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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
WORKING GROUP ON BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

Portugal Phase 4: Two-Year Written Follow-up

Summary and Conclusions of the Working Group

8-11 October
Paris, France

This document was adopted by the Working Group on 10 October 2024. The Annex contains the two-year written follow-up report submitted by Portugal (initially circulated under the cote DAF/WGB(2024)32).

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Summary and Conclusions

1. In October 2024, Portugal presented its Phase 4 written follow-up report to the OECD Working Group on Bribery (Working Group). The report outlined Portugal's efforts to implement the 45 recommendations and to address the follow-up issues identified during its [Phase 4 evaluation](#) in October 2022. In light of the information provided, the Working Group concludes that Portugal has fully implemented 5 recommendations, partially implemented 20 recommendations, and not implemented 20 recommendations.

Summary of findings¹

2. The Working Group welcomes Portugal's efforts to implement several Phase 4 recommendations. The increase of resources and expertise allocated to law enforcement authorities conducting foreign bribery investigations is a positive development. Law enforcement authorities have also implemented measures to prioritise foreign bribery investigations. These measures translated in the indictment of eight natural persons and one company in two complex ongoing foreign bribery cases. Portugal has also actively participated in the Working Group's law enforcement networks events. The Working Group also notes the effective implementation of the National Anti-Corruption Mechanism (MENAC), and the publication by the MENAC of practical guidance on the adoption of the anticorruption measures required under the General Regime for the Prevention of Corruption (RGPC). Additionally, Portugal reports notable efforts to regularise the provision of feedback by the Financial Intelligence Unit (FIU) to reporting institutions regarding suspicious transactions reports (STRs).

3. Nevertheless, Portugal has yet to take concrete steps to implement a number of recommendations. Notably, Portugal has taken very limited measures to address recommendations related to whistleblower protection, self-reporting, waiver of sanctions, and the mechanism for suspension of proceedings. Portugal also reports limited steps undertaken to maintain detailed statistics. While Portugal reports several prospective measures aiming at discussing such issues, this does not translate into concrete measures to implement such recommendations. The Working Group encourages Portugal to expedite the implementation of these measures.

4. Longstanding serious legal framework concerns remain unaddressed by Portugal. Portugal has not amended the law to add the imposition of fines to imprisonment as available sanctions against natural persons for the foreign bribery offence and does not foresee doing so. Similarly, Portugal does not envisage any amendment to ensure that the waiver of sanctions, which can be considered an effective regret defence, cannot be applied to foreign bribery. Moreover, Portugal has not taken any measures to repeal the defence of acting against express orders, despite the Working Group's concerns since Phase 2

¹ The evaluation team for this Phase 4 two-year written follow-up evaluation of Portugal was composed of lead examiners from **Bulgaria** (Bulgaria was represented by Ms. Lilia Boyanova Penkova-Stankova, Senior expert, Prevention of Corruption Directorate, Commission for Combating Corruption and Confiscation of Illegally Acquired Property (CCCIAP) and Mr. Lachezar Zlatkov, Investigator, Corruption and Money Laundering Department, General Directorate for Combating Organized Crime, Ministry of Interior) and **Costa Rica** (Costa Rica was represented by Ms. Amy Román Bryan, Public Ethics Prosecutor, Attorney General's Office of the Republic and Ms Diana Hernández Gamboa, Coordinating Prosecutor, Deputy Prosecutor for Probity, Transparency and Anti-Corruption, Public Prosecutor's Office) as well as members of the **OECD Anti-Corruption Division** (Anaïs Michel and Vitor Geromel, Legal Analysts).

that this defence could create a loophole for companies to escape liability for foreign bribery in Portugal. Other recommendations on core elements of the corporate liability regime also remain unimplemented. Due to these facts compounded by the weak enforcement against legal persons in foreign bribery cases, despite the recent indictment of one company, serious concerns remain over Portugal's ability to effectively hold companies liable for foreign bribery.

5. While Portugal has shown progress in its enforcement efforts, some concerns such as delays concluding investigations and weak enforcement against legal persons for foreign bribery remain. As highlighted in the Phase 4 report, Portugal has so far no convictions or sanctions imposed for foreign bribery. Since the adoption of the Phase 4 report:

- Portugal has seven ongoing foreign bribery cases.
- Of the six cases that were ongoing at the time of the adoption of the Phase 4 report, one has been concluded with the acquittal of all defendants and another advanced to the trial stage with the confirmation of indictment of four natural persons. All the others remain under investigation.
- Since the adoption of the Phase 4 report, Portugal disclosed two foreign bribery investigations that were ongoing at the time of Phase 4 but unknown to the evaluation team. Both cases have advanced to the trial phase.
- Two cases have been ongoing for over 10 years and are still at the investigation phase. Investigations in a concluded case took over 10 years before the indictment was proposed and refused by the Criminal Court, resulting in the acquittals of all defendants.
- Of all ongoing cases, data provided by Portugal shows that legal persons were only formally investigated and/or indicted in two out of seven ongoing cases. In one of these two cases the Criminal Court refused the indictment request against the legal person. In a third case, the involved legal persons were not under Portuguese jurisdiction and for this reason they were not indicted.
- Until the preparation of this report, Portugal reports no new investigations since the adoption of the Phase 4 report in October 2022.
- Finally, Portugal reports that there are four pending investigations on money laundering predicated on foreign bribery in three cases that was analysed in the Phase 4 report.

6. The Working Group's summary and conclusions with respect to specific Phase 4 recommendations are presented below. They should be read in conjunction with the report prepared by Portugal, annexed to the present document.

Recommendations regarding prevention and detection of foreign bribery:

- ◆ *Recommendation 1(a) – Partially implemented:* Portugal reports several measures to raise awareness of corruption to public officials. While these measures focused on corruption in general are very important, there are no indications that they covered foreign bribery specifically. Without being aware of foreign bribery risks and characteristics, public officials are not able to identify and report instances of foreign bribery. Portugal refers to a document published by the MENAC with guidance on the implementation of the RGPC to both public and private sector entities. This document contains examples of each corruption offences, including on the demand side of the foreign bribery offence (article 7 Law 20/2008). The Working Group encourages Portugal to regularly provide training and guidance that specifically address foreign bribery consistent with Article 1 of the Convention and the role that public officials can play in detecting and reporting this offence.
- ◆ *Recommendation 1(b) – Partially implemented:* Portugal reports that it has maintained training and awareness raising activities for Ministry of Foreign Affairs' officials. However, it does not specify whether most of these initiatives included foreign bribery specifically. Portugal reports that the Ministry

of Foreign Affairs issues circular letters every 18 months to all Diplomatic Missions reminding them that Portugal is a member-state of the Convention. While the circular letters to public officials posted abroad is positive, Portugal has not reported measures to raise awareness of foreign bribery among the officials in the Criminal Police and the Prosecutor General's Office responsible for media monitoring.

- ◆ *Recommendation 2 – Partially implemented:* Portugal reports that it has continued to provide training and to raise awareness of foreign bribery to Portuguese public officials posted abroad. However, it did not provide documentation (e.g. training programmes, guidance documents, especially dedicated websites) to support this affirmation. Portugal reports that trainings to future diplomats and embassy attachés occur every two years. There is, however, no indication that such trainings include foreign bribery. Furthermore, the Ministry of Foreign Affairs has issued a plan to prevent corruption risks in consular activities that neither mentions foreign bribery nor provides guidance to Portuguese officials posted abroad on how to proceed with foreign bribery allegations. On a positive note, as mentioned above, Portugal reports that the Ministry of Foreign Affairs issues circular letters every 18 months to all Diplomatic Missions reminding them that Portugal is a member-state of the Convention. These letters reportedly contain the procedures that public officials should undertake to report to DCIAP acts that may be considered as foreign bribery.
- ◆ *Recommendation 3(a) – Not implemented:* Portugal has not taken any steps to clarify that the motive of the whistleblower is immaterial for the purpose of protection of whistleblowers under the current Law 93/2021 (Whistleblower Protection Law). In Phase 4, the Working Group concluded that article 6(1) of the Whistleblower Protection Law limits protection to reports done both in good faith and with reasonable grounds. Portuguese authorities at the on-site visit could not clarify the concept of good faith and expressed serious doubts over whether protection would be provided, for instance, to a whistleblower who reports a genuine act of foreign bribery solely out of spite or with the predominant motivation to harm their employer. This falls short of the standards in the Anti-Bribery Recommendation. Portugal reports that the recently approved Anti-Corruption Agenda would launch discussions on the need to review the Whistleblower Protection Law. While an encouraging step, this does not amount to clarifying a critical element of the law currently in force.
- ◆ *Recommendation 3(b) – Partially implemented:* Portugal has taken limited steps to consider broadening the definition of retaliation to clarify that it is not limited to workplace retaliation within the Whistleblower Protection Law. Portugal reports that it is taking steps to transpose the EU Directive 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings. This would arguably include in the definition of retaliation under the Whistleblower Protection Law the use strategic lawsuits against public participation. However, this transposition has yet to take place and would not be enough to fully implement this recommendation. Retaliation beyond the work-related context include several other forms of retaliation in addition to strategic lawsuits against public participation. The Anti-Bribery Recommendation XXII.vi. indicates that the definition of retaliation should be broad enough to include acts or omissions that can result in reputational, financial, social, psychological, and physical harm. The Working Group encourages Portugal to seize the momentum with the approval of the Anti-Corruption Agenda to include in the Whistleblower Protection Law protection against retaliation outside the work-related context, as recommended by the Anti-Bribery Recommendation.
- ◆ *Recommendation 3(c) – Not implemented:* Portugal has taken no steps to ensure that appropriate remedies are in place to compensate direct and indirect consequences of retaliation suffered by whistleblowers and to provide for interim relief pending the resolution of legal proceedings. Portugal reports once again that the Anti-Corruption Agenda would launch the discussions on the need to review the Whistleblower Protection Law. However, this does not amount to concrete measures to implement this recommendation.

- ◆ *Recommendation 3(d) – Partially implemented:* Portugal provides a copy of the 2023 annual report and periodic review determined by Law 93/2021. The report mentions general numbers of allegations reported through public institutions' reporting channels broken by offence and public institution. The report has no information about the application of the law by the private sector, however. Portugal also reports some upcoming measures such as a possible review of the Whistleblower Protection Law, the publication of a monitoring report on the National Anti-Corruption Strategy (ENCC) for 2020-2024, and a recently enacted recommendation by MENAC requiring public and private covered entities to monthly report on their compliance with the RGPC.
- ◆ *Recommendation 3(e) – Partially implemented:* Portugal has taken some steps to continue to raise awareness of the Whistleblower Protection Law and provide guidance on the establishment and operation of reporting channels and protective frameworks for whistleblowers in both the public and the private sectors. In September 2023, the MENAC published guidance on the adoption of the anti-corruption measures required by the RGPC and the Whistleblower Protection Law. The National Institute for Administration (INA) disseminated such guidance to all public administration. This guidance includes information on protection of reporting persons and operation of reporting channels. Furthermore, INA provided training to public officials on the same topics. The General Inspectorate of Finance (IGF) also created two reporting channels and publicised the applicable procedures. Nonetheless, Portugal has to step up its awareness raising efforts for the private sector. In its report, Portugal lists several private sector entities offering training on whistleblower protection and reporting channels. However, this recommendation requires Portuguese authorities to actively and continuously engage with the private sector to raise awareness and provide guidance on the Whistleblower Protection Law, including the protections to reporting persons, reporting channels and relevant requirements thereof.
- ◆ *Recommendation 4(a) – Partially implemented:* Portugal reports limited measures aimed at fostering enforcement of the money laundering offence. In line with Law 51/2023, money laundering is a priority area for Portugal's Criminal Policy for 2023-2025. In addition, as of June 2024, 226 prosecutors participated to training sessions organised by the Central Department for Criminal Investigation and Prosecution (DCIAP) on strategies on detection and investigation of money laundering. These efforts are welcome and should be pursued. As regards enforcement, Portugal reports that 87 natural persons and 21 legal persons were convicted of money laundering in 2022. This shows an increase compared to the status of enforcement in Phase 4 (approx. 61 natural persons and 5 legal persons convicted annually between 2016 and 2020). Nevertheless, Portugal indicates that there is no record of cases involving money laundering predicated on foreign bribery completed at the trial stage in 2022. Yet, Portugal reports four pending investigations on money laundering predicated on foreign bribery in three cases. Portugal also refers to another investigation and two other cases advanced to the trial phase in which indictments were ordered on the ground of money laundering, potentially predicated on foreign bribery. Portugal should be encouraged to pursue its efforts to enforce the money laundering offence predicated on foreign bribery.
- ◆ *Recommendation 4(b) – Partially implemented:* Regarding item (i), Portugal does not report any recent or forthcoming issuance of guidelines or typologies to reporting entities that specifically refer to foreign bribery. Regarding item (ii), Portugal has not reported any training measures for the FIU and other law enforcement officials. However, Portugal reports that the Criminal Police, the Institute of Public Markets, Real Estate and Construction and the Institute of Management and Public Administration have provided training to obliged entities from the real estate sector. The CMVM has provided training to fund managers. According to Portugal, these workshops covered politically exposed persons (PEP) detection and related enhanced due diligence. In addition, Portugal reports training measures for officials from specific oversight authorities, including the Portuguese treasury and debt management agency and the IGF focused on detection of possible suspicious transactions, including those involving PEPs. Portugal also foresees the development of some training related to the future implementation

of the goAML software, which would cover the identification of PEPs, as well as the creation of a specialised training for national law enforcement authorities. Although these initiatives are encouraging, it is premature to consider that they will address this part of the recommendation.

- ◆ *Recommendation 4(c) – Fully implemented:* Portugal reports notable measures undertaken by the FIU to regularise the provision of feedback to reporting institutions regarding STRs. Portugal indicates that with the adoption of alternative data collection methods the FIU provided feedback for STRs sent from 2020 onwards. According to the FIU's 2022 Annual Report, feedback was provided by the FIU for around 25 000 STRs. Portugal further reports that in 2024 feedback was provided for 15 625 STRs related to 184 entities, specifying the status of the report and whether the latter was forwarded to the Criminal Police and/or DCIAP. The recommendation can therefore be considered fully implemented.
- ◆ *Recommendation 4(d) – Not implemented:* Portugal reports that the update of the 2019 national risk assessment (NRA) is ongoing and should be completed by the end of 2024. Portugal further states that the different types of bribery as a predicate offence to money laundering are considered during this exercise, thus including foreign bribery. While Portugal's statements are encouraging, the update of Portugal's NRA remains to be completed. It is thus premature to consider that the future NRA will specifically cover money-laundering predicated on foreign bribery.
- ◆ *Recommendation 4(e) – Fully implemented and converted to issue for follow-up:* Portugal provides information on the allocation of tasks between the FIU and DCIAP. According to Portugal, all STRs are received by the FIU and DCIAP simultaneously. DCIAP is responsible for deciding opening a criminal investigation. The FIU can be called by DCIAP to prepare operational analysis reports. This intervention is systematic when DCIAP decides to suspend banking operations and can also be ordered in view of the seriousness of the STR's content. The FIU may also provide support to DCIAP for international cooperation purposes. The Working Group will continue to monitor the coordination between the FIU and DCIAP in the context of its dual reporting system for STRs in practice and how it impacts the detection of foreign bribery cases.
- ◆ *Recommendation 4(f) – Not implemented:* Portugal reports that the goAML software has been undergoing a testing phase with obliged entities including banks, insurance companies and non-financial entities for more than a year and a half - since December 2022. At the time of its one-year oral follow-up report in October 2023, Portugal expected the software to become operational by the end of 2023. Portugal now expects the software to become operational in January 2025 and reiterates that its entry into operation will be preceded by training and awareness raising actions, including the development of manuals, for financial and non-financial entities. Portugal should be encouraged to further expedite the implementation of the software and the development of manuals and provision of training to address this recommendation.
- ◆ *Recommendation 5 – Partially implemented:* While Portugal reports that the CMVM is expected to publish the guidelines required by this recommendation in September 2024, it has not provided any draft guidelines at the time of this report. However, during the week before the plenary meeting, Portugal presented a notice circulated by CMVM to auditors on 19 September 2024 reminding them of their duty to report suspicions of foreign bribery to the Public Prosecutor's Service (PPS). Additionally, the notice invites auditors to complete a survey covering foreign bribery aspects which will feed into future guidance.
- ◆ *Recommendation 6 – Partially implemented:* Portugal gave some consideration to the adoption of additional measures to incentivise companies to self-report corruption offences in the Anti-Corruption Agenda. The Technical Report that supports the Anti-Corruption Agenda mentions the need to provide incentives for cooperation in criminal proceedings. Portugal further reports measures that precede the Phase 4 report to incentivise anti-corruption compliance, such as the adoption of the RGPC. As was highlighted in the Phase 4 report (para. 70), while incentives for compliance are welcome, they do not necessarily amount to incentives for self-reporting. The Working Group encourages Portugal to

effectively adopt a legal framework with incentives for self-reporting that are in line with the Anti-Bribery Recommendation.

Recommendations regarding enforcement of the foreign bribery and related offences:

- ◆ *Recommendation 7 – Not implemented:* Portugal has not undertaken any steps to implement the recommendation. The Anti-Corruption Agenda and its Technical Report note a need to evaluate reward mechanisms, including the waiver for sanctions, in order to assess their effectiveness. Yet, these documents, which refer to future developments, do not foresee any amendment of article 5(1) of Law 20/2008 to ensure that the waiver of sanctions, that can be qualified as an effective regret defence, cannot be applied to foreign bribery. Portugal further refers to the proposal for an anticorruption directive, currently being negotiated at EU level. Nevertheless, as the directive has not yet been adopted or, a fortiori, transposed into Portuguese law, recommendation 7 must be considered unimplemented for the time being.
- ◆ *Recommendation 8(a) – Not implemented:* Since Phase 3, the Working Group has been concerned that fines are only available as converted jail sentences. In Phase 4, the Working Group reiterated its concerns, and pointed out that while confiscation is a deterrent for economic offences, fines constitute the punitive part of monetary sanctions and cannot be overlooked. However, Portugal did not take any steps to implement this longstanding Working Group's recommendation. The Working Group, therefore, remains seriously concerned that, in the absence of monetary penalties, sanctions against natural persons are still not effective, proportionate, and dissuasive in Portugal.
- ◆ *Recommendation 8(b) – Partially implemented:* The organisation by Portugal of a training session gathering 160 magistrates and covering the mechanisms of mitigation of sanctions is positive. Furthermore, the CEJ activity plan for 2024/2025 includes an intensive anticorruption course, aimed at specialised judges and prosecutors. While this course covers "evidential collaboration and so-called criminal and procedural "awards"", Portugal did not specify whether it had already been delivered. Portugal reports that forthcoming sessions are planned for November and December 2024 when specific training on foreign bribery will be included. Portugal does not refer to any broad dissemination of good practices. Finally, while the Anti-Corruption Agenda includes a measure related to the continuous training of public officials in integrity and corruption prevention, there is no indication that such prospective training programme will cover mechanisms of mitigation of sanctions. Portugal should be encouraged to pursue its efforts to provide training and disseminate good practices on the mechanisms of mitigation of sanctions and their possible impact on the effective, proportionate, and dissuasive nature of sanctions, and to make it available to judges and prosecutors.
- ◆ *Recommendation 8(c) – Fully implemented and converted to issue for follow-up:* Portugal provides examples of the use of confiscation in corruption and foreign bribery cases. Notably, Portugal reports the request for confiscation in recent indictments ordered in two out of the seven ongoing foreign bribery cases. Furthermore, Portugal demonstrates efforts to conduct training and awareness raising among law enforcement officials about seizure and confiscation, and a willingness to prioritise the strengthening of its mechanisms of confiscation. The Working Group further welcomes the development by the Public Prosecutor Service (PPS) in December 2022 of a manual of good practices in matters of confiscation and its dissemination among all prosecutors. The Technical Report of Portugal's Anti-Corruption Agenda calls for further training in view of the remaining difficulties at a practical level to understand the seizure and confiscation mechanism, its features, and its practical implementation. The Working Group will follow up in Phase 5 whether Portugal ensures that law enforcement authorities routinely consider confiscation in foreign bribery cases.

- ◆ *Recommendation 9 – Not implemented:* In Phase 3, Portuguese law did not provide for a specific false accounting offence, but four offences could apply to false accounting in specific contexts. In Phase 4, the Working Group was encouraged by the adoption of two specific false accounting offences, defined under articles 519 (false information) and 519-A (Submission of adulterated or fraudulent accounts) of the Commercial Companies Code. Yet, it regretted that these offences did not apply to legal persons. In this report, Portugal reports that legal persons would be accountable for these offences under articles 7, 389 and 401 of Portugal's Securities Code (SC). These articles, that were not mentioned in Phase 4, prohibit any entity covered by the SC from communicating or disclosing information relating to securities or other financial instruments that is not complete, true, up-to-date, clear, objective and lawful. They are therefore applicable against a limited range of legal persons and activities. The information provided by Portugal is not sufficient to alleviate the Working Group's concerns that the various false accounting offences enable Portugal to investigate and prosecute the full range of acts committed by natural or legal persons that may constitute false accounting predicated on foreign bribery.
- ◆ *Recommendation 10(a) – Not implemented* Portugal has taken very limited steps to clarify the requirement that the defendant must have "contributed decisively to the discovery of the truth". Portugal reports that the Centre for Judicial Studies (CEJ) activity plan for 2024/2025 includes an intensive anticorruption course covering "evidential collaboration and so-called criminal and procedural "awards". Portugal reports that forthcoming sessions are planned for November and December 2024 when specific training on foreign bribery will be included. However, there is no indication as to whether this course provides the required clarifications, how it was disseminated or whether it has already been delivered. Portugal further reports that the Technical Report of the Anti-Corruption Agenda calls for an evaluation of the mechanism of suspension of proceedings and that Portugal will endeavour to make the requirements for collaboration and the consequent application of a reward measure more precise, insofar as this is feasible. Based on the available information, the evaluation team cannot consider that Portugal issued clear and transparent guidance and disseminate good practices to clarify the requirement that the defendant must have "contributed decisively to the discovery of the truth".
- ◆ *Recommendation 10(b) – Not implemented* - Portugal refers to the intensive anticorruption training course provided under the CEJ Activity plan for 2024/2025. According to Portugal, the respective sessions emphasise that the admission of the facts by the defendant is not a prerequisite but supports recourse to the suspension of proceedings. However, no supporting documentation is provided and there is no information on whether this course has been delivered to date. The Technical Report of the Anti-Corruption Agenda does not refer to the requirement to admit facts and/or responsibility. Based on the available information, the evaluation team cannot consider that Portugal issued clear and transparent guidance and disseminate good practices to clarify whether the defendant must admit facts and/or responsibility to benefit from the suspension.
- ◆ *Recommendations 10(c) – Not implemented:* Portugal does not provide any indication that the intensive anticorruption course offered as part of the CEJ activity plan for 2024/2025 clarified the relevant considerations for resolving the case with suspension of proceedings, and the rationale for applying certain injunctions, in particular, with regard to foreign bribery cases. No information is provided on how this course was disseminated or on whether it has already been delivered. The measures foreseen in the Anti-Corruption Agenda's Technical Report remain to be executed. Based on the available information, the recommendation remains unimplemented.
- ◆ *Recommendation 10(d) – Not implemented:* Portugal refers to the Anti-Corruption Agenda, which plans to publicise the court decisions relating to corruption. The Anti-Corruption Agenda's Technical Report suggests that a solution for anonymising the texts of decisions, presented as a prerequisite for making them available online, is currently being tested. Portugal does not provide further information on steps undertaken to make public, where appropriate and consistent with data protection rules and

privacy rights, as much information about its non-trial resolutions as possible. Therefore, this recommendation remains unimplemented.

- ◆ *Recommendation 11(a) – Partially implemented:* Portugal reports that it has continued to train investigators, prosecutors, and judges on foreign bribery, including on enforcement of the corporate liability regime. However, data on enforcement actions provided in the context of this WFU report shows that in only two out of seven ongoing cases legal persons are under investigations or were indicted. In another case, Portugal provided a court decision showing that prosecutors did not indict employees from a Portuguese air services provider nor the company itself for foreign bribery, even though there were strong elements to suggest the commitment of the offence. Prosecutors indicted only the natural persons acting on behalf of the intermediary company for foreign bribery. The employees from the Portuguese air services provider were indicted for passive corruption in the private sector instead. This suggests the need for improved training and increased awareness raising activities focused on the foreign bribery offence and the ways this offence is committed, as well as corporate liability in foreign bribery cases. Portugal also reports several initiatives taken by the Public Prosecutor Service (PPS) through DCIAP, CEJ, and the Criminal Police with focus on corruption that would also include foreign bribery. However, specific training on foreign bribery is strongly recommended. The CEJ activity plan for 2024/2025 expressly mentions foreign bribery and corporate liability as topics to be covered by specialisation courses directed at judges and prosecutors acting in criminal courts. There is no information if this specialisation course has already been delivered, however. Portugal reports that forthcoming sessions are planned for November and December 2024 when specific training on foreign bribery will be included. The Working Group welcomes and encourages Portugal to implement the reported proposals to expand specialised foreign bribery training, including corporate liability, for judges, prosecutors, and law enforcement officials in the future.
- ◆ *Recommendation 11(b) – Fully implemented:* Portugal has ensured that the DCIAP has sufficient access to specialised expertise, especially in forensic financial analysis and information technology, for investigating and prosecuting foreign bribery. Since 2022, the General Prosecutor's Office Technical Advisory Centre (NAT) has hired 10 new specialists. The Financial and Accounting Expertise Unit of the Criminal Police has continued to provide support to DCIAP prosecutors. Additionally, DCIAP has set up its own Forensic Computer Laboratory. These efforts were reportedly instrumental for the conclusion of the investigation phase and the indictment of 8 persons involved in *Case #15 – Credit Line* (the indictment of only 4 of them was later confirmed by the Criminal Court).
- ◆ *Recommendation 11(c) – Partially implemented:* Portugal has taken some steps to ensure that its authorities investigate thoroughly and proactively foreign bribery allegations and that relevant cases are not prematurely closed. The Working Group welcomes the steps taken by DCIAP and the Criminal Police to increase resources and centralise foreign bribery cases. As a result, three natural persons have been indicted for foreign bribery in *Case #15 – Credit Line* and five persons have been indicted for foreign bribery in the *Supply of medicines and consumables in international public tenders case*. The Working Group, however, remains concerned with delays in concluding foreign bribery investigations. In two ongoing cases investigations have been ongoing for over 10 years. Additionally, one case has been concluded with the acquittal of all defendants following indictment after over 10 years' investigation. The Working Group, therefore, encourages Portugal to enhance its efforts to ensure that its authorities investigate thoroughly and proactively all foreign bribery allegations thereby avoiding delays and premature terminations.

Finally, it is important to highlight that the two 2012 convictions mentioned by Portugal in Annex 1 and cross referenced under this recommendation were not, in fact, for foreign bribery as defined under Article 1 of the Convention, as the bribed officials were not foreign public officials, but Portuguese officials. In the Appeal No. 262/04.4JACBR, the Coimbra Court of Appeals convicted two individuals (a Swiss and a Portuguese national) for paying bribes to Portuguese officials to obtain business advantages in Portugal (a contract to provide hearing aids implants to the Coimbra Hospital Centre, in

Coimbra, Portugal). However, the court based the conviction on Portugal's foreign bribery statute applicable at the time.

- ◆ *Recommendation 11(d) – Partially implemented:* Portugal reports welcomed measures to give sufficient priority to the investigation and prosecution of foreign bribery cases. However, enforcement data provided by Portugal shows room for improvements. As mentioned under recommendation 11(c), ongoing foreign bribery investigations still face relevant delays. In some cases, investigations have been ongoing for over 10 years. Furthermore, at the time of the preparation of this report, Portugal has not opened any new foreign bribery investigations.
- ◆ *Recommendation 11(e) – Fully implemented and converted to follow-up:* Portugal reports having engaged in a joint investigative team with two other Parties to the Convention (Spain and Switzerland) in one ongoing foreign bribery case. Since Phase 4, Portugal reports not having deferred ongoing foreign bribery investigations to other jurisdictions. The Working Group will follow up in Phase 5 on deferrals of foreign bribery investigations as well as Portuguese authorities' efforts to coordinate with law enforcement authorities from other Parties to the Convention in multijurisdictional cases.
- ◆ *Recommendation 11(f) – Not implemented:* Portugal reports no awareness raising activities specially focused on Article 5 of the Convention to DCIAP, the National Anti-Corruption Unit of the Criminal Police (UNCC), and the judiciary. It reiterates that considerations forbidden under Article 5 of the Convention are also prohibited by the Portuguese Constitution and legislation. The Working Group, therefore, encourages Portugal to conduct specific awareness-raising initiatives with focus on foreign bribery related risks and Article 5 of the Convention, including Commentary 27, to DCIAP, UNCC, and the judiciary.
- ◆ *Recommendation 12 – Partially implemented:* Since Phase 4, Portugal reports having sought MLA in several ongoing foreign bribery cases. In another case of money laundering predicated on foreign bribery, Portugal indicates it is in direct collaboration with authorities from another Party to the Convention. Most cases are still under investigation, though. The Working Group welcomes Portugal's participation in informal networks of law enforcement officials, such as the WGB Informal Meeting of Law Enforcement Officials (LEO) and the OECD Global Law Enforcement Network (GLEN). It encourages Portugal to enhance its use of international cooperation in foreign bribery cases.
- ◆ *Recommendation 13(a) – Partially implemented:* Portugal reports limited steps undertaken to address this recommendation. Portugal provides links to its statistical portal, which includes statistics on the number of cases closed at the trial phase in first instance, the number of defendants and the number of convictions for the offences provided by articles 256 and 259 CC as well as articles 103 and 104 General Regime of Tax Offences (RGIT). Portugal further reports that it collects similar data regarding offences defined under articles 519 and 519-A CCC. It adds that its statistical data distinguish natural and legal persons for each offence. As for money laundering, Portugal reports that similar statistics are available upon request to the Directorate General for Justice Policy of the Ministry of Justice. An online dashboard also provides for the total number of recorded money laundering offences. After reviewing a draft of this report, Portugal stated that it collects statistics on "foreign bribery tried in proceedings for money laundering" but that the number of occurrences would be residual. Nevertheless, Portugal provides no information related to statistics on investigations, prosecutions, and sanctions for these offences and thus do not address a part of the recommendation. Although Portugal refers to some initiatives to review the collection of statistical data for anti-money laundering purposes, these reviews have yet to be completed and do not cover the false accounting offences.
- ◆ *Recommendation 13(b) – Not implemented:* In Phase 4, the Working Group expressed concerns as regard the lack of statistics on the application of mitigating factors, which prevented the lead examiners to fully assess the impact of these mechanisms. Portugal indicates that the production of indicators related to sanctions' measures and duration is currently being considered, and notes that such an

initiative would require the collaboration of several public authorities. While these steps are encouraging, further efforts are needed to implement this recommendation.

- ◆ *Recommendations 13(c) and (d) – Not implemented:* Portugal reports that no statistical model on the use of pre-trial seizures has been implemented, including on the offence involved and the amount seized. Portugal refers to the gathering of information on confiscation measures and pre-trial seizures by each prosecution department, including DCIAP, for the purpose of their respective annual report. Yet, it remains unclear whether this information is collected systematically, whether it covers pre-trial seizures executed by the Asset Recovery Office (GRA) and by DCIAP, or whether it enables DCIAP to provide statistics on each offence involved and the amount seized or confiscated. Portugal adds that such information is compiled in the PPS annual report. This PPS report only provides for the total amount seized annually without any break down, however. DCIAP's annual reports were not provided to the evaluation team. Portugal also refers to the Platform for the Recovery and Management of Justice Assets (PRMJA), a project aimed at developing an information system for the integrated management of assets seized, recovered, or confiscated. This platform is expected to be developed by the end of 2025 and would enable Portuguese authorities to obtain statistics on the crimes underlying the seizure and confiscation. The development of this platform is promising. Nevertheless, it is premature to assess its impact on Portugal's ability to maintain detailed statistics on the use of pre-trial seizures, including on the offence involved and the amount seized, and on the application of confiscation in foreign bribery cases.

Recommendations regarding liability of, and engagement with, legal persons:

- ◆ *Recommendation 14(a) – Not implemented:* In Phase 4, the Working Group concluded that, despite the Portuguese law explicitly stating that the liability of legal persons does not depend on the conviction of associated natural persons, judges in practice still required the prior conviction of these individuals to hold legal persons liable. Portugal reports that the CEJ conducts regular trainings to judges on foreign bribery (both directly or indirectly) and corporate liability. However, it has not provided supporting documentation. Furthermore, at the time of the one-year oral follow-up report, the lead examiners had already considered that the 2023 training referred in Portugal's report only laterally dealt with corporate liability core issues. As highlighted above, due to its specificity, foreign bribery requires specific trainings and awareness-raising initiatives. Portugal reports that forthcoming sessions are planned for November and December 2024 when specific training on foreign bribery will be included. The Working Group, therefore, urges Portugal to take all necessary steps, including training for judges, to ensure that the liability of legal persons for foreign bribery is not restricted, in practice, to the cases where a natural person or persons who perpetrated the offence are prosecuted or convicted.
- ◆ *Recommendation 14(b) – Not implemented:* Portugal reports that no action has been taken to implement this longstanding Working Group recommendation. Since Phase 2 (2007), the Working Group has been concerned with the defence of acting against express orders or instructions, currently under article 11(6) CC. In Phase 3 (paras. 50-51), the Working Group reiterated Phase 2 concerns that this defence was vaguely defined. It could be possible for a company, for instance, to attempt to limit its liability by issuing a blanket prohibition on foreign bribery, or even issuing specific prohibitions directed at individual transactions, regardless of the actual level of the company's supervision, oversight and control over employee or intermediary behaviour. In Phase 4, absent case law, the evaluation team tested the application of article 11(6) CC with different panellists at the on-site visit. This resulted in conflicting positions, which supported the conclusion that the elements of this defence are still vaguely defined. Portugal has reiterated its arguments since Phase 2, that this defence would be a guarantee against strict criminal liability and it complies with the Convention and the 2021 Anti-Bribery Recommendation insofar the Convention does not require its Parties to adopt criminal liability for legal persons. These arguments have been rejected by the Working Group, however. The Working

Group, therefore, remains seriously concerned that this defence could create a loophole for companies to escape liability for foreign bribery in Portugal.

- ◆ *Recommendation 14(c) – Not implemented:* Portugal has taken no steps to implement this recommendation. Portugal refers to legal provisions already analysed at the time of Phase 4. It also mentions a training provided by the CEJ in 2023, which had already been considered insufficient by the lead examiners at the time of the one-year oral follow-up report. Portugal reports that forthcoming sessions are planned for November and December 2024 when specific training on foreign bribery will be included. Furthermore, Portugal argues that the benefits of the bribe would be always confiscated, including through extended confiscation mechanism under Law 5/2002, which would complement potentially low monetary sanctions. The Working Group believes that the lack of convictions for foreign bribery makes impossible to assess the application of sanctions against legal persons for foreign bribery in practice.
- ◆ *Recommendation 14(d) – Partially implemented:* MENAC has published the Guide 1/2023 with practical instructions on the methodology to be adopted in relation to the various instruments and measures with which covered entities, including companies with more than 50 employees, have to comply under the RGPC. Portugal indicates that authorities monitoring the compliance with these rules must observe the methodological indications in the Guide. While this is a positive development, there are no indications that Portugal conducted training on such methodological verification to judges and prosecutors. Portugal reports that MENAC is seeking to develop with CEJ training projects involving judges and prosecutors in monitoring the measures on the RGPC. The Working Group encourages Portugal to further implement training to judges and prosecutors on how to assess whether a compliance programme is appropriate, considering the risk exposure of the legal persons involved in the concrete case.
- ◆ *Recommendation 15(a) – Not implemented:* Portugal has not taken sufficient efforts to raise awareness of foreign bribery in the private sector, especially amongst SMEs and other companies doing business abroad. Portugal reports a series of awareness-raising initiatives adopted since Phase 4 that focused on different aspects of corruption. However, none of them focused specifically on foreign bribery, nor were they targeted at SMEs and other companies doing business abroad. While raising awareness of corruption is important, it does not equate to specific initiatives focusing on foreign bribery to companies doing business abroad, especially SMEs. This would be especially relevant for companies doing business in countries considered of high risk of corruption. The Working Group regrets that Portugal has not yet seized the momentum of the approval of the RGPC to effectively engage the private sector in the fight against foreign bribery.
- ◆ *Recommendation 15(b) – Not implemented:* Portugal has taken no steps to closely monitor the implementation of anti-corruption measures in companies doing business in high-risk countries with which Portugal has strong economic and historical ties. Portugal reports on general reporting obligations and guidance for issuers on Environmental, Social and Governance (ESG) mandatory annual reports. Besides being restricted to listed companies, these initiatives include neither foreign bribery specific information, nor specific guidance for companies doing business in high-risk countries.

Recommendations regarding other measures affecting the implementation of the Convention:

- ◆ *Recommendation 16(a) – Partially implemented:* Portugal reports several measures to raise public officials' awareness of corruption (see under recommendation 1(a)). According to Portugal, general awareness-raising or training initiatives gathered in several cases staff from the Camões-Institute for Co-operation and Language (CICL), the Sociedade para o Financiamento do Desenvolvimento, Instituição Financeira de Crédito, S.A. (SOFID) and the Companhia de Seguros de Crédito (COSEC),

as well as public and private counterparts. However, there are no indications that officials participating in these awareness-raising initiatives were specifically encouraged to include foreign bribery in their plans for the management of risks of corruption and related offences (PPRC). Portugal also refers to the guidance published by MENAC, which has a section dedicated to the development of PPRCs. The annex of this guidance also contains examples involving the demand side of the foreign bribery offence, but not the active side of the offence. Moreover, MENAC is currently finalising the modelling of its electronic platform which, once completed, should enable MENAC to systematically access detailed information on the content of PPRCs. After reviewing a first version of this report, Portugal reports that the draft PPRC of CICL, submitted for approval in September 2024, includes foreign bribery. Yet, while the matrix of risks shared by Portugal refers to the risk of non-compliance with the RGPC, it does not refer to foreign bribery. Portugal should pursue its efforts to encourage public entities, whenever appropriate, to include foreign bribery in their respective PPRC.

- ◆ *Recommendation 16(b) – Partially implemented:* While general awareness raising measures reported by Portugal under recommendation 1(a) are welcome, there are no indications that general awareness-raising measures reported by Portugal covered foreign bribery specific risks and characteristics. Portugal also reports measures undertaken by COSEC, including the reinforcement of training on foreign bribery for new employees. Regarding CICL, Portugal reports that around 5% of CICL employees attended training sessions in the first semester of 2024, and that similar sessions would be open to other employees by the end of the year. Regarding SOFID, Portugal reports that all SOFID staff participated in a training session led by a MENAC Coordinating Consultant. The Person Responsible for Regulatory Compliance also participated in a training session on the mandatory elements of the RGPC. However, there is no indication that these training sessions covered foreign bribery. Portugal should be encouraged to pursue its efforts to raise awareness on foreign bribery for CICL, SOFID and COSEC staff and public and private counterparts.
- ◆ *Recommendation 16(c) – Partially implemented:* Portugal does not report any concrete measures to have the CICL and SOFID check the debarment lists of multilateral development banks before granting public advantages. Regarding SOFID, Portugal reported after reviewing a first version of this report that SOFID uses a KYC Screening & risk monitoring application in all credit operations. This analysis would provide information on debarment lists of multilateral development banks. As regards CICL, Portugal indicates that the recommendation will be considered in the framework of the current review of CICL Procedures Manual, to be conducted until 30 June 2025. This initiative is encouraging but remains to be completed. Further efforts are therefore needed to address this recommendation.

Dissemination of the Phase 4 report²

7. Portugal reports that, upon publication of the Phase 4 report, public entities involved in the Phase 4 evaluation were immediately notified of its release and provided with a direct link to the OECD website. In December 2022, the Directorate General for Justice Policy of the Ministry of Justice published the report on its website, along with Portuguese translations of the recommendations, press release, executive summary, and good practices.³ In June 2023, the report was again highlighted on the Directorate General's website, along with the Working Group on Bribery's 2022 Annual Report.⁴ Additionally, Portugal indicates

² The [Phase 4 procedures](#), para. 50, provide that “the evaluated country should make best efforts to publicise and disseminate the report and translated documents, for example, by making a public announcement, organising a press event, and translating the full report into the national language. In particular, the evaluated country should share the report and translated documents with relevant stakeholders, particularly those involved in the evaluation”.

³ [DGPJ publica tradução das recomendações da OCDE sobre Corrupção \(justica.gov.pt\)](#).

⁴ [Publicado relatório de atividades da OCDE sobre corrupção \(justica.gov.pt\)](#).

that the report received widespread media coverage in Portugal and was promoted by a civil society organisation involved in the evaluation.

Conclusions of the Working Group on Bribery

8. Based on these findings, the Working Group concludes that of Portugal's 45 recommendations 5 have been fully implemented (recommendations 4(c), 4(e), 8(c), 11(b) and 11(e)); 20 have been partially implemented (recommendations 1(a), 1(b), 2, 3(b), 3(d), 3(e), 4(a), 4(b), 5, 6, 8(b), 11(a), 11(c), 11(d), 12, 13(a), 14(d), 16(a), 16(b) and 16(c)); and 20 have not been implemented (recommendations 3(a), 3(c), 4(d), 4(f), 7, 8(a), 9, 10(a), 10(b), 10(c), 10(d), 11(f), 13(b), 13(c), 13(d), 14(a), 14(b), 14(c), 15(a), 15(b),). The Working Group has decided to convert recommendations 4(e), 8(c) and 11(e) into issues for follow-up. The Working Group is seriously concerned over the lack of implementation of longstanding recommendations from the Phase 4 report, in particular recommendations 8(a) and 14(b), and will proceed to issue a public statement on these matters.

9. The Working Group invites Portugal to report back in writing within two years (i.e., October 2026) on outstanding recommendations 3(a)-(d), 7, 8(a), 11(a), 11(c), 11(f), 14(a)-14(c)), as well as on the status of foreign bribery enforcement. Portugal will report its foreign bribery enforcement actions annually during Working Group meetings. The Working Group will continue to monitor follow-up issues as case law and practice develop.

Annex. Phase 4 Evaluation of Portugal - Two-Year Written Follow-Up Report by Portugal

Instructions

This document seeks to obtain information on the progress each participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer all recommendations as completely as possible. Further details concerning the written follow-up process is in the [Phase 4 Evaluation Procedure](#) (Section C.1 and Annexes 6 and 8) as updated in May 2023.

Please submit completed answers to the Secretariat on or before **10 July 2024**.

Name of country: Portugal

Date of approval of Phase 4 evaluation report: 14 October 2022

Date of information: 10 July 2024

PART I: RECOMMENDATIONS FOR ACTION

Regarding Part I, responses to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions that have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.

Recommendations for ensuring effective prevention and detection of foreign bribery

Text of recommendation 1(a):

1. Regarding **reporting by public officials**, the Working Group recommends that Portugal:
 - (a) remind public officials of their duty to report foreign bribery [Anti-Bribery Recommendation IV.i and XXI];

Action taken as of the date of the follow-up report to implement this recommendation:

According to the Code of Criminal Procedure – Article 242 – reporting a crime is mandatory, even if the perpetrators of the crime are not known, for police entities (regarding all crimes of which they become aware) and for public officials (within the meaning of article 386 of the Criminal Code (CC), which includes public officials, regarding crimes of which they become aware in exercising their duties and because of them).

As a legal obligation, it is not unknown to any citizen and certainly not for a public official. The breach of the duty to report is punishable with dismissal of the public service.

In any case, Portugal has sought to raise awareness and alert public officials to this obligation. This

was done through the General Regime for the Prevention of Corruption (RGPC; attached as Annex 7) and the General Regime for the Protection of Whistleblowers (attached as Annex 8), which were key pieces of legislation to implement the National Anti-Corruption Strategy 2020-2024 (ENCC). Said legislation provides for a framework of instruments to promote ethics and integrity and to prevent and detect fraud and corruption in public entities and private organizations.

Within the scope of this regulatory framework, it is important to highlight the obligation for public entities (and others) to have a regulatory compliance program, as a way of promoting and deepening organizational cultures of integrity, prevention, and detection of conflicts of interest and acts of corruption and related offences that occur or may occur within the scope of the performance of their duties and that are committed by their managers or employees.

Also noteworthy in this framework is the mandatory existence of reporting channels, as necessary instruments to detect all kinds of irregularities or non-compliance, particularly when facing cases of lack of integrity, corruption, and related offences in organizations.

Raising awareness among public officials of their duty to report, particularly through compliance with these regulatory programs, has been, for Portugal, a constantly reinforced concern.

So, as established by the RGPC, public entities and private organizations with more than 50 employees have to adopt Plans for the Prevention of Corruption Risks (PPRC), internal reporting channels in accordance with Law no. 93/2021, of 20 December, and training. Therefore, the widespread mandatory (i) approval of PPRC, that have to take into account the specific risks of the entity at stake, including foreign bribery whenever appropriate, (ii) the implementation of internal reporting channels and (iii) training as regards these matters, are key, also, as reminders to public officials of their duty to report any crimes, including foreign bribery – something which is, as referred above, a legal obligation for public officials.

As established by Article 9 of the RGPC, obliged entities should ensure that internal training programs are carried out for all their managers and workers, so that they know and understand the policies and procedures implemented to prevent corruption and related offences. The content and frequency of training for managers and workers takes into account the different exposure of managers and workers to the identified risks as regards corruption and related offences.

So as to provide guidance on the implementation of instruments established by the RGPC, namely reporting channels, MENAC issued Guide no. 1/2023 in September 2023 (please check Annex 3), providing indications and explanatory notes on methodological precautions for the preparation, adoption, and implementation of instruments of the RGPC, namely reporting channels, also in accordance with the whistleblowing legislation. Recognizing the importance of encouraging reporting, reference is made to compliance with rules and care regarding guarantees of offering the option of anonymity and of protection of the whistleblower, including the guarantee of job retention, as well as the absence of any form of pressure.

At the level of public entities several examples could be given. As a first example, the General Inspectorate of Finance (IGD), whose training program for new employees included all areas of intervention of that entity, namely regarding the PPRC, the Code of Ethics and the procedures implemented for internal and external reporting. As a second example, the Securities Market Commission (CMVM), where the next internal training session for all employees on bribery issues is going to include a reminder of the duty to report suspected foreign bribery.

The National Institute for Administration (INA) on 5 December 2023, as a way of celebrating the international day against corruption in advance, held a webINAr dedicated to the theme “Prevention

of Corruption in the Public Administration” with partners: the Portuguese Quality Institute (IPQ), the National Anti-Corruption Mechanism (MENAC) and the European Anti-Fraud Office (OLAF). This webinar had a very good and widespread audience, and is available online in [WebINAr: Prevenção da Corrupção na Administração Pública - YouTube](#), being also translated into “sign language”, so as to try to be as inclusive as possible.

On 29 November 2023, INA participated in an OECD initiative on the theme *Raising awareness of public servants to prevent corruption*: a one-day event focused on the role of Schools for Public Administration.

The same topic has been the subject of coordination with the MENAC, with INA being a partner in disseminating the above mentioned *Guide No. 1 on the Instruments of the General Corruption Prevention Regime (RGPC)*. The Guide is available here (please check also Annex 3): [guia-n1-2023.pdf \(mec-anticorruptcao.pt\)](#). It includes, namely, guidance as regards reporting channels and the training to be provided to public officials as regards these subject matters.

Regarding the mandatory training offer of INA:

a) Within the scope of CAT (*Programa de Capacitação Avançada*) Initial Training, organized under the terms and for the purposes of Ordinance no. 231/2019, of 23 July, amended by Ordinance no. 107/2022, of 8 March, the matter into question in this recommendation is specifically addressed in Training Path II. The 2022 review expressly devoted a 4-hour module – in a 65-hour program – to the topic of Corruption Risks and Related Offences.

b) In the scope of mandatory training for managers, Ordinance no. 103/2023, of 12 April, currently governs. Therefore, within the scope of the work carried out by the Coordination Committee of the Consortium between INA and Higher Education Institutions responsible for such training:

- i. Regarding mandatory training for Intermediate Managers, the topic is addressed within the scope of management of services and collaborative networks | Valuing public interest and service | Ethics and transparency in the management of public resources and in the contracting and subcontracting of public tasks | Ethics and integrity in public management - prevention of managerial and corruption risks;
- ii. Regarding mandatory training for Senior Managers, the topic is addressed within the scope of Integrated Management | Transparency and accountability in AP | Governance of Public Administration (AP) entities | Internal control and Risk Management | Prevention of management and corruption risks | Transparency and public responsibility;
- iii. The mandatory refresher training course for managers, also regulated by Ordinance no. 103/2023, of 12 April, and currently being finalized by the Consortium for availability in 2024, also has an offer on this topic.

As for non-mandatory training, INA’s range of offers is also wide in this area within the scope of the Training Program for 2024:

- General corruption prevention regime
- Codes of conduct and organizational culture of integrity
- Management of reporting channels (whistleblowing)
- Plan to prevent risks of corruption and related offences
- Design and dynamization of Training and Communication Programs for Integrity
- Responsible for regulatory compliance

Since 2022, all the incoming workers of the Public Administration (422 new workers) have undergone INA’s CAT initial training. In what concerns training for managers, the new offer

has started in 2023 and counts on 112 final certifications for intermediate managers and 26 for senior managers.

In what concerns other non-mandatory training, we can count on 1024 trainees. It is also important to stress that these numbers do not include the ones regarding tailor made training on these issues for specific entities, and this topic has been much requested in the context of tailor-made training provided by INA.

For 2025, the Training Program of INA also has an offer related to these themes, namely:

- Fraud Risk Management Course in the Recovery and Resilience Plan
- General Corruption Prevention Regime
- Codes of Conduct and Organizational Culture of Integrity
- Design and Promotion of Training and Communication Programs for Integrity
- Reporting Channel Management (Whistleblowing)
- Corruption and Related Offences Risk Prevention Plan
- Responsible for Regulatory Compliance

INA also has a partnership with the [PRR Academy](#) for training on fraud risk management as an integral and fundamental part of the Recovery and Resilience Plan (RRP)'s management and internal control system, implemented with the purpose of monitoring and examining the physical and financial implementation and legality of investments financed by the European funds allocated to Portugal through the RRP, as well as ensuring the protection of the European Union's financial interests and preventing, detecting, reporting and correcting fraud, corruption, conflict of interest and double funding.

Furthermore, INA is also a partner of *Agência de Desenvolvimento e Coesão* (AdC) in what concerns to fraud risk concerning European funds.

MENAC, in collaboration with INA and the *Instituto de Gestão e Administração Pública* (IGAP), has provided and promoted several training sessions with public entities that have requested support in this area, including universities, municipal councils, public institutes and entities, among others, in the health area. In total, more than 30 actions of this nature have already been promoted, involving a total of more than 1000 trainees, including top managers, intermediate managers and technicians.

So as to exemplify, in what regards to sector-wide Pedagogical Sessions, two sessions of this nature have already been held by MENAC:

- The first, on 8 May this year, within the scope of public support projects, especially those promoted by the PRR.
- The second, on 28 May, within the health sector, involving the Health Units of the southern region of Portugal.

With these sessions, MENAC, in cooperation with the organizing entities, promotes the exchange of experiences and good practices between different entities that operate in the sectors covered by each session.

Furthermore, MENAC is also cooperating with some municipalities, with the purpose of creating and expanding a network for sharing experiences and good practices in the promotion of RGPC instruments by entities in the municipal universe.

In a more general approach, and towards enhancing a culture of zero tolerance to corrupt practices in the Portuguese society as a whole, the MENAC launched in the end of 2022 a national campaign with the motto “Against corruption, we must all say no!”. This campaign makes use of examples of behaviours associated with corruption, to warn about its impacts in terms of the credibility of democratic institutions and economic and social development. The objective is to raise awareness among citizens about the need to prevent and contribute to the rejection of the phenomenon. The campaign was established with the support of the national public television and radio (RTP and Antena 1), where it was broadcasted, and was also present in various public services, from all over the country, having also been disseminated through the digital channels of various public administration bodies – for example, in [*MENAC lança campanha de sensibilização e prevenção contra a corrupção \(justica.gov.pt\)*](#).

The month of December was established as anticorruption month by the National Anti-Corruption Strategy (ENAC), approved by Council of Ministers Resolution no. 37/2021, of 6 April. Through said campaign, MENAC complies with ENAC's recommendation so that “*raising citizens' awareness of the phenomenon of corruption must be done through the design of campaigns that, in accessible language, alert people to inappropriate everyday behaviours associated with corruption phenomena, contributing thus for better detection of them, at the same time that they encourage their rejection*”.

As part of the campaign to raise awareness against corruption and publicize MENAC among the general public, Liga Portugal (association that deals with the Portuguese professional football) broadcasted a video on the 1st LED line, in football stadiums, from the 21st to the 30th of December 2022, in competitions promoted by the Liga.

Additionally, MENAC has prepared a Training Plan for integrity, transparency and prevention of corruption for 2024 – 2025, which is available in [*PLANO-FORMACAO-Versao-Final.pdf \(mec-anticorruptcao.pt\)*](#) (please check also Annex 5) and which encompasses:

- Education in schools.
- Intensifying the teacher training program, supporting teachers in their approach to the new themes of the Education Framework for Transparency and Integrity – Early Childhood Education, Elementary Education and Secondary Education.
- Training of workers.
- Establishing partnerships to progressively expand to a greater number of public sector entities, the training projects, and to private sector entities as well.
- Training through local authorities through partnerships with the associations of municipalities and (ANMP) of parishes (ANAFRE).
- Promoting education campaigns for young people through digital channels, in particular social networks.
- Strengthen the presence of the Plan in traditional media.

Finally, it is important to note that on 20 June, Portugal approved the [*Anti-Corruption Agenda*](#) (please check Annex 2⁵), which consists of a set of 32 measures, the implementation of which the Government intends to start, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period

⁵ A translation is being prepared and will be sent as soon as available. Please be aware that this and other English versions of documents which we may provide are a translation of the original versions in Portuguese and for information purposes only. In case of discrepancy, the Portuguese originals prevail.

2025-2028, after due assessment of the results of the 2020-2024 Strategy. This list of measures includes the continuous training of public officials in integrity and corruption prevention.

The [Technical Report of the Anticorruption Agenda](#) (please check Annex 2⁶), released on July 2, stresses, namely, the importance to adopt a holistic approach as regards education and training. This document is now being submitted to public consultation, referring already that the Government is to, through the governmental areas of education, higher education, science and public administration, and in conjunction with MENAC, promote the adoption of programs and initiatives aimed at creating a culture of integrity and transparency, covering all areas of public management and all levels of education. In this context, it is considered necessary (page 21):

- To include curricular content, in the different cycles of elementary education, regarding standards;
- Elementary moral ethics and values;
- To include programmatic content, in the high school cycle, regarding citizenship based, notably, on a culture of integrity and demand for transparency;
- To encourage the inclusion of programmatic content in certain higher cycle courses, regarding citizenship, based, notably, on a culture of integrity and requirement for transparency;
- To promote public information about the phenomenon of corruption and the activity of preventing and combating its practice, with a view to developing critical sense in society and scrutiny intervention;
- To encourage the development of scientific research projects dealing with the conception and execution of anticorruption policies, with the support of the [Foundation for Science and Technology](#).

It is also important to add that the Anticorruption Agenda and its Technical Report mention also the intention to equate the fines provided for in the RGPC to the ones established in the legislation to combat money laundering and the financing of terrorism, therefore stressing the importance of the RGPC system and all legal obligations concurring to a full awareness of public officials as regards their duty to report foreign bribery.

Please check also what is being reported as regards recommendation 1(b).

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 1(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(b):

1. Regarding **reporting by public officials**, the Working Group recommends that Portugal:
 - (b) raise awareness of foreign bribery and the Convention among Portuguese public officials, including those monitoring foreign media [Anti-Bribery Recommendation IV.i and XXI].

⁶ A translation is being prepared and will be sent as soon as available.

Action taken as of the date of the follow-up report to implement this recommendation:

Please check also what is being reported as regards recommendation 1(a).

The approach to preventing corruption in any organization necessarily and naturally includes corruption in an international context, since criminal law, regarding the crime of corruption, and others of the same nature, does not distinguish the level and scope of the organizations' activities, namely whether it operates in a national or international context.

As regards public officials posted abroad, it is important to recall that the Directorate General of Consular Affairs and Portuguese Communities of the Ministry of Foreign Affairs (MFA) circulates periodically an official communication (“*circular*”) to all Diplomatic Missions reminding them that Portugal is a member-state of the Convention.

This reminder, issued every 18 months by the MFA, contains the procedures that public officials should undertake to report to the Central Department for Criminal Investigation and Prosecution (DCIAP) acts that may be considered as foreign bribery. The *circular* requests Diplomatic Missions to report any bribery related cases they become aware of, including through their media monitoring. And it also requests Diplomatic Missions to publish the Convention on their official pages and social media, promoting its awareness.

As to the *circular* requesting Diplomatic Missions to report any bribery related cases they become aware of, including through their media monitoring:

- (i) Between 2020 and 2024, 3 circulars were sent to all Diplomatic Posts: one in September 2020, another in March 2022 and the last in May 2024.
- (ii) Regarding reports being made to DCIAP, in the same four-year period, these are done directly to the DCIAP, but the MFA is aware of at least one participation made in this context. In the communication sent to the posts, the email address of DCIAP is indicated for the purpose of reporting any situations that fall within the scope of the Convention's application.

As regards the publication of the Convention on official pages and social media, promoting its awareness,

- (i) To facilitate the access by national citizens residing in Portugal or abroad, as well as all Portuguese Diplomatic Posts (Diplomatic Network Map - [Mapa da Rede Diplomática - Rede Diplomática - Portal Diplomático \(mne.gov.pt\)](#)), access to the content of the Conventions and other anticorruption texts subscribed by Portugal, namely those of the OECD, the Ministry highlights on its Diplomatic portal a link to the State body (AICEP) responsible for disseminating these anticorruption contents in the context of commercial transactions and investments. This wide dissemination makes it possible to cover almost all destination countries for national investments.
- (ii) Furthermore, on the same Diplomatic portal there is a link to the Government website, where the OECD Convention is once again online on the Ministry of Justice portal, along with other instruments from other international organizations participated by Portugal.

On the other hand, in 2022, the Directorate-General for Economic Activities (DGAE) represented the Portuguese National [Contact Point for Responsible Business Conduct](#) (NCP PT) at the Anti-Corruption International Congress, where it presented the [OECD Guidelines for Multinational Enterprises](#) (2011 edition), with emphasis on its chapter VII “*Combating Bribery and Other Forms of Corruption*”.

On 28 June 2024, the NCP PT published the 2nd edition of its Newsletter. One of its articles is dedicated to “*Transparency and Integrity in Lobbying Activities*” and presents the revised version of the “[OECD Recommendation on Transparency and Integrity in Lobbying and Influencing](#)”. On 18

July 2024 NCP PT will hold its annual webinar, this year dedicated to the theme “*Responsible Business Conduct and Transparency: Responding to Emerging Challenges*”, and one of the sessions will be assured by one of the government entities that accompanied the revision of the referred “OECD Recommendation on Transparency and Integrity in Lobbying and Influencing”. This webinar is to be addressed to governmental and non-governmental entities. In the last quarter of 2024, NCP PT will hold an awareness raising session for the Agency for Competitiveness and Innovation, P.I. (IAPMEI, I.P.), on the OECD Guidelines, 2023 edition, in particular with focus on Chapter VII.

It is also to be referred that INA is also to continue to provide training and raising awareness of foreign bribery among Portuguese public officials posted abroad. Additionally, looking into the future, in the framework of the cooperation of INA with other institutions (namely CEJ – Centre for Judicial Studies –, MENAC and IPQ – Portuguese Institute for Quality), consideration is being given to integrate specific actions/training on foreign bribery into national and international training programmes, taking advantage of existing partnerships. Developing webinars and including modules on foreign bribery in training programmes for public officials posted abroad could be executed within the framework of the "National Strategy for European Careers" and the INA's national and international training programme.

Therefore, awareness is raised on foreign bribery and the Convention among Portuguese public officials, including those monitoring foreign media, and especially as regards Portuguese public officials posted abroad, and also as regards the public that deals with them. And projects to further enlarge such awareness raising are also under consideration.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 1(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2:

2. Regarding specifically **diplomatic officials**, the Working Group recommends that Portugal continue to provide training and raising awareness of foreign bribery to Portuguese public officials posted abroad [Anti-Bribery Recommendation IV.i and XXI].

Action taken as of the date of the follow-up report to implement this recommendation:

Please check what is being reported as regards recommendations 1(a) and 1(b), reporting very specific actions taking place, namely those to continue raising awareness of foreign bribery to Portuguese public officials posted abroad.

Portugal has also continued providing training for new diplomatic officials, including, namely, on general guidance on detecting corruption schemes, including foreign bribery. More or less every two years, a course is held for Embassy attachés who will join the diplomatic career, with around 20/30 participants. These matters are covered throughout the course, as under Portuguese legislation they are provided for in the General Labor Law in Public Functions. There is a chapter dedicated to preventing and combating corruption (including foreign bribery) and related offences (please check Annex 4), there being mentioned also the obligation to report detected irregularities.

Additionally, looking ahead into the future, and to enhance the awareness raising, consideration is being given to providing public officials posted abroad with a specific course on this issue, namely via its Diplomatic Institute, a training more focused on foreign bribery.

Additionally, through the CICL (Camões Institute for Cooperation and Language), which is also

involved on the planning of additional training in the future, the MFA continues promoting initiatives to prevent foreign bribery in co-operation with host countries, primarily Portuguese-speaking countries in Africa.

Therefore, Portugal continues to provide training and raising awareness of foreign bribery to Portuguese public officials posted abroad, namely diplomatic officials and projects to further strengthen training and raising awareness are also under consideration.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 2, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(a):

3. Regarding **whistleblower reporting and protection**, the Working Group recommends that Portugal:

(a) clarify that the motive of the whistleblower is immaterial for the purpose of protection of whistleblowers under the law [Anti-Bribery Recommendation XXII];

Action taken as of the date of the follow-up report to implement this recommendation:

On 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes touching upon the reporting and the protection of whistleblowers, considering, namely, to enlarge the extension of the protection of whistleblowers, namely concerning abusive or manifestly unfounded legal proceedings.

The Technical Report (please check Annex 2) refers also that the legislation on whistleblowing, having been recently introduced following the approval of the National Strategy Against Corruption 2020-2024, needs to be properly evaluated so that it can be analysed as regards its effectiveness and that consideration can be afforded as regards the need for changes.

The Portuguese authorities consider that this recommendation is still partially implemented.

If no action has been taken to implement recommendation 3(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(b):

3. Regarding **whistleblower reporting and protection**, the Working Group recommends that Portugal:

(b) consider broadening the definition of retaliation to clarify that is not limited to workplace retaliation within Law 93/2021 [Anti-Bribery Recommendation XXII.vi];

Action taken as of the date of the follow-up report to implement this recommendation:

On 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes touching upon the reporting and the protection of whistleblowers, considering, namely, to enlarge the extension of the protection of whistleblowers, namely concerning abusive, retaliatory, or manifestly unfounded legal proceedings, even if there is no employment relationship or bond.

The Technical Report (please check Annex 2) refers about this matter that *“it is not only in the labour context, however, that there is a risk of retaliation for reporting or participating publicly. In this regard, it is particularly worth mentioning the existence of ‘Strategic lawsuits against public participation’, to use the terminology contained in the Directive (EU) 2024/1069, of the European Parliament and of the Council, of 11 April 2024, used with intimidating and persecutory intent. Public participation which may consist, for example, in the exercise of the activity of investigative journalism, within the scope of which it is disclosed to the public an act of corruption. It is important to protect those involved in such public participation against abusive legal proceedings or manifestly unfounded requests, regardless of whether or not the complainant has an employment relationship. In particular, ensuring the possibility of, after due analysis, the preliminary rejection of the action being determined as manifestly unfounded, or requiring the applicant to provide a deposit for the costs of the proceedings. (...) We will provide adequate protection for whistleblowers of corruption.”*

In fact, on the 16th of April 2024, the [Directive \(EU\) 2024/1069](#) of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (‘Strategic lawsuits against public participation’) was published in the Official Journal of the European Union.

SLAPPs are unfounded and abusive legal actions that aim to silence those working in the public interest on matters such as fundamental rights, the environment, and public access to information. The Directive establishes a system of procedural safeguards for cross-border SLAPP cases which will equip courts to deal with abusive litigation, as well as deter potential claimants from engaging in such practices. Persons targeted by a SLAPP can request for their case to be dismissed early as manifestly unfounded. Additionally, claimants who have brought abusive court proceedings against public participation can be ordered to bear the cost of the proceedings and may also face penalties and other measures.

The new rules are aimed at addressing the growing number of abusive lawsuits against journalists, media outlets, and human rights defenders. Member States have now two years at the latest to transpose the rules into their national systems. This Directive forms a package together with the [Commission's Recommendation on anti-SLAPP](#), which was adopted in 2022 and is already being implemented.

Regarding the Directive, the procedure for the adoption of implementing measures is currently underway and we expect to conclude it within the time limit.

Therefore, it is clear that Portugal has addressed the requirement of the recommendation, to consider broadening the definition of retaliation.

The Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 3(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(c):

3. Regarding **whistleblower reporting and protection**, the Working Group recommends that Portugal:

(c) ensure that appropriate remedies are in place to compensate direct and indirect consequences of retaliation, and provide for interim relief pending the resolution of legal proceedings [Anti-Bribery Recommendation XXII.vii];

Action taken as of the date of the follow-up report to implement this recommendation:

On 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes touching upon the reporting and the protection of whistleblowers, considering, namely, to enlarge the extension of the protection of whistleblowers, namely concerning abusive or manifestly unfounded legal proceedings.

The Technical Report (please check Annex 2) refers also that the legislation on whistleblowing, having been recently introduced following the approval of the National Strategy Against Corruption 2020-2024, needs to be properly evaluated so that it can be analysed as regards its effectiveness and that consideration can be afforded as regards the need for changes.

The Portuguese authorities consider that this recommendation is still partially implemented.

If no action has been taken to implement recommendation 3(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(d):

3. Regarding **whistleblower reporting and protection**, the Working Group recommends that Portugal:

(d) cover as part of the annual reports and periodic reviews the effectiveness of the legal and institutional framework for the protection of whistleblowers; and consider making publicly available the results of these reports and reviews [Anti-Bribery Recommendation XXII.xiii];

Action taken as of the date of the follow-up report to implement this recommendation:

On 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes touching upon the reporting and the protection of whistleblowers, considering, namely, to enlarge the extension of the protection of whistleblowers, namely concerning abusive or manifestly unfounded legal proceedings.

The Technical Report (please check Annex 2) refers also that the legislation on whistleblowing, having been recently introduced following the approval of the National Strategy Against Corruption 2020-2024, needs to be properly evaluated so that it can be analysed as regards its effectiveness and that consideration can be afforded as regards the need for changes. Therefore, the effectiveness of the legal and institutional framework for the protection of whistleblowers is to be assessed and the results of such evaluation will be made available.

Additionally, it is to be highlighted the inclusion in the State Budget Law for 2024 (Article 215) the adoption of the necessary initiatives to optimize capacity and strengthen cooperation between sectoral administrative inspectorates and criminal police bodies specialised in the prevention and repression of fraud detrimental to the financial interests of the State, corruption and economic and financial crime.

The measures are as follows: a) Establishment of verifiable targets and control mechanisms; b) Preparation of specialised training plans for magistrates; c) Strengthening the resources of investigative bodies; d) Strengthening information-crossing strategies at the national and local levels.

It is also expected that by 30 November 2024 a monitoring report on the implementation of the ENCC 2020-2024 will be publicly disclosed.

In another perspective which also looks into the effectiveness of the legal and institutional framework for the protection of whistleblowers, and to ensure that an up-to-date record is maintained regarding regulatory compliance, MENAC issued Recommendation no. 7/2024 of 28 April, by which recommended that the entities covered, through their regulatory compliance officer, communicate monthly to MENAC, during the first week of the month following the month to which it relates, regarding regulatory compliance, whether there was regularity in compliance or whether there were failures or irregularities, identifying them.

Therefore, the effectiveness of the legal and institutional framework for the protection of whistleblowers is a key issue in the Portuguese system, being addressed through different components of said system.

It is to be noted also that some of these mechanisms are of a permanent nature, being this the case of Article 17(d) of Law no. 93/2021, which requires that the annual reports to be presented to Parliament contain also “*whatever other issues considered relevant to improve the mechanisms for reporting and monitoring complaints, protecting whistleblowers, related people and targeted people, and sanctioning action*”, therefore addressing the concerns of the recommendation.

The Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 3(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3(e):

3. Regarding **whistleblower reporting and protection**, the Working Group recommends that Portugal:

(e) continue to raise awareness of the law and provide guidance on the establishment and operation of reporting channels and protective frameworks for whistleblowers both in the public and private sectors [Anti-Bribery Recommendation XXII.xii].

Action taken as of the date of the follow-up report to implement this recommendation:

As referred above, it is to be highlighted, especially, the production by MENAC in September 2023, and the subsequent dissemination by different entities, namely the MENAC and INA, of *Guide no. 1 on the Instruments of the RGPC*. The Guide is available as Annex 3 and in here: [guia-n1-2023.pdf \(mcc-anticorruptcao.pt\)](https://mcc-anticorruptcao.pt/guia-n1-2023.pdf).

It includes, namely, guidance as regards reporting channels, including as regards Law no. 93/2021, and the training to be provided to both private and public sectors, managers and employees, as regards these subjects, so that these entities may implement all mechanisms properly and in accordance with the law.

Public and private entities obliged by the RGPC, in accordance with its Article 5, have to adopt and implement a regulatory compliance program that includes, as a minimum, a PPRC, a code of conduct, a training program and a reporting channel, in order to prevent, detect and sanction acts of corruption and related offenses, carried out against or through said entity.

Additionally, INA offers wide training opportunities in this area, as indicated in the response to recommendation 1a (please check above).

And MENAC participates as well in different initiatives focused on such matters, as indicated in the response to recommendation 1a (please check above). In collaboration with INA and IGAP, it has provided and promoted several training sessions with public entities that have requested support in this area, including universities, municipal councils, public institutes and entities, among others, in the health area. In total, more than 30 actions of this nature have already been promoted, involving a total of more than 1 000 trainees, including top managers, intermediate managers and technicians.

On the other hand, numerous private entities offer training as regards this subject. For example,

- **Comité de Estudos e Auditoria da Contratação Pública**
Please check Annex 11 and [Formação - CEACP](#);
- **Incurso – Capital humano**
General Protection Regime for Whistleblowers
 - Level 1 - General Approach to Protecting Whistleblowers (<https://incurso.pt/curso/rgpdi-abordagem-geral-protacao-denunciantes/>)
 - Level 2 - Specific Approach to Reporting Channel Management (<https://incurso.pt/curso/rgpdi-abordagem-especifica-gestao-canais-denuncia/>)
- **Academia de Compliance**
Complaints Controller (<https://www.academiadecompliance.com/formacao/responsavel-pelo-tratamento-das-denuncias/>)
- **APOTEC Academia**

General Protection Regime for Whistleblowers
(<https://www.apotec.pt/pt/formacao/regime-geral-de-protecao-de-denunciantes-de-infracoes/>)

- **GIAGI – Consultores em Gestão Industrial**
Management of reporting channels and protection of whistleblowers – Whistleblowing
(<https://www.giagi.pt/curso/gestao-de-canais-de-denuncia-e-protecao-dos-denunciantes-whistleblowing-/2052/>)
- **Whistleblower protection (Whistleblower Protection and Whistleblower Management Support Professional Services Center)**
Technical training plans (<http://www.protecaodosdenunciantes.com/formacao/>)
- **KNOWIT – Consultoria, formação e tecnologia, SA**
Whistleblowing – Complaint management and investigation
(<https://knowit.pt/cursos/whistleblowing-gestao-e-investigacao-de-denuncias/>)
Compliance Programs and Whistleblowing Channels (<https://knowit.pt/cursos/programas-de-compliance-e-canais-de-denuncias-whistleblowing/>)
- **APEMIP Academia**
Corruption Prevention and Whistleblower Protection Regimes in the Real Estate Sector
(https://www.academiaapemip.pt/cursos/138/regimes_de_prevencao_da_corrupcao_e_de_protecao_de_denunciantes_no_setor_imobiliario)
- **APQ – Associação Portuguesa para a Qualidade**
Whistleblowing Channel Management (<https://apq.pt/formacoes/gestao-de-canais-denuncias-whistleblowing-2/>)
- **Academia Portuguesa de Seguros (2024)**
Prevention of Corruption and Whistleblower Protection Legal Regimes
(<https://www.apseguradores.pt/pt/academia-home/cursos/curso?uid=E4860D3C-5378-4BA2-9105-912723A63E52>)
Whistleblowing and Behavioural Compliance (<https://www.apseguradores.pt/pt/academia-home/cursos/curso?uid=0A9B3E20-73A2-494E-856A-4D88DB337482>)
- **Instituto de Gestão e Administração Pública**
General Protection Regime for Whistleblowers - Law No. 93/2021 - 2nd Ed
(<https://www.igap.pt/pt/formacao-cursos/22igp061-regime-geral-de-protecao-de-denunciantes-de-infracoes-lei-n-93-2021-2-ed-on-line/>)

Therefore, awareness continues being raised, training is being delivered, and guidance is provided on the establishment and operation of reporting channels and protective frameworks for whistleblowers, both in the public and the private sectors.

As an example of law in action, we would like to focus on the case of the General Inspectorate of Finance (IGF):

- In accordance with Law n.º 93/2021, two reporting channels (one internal and another external) are available at the IGF website, which also provides a detailed explanation of the applicable procedures (in [here](#)).
- In accordance with the RGPC, IGF also implemented a compliance programme (PCN) and designated a responsible person; adopted a PPRC; adopted a code of conduct; implemented an

evaluation system and internal controls and promoted training and awareness raising (in 2024 additional training on IGF's PCN was provided to all its auditors).

- IGF's PPRC is subject to continuous monitoring and evaluation and the results are made available on its website (in [here](#)).
- In 2023, IGF conducted two audits on the monitoring of the report and transparency duties established in the RGPC by the entities of the Ministry of Finance (the final report is expected to be sent to MENAC until the end of the third trimester of 2024) and by local administration and, still in 2024, a similar approach is planned for the State-owned companies.

Additionally, and looking into the future, the new [Anticorruption Agenda](#) just released by the Portuguese Government (please check above and Annex 2) provides clear objectives as regards enhancing protective measures for whistleblowers both in the public and private sectors, therefore leading to further future awareness raising, training and guidance as regards whistleblower protection.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 3(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(a):

4. Regarding **money-laundering**, the Working Group recommends that Portugal:

- (a) take the appropriate measures to enforce the money-laundering offence, particularly where foreign bribery is the predicate offence [Convention Article 7; Phase 3 recommendation 8(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

Regardless of the predicate offence, all suspicions of money laundering are enforced and investigated by the competent criminal investigation authorities, by virtue of the principle of legality established in the Code of Criminal Procedure.

The global number of communications to prevent money laundering (Articles 43 and 47 of Law no. 83/2017) has increased, when compared to the same period in 2022. In line with this, there was also an increase in the establishment of procedures to prevent and suspend operations in the financial system. As there was an increase in the opening of criminal investigations.

DCIAP reports these increases, starting by the overall number of anti-money laundering communications (Articles 43 and 47 of Law no. 83/2017), which has been increased since 2022. During 2022, a total of 14 393 money laundering procedures were open, and 1043 of them resulted in procedures of bank account suspensions. 699 of these procedures were converted into a criminal investigation. In 2023, those numbers increased to 18 096 procedures opened, and 1203 bank account suspensions. In line with this, there was also an increase in the initiation of procedures to prevent and suspend operations in the financial system. 920 of this were converted into a criminal investigation.

However, as explained during the on-site visit, the analysis of the suspicious transactions reports of money laundering alone does not allow, by itself, to correlate the suspicious flows with the predicate offence of foreign bribery, something which requires an in-depth investigation. According to the data collected for the DCIAP's annual report, the cases of money laundering proceed from the practice of several offenses: digital crimes, fraud, tax crimes, drug trafficking, corruption, foreign bribery and others.

It remains difficult to obtain the news of a foreign bribery crime based only in a money laundering report (the pact of silence between corruptor and corrupted is significant, and normally documents are presented to the bank in an attempt to justify the transaction as a result of a licit act).

The PPS (Public Prosecution Service) compares the complaints (received on the PPS's "[report here](#)" platform), the complaints received through MENAC and analyses the news published in the press and on television channels or acquired through international judicial cooperation, in order to detect suspicious cases of foreign bribery.

Money laundering cases are investigated having in mind the necessity to determine the predicate offence. When sufficient evidence is gathered concluding that foreign bribery is the predicate offence, the case is investigated in DCIAP's specialized corruption section (please check the introductory text of Annex 1).

So as to help and train prosecutors working with money-laundering, giving them strategies on detection and investigation of the crime, in association to the predicate offence, DCIAP, through the coordinator of the money laundering section, has organized training sessions in a hybrid format (in person, for DCIAP prosecutors, and online for prosecutors working in the courts and Regional Prosecution Offices). During June 2024 a total of 226 Prosecutors participated on these trainings .

It is also important to recall that with the approval of Law n. 51/2023 Portugal defined the objectives, priorities and guidelines of criminal policy for the two years 2023-2025, integrating the crimes of corruption, influence peddling, money laundering, embezzlement, and economic participation in business, as criminal phenomena of priority prevention, as well as priority investigation.

Looking ahead into the future it is important to add two specific references. One, as regards INA, which, in the framework of the cooperation with other institutions (namely CEJ, MENAC and IPQ), is considering designing specialised training for national law enforcement authorities, including in these areas.

Very recently, on 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes the creation of a permanent specialized training for judges , public prosecutors, law enforcement in general and court clerks in the areas of anticorruption. The Technical Report associated to the Agenda (please check Annex 2) refers, in page 37, that "*Professionals directly associated with the investigation, trial and punishment of corruption, such as criminal police bodies, Asset Recovery and Asset Administration Offices, court clerks, prosecutors and Judges, are to have access to specialized training, focused on areas such as the processing of especially complex proceedings, (...) economic-financial crime (including the specific type of crime of foreign bribery and the crime of intentional concealment of assets established in article 18-A of Law n. 52/2019), including as regards the relevant area of asset recovery (...). In this context, the relevant role of the Center for*

Judicial Studies and the Superior Councils is recognized”.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 4(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(b):

4. Regarding **money-laundering**, the Working Group recommends that Portugal:

(b) prepare and provide guidelines and typologies to reporting entities that specifically refer to foreign bribery, as well as additional training to the FIU, law enforcement authorities, reporting entities and oversight authorities on adequately detecting, preventing and prosecuting money-laundering by politically exposed persons [Anti-Bribery Recommendation IV.ii and Anti-Bribery Recommendation VIII; Phase 3 recommendation 8(b)];

Action taken as of the date of the follow-up report to implement this recommendation:

From a legislative policy point of view, it is worth highlighting the approval of Law no. 51/2023, which defines the objectives, priorities, and guidelines of criminal policy for the two years 2023-2025, integrating corruption as a criminal phenomenon of priority prevention, as well as priority investigation.

Following this legislative instrument, Directive no. 1/2023 was published by the Prosecutor’s General Office, containing the General Directives and Instructions for the implementation of the Criminal Policy Law for the two years 2023-2025. This Directive specifies that investigations, reports or complaints, as well as any other news or information relating to acts of corruption provided for in the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and punishable under article 7 of Law no. 20/2008, when attributable to foreign officials or holders of political office or to officials of an international organization, must be immediately transmitted to the DCIAP, following the provisions contained in Circular no. 2/11 of the Prosecutor General of the Republic. The investigation priorities defined by Law no. 51/2023, of 28 August, due to their quantitative and qualitative scope, require that the directives and guidelines to be issued take into account the specificities of each of the crimes of priority investigation, providing prosecutors and criminal police bodies, where justified, with guidelines for action that promote specialized, coordinated and rapid intervention, to effectively comply with the general and specific objectives of criminal policy.

* * *

As DCIAP reports, measures have been and are being taken, such as the highly attended workshop that has been co-organized by the Criminal Police (PJ) and the Institute of Public Markets, Real Estate and Construction (*Instituto dos Mercados Públicos, do Imobiliário e da Construção – IMPIC*), in November 2022. It was a two-day theoretical-practical workshop, in a hybrid format (in-person and remotely), whose target audience were 1000 (one thousand) agents from the real estate and property management sectors, within the scope of money laundering and terrorism financing prevention.

The objectives of such training included the detection and reporting to the PPS and the FIU of predicate offences (e.g. foreign bribery in the context of the increasing foreign investment in Portugal, namely in real estate, and the internationalization of medium-size and large Portuguese companies).

Speakers at this workshop included a prosecutor from the Central Department for Criminal Investigation and Prosecution (DCIAP), the director of the FIU and a coordinator of IMPIC (the supervisory body for

the property sector). In the workshops and in the analysis of practical cases the trainers were inspectors from the FIU and investigators from the PJ.

Said theoretical-practical approach consists on an effort that is considered to be especially focused and effective.

* * *

As part of the awareness raising actions taken, the FIU, IMPIC, and the Institute of Management and Public Administration (IGAP) have so far held three well attended seminars to address the issue of money laundering and terrorist financing, two in Lisbon and one in Porto, for the real estate sector, in which DCIAP prosecutors have also participated– please find attached in Annex 12 an example of the programme of these seminars, in this case the one taking place in Porto. In the two seminars organized in June 2023 and December 2022, 164 and 170 persons, respectively, participated, coming also from the non-financial sector and covering all stakeholders in the real estate sector.

* * *

As the FIU reports, the responsibility and onus for compliance on customer identity, beneficial ownership, PEP status is primarily on the stakeholders of the system, so FIU organized conferences with the regulators and reporting entities regarding the Real Estate sector (please check also above), where warnings were sent on the need to target PEPs by compliance service.

The introduction of a data base on beneficial ownership has empowered FIU whenever a STR is reported and enables checking on identification of possible PEP's, also by stakeholders of the sector.

FIU also gave training regarding *Golden Visa* authorizations, underlining the need to analyze if proposed investments involve PEP's.

FIU has cooperated very actively with foreign FIU's targeting PEP's, especially with FIU's from Africa, namely as regards investments made in Portugal.

Regarding the operational analyses carried out by the Financial Intelligence Unit (FIU) in the years 2022 and 2023, involving PEPs (Politically Exposed Persons), we have the following numbers: during the year 2022, 33 operational analyses were conducted, and in 2023, 19 operational analyses were conducted. These numbers result from the STRs submitted by the obliged entities and the preliminary analyses by the FIU to determine whether the case should be submitted for an operational analysis.

This led to the opening by investigative authorities of criminal investigations on money laundering, corruption, bribery of PEP's, where seizure of multiple assets was made, in Portugal and abroad.

Regarding the FIU it is also to be highlighted at this point in time that the test phase of the goAML software is ongoing and within its use the foreign bribery specification is to be included and training will be provided under said framework. The goAML is expected to go into operation soon (please check our response to recommendation 4.f bellow). With the operation of goAML, obliged entities, when reporting suspicious transactions, will have their own field to identify politically exposed persons, in accordance with the provisions of Law no. 83/2017. On the other hand, goAML will have indicators of suspicion, with foreign bribery being mentioned, which obliged entities may mention in their communications. Currently, the model adopted for the report of suspicious transactions does not have any of these possibilities. The entry into operation of goAML will be preceded by dissemination and training actions with obliged entities, and it should be noted that since December 2022 the goAML has been in the testing phase, by financial and non-financial entities.

* * *

CMVM: As to the role of CMVM concerning the obliged entities in the financial sector subject to the CMVM supervision, the latter promoted several initiatives to build up the awareness of the Convention

and to reinforce the capacity (of these entities) to identify PEPs, their families and close associates when establishing business relationships or carrying occasional transactions and consequently implement the mechanisms of Enhanced Due Diligence in order to identify, prevent and mitigate the increased risks in these situations.

In December 2022, a hybrid (virtual and physical) training session to Fund Managers was held in CMVM to address main shortcomings identified in the on-site inspections conducted to these financial institutions concerning AML duties. PEP detection and enhanced due diligence (EDD) measures were discussed and examples provided to enhance the mitigation of AML risks. The Convention was especially addressed, given that many of the financial institutions attending deal with foreign investors, for example, in the on-boarding of customers investing for residency visas.

The relevance of the EDD measures is that for such customers (PEP), obliged entities have mandatory provisions in the AML legislation to determine the source of the (invested) funds and customers' wealth.

Additionally, another initiative was held in connection, via the issuance of Guidelines in March 2023, to address the due diligence measures required in the establishment of business relationships and occasional transactions, namely in the previously referred identification of PEP and EDD measures applicable, but also in the determination of the beneficial owner of corporate and other legal entities.

* * *

Banco de Portugal: As referred within the context of the Phase 4 report, some of the guidance issued by Banco de Portugal with regard to money laundering risks and money laundering suspicion indicators, even if not exclusively related to foreign bribery, contributes to the detection of this phenomenon.

Additionally, it is relevant to mention that Banco de Portugal's Notice no. 1/2023 extended some of this guidance to Virtual Asset Service Providers (e.g.: customers engaged in economic activities in sectors often associated with high levels of corruption are listed as potentially higher risk situations).

* * *

Economic and Food Safety Authority (ASAE): Notwithstanding being a law enforcement authority, ASAE has no criminal competencies regarding the investigation of crimes such as bribery. In the case of money laundering, ASAE is an oversight authority for the non-financial sector, with inspection and regulatory powers over its obliged entities (mostly traders), in order to prevent trade-based money laundering. In this context, ASAE's inspectors who conduct these specific inspections have adequate training to be able to detect suspicious transactions, including the ones involving PEPs. Such training has been provided internally, as well as by external entities, namely by CEPOL (European Union Agency for Law Enforcement Training).

As for obliged entities, whenever the obliged entity is obliged to identify the customer (and their representative), and it is found that one of them is a PEP, the obliged entity adopts the reinforced measures provided for in Article 39 of Law no. 83/2017. ASAE Regulation no. 1191/2022, in addition to standard identification and due diligence procedures (Article 13 of the Regulation), requires obliged entities to implement reinforced measures in relation to customers who are PEP, which involves, firstly, detecting people who actually possess this quality, using appropriate tools or information systems proportional to the nature, dimension and complexity of the activity pursued. Procedures must be more rigorous when PEP are involved, requiring, for example, approval of the business by a member of top management, determination of the origin of funds and continuous surveillance of operations. These measures apply not only directly to PEP, but also to close family members and people who have close relationships with them. Furthermore, it is necessary to fill in forms 1 and 2, attached to the ASAE Regulation, fields 19, 19.1 and 19.2, relating to the PEP, which refer to:

19. Is the client a PEP (politically exposed person)?

19.1 If it is a PEP, did any member of senior management intervene?

19.2 If it is a PEP, what measures were taken to determine the origin of the assets and funds involved in

the operation (for example, inheritance, savings, professional income, loan, etc.)?

* * *

Gambling Regulation and Inspection Service (*Serviço de Regulação e Inspeção de Jogos – SRIJ*) of *Turismo de Portugal*: the SRIJ does not have criminal jurisdiction to investigate offences such as bribery, under the Portuguese legal framework. However, in compliance with the obligations established by the Recommendations of the Council for the Prevention of Corruption (CPC) no. 1/2009, no. 1/2010 and the Recommendation of 1 July 2015, which apply to entities that manage public funds, values and assets, SRIJ has a Risk Prevention Plan (Management Risk Prevention Plan 2022-2026), which includes the risks of corruption and related offences (PPRGRCIC). For this purpose, risks have been identified and appropriate control measures have been adopted to prevent them during the SRIJ's inspection duties in both land-based and online gambling.

Under Article 2(1)(f) of Law no. 83/2017, the SRIJ is a supervisory authority for the non-financial sector, with inspection and regulatory powers over the following obligated entities: casino gambling concessionaires, bingo hall concessionaires and also entities subject to the online gambling and sports betting legal regime (RJO). In this context, the land-based and online gambling inspection teams have knowledge, regular training and risk-based information systems to conduct inspections that enable them to detect possible suspicious transactions, including those involving PEP.

The obligated entities also have and apply appropriate risk-based procedures or information systems that allow them to assess or detect the characteristics of "PEP", "close family member" and "person recognised as closely associated", as defined in Law no. 83/2017.

IGF: The Portuguese treasury and debt management agency - *Agência de Gestão da Tesouraria e da Dívida Pública - IGCP, E.P.E. (IGCP)*, is the only entity under the supervision of *Inspecção-Geral de Finanças (General-Inspectorate of Finance – IGF)*, in what concerns to compliance with money laundering and terrorist financing laws (ML/TF), as laid down in paragraph c), n. 1, of Article 84 of the Law no. 83/2017.

Both IGF and IGCP had training on the additional risks posed by PEPs.

In view of the need to mitigate these risks, the IGCP implemented a computer-based screening system for clients which are PEP, thereby allowing for a better knowledge of the client's risk profile and for a more adequate adjustment of the procedures concerning the prevention and combat of ML.

Looking ahead into the future it is important to add two specific references. One, as regards INA, which, in the framework of the cooperation with other institutions (namely CEJ, MENAC and IPQ), is considering designing specialised training for national law enforcement authorities, including in these areas.

Finally, on 20 June 2024 Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes the creation of a permanent specialized training for judicial magistrates, public prosecutors, law enforcement in general and court clerks in the areas of corruption. The Technical Report associated to the Agenda (please check Annex 2) refers, in page 37, that "*Professionals directly associated with the investigation, trial and punishment of corruption, such as criminal police bodies, Asset Recovery and Asset Administration Offices, court clerks, prosecutors and Judges, are to have access to specialized training, focused on areas such as the processing of especially complex proceedings, (...) economic-financial crime (including the specific type of crime of foreign bribery and the crime of intentional concealment of assets established in article 18-A of Law n. 52/2019), including*

as regards the relevant area of asset recovery (...). In this context, the relevant role of the Center for Judicial Studies and the Superior Councils is recognized”.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 4(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(c):

4. Regarding **money-laundering**, the Working Group recommends that Portugal:

(c) ensure better feedback by the FIU to reporting institutions regarding STRs [Convention Article 7; Phase 3 recommendation 8(c)];

Action taken as of the date of the follow-up report to implement this recommendation:

As established by Article 114 of Law no. 83/2017, the FIU promotes feedback to reporting institutions regarding STRs. The FIU has been specifically targeted by this recommendation and the FIU has been able to address such matter, ensuring better feedback to the reporting entities regarding STRs.

Measures have been taken and as stated in FIUs 2022 Annual Report (available [here](#)), with the adoption of new procedures the FIU was able to ensure feedback for a period extended to 2020 to ensure, even at the risk of repetition, that all STRs were the object of said feedback.

Efforts have continued to be made and such level of feedback was kept: in 2024 feedback was given regarding 15 625 STRs related to 184 entities and sectoral authorities, specifying the destination of each case.

The Portuguese authorities consider that this recommendation is implemented.

If no action has been taken to implement recommendation 4(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(d):

4. Regarding **money-laundering**, the Working Group recommends that Portugal:

(d) specifically consider money-laundering predicated on foreign bribery in future national risk assessments [Convention Article 7 and Anti-Bribery Recommendation VIII];

Action taken as of the date of the follow-up report to implement this recommendation:

It is relevant to take into account that [Law no. 51/2023](#), defines the objectives, priorities and guidelines of criminal policy for the 2023-2025 biennium, in compliance with Law 17/2006, which has approved the Criminal Policy Framework Law.

Said piece of legislation considers as a priority the investigation of corruption and related crimes, based on the consideration of the delegitimizing effect of this type of crime and the consequent erosion of citizens' trust in the democratic system and in the agents that represent it, as well as its repercussions on the economy and public expenditure.

The Executive Committee of the Coordination Committee for Policies to Prevent and Combat Money Laundering and the Financing of Terrorism (*Comissão de Coordenação de Políticas de Prevenção e Combate ao Branqueamento de Capitais e ao Financiamento do Terrorismo*), identified in the 2022 report as AML/CFT Coordination Commission, started in 2022 the procedure for the updating of the National Risk Assessment (NRA) for money laundering, terrorism financing and financing the proliferation of weapons of mass destruction, carried out in 2019.

The Permanent Technical Secretariat of the AML/CFT Coordination Commission reports that at present Portugal is undergoing the update of the 2019 future NRA. And this exercise is due to be concluded by the end of 2024. Regarding threat identification and assessment, the different types of bribery as a predicate offence to money laundering are being segregated, thus allowing foreign bribery to be specifically considered.

The Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 4(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(e):

4. Regarding **money-laundering**, the Working Group recommends that Portugal:

(e) ensure regular coordination between the FIU and DCIAP in the context of its dual reporting system for STRs [Anti-Bribery Recommendation XI];

Action taken as of the date of the follow-up report to implement this recommendation:

The law stipulates that the STRs must be simultaneously submitted to the FIU and to the DCIAP. So, measures have been and continue to be taken and coordination between the FIU and the DCIAP is ensured regarding the STRs made to both these entities.

Regular coordination between the FIU and DCIAP was the subject of a directive issued by the DCIAP's Director (8/2021-DIR). The directive assigns the longest-serving and most experienced DCIAP's Senior Prosecutor, with the largest experience in money laundering matters, as the coordination of the anti-money laundering unit in the Department, simultaneously assigned with the direction of the prosecutors in the section responsible for investigating money laundering offences. Coordination and mutual cooperation are being reinforced and occur daily.

The Portuguese system for receiving STRs is dual, with the FIU being responsible for preparing the operational analysis report, which is then sent to the DCIAP for decision, while identifying where a suspicion exists, recommending the opening of a criminal investigation (and financial investigation,

where is the case). It is up to the prosecutor in charge to open a file and to take measures to investigate the case. Every day, operational analysis reports are sent to the DCIAP, which usually end up in the suspension of banking operations. On the other hand, DCIAP requests UIFs collaboration in terms of international cooperation, with good results.

As regards coordination in the framework of training and awareness raising actions, please check the references made in response to recommendation 4(b), being also worth mentioning that other training will be given by UNODC to DCIAP's prosecutors and reporting entities.

The implementation of goAML (as above referred, it is in its testing phase) required the creation of a shared STR reception portal between the FIU and the DCIAP and subsequent meetings with the DCIAP to optimize the created STR models.

The Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 4(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(f):

4. Regarding **money-laundering**, the Working Group recommends that Portugal:

(f) urge the FIU to expedite the implementation of the goAML software, develop manuals and provide training to reporting entities on its use [Anti-Bribery Recommendation IV.ii and Anti-Bribery Recommendation VIII].

Action taken as of the date of the follow-up report to implement this recommendation:

Measures have been and are being taken and the FIU is on the test phase of the goAML with the obliged entities within the financial sector and the non-financial sector since the end of 2022. The entities involved in the testing phase include banks, insurance companies and non-financial entities. The tests are being carried out in a closed environment, due to IT security issues. The perspective is that goAML will become operational in 2024.

Additionally, it is also to be highlighted that although the go AML software is not yet operational, so as to enable common access to the FIU and the DCIAP, technical work is underway, under the responsibility of the Department of Technologies and Information Systems of the Public Prosecution Service, with a view to enabling a swift operationalization of said software. There are still adjustments to be made in order to make the software fully operational.

The entry into operation of goAML will be preceded by training and awareness raising actions for financial and non-financial entities.

It must also be highlighted that goAML has manuals that are going to be made available to these entities.

The Portuguese authorities consider that this recommendation is still partially implemented.

If no action has been taken to implement recommendation 4(f), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5:

5. Regarding **detection of foreign bribery by auditors**, the Working Group recommends that Portugal encourage the CMVM to seize the opportunity of the on-going development of an Action Plan, expected for 2023, to issue guidance and further raise awareness on the foreign bribery offence and on reporting foreign bribery [Convention article 8; Anti-Bribery Recommendation IV.i and XXIII.B.iii and v].

Action taken as of the date of the follow-up report to implement this recommendation:

CMVM has reported that, based on a risk-based approach, the availability and allocation of critical resources, has resulted in CMVM planning to publish the respective guidelines required by the identified recommendation until September 2024.

The Portuguese authorities consider that this recommendation will be fully implemented by the time the WGB plenary meeting takes place in October.

If no action has been taken to implement recommendation 5, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6:

6. Regarding self-reporting, the Working Group recommends that Portugal consider adopting additional measures to incentivise companies to self-report foreign bribery to law enforcement [Anti-Bribery Recommendation XV.ii and/or XVIII.ii].

Action taken as of the date of the follow-up report to implement this recommendation:

The General Regime for the Prevention of Corruption (RGPC) and the mandatory adoption of regulatory compliance programs apply not only to public entities but also to private entities, legal entities headquartered in Portugal that employ 50 or more workers, and branches in the Portuguese territory of legal entities headquartered abroad that employ 50 or more workers.

The sanctioning part of the RGPC, provided for in its chapter IV, came into force on 7 June 2023, under the terms outlined in Article 28(1) of Decree-Law no. 109-E/2021. Violation of the provisions contained in the RGPC, without prejudice to any civil, disciplinary, or financial liability that may arise, result in the commission of administrative offences, to be applied by MENAC, punishable by fines that, depending on the administrative offence in question, may vary between €1 000.00 and €44 891.81 or from €1 000.00 to €3 740.98, depending on the nature of the offender (legal or natural person). The administrative offence regime has the virtual effect of a deterrent combined with the effectiveness of regulatory compliance programs which, as stated in the Phase 4 2022 report and above, include a set of instruments leading to the reporting of wrongdoings.

MENAC is in charge of monitoring the adoption of those instruments by covered entities and of applying

sanctions in the event of non-compliance, both with the RGPC and the whistleblowing legislation (check above).

As referred above, the completion of the implementation of the platform supporting MENACs action is very important to ensure the reception, automatic processing, and storage of instruments relating to Regulatory Compliance Programmes. Although the platform is not yet operational, MENAC Recommendation no. 2/2023 on the procedures to be adopted by entities when sending instruments relating to regulatory compliance programs to MENAC has already been published in the Official Gazette (2nd series, 7 July 2023), as a form of incentive even when the platform is unavailable. MENAC has already received these instruments and has begun the respective analysis and monitoring of compliance with this part of the RGPC.

Additionally, CMVM stresses that companies are obliged to have public anticorruption policies (Law no. 93/2021, and Articles 66-B and 508-G of the Commercial Companies Code), having strict information duties on those policies, accompanied by key performance indicators (KPI's) regarding the subject. And statutory auditors are also responsible for verifying the policy and its implementation.

CMVM supervises the reporting duties on non-financial information and corporate governance. The lack of quality of the information provided can lead to financial responsibility of the companies.

As to the supervision of anticorruption policies, CMVM has been very active in the supervision of non-financial information (sustainability reports). On top of a demonstrable anticorruption policy, issuers are obliged to have and maintain indicators regarding corruption and bribe attempts. The last supervision conclusions by CMVM that are publicly available, can be found in the following links:

- [CMVM divulga Relatório de Supervisão de Emitentes relativo a fatores de sustentabilidade](#)
- [CMVM divulga Relatório de Supervisão de Emitentes relativo a fatores de sustentabilidade | AEM](#)

Finally, Portugal's considerations on adopting additional measures to incentivise companies to self-report foreign bribery to law enforcement are also encompassed by the recently approved Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This Agenda includes two specific points which have an important impact on this recommendation.

In one hand, as regards MENAC, which has a key role on the implementation of compliance programs and its instruments, the Anti-Corruption Agenda stresses a key measure addressing the need to *Restructuring and strengthening the resources of the MENAC*, and the Technical Report associated to the Agenda points out to an operationalization of its actions, endowing it with effectiveness, notably through a redefinition of its internal structure and governance model, as well as overcoming constraints in recruitment for its personnel map.

On the other hand, when expressing the intention to enlarge the use of mechanisms to stimulate cooperation in the framework of criminal proceedings. A set of instruments has been introduced or enlarged with Law no. 94/2021 (please check the 2022 WGB report), and the Technical Report associated to the Agenda (please check Annex 2) stresses that all these instruments, recently introduced, need to be properly evaluated so that their effectiveness can be assessed.

Therefore, Portugal has clearly made important efforts as regards considering adopting additional

measures to incentivise companies to self-report foreign bribery to law enforcement.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 6, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 7:

7. Regarding the foreign bribery offence, the Working Group recommends that Portugal amend article 5(1) of Law 20/2008 to ensure that the effective regret defence cannot be applied to bribery of foreign public officials [Convention Articles 1 and 3; Anti-Bribery Recommendation IV.iii and VI.i].

Action taken as of the date of the follow-up report to implement this recommendation:

On 20 June 2024, Portugal approved the Anti-Corruption Agenda, which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes an assessment of the “reward” mechanisms, namely in terms of the material scope (crimes covered) and temporal scope (up to what point in the process one can collaborate).

It is also important to mention that the future EU Directive on Combating Corruption (*Proposal for a Directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council*), which is under negotiation within the EU institutions, will have an impact on the anticorruption criminal framework, therefore requiring from Member States of the EU that attention is paid to this as well when considering changes to be made in this area.

The Portuguese authorities therefore consider that this recommendation has been partially implemented.

If no action has been taken to implement recommendation 7, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(a):

8. Regarding **sanctions and confiscation**, the Working Group recommends that Portugal:

(a) amend Portuguese law to impose fines in addition to imprisonment for the foreign bribery offence defined in article 7 of Law 20/2008 [Convention Article 3(1); Phase 3 recommendation 4(a)];

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 8(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

This recommendation was internally discussed, having been decided not to propose any legislative amendment, considering the principles and the architecture of the Portuguese legal-criminal system.

Bearing in mind the very serious nature of the crime of corruption, the Portuguese authorities see no room for manoeuvre so as to change the architecture the penalties imposed to corruption crimes in general and foreign bribery in particular.

In fact Article 7 of Law no. 20/2008 does not comprise fines. Replacing the imprisonment sentence for a fine, as foreseen in Article 43 of the Criminal Code, is only possible as regards sentences of less than 1 year and requires the conversion to be compatible with the needs of prevention, which are assessed on a case-by-case basis. In corruption cases, such needs are particularly demanding. It is also worth mentioning that if the convicted is a legal person, Article 90.º-B Criminal Code establishes the determination of the fine, parameterized from the penalty applied to natural persons.

To address the recommendation from a substantive point of view one must recall that while foreign bribery cases often involve the payment of substantial bribes in exchange for highly profitable business advantages, imprisonment time cumulated with significant monetary losses should have an equivalent deterrent effect.

Therefore, in the Portuguese system monetary losses are imposed, something which is a fundamental deterrent for economic offences such as foreign bribery. In this regard Portugal stresses how its system, besides the penalties which are established (namely the imprisonment of up to 8 years), provides the envisaged deterrence effect for economic offences also through a system of seizure and confiscation measures to be used by law enforcement authorities and the courts and which aims at removing the benefits of crime from criminals, including through extended forms of confiscation and non-conviction based instruments, which go, in fact, beyond the requirements of the Convention (namely Article 3(3)).

The Portuguese authorities would like to highlight how the system of seizure and confiscation tackles the issue in substance. In fact, there are different ways to ensure effective accountability in these cases: on the one hand, criminal liability (application of a penalty, imprisonment, fine, etc.), and, on the other hand, patrimonial liability (through confiscation mechanisms).

If the crime generated a very important benefit (or any type of benefit), namely a bribe, that benefit will be entirely confiscated (Article 110(1)(b) and 110(2) of the Criminal Code – CC). If the bribe, on the other hand, led to a highly profitable business (or a not so profitable business), that advantage must also be confiscated (Article 110(1)(b) of the Criminal Code – when referring to “direct or indirect advantages”).

In addition to these mechanisms, in Law no. 5/2002, of 11 January, it is established a special confiscation regime which makes it possible to assume as an advantage of the crime, and due to be confiscated, all wealth of the defendant that could not be justified as licit income.

Thus, the concerns underlying recommendation 8(a) are responded by the Portuguese legal and institutional landscape.

The functional equivalence that has been shown above requires that we conclude that the concerns underlying recommendation 8(a) are substantively responded to by the Portuguese legal and institutional landscape.

Portugal thus considers that this recommendation is to be considered as implemented.

Text of recommendation 8(b):

8. Regarding **sanctions and confiscation**, the Working Group recommends that Portugal:

(b) develop training and disseminate good practices on the mechanisms of mitigation of sanctions and their possible impact on the effective, proportionate and dissuasive nature of sanctions, and make it available to judges and prosecutors [Convention Article 3; Anti-Bribery Recommendation IV.iii, X.iii and XV];

Action taken as of the date of the follow-up report to implement this recommendation:

It is especially important to point out that the Centre for Judicial Studies (CEJ), which trains judges and prosecutors and candidates to these functions, provides training that focuses on foreign bribery matters, both directly and indirectly – meaning with this reference to indirectly that matters which are to be dealt within a general approach which relates to all types of crimes or criminal procedure rules are addressed in that framework.

Additionally, foreign bribery is also specifically addressed in the training provided for by CEJ in both: (i) the initial training for judicial auditors (future judicial and public prosecution magistrates), in this case in the framework of the Criminal Law and Criminal Procedure Law; and (ii) in continuous training and within the scope of the Specialization Course in Criminal Law and Criminal Procedure Law Topics, where a session was held dedicated to the topics of corruption in the private sector and foreign bribery. This last referenced training targeted judges and prosecutors, as well as lawyers and other court professionals, a training were 160 magistrates were enrolled, 80 from the judicial sphere and 80 from the prosecution side (please check Annex 10).

The matters covered by the recommendation are addressed in the Study Plan for Criminal Jurisdiction and Criminal Procedure in relation to all criminal types and also regarding corruption crimes, including, naturally, the crime of foreign bribery. The special mitigation of the penalty is addressed in relation to the preventive purposes of the penalties, while the criminal liability of legal persons is the subject of an autonomous module, with reference being made to the types of crimes that involve it, like foreign bribery.

In the last quarter of 2023, regarding the CEJ training programme for 2024-2025 for magistrates, DCIAP presented a suggestion that the continuous training for prosecutors and judges involved in criminal investigations in the first instance courts and courts of appeal could include an approach to the crime of foreign bribery, in the context of the obligations resulting from the Convention. The objective is to disseminate good practices and publicise mitigation mechanisms, the application of criminal sanctions and the application of the provisional suspension of proceedings (Article 281 of the CPP), as well as the effective application of the whistleblowers protection legislation.

And the High Council for the Judiciary (*Conselho Superior da Magistratura – CSM*), considering the preparation of continuous training in CEJ, and in accordance with Articles 75(1) and 76(2) of Law n. 2/2008 and article 149(1)(m) of Law n. 21/85, proposed to CEJ the inclusion of organized crime, economic and financial crime and corruption, together with the recovery of assets and the extended loss of assets regime, in its annual training plan for 2024/2025. Asset recovery, the extended loss of assets regime and economic and financial crime are among the main focuses expressed by the CSM as regards training needs, including for judicial magistrates on high courts.

As to training regarding asset recovery and confiscation, please check also the references made below as regards recommendation 10(c).

Additionally, on 20 June 2024, Portugal approved the Anti-Corruption Agenda, which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes, as a measure to be continued, ensuring permanent specialized training for magistrates, court clerks, and criminal police bodies, in substantive and procedural aspects generally related to economic and financial crime.

The agenda also includes, in another area, the provision of appropriate technical advice to magistrates, both judicial and from the PPS, which is essential in the name of speeding up proceedings and making them more effective for the competent authorities.

The current legal framework already provides for support offices for judges and public prosecutors in each district, made up of specialists, among others, in the areas of legal sciences, economics, management, accounting, and finance (Decree-Law no. 49/2014). Also, noteworthy - and to be welcomed - are initiatives in this area by the judiciary, namely the creation, by the Superior Council of the Judiciary, of GATEP (Support Group for the Electronic Handling of Cases) and ALTEC (Logistical Support for the Handling of High-Level Cases), which assist judges in matters of their specialty. The Portuguese Government aims to deepen these initiatives, extending them to courts that are not yet covered, to the extent that this proves necessary; ensuring that the provision of technical support is flexible and adaptable and that this support can be allocated to the cases that need it most at any given time, while also considering the possibility of using this form of advice during hearings. The possibility of allocating specialized bailiffs to certain cases is also being considered.

It is also important to mention that INA established a cooperation protocol with the Centre for Judicial Studies to promote broad collaboration mechanisms, within the scope of teaching and advanced training in the field of Public Administration, encompassing dealing with this and other related matters.

The Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 8(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 8(c):

8. Regarding **sanctions and confiscation**, the Working Group recommends that Portugal:
- (c) ensure that law enforcement authorities routinely consider confiscation in foreign bribery cases [Convention Article 3(3); Anti-Bribery Recommendation XVI; Phase 3 recommendation 4(b)].

Action taken as of the date of the follow-up report to implement this recommendation:

The Portuguese legal system already contains advanced instruments that lead the confiscation of the proceeds of crime. In particular, the extended confiscation, provided for in Law no. 5/2002, which, as referred above, establishes measures to combat organized and economic-financial crime.

Under article 17 of Law no. 51/2023, which defines the objectives, priorities and guidelines of criminal policy for the 2023-2025 biennium, in compliance with Law no. 17/2006, of 23 May, which has approved the Criminal Policy Framework Law, Portugal has defined as priorities the identification, location, and seizure of assets or products related to crimes, to be carried out by the Asset Recovery Office, under the terms provided for in Law no. 45/2011, which has created, under the PJ, the Asset Recovery Office, and by the Public Prosecution Service, under the terms provided for by law.

In this sequence, by Directive no. 1/2023 of the Prosecutor General's Office, and in terms of asset recovery, it was established that priority should be given to the application of the mechanisms for confiscating advantages provided for in the law, regardless of the crime being investigated, whenever it has been established that the crime has generated economic benefits of any kind, for the offenders or third parties, or whenever the existence of incongruent assets is found in cases of application of Law no. 5/2002.

With special guidance for the public prosecutors responsible for the investigation, it was established that they must ensure the application of the mechanisms for confiscating the proceeds of crime, either through their means, that is, by determining the steps to identify, locate, seize and confiscate the proceeds of crime, or, whenever the legal requirements set out in Law no. 45/2011 are met, by delegating this task to the Asset Recovery Office (ARO).

This means that Portugal considers the confiscation mechanism to be a priority regardless of the type of crime in question.

In terms of training, as already referred above, CEJ provides training that focuses on foreign bribery matters, both directly and indirectly – meaning with this reference to indirectly that matters which are to be dealt within a general approach which relates to all types of crimes or criminal procedure rules are addressed in that framework.

Additionally, foreign bribery is also specifically addressed in the training provided for by CEJ in both: (i) the initial training for judicial auditors (future judicial and public prosecution magistrates), in this case in the framework of the Criminal Law and Criminal Procedure Law; and (ii) In continuous training and within the scope of the Specialization Course in Criminal Law and Criminal Procedure Law Topics. The matters covered by the recommendation are addressed in the Study Plan for Criminal Jurisdiction and Criminal Procedure in relation to all criminal types and also regarding corruption crimes, including, naturally, the crime of foreign bribery. In particular, the mandatory nature of confiscation is duly highlighted in relation to all types of crime in the context of which advantages are generated or instruments or products exist.

Additionally, in 2022 and 2023, the PPS organized advanced theoretical and practical training for prosecutors (DCIAP and regional DIAPs) in asset recovery and confiscation. The aim of such training was to ensure that all prosecutors with intervention in criminal investigations internalize the need to consider in any investigation not only the activity aimed at demonstrating the occurrence of a crime and

the identity of its perpetrators, but also the need to ensure the confiscation of the economic benefits that have been generated by the crime.

This project was based on a training model based exclusively on practical learning, to make it possible to extract directly from the training the tools for the procedural execution of the legal mechanisms in force, in terms of asset recovery, especially confiscation.

The Public Prosecution Service has also organized an international conference on confiscation, with the participation of national and international judges, prosecutors and academics (if needed a translation may be prepared).

Based on the experiences shared throughout these initiatives, the PPS has also published a manual of good practices in matters of confiscation ([The proceedings of asset recovery – from theory to practice](#), published in December 2022), and has distributed it to all prosecutors involved in criminal investigation.

Finally, reference is to be made to training that has been delivered by CEJ, since 2014, and focused on asset recovery. Such training, which lasts for 9 weeks and has 8 different modules, is dedicated to judges and prosecutors. This training has been subject to updates, with the introduction of new materials resulting, essentially, from other training actions that have been carried out regarding asset recovery and from jurisprudential, doctrinal and legal indications, having been added an update module to this training. This training pursues the objectives of the “FENIX Project” (check [here](#), also in English), to promote the reinforcement of the system for recovering assets and proceeds of crime, both at internal and international cooperation levels. Please check the programme of said training course bellow (if needed a translation may be prepared):

As regards the Criminal Police (PJ), the ARO, which is a department of the PJ, carries out the economic-financial analysis in economic-financial investigations, in particular in the investigations carried out by the DCIAP and the regional DIAP's. This work is essential as regards confiscation purposes.

The ARO, in all cases in which it intervenes and whenever the legal requirements are met, takes the initiative to make seizures itself or to propose them to the PPS. The ARO has investigative powers similar to those of the criminal police bodies.

The ARO cannot start investigations without the prior authorization of the PPS, but once it has been appointed it can, on its own initiative, make seizures in cases relating to any type of crime. This is under the terms of Articles 178(4), (5) and (6) of the Code of Criminal Procedure and Articles 2 and 3 of Law no. 45/2011, of 24 June.

Within the scope of investigations of corruption and other economic and financial crime, the National Anti-Corruption Unit (UNCC) of the PJ uses all legal and criminal procedural means at its disposal to systematically carry out seizures of assets. In two significant cases reported in the One-Year Oral Follow Up report by Portugal to the WGB, important action in this regard was described to the plenary of the WGB by the UNCC.

Additionally, it must be stressed that to ensure that law enforcement authorities routinely consider confiscation, proactivity in asset recovery is systematically highlighted in initial and ongoing training.

promotional contests and awareness sessions of the PJ. Confiscation is routinely taught in initial and continuous training in the PJ as an integral part of the criminal investigation proceedings, to effectively deprive suspects of their ill-gotten gains and provide compensation for victims. The objective being also to disincentivise would be perpetrators from engaging in criminal activity.

Looking ahead into the future it is also important to mention that on 20 June 2024 the Government of Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes the creation of a new mechanism for the extended confiscation of assets, as well as the dynamization of the Asset Recovery and Asset Administration Offices, through the reformulation of their organization and the increase in the technical and human resources appropriate for the fulfilment of their duties, to streamline the activity and strengthen the coordination between both. The proposed solutions envisage also to ensure the social utility and economic value of the seized assets.

Therefore, the Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 8(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 9:

9. Regarding **false accounting**, the Working Group recommends that Portugal ensure that natural and legal persons could be held liable for all false accounting offences committed for the purpose of bribing foreign public officials or of concealing such bribery [Convention, Article 8; Anti-Bribery Recommendation IV.iii and XXIII.A].

Action taken as of the date of the follow-up report to implement this recommendation:

According to the Portuguese criminal legislation natural and legal persons are liable for the false accounting offences committed for the purpose of bribing foreign officials, or for concealing such bribery.

Liability should be analysed on the terms of Articles 11 and 256 of the Criminal Code, or, of specific provisions foreseen in special legislation such as Article 519-A of the Commercial Companies Code (*Código das Sociedades Comerciais* – CSC), which criminalises the presentation of adulterated or fraudulent accounts – added by the Law no. 94/2021, within the framework of the measures provided for in the National Anti-Corruption Strategy.

Also the General Regime of Tax Offences (Regime Geral das Infrações Tributárias – RGIT) on Articles 103 and 104, criminalizes as tax fraud the concealment or falsification of facts or values that should be included in the accounts of companies and individuals, when the conduct is illegitimate and aimed for not assessing tax, not paying it, not delivering a tax payment or unduly obtaining tax benefits.

If any of these offences has been committed with a view to facilitate, allow or conceal the bribery of

public officials the perpetrator shall be criminally charged for those crimes, together with the foreign bribery offence.

Further information on accounting and auditing has been provided by CMVM, namely referring that the new offence introduced by Law no. 94/2021 in Article 519-A of the CSC, which is strictly connected with the violation of Article 65 of the same Code and ensures that a manager or director who, in breach of the duties set out in Article 65, intentionally presents false or adulterated documents or elements that serve as a basis for the presentation of accounts for appraisal or deliberation, shall be punished with imprisonment of up to 3 years or a fine.

Article 65 of the CSC, on the duty to report to management and present accounts, determines that:

- The members of the management board must prepare and submit to the competent bodies of the company the management report, including the non-financial statement or the separate report with this information, both referred to in Articles 66-B and 508-G of CSC, when applicable, the accounts for the year, as well as the other accounting documents provided for by law, related to each annual year.
- The preparation of the management report, including the non-financial statement or the separate report, when applicable, and the fiscal year accounts, as well as other accounting documents, must comply with the provisions of the law; the articles of association may complement, but not derogate from, these legal provisions.
- The management report, the separate report with non-financial information, when applicable, and the accounts for the year must be signed by all members of the management board; the refusal to sign by any of them must be justified in the document to which it relates and explained by the persons themselves to the competent body for approval, even if they have already terminated office.
- The management report, the separate report with non-financial information, when applicable, and the accounts for the year are prepared and signed by the directors who were in office at the time of presentation, but the former directors must provide all the information required for this purpose, in relation to the period in which they were in office.
- The management report, the separate report with the non-financial information, when applicable, the accounts for the year and other accounting documents must be presented to the competent body and analyzed by it, except in specific cases provided for by law, within three months from the closing date of each annual financial year, or within five months from the same date in the case of companies that must present consolidated accounts or that apply the equity method.
- In accordance with the new Article 519-A of the CSC, the director who, in breach of the abovementioned duties, intentionally presents, for consideration or deliberation, documents or elements that serve as a basis for the rendering of false or adulterated accounts is punished with imprisonment for up to 3 years or with a fine penalty.

This crime is also articulated with the others that may punish similar conducts through the rules of concurrent crimes set out in the Criminal Code, specifically in Article 30, together with the general doctrine regarding the determination as to whether there is unity or plurality of crimes committed.

The accountability as regards the legal person where a crime referred to in Article 519-A of the CSC has been committed results, namely, from Article 7 of the Securities Code and connected rules.

The CMVM supervises the annual financial information disclosed by the issuers and applies the due

sanctions to the issuer when that information is not complete, true, current, clear, objective, and lawful, as required by Article 7 of the Securities Code. The management board is the body responsible for the financial information as foreseen in the CSC. Violation of the rules relating to the provision of information to the capital market may have severe consequences for the legal person, including relevant administrative sanctions (Articles 388(1)(a), 389(1)(a), 400, 401 and 406(1) of the Securities Code). This liability may take the form of fines and other administrative sanctions, which aim to punish the legal person for the disclosure of incorrect or incomplete information.

In conclusion, we may find a functional equivalence of the solutions found in Portugal to those which could be adopted to address the recommendation, since the concerns underlying recommendation 9 are substantively responded by the Portuguese legal and institutional framework, when establishing the described sanctioning regime for legal persons.

Therefore, the Portuguese authorities consider that this recommendation should be considered as implemented.

If no action has been taken to implement recommendation 9, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(a):

10. Regarding **non-trial resolutions**, the Working Group recommends that Portugal issue clear and transparent guidance and disseminate good practices to:

(a) clarify the requirement that the defendant must have “contributed decisively to the discovery of the truth” [Convention Articles 3 and 5 and Commentary 27; Anti-Bribery Recommendation XVIII.ii and Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

On 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes an assessment of the “reward” mechanisms established in the Portuguese legislation, including considering the results demonstrated by the provisional suspension of proceedings as regards foreign bribery. As expressed in the Technical Report (please check Annex 2, page 29) these “*instruments need to be properly evaluated so that its effectiveness can be analyzed. Strengthening current mechanisms may involve the expansion of the procedural phases in which its application is admitted (...), as well as a change in the typology of crimes covered by the different mechanisms. We will also seek to carry out greater densification, to the extent that this proves feasible, as to the requirements for collaboration and the consequent application of a reward measure. Requirements that, ideally, should be as objective as possible, so that uncertainty regarding the development of the proceedings does not discourage the cooperation of the defendant*”.

Therefore, the Portuguese authorities consider that this recommendation has been partially implemented.

Considering the nature of the recommendation as well as paragraph 134 of the 2022 report, the Portuguese authorities propose that this recommendation is converted into a follow up issue.

If no action has been taken to implement recommendation 10(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(b):

10. Regarding **non-trial resolutions**, the Working Group recommends that Portugal issue clear and transparent guidance and disseminate good practices to:

(b) clarify whether the defendant must admit facts and/or responsibility to benefit from the suspension [Convention Articles 3 and 5 and Commentary 27; Anti-Bribery Recommendation XVIII.i and Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

It is especially important to point out that the Centre for Judicial Studies (CEJ) provides training that focuses on foreign bribery matters, both directly and indirectly – meaning with this reference to indirectly that matters which are to be dealt within a general approach which relates to all types of crimes or criminal procedure rules are addressed in that framework.

Additionally, foreign bribery is also specifically addressed in the training provided for by CEJ in both: (i) the initial training for judicial auditors (future judicial and public prosecution magistrates), in this case in the framework of the Criminal Law and Criminal Procedure Law ; and (ii) In continuous training and within the scope of the Specialization Course in Criminal Law and Criminal Procedure Law Topics, where a session was held dedicated on the topics of corruption in the private sector and foreign bribery. The matters covered by the recommendation are addressed in the Study Plan for Criminal Jurisdiction and Criminal Procedure in relation to all criminal types and also regarding corruption crimes, including, naturally, the crime of foreign bribery. In particular, when touching upon the measure of provisional suspension of the proceedings, the question on the admission of the facts by the accused, not being a fundamental requirement for the provisional suspension of the proceedings, is touched upon as it enables one to predict favorably that the purposes of the punishment may be achieved through the suspension. Therefore, the legal system has been built so as to leave this matter into the magistrates hands.

Meanwhile, on 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes an assessment of the “reward” mechanisms established in the Portuguese legislation, including considering the results demonstrated by the provisional suspension of proceedings as regards foreign bribery. As expressed in the Technical Report (please check Annex 2, page 29) these “*instruments need to be properly evaluated so that its effectiveness can be analyzed. Strengthening current mechanisms may involve the expansion of the procedural phases in which its application is admitted (...), as well as a change in the typology of crimes covered by the different mechanisms. We will also seek to carry out greater densification, to the extent that this proves feasible, as to the requirements for collaboration and the consequent application of a reward measure. Requirements that, ideally, should be as objective as possible, so that uncertainty regarding the development of the*

proceedings does not discourage the cooperation of the defendant”.

Therefore, the Portuguese authorities consider that this recommendation has been partially implemented.

Considering the nature of the recommendation as well as paragraph 136 of the 2022 report, the Portuguese authorities propose that this recommendation is converted into a follow up issue.

If no action has been taken to implement recommendation 10(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(c):

10. Regarding **non-trial resolutions**, the Working Group recommends that Portugal issue clear and transparent guidance and disseminate good practices to:

(c) clarify the relevant considerations for resolving the case with suspension of proceedings, and the rationale for applying certain injunctions, in particular, with regard to foreign bribery cases [Convention Articles 3 and 5 and Commentary 27; Anti-Bribery Recommendation XVIII.iii and Annex I.D];

Action taken as of the date of the follow-up report to implement this recommendation:

As mentioned above, on 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes an assessment of the “reward” mechanisms established in the Portuguese legislation, including considering the results demonstrated by the provisional suspension of proceedings as regards foreign bribery. As expressed in the Technical Report (please check Annex 2, page 29) these *“instruments need to be properly evaluated so that its effectiveness can be analyzed. Strengthening current mechanisms may involve the expansion of the procedural phases in which its application is admitted (...), as well as a change in the typology of crimes covered by the different mechanisms. We will also seek to carry out greater densification, to the extent that this proves feasible, as to the requirements for collaboration and the consequent application of a reward measure. Requirements that, ideally, should be as objective as possible, so that uncertainty regarding the development of the proceedings does not discourage the cooperation of the defendant”.*

Therefore, the Portuguese authorities consider that this recommendation has been partially implemented.

Considering the nature of the recommendation, the Portuguese authorities propose that this recommendation is converted into a follow up issue.

If no action has been taken to implement recommendation 10(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 10(d):

10. Regarding **non-trial resolutions**, the Working Group recommends that Portugal issue clear and transparent guidance and disseminate good practices to:

(d) make public, where appropriate and consistent with data protection rules and privacy rights, as much information about its non-trial resolutions as possible, in line with the Anti-Bribery Recommendation [Convention Articles 3 and 5 and Commentary 27; Anti-Bribery Recommendation XVIII.iv and v and Annex I.D].

Action taken as of the date of the follow-up report to implement this recommendation:

As mentioned above, on 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes an assessment of the “reward” mechanisms established in the Portuguese legislation, including considering the results demonstrated by the provisional suspension of proceedings as regards foreign bribery.

And the agenda also includes the measure of publishing the collection of judicial decisions on corruption (measure 28 of the Agenda – please check Annex 2), something that the Technical Report refers to as well, stating that the intention is to make publicly available the judicial decisions of all courts, including first instance courts, as a way of contributing to the transparency of the judicial system, to public information on the functioning of justice, and to the certainty and harmonization of the application of the law, as recommended by different international bodies, such as GRECO. Consequently, reflection will take place as well as regards the matter under consideration in this recommendation.

Therefore, the Portuguese authorities consider that this recommendation has been partially implemented.

Considering the nature of the recommendation as well as paragraph 138 of the 2022 report, the Portuguese authorities propose that this recommendation is converted into a follow up issue.

If no action has been taken to implement recommendation 10(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(a):

11. Regarding **investigations and prosecutions**, the Working Group recommends that Portugal:

(a) continue training investigators, prosecutors, and judges on foreign bribery, including on the enforcement of corporate liability [Convention Article 5 and Commentary 27; Anti-Bribery Recommendation Annex I.D; Phase 3 recommendation 5(f)];

Action taken as of the date of the follow-up report to implement this recommendation:

Training investigators, prosecutors, and judges on foreign bribery, including on the enforcement of corporate liability, namely to enhance investigations and prosecutions, is key for the Portuguese authorities.

Our understanding is that this report shows clearly the investment being made on the continuity of past investments in training, and this is shown in the responses given as regards several other recommendations where the training in focus in this recommendation is also at stake. Therefore, we would like to ask for your attention as regards, especially, the responses to recommendations 3.d, 4.a, 4.b, 4.e, 4.f, 8.b, 8.c, 10.b, 11.c, 11.d, 11.e, 12, 14.a, 14.c, 14.d, where numerous training efforts are reported so as to deal with the realities at stake.

It is also relevant to mention that, as reported as regards recommendation 8.b, the CSM, considering the preparation of continuous training in CEJ, proposed the inclusion of organized crime, economic and financial crime and corruption, as well of legal persons corporate liability (both for criminal and administrative offences), in the annual training plan for 2024/2025.

Additionally, as synthesized by the PJ as regards its officers, in initial and continuous training, special emphasis is given to combating corruption and economic and financial crime and to pursue natural and legal persons as an integral part of the criminal investigation procedure to effectively prevent criminals from hiding behind a corporate veil.

The enforcement of corporate liability in Portugal is stable and steady in Portugal, with important numbers of convictions, like the statistics provided for the WGB Phase 4 report on Portugal have also shown. If considered necessary, more statistics could be provided.

The point is that there is a continuous and ongoing effort to train investigators, prosecutors, and judges, as shown in the above quoted responses to other recommendations.

Additionally, it is very important to stress that on 20 June 2024, Portugal approved the Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This agenda includes the creation of a permanent specialized training for judicial magistrates, public prosecutors, law enforcement in general and court clerks in the areas of corruption. The Technical Report associated to the Agenda (please check Annex 2) refers, in page 37, that “*Professionals directly associated with the investigation, trial and punishment of corruption, such as criminal police bodies, Asset Recovery and Asset Administration Offices, court clerks, prosecutors and Judges, are to have access to specialized training, focused on areas such as the processing of especially complex proceedings, (...) economic-financial crime (including the specific type of crime of foreign bribery and the crime of intentional concealment of assets established in article 18-A of Law no. 52/2019), including as regards the relevant area of asset recovery (...). In this context, the relevant role of the Center for Judicial Studies and the Superior Councils is recognized*”.

The new anticorruption Directive under negotiation in the European Union institutions is also key in these efforts, as it is to establish an article referring to training.

In the Directive a specific provision for training can be found, which intends to have Member States taking the necessary measures to train their national officials so that they can identify the different

forms of corruption and the risks of corruption that may occur in the course of their duties and to react in a timely and appropriate manner to any suspicious activities.

In addition, without prejudice to the independence of the judiciary and the differences in the organisation of judicial systems in the Union, each Member State is to take the necessary measures to provide specialised training to police and judicial authorities responsible for investigations and prosecutions of offences falling within the scope of this Directive.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 11(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(b):

11. Regarding **investigations and prosecutions**, the Working Group recommends that Portugal:

(b) ensure that the DCIAP has sufficient access to specialised expertise, especially in forensic financial analysis and information technology, for investigating and prosecuting foreign bribery [Convention Article 5 and Commentary 27; Anti-Bribery Recommendation Annex I.D; Phase 3 recommendation 5(g)];

Action taken as of the date of the follow-up report to implement this recommendation:

In terms of accounting, economic and financial analyses, DCIAP relies on the advice of the General Prosecutor's Office Technical Advisory Centre (Núcleo de Assessoria Técnica – NAT), as well as on the Financial and Accounting Expertise Unit of the Criminal Police (Unidade de Perícia Financeira e Contabilística – UPFC).

The NAT, with technical and scientific autonomy, is responsible for providing technical advice and consultancy to the Public Prosecution Service on economic, financial, banking, accounting, financial instruments market, IT, environmental, urban planning and land-use planning and taxation matters – Article 64(1) of the Public Prosecution Service Statute (EMP). The NAT is headed by a coordinator appointed by the Prosecutor General – Article 64(2) of the EMP.

Between 2022 and the present day, the General Prosecutor's Office has invested in reinforcing the human resources at its disposal. Between 2022 and the present date 10 new specialists were hired, having 4 left (3 of them for retirement). At the moment NAT counts on 20 specialists and the responsible person for the Unit.

The UPFC of the PJ is responsible for:

- Carrying out financial, accounting, tax and banking expertise, examinations and analyses ordered by the judicial and criminal police authorities;
- Providing technical advice to criminal investigation services and judicial authorities in gathering and analyzing documents and other evidence;
- To assist the judicial authorities in the investigation, pre-trial and trial phases, within the scope of their competences;

- Maintaining a quality management system, with a view to accreditation by the respective competent official authorities.

With regard to digital support, DCIAP has set up its own Forensic Computer Laboratory with forensic tools and staff trained in the area. In addition to these specialists, DCIAP also has investigative support from the PJ's Technological and Computer Forensics Unit.

The importance of these investments and efforts (please check also the response as regards recommendation 11.c), related also with the ambitious recruitment program for the PJ (already acknowledged at the time of the 2022 WGB report on Portugal), was also reflected in the handling of cases of foreign bribery, namely with the recent indictment of a group of defendants for 20 crimes of foreign bribery, as reported within the framework of the WGB. This case stands out for its complexity, having involved active cooperation and the combination of efforts at national and international levels (with 12 jurisdictions involved).

Therefore, the Portuguese authorities consider that this recommendation has been implemented.

However, considering the nature of the recommendation and its ongoing nature, the Portuguese authorities propose that this recommendation is converted into a follow up issue.

If no action has been taken to implement recommendation 11(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(c):

11. Regarding **investigations and prosecutions**, the Working Group recommends that Portugal:
(c) take urgent steps to ensure that its authorities investigate thoroughly and proactively all foreign bribery allegations and that relevant cases are not prematurely closed [Convention Article 5 and Commentary 27; Anti-Bribery Recommendation Annex I.D; Phase 3 recommendation 5(c)(i)];

Action taken as of the date of the follow-up report to implement this recommendation:

Please take into account what we report as regards recommendation 11(b). As we refer there, the importance of the investments and efforts made lately are also reflected in the handling of cases of foreign bribery, as is the case of the recent indictment of a group of defendants for 20 crimes of foreign bribery, as reported within the framework of the WGB. This case stands out for its complexity, having involved active cooperation and the combination of efforts at national and international levels (with 12 jurisdictions involved).

Additionally, the Directive 9/2023-DIR of 29 August 2023, from the Director of DCIAP, has restructured the 5th Section of the department, responsible for all crimes of corruption, foreign bribery, money laundering regarding foreign bribery, and others related, and increased the number of prosecutors assigned to investigating these cases to 6 (six).

In June 2023, through the Prosecutors intranet, the Director published Memorandum 1/23DIR, of 16 June 2023, in which he asked Public Prosecutors to notify the DCIAP of all existing investigations that could fall under the jurisdiction legally defined for the Department.

A special recommendation was made for those involving possible foreign bribery, taking into account that DCIAP is exclusively responsible for carrying investigations of this nature, as determined by the General Prosecutor's Office.

In the first week of July 2023, through the same channel, the General Coordinator of DCIAP addressed a request to the Regional General Prosecutors of Porto, Coimbra, Lisbon and Évora, in compliance with Circulars no. 10/99 and no. 11/99-PGR, so that the Memorandum 1/23DIR would be distributed to all the coordinating Prosecutors of the districts, and to the Prosecutors in charge of the regional DIAPs and DIAPs in the area of the respective judicial district. The point was to identify any investigation into crimes of this nature that might be ongoing outside DCIAP, so that it could be referred to the department materially competent to conduct the investigation, and to raise awareness as regards DCIAP's exclusive competence for these investigations.

At the same time, the Prosecutor in charge of the section that investigates foreign bribery crimes, appointed for the plenary meetings of WGB since December 2022, is working together with the other colleagues raising their awareness for the importance of these investigations, given the harm for society, public order and economy that these crimes imply.

For this purpose, the experience gathered from the participation in the plenary sessions of the WGB, and in the LEO's and the GLEN's meetings, is summed up in reports shared with all the prosecutors in DCIAP, as well as with the General Prosecutor's Office, and with all the Portuguese Prosecutors via intranet (while respecting the confidentiality of the issues discussed).

The response to the knowledge sharing as regards these matters has been very positive.

Given the increase in the number of cases under investigation in the 5th Section of DCIAP and their complexity, the section will be reinforced from September 2024 on with 2 (two) more prosecutors.

As a general statement, and for the sake of time, please allow us to make here a cross-reference to [Annex 1](#), regarding "[Foreign bribery enforcement actions](#)", namely its introductory remarks (please check the last two pages of this document) and the text regarding the cases.

MENAC also receives complaints and forwards them to the PPS, which, in turn, forwards them to the competent department within the PPS to open an investigation. In compliance with the principle of legality, once the complaint is received, the PPS opens an investigation. If the suspicion is related to foreign bribery, the complaint is sent directly to the DCIAP, where the investigation is distributed to the 5th Section (Corruption Crimes), duly flagging it.

In what regards to the reinforcement of the UNCC of the PJ (please check also our response to recommendation 11.a and 11.d), the WGB was made aware, and welcomed, in 2022, Portugal's recent ambitious recruitment program for careers in criminal investigation and forensic analysis in the PJ. As a result of such effort there was a substantial reinforcement of human resources at the PJ since 2022. And regarding material resources, there was also a reinforcement of the PJ, namely the UNCC, including as regards new technologies. Said reinforcement was evident in the unit's computer equipment, with the acquisition of new devices and investments in updated software, research tools, and OSINT (Open-source intelligence). There was also an increase in the fleet of vehicles.

In initial and continuous training of the PJ emphasis is placed on the principle of legality which requires that all reasonable claims of wrongdoing are to be followed-up and investigated which means that in practice all allegations – including of foreign bribery – give rise to criminal proceedings and are diligently investigated. These cases are exclusively investigated by PJ/UNCC under reserved powers of investigation by legal delegation of competency of the DCIAP. Please check also our

response to recommendations 11.a and 11.d.

It is important to recall that in the context of the National Strategy Against Corruption (ENCC) and the measures to strengthen the fight against corruption, fraud and economic crime, the program for recruiting staff for criminal investigation careers, specialists in the forensic field and security personnel of the PJ was approved for a five-year period, from 2022 to 2026 (*Portaria n. 245/2022*). As reported before, namely in the framework of our oral report in October 2023, by 2026 another 1100 posts are expected to have been created in the PJ, for strengthening criminal investigation, forensic and security careers.

This also means that in terms of recruitment and training this has been a very intense year for the Institute of Criminal Police and Criminal Sciences which had to deal with relevant requests for initial, continuous, general and promotional training. A Course for Criminal Investigation Coordinators is currently underway for 20 trainees as well as the 46th Inspector Training Course with 114 trainees. 4 Courses for Forensic Specialists were held in the last year, which resulted in the recruitment of 9 Forensic Specialists to the Technological and Computer Expertise Unit, 28 Forensic Specialists to the Forensic Science Laboratory, 7 Forensic Specialists to the Financial and Accounting Expertise Unit and 3 Forensic Specialists to the Information and Communications Systems Unit. Currently a 5th Course for Forensic Specialists is underway with 17 trainees for the Information and Communications Systems Unit. The 5th Course for Security Personnel was also recently completed with 39 trainees.

The robust and continuous influx of Forensic Specialists is fundamental in providing technical and scientific support to all areas of expertise in criminal investigations, especially those investigations attributed to the UNCC which are multidisciplinary by nature.

The UNCC has recently seen its numbers steadily increase which is by no means surprising given the fact that the fight against corruption and economic and financial crime is a national criminal policy priority and as of 31 December 2023, staff was comprised of 1 Director, 5 Criminal Investigation Coordinators, 7 Chief-Inspectors and 109 Inspectors, for a total sum of 122. In March 2024, staff comprised of 1 Director, 6 Criminal Investigation Coordinators, 7 Chief-Inspectors and 132 Inspectors, for a total sum of 146. These are substantial reinforcements for the PJ and its UNCC.

Additionally, in each update of the MATRIX Portugal has been communicating the progress made in ongoing investigations as well as in what regards to files in the instruction, trial or final decision phases of criminal proceedings. All these steps and the relevant progresses that have been made in what regards to enforcement (please check also Annex 1), have to be highlighted in this framework.

Therefore, the Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 11(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(d):

11. Regarding **investigations and prosecutions**, the Working Group recommends that Portugal: (d) give sufficient priority to the investigation and prosecution of the foreign bribery offence [Convention Article 5 and Commentary 27; Anti-Bribery Recommendation Annex I.D; Phase 3 recommendation 5(g)];

Action taken as of the date of the follow-up report to implement this recommendation:

Law no. 51/2023, which defines the objectives, priorities, and guidelines for criminal policy for the two years 2023-2025, in compliance with Law no. 17/2006, which approves the Criminal Policy Framework Law, provides for corruption as a priority prevention crime (see Article 4) and as a priority investigation crime (see Article 5). This legislation considers corruption in general, therefore covering all corrupt phenomena, namely foreign bribery.

Following this legislative instrument, Directive no. 1/2023 was published, containing the General Directives and Instructions for implementing the Criminal Policy Law for the two years 2023-2025. The investigation priorities defined by Law no. 51/2023, due to their quantitative and qualitative scope, require that the directives and guidelines to be issued take into account the specificities of each of the crimes subject to priority investigation, providing prosecutors and criminal police bodies, where justified, with guidelines for action that promote specialized, coordinated and rapid intervention, to effectively comply with the general and specific objectives of criminal policy.

Thus, this Directive specifies that investigations, reports, or complaints, as well as any other news or information relating to acts of corruption provided for in the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and punishable under Article 7 of Law no. 20/2008, when they are attributable to foreign officials or holders of political office or officials of an international organization, must be immediately transmitted to the DCIAP, following the provisions contained in Circular no. 2/11 of the Prosecutor General.

As a consequence of the legal and organizational prioritization, all foreign bribery cases have priority for the purpose of criminal investigation. It is a consequence of the Portuguese Law. Therefore, prosecutors, police and judges must comply with it. And initial and continuous training, as well as the practice, emphasize such prioritization, as can also be asserted in face of the contents of Annex 1 to this report.

It is also worth noting that, in 2023, as part of the prioritization of investigations of this type of crime, efforts by specialized entities to increase resources to prevent, investigate, and eliminate corruption continued. In the case of the PJ for example, there was a substantial increase in resources to continue fighting crime, with a focus on corruption and economic and financial crimes, with 40% of the new resources allocated to fighting corruption. Please check also our response to recommendation 11.c.

It is also worth noting that, on October 2023, the PJ welcomed 600 members of the investigation and inspection career of the extinguished Aliens and Borders Service (*Serviço de Estrangeiros e Fronteiras* – SEF). On November 1, 2023, the PJ had 1 358 employees in the criminal investigation career, of which 338 were assigned to fighting corruption, or 24.9% of the total. In absolute terms, there was an increase from 259 employees (in 2019) to 338 in 2023, which translated into a 30.5% increase in the operational response. There has also been a significant increase in the forensic area, which is essential for the success of these investigations: taking the financial and accounting and IT forensic units as a reference, there was an investment of 62.7% in human resources compared to 2019 (from 43 to 70).

On the other hand, it is important to highlight the measures adopted to reduce instability in the staffing of the National Anti-Corruption Unit (UNCC) and other sections/brigades, limiting the turnover of human resources allocated to this area upon their permanent placement, as well as investment in specific training. These measures have increased the necessary specialization and the consolidation and transmission of knowledge and know-how.

It is also worth noting the investment made in improving technical investigation resources, namely the acquisition of better forensic computer research tools and document management tools.

Therefore, the Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 11(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(e):

11. Regarding **investigations and prosecutions**, the Working Group recommends that Portugal: (e) consider, where appropriate, whether to conduct concurrent or joint investigations [Convention Article 5 and Commentary 27; Anti-Bribery Recommendation XIX.C; Phase 3 recommendation 5(c)(iii)];

Action taken as of the date of the follow-up report to implement this recommendation:

From 2022 to this date, Portugal has conducted parallel and joint investigations with other jurisdictions regarding some of the cases taken into the MATRIX.

In fact, consideration was given, whenever appropriate, as to conduct concurrent or joint investigations: JIT's had been formed with Switzerland and Spain, but also parallel investigations and cooperation with several jurisdictions have taken place, as also described in our case updates.

In the case of PJ initial and continuous training, as well as the practice, emphasize the importance of joint investigations whenever the facts are conducive.

Therefore, the Portuguese authorities consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 11(e), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 11(f):

11. Regarding **investigations and prosecutions**, the Working Group recommends that Portugal:
(f) raise awareness of Article 5 within the DCIAP, UNCC, judiciary, and other relevant government bodies [Convention Article 5 and Commentary 27; Anti-Bribery Recommendation Annex I.D; Phase 3 recommendation 5(f)].

Action taken as of the date of the follow-up report to implement this recommendation:

Article 5 is part of the Portuguese legal system, since international conventions ratified and published by Portugal automatically become part of Portuguese internal law (Article 8 of the Constitution of the Portuguese Republic).

Article 5 is implemented in Portugal, since the Constitution guarantees the independence, autonomy and tenure of judges and prosecutors. The President of the Republic appoints and discharges the Prosecutor General (PG) on the proposal of the Government and, once appointed, the PG is fully independent and not subject to directives or instructions by the President of the Republic or the executive or legislative branches of government (Articles 133(m), 219 and 220 of the Constitution of the Portuguese Republic).

Prosecutors are subject to the instructions of the PG and the heads of the DCIAP and DIAPs but not to any kind of directives or instructions from members of the Government or any public officials. The commencement of investigations and all decisions in criminal proceedings are ruled and abide by the law only, not requiring the consent – and not even any knowledge – of the Minister of Justice or other members of Government.

Additionally, the Criminal Police also acts under the exclusive coordination and direction of the Public Prosecutors, and not the Government or any other public officials. The Portuguese authorities have also stressed before that in Portugal the principle of legality is in force, which means that all crime reports or suspicions should be investigated and this investigation can only be closed when any of the conditions foreseen in Article 277 of the Code of Criminal Procedure are met. An investigation cannot continue if any of the causes for closure has been detected, just as it cannot be terminated until any of these causes is demonstrated. The same reasoning is to be made for any previous (preventive procedure) or further stages (in criminal proceedings). Additionally, there is a legal obligation to give reasons for decisions (Article 97(5) of the Code of Criminal Procedure).

The DCIAP, the UNCC, the judiciary, and government bodies, are all fully aware of such reality, and the fact is that the rule of law in Portugal is strong, and that such reality is fully recognized, namely, by the Council of Europe and the European Union, on the Council of Europe European Commission for the Efficiency of Justice (CEPEJ) report and the Judicial Scoreboard, respectively.

As to the case of prosecutors it is also worth noting that under the terms of the EMP, prosecutors have autonomy in relation to other bodies of central, regional and local power. The performance of its duties is bound by legality and objectivity criteria, and by the exclusive subjection to the directives, orders and instructions laid down by law and to the principles defined in the Constitution.

Therefore, the investigations and criminal procedures, namely in cases of foreign bribery, cannot be influenced by considerations such as those of economic interest, relations with other States or the identity of the persons involved, under penalty of violation of the rules by which the Public Prosecutor's must be governed in its activity, and specifically in the criminal investigation.

Awareness regarding the Convention, including Article 5, is raised, namely (please check also our

responses to recommendation 1.b) in the PJ and emphasized in initial and continuous training.

Criminal proceedings reported in Annex 1 are also demonstrative of the full awareness as regards Article 5.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 11(f), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 12:

12. Regarding **international cooperation**, the Working Group recommends that Portugal proactively seek co-operation and MLA from foreign countries whenever appropriate, especially before deciding to terminate a foreign bribery case, using all available means to secure MLA, in particular through contact with foreign authorities via informal channels and the Working Group's Informal Meetings of law enforcement officials [Convention Article 9; Anti-Bribery Recommendation XIX.A.x; Phase 3 recommendation 5(c)].

Action taken as of the date of the follow-up report to implement this recommendation:

Regarding international cooperation in cases of foreign bribery, it is important to stress that Portugal is involved with several jurisdictions in the context of investigations on foreign bribery and money-laundering proceeding from foreign bribery.

An analysis of the Portuguese cases in the MATRIX (please check also Annex 1) is able to reveal the existence of formal and active cooperation with several jurisdictions, through MLA, EIO, JIT or parallel investigations.

Since December 2022 to this date, informal contacts and meetings have occurred, in the context and in the margins of the WGB, of the LEO and of the GLEN meetings, facilitating the contacts between prosecutors in charge of cases of common interest, coordination and resolution of issues that can arise in international cooperation.

Between 2023 and the present date, Portugal (DCIAP) received MLA's related to crimes of foreign bribery, from Switzerland and Panama.

Portugal is also in strait cooperation with the United States of America in a case of foreign bribery indicted on that jurisdiction, but with connexions to Portugal, were the prime suspect has houses and other assets.

A JIT was created with Spain, allowing that relevant evidence was collected in that jurisdiction and delivered directly to the Criminal Police. The investigative measures were carried out in collaboration with the competent Spanish judicial authority.

A former JIT with Switzerland, already finished, allowed the transmission of evidence that supported one of the most recent Portuguese indictments in foreign bribery.

These JIT's have been celebrated through EUROJUST.

Portugal is also cooperating with Mauritia's on a MLA, received from that jurisdiction after informal exchange of information with ICAC, related to a case of domestic corruption.

The Prosecutors in charge of investigations on foreign bribery in Portugal are fully aware of informal and formal channels available for the success of those investigations and they use them to obtain and provide other jurisdictions with the support needed to the continuity of the investigations.

That knowledge and awareness has been enhanced by the experience gained through DCIAP's participation in WGB, LEO and GLEN meetings, as well as in the annual meetings of EPAC/EACN, meetings which provide information about new ways to strengthen relations between jurisdictions in order to improve and facilitate international cooperation. That experience and contacts are shared with the Prosecutors in charge of the investigations.

On 21 June 2024, DCIAP, as appointed by the General Prosecutor's Office, received a delegation of four magistrates from the Supreme People's Procuratorate of the People's Republic of China, in official visit. A presentation on the competences attributed to DCIAP was made.

The event encouraged the exchange of experiences and information on criminal matters, regarding investigative measures normally implemented and penalties applied to criminal offences.

The investigation of foreign bribery and money laundering crimes in the Department was one of the main points highlighted, receiving a special interest from the Chinese delegation. This visit has enabled the establishment of informal communication channels with that jurisdiction, which may be particularly relevant in future investigations.

In the PJ, through initial and continuous training as well as in practice, emphasis is placed on police and judicial international cooperation in investigations carried out by the PJ according to its remit and taking into account that most crimes investigated are transnational in nature, which is particularly true for foreign bribery. The PJ performs its duties by delegated legal competence under the supervision of the PPS and both work closely regarding the course and strategy of the investigations.

Further emphasis is placed in training and in practice on the importance of the MLA process to collect and exchange information and to seek information regarding the legal requirements of foreign jurisdictions in order to streamline the requests and to ensure success.

In this regard, the PJ and the PPS work closely together on a case-by-case basis in reviewing requests for MLA and identifying key requirements of the requested jurisdiction and often resort to liaison officers and international experts (e.g., INTERPOL, EUROPOL) by phone calls or videoconferences to assist in the process and in the follow-up stages, as well as to provide training in the MLA process.

In conclusion, the Portuguese authorities proactively seek cooperation and MLA from foreign countries whenever appropriate, establishing also contact with foreign authorities via informal channels, namely in the framework of its presence in WGB, LEO and GLEN meetings, which consist on a very valuable forum to share knowledge and best practices, to meet foreign authorities and to be able to engage on the margins of the meetings in order to foster cooperation.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 12, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(a):

13. Regarding **enforcement data**, the Working Group recommends that Portugal maintain detailed statistics on:

(a) investigations, prosecutions and sanctions for false accounting and money laundering, including data on whether foreign bribery is the predicate offence [Convention Articles 7 and 8; Phase 3 recommendation 7(i)];

Action taken as of the date of the follow-up report to implement this recommendation:

The Directorate General for Justice Policy (DGPJ), as part of the exercise of its powers delegated by the National Statistical Institute, for the production of official Justice statistics, collects data on cases, defendants and convictions in criminal cases in the trial phase closed in first instance judicial courts, for these types of crime.

More specifically, the following statistical data is collected, which has been provided by the DGPJ within the scope of this and other evaluation exercises on the topic of bribery:

- Criminal cases completed in the trial phase in first instance judicial courts, for some crimes;
- Defendants in criminal cases completed in the trial phase in first instance judicial courts, for some crimes, by type of person (natural person; legal person);
- Defendants in criminal cases completed in the trial phase in first instance judicial courts, by type of person and termination of criminal proceedings (conviction sentence; not convicted);
- Defendants in criminal cases completed in the trial phase in first instance judicial courts, by type of person and termination of criminal proceedings for "Exceeded limitation periods";
- Convicted in criminal cases completed in the trial phase in first instance judicial courts, by type of person;
- Convicted in criminal cases completed in the trial phase in first instance judicial courts, by type of person and final condemnatory decision.

This data can be collected on all types of crimes provided for in national legislation, particularly on crimes most directly related to the phenomenon of corruption, such as the crimes listed below:

| Type of crime – level 1 | Type of crime – level 2 | Type of crime – level 3 |
|--|---|--|
| Criminal Code - Crimes against the State | Crimes against justice | Money laundering |
| Criminal Code - Crimes against the State | Crimes committed in the course of civil public duties | Corruption |
| Criminal Code - Crimes against the State | Crimes committed in the course of civil public duties | Misappropriation |
| Criminal Code - Crimes against life in society | Forgery crimes | Forgery/damage/theft of documents or technical notation and false certificates |
| In sundry legislation | Crimes against the economy | Foreign bribery |
| In sundry legislation | Crimes against the economy | Corruption |
| In sundry legislation | Crimes related to sports | Corruption |
| In sundry legislation | Crimes related to the liability of political office holders | Corruption (political office) |
| In sundry legislation | Crimes related to the liability | Misappropriation (political |

| | | |
|-----------------------|-----------------------------|-----------------------------------|
| | of political office holders | office) |
| In sundry legislation | Tax crimes | Tax fraud and qualified tax fraud |

This data is available in the Justice statistics online consultation system, fully available in English, which can be consulted via the link: <https://estatisticas.justica.gov.pt/sites/siej/en-us/pages/default.aspx>

More specifically, statistical reports containing the following statistical data can be consulted online in this system:

- Criminal cases in the trial phase closed in the first instance judicial courts

<https://estatisticas.justica.gov.pt/sites/siej/en-us/Pages/Processos-crime-em-fase-de-julgamento-findos-nos-tribunais-judiciais-de-1-instancia.aspx>

- Defendants in criminal cases in the first instance judicial courts

<https://estatisticas.justica.gov.pt/sites/siej/en-us/Pages/Arguidos-em-processos-crime-nos-tribunais-judiciais-de-1-instancia.aspx>

- Convicted in criminal cases in the first instance judicial courts

<https://estatisticas.justica.gov.pt/sites/siej/en-us/Pages/Condenados-em-processos-crime-nos-tribunais-judiciais-de-1-instancia.aspx>

Some specific data may not be directly available in the statistical reports, due to system performance issues, but can be sent upon specific request addressed to the DGPIJ.

With regard to the existence of procedures that ensure the quality of statistical data, the DGPIJ has been developing, in a continuous and incremental way those procedures. As an example, we can indicate the following procedures:

- Existence of workflows to guarantee and reinforce the quality of statistical data. Data collection was implemented through automatic interfaces or via the web, with validations in the respondents' computer applications.

- Errors or outliers are transmitted to entities for correction or justification/confirmation.

- Automatic processes that validate the coherence of the information are defined.

- Existence of data quality control sheets.

- Regarding infrastructure, the Justice Statistics Information System comprises a quality environment specifically designed for data evaluation.

Regarding ongoing developments to improve the statistics produced, the construction of a new platform for indicators, official statistics and open data is under preparation, within the scope of the implementation of the recovery and resilience plan, which aims to modernize and expand the current system, incorporating new functionalities for the presentation and use of information.

It is intended that this evolution will involve a significant expansion of data sources, proceeding with the creation or adaptation of source systems, where necessary, and the diversification and updating of information products and services, not only in terms of areas and topics covered, but also in the way they are made available (datasets, dynamic tables, dashboards, maps, infographics, etc.).

Additionally, the following should also be added:

- All the Prosecution Services have monthly and annual statistics that can be provided. Having in mind that the investigation of foreign bribery cases is assigned to DCIAP, the numbers regarding investigations and prosecutions of that crime are easily traceable and delivered.

- Regarding the cases of false accounting and money laundering and data on whether foreign bribery is the predicate offence, this is something more complex, since the investigations can occur on other prosecution services.
- Information provided by the Permanent Technical Secretariat of the AML/CFT Coordination Commission reports that at present Portugal is undergoing a review of statistical data collection for AML/CFT/CPF purposes. The different predicate offences to money laundering are to be segregated, including domestic and/or foreign bribery.

It is also relevant to mention that the CSM has been cooperating actively with the DGPJ in collecting and updating data relating to money laundering in the judicial courts, as well as with the Financial Action Task Force Group coordinated by the Bank of Portugal making contributions to the national risk assessment of money laundering and terrorism financing risks, in the part relating to the Courts.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 13(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(b):

13. Regarding **enforcement data**, the Working Group recommends that Portugal maintain detailed statistics on:

(b) the application of mechanisms of mitigation of sanctions in foreign bribery cases [Anti-Bribery Recommendation XV];

Action taken as of the date of the follow-up report to implement this recommendation:

The DGPJ assures the collection of statistics regarding convicted in criminal cases completed in the trial phase in first instance judicial courts, by type of person and the type of final condemnatory decision.

For reasons related to the quality of the statistical information recorded in the support system for the procedural processing of the judicial courts of first instance (Citius system), it is not possible for the moment to have statistical information related to the measure/duration of condemnatory decisions applied to those convicted in proceedings crime at the trial stage. Having identified the need to collect this information, a survey was carried out of the adjustments to be made to the Citius system in order to enable the production of more indicators on this and other topics. The aforementioned analysis is pending decision, taking into account the need for the involvement of other services in the implementation, namely the Institute of Financial Management and Justice Equipments of the Ministry of Justice (IGFEJ) and the Directorate General for the Administration of Justice (DGAJ).

The Portuguese authorities consider that this recommendation is still partially implemented.

If no action has been taken to implement recommendation 13(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

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Text of recommendation 13(c):

13. Regarding **enforcement data**, the Working Group recommends that Portugal maintain detailed statistics on:

(c) the use of pre-trial seizures, including on the offence involved and the amount seized [Anti-Bribery Recommendation XVI];

Action taken as of the date of the follow-up report to implement this recommendation:

Although a particular model of statistics on this matter has not been implemented, having in mind that the investigation of foreign bribery cases is assigned to DCIAP, data on the use of pre-trial seizures, and the amount seized, are easily traceable, and have to be informed for the annual report.

Please take into account also our response as regards recommendation 13.d, namely as regards the Platform for the Recovery and Management of Justice Assets.

The Portuguese authorities therefore consider that this recommendation is still partially implemented.

If no action has been taken to implement recommendation 13(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 13(d):

13. Regarding **enforcement data**, the Working Group recommends that Portugal maintain detailed statistics on:

(d) the application of confiscation in foreign bribery cases [Convention Article 3; Anti-Bribery Recommendation XV; Phase 3 recommendation 7(iii)].

Action taken as of the date of the follow-up report to implement this recommendation:

Every year, all Prosecution departments have to draw up an annual activity report, in which they record, among other data, the amounts recovered through asset recovery. Having in mind that the investigation of foreign bribery is committed to the 5th section of DCIAP only, that data can be made available easily.

It is also important to refer, on a wider perspective, that a project is being developed which, in compliance with the rules of the Recovery and Resilience Plan (PRR), will have to be completed by the end of 2025, called “*Platform for the Recovery and Management of Justice Assets*” (<https://igfej.justica.gov.pt/Projetos-financiados/Projetos-PRR>).

The Project is under the responsibility of the Institute of Financial Management and Justice Equipments of the Ministry of Justice (IGFEJ), bringing together the Asset Recovery Office (ARO) and the Asset Management Office (AMO) and other partners.

IGFEJ is currently designing the Platform for the Recovery and Management of Justice Assets, under the Digital Transition component of the Recovery and Resilience Plan (RRP).

The effective administration of assets seized, recovered or confiscated for the State in the context of national proceedings or acts of judicial cooperation, requires the ability to act in a timely manner, aiming at the efficient management of assets with the least impact on their intrinsic value.

This activity requires an information system for the integrated management of assets to maximize their value in favour of the State with adaptations to existing information systems. The total amount invested in the project is 3.6.M€.

The AMO will be responsible for the management of assets, including the monetization of assets through their sale where applicable, and the ARO for statistics. The platform will allow for the collection and processing of data relating to frozen, seized and confiscated assets.

Among the specifications already defined is the typology of crimes underlying the seizure, which will make it more viable to isolate for statistical purposes those that originate from foreign bribery. The full implementation of the project will determine that, by then, the Portuguese authorities will be going beyond the requirements of the recommendation.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 13(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14(a):

14. Regarding **liability of legal persons**, the Working Group recommends that Portugal:

(a) take all necessary steps, including training for judges, to ensure that the liability of legal persons for foreign bribery is not restricted to the cases where a natural person or persons who perpetrated the offence are prosecuted or convicted [Convention Article 2; Anti-Bribery Recommendation Annex I.B];

Action taken as of the date of the follow-up report to implement this recommendation:

The Portuguese legislation is very clear about the fact that the liability of legal persons does not depend on the liability of natural persons: Article 11(7) of the Criminal Code expressly states that. However, to the extent that some case law could be interpreted as a divergence between law and practice, the WGB addressed recommendation 14.a to Portugal.

So as to address the recommendation, reference is to be made to training already developed by the CEJ at the beginning of 2023, targeting judges and prosecutors, as well as lawyers and other court professionals, that has also focused on the liability of legal persons. Please check the programme of said training sessions in Annex 10.

It is especially important to point out that the CEJ provides training that focuses on foreign bribery matters, both directly and indirectly – meaning with this reference to indirectly that matters which are to be dealt within a general approach which relates to all types of crimes or criminal procedure rules are addressed in that framework.

Additionally, foreign bribery is also specifically addressed in the training provided for by CEJ in both: (i) the initial training for judicial auditors (future judicial and public prosecution magistrates),

in this case in the framework of the Criminal Law and Criminal Procedure Law Jurisdiction; and (ii) In continuous training and within the scope of the Specialization Course in Criminal Law and Criminal Procedure Law Topics, where a session was held dedicated on the topics of corruption in the private sector and foreign bribery.

The matters covered by the recommendation are addressed in the Study Plan for Criminal Jurisdiction and Criminal Procedure in relation to all criminal types and also regarding corruption crimes, including, naturally, the crime of foreign bribery.

In particular, the criminal liability of legal persons is the subject of an autonomous module, with reference being made to the types of crimes that involve it, given their exceptional nature.

Looking ahead into the future, please do also take into account the references made as regards recommendation 8.b.

Therefore, the Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 14(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14(b):

14. Regarding **liability of legal persons**, the Working Group recommends that Portugal:

(b) repeal the defence of acting against express orders or instructions in article 11(6) CC [Convention Article 2; Anti-Bribery Recommendation Annex I.B; Phase 3 recommendation 3(b)];

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 14(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

The prerogative established in Article 11(6) of the CC aims to meet the principle of “*nulla poena sine culpa*”, outlined in Article 40 (2) of the same Code.

Among the purposes to be pursued with penalties, the legislator decided, preferably, for the retributive purpose, understanding the penalty as a punishment, and, therefore, one of the basic principles of the Criminal Code resides in the understanding that every penalty must have concrete guilt as its axiological-normative support.

Guilt – the basis of all sanctioning expressed in the above-mentioned principle “*nulla poena sine culpa*” – presupposes the demand for a different behaviour. Not only the application of the penalty but also its execution must be subordinated to the aforementioned criminal principle. This implies not only that there is no penalty without guilt, but also that the guilt determines the measure of the penalty. Therefore, guilt not only constitutes the presupposition-foundation of the validity of the penalty but also asserts itself as the maximum limit of it.

This means that whenever someone acts against the express orders of the legal person (expressed through those natural persons legally qualified for that under the law), punishing the legal person for that behaviour would be a violation of the mentioned principle, transversal to the criminal system framework. Criminal liability, differently from civil liability, must not be objective but connected to guilt.

The Portuguese authorities would also like to highlight that:

- i) The Convention does not require Member States to establish the criminal liability of legal persons: its Article 2 (responsibility of legal persons) only states that Each Party shall take such measures as may be necessary, by its legal principles, to establish the liability of legal persons for bribery of a foreign public official (and there are Parties where criminal liability of legal persons does not exist);
- ii) What is referred to in B of Annex I to the 2021 Recommendation, which the Portuguese legal solution is in line with, does not cover any express or even implicit obligation for Member States to avoid or to repeal the defence of acting against express orders, namely in the form as it is designed in the Portuguese legislation;
- iii) The Portuguese legal solution follows the reference made in B.3.b.third point of Annex I to the 2021 Recommendation: *“a person with the highest level managerial authority fails to prevent a lower level person from bribing a foreign public official, including through a failure to supervise him or her or through a failure to implement adequate internal controls, ethics, and compliance programmes or measures”*;
- iv) The defence enacted in Article 11(6) CC includes the condition of express orders or instructions, thus requiring real and effective oversight, providing an adequate level of detail, not mere proclamations, as it would be the case of a blanket prohibition of any kind of criminal behaviour.

Thus, Article 11(6) of the CC fulfils the international obligations arising from the OECD Convention, being also in line with the 2021 Recommendation, and not endangering a principles-based system which has been proving to work adequately as regards legal persons accountability.

It is also to be noted that it is currently under discussion within European Union institutions the text of a [draft European Union Directive of the European Parliament and of the Council on combating corruption](#) which is due to also encompass rules on the liability of legal persons, therefore possibly requiring changes in the Portuguese legal framework as regards liability of legal persons in the area of corruption in general. The draft proposal has been presented in May 2023 and the final text is still being negotiated between EU institutions. However, as regards such a matter, changes are not to be expected, as this is an issue that is embedded in fundamental principles shared with other jurisdictions.

Therefore, the Portuguese authorities propose that this recommendation is considered as implemented and that, considering its nature, it is converted into a follow up issue.

Text of recommendation 14(c):

14. Regarding **liability of legal persons**, the Working Group recommends that Portugal:

(c) take the appropriate steps to ensure that sanctions against legal persons for foreign bribery are effective, proportionate, and dissuasive in practice [Convention Articles 2 and 3; Anti-Bribery Recommendation XV and Annex I.B];

Action taken as of the date of the follow-up report to implement this recommendation:

The Portuguese legal and institutional system provides for solutions of sanctions and confiscation that address the substantive concerns underlying this recommendation. As to the sanctions available, please refer to paragraphs 188 and following of the Phase 4 2022 report on Portugal. As to the wide system of confiscation available, please refer to what has been stated above as regards recommendation 8(a).

Thus, the Portuguese legal and institutional framework provides the tools necessary for the criminal justice system to operate consistently and to be a fundamental deterrent for economic offences such as foreign bribery.

It must be stressed that with regards to fines, these penalties are ruled, namely, by Article 90-B CC, which in paragraph (5) establishes that each day of fine corresponds to an amount between 100 and 10 000 Euros, which the court sets, depending on the economic and financial situation of the convicted legal person and their costs with workers.

On the other hand, besides the penalties, and as explained above as regards recommendation 8(a), if the crime generated a benefit, for example a bribe, that benefit will be entirely confiscated (Article 110(1)(b) and 110(2) of the Criminal Code – CC). If the bribe, on the other hand, led to a highly profitable business (or not so profitable, of course), all advantages must also be confiscated (Article 110(1)(b) of the CC – when referring to “direct or indirect advantages”). In addition to these mechanisms, Law no. 5/2002, makes it possible to assume as an advantage of the crime, and due to be confiscated, all wealth of the defendant that could not be justified as licit income.

Reference is also to be made to training already developed by the CEJ at the beginning of 2023, targeting judges and prosecutors, as well as lawyers and other court professionals, that has also focused on the liability of legal persons (please check Annex 10).

On the other hand, as to the role of the UNCC of the PJ in this regard, it is important to stress its activity, ensuring that all information regarding the liability of legal persons is provided to the PPS. The role of the ARO in this respect is to be stressed as well, since in its activity of financial investigation it serves both the purposes of asset recovery and the determination of sanctions. As regards confiscation and related matters please check also our answers as regards recommendation 13.d, namely as regards the Platform for the Recovery and Management of Justice Assets.

So as to ensure that sanctions against legal persons for foreign bribery are effective, proportionate, and dissuasive in practice, and besides the legal and institutional frameworks, training is a fundamental part of the efforts that have been made.

This report shows clearly the investment being made on the continuity of investments in training and on raising awareness, and this is shown in the responses given as regards several other recommendations where the training or awareness raising in focus in this recommendation can be also at stake. Therefore, we would like to ask for your attention as regards, especially, the responses to recommendations 3.d, 4.a, 4.b, 4.e, 4.f, 8.b, 8.c, 10.b, 11.a, 11.c, 11.d, 11.e, 12, 14.a, 14.c, 14.d,

where numerous training and awareness raising efforts, including regarding judges, prosecutors, law enforcement officers and other actors in our system, are reported.

It is also to be noted that it is currently under negotiation by EU institutions the [draft European Union Directive of the European Parliament and of the Council on combating corruption](#) which is due to also encompass rules on the liability of legal persons, therefore possibly requiring changes in the Portuguese legal framework as regards penalties applicable to legal persons. The draft proposal has been presented in May 2023 and the final text is still to be negotiated within EU institutions.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 14(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 14(d):

14. Regarding **liability of legal persons**, the Working Group recommends that Portugal:

(d) clarify the standards and develop training to help judges and prosecutors assess whether a compliance programme is appropriate, considering the risk exposure of the legal persons involved in the concrete case [Convention Articles 2 and 3; Anti-Bribery Recommendation XV and Annex I.B].

Action taken as of the date of the follow-up report to implement this recommendation:

First, it is to be highlighted that judges and prosecutors in the criminal area responsible for cases involving foreign bribery, due to the processing of other cases also involving this risk exposure of legal persons involved in concrete cases, have in general the necessary conditions to carry out an assessment of the suitability of these programmes.

Additionally, training has been recently developed by CEJ, targeting judges and prosecutors, as well as lawyers and other court professionals, as regards the liability of legal persons and, specifically, as regards the relevance of compliance programmes in the framework of such liability, in accordance with the amendments introduced by Law no. 94/2021, into the Criminal Code and the Code of Criminal Procedure (please check Annex 10).

The President of the MENAC has also addressed said audiences on these occasions, explaining the role of the MENAC and its relevance, namely as regards the RGPC, approved in attachment to Decree-Law no. 109-E/2021. This Decree-Law establishes, namely, that the MENAC has among its duties to (Article 2(3)):

“c) Support the public entities in the adoption and implementation of the regulatory compliance programs provided for in the RGPC;

d) Issue guidelines and directives for the adoption and implementation of regulatory compliance programs by the entities covered by the RGPC, having these guidelines to be accessible through the MENAC website, in an easily identifiable place and with search tools.”

It is important to stress also that the RGPC establishes the following in Article 6, regarding one of the elements that have to be included in compliance programmes:

Article 6

Prevention plan for risks of corruption and related offences

1 - Covered entities shall adopt and implement a PPRC covering their entire organisation and activity, including administrative, managerial, operational or support areas, and containing:

a) Identification, analysis and classification of the risks and situations that may expose the entity to acts of corruption and related offences, including those associated with the performance of duties by the members of the management and administrative bodies, considering the reality of the sector and the geographical areas in which the entity operates;

b) Preventive and corrective measures to reduce the probability of occurrence and impact of the risks and situations identified.

2 - The PPR shall include the following:

a) The areas of activity of the entity with risk of committing acts of corruption and related offences;

b) The probability of occurrence and foreseeable impact of each situation, in order to allow for the grading of risks;

c) Preventive and corrective measures to reduce the probability of occurrence and impact of the risks and situations identified;

d) In situations of high or maximum risk, the most exhaustive prevention measures, with priority being given to their execution;

e) Designation of the person responsible for the execution, control and revision of the PPRC, who may be the person responsible for regulatory compliance.

3 - (...).

4 - The implementation of the PPR is subject to control, carried out under the following terms:

a) Preparation, in the month of October, of an interim evaluation report on identified situations of high or maximum risk;

b) Preparation, in April of the following year, of an annual assessment report, containing namely the quantification of the degree of implementation of the preventive and corrective measures identified, as well as the forecast for their full implementation.

(...)

The MENAC has been preparing guidelines and directives for the adoption and implementation of regulatory compliance programs that obliged entities must comply with (Article 2(3)(d) of Decree-Law no. 109-E/2021).

The product of such work has been published as Guide no. 1/2023 (please check Annex 3). This Guide has been publicized and distributed through different means, namely in the websites of several public institutions (for example, the Ministry of Economy: [MENAC: Guia de apoio aos instrumentos de prevenção da corrupção \(sgeconomia.gov.pt\)](https://sgeconomia.gov.pt)).

MENAC's guide contains practical instructions on the methodology to be adopted in relation to the various instruments and measures provided for in the RGPC and which must be complied with by entities. Monitoring compliance with this same regime must therefore include the verification by entities of the methodological indications indicated in the guide, as mentioned.

MENAC is seeking to develop, together with CEJ, training projects involving judges and prosecutors in response to these responsibilities in monitoring the instruments and measures of the RGPC. Looking ahead into the future, please do also take into account the references made as regards recommendation 8.b

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 14(d), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 15(a):

15. Regarding **engagement with the private sector**, the Working Group recommends that Portugal:

(a) take greater efforts to raise awareness of foreign bribery in the private sector, especially amongst SMEs and other companies doing business abroad [Anti-Bribery Recommendation IV.ii and Annex II];

Action taken as of the date of the follow-up report to implement this recommendation:

Greater efforts have been made to involve the private sector in the fight against corruption in general, and foreign bribery in particular whenever appropriate, as clearly shown in the responses given as regards other recommendations where the training or awareness raising in focus in this recommendation can be also at stake. That is the case, namely, of our responses to recommendations 1.a, 1.b, 2, 4.b, 6 and 16.b, that we kindly ask you to refer to.

Additionally, it is important to stress that MENAC has already developed an awareness-raising campaign on these topics, including the publication of the guide, in cooperation with AICEP and Camões (CICL).

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 15(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 15(b):

15. Regarding **engagement with the private sector**, the Working Group recommends that Portugal:

(b) closely monitor the implementation of anti-corruption measures in companies doing business in high-risk countries with which Portugal has strong economic and historical ties [Anti-Bribery Recommendation IV.ii, XXIII.C and Annex II].

Action taken as of the date of the follow-up report to implement this recommendation:

As regards law enforcement authorities and securities regulators, the CMVM supervises issuers implementation of anticorruption measures disclosed on ESG annual reports, namely the disclose and completeness of public information required by Article 66-B (Non-financial statement) of the CSC, which foresees that big companies and major groups, must include a non-financial statement in their management report, that must contain sufficient information to understand the evolution, performance, position and the impact of the activities regarding fight against corruption and bribery

attempts matters, including:

- a) A brief description of the company's business model;
- b) A description of the policies followed by the company regarding these matters, including the duly diligence processes applied;
- c) The results of these policies;
- d) The main risks associated to these matters, connected with the company's activities, including, if relevant and appropriate, its business relationships, its products or services that have negative impacts in such domains and the way these risks are managed by the company;
- e) Key performance indicators relevant for its specific activity.

The CMVM has also allocated specific resources to promote and monitor companies' development of compliance measures in the context of its advisory and audit functions for entities subject to the compliance obligation.

As to reporting duties, CMVM's Regulation no. 2/2020, updated by Regulation no. 5/2022, establishes periodic reporting duties to entities of a financial nature and to auditors which furnish essential information for CMVM supervision. In the due course of the CMVM's inspections of financial entities and auditors, has supervisory responsibilities on the compliance of the duties established in Law no. 83/2017, revised in 2021 namely the identification and exam duties by financial entities concerning their customers and by the auditors in relation to audited entities.

And as to guidance, the CMVM issued guidance and set open sessions with obliged entities conveying the importance of these entities being able to disclose the information required. The CMVM has also promoted public awareness, including circulars and workshops regarding reporting duties for supervised companies (e.g., [Modelo de Relatório de Informação Não Financeira \(1\).pdf](#) - page 5 ; [CMVM](#)).

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 15(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(a):

16. Regarding **public advantages**, the Working Group recommends that Portugal:

- (a) encourage public entities, whenever appropriate, to include foreign bribery in their plans for the management of risks of corruption and related infractions [Anti-Bribery Recommendation XXIV];

Action taken as of the date of the follow-up report to implement this recommendation:

As established by law, the RGPC, public entities (as well as the private ones) with more than 50 employees are obliged to adopt plans for the management of risks of corruption and related infractions (PPRC), internal reporting channels in accordance with Law no. 93/2021 and training. The widespread mandatory (i) approval of PPRC, that have to take into account the specific risks of the entity at stake, including foreign bribery whenever appropriate, (ii) the implementation of internal reporting channels and (iii) training as regards these matters, are key in the legal and institutional landscape, so that all public entities whenever appropriate, include foreign bribery in their PPRC.

As regards the PPRC and this recommendation Article 6 of the RGPC is especially clear and relevant:

Article 6

Prevention plan for risks of corruption and related offences

1 - Covered entities shall adopt and implement a PPR covering their entire organisation and activity, including administrative, managerial, operational or support areas, and containing:

a) Identification, analysis and classification of the risks and situations that may expose the entity to acts of corruption and related offences, including those associated with the performance of duties by the members of the management and administrative bodies, considering the reality of the sector and the geographical areas in which the entity operates;

b) Preventive and corrective measures to reduce the probability of occurrence and impact of the risks and situations identified.

2 - The PPR shall include the following:

a) The areas of activity of the entity with risk of committing acts of corruption and related offences;

b) The probability of occurrence and foreseeable impact of each situation, in order to allow for the grading of risks;

c) Preventive and corrective measures to reduce the probability of occurrence and impact of the risks and situations identified;

d) In situations of high or maximum risk, the most exhaustive prevention measures, with priority being given to their execution;

e) Designation of the general person responsible for the execution, control and revision of the PPR, who may be the person responsible for regulatory compliance.

3 - In the event of the covered entities being in a group relationship, a single PPR may be adopted and implemented to cover the entire organisation and activity of the group, including administrative, managerial, operational or support areas of the group entities.

4 - The implementation of the PPR is subject to control, carried out under the following terms:

a) Preparation, in the month of October, of an interim evaluation report on identified situations of high or maximum risk;

b) Preparation, in April of the following year, of an annual assessment report, containing namely the quantification of the degree of implementation of the preventive and corrective measures identified, as well as the forecast for their full implementation.

5 - The PPR is reviewed every three 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.

6 - Covered entities shall ensure that the PPR and the reports referred to in paragraph 3 are made public to their employees, and they must do so via the intranet and their official Internet site, if any, within 10 days of their implementation and respective revisions or preparation.

7 - The public entities covered shall communicate the PPR and the reports referred to in paragraph 3 to the members of the Government responsible for the respective management, superintendence or supervision, for information purposes, and to the inspection services of the respective governmental area, as well as to MENAC, within 10 days from their implementation and respective revisions or preparation.

8 - The public entities covered that are not under the direction, supervision or remit of a member of the Government shall communicate the PPR and the reports foreseen in paragraph 3 only to MENAC, within 10 days from their implementation and respective revisions or preparation.

9 - The communications foreseen in paragraphs 7 and 8 are made through the electronic platform to be created for the purpose, managed by MENAC.

As established by Article 9 of the RGPC, obliged entities also have to ensure that internal training programs are carried out for all their managers and workers, so that they know and understand the policies and procedures implemented to prevent corruption and related offences. The content and

frequency of training for managers and workers takes into account the different exposure of managers and workers to the identified risks as regards corruption and related offences. Therefore, training is to be delivered, whenever appropriate, specifically on foreign bribery.

So as to provide guidance on the implementation of the instruments established by the RGPC, MENAC issued Guide no. 1/2023 in September 2023 (please check Annex 3), providing indications and explanatory notes on methodological precautions for the preparation, adoption, and implementation of instruments of the RGPC.

As referred in our answers to recommendation 1.a and 1.b, several awareness raising and training actions took or are taking place, encouraging therefore all public entities to adopt their PPRC in accordance with the rules, namely including foreign bribery in their PPRC whenever appropriate.

It is also to be recalled that MENAC has a supervisory role as regards the implementation of the RGPC, including applying sanctions in cases of wrongdoing, therefore adding to the positive encouragements already described a sanctioning component enabling the enforcement of the solutions of the RGPC – please check Article 20 of the RGPC, establishing that the violation of Article 6 is an administrative offence, punished with fines.

MENAC, in accordance with its functions, monitors the development of plans for the prevention of corruption risks by entities. These documents, to the extent that entities carry out international activities, must include the corresponding risks of corruption and bribery, as well as the corresponding prevention measures. MENAC is finalizing the modelling of its electronic platform for more detailed monitoring of the content of these risk prevention plans. To this extent, as soon as the platform is fully operational, which is expected in the very short term, MENAC expects to have more detailed elements regarding the solutions found by entities in relation to this type of risks.

In this regard it is also important to add that the Anticorruption Agenda and its Technical Report (please check Annex 2) mention also the intention to equate the fines provided for in the RGPC to the ones established in the legislation to combat money laundering and the financing of terrorism, therefore stressing the importance of the RGPC system and all legal obligations concurring to a full encouragement of public entities, whenever appropriate, to include foreign bribery in their PPRC.

It is worth highlighting also the cases of public entities, namely the Directorate General of Portuguese Communities and Consular Affairs of the Ministry of Foreign Affairs, or the Camões, I.P. (CICL) where this matter is also to be covered in the risk matrix of the external network, which will integrate the organisation's PPRC.

The Directorate General for Treasury and Finance (DGTF) also reports that the matter related to the granting of guarantees for export and investment credit insurance operations is set out in DGTF's PPRC. Several preventive measures are established, including the instruction of processes with information from the Ministry of Foreign Affairs and AICEP and regulation by OECD's "Arrangement on Export Credits".

On the other hand, DGTF represents the shareholder (Portuguese State) in several public companies. State owned companies are also legally obliged to adopt a regulatory compliance program that includes, at least, a PPRC, a code of conduct, a training program and a reporting channel. Entities that have international business must, in accordance with the RGPC include the necessary risk mitigation measures in their PPRC.

The Portuguese authorities therefore consider that this recommendation has been implemented.

If no action has been taken to implement recommendation 16(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(b):

16. Regarding **public advantages**, the Working Group recommends that Portugal:
 (b) continue to raise awareness on foreign bribery for CICL, SOFID and COSEC staff and public and private counterparts [Anti-Bribery Recommendation XXIV and XXV];

Action taken as of the date of the follow-up report to implement this recommendation:

As regards Camões (CICL), awareness raising and training efforts continue to be made.

It is to be highlighted that in the 1st semester of 2024 around 5% of CICL employees have already had training sessions covering this subject, something which is going to be extended to the others employees in the 2nd semester.

Priority for participation in the first training sessions was given to those responsible for regulatory compliance, the officials appointed to respond to complaints submitted through the whistleblowing channel and the audit team staff – the training programme is attached as Annex 11.

COSEC has implemented several measures with the aim of raising awareness regarding foreign bribery among staff and its counterparts, namely:

1. It has promoted the dissemination of the WGB's Phase 4 Report on Portugal, highlighting its recommendations;
2. Conducted internal brainstorms to develop measures to be implemented;
3. Disseminated online training, encouraging staff and counterparts to carry it out;
4. Reinforced training on foreign bribery during welcome training for new employees, with the aim of raising awareness of the topic and demonstrating the importance of carrying out voluntary training related to the prevention of corruption;
5. Publicized through Newsletters/emails all policies and legislative changes produced and related to corruption, highlighting the main impacts on COSEC;
6. Reinforced the information related to the prevention of corruption transmitted to counterparts in the negotiation of new policies.

It should be noted also that COSEC's application form for any of the credit insurance products contains specific anti-bribery mentions and refer to the 2019 Recommendation on Bribery and Officially Supported Export Credits.

Additionally, the obligation to read the Recommendation in full was also implemented electronically. Under these terms, any applicant subscribes an anti-bribery statement when filling up the application form and applicants are obliged to read the Recommendation in full, in addition to declaring that they have read it.

In addition to these measures, COSEC promoted additional specific training:

1. Promoted between November 2022 and January 2023 the “Course on Good Practices in Insurance Distribution” through APS – Portuguese Association of Insurers. One of the objectives of the course was to identify suspected situations of money laundering and terrorist financing (please check Annex 9);
2. Conducted 3 mandatory training sessions related to the "Irregularities Reporting Policy" on February 2023, which included the presentation of the new COSEC Reporting Channel and a detailed explanation of the operation of that Whistleblowing Channel;
3. Conducted 2 mandatory training sessions on the "Economic Sanctions Policy" on April 2023;
4. Reviewed the “Anti-Fraud Policy” on October 2023 and promoted its dissemination by employees;
5. Conducted 2 mandatory new training sessions on the "Economic Sanctions Policy" on March 2024.

It should be noted also that in September 2024 COSEC plans to carry out training on the "Code of Conduct and Policies against economic crime". In this mandatory training, among other aspects, the preventive measures in force at COSEC relating to the prevention of corruption, money laundering and anti-fraud will also be highlighted.

As regards **SOFID** (Sociedade Financeira do Desenvolvimento), it has provided all its staff with a training session led by a MENAC Coordinating Consultant, which included providing supporting documentation for future reference.

The Person Responsible for Regulatory Compliance participated in a training session provided by Kepler Forensic Partners, on Compliance and the mandatory elements of the RGPC.

SOFID approved its code of conduct, whistleblowing Policy and implemented a whistleblowing channel. To date, no situations have been recorded that fall within the mandatory reporting obligations to the authorities of allegations involving Portuguese companies.

DGTF, as the Guardian Authority of the Officially Supported Export Credit Guarantees under management of the Export Credit Agencies (ECAs) BPF and COSEC adheres to and implements the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits and is committed to support the efforts of the OECD Working Party on Export Credits and Credit Guarantees (ECG) to monitor the implementation of said OECD Recommendation through surveys launched by ECG as well as encouraging their staff as well as the ECAs to an active participation on export credits anti-bribery workshops promoted by ECG.

Moreover, ECAs acting on behalf of the Portuguese State, besides internal control systems, are submitted to external audit bodies, namely Tribunal de Contas (Court of Auditors - TContas) and Inspeção-Geral das Finanças (General-Inspectorate for Finance - IGF).

Regarding officially supported export credits, the exporter has to submit an additional application form to the ECA where, among other details of the export contract and information on bribery issues is requested an anti-bribery statement fulfilling the requirements established in the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits to be signed by the exporter.

Overall elements of the application form, where the exporter:

- Acknowledges that the loan agreement to which the export contract relates must be in conformity with the criminal law and regulations and with the international commitments entered into by the Portuguese State;

- Acknowledges the OECD Convention on Foreign Bribery and the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits which implements it in the context of the export credits, as well as the provisions under the Portuguese Criminal Law applicable to the crime of foreign bribery, which punishes it with imprisonment from 1 to 8 years;
- Recognizes the importance of adopting suitable management control systems to combat bribery and the importance to provide all information necessary to the ECA to undertake the screening and, if relevant, any subsequent enhanced due diligence;
- Declares that, in the transaction neither he, nor any natural or legal person acting on his behalf in connection with the transaction, such as agents, have been engaged or will be engaged in bribery (namely, bribery of foreign and domestic public officials and bribery in the private sector);
- Acknowledges the obligation to declare whether he or any natural or legal person acting on his behalf in connection with the transaction, such as agents: a) are currently under charge in any court or, to the best of their knowledge, are formally under investigation by public prosecutors for violation of laws against bribery of any country; and/or b) within a five-year period preceding the application, have been convicted in any court for violation of laws against bribery of any country, been subject to equivalent measures, or been found as part of a publicly-available arbitral award to have engaged in bribery;
- Declares that he, other relevant parties, any natural or legal person acting on his behalf in connection with the transaction, such as agents, are not listed on the publicly available debarment lists of one of the Multilateral Financial Institutions (MFIs).
- The applicant also declares that the commissions and fees paid, or agreed to be paid, to any natural or legal person acting on his behalf in connection with the transaction, such as agents, is, or will be, for legitimate services only;
- Acknowledges the obligation to, upon demand, disclose the following: a) the identity of any natural or legal person, such as agents, acting on his behalf and, where appropriate, other relevant parties in connection with the transaction; b) the amount and purpose of commissions and fees paid, or agreed to be paid, to such persons; and c) the country or jurisdiction in which the commissions and fees have been paid, or agreed to be paid.
- Acknowledges and accepts that, at any time, if credible evidence of bribery is found in the award or implementation of the export contract, the ECA is allowed to suspend the approval of any application form and the drawdown of the loan agreement during the enhanced due diligence procedures. In the event that credible evidence of bribery is found, official support shall be denied.

If, after the official support is given, an evidence of bribery is proven, the ECA will immediately suspend the payment of any claims, and if any claim has already been paid, the ECA will ask for the immediate refund of all the amounts unduly paid.

CMVM reported also as regards this recommendation that it requires and communicates to contractors and suppliers to have general anti-bribery and corruption programs, effective procedures to counter bribery and corruption in its procurement and contracting process and financial controls over payments and include anti-bribery provisions in contracts.

These companies must publicly commit to fair trading and deter corrupt bidders from participating

in company tenders, conduct due diligence on prospective bidders, and monitor their contracting processes, decisions, and transactions (information available in [Princípios orientadores de atuação para os interessados e agentes de mercado que se relacionem com a CMVM, que participem em procedimentos no quadro da contratação pública e que contratem com a CMVM](#)).

Finally, we kindly refer you to the answers provided for as regards recommendations 1.a, 1.b and 2, where relevant training and awareness raising actions are reported as regards corruption in general, and foreign bribery in specific cases, encompassing in several cases CICL, SOFID and COSEC staff's and public and private counterparts.

Therefore, the Portuguese authorities consider that this recommendation is implemented.

If no action has been taken to implement recommendation 16(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 16(c):

16. Regarding **public advantages**, the Working Group recommends that Portugal:

(c) check the debarment lists of multilateral development banks by CICL and SOFID [Anti-Bribery Recommendation XXIV].

Action taken as of the date of the follow-up report to implement this recommendation:

As regards this recommendation Camões (CICL) reports that this situation will be taken into account as a procedure to be adopted in the new CICL Procedures Manual that is currently being developed and which will be concluded up until 30 June 2025.

On the other hand, DGTF reports that the contracts signed by SOFID include anticorruption clauses that constitute the basis for early expiration of the contracts. Please allow us to refer you to our answer as regards recommendation 16.b, namely as regards SOFID.

The Portuguese authorities therefore consider that this recommendation is still partially implemented.

If no action has been taken to implement recommendation 16(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

Regarding Part II and as per the procedures agreed by the Working Group, countries are invited to provide information with regard to any follow-up issue identified below where there have been relevant developments since the Phase 4 report. Please also note that the Secretariat and the lead examiners may also identify follow-up issues for which it specifically requires information from the evaluated country.

17. The Working Group will follow up on the issues below as case law, practice, and legislation develops:

Text of issue for follow-up 17(a):

(a) MENAC's competence to oversee the overall implementation of Law 93/2021 [Anti-Bribery Recommendation XXII.i]

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Article 2 of Decree-Law no. 109-E/2021, of 9 December, determines that MENAC's mission is to promote transparency and integrity in public action and to guarantee the effectiveness of policies to prevent corruption and related offences. In this context, MENAC holds powers of initiative, control and sanction. In the context of sanctioning powers, it is important to note that the processing of administrative offences provided for in the whistleblower protection regime and the application of corresponding fines are the responsibility of MENAC (except fines in the context of specific EU sectoral acts).

The sanctioning part of the General Regime for the Prevention of Corruption (Regime Geral da Prevenção da Corrupção – “RGPC”), provided for in its chapter IV, came into force on 7 June 2023, under the terms set out in paragraph 1 of article 28 of Decree-Law no. 109-E/2021, of 9 December 2021.

In 2023, MENAC published on its official website several documents to publicise the RGPC, including Guide no. 1/2023 on the preparation and application of that regime (please check Annex 3). In addition, summaries were published on risk prevention plans, codes of conduct, reporting channels, regulatory compliance officer, and internal training programme for integrity. Three numbers of the official newsletter were also published throughout 2023, covering the 1st, 2nd and 3rd quarters of the year. Contacts also continued with the PPS to create a procedure for retrospective analysis of completed criminal proceedings relating to corruption and related offences, intending to increase knowledge of these offences and improve prevention, detection and repression practices, under the terms set out in subparagraph 1) of Article 2(3) of Decree-Law no. 109-E/2021, of 9 December.

A public procurement process was developed for the creation of the electronic platform for the reception, automatic processing, and storage of instruments relating to Regulatory Compliance Programmes (compliance). This platform is to be hosted on the MENAC website. Although the platform is not yet operational, MENAC Recommendation no. 2/2023 on the procedures to be adopted by entities when submitting instruments relating to regulatory compliance programmes to MENAC has already been published in the Official Journal (2nd series, of 7 July 2023).

MENAC has already received these instruments and has begun to analyse and monitor compliance with this part of the RGPC.

It is also worth noting that the MENAC Advisory Board includes the Inspectors-General of the different Ministries, which facilitates institutional cooperation and has enabled the necessary coordination of tasks within the scope of the implementation of the RGPC.

MENAC has favoured an educational approach with organisations, with a view to voluntary compliance with the aforementioned legal regulations. This effort is illustrated by the volume of publications made available on its website throughout 2023, with special mention to the above referred Guide n. 1 on Regulatory Compliance Instruments.

MENAC is in the final phase of modelling the IT platform provided for by law to monitor the implementation of the RGPC, including the reporting channels component established under Law no. 93/2021, on whistleblower protection regime.

Text of issue for follow-up 17(b):

(b) reporting by external auditors of foreign bribery allegations in practice, including through

statistics collected by the OROC and CMVM [Convention article 8; Anti-Bribery Recommendation IV.i and XXIII.B.iii and v];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Currently, auditors are required to report any facts detected during their duties that indicate the practice of crimes to the Public Prosecution Service (PPS), in accordance with Article 190 of the Statutes of the Order of Statutory Auditors (EOROC). Consequently, the PPS holds the information related to numbers of those reports. Due to the current workings to transpose into national legislation an European Union directive that also relates with the EOROC, the CMVM is considering proposing an amendment that foresees the auditor's obligation to report to the CMVM any statistical data regarding the practice of crimes. However, it is important to note that auditors currently already have the duty to report this information directly to the PPS.

Text of issue for follow-up 17(c):

(c) regarding the foreign bribery offence: (i) the concurrent application of Portugal's foreign bribery offences; (ii) the interpretation of article 7 of Law 20/2008 in practice, to ensure it is interpreted consistently with Article 1 of the Convention; and (iii) the application of article 5 CC and article 3 of Law 20/2008 [Convention Articles 1 and 4; Anti-Bribery Recommendation III.ii and V, Phase 3 recommendation 1(a) to (c)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

It is to be mentioned that the proposal for an EU Directive on combating corruption (*Proposal for a Directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and amending Directive (EU) 2017/1371 of the European Parliament and of the Council*) is under negotiation within EU institutions and that its approval and subsequent implementation at national level will entail a reconfiguration of the legislative framework on corruption, related offences and other related matters.

Text of issue for follow-up 17(d):

(d) sanctions imposed against natural and legal persons for foreign bribery, especially in light of the system of converting certain prison sentences into fines [Convention Article 3(1)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Please refer also to what has been reported as regards recommendation 8(a).

Text of issue for follow-up 17(e):

(e) regarding non-trial resolutions: (i) on the practical application of this mechanism, including on injunctions imposed in foreign bribery cases, and (ii) whether the suspension of proceedings in foreign bribery cases results in effective, proportionate and dissuasive sanctions [Convention Article 3];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Please refer to the answers provided for as regards recommendations 10(a) to 10(d).

Text of issue for follow-up 17(f):

(f) regarding mutual legal assistance: (i) the use of MLA in present and future foreign bribery cases; (ii) the response time of incoming MLA requests and the quality of the outgoing requests, and (iii) the provision of the full range of assistance in non-criminal matters in conformity with the requirements under the Convention [Convention Articles 5 and 9];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Portugal is using and receiving MLA's in the context of foreign bribery investigations. The response time of incoming requests has improved, in some cases benefiting from informal cooperation.

Text of issue for follow-up 17(g):

(g) whether Portugal proactively and timely investigate and prosecute foreign bribery cases when they deny requests to extradite Portuguese nationals [Convention Article 5 and 10(3)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up 17(h):

(h) whether Portuguese law enforcement authorities consider the exercise of nationality jurisdiction to prosecute foreign bribery wherever appropriate [Convention Article 4(2); Phase 3 recommendation 6(b)];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Text of issue for follow-up 17(i):

(i) whether Portugal has jurisdiction over all forms of foreign businesses representations in the

country for foreign bribery [Convention Article 4];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The Law does not distinguish forms of foreign business representation, implying that all are covered by the definition of legal person comprised by Article 11 of the Criminal Code. Relevant case law: *Acórdão do Tribunal da Relação de Guimarães*, of 13 July 2022.

Text of issue for follow-up 17(j):

(j) regarding the standard of liability of legal persons: (i) how liability for failure of surveillance or control would operate in practice in foreign bribery cases; and (ii) whether and under which circumstances parent companies are criminally liable for foreign bribery committed by a subsidiary abroad in practice [Convention Article 2; Anti-Bribery Recommendation Annex 1.B];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

- Article 11(2)(b) of the Criminal Code (CC) provides for the liability of legal persons when the commission of a criminal offence by a natural person has occurred as a result of a breach of the duties of supervision or control by those who exercise powers of leadership, authority and direction. Thus, under Article 11(2)(a) and (b) of the Criminal Code, legal persons are liable when offences are committed on behalf of and in the collective interest of persons in positions of authority within them, or by persons acting on their behalf, in breach of their duties of supervision or control. In this context, there is no direct (physical) control of the act through their own action or omission, but indirect (social) control through the organisation's control of the typical execution of the act.
- Thus, there are two criteria on which the criminal liability of legal persons can be based: either the legal person is punished for an offence committed in its name and in the interests of the company by a natural person in a position of leadership; or the legal person is held liable for an offence committed by a natural person in a subordinate position and the offence was made possible by the fact that those natural persons in a position of leadership failed to fulfil their duties of control and vigilance over subordinate members.
- In order to gauge the position of leadership, the understanding is that not only its legal bodies and representatives, but also its de facto bodies and representatives (as long as they are tolerated by the legal bodies) fall under the heading of manager of the legal entity, and there is a real equivalence here.
- The concept of duties of vigilance and control, provided by Article 11(2)(b), is essential insofar as its violation results in the criminal liability of the collective entity, as well as the commission of the offence directly by the manager himself. It is understood as a true duty of guarantor, which falls upon the manager as a consequence of the powers/duties of control and direction of the collective activity that fall upon him, reflecting the control he has over the organisation of the legal person, the domain under which the crime is committed and takes place.
- At this point, it is important to link up with the compliance programmes that make it possible to specify and materialise the concept of duties of vigilance and control. Under the terms of Decree-Law 109-E/2021, of 9 December, which applies to legal persons governed by private law, "*covered entities adopt and implement a regulatory compliance programme that includes at least a risk prevention plan for corruption and related offences (PPRC), 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". The PPRC must cover the entire organisation and activity, including administrative, management, operational and support areas, and must contain:

"a) The identification, analysis and classification of risks and situations that could expose the organisation to acts of corruption and related offences, including those associated with the exercise of functions by members of the administrative and management bodies, taking into account the reality of the sector and the geographical areas in which the organisation operates; b) Preventive and corrective measures to reduce the likelihood of occurrence and the impact of the risks and situations identified".

The PPRC must also include:

"a) The areas of activity of the organisation at risk of committing acts of corruption and related offences;

b) The probability of occurrence and foreseeable impact of each situation, so as to enable the risks to be categorised;

c) Preventive and corrective measures to reduce the likelihood of occurrence and the impact of the risks and situations identified;

d) In situations of high or maximum risk, the most exhaustive preventive measures, prioritising their implementation;

(...)"

- Although the PPRC is not the only element for gauging what the duties of surveillance or control are, the truth is that it is a particularly relevant element when it comes to criminal imputation.
- And it is in this context that liability for failure of surveillance or control in foreign bribery cases must be assessed.
- **ii) whether and under which circumstances parent companies are criminally liable for foreign bribery committed by a subsidiary abroad in practice.**
- As can be extracted from Article 13 of the Commercial Companies Code, the company may set up branches, agencies, delegations or other local forms of representation, in Portugal or abroad. A branch is a secondary commercial establishment, devoid of legal personality, in which commercial acts of the kind that constitute the company's core business are carried out, under the direction of the company's management body. In short, branches (as well as agencies, delegations or other local forms of representation) do not have legal personality but are merely local administrative bodies within the company's structure. However, the criminal liability of the branch has been dealt with in an affirmative manner by doctrine and case law, with numerous convictions of branches in the courts for committing criminal tax offences, without their legal standing in criminal law being questioned (see, for example, Case Law of the Guimarães Court of Appeal, of 13.08.2022 ([Acórdão do Tribunal da Relação de Guimarães \(dgsi.pt\)](#)).

Text of issue for follow-up 17(k):

(k) regarding the MENAC: (i) the effective implementation of MENAC including the resources allocated to it; (ii) whether MENAC and/or other relevant Portuguese authorities will effectively monitor the implementation of specific anti-corruption measures to address foreign bribery risks of Portuguese companies doing business abroad, especially SMEs [Convention Articles 2 and 5; Anti-Bribery Recommendation IV.ii and VII];

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Regarding, specifically, the National Anti-Corruption Mechanism (MENAC), it is relevant to mention that 2023 saw its definitive installation, declared by Ordinance no. 155-B/2023, of 6 June. Therefore, the provisions of article 5 § 2 of Ordinance no. 164/2022, of 23 June, were complied with, when determining that the definitive installation of this Mechanism should occur on a date before 9 June 2023. Until the definitive installation of MENAC, institutional cooperation was ensured with the Corruption Prevention Council, which was extinguished on 7 June 2023. MENAC's institutional website (<https://mec-anticorruptcao.pt/>) has been operating since the 1st of July 2023.

All MENAC bodies are already constituted: President; Vice president; Advisory Board (composed of 13 members); Monitoring Committee (composed of 6 Inspectors); and Sanctions Commission (4 Inspectors). The Sanctions Committee was the last body to be constituted and began its activities on 2 October 2023.

At a financial level, the State Budget for 2024 allocates 2.55 million euros to MENAC, which compares favourably with the 2.1 million euros allocated for 2023. It should be noted that MENAC celebrated, on July 21st, 2023, a financing contract with the Mission Structure “*RECUPERAR PORTUGAL*” to carry out the Investment “*Economic Justice and Business Environment/MENAC*”, included in Component C18 – Economic Justice and Business Environment, of the Recovery and Resilience Plan (PRR), of € 996,000.00, allocated to the development of the monitoring information system for the National Strategy to Combat Corruption.

As explained above and in the framework of the 2022 WGB report on Portugal, the RGPC provides for the adoption of the same instruments for all public and private entities with more than 50 employees, namely anticorruption measures that are to address foreign bribery risks of Portuguese companies doing business abroad whenever appropriate. MENAC has the powers to monitor the implementation of those measures.

As previously mentioned (*please check above the references made in follow up question 17.a*) the electronic platform provided for by law to carry out this monitoring is in the final modelling phase. Nevertheless, it should be stressed that the MENAC is performing its supervision role and there is already work on monitoring the RGPC that will be published soon.

Finally, it is important to stress the importance of the recently approved Anti-Corruption Agenda (please check Annex 2), which consists of a set of 32 measures, the implementation of which the Government intends to begin, without prejudice to others to be developed throughout the legislature, including the preparation and approval of a new National Anti-Corruption Strategy for the period 2025-2028, after due assessment of the results of the 2020-2024 Strategy.

This Agenda includes very clear statements as regards the effective implementation of MENAC and its resources. The Anti-Corruption Agenda stresses a key measure addressing the need to *Restructuring and strengthening the resources of the MENAC*, and the Technical Report associated to the Agenda points out to an operationalization of MENACs actions, endowing it with effectiveness, notably through a redefinition of its internal structure and governance model, as well as overcoming constraints in recruitment for its personnel map (pages 15 and 16).

Text of issue for follow-up 17(I):

(I) regarding tax-related measures: (i) the non-tax deductibility of foreign bribes and postconviction enforcement, particularly whether Portuguese courts promptly informs tax authorities of convictions related to foreign bribery and whether tax authorities examine the tax returns of taxpayers convicted of foreign bribery; (ii) the reporting of foreign bribery cases by Portuguese tax officials; (iii) measures to discourage the use of undocumented expenses and whether tax examiners

routinely assess whether undocumented expenses are hidden bribes; and (iv) the co-operation between law enforcement authorities and tax authorities with a view to improving the detection, investigation, and prosecution of foreign bribery [Anti-Bribery Recommendation XI and XX; 2009 Recommendation on tax measures, I and II; Phase 3 recommendation 10(b)].

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The Tax and Customs Authority (AT) reports, namely, that:

- Regarding the non-tax deductibility of foreign bribes, national tax legislation prohibits the deduction of illicit payments, namely those resulting from behavior that indicate a violation of Portuguese criminal legislation, regardless of whether they occurred inside or outside the territorial reach of Portuguese law.
- As for discouraging the use of undocumented expenses, national tax legislation expressly prohibits its deduction and furthermore imposes an autonomous taxation (at a rate of 50% or 70%) on such expenses.
- Regarding tax auditors routinely assessing whether undocumented expenses are hidden bribes, the tax audit IT application contains a set of four mandatory questions, including whether the taxable person accounted for undocumented expenses and if there are suspicions of a crime of foreign bribery.
- Regarding co-operation between law enforcement authorities and tax authorities, investigating corruption crimes is not one of the attributions of the AT. A generic obligation to report crimes is in force, as Portuguese public officials are obliged to report crimes of which they become aware of (please check above our response as regards recommendation 1a).

PART III: DISSEMINATION OF EVALUATION REPORT

Efforts made to publicise and disseminate the Portugal Phase 4 report, for example, through public announcements, press events, sharing with relevant stakeholders, particularly those involved in the on-site visit [*Phase 4 Evaluation Procedures, para. 61*]

Action taken as of the date of the follow-up report:

All necessary steps to publicize widely the Phase 4 Report were taken:

- The day before the publication of the report, the public entities involved in the evaluation proceedings were informed that the next day the report would be released.
- On the morning of the day of the publication, 8 of November 2022, all those entities were informed that the report had been released, and the specific link to the report, within the OECD website, was immediately provided so that all available information could easily be reached.
- On the very same day of the publication of the report and in the following days, widespread media coverage was registered, namely in some of the most well-known national media, for example in:

- Observador/Portugal precisa de avançar “urgentemente” no combate à corrupção estrangeira, alerta OCDE (8.11.2022): <https://observador.pt/2022/11/08/portugal-precisa-de-avancar-urgentemente-no-combate-a-corrupcao-estrangeira-alerta-ocde/>
- CNN/OCDE recomenda a Portugal intensificação urgente da luta contra a corrupção por agentes estrangeiros (8.11.2022): <https://cnnportugal.iol.pt/ocde/corrupcao/ocde-recomenda-a-portugal-intensificacao-urgente-da-luta-contra-a-corrupcao-por-agentes-estrangeiros/20221108/636a55830cf2ea4f0a6594a4>
- Expresso/Portugal precisa de intensificar combate aos subornos internacionais, diz OCDE (8.11.2022): <https://expresso.pt/economia/2022-11-08-Portugal-precisa-de-intensificar-combate-aos-subornos-internacionais-diz-OCDE-eb1395ab>
- Expresso/Em 20 anos, Portugal só julgou dois casos de subornos estrangeiros, em nenhum houve condenação. A OCDE repete 30 vezes que está “preocupada” (8.11.2022): <https://expresso.pt/sociedade/2022-11-08-Em-20-anos-Portugal-so-julgou-dois-casos-de-subornos-estrangeiros-em-nenhum-houve-condenacao.-A-OCDE-repete-30-vezes-que-esta-preocupada-d362e0d4>
- Público/Portugal sem condenações por suborno internacional desde 2000, alerta a OCDE (8.11.2022): <https://www.publico.pt/2022/11/08/economia/noticia/portugal-condenacoes-suborno-internacional-desde-2000-alerta-ocde-2026907>
- ADVOCATUS/OCDE critica Portugal no combate à corrupção estrangeira (8.11.2022): <https://eco.sapo.pt/2022/11/08/ocde-critica-portugal-no-combate-a-corrupcao-estrangeira/>

- Civil society, namely All4Integrity, one of the entities participating in the civil society panel during the on site visit, has also made publicity of the report: OCDE: IMPLEMENTING THE OECD ANTI-BRIBERY CONVENTION – PORTUGAL (2022): <https://www.all4integrity.org/tech4integrity/knowledge-center/ocde-implementing-the-oecd-anti-bribery-convention-portugal-2022/>

- The evaluation report was publicized on the website of the Directorate General for Justice Policy of the Ministry of Justice, namely in [DGPI publica tradução das recomendações da OCDE sobre Corrupção \(justica.gov.pt\)](#), along with the translation of its recommendations, of the press release, of the executive summary and of the good practices identified in the report. Through a link to [Portugal needs to urgently step up its foreign bribery enforcement, says the OECD Working Group on Bribery - OECD](#), all available information could easily be reached.

- On June 2023 the report was again publicized on the website of the Directorate General for Justice Policy of the Ministry of Justice, through [Publicado relatório de atividades da OCDE sobre corrupção \(justica.gov.pt\)](#). Through a link to the WGB’s 2022 Annual Report, the text of the report could be reached, having also been republished the translation of its recommendations, of the press release, of the executive summary and of the good practices identified in the report.

Additional information provided on 9 august 2024

- **Recommendation 1(b)**

Evaluation team's additional question: Please provide information on training covering foreign bribery specifically to Portuguese public officials as well as supporting documentation (training programmes, number of attendees, targeted public).

Portugal's response:

As you are aware of, reporting a crime, including foreign bribery, is mandatory in accordance with Article 242 of the Code of Criminal Procedure. Portuguese law, particularly the General Public Employment Law (*Lei Geral do Trabalho em Funções Públicas*), contains specific provisions aimed at preventing and combating corruption. Public officials are well aware of their obligation to obey these laws.

The Portuguese Government and its public entities clearly outline anticorruption obligations on relevant websites, providing detailed guidelines and procedures for public officials to identify and report corruption, even in the context of commercial transactions and investments. Here are some key resources:

- **Code of Ethics for Public Officials (JUN.2024):** Outlining procedures for addressing both passive and active corruption - [Documento.ashx \(espap.gov.pt\)](#)
- **Guide of Good Practices for Public Officials:** Providing practical guidance for public officials - [Guião de Boas Práticas \(tcontas.pt\)](#)
- **National Mechanism Against Corruption:** Focusing on the commercial context and preventive measures - [MENAC: Guia de apoio aos instrumentos de prevenção da corrupção](#)

In conclusion, the relevance of adhering to the law is embedded in the training provided to all public officials, especially those in diplomatic roles, ensuring that they are well-prepared to uphold these legal standards.

Additionally, MENAC's stresses that the programs and training within the scope of compliance with the measures and instruments of the General Regime for the Prevention of Corruption (RGPC) that have been promoted in cooperation between INA and MENAC, include contents regarding methodology and care in the preparation, promotion, monitoring of execution and its internal dissemination, and have been promoted among all types of institutions, including those whose functions involve external relations.

The administrative management of these training projects is carried out by INA – please check page 72 of INA Training Plan 2024 in https://www.ina.pt/images/FAAP/programa_formacao_2024.pdf, with details

as regards these courses.

INA stresses also that in the 2024 training plan, there are two specific courses that have to be highlighted: CORRUPTION RISK PREVENTION AND RELATED OFFENSES PLAN and GENERAL CORRUPTION PREVENTION REGIME.

To this date, INA has already held one edition of the CORRUPTION RISK AND RELATED OFFENSES PREVENTION PLAN course, with 25 trainees, and two editions of the same course aimed specifically at entities (tailored training), with 39 trainees.

Regarding the GENERAL CORRUPTION PREVENTION REGIME course, three editions have been carried out specifically aimed at entities (tailored training) with 82 trainees.

Additionally, exclusive training on the PREVENTION OF CORRUPTION course ADAPTED TO THE DEGREE OF RISK IDENTIFIED IN THE DGAE has also been carried out, with 39 trainees.

In short, to this date, and following last semester guidelines, 224 trainees have been trained.

As regards the training delivered by CEJ, please check the inputs in the answer to question 9.

IGF prepared a statement in support of what is mentioned on page 2 of the WFU report, as regards the relevant training provided to its managers and workers, in the period between 01/01/2022 and 06/08/2024 (including specific training courses for entry into the IGF special inspection career):

- **Recommendation 2**

Evaluation team's additional question: In its report, Portugal mentions that *“Portugal has also continued providing training for new diplomatic officials, including, namely, on general guidance on detecting corruption schemes, including foreign bribery.”*

Please provide supporting documentation, including guidance, training programmes, number of attendees, targeted public etc.

Portugal's response:

All diplomatic officials admitted to the Ministry of Foreign Affairs are required to complete a six weeks orientation course. **During this training, the importance of adhering to Portuguese law, which includes anticorruption measures** and the obligation to report any detected irregularities, is strongly emphasized. Although the relevance to obey the law is clearly highlighted, a specific thematic program on preventing corruption is being planned for the near future as an additional measure to reinforce the fight against all corruption cases, including foreign bribery.

Regarding the training of new Embassy attachés, the 2 most recent programs were conducted in 2021 for 28 new diplomatic officials and in 2022 for 24. Additionally, 31 new diplomatic officials are expected to undergo training later this year.

In conclusion, the importance of abiding by the law, namely combatting corruption, is clearly communicated and ingrained in the mindset of diplomatic officials.

- **Recommendation 3(d)**

Evaluation team's additional question: This recommendation specifically refers to the reports in article 17 of Law 93/2021. Please provide a copy of such reports.

Portugal's response:

The Portuguese Parliament, Assembleia da República, that the evaluation team has met and visited during the on-site visit to Portugal, is the recipient of such reports. In that framework an analysis of the 2023 annual reports referring to external reporting channels received under the terms of Law n. 93/2021 has been produced in Parliament. This document has been prepared by the supporting team of the work of the 1st Commission (that the evaluation team has met during the onsite visit):

- **Recommendation 4(a)**

Evaluation team's additional question: Could Portugal provide information on the enforcement of the money laundering offence (number of money laundering cases completed, in particular cases where foreign bribery is the predicate offence, number of convictions (legal persons and natural persons), type of sanctions)?

Portugal's response:

Statistics on Criminal proceedings completed at the trial stage are available for 2022. The data for 2023 will be available on October 31st. The following data was calculated based on the criteria mentioned below.

Money laundering

(cases, defendants and convicted persons are counted if at least one crime of money laundering was present, i.e. regardless of whether it was the most serious crime)

| | |
|---|--|
| Criminal proceedings completed at the trial stage in 2022 | 92 |
| Defendants tried in proceedings completed at the trial stage in 2022 | 240, being 204 natural persons and 36 legal persons. |

| | |
|--|--|
| Convicted persons in proceedings completed at the trial stage in 2022 | 108, being 87 natural persons and 21 legal persons. |
| Type of sanctions (most serious sanction per person) | Natural persons: 25 prison 59 suspended prison 3 fine and imprisonment replaced by fine Legal persons: 8 dissolution 13 fine |

No record of foreign bribery tried in proceedings for money laundering completed at the trial stage in 2022.

- **Recommendation 4(b)**

Evaluation team’s additional question: Could Portugal provide the agendas or other supporting documentation for the training referred to in its response?

Portugal’s response:

Contents of the presentation / issued guidelines in the events referred to by the CMVM (recommendations 4.b and 15.a.)

- December 2022 (hybrid training session)
- Guidelines 2023

Regarding the Criminal Police, namely UIF, the documentation has already been provided previously, and is referred to again, and the topic of Golden Visas was touched upon and discussed during the training session, namely in the panels called “The Functions of the System: BC / FT / FP - Duties and Sanctioning Regime”, “Presentation and discussion of case studies”. Please check, namely:

As regards the training received by IGF and IGCP, IGF has provided evidence regarding what is indicated on page 22 of the WFU report in terms of prevention and combat to money laundering and terrorism financing (BCFT). Therefore, the following is reported:

- In 2023, a BCFT prevention course was carried out through the Banking Training Institute, between September 26th and 29th, 2023, with a total of 14 hours, for 1 inspector:

- In 2024, two awareness-raising actions relating to the BCFT have already been carried out:

On March 6 2024, at the Portuguese Public Administration Campus, together with the IGCP (lasting 2 hours), an awareness-raising action was carried out among IGCP employees and where IGF participated, with 2 inspectors and 1 inspector-director, delivered by the Director of the Financial Information Unit of the Criminal Police, António Oliveira. This initiative covered the following topics:

- General framework of the BCFT;
- Most frequent types of BCFT practices;
- BCFT risk factors;
- Reporting Suspicious Operations.

On 11 April 2024, at the Corporate Financial Control Seminars (lasting 3 hours), one of the topics covered was “IGF Supervision in the scope of Money Laundering and Terrorism Financing” (Doc. 4), with the program:

- Theoretical framework of BCFT (main concepts, phases of BCFT, legislative framework);
- Practical framework (IGF's daily work as a supervisory entity).

- **Recommendation 4(c)**

Evaluation team’s additional question: Could Portugal share the new procedures adopted by FIU thanks to which FIU was able to provide feedback to reporting entities on STRs?

Portugal’s response:

The FIU uses two computer systems for data processing and analysis — SICPJ and Polnet —which are sometimes incompatible with each other. This incompatibility has led to the adoption of alternative data collection methods, specifically the development of programs in Python. These programs cross-referenced the information available in SICPJ with Polnet, identifying input errors such as mistakes in the name of the reporting entity and the type of communication. This optimization using Python programs also facilitated the efficient retrieval of data from the aforementioned two computer systems, thereby speeding up the UIF's response to the obligated entities.

Evaluation team’s additional question: Could Portugal specify the type of feedback that is provided to obliged entities, including the type of “destination of each case”?

Portugal’s response:

The feedback provided by the FIU to the obliged entities consists of the following text:

The Financial Intelligence Unit of the Criminal Police, hereinafter referred to as UIFPJ, in accordance with

Article 114(1) of Law 83/2017 of August 18 - MEASURES TO COMBAT MONEY LAUNDERING AND THE FINANCING OF TERRORISM - hereby returns the information regarding the handling and outcome of the suspicious transaction reports submitted by you, pursuant to Article 43 of the same law.

To this end, we attach a spreadsheet containing a table with 4 columns:

"NAI": The registration number of the report in the FIU;

"Ref.^a Com.": The reference assigned by you to the report;

"Data Com.": The date on which the FIU received the report;

"Status": The "status" of the report in the FIU information system.

The "Status" can have one of four values:

"Under review," which means that the information is under analysis;

"Completed," which means that the analysis has been concluded;

"Referred," which means that the analysis has been concluded and forwarded to the respective unit of the Criminal Police and/or DCIAP;

"Opinion drafted and sent to DCIAP," which means that the FIU has commented on the content of the suspicious transaction report (Article 47 - Duty of abstention) and forwarded it to the DCIAP.

- **Recommendation 8(c)**

Evaluation team's additional question: Could Portugal provide Directive 1/2023 of the Prosecutor General's Office, and specify how has this Directive been disseminated and whether some training has been carried out based on this Directive?

Portugal's response:

Please find attached Directive 1/2023 of the Prosecutor General's Office. This text has been published in the Portuguese Official Journal on 14.12.2023, having a widespread dissemination. It was also published on the PPS intranet, with access by all Public Prosecutors.

As to training, Directive 1/2023 establishes, namely, that v) The Regional Public Prosecutor's Offices and the District Court's Public Prosecutor's Offices must develop awareness-raising actions and boost asset recovery mechanisms, either through the Asset Recovery Office, or through measures carried out by the Public Prosecutor's Office in the identification, location and seizure of assets or products related to crimes and its subsequent administration and destination.

Evaluation team's additional question: Portugal makes several references to the Study Plan for Criminal Jurisdiction and Criminal Procedure of the CEJ. Could Portugal specify whether that Study Plan corresponds to a prospective curriculum (for future training) or to the matters already covered by

training sessions previously organised by the CEJ? Could Portugal provide supporting documentation such as training programme?

Portugal's response:

The main vectors of the CEJ's activity are the initial and continuous training of magistrates. Initial training comprises a theoretical-practical training course, lasting 2 years, the 1st cycle of which is carried out at the CEJ headquarters. Continuous training aims to develop skills and competencies appropriate to professional performance and personal development, throughout a judge's career, with various training sessions organized annually on the most diverse topics.

The main project of the continuous education planning developed by the CEJ is to meet the training needs of practicing magistrates, based on the proposals presented by the Superior Council of the Judiciary, the Superior Council of Administrative and Fiscal Courts and the Superior Council of the PPS, following the consultation process previously developed by the CEJ (*Training Needs Assessment*), in accordance with the legal normative program, whose indications were considered in the preparation of the respective activity plans, both with regard to the selected themes and the methodology chosen for each action.

This training aims to provide specialized and continuous knowledge acquisition for magistrates, in order to promote the updating and improvement of the skills necessary to carry out their respective functions.

With regard to initial training in the 1st cycle, the objectives and respective programming are set out in the study plans, approved for each course by the CEJ Pedagogical Council.

Regarding continuous education, it is part of the activity plan, approved annually by the CEJ General Council. These documents are published on the official page of the Center for Judicial Studies - <https://cej.justica.gov.pt/>

Regarding continuous training, the link to the activity plan - 2023/2024 is: https://cej.justica.gov.pt/Portals/30/Ficheiros/instrumentos_de_gestao/planos_de_actividade/Plano%20de%20Atividades_2023_2024.pdf?ver=lqcVYGLnnqgQsM0mup_Qw%3d%3d

For the same period, the continuous education plan can be found at the link https://cej.justica.gov.pt/Portals/30/Ficheiros/formacao/continua/FC_2023_204/PFC_2023-2024.pdf?ver=mPL4_pOsCvSE6OzyQaVVBA%3d%3d

The themes covered in each action can be found in the different types of training actions contained in this plan.

In particular and regarding the matter that concerns us here – as previously reported and whose program

was sent – within the scope of the Specialization Course in Criminal Law and Criminal Procedure, a session was held dedicated to the topic relating to crimes of corruption in the private sector and foreign bribery.

The link to the activity plan (approved in July of this year) – 2024/2025 is:

https://cej.justica.gov.pt/Portals/30/Ficheiros/instrumentos_de_gestao/planos_de_actividade/Plano%20de%20Atividades_vfinal%20corrigida.pdf?ver=iW30LZf4ApMQvWBP4HtHQA%3d%3d

In this plan we highlight:

1. The action with type B+ dedicated to the theme “Economic-financial crime, notably corruption crimes, improper receipt of advantages and money laundering” (page 24)
2. The intensive course on the fight against corruption, aimed at judicial magistrates and Public Prosecutors working in the Courts and Criminal Sections and Investigation and Penal Action Departments, comprising three sessions (minimum three full days) covering the main institutes and the issues that have raised the greatest doctrinal and/or jurisprudential divergences in the field of combating corruption, dealing, among others, with the following aspects:
 - Questions relevant to completing the essential elements of the various criminal types of corruption and related crimes, including the crime of foreign bribery and the crime of disobedience and concealment of assets;
 - The issue of regulatory compliance programs and the criminal liability of legal persons;
 - Evidentiary collaboration and the so-called criminal and procedural “awards”;
 - The mechanisms for losing the benefits of crime: extended loss regime and asset recovery;
 - Good practices and strategies for managing particularly complex processes, in the investigation, instruction and trial phases, in the field of criminal reaction to organized crime of an economic-financial nature involving crimes of corruption and related crime. (page 25)

Regarding initial training, the study plan for the 40th Training Course for judicial courts – 2023/2024 can be found at the link

https://cej.justica.gov.pt/Portals/30/Ficheiros/formacao/inicial/curso_40/Plano_de_Estudos_40.%C2%BACursoTJ.pdf?ver=zcCxPJK1jSS9vYILEusbcA%3d%3d

The objectives and respective planning of the sessions, referring to the Jurisdiction of Criminal Law and Criminal Procedural Law, are found in item 2.2.2. of the same, on pages 32 to 42.

The study plan for the 41st Training Course for the Judicial Courts – 2024/2025 can be consulted at the link

https://cej.justica.gov.pt/Portals/30/Ficheiros/formacao/inicial/curso_41/1.%C2%BA_ciclo/Plano_de_Est

[udos_41.%C2%BACurso.pdf?ver=a2SNiu6WJibD1S1VjFklbw%3d%3d](#)

The objectives and respective planning of the sessions, referring to the Jurisdiction of Criminal Law and Criminal Procedural Law, are found in item 2.2. of the same, on pages 32 to 42.

Regarding the study plans and the subjects in question here, what has been previously mentioned is confirmed.

In this sense, the matters discussed there are covered in the Study Plan for Criminal Jurisdiction and Criminal Procedure in relation to all criminal types and also regarding corruption crimes, including, of course, the crime of foreign bribery.

In particular, the mandatory nature of the confiscation of assets is duly highlighted in relation to all types of crime in the context of which advantages are generated or instruments or products exist.

The same applies to recommendation 10. b). In the respective sessions, it is emphasized, when approaching the provisional suspension of the proceedings, that the admission of the facts by the accused, not being a fundamental requirement for the provisional suspension of the proceeding, enables one to predict favourably that the purposes of the punishment may be achieved through suspension.

On the other hand, the special mitigation of the penalty is addressed in relation to the preventive purposes of the penalty, while the criminal liability of legal persons is the subject of an autonomous module, with reference being made to the types of crimes that involve it.

Evaluation team’s additional question: Could Portugal share a copy of the pdf document linked to the report entitled “Programa Conferencia REACT”?

Portugal’s response:

The pdf document linked to the report entitled “Programa Conferencia REACT” is available in [Conferência internacional no âmbito do Projeto REACT – Novas fronteiras dos mecanismos de recuperação de ativos | Portal do Ministério Público - Portugal \(ministeriopublico.pt\)](#).

The opening statement of the conference is available here: [29-09-2022-conferencia-react.pdf \(ministeriopublico.pt\)](#)

Evaluation team’s additional question: Portugal refers to seizures carried out in “two significant cases reported in the One-Year Oral Follow Up report by Portugal to the WGB”:

- In the first case mentioned by Portugal, seizures were carried out in July 2023. Based on the facts provided by Portugal, this case seems to correspond to one covered by the media (for example [here](#)), which seems to involve corruption in the private sector (and not foreign bribery). Could you confirm our understanding?

Portugal’s response:

Yes.

- In the second case, Portugal did not specify the date of the seizures. Could you please specify when did these seizures take place?

Portugal's response:

The seizures took place on 03.02.2016 ("Rota do Atlântico").

- **Recommendation 10(b)**

Evaluation team's additional question: See question (0) above related to the Study Plan for Criminal Jurisdiction and Criminal Procedure of the CEJ.

Portugal's response:

Please check the inputs in the answer to question 9.

- **Recommendation 13(a)**

Evaluation team's additional question: Portugal states that statistics on money laundering should be found under the following category: Level 1: Criminal Code - Crimes against the State // Level 2: Crimes against justice // Level 3: Money laundering. Yet, online statistics do not segregate money laundering from other crimes under the level 3 category "other crimes against justice". However, statistics entitled "money laundering" appear under the Level 1 category "in-sundry legislation", which is surprising as the money laundering offence is defined under article 368-A of the Criminal Code. Could you confirm that statistics under the category "in-sundry legislation" do not correspond to the enforcement of the money laundering offence as defined by article 368-A of the Criminal Code?

Portugal's response:

Statistics on the crime of money laundering, under the current regulatory framework, are in fact contained in the categories referred to, but cannot be consulted directly at level 3, but only at level 4. In fact, disaggregated statistics are collected on this specific type of crime but are not directly available on the online system. As stated in the initial response, "*some specific data may not be directly available in the statistical reports, due to system performance issues, but can be sent upon specific request addressed to the DGPJ.*"

The complete statistical framework is as follows: Level 1: Criminal Code - Crimes against the State // Level 2: Crimes against justice // Level 3: Other crimes against justice// Level 4 (not available online): Money laundering.

The statistics that appear under the category "in-sundry legislation" correspond to the cases that fall into the previous law framework.

- **Recommendation 16(b)**

Evaluation team's additional question: Can Portugal provide supporting documentation related to COSEC efforts to raise awareness of foreign bribery (in particular, the agenda or training programme of the reinforced welcome training on foreign bribery, and the disseminated information related to the prevention of corruption)? Similarly, can Portugal provide supporting documentation related to the training session provided to SOFID staff by a MENAC Coordinating Consultant, as well as the one provided to the Person Responsible for Regulatory Compliance?

Portugal's response:

As to COSEC, please check the documents made available by COSEC, including the initial training program for new employees, so as to make evident the work that COSEC develops in terms of raising awareness on the topic of corruption within its area of work:

As to SOFID, please check below the supporting documentation related to the training session provided to SOFID staff by a MENAC Coordinating Consultant, as well as the one provided to the Person Responsible for Regulatory Compliance:

- <https://webdrive.dgtf.gov.pt/index.php/s/GWeQwVeYdwo94Mj>
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