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## FOREWORD

**European Rule of Law Mechanism: input from Portugal**

As requested by the European Commission, please find below Portugal's reply to the questionnaire "European Rule of Law Mechanism: input from Member States. This document includes information provided by several ministries, namely the Ministry of Foreign Affairs; Ministry of Finance; Ministry of Justice and the Ministry of Culture.

To facilitate the consultation of sources, hyperlinks were inserted throughout the text (with references to public entities, organisations and sources of law). Additional information, namely the unofficial translation of some legislation has been included in annexes.

# I. JUSTICE SYSTEM

## A. Independence

### 1. Appointment and selection of judges and prosecutors

Article 6 of the Statute of Judicial Magistrates (Law 21/85, of 30 July as amended by Law 67/2019, of 27 August, referred to as "SJA") establishes that Judges are appointed for life. Their appointment ceases only upon retirement due to old age limit or disability. The suspension from duties is foreseen in Article 71 of the SJM, namely following the indictment or trial for an intentional crime during the performance of duties, as a preventative suspension arising from disciplinary proceedings and in order to enforce a condemnation involving the removal from office.

Judges of first instance courts are appointed following an open competition and according to the grades obtained in mandatory training courses at the Centre for Judicial Studies and an internship (Article Section 42 of the SJM). Judges of second instance courts are appointed to appellate courts as a promotion. This promotion is based on curricular assessment, merit and periodical evaluation (Article 46 of SJM). Judges of the Supreme Court (Counsellor Judges) are appointed through curricular assessment open to Appellate Judges, Deputy Public Prosecutors and other lawyers of recognised standing (Article 50 of the SJM).

The selection of Judges and Prosecutors is regulated by Law no. 2/2008 of 14 January - as amended by Law 60/2011 of 28 November and Law 45/2013 of 3 July. Candidates are admitted, through a public competition, into mandatory training and traineeship courses at the Centre for Judicial Studies.[1]

### 2. Immovability of judges, including transfers of judges and dismissal

The independence of Judges is ensured under the law. Article 6 of SJM establishes the immovability of judicial magistrates. Judges are appointed for life. They may not be transferred, suspended, promoted, compelled to retire or removed from office, or undergo any change of status, save in the cases provided for in the SJM.

Article 45-A of the SJM rules on the redeployment of judges, on allocation of cases and on accumulation of duties. The High Council of the Judiciary (HCJ), on the proposal or advice of the president of the judicial district, (a judge) may determine the assignment of a judge to more than one court in the same district, with their consent, and with due regard for the principle of specialisation of magistrates. The HCJ may determine the allocation of cases to a judge other than the sitting judge, in view of a balanced caseload and of improving efficiency. These measures are intended as temporary responses to transitory needs. They should not seriously impact on the judge's personal or family life and must be based on general criteria regulated by the JHC, and respect the principles of proportionality, balanced caseload and random distribution of cases.

The Law on the Organization of the Judicial System (Law no. 62/2013, as amended by Law 40-A/2016 of 22 December) provides that the President of the District Court (a judge) may propose the re-assignment of Judges to another court in the same judicial district ("comarca") or the re-allocation of cases to a judge other than the sitting judge, for the purpose of a balanced caseload and of efficiency (Article 94 (4) (f)).

Cases are randomly drawn for all judges, with the exceptions provided for by law. The reassignment of judges and of cases is exceptional and requires the incumbent judge's consent. The general criteria for

[1] These involve various selection methods:

- For candidates without professional experience: Theoretical knowledge tests consisting of a written examination, followed by an oral examination - both are qualifying and selective phases. Only those who have scored 10 or more in the written test may proceed to the oral phase. In addition, a psychological examination is also established.
- For candidates with professional experience: a written examination on practical cases, followed by (i) a discussion on the candidate's *curriculum* and professional experience; (ii) a discussion on law-related issues, based on the candidate's experience; (iii) a selective psychological examination.

the redeployment of judges or allocation of cases are set down in a circular of the High Council of the Judiciary, adopted in 2014 (Circular 8/2014).

*Transfer of judges (see answer to question 2)*
According to Articles 38 and 39 of the SJM, the ordinary Judicial movement takes place in July. Foreseeable vacancies are made public in advance, identifying each court and respective sections. Other movements occur only when there is a specific need to fill vacancies. These are announced at least 30 days in advance. Judicial movements, as well as graduation and assignment of judges, both in first instance courts and in higher courts, depend exclusively on the deliberation of the High Council of Judiciary.

*Article 39 - Preparation of movements*
Judicial magistrates who wish to be assigned to any position through appointment, transfer, promotion, completion of mandate or return to effective duty, must submit their request to the High Council of Judiciary. Requests are registered with the HCJ's secretariat and expire with the submission of a new application or after the movement for which they were intended.

In conclusion, except for the case referred to in 2, the transfer of judges only occurs at their own request.

*Dismissal of Judges*
The dismissal of judges is only possible within the framework of disciplinary proceedings. It is the harshest disciplinary sanction established in the SJA (Article 85) and is applicable to very serious infringements, namely when any of the following circumstances arise: (i) a definitive or manifest and repeated inability to adapt to the requirements of the judicial functions; (ii) a dishonourable conduct or a conduct that manifestly violates the integrity, impartiality, prudence and personal correctness required of judicial magistrates; (iii) conviction of a crime committed with evident and serious abuse of power or with manifest and serious breach of duties.

The High Council of the Judiciary is the competent authority to initiate disciplinary proceedings.

**3. Promotion of judges and prosecutors**

Judges of first instance courts are appointed for life following an open competition and according to the grades obtained in the mandatory training courses at the Centre for Judicial Studies and an internship (Article 42 of the SJM).

Appellate judges are appointed by way of promotion from among district court judges who succeed in a competition based on an assessment of their *curriculum*, merit and the results of periodic evaluation ( 46 of the SJM). The selection panel is composed of the President of the Supreme Court of Justice (who chairs), the Vice-President of the HCJ and a member of the HCJ who is an appellate judge, and three members of the HCJ who are not judges. The final decision is taken by the HCJ.

Judges of the Supreme Court (Counsellor Judges) are also appointed by curricular assessment (Article 50 of the SJM). They are selected among appellate judges, deputy prosecutors and other jurists of recognised merit via a competitive assessment of their *curriculum*. Ranking is done separately for each category in accordance with the applicant's merit, taking into account prior evaluations, ranking in previous judicial competitions, university and post-university *curriculum*.

District court presidents are selected by the High Council of the Judiciary among judges who perform effectively: a) at an appellate court and have previously received an evaluation of "Very Good"; or b) at a district court, and have a 15-year service record and a recent evaluation of "Very Good". Court presidents are appointed on a three-year secondment by the HJC, which may be terminated at any time by a reasoned decision by the HJC (Article 92 of the Law of the Organization of the Judicial System, Law 62/2013, of 26 August).

As regards Prosecutors, access to the higher ranks of the Public Prosecution Service is also made by way of promotion. According to the Public Prosecution Statute adopted by Law no. 68/2019, of 27 August 2019, public prosecutors seeking a promotion as a Deputy Public Prosecutors must have an evaluation of "Very Good" and Good with distinction" (Articles 139 and 148 of the Statute).

The promotion to Deputy Prosecutor General is made by way of merit.

## 4. Allocation of cases in courts

Since 2008, a court management software called CITIUS has been adopted for judicial courts (SITAF, for administrative and fiscal courts). This is a project developed by the Ministry of Justice with the purpose of dematerializing judicial case procedures (regulated by Ministerial Order no. 280/2013, of 26 August and amended by Ministerial Order no. 170/2017, of 25 May and by Ministerial Order no. 267/2018 of 20 September

CITIUS is a tool which is meant to simplify and speed up judicial procedures and to contribute to better management and work organization. It includes software applications addressed to the various judicial professions: judges, public prosecutors, court officials, lawyers and other legal professions. Case distribution takes place automatically twice a day, ensuring random distribution to judges.

## 5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. High Council of the Judiciary)

The High Council of the Judiciary is a constitutional, collegial and autonomous body, provided for in article 218 of the Constitution of the Portuguese Republic (CPR) and in the Statute of Judicial Magistrates, Article 136 et seq. It has the power to appoint, post, transfer and to promote judges of the Judicial Courts. It also has the power to exercise disciplinary action. At the same time, the HCJ is the body responsible for safeguarding the independence of Judges.

It is a collegial body that operates in Plenary and in Permanent Council. Decisions are taken by the plurality of votes, with the President having a casting vote. Since the 1st of January 2008 (date of entry into force of Law 36/2007 of 14 August), the HCJ has administrative and financial autonomy and is responsible for its own budget, as foreseen in the State Budget. Its composition includes the President of the Supreme Court - elected by peers – who, according to law, is also inherently the President of the HCJ; two members appointed by the President of the Portuguese Republic; seven members elected by the Parliament; and seven members elected by all the Judges from the three instances in a specific election organised by the HCJ. Among these seven judges, one must be from the Supreme Court and is automatically appointed as Vice President of the HCJ; two Judges from the Courts of Appeal (2nd Instance) and four judges from the 1st Instance, one judge proposed by each Judicial District.

Decisions are reached through voting - the President has a casting vote - and are subject to an appeal before the Supreme Court of Justice. Decisions are taken in the Plenary or in the Permanent Committee. The Plenary has exclusive competence on issues concerning the Supreme Court and Appellate Judges, while the Permanent Committee has competence over all other matters. The Permanent Committee is composed of the President of the High Council of the Judiciary (who chairs) and the Vice President, one appellate judge, two district court judges, one of the two members appointed by the President of the Republic and four of the seven members elected by Parliament.

Complaints against acts by the Committee can be appealed before the Plenary. The latter's decisions can be appealed before a section of the Supreme Court of Justice, including the senior Vice-President (who has a casting vote), and a judge from each section.

Extracts from the decisions of the High Council of the Judiciary are published in the Official journal and the HCJ reports, annually, to the Parliament.

According to Article 219 of the Constitution of the Portuguese Republic, the Public Prosecution Service is an autonomous constitutional body with it own Statute, Law no. 68/2019, of 27 August.

It is responsible for representing the State and for defending the interests determined by law. It participates in the implementation of the criminal policy defined by sovereign bodies and carries out prosecution in accordance with the principles of legality and the of rule of law.

It is an autonomous body and is bound by the criteria of legality, objectivity, impartiality, equality and justice. Public prosecutors are exclusively subject to the directives, orders and instructions set out in law.

According to Articles 12 and 15 of the its Statute, the Public Prosecution Service comprises: (a) the Prosecutor General's Office, headed by the Prosecutor General and encompassing, inter alia, the High Council of the

Public Prosecution Service and the Consultative Council of the Prosecutor General's Office; (b) the District Deputy Prosecutor General's Offices; and (c) the District Prosecutors' Offices.

The Public Prosecution Service is represented in all jurisdictions and courts, as well as in the Constitutional Court, and in the Court of Audit. The Public Prosecution Service's magistracy is parallel to, but independent from the judicial magistracy. Public prosecutors are accountable and subject to hierarchical subordination. Accountability is understood as an obligation to answer on the fulfilment of duties and on the compliance with directives, orders and instructions issued by hierarchical superiors with the powers to do so, according to the law. Prosecutors of a lower rank are subordinated to their superiors, under the terms of the Statute, and obliged to comply with directives, orders and instructions received - with certain exceptions. Prosecutors may not be transferred, suspended or removed from office, except as provided for by law. While in office, they cannot take part in any party or political activities of a public nature. The Prosecutor General's Office has disciplinary powers and management responsibility over prosecutors. These are exercised through the High Council of the Public Prosecution Service, a body responsible for the appointment, assignment, transfer, promotion, evaluation and disciplinary action.

The Council is composed of 19 members: (a) the Prosecutor General (ex officio); (b) the District Deputy Prosecutors General; (c) one Deputy Prosecutor General elected among peers; (d) six Prosecutors elected among peers and ensuring the representativity of the four District Prosecutions; (e); five members elected by the parliament, from people with recognised merit; and (g) two members designated by the Minister of Justice, from people of recognised merit.

Decisions are taken by majority vote, the Prosecutor General having the casting vote. Summaries of the decisions are published in the Information Bulletin, while access to the full texts is only possible upon request and on legitimate grounds. All Council decisions can be appealed before the administrative courts.

## 6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

*Judicial magistrates*

Pursuant to Article 81 et seq. of the SJM, acts, even if merely negligent, practiced by judicial magistrates in violation of the principles and duties enshrined in the SJM, as well as acts which, due to their nature or repercussion are incompatible with the independence, impartiality and dignity required for the exercise of judicial functions, constitute disciplinary infractions (Article 82 SJM).

The High Council of the Judiciary, in its Plenary session, is the only body entitled to impose disciplinary sanctions on judges. Once an inquiry has been initiated, an inspector (who is always a Judge) analyses it and reports on its merits and proposes the prosecution or the closing of the case. The report is submitted to the Permanent Council, in the case for first instance judges; or to the Plenary, in the case of High Court judges. The HCJ can either dismiss the complaint or decide to initiate a disciplinary procedure. Once a disciplinary procedure is initiated, the following steps shall be the investigation, the accusation, the contradictory, the final report, and the final decision.

A catalogue of sanctions is foreseen by the SJA: removal from office, compulsory retirement, compulsory transfer, suspension from duty, fine, and reprimand. The High Council of the Judiciary decides on the specific sanction taking into consideration all the circumstances of the case, including the degree of unlawfulness of the acts, the way they were carried out, the seriousness of their consequences, the breach of the obligations imposed, the motivation for the offence; as well as the personal circumstances of the accused, his economic situation and the conduct before and after the commission of the offence.

The Judicial Council of the Judiciary is notified whenever a judicial magistrate is indicted for a criminal offence (Article 83(2) the SJM). However, the investigation of the offence is undertaken by the Public Prosecution Service (Article 263 of the Code of Criminal Procedure).

According to Article 19 of the SJM, judicial magistrates are entitled to their own forum. The competent court for the investigation, prosecution and trial of judicial magistrates for a criminal offence shall be the one of the category immediately above of the court in which the magistrate is posted. Supreme Court judges are subject to this very court.

*Prosecutors*

Non-compliance with obligations deriving from the system of impediments, incompatibilities, duties to withhold information and other duties to which Public Prosecutors must conform, triggers disciplinary accountability and, eventually, criminal liability. Disciplinary accountability is determined and decided upon in disciplinary proceedings initiated by a decision of the High Council of the Public Prosecution Service, on the initiative of the Prosecutor General. Under Law 68/2019, of 27 August disciplinary proceedings are conducted by the inspector of the Public Prosecution Service and decided upon by the High Council of the Public Prosecution Service (Articles 218 et seq.). The following sanctions may apply: reprimand; fine; transfer; suspension from duties; compulsory retirement; dismissal.

## 7. Remuneration/bonuses for judges and prosecutors

Judges and Prosecutors have distinct Statutes (Law 21/85, of 30 of July, as amended by Law 67/2019, of 27 August, and Law 68/2019, of 27 August, respectively). However, they share common rules on remuneration. Both are recruited after graduation from judicial training, following a competition. They usually take office while they are relatively young and receive a starting salary. Progress in their respective careers will lead to an increase in remuneration. Those who sit at the highest instances (Supreme Court of Justice and Administrative Supreme Court) have the highest levels of remuneration. According to the laws referred to above, judges and prosecutors should be entitled to a level of remuneration in line with their responsibilities, also to ensure autonomy and independence. Their salaries comprehend a main tranche, as well as bonuses and other benefits (for instance housing benefits).

The latest data available (from the 2018 CEPEJ edition, based on data from 2016) shows that the gross annual salary of judges and public prosecutors at the beginning of their careers, and at the highest instance, is of € 35.699 and € 85.820, respectively.

## 8. Independence/autonomy of the prosecution service

Although the Constitution includes the Public Prosecution Service in its heading V dedicated to courts and judicial organisation (Articles 219 and 220), indeed it is independent from the Judicial power. It is also autonomous from other central, regional and local government authorities (Article 3 of the Statute of the Public Prosecution Service). It has its own organisational rules, statute and governance system. Its action is guided by the public interest in a unity-of-action perspective.

This means that the Public Prosecution Service operates autonomously from the executive branch and has its own governance system – in which the Prosecutor General's Office is the highest body. Furthermore, it operates without the interference of other branches, being strictly bound by the law and the directives, orders and instructions received from its own bodies.

## 9. Independence of the Bar (chamber/association of lawyers)

Article 208 of the Constitution of the Portuguese Republic, on legal representation, guarantees lawyers the immunities needed to exercise their mandates. It also considers legal representation as an essential element of the administration of justice. The Bar Association (Ordem dos Advogados) is the public association representing lawyers, in accordance with the provisions of its Statute (Law no. 145/2015 of 9 September). It was founded in 1926, and is a legal entity governed by public law. In the exercise of its public powers, the Bar Association performs regulatory functions. It is independent from the State, and free and autonomous in its activities. The independence of the Bar Association is also enshrined in Article 14 of the Law of the Organization of the Judicial System (Law no. 62/2013, amended by Law 40-A/2016 of 22 December), which defines the Bar Association as the public association representing lawyers, which enjoys independence from state bodies and is free and autonomous in its rules, under the terms of the law.

A manifestation of the independence of lawyers can also be found in Article 66, paragraph 3 of the Statute of the Bar Association which underscores that the judicial mandate, legal representation and assistance by a lawyer are always admissible and cannot be hindered by any public or private jurisdiction, authority or entity.

### 10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

Nothing to report.

### 11. Other - please specify

Nothing to report.

## B. Quality of justice

### 12. Accessibility of courts (e.g. court fees, legal aid)

Article 20 of the Portuguese Constitution enshrines the right to effective judicial protection, guaranteeing everyone's right of access to the courts in order to defend their rights. This right cannot be precluded by the lack of financial resources. Everyone has the right to legal information and advice, to legal counsel and to be accompanied by a lawyer before any authority. Law no. 34/2004 of 29 July establishes that no one should be prevented from exercising their rights because of their social or cultural status, or due to lack of financial means. Legal aid encompasses legal information, as a duty of the State to disseminate knowledge on the rule of law and on the legal system, as well as legal protection.

Legal protection comprises two strands: legal advice and legal assistance to a specific case brought before a court, a *justice of peace* or an ADR[2] centre as defined by a ministerial ordinance. Legal assistance, on the other hand, can be granted as: (i) an exemption from court fees and other costs of the proceedings; (ii) the appointment of a lawyer and payment of their fees (pre-established by ministerial ordinance); (iii) payment of court fees and other costs of the proceedings through instalments; (iv) appointment of a lawyer and payment of respective fees through instalment; and (iv) appointment of an enforcement agent.

Legal protection may be granted to Portuguese and European Union nationals as well as to third country nationals, including those without a valid residential permit, whenever their respective countries provide similar protection to foreigners. Legal protection is granted on the basis of criteria for economic insufficiency and according to the level of hardship.

### 13. Resources of the judiciary (human/financial)

Under Portuguese constitutional law, the Parliament is responsible for adopting the overall budget, upon the Government's proposal. The Ministry of Justice, with the involvement of the Ministry of Finance, is ultimately responsible for the preparation of the overall budgets for all Justice institutions, the allocation of resources to specific courts, and the overall evaluation on the management of resources.

Budget management and budget distribution between the courts is ensured by the executive branch. However, since the adoption of the Law on the Organisation of the Judiciary System (Law no. 62/2013 of 26 August) a new management model for district courts has been established, which implies a greater degree of involvement of the judiciary. The Law establishes «management boards» (*Conselho de Gestão*), headed by the president judge of the court and includes the Public Prosecutor coordinator of the court and a judicial administrator.

The management board approves a draft budget for the district court, based on the allocation previously established by the Ministry of Justice who gives the final approval, monitors, with the assistance of the Ministry of Justice, its execution and approves, within certain limitations, changes to the staff map.

### 14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals).

[2]Alternative Dispute Resolution

Strengthening the use of technology in courts is one of the measures of the Strategic Multiannual Plan 2018-28. The "Justiça + Próxima" programmes for 2016-2019 and for 2020-2023 include a range of measures to strengthen the current digital platforms for case management in ordinary (CITIUS) and administrative/fiscal (SITAF) courts. In a nutshell, these platforms aim at procedural dematerialisation through electronic treatment of information – including the claim, publicity of the procedure, case assignment, writs of notice and proof of court fees payments.

Regarding court statistics, following the SIEJ updating (Portuguese acronym for Information System for Justice Statistics) collecting, processing and analysing statistical information on justice matters improved. A new website was launched in September 2019. It encompasses data from several sources – most of them from the Ministry of Justice's services – and is organised in 4 thematic areas: courts, registry and notary services, law enforcement and support to investigation bodies, as well as other statistics.

Additionally, within the Justice Digital Platform, the website "Partilha Justiça" provides access to information and statistics in an open format and brings together more than 120 indicators and a dozen of thematic notebooks, aggregated by subjects such as justice and economy, nationality or courts.

With respect to monitoring and evaluation, there is a "Court Management Indicators System" (SIG-T in the Portuguese acronym) aimed at measuring the performance of the justice sector. In consultation with the High Council of the Judiciary and the General Prosecutor's office, the Ministry of Justice has developed a set of strategic performance goals and key performance indicators. The performance assessment framework applies to all courts of first instance and to public prosecution offices at the court, process and individual judge/prosecutor levels. The indicators, which are intended to measure efficiency, effectiveness and quality of the courts, consist of:

- The clearance rate;
- The disposition time;
- Pending cases awaiting final decision;
- Pending cases after final decision;
- Percentage of pending cases with duration above the reference value;
- Average duration of pending cases;
- Average duration of completed cases.

Court performance is monitored on this basis at the local and national level, through quarterly meetings between representatives of the High Council of the Judiciary, the Public Prosecution Office and the Ministry of Justice. This allows both the management of district clusters and the High Council to monitor performances and workloads and allocate resources accordingly.

After a successful experience at first instance ordinary courts, the "Justiça + Próxima" programme for 2020-2023 lays down the extension of the SIG-T to first instance administrative/fiscal courts.

Concerning surveys among court users or legal professionals, one of the measures included in the "Justiça + Próxima" programme for 2016-2019 was the initiative «Justice 360º» under which the «Justice 360º - Citizen Satisfaction Assessment» was conducted. This is a first step towards the adoption of a systematic assessment of satisfaction of the different justice users (staff and citizens) – in order to measure the quality of the justice system and identify opportunities to improve. In the framework of "Tribunal +", a tool for courts that establishes a new model of customer service, simplification of the information flow at the courts' registry and management support tools, the measurement of satisfaction levels is also included.

*Use of standards (e.g. on timeliness, on quality of judgments)*

With regard to standards on timeliness, please consider the answer provided to Q. 14 above, more specifically, on the indicators. The SIG-T keeps track of the strategic performance goals previously set for each first instance court, thus, allowing an evaluation on timeliness. Citizens can follow online, with some restrictions, the state of play of their proceedings and assess their timeliness.

With respect to the quality of judgments, if we consider this concept as defined by the Justice Score-board 2019 edition, of the set of elements listed to measure quality, the Portuguese system only provides rules on the structure of judicial decisions and a practical component during the training for becoming a judge. However, and in connection with one of the elements included in both of the "Justiça + Próxima"

programmes, a project to simplify writs of notice language is under way and will be extended to other situations.

### 15. Other - please specify

The "Justiça + Próxima" programme for 2020-2023 encompasses a range of 140 measures; 47 of which concern the judicial system. Among these, we highlight the measures under "Tribunal+ 360º" and the "Information system for the management of first instance courts". The first one concerns the development of a proof of concept (PoC) for the "Court of the Future".

This measure will test the proceedings exclusively in electronic terms and the use of new digital tools for achieving greater efficiency and better service's provision. The second one aims to provide an information system to support the planning, management and decision-making by the management bodies of district courts regarding human, material and financial resources.

## C. Efficiency of the justice system

### 16. Length of proceedings

Portugal uses the main performance indicators to assess court efficiency: the Clearance Rate indicator, which measures how effectively courts are keeping up with incoming caseload, the Disposition Time indicator, which measures the estimated number of days that are needed to bring pending cases to an end, as well as the number of pending cases (number of cases that remain to be dealt with at the end of the year in question).

The assessment of court efficiency is made at first and second instance district courts (civil, commercial, criminal and administrative/fiscal first instance courts), as well as at the highest superior court Supreme Court of Justice). For further details, please consider the reply to Q. 14.

### 17. Enforcement of judgements

Under Portuguese procedural law, a judgement is enforceable if it is *res judicata*. If this is not the case, a judgement may be enforceable when an appeal lodged against it does not have a suspensive effect. An arbitral award is enforceable on the same conditions as a State court decision. Except as otherwise provided for in treaties, conventions and EU legislation and special laws, foreign judicial decisions are enforceable only after their recognition and enforcement by a Portuguese court.

In the last two decades, there were a significant set of reforms aimed at simplifying the enforcement procedure, reduce the intervention of the judge and registrars and enhance the competences of enforcement agents. Another distinctive feature of the reforms is the promotion of efficient enforcement procedures, namely through electronic procedures and by allowing enforcement agents to develop a number of activities without judicial consent such as direct consultation of social security and registry office databases.

The 2013 Code of Civil Procedure is one of the legal reforms that contributed for some noteworthy innovations. With the 2013 reform, the range of enforceable titles was reduced, the enforcement of direct electronic seizure of a debtor's bank accounts via the enforcement agent or bailiff was determined, the possibility of other creditors being able to claim their credits in a pending enforcement proceeding was limited and two types of procedures were created according to the type of enforceable title: a faster one, for the more "reliable" enforceable titles, such as court decisions, and another that requires the notification of the debtor prior to the seizure of assets.

### 18. Other - please specify

Among the 47 measures regarding the judicial system included in the "Justiça + Próxima" programme for 2020-2023, we highlight the measures concerning dematerialisation of communications between courts and banks/insurance companies/Banco de Portugal (the central bank of the Portuguese Republic) through an electronic circuit of interoperability.

## II. ANTI-CORRUPTION FRAMEWORK

### A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

**19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).**

The Council for the Prevention of Corruption (CPC) is the public authority responsible for developing nationwide activity regarding the prevention of corruption and related offences. The CPC is an independent body that operates within the Court of Auditors. It is governed by Law no. 54/2008 of 4 September. The CPC is dedicated exclusively to the prevention of corruption and related offences. In particular it is responsible for[3]:

a) Collecting and organising information on prevention of active or passive corruption, economic and financial crimes, money laundering, trafficking in influence, unlawful appropriation of public goods, harmful administration, embezzlement, economic participation in business, abuse of power or breach of the duty of secrecy, as well as the acquisition of real estate or securities through inside information unlawful obtained in the exercise of official functions in the Public Administration or in the public corporate sector;
b) Monitoring the implementation of legal instruments and administrative measures adopted by the Public Administration and the Public Corporate Sector to prevent and combat the acts referred to in paragraph (a) and assess their effectiveness;
c) To provide an opinion, at the request of the Parliament, the Government or the Autonomous Regions, on the preparation or approval of national and international normative instruments for the prevention or repression of the acts referred to in paragraph a).

The CPC collaborates, at the request of the public authorities concerned, in the preparation and adoption of internal measures to prevent corruption, including codes of conduct and training of staff. It also cooperates with international bodies.

The CPC is chaired by the President of the Court of Auditors. Its members include: the Director-General of the Court of Auditors, who is the Secretary-General; the Inspector General of Finance; the Inspector-General of Public Works, Transport and Communications; the Inspector-General for Local Administration; a public prosecutor, appointed by the High Council for the Public Prosecution Service, with a renewable term of four years; a lawyer, appointed by the General Council of the Bar Association, with a renewable term of four years; a person of recognised merit, co-opted by the remaining members, with a renewable term of four years, renewable.

The CPC is governed by the Regulation on the Organisation and Functioning of the Council for the Prevention of Corruption, of 3 December 2008, in addition to the provisions laid down in Law No 54/2008 of 4 September. It is also guided by the provisions set out in the Code of Administrative Procedure, in particular on the functioning of the collegiate bodies, as well as by the guidelines adopted by the Council's plenary. It has a Support Service, comprised of senior officials. It also relies on the support of the services of the Court of Auditors.

The General Inspection of the Ministry of Finance (IGF - Audit Authority) is responsible for the control of the state's financial administration (including compliance, financial and performance audits and evaluation of public entities, programs and activities) and for the technical support to the Ministry of Finance, as described in the Decree-Law no. 96/2012, of the 23 April. IGF–Audit Authority has jurisdiction over all entities, services and public administration bodies, a the central, regional and local level. It performs compliance audits in the area of public procurement (Central and Local Administration, State-owned

[3] The most recent recommendations concerning conflict of interests and prevention of corruption risks in the public sector were issued on the 2nd of October 2019 and on 8th January 2020.

companies, European Funds) and has an active role in promoting ethics and preventing fraud and corruption in the public sector. Since 2015, IGF has included a specific strategic pillar in its annual plan "Promoting ethics in public management and preventing fraud and corruption" (see the activity plan for 2019). In its audit reports, IGF -Audit Authority has made several recommendations to increase the effectiveness of Anti-Corruption plans, namely the reinforcement of monitoring and information mechanisms (see here). IGF actively participates in the following international organizations: Anti-Fraud Coordination Service – AFCOS; Working Party on Combating Fraud - Council of the European Union; Group of States against Corruption – GRECO and Committee for the Coordination of Fraud Prevention - COCOLAF. It also contributes to the EU anti-corruption report.

IGF – Audit authority activity – 2019 main quantitative results:

| Results | Number or value |
|---|---|
| Number of complaints analysed | 1380 |
| Number of control actions and others | 321 |
| Number of informs | 352 |
| Number of audit reports | 144 |
| Number of entities audited | 138 |
| Number of informs sent to judicial authorities | 37 |
| Audited (NF) | EUR 16 000 million |
| Value of irregularities detected (NF) | EUR 2 100 million |

The Ministry of Justice plays an important role in the prevention of corruption, not only through the training provided to the Criminal Police (*Polícia Judiciária*) and to the future Judges and Prosecutors, through its Centre for Judicial Studies, but also through the dissemination of relevant information to civil servants and the public at large.[4]

Pursuant to articles 53 and 263 of the Code of Criminal Procedure, the competent authorities to investigate and prosecute corruption, are the Public Prosecution Service, assisted by the criminal police. Law no. 49/2008, of 27 August(Law on Organization of Criminal Investigation) specifies that the investigation of crimes concerning trading of influence, corruption, embezzlement and economic participation in business is reserved to the Criminal Police.

## B. Prevention

### 20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

Among the members of the CPC are several high representatives from other institutions and bodies of the State. They are bound by matters of transparency, integrity and accountability, as well as by matters of incompatibilities and impediments as established by Law No. 52/2019, of 31 July. The CPC has a Code of Conduct. Each member is also subject to the code of conduct and ethics of the institutions they represent and to the ethical standards relating to their respective professions.[5]

[4] For further reference consult this web portal , including the chapter related exclusively to prevention. Information on the most important national and international legal documents can also be found on the web portal.

[5] The CPC's is guided by values of integrity, probity, transparency and accountability. Its members and collaborators have an obligation to prevent and report possible cases of conflict of interest. They must refuse any gifts, invitations or other forms of hospitality that could jeopardize their independence, impartiality or integrity. At international level, the CPC

## 21. Rules on preventing conflict of interests in the public sector

In Portugal, conflicts of interest are regulated by Law no. 52/2019, of 31 July which sets out the declarative obligations of High State officials and the sanctions regime in case of non-compliance, including the loss of office. The declarative obligations concern income, assets, interests, incompatibilities and impediments, including in the three-year period after the termination of public duties.

Other relevant legislative sources:

- Register of financial interests of Government officials, members of Parliament and independent administrative entities;
- Council of Ministers' Resolution no. 184/2019, of 21 November – approves the Government's Code of Conduct;
- Law no. 78/2019 of 2 September, establishing rules on the appointment to the offices of political appointees, leading positions in public administration and public managers
- Resolution of the Assembly of the Republic n. º 210/2019, of 20th September 2019 adopts a Code of Conduct for the Members of the Assembly of the Republic;
- Law no. 7/93, of 1st March 1993 determines the Statute of Members of the Assembly of the Republic;
- Law no. 4/2019, de 13th de September creates the "Entity for Transparency";
- Law 19/2003, of 20 June regulates the funding of political parties and electing campaigns;
- Articles 69 to 76 of the Administrative Procedure Code guarantees of impartiality and prevention of situations of conflict of interests
- Law no. 35/2014, of 20 June, approves the general law on the civil service employment (Articles 19 to 24 are specially related to conflicts of interest).
- Law no. 2/2004, of 15 January, approves the statute for the managerial staff of central, regional and local administration (see Articles 16 and 17)
- Decree-Law no. 71/2007, of 27 March (Article 22) approves the statute of public managers
- Law no. 27/1996 of 1 August, on Administrative Tutelage (see Article 13 on Ineligibility)
- Decree-Law no. 170/2009 of 3rd August. Article 8 establishes specific rules on incompatibilities and prevention of situations of conflict of interests applicable to public auditors.

It should be highlighted that, under the obligations determined by Decree-Law no. 133/2013 of 3rd October, public managers need to use IGF's website to communicate:

- if they have shares or any kind of interests in companies or other entities;
- if they have any kind of connection with suppliers, clients, financial institutions, or other stakeholders that can result in conflicts of interest.

IGF-Audit Authority has a Code of Ethics and an Ethics consultant. The Code of Ethics has special provisions concerning conflicts of interests. Also, since 2015, IGF auditors must declare the non-existence of incompatibilities and conflicts of interests in all audit engagements. The CPC issued two recommendations in 2020 and 2012.[6]

adopted the Recommendation on Public Integrity, issued by the OECD in 2017, and closely follows OECD's work on ethics. The Court of Auditors participates in OECD working groups and follows as well as the work done at EU level and in the Council of Europe (GRECO).

[6] CPC Recommendation of 8 January 2020 on the Management of Conflicts of Interest in the Public Sector is addressed to all entities in the Public Sector and to all other decision-making entities that handle funds or securities or that intervene in the management of public assets. It is structured around the concept of double revolving doors and uses documented recording of interests and refers to the concepts of inability, impediment and disclaimer. CPC Recommendation of 7 November 2012 on the Management of Conflicts of Interest in the Public Sector: one of the pioneering instructions at European level has been revoked by its update, motivated by the renewal of international benchmarks and the latest Portuguese legislation.

## 22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

Law no. 19/2008, of 21 April approves measures to combat corruption and provides guarantees for whistle-blowers. It establishes that those who report violations of which they become aware during the exercise of their duties, cannot in any way be harmed, including through involuntary transfer or through dismissal. Disciplinary sanctions against whistle-blowers are presumed abusive until proven otherwise, if implemented up to one year after the respective denunciation. Whistle-blowers are entitled to anonymity, until the indictment is produced. They are also entitled to witness protection measures.

Any citizen who reports a case of corruption may benefit, as a witness, from protection measures in criminal proceedings when his or her life, physical or psychological integrity, freedom or property are endangered. The protection measures provided for in Law No. 93/99, of 14 July (protection of witnesses), applicable both to the whistle-blower, and to family members include concealment of the witness (image concealment, voice distortion); deposition by videoconference; non-disclosure of identity; special security programs.

In order to ensure their protection and anonymity, whistle-blowers may submit complaints through several websites, namely: Prosecutors' General Office (PGO), Criminal Police and IGF's websites.

IGF – Audit Authority results – Number of complaints from 2015 to 2019:

| Year | Received (a) | Forward to other entities (b) | (b)/(a) |
|---|---|---|---|
| **2015** | 1426 | 895 | 63% |
| **2016** | 1676 | 1228 | 73% |
| **2017** | 1397 | 838 | 60% |
| **2018** | 918 | 427 | 47% |
| **2019** | 1480 | 959 | 64% |

## 23. List the sectors with high risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).

The Portuguese system of procurement is based on transparency, competition and objective criteria in decision-making. These areas were recently reinforced by the amendments to the Code of Public Procurement. The following is a list of examples of good practices in public procurement:

- BASE Portal for Public Procurement is widely appointed as a good practice in public procurement and as a relevant transparency tool;
- Portugal is a leading country in e-procurement, with several e-procurement platforms regulated by law;
- Monthly overview of public procurement (e.g. march 2020)
- Transparency portal for the health sector
- Public procurement in the health sector
- Transparency and publicity notifications to INFARMED, I.P, National Authority of Medicines and Health Products (according to article 159. N. º 5 and n. º 6 of Decree-Law 176/2006).

In 2019, the CPC issued a Recommendation on Preventing corruption risks in public procurement.

Furthermore, IGF – Audit Authority performs compliance audits in the area of public procurement (Central and Local Administration, State-owned companies, European Funds…). For quantitative results refer to **Annex I**.

Law no. 64/2013, of 27 August establishes the obligation of transparency on benefits granted by the public sector in Portugal. This law considers public grants "*all financial or patrimonial advantage allocated, directly or indirectly, whatever the designation*".

IGF-Audit authority reports on this legal obligation annually by making available on its website information concerning public grants, namely the complete list of public grants and other public benefits (identification of donors and beneficiaries, legal basis for the grant, amounts involved, etc.). A report with the main information is also made available to the public here.

### 24. Any other relevant measures to prevent corruption in public and private sector

Throughout its more than 11 years of activity, the CPC has issued a series of recommendations, deliberations and instructions: (a) to promote the prevention of corruption; and (b) to contribute to a culture of integrity, accountability and transparency, with a strong focus on professional training and civic education. For further information refer to **Annex II**.

## C. Repressive measures

### 25. Criminalisation of corruption and related offences

Law no. 20/2008, of 21 April, establishing the new criminal framework to combat corruption in international trade and in the private sector, reads as follows:

*Article 8 - Passive corruption in the private sector*

1 - Any individual working for a private sector entity who, by himself or through a third party, either demands or accepts, for himself or for a third party, any undue advantage, whether patrimonial or non-patrimonial, or the promise thereto, for any act or omission contrary to the duties inherent to the office he holds, shall be punished with imprisonment up to five years or with a fine up to 600 days.

2 - Where the action or omission referred to in the preceding paragraph is likely to distort competition or to cause a financial damage to third parties, the offender shall be punished with imprisonment from one to eight years.

*Article 9 - Active corruption in the private sector*

1 - Any individual who by himself, or through a third party, either gives or promises any undue advantage, whether patrimonial or non-patrimonial, shall be punished with imprisonment up to three years or with a fine.

2 - Where the conduct referred to in the preceding paragraph seeks to obtain or is likely to distort competition or to cause a financial damage to third parties, the offender shall punish with imprisonment up to five years or with a fine up to 600 days.

*Article 335- Influence Pedding*

1 - Any individual who by himself or through a third party, either demands or accepts, for himself or for a third party, an advantage, whether patrimonial or non-patrimonial, or the promise thereto, to abuse his influence, real or alleged, before any public entity, is punished:
   a) With imprisonment from one to five years, unless a more severe penalty applies by virtue of another legal provision, if the purpose is to obtain any unlawful favourable decision;
   b) With imprisonment up to 3 years or with a fine, unless a more severe penalty applies by virtue of another legal provision, if the purpose is to obtain any lawful favourable decision.

2 - Any individual who by himself or through a third party, either gives or promises an advantage, whether patrimonial or non-patrimonial, for the purposes mentioned in sub-paragraph a) is punished with imprisonment up to 3 years.

Chapter IV of the Criminal Code refers to criminal offences committed while holding public offices. Specifically, on corruption:

*Article 372 - Passive corruption with a view to commit an unlawful act*

1 - A public official who, by himself or through another person, upon his consent or ratification, either demands or accepts, for himself or another, any undue advantage, whether patrimonial or non-

patrimonial, or the promise thereto, for any act or omission contrary to the duties inherent to the office he holds, even if prior to such demand or acceptance, is punished with imprisonment from one to eight years.

2 - If the offender, prior to the commission of the act, voluntarily refuses the offer or promise that he had accepted, or if he returns the advantage, or in the case of tangible property, its value, the penalty is dispensed with.

3 - The penalty is specially mitigated if the offender gives concrete assistance in the collection of decisive evidence leading to the identification or arrest of other persons responsible.

*Article 373 - Passive corruption with a view to commit a lawful act*

1 - A public official who by himself or through another person, upon his consent or ratification, either demands or accepts, for himself or another, any undue advantage, whether patrimonial or non-patrimonial, or the promise thereto, for any act or omission not contrary to the duties inherent to the office he holds, even if prior to such demand or acceptance, is punished with imprisonment for not more than two years or with a fine for not more than 240 days.

2 - The same penalty applies to the public official who by himself, or through another person, upon his consent or ratification, either demands or accepts, for himself or another, any undue advantage, whether patrimonial or non-patrimonial, from a person that before him had, has or will have any claim dependent upon the performance of his public duties.

3 - Sub-paragraph b) of article 364 and paragraphs 3 and 4 of the preceding article are correspondently applicable.

*Article 374-Active corruption*

1 - Any individual who by himself, or through another person, upon his consent or ratification, either gives or promises to a public official, or to another with the former's knowledge thereof, an advantage, whether patrimonial or non-patrimonial, which the public official is not entitled to, for the purpose mentioned in article 372, is punished with imprisonment from six months to five years.

2 - If the purpose aimed at is the one mentioned in article 373, the offender is punished with imprisonment for not more than six months or with a fine for not more than 60 days.

3 - Sub-paragraph b) of article 364 is correspondently applicable.

*Article 375-Embezzlement*

1 - A public official who unlawfully appropriates, for his own benefit or for the benefit of another, money or any movable property, public or private, which has been handed over to him, is in his possession or is accessible to him by virtue of his duties, is punished with imprisonment from one to eight years, unless a more severe penalty applies by virtue of another legal provision.

2 - If the values or objects mentioned in the preceding paragraph are of slight value, pursuant to sub-paragraph c) of article 202, the offender is punished with imprisonment for not more than three years or with a fine.

3 - If the public official grants as a loan, pledges or otherwise encumbers values or objects mentioned in paragraph 1, he is punished with imprisonment for a term not exceeding three years or with a fine, unless a more severe penalty applies by virtue of another legal provision.

*Article 376 - Embezzlement as to the use of vehicles, property or money committed by a public official*

1 - A public official who makes use or allows another person to make use, for purposes other than those to which they are designed, of vehicles or other movable property of appreciable value, whether public or private, which have been handed over to him, are in his possession or are accessible to him by virtue of his duties, is punished with imprisonment for not more than one year or with a fine for not more than 120 days.

2 - If the public official, without any special reasons of public interest to justify the act, employs public money for a public use contrary to the one for which it is legally intended, is punished with imprisonment for not more than one year or with a fine for not more than 120 days.

*Article 377- Corrupt economic participation in a transaction*

1 - A public official who, with intent to obtain, for himself or another person, an unlawful economic participation, harms in a legal transaction the patrimonial interests whose management,

supervision, defence or execution are, in whole or in part, by virtue of his duties, incumbent upon him, is punished with imprisonment for not more than five years.

2 - A public official who, by any manner, receives for himself or another person, a patrimonial advantage as a result of a legal-civil act in respect of interests whose disposal, management or supervision was, by virtue of his duties, at the time of the commission of the act, either totally or partially, assigned to him, even if harm has not been caused to such interests, is punished with imprisonment for not more than six months or with a fine for not more than 60 days.

3 - The penalty provided for in the preceding paragraph is also applicable to the public official who receives, for himself or another person, by any manner, a patrimonial advantage as a result of the collection, levy, settlement or payment which, by virtue of his duties, he is, totally or partially, in charge of ordering or executing, provided that no loss to the National Treasury or to the interests entrusted to him has been caused.

## 26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

*Article 11 of the* Criminal Code *reads as follows:*

"Liability of natural persons and legal persons

1 - Except for the provisions of paragraph 2 below and in the special cases provided by law, only natural persons can be held criminally liable.

2 - Legal persons and equivalent entities, with the exception of the State, of other public legal persons and of international organizations of public law, are held liable for the offences falling within articles 152-A and 152-B, 159 and 160, 163 to 166, when the victim is a minor, and within articles 168, 169, 171 to 176, 217 to 222, 240, 256, 258, 262 to 283, 285, 299, 335, 348, 353, 363, 367, 368-A and 372 to 376, when committed:
   a. On their behalf and in the collective interest by persons who have a leading position therein;
   b. By whoever acting under the authority of the persons referred to in subparagraph a) above, by virtue of a breach of the supervision or control duties incumbent upon them.

3 - For the purposes of criminal law the term:
   a. Legal persons governed by public law, including public corporations;
   b. Concessionaires of public services, regardless of their ownership;
   c. Other legal persons enjoying public power prerogatives.

4 - Are deemed to have a leading position both the bodies and representatives of the legal person and any person with the power to exercise control of its activity.

5 - Civil companies and *de facto* associations are deemed to be entities equivalent to legal persons for purposes of their criminal liability.

6 - The liability of legal persons and equivalent entities is excluded when the offender acted against orders or instructions given by a person entitled thereto.

7 - The liability of legal persons and equivalent entities does not exclude the individual liability of the respective offenders, nor does it depend upon their being liable therefor.

8 - The criminal liability of a legal person or an equivalent entity is not extinct following a de-merger or a merger, and the following persons shall remain liable for the commission of the offence:
   a. The legal person or equivalent entity within which the merger has taken place; and
   b. The legal persons or equivalent entities resulting from the demerger.

9 - Without prejudice to the right of recourse, the persons holding a leading position are subsidiary responsible for the payment of any fines and compensations to which the legal person or equivalent entity has been sentenced in respect of criminal offences.
   a. Committed in the period in which such persons held their position, without their express opposition thereto; or
   b. Committed at a prior time, where the insufficiency of the property of the legal person or equivalent entity to cover payment is their sole responsibility, or;
   c. Committed at a prior time where the final decision to impose the said payment has been notified during the period of tenure and the lack of payment is attributable to them.

10 - In case several persons are held liable under the preceding paragraph, they become jointly and severally liable.
11 - Where the fines or compensations are imposed on an entity without legal personality, their payment shall be made out of the joint property and, in the absence or insufficiency thereof, jointly and severally out of each partner's property.

*Furthermore, Article 90-A of the Criminal Code reads as follows:*

"Sentences applicable to legal persons

1 - As regards the criminal offences falling within paragraph 2 of article 11, the main penalties of fine or winding-up are applicable to legal persons and equivalent entities.
2 - For the said criminal offences, the following ancillary penalties may be imposed on the legal persons and equivalent entities:
    a) Judicial order;
    b) Interdiction to perform activity;
    c) Prohibition to execute certain contracts or contracts with certain entities;
    d) Deprivation from the right to subsidies, subventions or incentives;
    e) Closing of establishment;
    f) Publicity of the condemnatory decision"

*Several other penalties are foreseen in the criminal code for legal entities, such as in*

- Article 90-B - Fine penalty;
- Article 90-C - Reproach;
- Article 90-D - Pledge/Deposit of good conduct;
- Article 90-E - Judicial surveillance;
- Article 90-F - Dissolution;
- Article 90-G - Judicial injunction;
- Article 90-H - Prohibition to conclude contracts; Article 90-I - Deprivation of the right to subsidies, grants or incentives;
- Article 90-J - Prohibition to exercise of activity;
- Article 90-L - Closure of establishment;
- Article 90-M - Publicity of the condemnatory decision

**27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)**

Article 374-B of the criminal code, on exemption or mitigation of penalty, states that:

1 - "The offender may be exempted from penalty where:
    a) Has reported the crime within 30 days from the time the offence was committed and before the criminal proceedings, provided he/she voluntarily returns the advantage or its value;
    b) Prior to committing the offence voluntarily repudiates the offer or promise accepted, or returns the advantage or its value.
2 - The penalty is mitigated if the agent:
    a) Until the end of the trial in first instance, gives assistance in obtaining or producing conclusive evidence for the identification or capture of other responsible parties, or
    b) Has committed the offence at the request of an officer, directly or through an intermediary.

## III. MEDIA PLURALISM

### A. Media regulatory authorities and bodies

#### 28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

Article 39 of the Constitution of the Portuguese Republic (CPR) enshrines an independent regulatory body that ensures:

a) the right to information and freedom of the press;
b) the non-concentration of media ownership;
c) independence from political power and economic power;
d) respect for personal rights, freedoms and guarantees;
e) compliance with regulatory standards for media activities;
f) the possibility of expression and confrontation of the various opinions;
g) the exercise of right to airtime, the right to response and to political reply.

In order to comply with this constitutional command, through Law No. 53/2005, of 8 November (Statutes of ERC), the Portuguese authorities established the Regulatory Authority for the Media - ERC (which replaced the High Authority for Media (the former regulatory body), a legal person under public law, with an independent administrative entity, which aims to ensure the functions described in Article 39 of the Constitution, and which independently defines the orientation of its activities, without any subjection to guidelines from the political power.

Reinforcing the guarantees of independence of the members of the Regulatory Council, Article 18 of Law no. 53/2005, lists several principles:

1 - The members of the regulatory board are appointed and co-opted from among persons of recognisable independence and technical and professional competence.
2 - The members of the regulatory board shall be independent in the performance of their duties and shall not be subject to specific instructions or guidance.
3 - Without prejudice to the provisions of points (d), (e) and (f) of Article 22(1), the members of the regulatory board shall be immovable.
4 - Whoever is or, in the last two years, has been a member of the executive bodies of companies, trade unions, confederations or business associations in the media sector, may not be designated.
5 - Anyone who in the previous two years, has been a member of Government, the executive bodies of the Autonomous Regions or the local authorities may not be designated.
6 - The members of the regulatory board are subject to the incompatibilities and impediments of the holders of senior public office.
7 - During their term of office, members of the governing board may not:
    (a) have financial interests or holdings in entities pursuing media activities;
    (b) perform any other public function or professional activity, except for the performance of teaching functions in higher education, part-time.
8 - The members of the regulatory board may not hold any position with executive functions in companies, trade unions, confederations or business associations in the media sector for a period of two years from the date of their termination.

Concerning the effectiveness of the Regulatory authority, its 2018 Annual Report notes: In the period 2006-2018, the Regulatory Board issued 3553 deliberations, of which 344 were infringement proceedings. More specifically, during the year 2018 there were: 264 deliberations, 56 meetings of the Regulatory Council, 1258 open procedures and the edition of 8 publications. The figures for 2019 are still being ascertained, but it is known that 350 deliberations were approved.

#### 29. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies

In accordance with Article 15 of the Statutes of the ERC, the Regulatory Council is composed of four members who are elected by the Parliament from a nominative list including a minimum of 10 and a

maximum of 40 candidates. The membership of ERC is elected by a qualified majority. This guarantees a great degree of consensus around this body and reinforces its impartiality. The President of ERC is designated by its members, without interference from any political body.

Article 22(1) and Article 23 of the Statutes of ERC provide for the cases or situations in which members of the regulatory board may be removed. These include:

a) the term of their mandate;
b) in case of death, permanent disability or supervening incompatibility;
c) resignation;
d) missing three consecutive meetings or nine interpolated meetings, unless justified by the plenary of the governing board;
e) through dismissal decided by Parliament, through qualified majority, in the event of a serious breach of their statutory duties;
f) dissolution of the regulatory board decided by Parliament by qualified majority. The election of the new members of the regulatory board shall be taken up as a matter of urgency and should be decided no later than 30 days from the approval of the dissolution.

The current ERC Regulatory Council was designated in 2017 by Resolution of the Assembly of the Republic No. 264/2017 and Declaration No. 6-A/2017.

## B. Transparency of media ownership and government interference

### 30. The transparent allocation of state advertising (including any rules regulating the matter)

The rules and duties of transparency to which the state's institutional advertising campaigns are subject, as well as the rules applicable to their distribution in national territory, are enshrined in Law No. 95/2015 of 17 August. Under this law, the following are subject to compliance (cf. Article 2):

a) Services of the direct administration of the State;
b) Public institutes;
c) Entities that are part of the corporate public sector.

The law in question has created strict rules with regard to the selection of advertising agencies. These must cumulatively have more than 12 months of activity prior to the beginning of the tender; and demonstrate that they are capable of performing the tasks for which the tender is being organised (Article 5). Advertising campaigns must also comply with the rules of public procurement, established by the Public Procurement Code, Decree-Law No. 18/2008, of 29 January.

Contractors should monitor the implementation of contracts, in particular with regard to possible subcontracting relationships and the acquisition of advertising spaces, with a view to ensuring the highest levels of efficiency and strict compliance to the rules on the contracting of advertising services.
Law 95/2015 also includes measures for institutional advertising in the regional press and local and regional radio. At least 25% of the overall cost of a public institutional advertising campaign should be allocated to regional and local media (Article 8). The law also establishes a distribution of advertising campaigns between the Press, Radio, Television and Digital media.

Supervision of compliance is assigned to the Regulatory Authority for the Media (cf. Article 10 of Law 95/2015), which has a dedicated web portal where all public advertising campaigns are launched.

In the event of an anomaly, or deviation from the law, the matter shall be communicated to the Court of Auditors for the purpose of review. The law also provides for an effective mechanism which translates into the prohibition of payment of the campaign, without the expenditure being registered in advance at the ERC and that has not complied with Article 8 regarding the distribution of advertising quotas by regional and local media. Also, on the issue of transparency of state advertising, should be highlighted the following:

I. Article 4(2) determines that State institutional advertising campaigns shall clearly indicate their nature and purposes, identifying in a perceptible manner to the recipients the identity of the promoter;
II. Article 7 determines:
    1 - The acquisition of advertising space provided for in this Law must be communicated by the promoter to the Regulatory Authority for Social Communication (ERC) up to 15 days after its hiring, by sending a copy of the respective supporting documentation.
    2 - Entities covered by this Law shall include in their activity plans and reports a section specifically dedicated to synthetic information on institutional advertising initiatives of the State, as defined in the applicable regulations.
    3 - The heads of the departments and bodies covered by this Law shall incorporate in the information of the institutional advertising of the State, referred to in the preceding paragraph, the data relating to compliance with the provisions of the following article.

The ERC Report for the year 2018 states that the investments *"by entities promoting institutional advertising campaigns of the State reached the overall amount of € 1 322 464.33, a total of 136 campaigns reported throughout the year, communicated by 19 entities covered by the reporting duties contained in that diploma".*

### 31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

According to Law no. 95/2015 of 17 August, public institutional advertising campaigns should contribute to fostering a culture of respect for fundamental rights and gender equality and should also ensure that contents are made available to citizens with special needs (Article 4).

The law strictly forbids the dissemination of discriminatory content, in particular of a sexist, racist, homophobic contents or that are contrary to constitutionally enshrined principles, values and rights. Direct or indirect incitement to violence or to any behaviour contrary to the democratic rule of law is also strictly forbidden, as is the use of symbols, expressions, drawings or images that may lead to confusion with any political party or religious or social organization.

### 32. Rules governing transparency[7] of media ownership

Portugal has a robust framework for transparency of the media. Freedom of the press is a constitutionally protected right, enshrined in the chapter of Rights Freedoms and Guarantees. The obligation of disclosure of ownership and financing of the media is enshrined in the Constitution and monitoring of this obligation is the responsibility of an independent regulatory authority (Articles 38 and 39). Law 78/2015 of July 29 regulates transparency of ownership, management and the means of financing of entities that pursue media activities. For more detailed information on the legal framework refer to **Annex III**.

The ERC 2018 report also provides detailed information revealing the "plural and diverse media landscape".

## C. Framework for journalists' protection

### 33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

The constitutional legislator was concerned with ensuring the full independence of journalists while exercising their professional activity, bearing in mind the right to inform and to be informed without hindrance as a pillar of the democratic rule of law. Any interference, whether political or economic, or any form of censorship are therefore prohibited (Article 37).

[7] In addition to the general rules that subordinate the sector, the Television Law, approved by Law No. 27/2007 of July 30, in article 4a, also imposes a whole set of obligations.

The independence of journalists is also featured in the Status of Journalists, approved by Law No. 1/99 of 13 January. For more detailed information see **Annex IV**.

### 34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

As foreseen in Article 37 of the Constitution offences committed against journalists in the exercise of their profession are subject to the jurisdiction of the courts. In addition, the independent regulatory body (ERC) is also tasked of ensuring freedom of the press. This is therefore a twofold protection system - through the courts, and through an independent regulatory body.

### 35. Access to information and public documents[8]

The national legislative building contains numerous provisions ensuring this access, through specific legislation aimed at the performance of journalist functions, or through rules of generic application and which, as such, are also applicable to the information function. Find below a transcription of the most relevant ones: Article 38 b) of the Constitution guarantees the right of journalists, in accordance with the law, to access sources of information (...). In terms of ordinary law, the Statute of Journalists, approved by Law No. 1/99, approved by Law No. 1/99 of January 13, contains provisions aimed at ensuring this right, namely:

*Article 6 - Rights*
The fundamental rights of journalists are:

a) Freedom of expression and creation;
b) Freedom of access to sources of information; (...)

*Article 8 - Right of access to official sources of information*

1 - The right of access to sources of information is guaranteed to journalists:
   a) by the public administration bodies listed in Article 2(2) of the Code of Administrative Procedure;
   b) by companies of total or mostly public capital, by companies controlled by the State, by public service concessionaires or by the private use or exploitation of the public domain and by any private entities that exercise public powers or pursue public interests, when the desired access respects activities regulated by administrative law;
2 - Journalists' interest in accessing sources of information is always considered legitimate for the purposes of exercising the law regulated in Articles 61 to 63 [9]of the Code of Administrative Procedure.
3 - The right of access to sources of information shall not cover cases in secret of justice, documents classified or protected under specific legislation, personal data which is not public, documents revealing a trade, industrial or literary, artistic or scientific property secret, and documents supporting preparatory acts of legislative decisions or instruments of a contractual nature.
4 - The refusal of access to sources of information by any of the bodies or entities referred to in paragraph 1 shall be substantiated in accordance with Article 125 of the Code of Administrative Procedure and against it may be used the administrative or litigation means that may fit in the case.
5 - Complaints submitted by journalists to the Commission for Access to Administrative Documents against administrative decisions that refuse access to public documents under Law No. 65/93 of 26 August enjoy an emergency regime.

In addition to the Journalist's Statute, and the articles referred to above, the national legislative building also has a very broad system of access to administrative information and which is essentially introduced in Law No 26/2016 of 22 August, which regulates access to administrative documents and administrative information, transposing directive 2003/4/EC of the European Parliament and the Council of 28 January

[8] See also topic 37 (Stakeholders'/public consultations), in section IV (Other Institutional Issues Related to Checks And Balances).
[9] The legal reference contained in this rule should be considered for Articles 82 to 85 of the current Code of Administrative Procedure, approved by Decree-Law No. 4/2015 of January 7.

2003 into the internal legal order. The application of this law presents some access restrictions in very specific cases described in Article 6, in addition to the restrictions inherent in the application of the General Regulation on the Protection of Personal Data.

It is also important to note that the violation of the right of access to administrative documents, in addition to the possibility of recourse to the Administrative and Tax Courts, in accordance with the Code of Administrative and Fiscal Procedure, may also give rise to a right of complaint before the Commission for Access to Administrative Documents, which has the nature of an independent administrative entity that operates before the Parliament, which has the task of ensuring compliance with the rules on access to administrative documents.

### 36. Other - please specify

Nothing to report.

## IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

### A. The process for preparing and enacting laws

**37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).**

The general rights and facilities on citizens' participation in the parliamentary legislative procedure may be found in the Constitution of the Portuguese Republic (CPR) (on participation in the preparation of the labour law, education law, professional careers law, etc.), in the Rules of Procedure of the Parliament (RAR) (labour and local authority legislation, as well as any matter considered particularly relevant) and also in the Labour Code. The spraying of standards which require the hearing of several other entities (the Regions' own government bodies Autonomous authorities; associations representing local authorities; non-governmental organisations from the environment; the High Council of the Judiciary; Superior Council of the Public Prosecution Service, etc.) complements this framework, linking the legislator to the consultation of bodies representing the interests to be legislated.

Those consultations are diverse and may involve:

(a) hearings of citizens and entities with an interest in the subject matter of the legal diplomas under discussion;
(b) direct written consultation;
(c) formal processes of public appreciation of legislative initiatives disclosed through its publication in the Portuguese Official journal;
(d) new consultation procedures on the purpose of legislative initiatives already presented and under discussion or prior to their presentation — case of online forums; public hearings, conferences, seminars or colloquia, both in the Parliament and abroad.

It should also be noted that the timing of consultations can also vary depending on several circumstances, including (i) the nature of the entities to which the legislative proposal is to be applied; and (ii) the subject-matter of the legislative initiative. The relevant legal regimes are included in **Annex V**.

It is worth noting that the Parliament's work, including the legislative process, can be followed by the general public through the Parliament portal and through a specific television channel (ARTV).

**38. Regime for constitutional review of laws**

Any amendment to the CPR can only take place five years after the date of publication of the last ordinary review law [Article 284(1) of the CPR] and cannot take place during a state of siege or a state of emergency (Article 289 of the CPR). However, the Constitution provides for a for the extraordinary review of the Constitution even within those five years. Thus, the Parliament may initiate the procedure aiming at the extraordinary revision at any time, provided that there is a majority of at least four fifths of all members [of the Parliament] in full exercise of their office [Article 284(2) of the CPR].

The competence to initiate an amendment procedure rests on the members of the Parliament [Article 285(1) and Article 156(a) of the CPR]. Under the CPR, once a draft law on the revision of the CPR has been submitted, any others have to be submitted within a time limit of thirty days [Article 285(2) of the CPR].

Upon the submission of the draft amendment, its approval requires a majority of two thirds of the Members of the Parliament in full exercise of their office [Article 286(1) of the CPR]. Should several amendments be approved, they ought to be combined in a single revision law [Article 286(2) of the CPR].

There are several material limits which the constitutional revision must respect, namely,
**(i)** national independence and the unity of the State; **(ii)** the republican form of government; **(iii)** the separation between church and State; **(iv)** citizens' rights, freedoms and guarantees; **(v)** the rights of workers, workers' committees and trade unions; **(vi)** the coexistence of the public, private and cooperative and social sectors of ownership of the means of production; **(vii)** the existence of economic plans, within

the framework of a mixed economy; **(viii)** the appointment of the elected officeholders of the entities that exercise sovereignty, of the organs of the autonomous regions an of local government organs by universal, direct, secret and periodic suffrage; and the proportional representation system; (**ix**) the separation and interdependence of the entities that exercises sovereignty; **(x)** the subjection of legal norms to review of their positive constitutionally and of their unconstitutionally by omission; **(xi)** the independence of the courts; **(xii)** the autonomy of local authorities; and **(xiii)** the political and administrative autonomy of the Azores and Madeira archipelagos (Article 288 of the CPR). It should be noted that the President of the Republic cannot refuse to enact the revision law [Article 286(3) of the CPR]. Once enacted, the new text of the CPR, which shall already incorporate the necessary amendments, eliminations and additions, shall be published along with the review law [Article 287(1) and (2) of the CPR].

## B. Independent authorities

### 39. Independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

*Ombudsman*

The Ombudsman was established in 1975 as an independent State body, elected by the Parliament. Its main function is to defend and promote the rights, freedoms, guarantees and legitimate interests of citizens, ensuring, through informal means, the justice and legality of the exercise of public powers.

In Portugal, the Ombudsman is a National Human Rights Institution, accredited with Status A in accordance with the Paris Principles of the United Nations. It has been responsible for promoting and defending human rights and ensuring that the Portuguese State complies with the international conventions it has ratified in this area.

Over the years, the Ombudsman's mandate has been extended. Since 2013, the Ombudsman has also been acting as the National Prevention Mechanism, ensuring that Portugal complies with the United Nations Convention and Protocols against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (see Council of Minister's Resolution No. 32/2012 of 20 May 2012). It does so mainly through regular and unannounced visits to places where are persons deprived of their liberty, such as police stations detention' cells, prison facilities, educational centres and psychiatry hospitals.

The Parliament is responsible for appointing the Ombudsman and for approving the Ombudsman's Office's budget. The appointment occurs by qualified majority. The Ombudsman is elected for four years and may be re-elected only once, for the same period of time. The Ombudsman is independent and immovable and cannot cease his duties before the end of the term for which he or she is been appointed, except in the cases determined by Law no. 9/91 of 9 April 1991, as amended by Law no. 17/2013 of 18 February 2013.

The Ombudsman may appoint two deputy ombudsmen, and has also the power to dismiss them. The position requires individuals with a profile of higher education and proven reputation for integrity and independence.

*List of Independent authorities (including human rights national authorities)*

Ombudsman
Commission for Access to Administrative Documents
National Data Protection Commission
National Election Commission
National Council of Ethics for Life Sciences
Supervisory Board of the Information System of the Portuguese Republic
Council of Peace Trials
Supervisory Board of the Integrated Criminal Information System
DNA Profile Database Surveillance Board
State Secret Supervisory Body

Regulatory Authority for the Media
Insurance and Pension Funds Supervisory Authority
Securities Market Commission
Bank of Portugal
Competition Authority
Energy Services Regulatory Authority
National Communications Authority
National Civil Aviation Authority
Mobility and Transport Authority
Water and Waste Services Regulatory Authority
Health Regulatory Authority
Recruitment and Selection Committee for Public Administration

## C. Accessibility and judicial review of administrative decisions

### 40. Modalities of publication of administrative decisions and scope of judicial review

Law No. 26/2016, of 22 August 2016, which governs the access to administrative documents and administrative information, including on environmental matters, by transposing into national law Directive 2003/4/EC of the European Parliament and of the Council, of 28 January 2003, on public access to environmental information and repealing Council Directive 90/313/EEC.

Law No. 10/2012, of 29 February 2012, which approves the Rules of Procedure of the Committee on Access to Administrative Documents.

Article 268(1) and (2) of the CPR, which provides that:

1 - *"Citizens have the right to be informed by the Administration, whenever they so request, as to the progress of the procedures and cases in which they are directly concerned, together with the right to be made aware of the definitive decisions that are taken in relation to them.*
2 - *Without prejudice to the law governing matters concerning internal and external security, criminal investigation and personal privacy, citizens also have the right of access to administrative files and records." (emphasis added)".*

Procedural law defines the competent court for every case falling within the scope of jurisdiction of the administrative courts. For this purpose, the Code of Procedure in the Administrative Courts (Law No. 15/2002, of 22 February, as it stands) establishes the criteria of judicature on the grounds of subject matter, territory and hierarchy.

The Portuguese system for judicial resolution of administrative (and fiscal) law disputes does not allow any kind of forum shopping. If the forum where the claim is filed does not meet the competence legal requirements, it has the authority to transfer the case to the competent court. And there are no venue provisions for alternative possible locations: a case can be legally brought only before the competent court. And for each case (conceived in terms of its objective and subjective elements), only one specific court has jurisdiction.

The circuit administrative courts are, as a general rule, the first instance reviewing courts. Exceptionally, cases are heard directly by the Administrative Supreme Court (for instance, in the judicial review of decisions taken by the Council of Ministers or by the Prime Minister).

As for the number of instances, the principle is a two-step review. The Portuguese system for judicial resolution of administrative disputes combines the principle of two-step review with a three-tier hierarchy of courts and with the principle of reserving first instance jurisdiction for the circuit administrative courts. Accordingly, the legislation created a procedural mechanism to allow the Administrative Supreme Court to exercise its jurisdiction over more important cases with greater social or economic relevance.

The intervention of the Administrative Supreme Court may occur by triggering one of the following mechanisms:

(i) *per saltum* mechanism, provided that the requirements set out in Article 151 of the Code of Procedure in the Administrative Courts are met;
(ii) exceptionally, it may conduct a third-level review, under Article 150 of Code of Procedure in the Administrative Courts;
(iii) appeal for the uniformity of the case-law, under Article 152 of the Code of Procedure in the Administrative Courts; and
(iv) referral for a preliminary ruling, which will only be binding on the circuit administrative court for the case in which such referral was submitted.

### 41. Implementation by the public administration and State institutions of final court decisions

The Code of Administrative Procedure contains detailed provisions on the enforcement of decisions of the administrative courts. When the administrative authority or agency concerned fails to comply spontaneously with these decisions, an enforcement procedure can be filed by the interested party.

The court can fix time limits for the necessary legal or material conduct to be taken by the administrative entity and set a daily fine for the persons responsible for implementation while non-compliance subsists. In the last resort, when the overdue conduct of the administrative authority or agency consists of issuing an individual administrative determination necessary for enforcement of the judgment, the court can substitute the authority or agency in the exercise of its jurisdiction. However, this is only possible in cases not involving the exercise of discretionary administrative powers.

## D. The enabling framework for civil society

### 42. Measures regarding the framework for civil society organisations

Article 46(1) of the CPR, establishes that *"citizens have the right to form associations freely and without the requirement for any authorisation, on condition that such associations are not intended to promote violence and their purposes are not contrary to the criminal law."*

Furthermore,

*"associations shall pursue their purposes freely and without interference from the public authorities and may not be dissolved by the state or have their activities suspended other than in cases provided for by law and then only by judicial decision." [Article 46(2) of the CPR].*

In turn, no one can be obliged to be part of an association or to be coerced to remain there by any means [Article 46(3) of the CPR]. Finally, in complement to the limits referred to in paragraph 1, it is additionally established that "armed associations, military, militarised or paramilitary-type associations and organisations that are racist or display a fascist ideology are not permitted." [Article 46(4) of the CPR].

Portuguese National Human Rights Committee
In 2010, the Portuguese Government established the Portuguese National Human Rights Committee (PNHRC). This initiative resulted from a commitment taken by Portugal at the 11th session of the Human Rights Council of 2009, under the scope of the Universal Periodic Review. Since its creation, and within its competences (Council of Ministers Resolution no. 27/2010) the PNHRC contributed to reinforce not only the coordination and sharing of information on human rights within the public administration, but also the dialogue with civil society.

*PNHRC mission vis-à-vis Civil Society*
The PNHRC coordinates the activity of various Ministries in order to define the national position in international human rights bodies and to uphold the compliance of obligations arising from international instruments. Under the scope of this coordination, the PNHRC:

- consults civil society organisations before summitting national human rights reports to competent UN bodies;
- allows the participation of these organizations in its meetings;

- and encourages NGOs to submit their own reports to the bodies of the UN Human Rights Treaties, regarding the implementation of the Human Rights Conventions of which Portugal is a member.

The Committee is also responsible for promoting the production and dissemination of national and international knowledge and documentation on human rights. To accomplish this mission, the PNHRC uses its website, social media and email newsletters to communicate relevant information about international and Portuguese governmental, public administration and civil society initiatives in this area.

### 43. Other - please specify

Other institutions also play an important role in securing the rights of the most vulnerable groups. These include:

Commission for Gender Equality

Commission for Equality in Labour and Employment

High Commission for Migration

Commission for the Protection of Children and Youth

**::::::::::::**

## V. ANNEX I

**23. List the sectors with high risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).**

Audits on public procurement - quantitative results

| Results 2018 | Number or value |
|---|---|
| Audited (nf) | Eur 2.692 million |
| Value of irregularities detected (nf) | Eur 51 million |
| Number of informs to the court of auditors (financial offences) and other courts (criminal offences) | 5 informs |

Audits on public procurement - quantitative results

| Preliminary results 2019 | Number or value |
|---|---|
| Number of audits – finished and ongoing (nf) | 24 |
| Sectors /audited entities | 10 central administration<br>13 state-owned companies<br>12 local administration |
| Type of audit | 20 compliance audits<br>2 thematic audits (direct awards and prior consultations / expend with material criteria direct awards)<br>2 follow-up audits |
| Audited (nf) | Eur 3.375 million |

The need to reinforce national agencies and bodies closely involved in the prevention and fight against corruption in order to better respond to their relevant mission and growing challenges has been addressed by the Resolution of the Assembly of the Republic n. º 91/2010, of 22 july.

## VI. ANNEX II

### 24. Any other relevant measures to prevent corruption in public and private sector

*Axis I - Objective Prevention*

In the prevention pillar, special mention should be made to the Recommendation that condenses the understanding, perspective and national strategy of the Council on the Prevention of Corruption (CPC), mainly focused on the Public Sector:

- Recommendation of the CPC, of 1 July 2015, on Plans for the Prevention of Risks of Corruption and Related Offences: updates the methodology and instruments for identifying, managing and mitigating the risk in the management and control systems of the organisations, forcing them to regularly report and disseminate to internal and external audiences as a means of raising awareness and democratic scrutiny.

This instruction modernizes two previous Recommendations:

- Recommendation of the CPC, of 1 July 2009, on Risk Management Plans for corruption and related offences: introduced the risk analysis system in the management of the Portuguese Public Administration, and other public or private entities that are involved in decision-making concerning funds or assets;
- Recommendation of the CPC, of 7 April 2010, on Advertising of the Prevention Plans for risks of corruption and related offences: created the obligation to communicate internal control mechanisms, as well as the results of audits, by all public organisations, including in their respective websites to allow public scrutiny.

These recommendations on Risk Prevention Plans inspired the National Standard "Anti-Corruption Management Systems - Requirements and guidance", developed by the Portuguese Institute for Quality (IPQ NP ISO 37001 2018-en).

Among the most recent and significant developments, in addition to Recommendation of the CPC on the Management of Conflicts of Interest in the Public Sector of 2020 (refer to Q23), other recommendations include:

- Recommendation of the CPC, of 2 October 2019, on the Prevention of risks of corruption in public procurement: updates the instructions for decision-makers and managers of public assets, emphasizing the financial importance for the economy, the need for a legal basis and the procedural specificities of the formation and execution of contracts, in particular, the need for transparency in documents related to the call for tenders, and the tender program and specifications;
- Recommendation of the CPC, of 4 May 2017, on the Permeability of the Law to risks of fraud, corruption and related offences: introduces the innovative notion of legal risk, both in the elaboration, interpretation and application of law, and of administrative regulations, with the purpose of contributing to an improved understanding of norms and formulation of public policies – as well as to positive effects in the economy, namely concerning financial impacts on public expenditure;
- Recommendation of the CPC, of 1 July 2015, on Combating Money Laundering: it raises awareness on financial and non-financial entities involved in prevention obligations and in the fight against money laundering and the financing of terrorism, and the need to strengthen articulation of their activities.

The CPC has issued other significant Recommendations in the context of privatization operations and in the tax area.

The directives of the CPC are published in the Official journal, on the CPC website, and are also transmitted to the sovereign bodies of the State, the Public Prosecutor's Office and national systems of internal control in the Public Sector. The CPC monitors the implementation of its Recommendations, through monthly visits to public entities. To this date, the CPC has carried out 82 Pedagogical Visits involving around 8,000 managers and collaborators of organisations operating in critical areas or which are more exposed to systemic vulnerabilities.

The CPC is currently represented in the Working Group that is working on the definition of a national and integrated strategy to combat corruption, including prevention and repression strategies, established by the Ministry of Justice in 2019. This Working Group aims to develop eight objectives:

- to establish a national anti-corruption report;
- assess the permeability of laws against fraud risks;
- reduce legal complexities and bureaucratic burdens;
- set the obligation of administrative entities to adhere to a code of conduct or adopt their own codes of conduct;
- provide administrative entities with an internal control department that ensures the transparency and impartiality of procedures and decisions;
- improve public procurement processes;
- strengthen the transparency of political parties' expenditure;
- and to compel medium and large enterprises to have plans to prevent corruption and related offences.

There are also preventive goals, directly expressed in the ongoing actions at the CPC, namely regarding internal control in organisations, the permeability of laws and prevention plans and risk management of corruption and related offences.

*Axis II - Education Objective*

In the civic education pillar, emphasis is given to activities involving youth. CPC develops initiatives with Portuguese schools, from pre-school, primary and secondary levels, to higher education institutions. These are civic education programs specially designed and carried out according to the different age groups, with a focus on messages of honesty and probity. These initiatives include awards for excellence and video competitions, especially through the *Mais Vale Prevenir* programme. Over 1,200 schools have participated, from large cities to small rural towns, connecting around 30,000 students.

The most recent initiative is the *CPC-Science Award* aimed at stimulating scientific research on the prevention of corruption in behaviours and organizations. The first edition connected 15 universities and produced more than 1,500 pages of academic research. The *CPC-Science Award* was awarded to a study in the area of bioethics.

An integrity program in the field of sports is under development, in collaboration with the Portuguese Olympic Committee and the educational and sports systems. In has the collaboration of several renowned Portuguese athletes. The project is based on the "Fair play against corruption" contest, involving secondary schools and students aged 10 to 18. The basic idea was to select a thematic message to integrate the documentation associated with the 2021 Olympic Games in Tokyo.

## VII - ANNEX III

### 32. Rules governing transparency of media ownership

*Article 1 - Object*

1 - This Law regulates the transparency of the ownership, management and means of financing of entities pursuing media activities, with a view to promoting freedom and pluralism of expression and safeguarding their editorial independence vis-made before political and economic powers.

2 - The legal regime established in this Law shall not prejudice the application of the transparency regime of shares of companies open to public investment, in particular as regards the reporting duties provided for in the Securities Code, nor does it preclude the fulfilment of any duties arising from other sectoral regulatory regimes, namely the legal regime for the defence of competition or the legal regime of electronic communications networks and services[10].

*Article 2 - Scope*

2 - This Law applies to all entities in Article 6 of the Statutes of the Regulatory Authority for Media (ERC), approved by Law No. 53/2005 of November 8, which, under the jurisdiction of the state Portuguese, continue media activities, namely:

a) News agencies;
b) natural or legal persons editing periodical publications, regardless of the distribution medium they use;
c) radio and television operators, in respect of programme services which broadcast or complementary content which they provide, under their editorial responsibility, by any means, including electronically;
d) natural or legal persons making available to the public, through electronic communication networks, radio or television programme services, to the extent that they are to decide on their sealing and aggregation;
e) natural or legal persons who regularly make available to the public, through electronic communications networks, content submitted for editorial treatment and organised as a coherent whole;

3 - This Law also applies to holders and holders of shares in the share capital of the entities referred to in the preceding paragraph.

*Article 3 - Transparency of ownership and management*

1 - The list of holders on their own account or on behalf of others, and usufructuaries of shares in the share capital of entities pursuing media activities, together with the composition of their corporate bodies, as well as the identification of the person responsible for editorial guidance and supervision of the content disseminated, shall be communicated to the ERC by the entities referred to in Article 2(1), without prejudice to compliance with Article 16 where applicable;

2 - The list of holders and holders mentioned in the preceding paragraph shall proceed to:

a) identification and discrimination of the percentages of social participation of the respective holders;
b) identification and discrimination of the entire chain of entities to which a holding of at least 5% must be imputed in accordance with Article 11(3);
c) Indication of the shareholdings of those holders in legal persons holding direct or indirect holdings in other media.

*Article 5 - Transparency of the main means of financing*

1 - The Regulatory authority is also provided with information on the main financial flows for the management of the entities covered by the present law, in terms to be defined in the ERC Regulation[11], which sets out the nature of the data to be transmitted and the periodicity of the reporting obligation.

[10] This standard includes a double-supervision mechanism, depending on the legal status of ownership.

[11] Regulation No. 348/2016 of 1 April lays down rules on the transparency of the main means of financing and on the annual corporate governance report of entities pursuing media activities.

2 - This obligation applies only to entities which are required to have accounting organised in accordance with the applicable accounting rules or under other legal provisions in force.
3 - This obligation shall include the list of individual or legal persons who have, by any means, individually contributed at least more than 10% to the income calculated in the accounts of each of those entities or who are holders of claims which may give them a relevant influence on the undertaking, as defined in the ERC Regulation[12].
4 - Where the information to be requested by ERC consists of information already in the possession of the administration or other public body, the entities shall be exempted from communicating it provided that they consent to their transmission to the ERC by the services holding them, in particular in the case of the financial year accounts.

*Article 6 - Public availability of information*

1 - Information transmitted to the ERC pursuant to Article 3(1), Article 5 and Article 16 is publicly accessible, except where the ERC considers that the fundamental interests of the persons concerned justify exceptions to that principle.
2 - The ERC makes this information available through a specific website, namely through a database, easily accessible and consulted, specially designed for this purpose[13]
3 - The information broken down in Articles 3 and 4 and Article 5 1 and 2 shall also be made available within ten working days on the main page of the website of each of the media held by entities subject to communication obligations, in a place of easy identification and access, by means of easy-to-read body formatting normally used for news texts.
4 - In the absence of an electronic website, the information shall be made available, within 10 working days, on one of the first 10 pages of all periodicals held by the entity subject to that duty and, holding other media, in one of the first 10 pages of a general and national information journal, by means of easy-to-read body formatting and normally used for news texts.
5 - Information and information transmitted to the ERC pursuant to Articles 3 to 5 and Article 16 and publicly disclosed by it pursuant to paragraph 1 of this Article may be used by the ERC in the exercise of its tasks and powers, in particular as regards the safeguarding of the free exercise of the right to information and freedom of the press , the safeguarding of the independence of media entities vis-à-vis political and economic powers and the defence of pluralism and diversity in the face of powers of influence over public opinion.

*Article 7 - Public limited liability companies*

Shares representing the share capital of public limited liability companies which directly hold one or more media must take the form of the word.

*Article 8 - Legal persons in a non-corporate manner*

The obligations laid down in Articles 3 to 6 shall apply, with appropriate adaptations where necessary, to legal persons in a non-corporate manner pursuing media activities, such as associations, cooperatives or foundations.

*Article 9 - Natural persons*

Natural persons who directly pursue communication activities or who hold and hold shares in the share capital of the entities referred to in Article 2 shall be subject, with the necessary adaptations, to the provisions of Articles 3, 4 and 6.

*Article 11 - Qualifying holdings*

1 - Those who hold, directly or indirectly, alone or jointly, participation equal to or greater than 5 % of the share capital or voting rights of entities pursuing media activities shall be subject to the duties set out in Articles 12, 13 and 15.
2 - The duties provided for in the preceding paragraph shall also apply to those holding a holding interest of 5 % or more who increase or reduce their qualifying holding.
3 - For the purposes of calculating qualifying holdings, the holdings shall be considered, inter alia:
    (a) directly held;

[12] See previous note.
[13] See previous note.

(b) held for the benefit;
(c) owned by third parties in their own name, but on behalf of the participant;
(d) owned by a company dominated by or with the participant in a group relationship;
(e) held by holders of the right to vote with whom the participant has entered into any kind of parasocial agreement;
(f) held by the members of its administrative or supervisory bodies, where the participant is a legal person;
(g) that the participant may acquire, by virtue of an agreement already concluded with the respective holders;
(h) constituted in a guarantee in favour of or deposited before the depositor, when he has been granted voting rights or discretionary powers for the exercise of the depositor;
(i) administered by the participant, when he or she has been granted voting rights or discretionary powers for its exercise;
(j) held by persons who have entered into an agreement with the participant who is intended to acquire the dominance of the company or to frustrate the change of domain or who otherwise constitutes an instrument of concerted exercise of influence over the participating company.

4 - The shares belonging to the spouse, the *de facto* united couple and relatives in the straight line, descendants and ascendants, as well as relatives up to the second degree of the collateral line, unless unequivocal evidence of the absence of dominion, to be produced before the ERC, shall be presumed indirectly held.

*Article 12 - Special information duties*

1 - Where they reach or exceed the limit set out in paragraph 1 of the preceding Article, when they reduce their participation to a value below that limit or where, in other circumstances, they increase or reduce a qualifying holding, the respective holders shall inform the ERC and the participating entity within 10 working days following the occurrence of the fact justifying them and shall not be subject to any fees or fees.
2 - The participating entity shall publish, within two working days, the information received in accordance with the preceding paragraph on the main page of the website of each of the media held by it, in a place of easy identification and access, by means of formatting in an easily read body and normally used for news texts.
3 - In the absence of an electronic site, the information shall be made available on one of the first 10 pages of the first edition following the occurrence of the constitutive fact of the duty of communication, by means of easy-to-read body formatting and normally used for news texts in the case of periodical publications, or, in the case of other media, on one of the first 10 pages of a general and national information journal , by easy-to-read body formatting and usually used for news texts.
4 - The participating entity and each of the holders of its governing bodies shall inform the ERC when they are aware of non-compliance, or of well-founded indications of non-compliance, of the reporting duties by qualified holding holders.
5 - In the case of listed companies, on behalf of collective or limited liability, only the communication to the participating entity and the publication provided for in paragraphs 2 and 3 shall be exempted.

*Article 13 - Imputation chain*

1 - The communication made pursuant to Article 11(1) shall identify the entire chain of entities to which qualifying participation shall be allocated.
2 - The duty to identify the chain of imputation constitutes a rule of immediate application that binds any holder of shareholdings in entities that continue media activities in Portuguese territory, regardless of their subjection to foreign law.

*Article 16 - Corporate government annual report*

1 - The entities referred to in Article 2(1) that, in corporate form, continue media activities, shall annually prepare and send to the ERC, by April 30 of each year, a report with truthful, complete, objective and current information on the corporate governance structures and practices adopted by them.
2 - The information to be included in the report shall be defined in the ERC Regulation, in particular containing: the ownership of the governing bodies and parallel professional activities; the relevant mechanisms for ensuring independence in editorial matters; the existence and description of internal control systems and reporting irregularities in the control of the means of funding obtained.

## VIII. ANNEX IV

### 33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

Status of Journalists enshrined in Law no. 1/99, published on 13 January 1999 (as it stands):

*Article 6 - Rights*
The fundamental rights of journalists are:

a) Freedom of expression and of creation;
b) Freedom of access to sources of information;
c) The guarantee of professional secrecy;
d) The guarantee of independence;
e) Participation in the orientation of the respective information media.

*Article 7 - Freedom of expression and creation*
The freedom of expression and creation of journalists is not subject to impediments or discrimination or to any kind or form of censorship.

*Article 11 - Professional secrecy*

1 - Without prejudice to the provisions of criminal procedural law, journalists are not obliged to disclose their sources of information, and their silence is not subject to any direct or indirect sanction.
2 - Judicial authorities before which journalists are called to testify must inform them in advance about the content and extent of the right to non-disclosure of the sources of information. Judicial notifications may otherwise be declared null and void.
3 - In the event that the disclosure of the sources under criminal procedural law is ordered, the court shall specify the scope of the facts on which the journalist is obliged to give evidence.
4 - When there is the disclosure of the sources of information in accordance with the criminal procedural law, the judge may decide, by his own order, of at the request of the journalist, to restrict public audience or provide that the deposition of witnesses takes place without publicity, and that those who participate in the deposition are bound by a duty of secrecy on the reported facts.
5 - Information directors, management boards and owners of media outlets, or any person who performs professional functions in such media outlets, may not, except with the written permission of the journalists involved, disclose sources of information, including journalistic archives of text, sound or image or any documents that may disclose sources.
6 - Police searches in media outlets can only be ordered or authorized by a judge, who personally presides over the search, and who shall notify the President of the most representative journalist trade union, so that they can be present at the search, subject to confidentiality.
7 - The material used by journalists in the exercise of their profession may only be seized in the course of searches in media outlets as provided for in the preceding paragraph or if carried out under the same conditions elsewhere by a court order, and only in cases where it is legally permissible to breach professional secrecy.
8 - The material obtained in any of the actions provided for in the preceding paragraphs and which allows for the identification of a source of information is sealed and sent to the court competent to order the breach of confidentiality. The court can only authorize its use as evidence when the breach of confidentiality has been ordered.

*Article 12 - Independence of journalists and conscience clause*

1 - Journalists may not be constrained to express or endorse opinions or refrain from doing so, or to perform professional tasks contrary to their conscience, nor may they be subject to disciplinary action by virtue of such constraints.
2 - Journalists may refuse any orders or instructions on editorial matters, issued by a person who does not hold a position of director or head of information.
3 - Journalists have the right to object to the publication or dissemination of their work, even if not protected by copyright, in another media outlet, even if it is held by the same company or economic

group to which they are contractually bound, provided that they invoke, in a reasoned manner, disagreement with their editorial orientation.

4 - In case of a profound change in the guidelines or in the nature of the media outlet, confirmed by the Regulatory Authority for Media at the request of the journalist, submitted within 60 days of the date those facts are verified, the journalist may terminate his contract with just cause, and is entitled to a compensation of one month and a half of basic remuneration and seniority for each full year of service, and never less than three months of basic retribution and seniority.

5 - The right to terminate the contract foreseen in the preceding paragraph must be exercised within 30 days following the notification of the Regulatory Authority for Media's resolution, or otherwise it shall expire. The Regulatory Authority's resolution shall be taken within 30 days of the journalist's request.

6 - Conflicts arising from paragraphs 1 to 3 shall be resolved by the Media Regulatory Authority, after a claim is presented. The claim is instructed with reasoned opinions from the editorial board, from the journalists directly implicated or from the trade unions.

*Article 13 - Right to participate*

1 - Journalists shall have the right to participate in the editorial orientation of the media outlet, except for doctrinaire or confessional orientations; as well as to present their views on all aspects concerning their professional activity and may not be subject to disciplinary sanctions for the exercise of those rights.

2 - In a media outlet with five or more journalists, and editorial board is elected by secret ballot among the journalists.

3 - The powers of the editorial board shall be exercised by all journalists in a media outlet with less than five journalists.

4 - The editorial board shall:

(a) cooperate with the management board on the editorial guidelines of the media outlet;
(b) give a reasoned opinion on the appointment or dismissal of the director of information;
(c) give a reasoned opinion on preparation and amendments to the editorial statute;
(d) participate in the elaboration and give a reasoned opinion on the final draft of codes of conduct;
(e) give a reasoned opinion on the conformity of advertising or images with the editorial guidelines;
(f) give a reasoned opinion on the claims by journalists regarding the rights provided for in Article 12(1) to (3);
(g) give a reasoned opinion or recommendations, on ethical matters or other issues relating to the activity of the newsroom;
(h) give a reasoned opinion on the disciplinary liability of journalists, and evaluate whether there is a just cause for dismissal of a journalist, within five days of the date on which the proceedings are brought to the attention of the editorial board.

Violation of the rights of journalists shall have the following consequences:

*Article 19 - Attack on freedom of information*

1 - Whoever, with the intent to attack the freedom of information, seizes or damages any materials necessary for the exercise of journalistic activity, or prevents the entry or permanence in public places for the purpose of information coverage, shall be punished with imprisonment for up to 1 year or with a fine of up to 120 days.

2 - If the offender is public official and is acting in such a capacity, they shall be punished with imprisonment of up to 2 years or with a fine of up to 240 days, if a more serious penalty is not applicable under criminal law.

It should also be noted on this subject that the Journalist's Code of Ethics, approved at the 4th Congress of Journalists on January 15, 2017, determines in its item 3 that journalists must fight against restrictions on access to sources of information and attempts to limit freedom of expression and the right to inform. It is the journalist's obligation to disclose offences to these rights.

## IX. ANNEX V

**37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).**

*a. Consultation of Autonomous Regions*

- Articles 178(7), 227(1)(r), (s) and (v), and 229(2) of the CPR – on the participation of the regional parliaments in the work of the parliamentary committees;
- Article 142 of the Rules of Procedure of the Parliament – on the right of the governmental entities of the Autonomous Regions to be heard by the national entities on issues that concern them;
- Articles 2(1) and 4 of Law No. 40/96, of 31 August 1996 – on the right of the governmental entities of the Autonomous Regions to be heard by the national sovereign entities on issues that concern them;
- Articles 36(1)(a), 114 to 120 and 139 to 140 of Law No 39/80, of 5 August 1980 (Political and Administrative Statute of the Autonomous Region of the Azores) – on the right of the governmental entities of the Region of Azores to be heard by the national sovereign entities with respect to matters that concern them;
- Articles 89 to 92 of Law No 13/91, of 5 June 1991 (Political and Administrative Statute of the Autonomous Region of Madeira) – on the right of the governmental entities of the Region of Madeira to be heard by the national sovereign entities with respect to matters that concern them.

*b. Consultation of Local Governments*

- Article 249 of the CPR – on the consultation of local government authorities regarding the creation, extinction or modification of the area within which they exercise their local jurisdiction;
- Article 141 of the Rules of Procedure of the Parliament and Articles 4(1)(a) and (3) of of Law No. 54/98, of 18 August 1998 – on the right to be heard of the representative associations of local government authorities by national sovereign entities, in all legislative initiatives concerning matters within their competence.

*c. With respect to fundamental rights and justice*

- Articles 16(4) and 30(1)(c) and (f) of Law No. 26/2016, of 22 August 2016, which transposes into national law Directive No. 2003/4/EC of the European Parliament and of the Council, of 28 January 2003, and Directive No. 2003/98/CE of the European Parliament and of the Council, of 17 November 2003 – on the competence of the Commission of Access to Administrative Documents (CADA) to issue advisory opinions on the application of the law and on the preparation and implementation of supplementary legislative initiatives, including, but not limited to, at the request of the Parliament, the Government or on its own initiative;
- Article 57 of Regulation (EU) No. 2016/679 of the European Parliament and of the Council, of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and Article 6(1)(a) and (b) of Law No. 58/2019, of 8 August 2019 – on the competence of the National Data Protection Commission (CNPD) to issue advisory opinions on legal provisions relating to personal data;
- Article 149(i) and (j) of Law No. 21/85, of 30 July 1985 (Status of Judges Act) – on the competence of the High Council of the Judiciary to issue advisory opinions on legal texts concerning the organisation of the judiciary and the Status of Judges Act, as well as on the administration of justice;
- Article 21(2)(f) and (i) of Law No. 68/2019, of 27 August 2019 (Public Prosecution's Office Act) – on the competence of the High Council of the Public Prosecution Office to issue advisory opinions on the organisation of the judiciary and, in general, the administration of justice;

- Article 30(2)(i) of Law No. 5/2008 of 12 February 2008 (as it stands), which approves the creation of a DNA profile database for the purposes of civil and criminal identification – on the competence of the Supervisory Board of DNA profile database to issue advisory opinions on legislative initiatives regarding matters that fall within the scope of Law No. 5/2008 of 12 February 2008 or are related to any legislative initiative of similar nature;
- Article 9(2) and (3) of Law No. 17/2003, of 4 June 2003, which establishes the legal framework on the citizens' legislative initiative;
- Article 2(5)(m) of Decree-Law No. 54/2012, of 12 March, which approves the organisation of the General Directorate of Internal Administration (GDIA) – on the competence of GDIA to issue advisory opinions on electoral-related matters;
- Article 74(2)(l) of Law No. 13/2002, of February 19 (Statute of Administrative and Fiscal Courts) – on the competence of the High Council of Administrative and Fiscal Courts to issue an advisory opinion regarding legislative initiatives concerning the administrative and fiscal jurisdiction;
- Article 3(j) of Law No. 15/2005, of 26 January 2005 (The Bar Association Act) – on the competence of the Portuguese Bar Association to be heard on draft legislative initiatives that are of interest to the exercise of the legal profession and legal representation in general, and to propose any legislative amendments that may be deemed appropriate;
- Article 9(2)(h) of Law No. 30/84, of 5 September 1984 (Framework Law on the Information System of the Portuguese Republic – SIRP) – on the competence of the SIRP Supervisory Board to be heard with respect to legislative initiatives that fall within the scope of SIRP and deal with the organization of their services.

*d. With respect to labour legislation*

- Articles 54(5)(d), 56(2)(a) and 80(g), and Article 92 of the CPR – on the right of trade unions to participate in matters concerning the social security system, and on the right to be heard of the Economic and Social Council;
- Article 141 of the Rules of Procedure of the Parliament and Articles 4(1)(a) and (3) of Law No. 54/98, of 18 August 1998 – on the right of workers' committees, trade unions and the employers' associations to participate in the drafting of labour legislation;
- Articles 469 to 475 of Law No. 7/2009, of 12 February 2009 (Labour Code, as it stands) – on the right of workers' commissions, their coordinating committees, trade union associations, employers' associations and the Standing Committee on Social Dialogue to participate in the drafting of labour legislation;
- Article 15 of Law No. 35/2014, of 20 June 2014 – on the Public Administration workers' rights to participate, under public law, in the process of establishing and amending their legal statute.

*e. With respect to national defence*

- Article 274 of the CPR – on the consultation of the Supreme Council of National Defence on matters concerning national defence and the organisation, operation and discipline of the Armed Forces;
- Article 17(1)(d) of Organic Law No. 1-B/2009, of 7 July 2009 – on the competence of the Superior Council of National Defence to issue advisory opinions on legislative initiatives relating to (i) defence policy, the organisation, operation and discipline of the Armed Forces, and the conditions of employment of the Armed Forces during a state of siege or of emergency; and (ii) draft and proposed military programmes.

*f. With respect to environmental matters, and territory planning*

- Articles 65(5) and 66(2) of the CPR – on stakeholder participation in the development of territory planning and land management instruments, and on citizen participation in the pursuit of the right to the environment respectively;
- Article 6 of Law No. 35/98, of 18 July 1998 (in its most recent version), which defines the legal statute of non-governmental environmental organizations (NGOs) – on the right of NGOs to participate in the shaping of policy and broad lines with legislative environmental guidance.

*g. With respect to consumers' rights*

- Article 60(3) of the CPR – on the right of consumer associations to participate in matters concerning consumer protection;

- Articles 15 and 18(1)(a) and (c) of Law No. 24/96, of 31 July 1996 (in its most recent version), which establishes the legal regime applicable to consumer protection – on the right of consumer associations to participate in consultation and hearing procedures in which it is discussed matters concerning legally protected rights or interests of the public and consumers.

*h. With respect to education and family*

- Articles 67(2)(g) and 77(2) of the CPR – on the right of family representative associations to participate in the preparation of family-related policies, and on the right of teachers, students and parents' associations to in the preparation of education-related policies respectively;
- Articles 3(1)(a) and (b) and 3(2) of Decree-Law No. 21/2015, of 3 February 2015 (National Education Council) – on the competence of the National Education Council to issue advisory opinions on all educational-related matters at the request of the Parliament or of the Government or on its own initiative.

*i. With respect to health*

- Article 6(1)(b) of Law No. 24/2009, of 29 May 2009 (Legal Regime of the National Ethics Council for Life Sciences) – on the competence of the National Ethics Council for Life Sciences to issue advisory opinions at the request of the Parliament, on the initiative of its own president, and at the request of a committed composed of one twentieth of the Members in office of the Parliament.

*j. With respect to agriculture*

- Article 98 of the CPR – on the right of farm workers and farmers to participate in the preparation of agriculture-related policies.

*k. with respect to media*

- Article 57 of Regulation (EU) No. 2016/679 of the European Parliament and of the Council, of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and Article 6(1)(b) of Law No. 58/2019, of 8 August 2019 – on the competence of the National Data Protection Commission (CNPD) to issue advisory opinions on legal provisions relating to personal data.

*l. with respect to financial-related matters*

- Article 5(2) of Law No. 98/97 of 26 August 1997 (Law on the organization and procedure of the Court of Auditors) – on the competence of the Court of Auditors to issue advisory opinions on legislative initiatives regarding financial-related matters at the request of the Parliament.

*m. With respect to migrant communities*

- Article 2(1)(a) of Law No. 66-A/2007, of 11 December 2007, which defines the powers, mode of organization and functioning of the Council of the Portuguese Communities – on the competence of the Council to issue advisory opinions, at the request of the Government or the Parliament, on legislative and administrative initiatives, and international agreements concerning Portuguese communities living abroad.

*n. With respect to other matters*

- Article 177(3) of the CPR, which deals with participation of members of the government in the work of parliamentary committees;
- Article 140 of the Rules of Procedure of the Parliament – on general public discussion of legislative initiatives due to the particular relevance of the matter in question.
- Article 6(2) of Decree-Law No. 274/2009, of 2 October 2009, which regulates the procedure on the consultation of public and private entities by the Government.

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