/CFT Coordination Commission, established in 2015, is responsible for the overall policy coordination and implementation of AML, CFT and counter proliferation financing (CPF) measures. It is meant to provide a relevant forum for efficient coordination between all bodies and entities with AML/CFT competences, having a wide range of members (check [here](#)).

Its mission is to monitor and coordinate the identification, assessment and response to the risks of ML/FT to which Portugal is or will be exposed, contributing to the continuous improvement of technical compliance and the effectiveness of the national system to combat ML/FT.

14. *Also encourages* States parties to take anti-corruption measures to ensure that adequate safeguards are in place regarding the use of emergency executive authority during times of emergencies and crisis response and recovery, such as legislative oversight, committee reports and monitoring mechanisms, in accordance with their domestic legal frameworks;

In Portugal, there is currently no state of exception to deal with the COVID-19 pandemic. Also during the year 2021, the State of emergency ceased and, during the year 2022, the successive

states of alert, contingency, and calamity, ceased. It should be remembered that these were exceptional situations provided for in the Civil Protection Basic Law (Law n.º 27/2006, of July 3), for organizing the readiness and response of public entities.

In addition to the end of the states of exception, the Government proceeded to the lifting of most of the measures to contain and combat the COVID-19 pandemic and proceeded to repeal most of the legislation approved in this context. For this purpose, it approved Decree-Law no. 66-A/2022, of 30 September, which determines the cessation of validity of published decree-laws, within the scope of the COVID-19 disease pandemic, and the Resolution of the Council of Ministers No. 96/2022, of October 24, which determines the cessation of validity of Council of Ministers resolutions published within the scope of the COVID-19 disease pandemic.

Additionally, and because there was a set of measures approved by the Assembly of the Republic, the Government presented a bill to the Assembly of the Republic aiming to determine the termination of the validity of published laws, within the scope of pandemic of the COVID-19 disease.

The rules that still exist in terms of combating the COVID-19 disease pandemic continue to be widely scrutinized by the public opinion, by the Ombudsman and, particularly, by the courts, with the Constitutional Court having even been called upon to rule on the matter.

15. *Urges* States parties to take measures, within their means and in accordance with the fundamental principles of their domestic law, to provide the public with timely information during times of emergencies and crisis response and recovery, to prevent and combat corruption and to counter misinformation;

We've requested inputs from other entities and we will forward those inputs as soon as received and processed.

The National Anti-Corruption Strategy for 2020-2024, approved on March 2021, included among its measures the organization, in public entities, and through means of dissemination of institutional publicity, campaigns that draw attention to common corruptive practices, encourage their repudiation, clarify the existing means of denunciation and highlight the values involved. Accordingly, a national awareness campaign was carried out in the end of 2022 by the MENAC, also as a way to mark the celebration of the International Day Against Corruption. On the other hand, as regards media, as we can read in the chapter on the rule of law situation in Portugal of the European Union 2023 Rule of Law Report Country, namely (for further details, please consult the report), the fundamental principles underpinning media freedom and pluralism are anchored in the Portuguese Constitution and a comprehensive legal framework exists to protect journalists in the exercise of their profession; the establishment of an independent regulatory body is also mandated in the Constitution; a solid legal framework is in place regarding the transparency of ownership across all media markets; access to information and documents held by public authorities is safeguarded through legislation.

16. *Notes with appreciation* the important role of civil society, academia, the private sector and the media in identifying, detecting and reporting on cases of corruption and, in this regard, urges States parties to take appropriate measures, within their means and in accordance with the fundamental principles of domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental

organizations, community-based organizations and the private sector, in the prevention of and fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption, including during times of emergencies and crisis response and recovery, encourages States parties to respect, promote and protect the freedom to seek, receive, publish and disseminate information concerning corruption, which may be subject to certain restrictions, such as are provided for by law and are necessary for respect of the rights or reputations of others and for the protection of national security, public order or public health or morals, and also encourages States parties to consider inviting those individuals and groups to contribute to the development and implementation of technical assistance programmes, upon request and based on the needs identified for the implementation of the provisions of the Convention against Corruption, and making efforts so that the conditions are present for their effective contribution to achieving the objectives of the Convention, including the ability to operate independently and without fear of reprisal because of their efforts in that regard, in accordance with domestic law and their respective applicable international obligations;

The active participation of individuals and groups outside the public sector is targeted by the National Anti-Corruption Strategy for 2020-2024. As mentioned in the general remarks made in the beginning of this document and in responding to progresses made as regards para. 10 of the declaration, Decree-Law n. 109-E/2021 set out the MENAC and approved the General Regime for Prevention of Corruption (RGPC), which requires both public and private entities to implement, namely, corruption prevention programs and establish internal control systems (please check above for more details).

Other entities, such as NGOs, operate in Portugal in this field, having made part, along, for example, with media, of panels of meetings with evaluators of the Group of States Against Corruption (GRECO) of the Council of Europe, and of the Working Group on Bribery of the Organisation for Economic Co-operation and Development, in the framework of evaluations of Portugal under those anti-corruption implementation review mechanisms.

The National Anti-Corruption Strategy for 2020-2024 is clear also as regards its approach, envisaging the involvement of state institutions, citizens, companies and civil society in preventing corruption through knowledge, training and information, articulated with a timely and effective repressive dynamic.

An example of involvement of civil society on such efforts is a widespread program by a civil society organization that targets schools and focuses on educating children from 7th to 12th grade on these matters.

As to the respect, promotion and protection of the freedom to seek, receive, publish and disseminate information concerning corruption, please check the references made in the chapter on the rule of law situation in Portugal of the European Union 2023 Rule of Law Report Country, which covers also such matters (check also the data provided as regards para. 15).

17. *Calls upon* States parties to establish and, where appropriate, diversify and strengthen confidential complaint systems and protected reporting systems that are accessible and inclusive to facilitate the timely reporting of and to provide protection against any

unjustified treatment for any person who reports in good faith and on reasonable grounds any facts concerning offences established in accordance with the Convention against Corruption, including as they relate to the allocation, distribution, use and management of emergency relief; In line with the call made in para. 17 of the declaration we find that there are several available reporting channels in Portugal and the reports of (all) crimes or suspicions of crimes can be presented to the PPS and/or police authorities in person or, namely, through electronic channels (websites or e-mail).

The DCIAP has an electronic reporting channel in its website ([here](#)), exclusively dedicated to reports of corruption, fraud and related offences. And the DCIAP also has a unit devoted to hearing whistleblowers who wish to make anonymous statements in person.

On the other hand, the Criminal Police also has an online reporting channel dedicated to anonymous reports – please check [Denúncia Anónima – Polícia Judiciária \(policiajudiciaria.pt\)](#).

Additionally, following what has already been referred, the general regime for the prevention of corruption (RGPC) requires that public and private entities with more than 50 employees adopt internal reporting channels in accordance with Law 93/2021. In the framework of the National Anti-Corruption Strategy for 2020-2024, several legal acts were approved in Portugal, by the Parliament and by the Government and in this case we would like to underline the approval of [Law 93/2021, of December 20](#), of [Decree-Law 109-E/2021, of December 9](#) and of [Decree 155-B/2023, of June 6](#).

Law 93/2021, of December 20, establishes the general regime for the protection of whistleblowers, transposing Directive (EU) 2019/1937 of the European Parliament and of the Council, of 23 October 2019, on the protection of persons who report violations of the Union law (Directive (EU) 2019/1937). Decree-Law 109-E/2021, of December 9, as already mentioned, establishes MENAC and the RGPC. And Decree 155-B/2023, of June 6, determines the definite installation of the MENAC.

In line with Directive (EU) 2019/1937, the Portuguese Law 93/2021, of December 20, foresees the following rules:

- i) Scope of application (article 2), which stipulates what may be an infraction under this Law;
- ii) Articulation with other regimes (article 3);
- iii) Object and content of the denunciation or public disclosure (article 4);
- iv) Legal concept whistleblower, which is “*A natural person who denounces or publicly discloses an infringement based on information obtained in the context of his professional activity, regardless of the nature of this activity and the sector in which it is carried out*” and includes a) Workers in the private, social or public sector; b) Service providers, contractors, subcontractors and suppliers, as well as any persons acting under their supervision and direction; c) Holders of shareholdings and persons belonging to administrative or management bodies or to tax or supervisory bodies of legal persons, including non-executive members; d) Volunteers and trainees, paid or unpaid (article 5);
- v) Protection conditions of a whistleblower (article 6);

- vi) Means of denunciation and public disclosure (articles 7 to 20); Within these rules, it is relevant to underline the difference between internal and external channels of denunciation, public disclosure and the obligation of confidentiality of the identity of the whistleblower;
- vii) Protection measures of the whistleblower (articles 21 to 28);
- viii) Competence for processing and application of fines, which, as a rule, belongs to the *MENAC* (article 29);
- ix) Subsidiary regime applicable in case of mere administrative offences, which is the Decree-Law 433/82, of October 27 (article 30).

Regarding the *MENAC*, Article 2(3) of Decree-Law 109-E/2021, of December 9, sets out the mission and duties of *MENAC*, namely: subparagraph a) “*Develop, in liaison with the members of Government responsible for the areas of the Public Administration, of higher education and education, the adoption of programmes and initiatives aimed at creating a culture of integrity and transparency, covering all areas of public management and all levels of education*”; and subparagraph h) “*Produce and disseminate information on corruption and related offences on a regular basis and develop campaigns to prevent it*”.

Considering the Portuguese legal framework presented we would like to point out the following:

- i) *MENAC* is a national authority which must ensure that the public has effective access to information and undertake public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula, according to article 13(1)(b) and (c) of the UNCAC;
- ii) The scope of application of Law 93/2021, of December 20, is not as broad as the offences established in accordance with the Convention. However, there are many other Portuguese legal acts which provide protection to natural persons in accordance with the Convention, namely the Criminal Procedure Code;
- iii) Articles 7 to 20 of Law 93/2021, of December 20, establish internal or external reporting channels or publicly disclosed systems, which are confidential, protected, accessible and inclusive, under the scope of this Law;
- iv) Article 4 of Law 93/2021, of December 20, facilitates the timely reporting of any unjustified treatment under the scope of this Law, since “*The denunciation or public disclosure may have as its object infringements that have been committed, that are being committed or whose commission can reasonably be foreseen, as well as attempts to conceal such infringements*”;
- v) Articles 6 and 21 to 28 of Law 93/2021, of December 20, provide protection for any person who reports in good faith and on reasonable grounds any facts concerning infractions under the scope of this Law;
- vi) Finally, in this context it is important to underline article 7(3)(a) and (b) of Law 93/2021, of December 20, which stipulate the following: “*The whistleblower may only publicly disclose an infringement when: a) Has reasonable grounds to believe that the infringement may constitute an imminent or manifest danger to the public interest, that the infringement cannot be effectively known or resolved by the competent authorities, given the specific circumstances of the case, or that there is a risk of retaliation even in the event of an external complaint; or b) Has lodged an internal complaint and an external complaint, or directly an external complaint*”

under the terms provided for in this law, without adequate measures having been taken within the deadlines provided for in articles 11 and 15.”

Having this rule and the scope of Law 93/2021, of December 20, in mind, and without prejudice to other legal acts in force, a conclusion can be made that this Law may provide protection to a natural person, namely in an emergency relief related case, if all requirements of the law are met.

18. *Encourages* States parties to, as appropriate and in accordance with domestic law and their respective applicable international obligations, develop and strengthen the use of reliable, high-quality, timely and effective electronic communication channels that enable anti-corruption bodies, supreme audit institutions and other relevant entities to rapidly share timely information at the national and international levels through existing mechanisms, including those of the International Criminal Police Organization (INTERPOL), and consider accepting electronic copies in the sending and receiving of mutual legal assistance requests, including during times of emergencies and crisis response and recovery, and notes the new Global Operational Network of Anti-Corruption Law Enforcement Authorities, which aims to develop a quick, agile and efficient tool for combating cross-border corruption offences, strengthen communication exchange and peer learning between competent anti-corruption law enforcement authorities and complement and coordinate with existing and efficient tools for international cooperation;

Portugal has adopted several measures to strengthen electronic communication channels so that entities do rapidly share timely information at the national and international levels and towards facilitating international cooperation in combating corruption and related offences. Some of these measures include:

- a. Treaties and International Conventions: Portugal is a party to various international conventions aimed at combating corruption and associated crimes, such as the United Nations Convention against Corruption (UNCAC), which establish standards and guidelines for international cooperation in this area.
- b. National Legislation: Portugal has enacted laws that allow for international cooperation in cases of corruption and associated crimes. This includes the establishment of mechanisms for the exchange of information and evidence with other countries.
- c. Specialized Units: Portugal has specialized units dedicated to international cooperation and to combating corruption, such as the National Unit for Combating Corruption (UNCC) of the Criminal Police, which collaborates with foreign authorities in transnational investigations.
- d. Participation in networks such as the European Judicial Network: Portugal participates in the European Judicial Network in Criminal Matters, which allows for the exchange of information and coordination among the judicial systems of European Union member states.
- e. Bilateral Agreements: Portugal has bilateral cooperation agreements with various countries for the exchange of information, extradition of suspects, and execution of sentences in cases of corruption and associated crimes.

- f. Interpol and Europol: Portugal collaborates with international law enforcement organizations such as Interpol and Europol to facilitate the exchange of information and coordination of joint operations.
- g. Electronic Platform for International Judicial Cooperation (PECJD): Portugal has an electronic platform that enables communication between national and international judicial authorities to facilitate cooperation in legal proceedings.
- h. Training and Capacity Building: Portugal provides training and capacity building for justice and law enforcement professionals in the areas of international cooperation and combating corruption, contributing to a more effective approach.

Other inputs were requested, we will forward those inputs as soon as received and processed.

19. *Also encourages* States parties to provide the necessary training and resources to ensure that relevant officials of oversight institutions have the tools and expertise required to analyse data and information to inform crisis planning, response and recovery, and in this regard further encourages States parties to take advantage of capacity-building and training programmes provided by the United Nations Office on Drugs and Crime and other relevant international organizations and institutions, such as the International Anti-Corruption Academy, to increase public awareness and integrity;

Training programs for public officials, law enforcement and the judiciary are conducted to build and enhance capacities as regards these matters.

As referred above, all entities under the RGPC have to *adopt and implement a regulatory compliance program that includes, at least, a plan for the prevention of risks of corruption and related offences (PPR), a code of conduct, a training programme and a whistleblowing channel in order to prevent, detect and sanction acts of corruption and related offences carried out against or through the entity.* (Article 5(1) of the RGPC).

Article 9 of the RGPC goes further, establishing that:

Article 9

Training and communication

1 - Covered entities shall ensure the implementation of internal training programmes for all their managers and employees so that they are aware of and understand the implemented policies and procedures for the prevention of corruption and related offences.

2 - The content and frequency of training of managers and employees shall take into account the different exposure of managers and employees to identified risks.

3 - The hours of the training provided for in paragraph 1 count as hours of continuous training that the employer must ensure to the employee.

4 - The covered entities shall endeavour to make the policies and procedures referred to in paragraph 1 known to the entities with which they have a relationship.

And the MENAC itself has as one of its duties to *Develop, encourage or sponsor, by itself or in collaboration with other entities, studies, surveys, publications, training and other similar initiatives* (Article 2(3)(q) of Decree-Law n. 109-E/2021, of December 9).

As to the Criminal Police personnel, particularly the UNCC investigators, they take part of numerous training courses provided by external entities either Portuguese (Central Bank, Supervisor Authorities, etc.) or European (EUROPOL; CEPOL; European Law Enforcement

Authorities) and International (INTERPOL; USA Authorities), courses which are fully recommended and with great attendance.

Also UNCC investigators take part in conferences, workshops and working groups such as EUROPOL/EMPACT Groups; OLAF Groups. UNCC investigators participate as well in working meetings under EUROPOL supervision.

It should also be mentioned that training and capacity building is provided by Portugal and Portuguese organizations, namely for justice and law enforcement professionals from other countries in these areas.

For example, through the Institute of Criminal Police and Criminal Sciences (*Instituto de Polícia Judiciária e Ciências Criminais* – IPJCC), which is a training institution with a mission to train criminal investigation staff, that also cooperates with other study and research bodies, nationally and internationally, and participates in organizations, networks and other structures of academic and professional exchange, inside and outside the European Union, there is an important activity in the field of cooperation, with the preparation and delivery of courses and other training actions and programs to national and foreign judicial and police entities, namely within the scope of Portuguese-speaking and Ibero-American countries. Please check, in the references to the next paragraph of the declaration, an example of an important program that has taken place.

As to taking advantage of the training opportunities provided by the United Nations Office on Drugs and Crime, an example of these will be the presence of one of the Portuguese experts appointed for the second cycle of the IRM of UNCAC in 5/6 September in Viena for the training that will take place as regards such matters.

As to resources, please check some of references already above made, namely the data provided as regards para 3. of the declaration.

20. *Urges* States parties to collect and exchange best practices in preventing and fighting corruption and lessons learned concerning the use, availability and impact of data and digital tools, where feasible and taking into consideration the different circumstances of respective countries, to inform crisis response and recovery measures and help build, implement and maintain resilient emergency response systems;

Besides other initiatives, and there are several, a project has been operating in the last few years to support the consolidation of the rule of law in Portuguese speaking African countries (PALOP) and Timor-Leste.

The PACED is such project, where the European Union and Camões, I.P. seeked to contribute to the affirmation and consolidation of the rule of law in the PALOP (Angola, Cape Verde, Guinea-Bissau, Mozambique, São Tomé and Príncipe) and in Timor-Leste, improving its capacity to prevent and fight effectively against corruption, money laundering and organized crime, especially trafficking of drugs.

The project aimed at strengthening PALOP and Timor-Leste regional cooperation by improving the legal environment and administrative organization and strengthening institutional capabilities. In order to achieve those results, PACED has worked to raise awareness among policy-makers to support legislative harmonization, to train the management and technical staff of national entities, to foster the creation of knowledge and collaboration

networks and also to develop a training and cooperation digital platform common to PALOP and Timor-Leste

PACED cooperated closely with the relevant national institutions in the legislative, executive and judicial sectors, namely the Ministries of Justice, Ministries of Interior and/or Internal Administration, Courts, Prosecutor General's Offices, Public Prosecutors, Criminal Investigation Polices, Anti-Corruption Agencies, Judicial Training Schools, Central Banks and Financial Information Units (FIUs).

PACED, namely with the support of the Portuguese Center for Judicial Studies (CEJ) and the IPJCC, has trained more than 1220 managers and technicians from PALOP and Timor-Leste, including 44 trainers prepared to replicate training in their countries; carried out 12 forums for reflection, sharing the creation of collaborative networks between judges, prosecutors, criminal investigation police and financial information units; and held several conferences with more than 6420 participants.

By promoting knowledge and reflection in key areas such as Confiscation, Asset Recovery and Witness Protection, the project is deemed to have effectively contributed to improve the human and institutional capacities of PALOP and Timor-Leste.

For a short video presentation in English regarding said deliverables, please click [here](#). For access to publications, including draft legislation, please click [here](#).

21. *Recalls* article 43 of the Convention against Corruption, in which States parties are mandated to cooperate in criminal matters and, where appropriate and consistent with their domestic legal systems, consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption, also recalls article 46 of the Convention, in which States parties are mandated to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention, through central authorities, and urges States parties to assist one another, including through joint or parallel investigations and bilateral sharing of capacity and expertise, where appropriate, through INTERPOL, including during times of emergencies and crisis response and recovery;

The Public Prosecution Service has a specific department dealing with, inter alia, mutual legal assistance and international cooperation.

The Department of Judicial Cooperation and International Relations (DCJRI) was established under the terms of the new Statute of the Public Prosecution Service (EMP), approved by Law n. 68/2019, of August 27, entering into force on January 2020.

It works under the Prosecutor General's Office (PGR) and, under the terms of Article 54(1) of the EMP, it is responsible for ensuring international judicial cooperation and supporting the Public Prosecutor's Office in international relations.

DCJRI is responsible for carrying out the functions of the central authority in the field of international judicial cooperation in criminal matters which, in accordance with Article 21(1) of Law n. 144/99, of August 31, are conferred upon the Prosecutor General's Office. In accordance with Article 54(2) of the EMP, it is incumbent on the aforesaid Department to, inter alia, (i) lay the groundwork, at administrative level, for such cooperation cases handled; (ii) perform the duties of National Correspondent for EUROJUST and of contact point for the European Judicial Network in criminal matters, as well as for other judicial cooperation

networks; (iii) assist Public Prosecutors with the preparation and execution of international judicial cooperation requests; (iv) give impetus to and coordinate the Public Prosecutors' national network for international judicial cooperation; and (v) collect and process information on the implementation of international and EU legal instruments in this field.

In the scope of international relations, it is incumbent on the DJCIR to provide support to the activity of the Prosecutor General's Office in matters of international representation, to monitor the implementation of international agreements and protocols, in particular, with Public Prosecution Services of other countries and to ensure participation in international meetings by providing support and assistance to the experts appointed to participate therein (Article 54(3) of the EMP).

The Department also assists in legal matters, collects, processes and disseminates legal information and carries out studies, especially in the field of EU, foreign, international and human rights law. It has a translation service which affords support to the activity of the Public Prosecution Service, in particular in the context of cases where international judicial cooperation in criminal matters is sought and in the context of the representation of the Portuguese State before the European Court of Human Rights. Furthermore, it provides information not only on Portuguese law applicable to a particular criminal case, when requested by a foreign judicial authority, but also on foreign law, when requested by a Portuguese judicial authority.

We've requested additional inputs from other entities and we will forward those inputs as soon as received and processed.

2. Challenges encountered

Please describe any challenges your country has encountered in implementing operative paragraphs 1 to 21 of resolution 9/1 regarding strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery. *Please state the relevant operative paragraphs in your answer.*

The implementation of measures towards strengthening international cooperation in the prevention of and fight against corruption, whether or not during times of emergencies and crisis response and recovery, is always challenging and, by definition, not only dependent on national efforts.

Brevitatis causa we will only point out now some of the "challenges" that we may identify in the framework of the efforts that countries in general may take:

- Complexity of corruption cases: investigating and prosecuting complex corruption cases involving high-ranking officials or organized criminal networks can be challenging. These cases often require extensive resources, expertise, and coordination among various agencies.
- Resource constraints: adequate funding, staffing, and technical resources are essential for effective implementation. Limited resources could affect the capacity to investigate and prosecute corruption cases comprehensively.
- Judicial independence: ensuring the independence and effectiveness of the judiciary in handling corruption cases is essential for maintaining public trust and ensuring fair trials.

- International cooperation: challenges related to extradition, mutual legal assistance, or asset recovery, can arise when dealing with transnational corruption cases that involve multiple jurisdictions.
- Coordination and cooperation: ensuring effective coordination and cooperation among various government agencies, law enforcement bodies, and other stakeholders is crucial for successful implementation.
- Whistleblower protection: despite efforts to protect whistleblowers, some individuals may still be reluctant to come forward due to fear of retaliation or lack of trust in the reporting mechanisms.
- Corporate liability: ensuring that companies are held accountable for corrupt practices can be challenging, especially when dealing with complex corporate structures.
- Public awareness and education: increasing public awareness about corruption, its consequences and reporting mechanisms is essential for encouraging active citizen engagement in the fight against corruption.
- Cultural and societal factors: addressing deeply entrenched cultural attitudes and societal norms that may tolerate certain forms of corruption can be a long-term challenge.
- Effective implementation of preventive measures: implementing preventive measures, such as enhancing transparency in public procurement and public administration, can require significant changes to existing systems and practices.
- Enforcement of sanctions: ensuring that appropriate sanctions are imposed on individuals and entities found guilty of corruption is crucial for deterring future corrupt behaviour.
- Statistics: finally, we would like to stress the importance that the Portuguese authorities attach to evidence-based action, action being taken on solid grounds, for which data collection and statistics are crucial. This may be a challenge for many, something which will also be analysed in the framework of the meeting that will take place under the framework of the UNODC in August 31 and September 1 and that we look forward to work on.

**FOLLOWING INFORMATION PREVIOUSLY PROVIDED BY
PORTUGAL AS REGARDS**

**Annex 2 [Note verbale reference: CU 2023/225/DTA/CEB/CSS]
“Progress made and challenges encountered in implementing resolution
9/1”**

THE FOLLOWING IS TO BE ADDED

In general, some of the initiatives carried out in the sports and youth sector, both from a legislative and a material perspective, do correspond to the purposes of the Sharm el-Sheik declaration, namely as regards its paragraph 16.

An example of this is a draft bill, in the process of approval by the Assembly of the Republic, which aims to implement the legal regime of integrity in sport and the fight against unsportsmanlike behavior, establishing preventive measures and involving civil society, namely sports federations and sports clubs, through education, training and awareness of the respective sports agents.

In the field of youth it is to be highlighted the Euroschool Contest (*Concurso Euroscola*), created by the European Parliament and organized, in Portugal, by the Portuguese Institute of Sport and Youth and by the Office of the European Parliament in Portugal, with the participation of the Assembly of the Republic, both the Legislative Assemblies of Azores and Madeira and both the Regional Youth Directorates of Azores and Madeira. Its theme in 2023 was “*Preventing Corruption: A cause for all!*”.

Additionally, and also linked to other points of the declaration, such as points 9 and 10, it is also to be highlighted that the Council of Ministers has approved, last June, the criminalization of sports coercion, within the framework of the legal regime of the integrity of sport. In this context, it is proposed the creation of a platform aiming to monitor the manipulation of competitions and the National Council for the Integrity of Sport. This council is to be led by the president of the Portuguese Institute of Sport and Youth (IPDJ) and will include representatives of the judiciary (Public Prosecution Service), the Criminal Police, security forces (GNR and PSP), tax authorities and federations and class associations. The platform is to be coordinated by the director of the National Anti-Corruption Unit (UNCC) of the Criminal Police (PJ), and is to include experts appointed by various bodies, such as the Public Prosecution Service, the PJ itself, the Olympic Committee of Portugal (COP), the Portuguese Federation of Football (FPF), among others.

Additionally, and also linked to other points of the declaration, such as points 9 and 10, it is also to be highlighted the active participation of the sports and youth sector, through the IPDJ, within the scope of *T-PREG - Training on Protected Reporting for Professional and Grassroot Sport*, a European project aiming to fight corruption in sport, funded by the Erasmus+ program of the European Commission, whose objective was to significantly strengthen the effectiveness of public policies, in cooperation with private entities, against match-fixing, through a focus on training , information sharing and adequate and adapted implementation of different “protected” reporting systems, relevant to breaking the vow of silence.