

Annex [Note verbale reference: CU 2022/264(A)/DTA/CEB/CSS]

1. The secretariat has prepared the following questionnaire as a guide that States parties may wish to use to provide relevant information in line with paragraphs 22 to 24 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”, including the provision of information on good practices and challenges concerning international cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery.
2. States parties may wish to take a broad view of emergencies and crisis response and recovery when responding to this questionnaire. Emergencies and crisis response and recovery may include humanitarian emergencies, natural disasters, conflict and post-conflict contexts, as well as health emergencies such as the COVID-19 pandemic, among others.
3. Collecting the information for this questionnaire may require cooperation by several different agencies/authorities. States parties may wish to send the questionnaire to agencies/authorities particularly involved in response and recovery efforts during times of emergencies, depending on their national system, as it calls for information on preventive anti-corruption measures, law enforcement and international cooperation. Such agencies/authorities may include:
 - Anti-corruption bodies, supreme audit institutions and other oversight bodies, and relevant entities with mandates to prevent and counter corruption;
 - National procurement agencies;
 - National law enforcement authorities;
 - National competent authorities responsible for international cooperation in criminal matters;
 - Development agencies.

Questionnaire

Contact Information

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

Country: *Portugal*

Please describe (cite and summarize) good practices your country has taken (or is planning to take, together with the related appropriate time frame) concerning international cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery.

States parties are invited to provide information on experiences, good practices and challenges concerning the following:

I. Understanding corruption risks and typologies during times of emergencies and crisis response and recovery, including transnational elements

1. Has your government assessed corruption risks during emergencies or crisis response and recovery, either through formal risk assessments or other informal means? Please provide details, such as key findings and mitigation plans. Please describe whether any other (existing) risk assessment has been carried out that is relevant to the emergency response (such as sectoral risk assessments in procurement, healthcare, infrastructure, etc) and provide details.

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 during COVID-19 pandemic, which has also included risk assessment during the emergency/crisis period, 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.

In September 2020, the Parliament adopted a Resolution on prevention of risks of corruption and related offences in the context of COVID-19 including risks of conflicts of interest, requesting to ensure transparency and integrity in specific risk areas such as public procurement, health and infrastructure.

Also the Court of Auditors has developed several audit actions addressing the increased risks in the use of public resources in the context of the COVID-19 pandemic and emergency response.

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.

A step in its implementation has been given on 29 April 2021, where the Government approved a set of proposals to amend existing legal provisions, notably in the criminal law area. The Decree-Law n. 109-E/2021, of December 9, 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 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 the 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 a code of conduct, public entities are now required to:

- a) Publish on their 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. Its decree-law entered into force on June 2022.

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 produced and published, in May 2020, a recommendation on preventive care for fraud and corruption risks to be adopted by public entities within the scope of exceptional measures to react to the COVID-19 pandemic.

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

2. Please list the main typologies of corruption (corruption risks) you have identified in your country's emergency or crisis responses and recovery. You may select from the list below, and add any additional risks not listed: [\[risks pointed out by the Public Prosecution Service \(PPS\) and the Council for the Prevention of Corruption \(CPC\)\]](#)

Public Procurement

- Bribery of procurement officials
- Excessive use of non-competitive bidding procedures, including by single or limited source tendering, with limited safeguards
- Improper application of emergency procurement procedures allowing for expedited delivery of goods and services
- Bid-rigging (e.g. use of inflated prices)

Misappropriation of Emergency Relief Funds

- Non-eligible beneficiaries circumventing rules and regulations, including through bribes, to obtain access to relief and support
- Diversion of donations away from intended beneficiaries
- Exploiting international financial assistance related to emergency relief or other types of support (such as donor funding or technical assistance)
- Embezzlement of profit gained from the sale and distribution of emergency supplies
- Manipulation and inflation of claims for economic relief
- Fraudulent billing for the provision of goods and services
- Diversion of donated equipment/supplies to the black market
- Companies hoarding/not discharging support received from the government

Conflicts of Interest

- Conflicts of interest between suppliers and authorities in procurement processes
- Political appointees or persons entrusted with prominent public functions involved in, or the beneficial owners of, companies bailed out by the government or companies involved in procurement processes
- Support packages distributed according to ethnicity and/or political affiliation

Misuse of Information

Use of social media to spread misinformation, undertake fraudulent activities such as phishing, cyber-criminal fraud

Inadequate Reporting/Protection Mechanisms

Inadequate reporting/protection mechanisms for whistle-blowers and witnesses

Restricted ability to report potential corrupt activities

Other Corruption Risks

Extensive use of government emergency powers and regulations, with insufficient controls, consultations and/or guidance

Provision of counterfeit good and supplies

Fraudulent or illicit production of goods, including research

Impeded anti-corruption enforcement actions during emergency and crisis responses due to corruption

Impeded provision of international cooperation (e.g. mutual legal assistance) due to the emergency or crisis due to corruption

Links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering

Please list any other typologies or risks:

[Impartiality and lack of integrity in the attribution of public aid and social benefits.](#)

3. Did any of the corruption risks (typologies) identified in question 2 entail an international element? For example, fraudulent or collusive procurement practices involving foreign or international bidders or suppliers, donors or international financial institutions; aspects of transnational bribery; diversion of resources, assets or persons across borders)? Please be as specific as possible and provide details and examples. If the information is sensitive, please describe the typology or give anonymized examples.

[In the cases identified by the PPS \(Improper application of emergency procurement procedures allowing for expedited delivery of goods and services\), no international connection relevant to this context of corruption in times of emergency or crisis was detected. The case identified was this:](#)

https://dciap.ministeriopublico.pt/sites/default/files/documentos/pdf/ficha_acusacao_nuipc_800-19-8telsb.pdf

[The Criminal Police has pointed out that no international element was identified.](#)

4. Please describe whether the corruption risks identified in question 2 appear to be longer-term trends. Have they required new or strengthened anti-corruption actions as a result? If so, please elaborate.

All identified corruption risks represent threats that must be prevented in the long term, not only during periods of risk.

5. Please describe any measures taken to support the private sector in identifying and mitigating corruption risks. This may include particular risks associated with supply chains and procurement processes.

At the legislative level, Law 93/2021, of December 20, was approved, and has defined channels for internal and external denunciations, with adequate protection for whistleblowers, which may allow for an adequate detection of corruption.

Entities (public and private) with more than 50 workers are now required to have whistleblowing channels.

Awareness raising and training activities have been and are being undertaken to publicize its existence, to raise awareness and to ensure an effective compliance of such measures: several entities in academia, lawyers, public sector, among others, are multiplying events focused on this matter.

Several entities such as the PPS and the Criminal Police and other entities have in place anonymous channels to give confidentiality to whistleblowers.

The Council for the Prevention of Corruption recommended the 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 use of resources and their allocation to the intended purposes.

6. Please provide an overview of efforts taken to understand the particular impact corruption in times of emergencies and crisis response and recovery may have on women and marginalized and vulnerable groups. If possible, please include reference to any research, analyses or assessments undertaken in this regard.

7. Is there a greater need for international cooperation in responding to corruption risks in the context of emergency and crisis responses than in other situations? Why, or why not?

The PPS has expressed that what eventually changes during periods of emergency or crisis will be the motivation of the offenders or the opportunities they find during these periods. It is not possible to say with any certainty that there is more or less need for international cooperation in this context. As corruption is a global matter, international cooperation will always be important and necessary, namely in the context of emergency and crisis responses.

II. Addressing corruption during times of emergencies and crisis response and recovery at the domestic level

1. Please describe the anti-corruption controls, safeguards and/or measures put in place to address the corruption risks identified above in question 2. Please highlight any special measures that may have been introduced in response to a particular emergency, and whether those measures may be useful for future crises. These may include anti-corruption task forces, the use of real-time audits, transparency portals and specific reporting channels for reporting corruption in the context of emergencies, including in the areas below.

Of note in this regard is the already mentioned National Anti-Corruption Strategy 2020-2024, which enshrines several mechanisms and strategies to improve the prevention and fight against corruption (<https://justica.gov.pt/Estrategia-Nacional-de-Combate-a-Corruptcao-ENCC>), as well as the Public Prosecutor's Office's anti-corruption action program (https://www.ministeriopublico.pt/sites/default/files/documentos/pdf/programa_de_acao.pdf)

Several measures and actions described in other answers on this questionnaire could be pointed out, namely as regards:

- Strengthening international cooperation
- Specific reporting channels to report corruption occurrences
- Improving transparency

During the COVID-19 pandemic the Government set up a “*TASK FORCE for the coordination of COVID-19 vaccination*”, at the same time the PPS delegated in the Criminal Police the investigation of cases linked to all irregularities concerning COVID-19 crimes related.

Following the crime investigative 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 can be performed 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.

Public procurement and the management of public finances

2. Please describe measures taken to develop and/or further strengthen accountability and transparency in public procurement during times of emergencies and crisis response and recovery. These may include:
 - The development of specific guidelines, circulars or memorandums for procurement in emergency contexts;
 - The development of new codes of conduct or guidelines for procurement personnel during times of emergencies and crisis response and recovery;
 - Requirements to disclose potential and real conflicts of interest;
 - Reforms of legal, regulatory and policy frameworks governing public procurement;
 - Requirements to collect and publish the beneficial ownership information of entities contracting with the government;
 - Requirements to cross-check information available on the ultimate beneficial owners of companies involved in procurement processes;

- Publication of information on the whole procurement cycle, from tender to delivery (including type and amount of contract, reference information for the awarded company, beneficial ownership information, validation of delivery, etc.);
- Specific labels or “tags” for procurement contracts to facilitate the monitoring of contracts associated with a particular emergency or crisis;
- Measures to ensure procurement in emergency contexts have appropriate oversight and sanctions, including the potential disqualification of companies;
- Measures to help ensure that compliance programmes and safeguards are in place for bidders;
- The use of online portals that afford opportunities to track procurement contracts through the whole procurement cycle;
- Feedback mechanisms for monitoring by groups outside the public sector, such as civil society organizations.

In this regard it is important to note the creation of a Think Tank to develop strategies to prevent and combat fraud with European funds, stimulated by the **Attorney General's Office** and with stakeholders from various sectors of society: <https://www.ministeriopublico.pt/pagina/think-tank-riscos-de-fraude-recursos-financeiros-uniao-europeia>

New legislation was approved to speed up COVID-19 public procurement skipping the prior control of the **Court of Auditors** (the Tribunal de Contas (TdC)). To keep track of the procurement process TdC has been using extensively the portal BASE (www.base.gov.pt) to gather data to audit actions and prepare reports concerning COVID-19 procurement contracts.

The Court of Auditors carried out audit actions on public procurement within the scope of measures to respond to the COVID-19 pandemic.

During the pandemic many audit actions were done remotely and some processes were fully switched to online. The prior audit to procurement contracts and other acts resulting in public expenditure has moved to an online portal which is more convenient and efficient, promoting the efficacy.

It is important to highlight that Law n. 30/2021, of May 21, 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 “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 “Portal Base”; in the case of contracts intended for the execution of projects financed or co-financed by European funds, 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.

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, or, (iii) one of the bidding procedures with international publicity, but, in any of these cases, deadlines are reduced using the exemption of the duty to justify the urgency:

- 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).

Access to information (Access to RCBE information)

- Access to beneficial ownership information of legal persons; and,
- Access to basic information and beneficial ownership information of (express) trusts and other similar legal arrangements.

In Portugal, access to beneficial ownership information is provided for in Law No. 89/2017, of 21 August, which Approves the Legal Framework of the Central Beneficiary Registry, transposes Chapter III of Directive (EU) 2015/849, of the European Parliament and of the Council, of 20 May 2015. This regime allows access to judicial and police authorities

Pursuant to Ministerial Order 200/2019, of June 28, access to information on the beneficial owner is direct, through digital authentication on the platform, at <https://rcbe.justica.gov.pt/>.

Authentication in the RCBE is carried out through secure authentication services that allow natural persons to confirm their identity in the RCBE service available on the Justice area's website, including foreign citizens that must have a Portuguese Digital Mobil Key (available in <https://www.autenticacao.gov.pt/web/guest/a-chave-movel-digital>).

The Digital Mobile Key (CMD) is a mean of authentication and digital signature certified by the Portuguese State. Allows the user to access various public or private portals - including RCBE - and sign digital documents, with a single login. It associates a mobile phone number with the civil identification number for a Portuguese citizen, and the passport number or title/residence card for a foreign citizen.

The RCBE legal regime previews that access to information is made in three different levels. In each level the scope of available information increases, that is to say, there is a public level of access (limited information about the entity and its beneficial owners, including the interest held), a level of access for obliged entities (allowing them to access all the current information about the entity, beneficial owners and the declarant name and quality in which operates) and finally a level of access for competent authorities (all information including the non-current information, exemptions and non-compliance communications).

The complete list of competent authorities can be found in article 21 of Law 89/2017 of August 21 and article 2 (1), e) and f), of Law 83/2017, of August 18, being:

- the judicial authorities;
- the Financial Investigation Unit (FIU);
- the Tax and Customs Authority (AT) and
- the competent sectoral authorities:

- Insurance and Pension Funds Supervisory Authority
- Bank of Portugal
- Securities Market Commission (CMVM);
- General Inspection of Finance
- General Inspection of the Ministry of Labour, Solidarity and Social Security
- Tourism of Portugal Gaming Regulation and Inspection Service, I.P
- Institute of Public Markets, Real Estate and Construction, I. P. (IMPIC, I. P.), and
- Food and Economic Security Authority (ASAE);

Competent authorities have direct and immediate access to all the information in RCBE, including audit data, within the scope of their respective legal attributions for preventing and combating money laundering and the financing of terrorism.

Summarizing, RJRCBE provides for three different levels of access to information: public access, obliged entities' access and competent authorities' access - articles 19 to 21 of Law 89/2017.

This means that RJRCBE grants full and timely access, to the:

- General public (minimum information available) – whatever the purpose (article 19);
- Obligated entities (current information about the entity, its beneficial owners and the declarant name and quality in which operates) and Obligated entities can check RCBE, for the purpose of preventing money laundering and the financing of terrorism (article 20);
- UIF and / or competent authorities, to the full scope of information contained in RCBE – for the purpose of preventing money laundering and the financing of terrorism (article 21).

The Council for the Prevention of Corruption produced a specific recommendation on preventive care for fraud and corruption risks to be adopted by public entities within the scope of exceptional measures to react to the COVID-19 pandemic, as mentioned before.

And following said recommendation 2/2020 of the CPC (please check its text above), for example the National Republican Guard (GNR) has put in place the following measures:

- Within the scope of Decree-Law 10-A/2020, of 13 March, the Logistics Resources Directorate (DRL) of the GNR Internal Resources Administration Command (CARI) approved the Circular Note no. 3/DRL/2020, of 17 March, which aimed to disseminate the Instructions on the procedures to be adopted within the scope of Public Procurement;

- In addition, under the terms of paragraph 4 of Article 2 of Decree-Law no. 10-A/2020, of 13 March, it is determined that the awards made under the exceptional regime must be communicated by the contracting entities to the members of the Government responsible for the area of finance and the respective sectorial area and published on the public contracts' portal, guaranteeing compliance with the principles of publicity and transparency of contracting. To this end, the Ministry of Finance, through eSPap, has made available a platform to register the communication foreseen under the terms of the legal text referred to;
- In this sense, as a measure of transparency and support in identifying cases where Decree-Law 10-A/2020 of 13 March is applicable, the DRL makes the required registration on a monthly basis, after communication from the Units where the procurement procedures in this area are carried out.

But already since 2009 the CPC, through Recommendation No. 1/2009, of 1st July, determined that "the highest governing bodies of entities managing public money, public assets or public heritage, whatever their nature, shall (...) draw up the plans for managing the risk of corruption and related infractions (...)".

The same recommendation also stipulates that the plan for Prevention of Risks of Corruption and Related Infractions (PPRCIC) should include:

- Identification of risks of corruption and related infractions in each area
- Identification of the measures adopted to prevent risks
- Identification of those responsible for managing the risk management plan
- Drawing up an annual execution report; and that the PPRCIC and the annual execution reports should be submitted to the CPC, as well as to the oversight, supervisory and control bodies. The plans have been updated regularly.

In the already mentioned Decree-Law 109-E/2021, articles 5(1), 6 and 7 of the annex state that the entities covered by the Law shall adopt and implement a regulatory compliance program that includes, at least, a plan for the prevention of risks of corruption and related offences (PPC), and a code of conduct.

The plan for the prevention of risks of corruption must be reviewed every 3 years or whenever a change occurs in the attributions or organic or corporate structure of the entity that justifies the review of the elements referred to in paragraphs 1 or 2 – Article 6 (5) of the annex to Decree-Law 109-E/2021. The execution of the plan is subject to control through the elaboration of reports as referred in article 6 (4) of the same disposition.

According to article 7 (4) of the annex to Decree-Law 109-E/2021 the code of conduct must also be reviewed every 3 years or whenever there is a change in the attributions or organic or corporate structure of the entity that justifies the review of the elements referred to in paragraph 1 of the same article.

Nevertheless, article 35 of the same legislation states that the provisions of the present regime are without prejudice to the obligations contained in other legal or regulatory provisions for the adoption and implementation of regulatory compliance programs, elements thereof, or internal control systems, in terms more demanding than those provided for in the said text; and shall not apply when there is a provision of European Union law or international law that provides otherwise and is applicable to a public entity.

More than 1.300 entities have already publicized their plans for the prevention of risks of corruption and related offences (PPR), both from central, regional administration, other public

and private entities. The plans were identified as a very good instrument for the management and control of institutions, since they identify activities of risk of corruption and establish good practices to monitor those risks, as well as defining preventive measures to minimize the risks identified.

3. Please highlight 2-3 good practices and challenges faced when developing, implementing and/or monitoring the measures you have identified in question 2.

Please check the answer to the previous question.

4. Were internal audit systems, real-time audit mechanisms and/or other mechanisms used to help monitor and oversee the management of public resources during times of emergencies and crisis response and recovery? If so, please describe. Please provide any information on good practices and/or lessons learned.

The Court of Auditors developed Audit Actions in order to identify inadequate practices or corruption or fraud risks in the use of public resources in the management of emergencies (COVID-19) <https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/relatorios-oac/Documents/2020/relatorio-oac-2020-01.pdf>

These Audit Actions by the Court of Auditors made it possible to present recommendations such as the following:

- The predominant concern in the response to emergency situations is the rapid response to the crisis and the needs of the populations. However, the speed of this response often implies the weakening of control and accountability mechanisms, implying increased risks of waste, mismanagement and corruption, which exacerbate the already great pressure on public resources and undermine the effectiveness of action. It is therefore important to ensure a balance between the need to respond quickly to the crisis and the safeguarding of the principles of transparency, integrity and responsibility inherent to the use of public resources.
- Risks related to crisis management and emergency measures are identified, with emergency aid and the granting of public aid, with the weakening of controls and compliance, covering public procurement and information systems, and with financial transparency, with regard to the measurement of costs and impacts of emergency measures and accountability.
- The Court of Auditors warns all entities that manage public money, so that they are attentive to the identified risks and to consider the application of measures that respond to them, namely with regard to the clarity and consistency of legislation and regulations, the issuance of guidelines for the harmonized implementation of measures, the establishment of monitoring mechanisms, the definition and coordination of responsibilities and the prevention of duplication of support.
- It also emphasizes the importance of properly parameterizing the information systems for the implementation of support, of strengthening computer security systems, of valuing and safeguarding the integrity of all agents involved in emergency response

actions and of ensuring transparency and publicity of processes and actions, namely when support and public contracts or donations are at stake.

- Draws attention to the need to document and justify all processes and to maintain basic controls, ensuring segregation of functions, crosschecking, delivery confirmation, stock control and physical checks and substituting prior controls dispensed by checks during or after the processes.
- Reporting, accountability and accountability for the resources used implies, by the entire universe of public administration, a disaggregated record of all actions to implement COVID-19 measures, for the purposes of measurement and analysis, within a framework that allows the assessment of its impact on public finances and its sustainability.

Since the beginning of the pandemic the Court of Auditors is monitoring the public procurement related to COVID-19 contracts on a regular basis:

- <https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/relatorios-oac/Documents/2020/relatorio-oac-2020-03.pdf>
- <https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/relatorios-oac/Documents/2020/relatorio-oac-2020-06.pdf>
- <https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/relatorios-oac/Documents/2021/relatorio-oac004-2021.pdf>
- <https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/relatorios-oac/Documents/2022/rel-oac003-2022-2s.pdf>

The main recommendations were to the public entities to send contracts to the Court of Auditors not subject to prior control in consequence of Covid Law (Law n. 1-A/2020), and make publicity of all public contracts in BASE portal (<https://www.base.gov.pt/>) with more detailed data.

All public procurement contracts are publically advertised in a governmental site of public procurements both national and international.

Please check also the response to question II.2.

5. Please describe what measures or initiatives could be used/have been used to help ensure transparency in the allocation, use, distribution and management of the national budget during times of emergencies and crisis response and recovery. These may include dedicated budget lines, measures to present budget items, public hearings or rendering such information accessible to the public.

The Court of Auditors made available many reports from audit actions since the early beginning of the pandemic addressing different areas related to COVID, like procurement, healthcare response, simplified lay off regime, impact in the local government, all of them are available in the website www.tcontas.pt and were publicized extensively across different social media platforms.

National budget is publically available to all citizens through its electronic publication. National budget before approval by the Parliament and the President of the Republic is publically discussed, with intense media coverage, and information available is extensive, namely in the website of Parliament.

Please check also the response to question II.2.

Inter-institutional coordination at the national level

6. Please outline measures which could be taken or have been taken to enhance coordination among institutions at the national level involved in response and recovery efforts, such as Memorandums of Understanding, data sharing agreements, standard operating procedures or other formal and informal mechanisms that enable institutions to share information and respond in a coordinated manner to corruption risks in the context of emergencies.

Please check the response to II. 1.

Transparency measures, including access to information

7. Does the government have specific measures in place to identify individuals who may be involved in, or who help facilitate, corrupt acts? Such measures may include requirements to disclose beneficial ownership information and requirements to make such information accessible to law enforcement or other authorities. For example, information contained in beneficial ownership registries or information contained in open tender portals may be used by supreme audit institutions and other oversight bodies to audit, and inform, response and recovery measures.

Law enforcement, PPS and judicial authorities have access to disclosure of beneficial ownership during the investigation of all criminal cases, corruption included. Please check II.2 above, regarding access to RCBE information.

As for the Council for the Prevention of Corruption, it has recommended that all public and non-public bodies must ensure the necessary control to guarantee the absence of conflicts of interest and to promote transparency and integrity in public procurement procedures, especially in the areas of health and infrastructure, and also in the attribution of public aid and social benefits, with the possible use of digital information platforms or transparency portals.

8. How does the government ensure that emergency measures are limited in duration and scope? Please describe any measures taken to mitigate the use of broad emergency executive authority, such as legislative oversight, regular reports to committees, and review and monitoring mechanisms.

The President of the Republic has the power to declare the state of emergency, published as decree after consulting the Government and the authorization of the Parliament. The state of emergency is regulated by specific legislation, has a specific scope and a limited duration, which is renewable if necessary.

The execution of the declaration of emergency is a Government task, which is performed through specific measures and keeping informed both the President of the Republic and the Parliament about the development and effectiveness of those measures.

9. Have your authorities applied or strengthened whistle-blower protection or reporting systems, including those that afford opportunities for confidential and/or anonymous reports, and how to address such reports?

Portugal recently adopted a regulatory framework regarding the existence of whistleblower channels in organizations and a whistleblower protection regime (Law 93/2021, of December 20), along with another legal text, Decree-Law n. 109-E/ 2021, of December 9, which creates the National Anticorruption Mechanism, also already mentioned. Please check the answer to question I.5.

Use of information and communication technology tools

10. Has the government used information and communication technology tools to build, implement and/or maintain resilient emergency response systems? If yes, please explain what types of tools have been used and include relevant links, if possible.

Portugal is a country where information and communication technology tools are used extensively. Concerning COVID 19 response, the government implemented a non-need of displacement to renew most important identification cards, such as the citizen card and the drivers license. Those renewals, if no new data need to be added, now take place through internet channels in governmental public websites.

11. If possible, please describe the benefits and challenges of using the tools identified in 10?

Benefits such as celerity on the issuing; no need for displacement; no time lost.

12. Has the government used information and communication technology to help manage and oversee public procurement during times of emergencies? If yes, please explain the particular tool, its benefits and challenges and include relevant links, if possible.

Please check the answers to II.2, II.4 and II.5.

13. Has the government used information and communication technology to promote transparency in the management of public finances during times of emergencies and crisis response and recovery? If yes, please explain the particular tool, its benefits and challenges and include relevant links, if possible.

Please check the answers to II.2, II.4 and II.5.

Engagement of actors outside the public sector

14. If possible, please provide an overview of how the government has partnered with, or encouraged the participation of, actors outside the public sector to help monitor and support oversight of government actions during times of emergencies and crisis response and recovery. Please also include any future initiatives planned.

Since the measures taken during emergency response were publically released and explained, civil society was enabled to monitor the measures adopted.

15. Are there any policies or initiatives that particularly facilitated the engagement of actors outside the public sector in these contexts? If yes, please describe.

Yes. For example, civil society, through public consultation, was asked to contribute to the National Anti-Corruption Strategy for 2020-2024, namely through professional councils, Transparency & Integrity Association and the Economic & Fraud Management Observatory.

III. Responding to corruption during times of emergencies and crisis response and recovery, including through international cooperation

1. If possible, please provide examples of detected or suspected instances of domestic or transnational corruption and how these were identified in your country. If the information is sensitive, please describe the typology or give anonymized examples.

It is not possible to provide an assertive answer to this question, since at the national level there are several corruption cases under investigation.

Nevertheless, it is possible to identify a nationwide investigation that led to the indictment of defendants related to the public procurement of materials intended for use during times of emergency (forest fires). Here is the link to the announcement of the case: https://dciap.ministeriopublico.pt/sites/default/files/documentos/pdf/ficha_acusacao_nuipc_800-19-8telsb.pdf

2. How did the government respond? Has your country taken any steps to identify, investigate or prosecute corruption in emergency and crisis responses and recovery? Examples may include

an interagency cooperation taskforce among anti-corruption authorities, analysis of suspicious transaction or financial disclosure reports, greater cooperation across international borders, strengthening investigation and prosecution capacity, etc.

Please check the answers to II.1.

3. In its response, did your authorities find it necessary to seek or request international cooperation (e.g. mutual legal assistance or direct law enforcement cooperation)? Please provide details and examples. How effective do you believe the cooperation was, and what were the main challenges? Was the assistance provided, were there any obstacles?

The need to resort to international cooperation mechanisms depends on the particularities of the case under investigation, and not on whether the crime of corruption was committed during a period of emergency or crisis.

4. Has your government received any requests for international cooperation from other countries seeking to identify, investigate or prosecute corruption during times of emergencies and crisis response and recovery? Please provide details and examples. How effective do you believe your authorities cooperated, and what were the main challenges? Was the assistance provided, were there any obstacles?

There is no specific statistical data regarding the issue raised. However, it may be advanced that all requests for judicial cooperation that are made are answered by the Portuguese judicial authorities.

As an example, some international requests, through EUROPOL channels, were made to identify companies that were suspect of embezzlement, once they did not deliver goods acquired during emergency period.

IV. Mechanisms to respond to corruption during times of emergencies and crisis response and recovery through international cooperation

1. Have your authorities had any practical experience in sharing information, including spontaneously, with authorities in other countries concerning suspected corruption in the context of emergency or crisis responses?

Although spontaneous exchange of information is always possible, there are no statistics that allows to give an assertive answer in this regard. The sharing of information, including spontaneously, is a usual and normal practice, therefore the same goes for emergency periods.

2. Has your government used electronic communication channels or networks, including those of INTERPOL or the GlobE Network, that enable the prompt exchange of information for the

investigation and prosecution of corruption offences in the context of emergency and crisis responses?

International communication channels such as INTERPOL and EUROPOL dedicated channels, and also the use of liaison officers' network, are used regularly and frequently, whether or not during emergency periods.

3. Are you aware of any examples of joint or parallel investigations or the bilateral sharing of capacity and expertise on investigating and prosecuting corruption in this context?

No JIT or parallel investigation has been detected for the specific purpose of investigating corruption during periods of emergency or crisis. It is to be emphasized, however, that the use of these mechanisms is possible, whenever they are needed.

4. Have you taken additional measures to analyse asset declarations, financial disclosures and/or suspicious transaction reports during times of emergencies or crisis response and recovery?

The measures that exist in this regard are sufficient for corruption investigation, whether or not during emergency periods.

5. Have you experienced challenges in accessing adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons in other jurisdictions? In your view, what may be improved to enable effective, timely access to such information?

No difficulties were detected in accessing this information.

As regards the main challenges faced by competent authorities to access/receive beneficial ownership information held in a foreign country we should point out that whenever it is necessary to obtain information from abroad, such is requested to the foreign entities in charge of Asset Recovery, through the SIENA channel, the CARIN Network or another source known/located through the contact points. Difficulties arise when the information that is to be obtained has to be requested to States where there are no contact points, resulting in delays in the responses.

6. Have you experienced challenges in verifying assets beneficially owned by public officials abroad? In your view, what may be improved to enable effective, timely access to such information?

Yes. Obtaining beneficial ownership information has proven impossible in cases where entities are located in specific jurisdictions, or when certain non-cooperative offshore jurisdictions are involved, namely those on the EU list for these purposes.

7. Have there been any efforts to support anti-corruption practitioners and law enforcement authorities in your country, including human resources management and opportunities for

capacity-building and peer-learning on methods, tools and technologies for countering corruption in the context of emergency and crisis responses?

Some human resources were added. Also capacity building was provided through internet courses. OSINT tools were made available. Interpol week reports were disseminated.

8. In your view, are there any unique aspects of requesting or providing international cooperation in emergency and crises responses as opposed to regular cases?

There is no substantial difference to these effects.

9. Does your government have any experience in receiving or providing international financial assistance (such as donor funding or technical assistance) to address emergency situations? In your view, what are effective mechanisms to strengthen integrity and prevent corruption in the provision of emergency relief funds? What should be improved?

V. Effectiveness of international frameworks to respond to corruption during times of emergencies and crisis response and recovery, including through international cooperation

1. Are there any longer-term trends related to addressing corruption in emergency and crisis responses that require a new or improved anti-corruption approach in the future? Or that require greater international cooperation or new ways of working together? Please explain.

Such a question requires a more profound reflection.

2. Are there any measures or processes that you would consider good practices to facilitate international cooperation and rapid exchange of information in emergency and crisis situations? Examples could include measures to accept electronic copies of mutual legal assistance requests and prioritize requests concerning corruption during times of emergencies and crisis response and recovery. Has your country had any experience in this regard?

3. How should countries strengthen collaboration to address corruption risks arising in emergency and crisis situations, with respect to international cooperation? Please list up to three measures countries could apply that would strengthen international cooperation in this regard.

4. Have there been any efforts by your government to enhance cooperation with multilateral, international or regional bodies to address corruption and other forms of crime during times of emergencies and crisis response and recovery?

Yes. As an example, the Criminal Police has had the visit of EUROPOL Operational Director, last February, and the aim was to increase trust levels and operational cooperation between Europol and the Criminal Police. Trafficking of medical supplies and counterfeit/falsified vaccines are among the cases where specific action took place during the COVID pandemic.

VI. Data collection

1. Have your authorities collected data or statistics to track and analyse trends concerning international cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery. Are these publicly available?

Yes. All police requests through Europol or Interpol channels or liaison officers' network are analyzed and the data collected is processed and stored electronically into the Intelligence Criminal System. They are not publicly available, due to their confidential nature.

2. Have your authorities collected data or statistics to track and analyse trends and links between corruption and other forms of crime? Are these publicly available?

The Directorate-General for Justice Policy collects statistical data on the criminal phenomenon of corruption, from different perspectives and at different stages of the criminal proceedings. Data on the crime of corruption is collected at the following stages of the criminal proceedings:

- Crimes recorded by the police forces;
- Case flow in the Criminal Police;
- Criminal closed cases in first instance judicial courts, defendants and convicted persons;
- Inmates in prison premises.

This data is publicly available in the online consultation system of Justice statistics, also in Portuguese, through the following link: <https://estatisticas.justica.gov.pt/sites/siej/en-us/>

Within the scope of the analysis carried out on criminal closed cases in first instance judicial courts, by crimes of corruption, it is possible to analyze the type of crimes that were judged together with the crimes of corruption.

Please check also the answer to the previous question. All information collected, independently from its origin, is analyzed and correlated with other forms of crime.

Please outline actions required to ensure or improve the implementation of the commitments contained in paragraph 23 of resolution 9/1, as well as any challenges faced or technical assistance required.

Please describe (cite and summarize) measures/steps your country has taken, if any (or is planning to take, together with the related appropriate time frame) to explore and enhance knowledge of the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering, including during times of emergencies and crisis response.

States parties are invited to respond to the following questions:

I. Analyses and assessments to explore and enhance knowledge of the links between corruption and other forms of crime

1. Has your government undertaken any analyses or assessments to better understand the links between corruption and other forms of crime, including typologies of crime and how corruption may be used to facilitate and enable organized crime?

2. Has your government taken any measures to strengthen legal, regulatory and policy frameworks that recognize how corruption and other forms of crime may be linked and that call for coordinated anti-corruption action?

Please check the answer to question II.1. Concerning the investigation of corruption linked or not with other forms of crime, Portugal has a National Unit within the Criminal Police, with national jurisdiction, to deal with combat to corruption.

3. Does your country's national risk assessment or other policy framework to prevent and combat money-laundering recognize and address the risk of laundering of proceeds of corruption and other economic crime?

Yes. The ML/TF National Risk assessment of 2019, concluded by the end of said year and reviewing of the first exercise of its kind carried out in Portugal in 2015, recognized and analyzed the risks of laundering the proceeds of corruption and other financial and economic crimes, as predicate offences.

Accordingly, a financial investigation is always undertaken to identify money-laundering activities, when either corruption or any serious economic crime is under criminal investigation.

II. Specific mitigation measures to address corruption and other forms of crime during times of emergencies and crisis response and recovery

1. Have your country's authorities undertaken any investigations into unfair commercial practices, such as price-gouging and the manipulation of prices of essential goods and services, or bids, or abuse in the allocation, distribution, use and management of relief and recovery funds? Have your country's authorities undertaken any investigations into corruption during times of emergencies and crisis response and recovery, such as bribery of procurement or other public officials, embezzlement of profits, diversion of resources and conflicts of interest? Have any measures been applied to freeze and seize related proceeds of crime?

Please outline actions required to ensure or improve the implementation of the commitments contained in paragraph 22 of resolution 9/1, as well as any challenges faced or technical assistance required.