

QUESTIONNAIRE

Measures taken to implement the Convention and the commitments contained in the UNGASS political declaration, as well as good practices and progress made in the use of international cooperation mechanisms under the Convention

Country

Portugal

Implementing authority/authorities

Ministry of Justice and Ministry of Finance

Corresponding paragraph(s) of the UNGASS political declaration and/or article(s) of the Convention

Paragraphs 3, 4 and 5 of the political declaration adopted by the General Assembly at its special session against corruption held in June 2021

Title of initiative

National Anti-Corruption Mechanism

Keywords of initiative

MENAC

Short summary of initiative (please indicate the start date/duration if relevant)

MENAC is an independent administrative body, with legal personality governed by public law and powers of authority, and endowed with administrative and financial autonomy.

Its mission is to promote transparency and the integrity of public action and ensure the effectiveness of the policies to prevent corruption and related offences.

(Decree-Law 109-E/2021, Decree-Law 164/2022 and Council of Ministers Resolution 56/2022)

MENAC's composition:

- It has one President, a Vice-President, both already have been nominated, and a Secretary-General. Technical and administrative services shall be filled in through mobility instruments. The preparation of the personnel map is underway. Meanwhile, MENAC is being temporarily supported by graduated staff of the Ministry of Justice and the Ministry of Finance: by order of the President of MENAC, 2 senior advisors (1 from the General Secretariat of the Ministry of

Justice and another from the General Secretariat of the Ministry of Finance), as well as 1 operational assistant, were already appointed, pursuant to article 3 of Decree 164/2022.

The financial resources allocated for MENAC are the ones stipulated in the State's Budget and the following own revenues:

- a) The proceeds of fines collected that, in accordance with the law, revert to its benefit;
- b) The subsidies, donations, inheritances, legacies and any donations made in its favor by public or private entities, accepted in legal terms;
- c) The product of the sale of its own assets or the constitution of rights over them;
- d) Proceeds from the sale of publications;
- e) The balance of the previous year's management.

Detailed description of initiative

The program of the XXII Constitutional Government foresees as one of its main objectives the fight against corruption, so as to make the State's action more transparent and fairer and to promote equal treatment between the citizens and economic growth.

Considering the importance of this objective, on 21 February 2020, it was set up a commission entrusted with the definition of a national anti-corruption strategy, which, in this scope, consulted the Bar Association, the Notary Association, the Order of Solicitors and Enforcement Agents, the Transparency and Integrity Association, the Criminal Forum and the Economy and Management of Fraud Observatory, and submitted a draft strategy which was reviewed and approved by the Council of Ministers and subsequently submitted for public consultation on 20 October 2020.

During this period, several contributions were received and a conference was organized by the Ministry of Justice on what it considered to be the main topics raised in the context of the public consultation: the prevention of corruption and the regulatory compliance programs; the waiver of the sentence; the agreements on the applicable penalty; and the criminalisation of illicit enrichment.

On the 18 of March 2021, the Government approved the final version of the National Anti-Corruption Strategy (Strategy).

The Strategy, considering the prevention, detection and prosecution of corruption with the same degree of importance and necessity, sets up seven priorities: i) Improve knowledge, training and institutional practices on transparency and integrity; ii) Prevent and detect the risks of corruption in public action; iii) Commit the private sector in the prevention, detection and prosecution of corruption; iv) Strengthen the coordination between public and private institutions; v) Ensure a more effective and uniform application of the legal mechanisms related to the prosecution of corruption, improve the response times of the judicial system and ensure the adequacy and effectiveness of the punishment; vi) - Produce and disseminate from time to time reliable information on the phenomenon of corruption; and vii) Cooperate at international level in the fight against corruption.

The genesis of this legislative initiative and its objective is to implement some of the proposals submitted therein, in particular with regard to guaranteeing a more effective and uniform application of the legal mechanisms related to the prosecution of corruption, improving the response time of the judicial system and the adequacy and effectiveness of the punishment.

In short, the aim of the Strategy is to implement a general regime for the prevention of corruption.

This general regime for the prevention of corruption removes from the sphere of soft law the implementation of instruments such as compliance programmes, which should include risk prevention or management plans, codes of ethics and conduct, training programmes, reporting channels and the designation of a compliance officer.

Penalties, including administrative sanctions, are provided for, applicable to both the public and private sectors, for the non-adoption or partial or deficient adoption of compliance programmes.

This regime also establishes the implementation of internal control systems that ensure the effectiveness of the instruments included in the normative compliance programme, as well as the transparency and impartiality of the procedures and decisions.

The National Anti-Corruption Mechanism – Decree-Law n. 109-E/2021, of December 9 – is an independent administrative entity, with legal personality under public law and authority powers, endowed with administrative and financial autonomy, whose mission is to promote transparency and integrity in public action and to ensure the effectiveness of policies to prevent corruption and corruption-related offences.

The duties of this entity comprise monitoring the application of the General Legal Framework for the Prevention of Corruption and imposing fines on violators; imposing fines on those who violate the law on the protection of whistle blowers; implementing the national strategy to combat corruption in its preventive dimension - for example, developing of programmes and initiatives that promote a culture of integrity and transparency among young people -; supporting public entities in the preparation of compliance programmes; and collecting and organising information related to the prevention and enforcement of corruption and related crimes.

The creation of a mechanism with such functions, as is well known, is also provided for in Article 6 of the United Nations Convention against Corruption of 31 October 2003, ratified by Decree of the President of the Republic No. 97/2007 of 21 September, which provides that States Parties shall ensure the existence of an independent body, equipped with the material and human resources necessary to develop corruption prevention policies and to improve information and knowledge on corruption prevention.

Implementing the initiative (in development)

As of 2023, its budget shall be included in the General State Charges Programme (Sovereignty Bodies), under the remit of the Ministry of Finance, and it shall have its own budget, in line with the attributions and powers that have been legally established. The proposal for this budget for 2023 is now being prepared.

Facilities for the workings of MENAC were already made available by the Ministry of Justice.

Decree 164/2022 establishing the provisional implementation of MENAC has been issued on the 23rd of June in our official gazette. The definitive implementation will be declared by a joint decree of the Ministers of Justice and Finance, after a proposal made by the President of MENAC.

The MENAC is due to become fully operational during this second half of 2022.

Link to more information

[Estratégia Nacional Anticorrupção 2020-2024 | Justiça.gov.pt \(justica.gov.pt\)](#)

<https://files.dre.pt/1s/2021/12/23701/0001900042.pdf>

<https://files.dre.pt/1s/2022/06/12000/0000200003.pdf>