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FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies

EVALUATION REPORT

PORTUGAL

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GRECO
Group of States against Corruption
Groupe d'États contre la corruption

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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I. EXECUTIVE SUMMARY

1. This report evaluates the effectiveness of the framework in place in Portugal to prevent corruption among persons with top executive functions (the Prime Minister and other members of the Government, the Prime Minister's head of cabinet and advisors, as well as the Ministers' heads of cabinet and advisors, hereafter "PTEFs") and members of the National Republican Guard (hereafter "GNR") and the Public Security Police (hereafter "PSP"). It aims at supporting the on-going reflexion in the country as to how to strengthen transparency, integrity and accountability in public life.

2. Portugal has developed an extensive anti-corruption legal and institutional framework, thanks to transparency and anti-corruption legislative packages introduced in 2019 and 2021, consisting of, amongst others, a National Anti-Corruption Strategy covering the period 2020-2024; a National Anti-Corruption Mechanism, which is the entity responsible for the implementation and monitoring of the General Regime for the Prevention of Corruption, requiring the adoption of regulatory compliance programs in the public sector and private entities having fifty or more employees; a Code of Conduct for members of the Government and members of ministerial cabinets; a specific regime laying down rules on integrity and ethics applicable to political and senior public officeholders, coupled with the setting up of an Entity for Transparency (also referred to as the Transparency Authority) which is entrusted with the collection and scrutiny of declarations of assets, interests and liabilities. The implementation of a time-limited pilot project regarding the Legislative Footprint Register is ongoing, and a new law protecting whistleblowers has been passed.

3. However, there have been noticeable delays in the effective implementation and monitoring of the rules in place in many areas. Neither the National Anti-Corruption Mechanism nor the Entity for Transparency are yet fully operational. The National Anti-Corruption Strategy lacks an action plan and proper monitoring arrangements. The Government's code of conduct needs to be complemented by proper guidance, especially as regards conflicts of interests and gifts, as well as by awareness-raising activities and a mechanism of supervision and sanction. Both the Government and law enforcement authorities must comply with the requirements emanating from the new law on the protection of whistleblowers. A system to check the integrity of candidates prior to joining the Government has been recently established, there being no rules on integrity checks prior to the appointment of members of ministerial cabinets. The rules on post-employment restrictions for members of the Government do not appear to be consistently applied in practice. The declaration system by PTEFs of their assets, liabilities and interests suffers several flaws, ranging from the platform for the electronic filing of declarations not being operational yet to the failure to publish the declarations in full and carry out regular substantive checks. These deficiencies effectively hamper the credibility of Portugal's efforts to bolster the integrity system applicable to PTEFs and they need to be addressed with strong political will and pursued with determination.

4. Another area of concern relevant for both PTEFs and law enforcement authorities lies with the efficiency of the process of on access to public information and public consultation. They need to be reviewed to make information more readily available in practice, the relevant authorities' websites should be updated more regularly and become more user-friendly for the public, the rules on public consultation on draft legislation ought to be strengthened and

more transparency is required as regards contacts of PTEFs with lobbyists and third parties seeking to influence the Government's decision-making process.

5. Turning to the GNR and the PSP specifically, GRECO recommends several measures to increase transparency, objectivity and avoid undue influence, including as regards appointment and promotion to senior positions, donations and sponsorships, outside activities, as well as the oversight and disciplinary regime.

6. In order to further strengthen integrity, ethical standards also need to be further elaborated, especially as regards conflicts of interests and gifts, and complemented by a confidential counselling mechanism. Finally, GRECO recommends that measures be taken to increase the representation of women at all levels of the PSP and the GNR and that internal whistleblowing channels be established.

II. INTRODUCTION AND METHODOLOGY

7. Portugal joined GRECO in 2002 and has been evaluated in the framework of GRECO's First (in November 2002), Second (in November 2005), Third (in May 2010) and Fourth (in July 2015) Evaluation Rounds. The resulting Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website (www.coe.int/greco). The Fifth Evaluation Round was launched on 1 January 2017.

8. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of Portugal to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of Portugal, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, Portugal shall report back on the action taken in response to GRECO's recommendations.

9. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Portugal from 24 June to 1 July 2022, and reference was made to the responses by Portugal to the Evaluation Questionnaire (Greco(2016)19rev), as well as other information received, including from civil society. The GET was composed of Ms Evgjeni BASHARI, Inspector General, High Inspectorate for the Audit of Assets and Conflict of Interest (Albania), Mr Alexandru CLADCO, prosecutor seconded to the National Institute of Justice (Republic of Moldova), Ms Esther SEVILLA NAVARRO, Responsible for Spanish Assets Tracing and Recovery Office, Economic and Financial Intelligence Department/Intelligence Centre Against Terrorism and Organized Crime, Ministry of Interior (Spain) and Ms Monika OLSSON, Director, Division for Criminal Law, Ministry of Justice (Sweden). The GET was supported by Ms Sophie MEUDAL-LEENDERS and Mr Ylli PECO from GRECO's Secretariat.

10. The GET had meetings with representatives of the Secretariat General of the Presidency of the Council of Ministers, the Ministry of Justice, the General Secretariat of the Ministry of Home Affairs, the Inspectorate General of Finance – Audit Authority (IGF), the Inspector General for the Services of Justice, the Inspectorate General for Home Affairs, the Public Security Police, the National Republican Guard, the judiciary, the Public Prosecution Service, the Ombudsman, the Commission for Access to Administrative Documents and the Court of Auditors. It also had a hearing with members of the Assembly of the Republic, from both the Committee on Constitutional Affairs, Rights, Liberties and Guarantees (1st Committee) and the Committee for Transparency and the Statute of Members of Parliament (14th Committee), and further met representatives of academia, journalists, civil society and law enforcement officers' trade unions.

III. CONTEXT

11. Portugal has been a member of GRECO since 2002 and has undergone four evaluation rounds focusing on different topics related to the prevention of and fight against corruption. In summary, 92% of recommendations were implemented in the First Evaluation Round, 81% in the Second Evaluation Round, and 77% in the Third Evaluation Round. In the Fourth Evaluation Round, dealing with corruption prevention in respect of parliamentarians, judges and prosecutors, only 20% of the recommendations have been fully implemented, 47% partly implemented and 33% not implemented so far. The compliance procedure under that round is, however, still on-going.

12. According to Transparency International's Corruption Perception Index[1] (CPI), Portugal occupied the 33rd rank out of 180 countries in 2022 and had a score of 62 out of a total score of 100 (where 0 corresponds to countries with a high level of corruption and 100 to countries with a low level of corruption). This has remained relatively constant in the last five years, with the score ranging from 61 to 64 and the ranking between 29 and 33. Corruption in government is considered to be widespread. According to Transparency International's Global Corruption Barometer in the European Union 2021[2], 88% of people in Portugal think that corruption in government is a big problem. This percentage is much higher than the average in the EU (62%). In general, 41% of people thought corruption increased in the previous twelve months and 41% thought the corruption level stayed the same.

13. In response to major corruption scandals involving high-ranking politicians, officials, which even led to the indictment of the former Prime Minister of Portugal to stand trial for charges of money laundering and falsifying document[3], in 2019 and 2021 the Government introduced transparency and anti-corruption legislative packages aiming at increasing its transparency and accountability. Thus, the National Anti-Corruption Strategy for the period 2020-2024 has been adopted. The National Anti-Corruption Mechanism, which is the entity responsible for the implementation and monitoring of the General Regime for the Prevention of Corruption, has been created. Furthermore, the Government has adopted a Code of Conduct for its members. A regime governing the exercise of functions by political and senior public officeholders has been established, coupled with the setting up of an Entity for Transparency which is entrusted with the collection and scrutiny of declarations of income, assets, interests, liabilities and incompatibilities. The implementation of a time-limited pilot project regarding the Legislative Footprint Register is ongoing and under review, and a new law protecting whistleblowers has been passed. Details of these legislative initiatives and assessment of their implementation is described in this report.

14. As regards law enforcement authorities, according to the Global Corruption Barometer, police enjoy a high level of trust, as only 5% of people surveyed consider it to be corrupt. However, according to the European Commission's 2022 Rule of Law Report on Portugal[4], stakeholders reported that the lack of resources at the level of the police and the

[1] https://www.transparency.org/en/cpi/2022/index/prt
[2] https://www.transparency.org/en/gcb/eu/european-union-2021/results/prt
[3] https://www.theguardian.com/world/2021/apr/09/former-portuguese-prime-minister-socrates-to-stand-trial-for-money-laundering; https://www.reuters.com/world/europe/judge-drops-corruption-charges-against-portugals-ex-pm-socrates-2021-04-09/; https://www.politico.eu/article/portugal-former-prime-minister-jose-socrates-trial-money-laundering/
[4] https://commission.europa.eu/document/download/3276dbea-f736-42b9-97d9-086832a2c30d_en?filename=50_1_194020_coun_chap_portugal_en.pdf

prosecution service is an obstacle to prosecution of corruption-related cases. The lack of expertise and trainings, low levels of digitalisation and difficult access to databases as well as lack of financial independence are also reported as constraints. The report further states that challenges continue to remain concerning the treatment of high-level corruption cases. The most recent report of the Working Group on Bribery of the OECD, approved in October 2022[5], welcomed awareness-raising and training efforts, as well as Portugal's recent recruitment programme. The authorities expect that it will further strengthen the capacity of the National Unit against Corruption (UNCC) of the Criminal Police to investigate, regard being had to the significant investment in human resources set out for the period 2022-2026, as envisaged within the framework of ENA.

15. Freedom of the press is constitutionally guaranteed and, according to a 2022 report by Reporters without Borders[6], it is robust. However, Freedom House reports with concern about a case which, in 2018, involved the investigation of an offence relating to the violation of secrecy of investigation and had extended to the monitoring of bank accounts and telephone messages of a journalist who had reported on a corruption scandal[7]. In this connection, it should be mentioned that access to administrative information and documents held by public authorities requires improvement, as described in this report.

[5] Portugal needs to urgently step up its foreign bribery enforcement, says the OECD Working Group on Bribery - OECD
[6] https://rsf.org/en/index
[7] https://freedomhouse.org/country/portugal/freedom-world/2022

IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)

System of government and top executive functions

System of government

16. Portugal is a semi-presidential constitutional republic. Article 110 of the Constitution of the Republic of Portugal[8] (the Constitution) states that sovereignty is exercised by the President of the Republic, the Assembly of the Republic (a unicameral parliament), the Government and the courts, the latter of which act independently from the former political bodies.

The President of the Republic

17. According to the Constitution, the President of the Republic (the President) is the Head of State. Article 120 of the Constitution states that the President of the Republic represents the Portuguese Republic, guarantees national independence, the unity of the state and the proper operation of the democratic institutions, and is *ex officio* Commander-in-Chief of the Armed Forces. According to Articles 121 (1) and 128 (1) of the Constitution, s/he is elected by the universal, direct and secret suffrage of Portuguese citizens for a five-year term. Under Article 123 (1) of the Constitution, s/he is barred from seeking re-election for a third consecutive term or during the five years immediately following the end of a second consecutive term of office.

18. The Constitution has laid down three types of competences in respect of the President. The first concerns his/her competences in relation to other entities, as laid down in Article 133 of the Constitution. The most important aspects of these competences are the President's power to preside over constitutional organs, such as the Council of State, the Supreme National Defence Council or even the Government, upon a request by the Prime Minister, the power to appoint and remove various public officeholders upon a proposal from the Government, such as the Prime Minister, members of the Government, the President of the Court of Auditors, the Prosecutor General, certain members of the High Council for the Judiciary and the Chief of the General Staff of the Armed Forces, as well as the power to set the date for elections for members of Constitutional organs or order the dissolution of such organs in compliance with the electoral law. The second relates to the President's competences to perform his/her own acts, as stated in Article 134 of the Constitution, which comprise powers of a political nature, the most notable of which are the power to sign laws or exercise the right of veto, to call national referenda following an initiative by the Assembly of the Republic, to declare a state of siege or a state of emergency upon prior consultation of the Government, to grant pardon, remission or commutation of sentences after consulting the Government, and confer decorations in accordance with the law. Lastly, Article 135 confers on the President competences in international relations, which entail three specific actions: the appointment of ambassadors and extraordinary envoys upon a proposal from the Government, the ratification of international treaties following their approval and the declaration of war in the event of effective or imminent aggression upon a proposal from the

[8] https://www.parlamento.pt/sites/EN/Parliament/Documents/Constitution7th.pdf

Government after consulting the Council of State and subject to authorisation by the Assembly of the Republic.

19. As agreed by GRECO, a Head of State would be covered in the 5th evaluation round under "central governments (top executive functions)" when s/he actively participates on a regular basis in the development and/or the execution of governmental functions or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

20. During the on-site visit, it became evident to the GET that the President of the Republic does not hold or exercise any executive power independently, even though s/he is directly elected by popular vote. Nor does s/he have any direct interference in day-to-day operations of the Government. The constitutional provisions provide that the exercise of almost all of the President's competences – save for the right to veto laws and the right to request constitutional review of laws – is subject to prior consultation with, invitation from, proposal or request by the Government, the Assembly of the Republic or other constitutional bodies, as appropriate. The President does not have the right to initiate laws and no evidence was brought to the GET's attention that the President influences the Government policy or decision-making processes on an active and regular basis. In these circumstances, GRECO concludes that the President of the Republic of Portugal cannot be considered a person exercising top executive functions, as spelled out in the preceding paragraph, and falls outside the scope of this evaluation round.

The Government

21. Under Article 182 of the Constitution, the Government is the entity that conducts the country's general policy and it is the highest organ of the public administration. According to Article 183 of the Constitution, the Government comprises the Prime Minister, one or more Deputy Prime Ministers, Ministers, Secretaries and Undersecretaries of State, whose number, designation and responsibilities are decided, in each case, by the decree appointing the officeholders or by decree-law. The Council of Ministers comprises the Prime Minister, the Deputy Prime Ministers and the Ministers. Secretaries and Undersecretaries of State may attend meetings of the Council of Ministers without voting rights. The present (XXIIIrd) Government took office on 30 March 2022[9], and according to the official website[10], it is composed of the Prime Minister, 18 Ministers and 41 Secretaries of State (including a deputy Minister), there being no Deputy Prime Ministers, and Undersecretaries of State. There are currently 39 male and 21 female Government members, female representation thus being at 35%. In this connection, the GET draws the attention of the Portuguese authorities to Recommendation Rec (2003)3[11] of the Committee of Ministers on balanced participation of women and men in political and public decision-making, which sets out that the

[9] https://www.portugal.gov.pt/en/gc23/communication/news-item?i=new-government-took-office
[10] https://www.portugal.gov.pt/en/gc23/government/composition
[11] https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e0848

representation of either men or women in any decision-making body in political or public life should not fall below 40%.

22. In accordance with Article 187 of the Constitution, the President appoints the Prime Minister after consulting the parties with seats in the Assembly of the Republic and in the light of the electoral results. Upon a proposal from the Prime Minister, the President appoints the members of the Government. The Prime Minister's functions begin upon his/her appointment and end when s/he is discharged from office by the President. The functions of the members of the Government begin upon their appointment and end when they or the Prime Minister are removed from office. The functions of Secretaries and Undersecretaries of State also end when they are, or their respective Minister is, removed from office.

23. Article 195 of the Constitution provides the following grounds for the removal or resignation of the Government: (i) the beginning of a new legislature; (ii) acceptance by the President of the Republic of the Prime Minister's resignation; (iii) the Prime Minister's death or lasting physical incapacitation; (iv) rejection of the Government's programme; (v) the failure of any confidence motion; (vi) the passage of a motion of no confidence by an absolute majority of all the members of the Assembly of the Republic in full exercise of their office; and (vii) removal of the Government by the President when it becomes necessary to do so in order to ensure the normal operation of the democratic institutions and after first consulting the Council of State.

24. According to the Constitution, the Government is vested with political, legislative and administrative competences. The Prime Minister directs the Government's general policy, coordinates and orients the actions of Ministers, directs the work of the Government and informs the President about matters concerning the conduct of the country's internal and external policy. Ministers implement the policy that has been set for them, execute laws and other decrees issued by the Government and, within the scope of their respective ministries, conduct the relations of a general nature between the Government and other State entities and organs. According to Decree-law no. 32/2022 of 9 May 2022[12] on the organisation and functioning of the Government, the competences of Ministers and Secretaries of State are not set out in the Constitution. Ministers' competences can be established by specific law or delegated to them by the Council of Ministers or the Prime Minister. Secretaries of State do not have their own competences, except insofar as what refers to the respective cabinets, and exercise, in each case, the competence delegated to them by the Prime Minister or the respective Minister.

25. Article 190 of the Constitution provides that the Government is accountable to the President and the Assembly of the Republic. The Prime Minister is accountable to the President and, within the ambit of the Government's political responsibility, to the Assembly of the Republic. Deputy Prime Ministers and Ministers are accountable to the Prime Minister and, within the ambit of the Government's political responsibility, to the Assembly of the Republic. Secretaries and Undersecretaries of State are accountable to the Prime Minister and the respective Minister.

26. Decisions taken by a member of the Government acting under the competences attributed by law cannot be appealed within the Government. On the other hand, decisions

[12] https://dre.pt/dre/legislacao-consolidada/decreto-lei/2022-201509756

taken by a member of the Government acting under delegated competences, can be appealed to the member of Government who delegated such competences. Be that as it may, all decisions taken by members of the Government may be subject to judicial review.

27. The members of the Government are assisted by cabinets in the exercise of their functions. The nature, composition, organisational structure and legal regime of the Prime Minister's cabinet is set out in Decree-law no. 12/2012[13] of 20 January 2012. The nature, composition, organisational structure and legal regime of the cabinet of the members of the Government (ministerial cabinets) is set out in Decree-law no. 11/2012[14] of 20 January 2012. The Prime Minister's cabinet is composed of a Head of Cabinet also referred to as Chief of Staff, advisors (which comprise counsellors (*assessors*), assistants (*adjuntos*) and experts (*técnicos especialistas*)) and personal secretaries (*secretários pessoais*). The cabinet of the members of the Government comprises a Head of Cabinet also referred to as Chief of Staff, advisors (which include, assistants (*adjuntos*) and experts (*técnicos especialistas*)) and personal secretaries. The cabinets also comprise other technical-administrative and support staff (*pessoal de apoio técnico-administrativo e auxiliar*). The Prime Minister's cabinet may be composed of up to 22 advisors and 15 personal secretaries. A Minister's cabinet may be composed of up to five advisors and four personal secretaries. A Secretary of State may appoint up to three advisors and two personal secretaries and an Undersecretary of State one advisor and one personal secretary. The number of experts and other technical-administrative and support staff depends on the budgetary appropriations for each ministerial cabinet, including the Prime Minister's.

28. The Head of Cabinet (Chief of Staff) is responsible for the direction and coordination of the Prime Minister's and Ministers' cabinets, including the provision of private support services, and is also responsible for representing the Prime Minister and Ministers and liaising with the services and bodies of the Presidency of the Council of Ministers, the offices of the other members of the Government and other public and private entities. Advisors, i.e. counsellors (*assessors*), assistants (*adjuntos*), and experts (*técnicos especialistas*), coordinate the respective advisory services and provide specialised political and technical support in their respective areas of competence, under the guidance of the head of cabinet. Personal secretaries provide administrative support to the Prime Minister, Ministers and members of their cabinets.

29. The GET takes the view that all members of the Government, consisting of the Prime Minister, Deputy Prime Ministers, Ministers, Secretaries and Undersecretaries of State, are to be regarded as PTEFs in the sense of this report. Moreover, because of their role and work in providing advice on, and directly contributing to, political matters, pressing current issues, strategic matters and the decision-making process relating to implementation and monitoring of public policies, the Head of Cabinet and advisors, comprising assistants (*adjuntos*), counsellors (*assessors*) and experts (*técnicos especialistas*), are also to be considered PTEFs. Thus, the recommendations contained in this part of the report are addressed to all of the above categories (hereinafter jointly referred to as "persons with top executive functions – PTEFs"), unless otherwise stated in specific recommendations, as appropriate.

[13] https://dre.pt/dre/detalhe/decreto-lei/12-2012-544382
[14] https://dre.pt/dre/detalhe/decreto-lei/11-2012-544376

30. As regards members of the Government, on 13 January 2023 the Council of Ministers adopted Resolution no. 2-A/2023[15] approving a questionnaire of verification prior to the appointment of new members of the Government. The questionnaire is to be completed by potential candidates prior to the Prime Minister making a proposal to the President of the Republic for a candidate to join the Government as a Deputy Prime Minister, Minister, Secretary of State and Undersecretary of State. According to the Resolution, the questionnaire is an additional scrutiny mechanism that aims to strengthen the process of verification of the conditions of exemption, impartiality and probity required for the exercise of political functions. It contains questions regarding a candidate's current and previous professional activities, the existence of any actual, apparent or potential conflicts of interest and incompatibilities, the candidate's financial situation, including his/her income and participation in equity, the candidate's tax situation and criminal record and liability. The questionnaire does not replace or anticipate compliance with the disclosure obligations provided for by law, which aim to ensure the declaration, as a public rule, of assets, income, interests, liabilities and impediments/prohibitions of political and senior public officeholders, which is subject to review by legally competent bodies. Once completed by a candidate, the questionnaire is classified as national secret. Failure to disclose information or disclosure of false or inaccurate information will incur political responsibility vis-à-vis the Prime Minister who may take appropriate action, including the refusal to appoint a candidate to become member of the Government.

31. As regards members of the Prime Minister's and Ministers' cabinets, the GET notes that they are freely appointed and dismissed by order of the respective member of the Government. They may come from the public or private sector. The appointment is only conditioned by the need to verify the availability of budgetary resources of the respective cabinet and the limits concerning the maximum number of members that could be appointed. A security clearance may be obtained only if there is a need to access classified information.

32. Other than them signing a declaration of absence of conflicts of interests on appointment, which, according to the authorities, is subject to checks by heads of cabinet, there are no rules on integrity checks prior to the appointment of members of cabinets,. Such checks are useful to avert any conflicts of interest, especially as members of cabinets may come from the private sector and return to it at the end of their employment, and they are not recruited upon a competition. In addition, the GET notes that pursuant to Article 18 of Decree-law no. 11/2012, the designation orders of members of ministerial cabinets, including the Prime Minister's, are published on the Government's official website[16], which contains information regarding the name of the member of cabinet, the position title, the gross and net monthly salary, the starting date and the weblink to the designation order which includes a short curriculum vitae of the concerned cabinet member. Regrettably, the official website does not include information on the role and duties of members of cabinets, which would add greater transparency regarding their role in providing advice to members of the Government. Lastly, the GET takes note of the adoption of the recent Council of Ministers' Resolution putting in place a system to check the integrity of candidates prior to joining the Government through the completion of a questionnaire. While it has yet to be consolidated, the GET questions its implementation in practice as the Resolution does not indicate a body which will cross-check the information, all the more so that the completed questionnaire is classified as national secret, it is out of public reach and escapes public scrutiny (also see paragraph 60

[15] https://dre.pt/dre/detalhe/resolucao-conselho-ministros/2-a-2023-206105485
[16] https://www.portugal.gov.pt/pt/gc23/governo/nomeacoes

below). In the GET's view, the information contained in the questionnaire could be subject to review by, for example, the Transparency Authority (see also paragraph 103 below). In light of the foregoing information, **GRECO recommends that (i) rules on integrity checks apply to all persons with top executive functions, ahead of their appointment, in order to identify and manage existing and potential conflicts of interest; (ii) the information provided be cross-checked, and the results be published upon their appointment in office; and (iii) the area of competence and specific duties of all members of ministerial cabinets, including the Prime Minister's, be published online and kept up to date**.

Remuneration of persons with top executive functions

33. According to Law no. 4/85[17] of 9 April 1985 on the remuneration of political officeholders, members of the Government are entitled to a monthly salary, allowances for representation expenses, travel allowances and other supplementary or extraordinary allowances provided for by law. They also receive two bonuses, each of which is equal to the corresponding monthly salary and payable in June and November (referred to as the summer holiday and Christmas bonuses, which are payable to all civil servants and private sector employees). Decree-law no. 72/80[18] of 15 April 1980, as amended by Law no. 66-B/2012[19] of 31 December 2012, provides that members of the Government can benefit from a housing allowance if they do not have permanent residence in Lisbon or in a surrounding area of 150 km, and other supplementary or extraordinary allowances. Members of the Government are entitled to the use of a vehicle, laptop and mobile phone, which are to be used strictly for business purposes.

34. The table below provides an overview of salaries and representation expenses of the members of the Government.

Political officeholder	**Gross monthly salary in euros (EUR)**	**Representation expenses in euros (EUR)**
Prime Minister	EUR 5,502 (i.e. 75% of the President's salary)	EUR 2,200.8 (i.e. 40% of the gross monthly salary)
Deputy Prime Minister	EUR 5,135.2 (i.e. 70% of the President's salary)	EUR 2,054.08 (i.e. 40% of the gross monthly salary)
Minister	EUR 4,768.4 (i.e. 65% of the President's salary)	EUR 1,907.36 (i.e. 40% of the gross monthly salary)
Secretary of State	EUR 4,401.6 (i.e. 60% of the President's salary)	EUR 1,540.56 (i.e. 35% of the gross monthly salary

35. Remuneration for members of the Prime Minister's cabinet is determined by Decree-law no. 12/2012 and for members of ministerial cabinets by Decree-law no. 11/2012. The Prime Minister's and Ministers' Heads of Cabinet (Chief of Staff) receives a gross monthly salary corresponding to that fixed for the first level senior management positions. Representation expenses amount to 50% of the gross monthly salary for the Prime Minister's head of cabinet and 25% for Ministers' heads of cabinet. The gross monthly basic remuneration of advisors, is determined as a percentage of the standard rate set for holders of the first level senior management positions, ranging from 80% to 85%. Also, advisors

[17] https://dre.pt/dre/legislacao-consolidada/lei/1985-34475275
[18] https://dre.pt/dre/detalhe/decreto-lei/72-1980-681995
[19] https://dre.pt/dre/detalhe/lei/66-b-2012-632448

receive a supplementary remuneration paid monthly and corresponding to between 20% and 40% of the gross monthly basic remuneration. The Government's official website (see paragraph 32 above) indicates that the gross monthly salary for members of the Prime Minister's cabinet, namely advisors, assistants and experts, ranges from EUR 4,026.98 to EUR 5,756.54. Members of the Prime Minister's and Ministers' cabinet are further entitled to holiday and Christmas bonuses, meal stipends, a daily allowance and travel allowance when traveling abroad on business. Heads of Cabinet are further entitled to a housing allowance, if they reside more than 150 km away from the city of Lisbon, which is paid after the publication of the authorisation order, but with effect from the date of taking up office.

36. Law no. 52-A/2005[20] of 10 October 2005 regarding pensions and subsidies for political officeholders provides that, upon leaving office, members of the Government are entitled to receive a permanent or temporary incapacity allowance if, in the course of performing their functions, or as a result thereof, they became physically or mentally incapacitated. The allowance is capped at 50% of the salary of the respective member of the Government for as long as the incapacity persists.

37. If a member of the cabinet ceases his/her functions as a result of the resignation of the respective member of the Government, s/he is entitled to receive one twelfth of his/her monthly salary, multiplied by the number of months - up to 12 - during which s/he performed those functions.

38. Verification of representation expenses incurred by the members of the Government is carried out by the finance unit of the General Secretariat of the respective Ministry . The Portuguese Court of Auditors and the Inspectorate General of Finances of the Ministry of Finance (*Inspeção-Geral de Finanças* - IGF) may also verify the expenses incurred by members of the Government and the procedure for making any advance payments. Thus, the First Chamber of the Court of Auditors may audit the procedures and administrative acts involving staff expenses, such as the representation expenses, and the Second Chamber may audit the financial activities carried out before the termination of office of the respective management. The applicable law lays down the procedure that should be followed in the event of any adverse findings made by the Court of Auditors.

Anti-corruption and integrity policy, regulatory and institutional framework

Anticorruption policy

39. By Resolution no. 37/2021[21] of 6 April 2021 the Government adopted the National Anti-Corruption Strategy 2020-2024 (*Estratégia Nacional Anticorrupção* – "ENA"), which is a descriptive and analytical document, building on preventive and repressing measures. The seven priorities identified in ENA are: (i) to improve knowledge, training and institutional practices on transparency and integrity, (ii) to prevent and detect the risks of corruption in public action, (iii) to commit the private sector in the prevention, detection and prosecution of corruption, (iv) to strengthen coordination between public and private institutions, (v) to ensure a more effective and uniform application of the legal mechanism related to the prosecution of corruption, improve the response time of the judicial system and ensure the adequacy and effectiveness of the punishment, (vi) to produce and disseminate from time to

[20] https://dre.pt/dre/detalhe/lei/52-a-2005-485267
[21] https://dre.pt/dre/detalhe/resolucao-conselho-ministros/37-2021-160893669

time reliable information on the phenomenon of corruption, and (vii) to cooperate at international level in the fight against corruption.

40. Pursuant to ENA, a general regime for the prevention of corruption was adopted. The implementation of the general regime for the prevention of corruption will be monitored by the National Anti-Corruption Mechanism (see paragraphs 42 and 46 below).

41. The GET notes that ENA does not contain an action plan, describing precise tasks, roles of responsible authorities, timelines for the implementation of tasks and indicators of achievement. Nor does it lay down any monitoring reporting requirements regarding its implementation. The GET stresses the need to have in place such action plan in order to guide and monitor the implementation of ENA. Therefore, **GRECO recommends that the National Anti-Corruption Strategy be accompanied by a dedicated action plan for its implementation in practice**.

Institutional framework and integrity policy

42. Pursuant to ENA, Decree-law no. 109-E/2021[22] of 9 December 2021 created the National Anti-Corruption Mechanism (*Mecanismo Nacional Anticorrupção* – "MENAC"), which entered into force on 9 June 2022. Decree-law no. 109-E/2021 will eventually repeal Law no. 54/2008[23], which has set up the Council for the Prevention of Corruption (see also paragraph 45 below), upon the full operation of MENAC in 2023. MENAC is an independent administrative entity, with legal personality governed by public law and powers of authority, endowed with administrative and financial autonomy, and active at national level in the prevention of corruption and corruption-related offences. Its mission is to promote transparency and integrity in public action and to ensure the effectiveness of policies to prevent corruption and related violations. MENAC has wide-ranging duties, such as developing and adopting programmes and initiatives aimed at creating a culture of integrity and transparency. It collects information on corruption-related offences and prepares an annual anti-corruption report. Also, MENAC disseminates information and carries out public awareness campaigns. In addition, it promotes, supports, monitors and supervises the implementation of the general regime for the prevention of corruption, and opens, investigates and decides on proceedings related to the commission of breaches provided for in the general regime for the prevention of corruption and applying respective fines.

43. The President of MENAC has the overall responsibility for its work and is appointed by a resolution of the Council of Ministers for a single term of six years. The Vice-President, who assists the President, is appointed by a resolution of the Council of Ministers upon proposal from the President for a non-renewable term of six years. The Advisory Council provides recommendations, comments and suggestions within the scope of MENAC's tasks. the Monitoring Committee assists MENAC in the implementation of its annual activity plan and the Sanctions Committee assesses non-compliance with the General Regime for the Prevention of Corruption, determines the opening of investigations and proposes the imposition of fines and ancillary penalties. MENAC is assisted by technical and administrative support personnel who, according to the law, are appointed through a mobility procedure from the public administration, namely the Ministry of Justice and the Ministry of Finance.

[22] https://dre.pt/dre/detalhe/decreto-lei/109-e-2021-175659840
[23] https://dre.pt/dre/legislacao-consolidada/lei/2008-175682068

44. During the on-site visit, the GET learned that efforts were underway to make MENAC operational. By Resolution no. 56/2022[24] of 5 July 2022, the Council of Ministers appointed the President of MENAC. The GET notes that, as a matter of priority, the authorities should take all the necessary measures to make MENAC fully operational, by providing it with an independent and permanent secretariat to be recruited by MENAC itself, in order to ensure that the prevention of, and the fight against, corruption translates into tangible deeds, a matter of high concern underlined by interlocutors met on-site. In view of the foregoing, **GRECO recommends that, as a matter of priority, the National Anti-Corruption Mechanism become fully operational, in practice, by providing it with adequate measures and appropriate resources (financial, personnel, administrative, legal, etc.).**

45. Pending the full functioning of MENAC, the Council for the Prevention of Corruption (CPC), which was set up by Law no. 54/2008 and is an independent administrative body that operates within the Court of Auditors, will continue to operate. Throughout the years, the CPC has adopted several recommendations[25] for public managers towards the definition of preventive strategies of identification of risks of corruption and related crimes, and adoption of control and preventive measures in order to reduce those risks. It will cease to exist upon MENAC's becoming fully operational.

46. Furthermore, Decree-law no. 109-E/2021 established the General Regime for the Prevention of Corruption (*Regime Geral da Prevenção da Corrupção* – "RGPC"), which applies to, amongst other bodies, ministries and entities directly or indirectly subordinate to the State, State-owned companies and private entities which have a workforce of 50 or more employees. MENAC has been tasked to plan the control and monitor the implementation of RGPC and coordinate such tasks with the general inspections of different ministries (or equivalent entities) as well as the regional inspections (of Azores and Madeira). The entities covered by RGPC are required to implement a regulatory compliance program that includes, at least, a plan for the prevention of risks of corruption and related offences (*plano de prevenção de riscos de corrupção e infrações conexas* – "PPR"), a code of conduct, a training program and a whistleblowing channel in order to prevent, detect and sanction acts of corruption and related activities. Also, the entities are to designate a senior manager or a person responsible for regulatory compliance who will ensure and monitor the application of the regulatory compliance program and is to act independently, permanently and with autonomous decision-making powers ("compliance officer"). The activity plan of the Inspectorate General of Finance (IGF) for 2023 reportedly includes actions to verify the fulfilment of such obligations by entities of the central government, State-owned companies and local authorities. IGF is thus preparing the respective methodological instruments. The GET welcomes that the establishment of regulatory compliance programs has been sanctioned by law and become binding, and that the IGF has envisaged to verify compliance of measures taken by, *inter alia*, the central government with RGPC.

47. PPRs are to cover the entire organisation and activity, including administrative, managerial, operational or support areas of the entity. They contain the identification, analysis and classification of risks and situations that may expose the entity to acts of corruption and related offences, and the determination of preventive and corrective measures to reduce the likelihood of occurrence and the impact of identified risks and situations. They are subject to review every three years or whenever a change occurs in the attribution or organic or

[24] https://dre.pt/dre/detalhe/resolucao-conselho-ministros/56-2022-185669164
[25] http://www.cpc.tcontas.pt/recomendacoes.html

corporate structure of the entity that justifies the review of its constituent elements, namely the areas of activity of the entity with risk of committing acts of corruption and related offences, the probability of occurrence and foreseeable impact of each situation, introduction and implementation of preventive and corrective measures and designation of a person responsible for the execution, control and revision of the PPR. PPRs are to be made public to employees.

48. According to the Council for the Prevention of Corruption's (CPC) website[26], 1,300 public entities have adopted PPRs. General secretariats of the Council of Ministers and of ministries have adopted a PPR, although weblinks to their publication, implementation and monitoring reports are missing on the CPC's website. During the on-site meetings, the GET was informed that there is no PPR in respect of PTEFs. In this connection, the GET underlines that accountability of PTEFs has become an increasingly sensitive topic in a number of member States. PPRs should be drafted, approved, implemented and monitored in respect of PTEFs, regardless of the number of employees hired in the public entity in which they exercise their duties, as their involvement in the decision-making process at the highest level of the State makes them more sensitive and prone to corruption risks. It is important that PPRs be made easily accessible to the public. In accordance with the law, MENAC should review all PPRs and make recommendations on their implementation to ensure better transparency. Therefore, **GRECO recommends that (i) a plan for the prevention of risks of corruption specific to persons with top executive functions, comprising the identification of integrity-related risks and appropriate remedial measures, be established and published online, and (ii) the plan be subject to regular monitoring by the National Anti-Corruption Mechanism, making public its findings and recommendations as well as the responses of the authorities**.

49. According to the RGPC, a code of conduct is to establish the set of principles, values and rules of actions of all managers and employees in terms of professional ethics. It should identify at least the disciplinary sanctions which, under the law, may be applied in the event of non-compliance with the provisions contained therein and the criminal sanctions associated with acts of corruption or related offences. It is subject to review every three years or whenever a change occurs in the attribution or organic or corporate structure of the entity that justifies the review of its constituent elements. The entities are to ensure its publicity to employees. They should set up internal whistleblowing channels and follow up on reports of acts of corruption and related offences. The entities must also ensure the implementation of internal training programmes for all managers and employees, taking into account the different exposure of managers and employees to identified risks.

50. A separate section in the RGPC sets out a number of administrative offences (e.g. failure to adopt and implement the PPR and/or the code of conduct or the adoption or implementation of the PPR and/or the code of conduct that lacks one of their constituent elements, failure to review the PPR/code of conduct, failure to advertise the PPR/code of conduct to employees, failure to implement an internal control system) and the respective fines which vary from EUR 1,000 to EUR 44,891.81 depending on whether the offence is committed by a legal or similar entity or natural persons.

Regulatory framework, ethical principles and rules of conduct

[26] http://www.cpc.tcontas.pt/planos_prevencao.html

51. The regulatory framework applicable to PTEFs has experienced a number of amendments since 2019. As described in paragraph 42 above, Decree-law no. 109-E/2021 of 9 December 2021 created MENAC and established RGPC. On 31 July 2019 Law no. 52/2019[27] on the regime governing the exercise of functions by political officeholders and senior public officeholders ("the Political and Senior Public Officeholders Act") was passed, and it has been subsequently amended in 2020, 2021 and 2022. It applies to, amongst other officials, the Prime Minister and members of the Government, who are jointly referred to as political officeholders. For the purposes of reporting obligations provided for under that Act, namely the filing of a single declaration of income, assets, liabilities, interests, incompatibilities and disqualifications (see paragraph 97 below). Heads of Cabinets (Chief of Staff) of members of the Government, including the Prime Minister's, have the equivalent status of public officeholders. The Political and Senior Public Officeholders Act lays down rules on, *inter alia*, conflicts of interests, disqualifications, reporting obligations of income, assets, interests and liabilities, post-employment restrictions, acceptance of gifts, offers and hospitality as well as sanctions, as set out in more details below.

52. Pursuant to Article 19 of the Political and Senior Public Officeholders Act which requires public entities to adopt and publish codes of conduct, by Resolution of the Council of Ministers' no. 42/2022 of 9 May 2022, the Government adopted a Code of Conduct which entered into force on the above-mentioned date and has been published on the Government's website[28]. According to Article 2, it applies to all members of the Government and, with the necessary adaptations, to members of ministerial cabinets, including the Prime Minister's. Its application to all PTEFs was confirmed in a meeting with representatives of the Secretariat General of the Presidency of the Council of Ministers. The Code of Conduct lays down general principles governing the work of PTEFs, such as the pursuit of the public interest and good administration, transparency, impartiality, probity, integrity and honesty, urbanity, inter-institutional respect and guarantee of confidentiality regarding the reserved matters of which they become aware in the exercise of their functions. It contains specific provisions on conflicts of interest, acceptance of offers and invitations, use of public goods or resources. According to its Article 5, failure to comply with the provisions of the Code of Conduct implies political accountability towards the Prime Minister, in the case of the members of the Government, or accountability towards the respective member of the Government, in the case of the members of ministerial cabinets. It does not exclude or prejudice other forms of accountability, namely criminal, disciplinary or financial, as applicable by law. To date, there have been no known or reported breaches of the Government's Code of Conduct.

53. The GET welcomes the existence of a Code of Conduct applicable to PTEFs, some areas of which are also addressed by existing legislation (see paragraph 51 above). It, however, notes that the Code of Conduct does not deal with issues, such as contacts with lobbyists and third parties aimed at influencing government policies or bills, secondary/outside activities, post-employment restrictions, etc. The GET sees merit in consolidating all integrity related matters and standards into one single document. Importantly, such a code of conduct should be accompanied by detailed guidance containing concrete and practical real-life examples of situations which are or may be encountered by PTEFs, risks presenting themselves to PTEFs and proposals to address the risks (what steps to take, whom to contact, etc.), Moreover, effective, proportionate and dissuasive sanctions should be defined to respond to breaches of

[27] https://www.parlamento.pt/sites/EN/Parliament/Documents/2022.01-LEG-alteracao--RegimeExercicioFuncoesTitularesCargosPoliticosAltosCargosPublicos.en.pdf
[28] https://www.portugal.gov.pt/gc23/codigo-de-conduta-gc-xxiii/codigo-de-conduta-gc-xxiii-pdf.aspx

the Code of Conduct, the investigation of which should be entrusted to a supervisory mechanism. Consequently, **GRECO recommends that the Code of Conduct for persons with top executive functions (i) be revised and complemented with additional provisions containing clear guidance regarding conflicts of interest and other integrity related matters (such as gifts, contacts with third parties, outside activities, contracts with State authorities, the handling of confidential information and post-employment restrictions), and (ii) be coupled with a credible and effective mechanism of supervision and sanctions**.

Awareness

54. Immediately after taking office, PTEFs are provided with a practical guide (*guia práctico*) from the Secretariat General of the Presidency of the Council of Ministers. The practical guide for members of the Government contains information about the exclusive regime of the exercise of political officeholders' functions, the applicable regime of prohibitions/disqualification (*impedimentos*), the obligation to disclose conflicts of interest, the obligation to file a single declaration of income, assets, interests, liabilities and incompatibilities, the receipt or acceptance of gifts, offers and hospitality, post-employment obligations. The practical guides for the heads of cabinets and members of ministerial cabinets, including the Prime Minister's, follow the same structure.

55. The GET considers the preparation of practical guides, which consists of several questions and simplified explanatory answers built around the applicable statutory provisions, to be a positive step. During the on-site meetings, the GET was informed that individual briefings take place with members of the Government, which is to be welcomed. However, no formal training is provided to them after this initial briefing. Members of the Government may receive confidential advice from the transparency unit of the General Secretariat of the Presidency of the Council of Ministers. The role of the transparency unit is not to direct the conduct or behaviour of a member of the Government, but to provide advice in case of doubts regarding transparency issues. The transparency unit is composed of a director and four senior civil servants who perform their duties independently. The authorities confirmed that information about the number of pieces of advice and their nature has not been recorded and they are working on putting a system in place to this for this purpose. The GET encourages the authorities to proceed with this initiative, which has value from an awareness-raising point of view and for statistical purposes.

56. The GET was informed during the on-site visit that, in practice, members of ministerial cabinets, including the Prime Minister's, do not have direct access to initial integrity briefings, nor to confidential counselling, even though Decree law no. 20/2021[29] on the organisation of the General Secretariat of the Presidency of the Council of Ministers describes that one of the functions of the General Secretariat of the Presidency of the Council of Ministers is to coordinate the process of welcoming, amongst others, new members of ministerial cabinets, ensuring specialised technical support, namely in the scope of transparency obligations and matters related to the legal regime applicable to them.

57. The GET notes that initial briefings are organised only with members of the Government and Heads of Cabinets, while no briefings taking place, as a rule, in respect of members of ministerial cabinets, including the Prime Minister's, which is a gap that should be

[29] https://dre.pt/dre/detalhe/decreto-lei/20-2021-159432383

addressed.. There have not been any other regular trainings, specifically targeting PTEFs, taking account of their roles. The GET considers that formal trainings should be planned for all PTEFs, cover all integrity matters on the basis of the updated code of conduct (see paragraph 53 above), and be systematically organised upon taking office and at regular intervals. Moreover, all PTEFs, including members of ministerial cabinets should - in practice - benefit from confidential counselling on integrity matters from the transparency unit of the General Secretariat of the Presidency of the Council of Ministers. Subsequent to the on-site visit, the Portuguese authorities provided that cabinet members receive confidential counselling from the heads of cabinet and from the transparency unit. Be that as it may, **GRECO recommends that (i) formal training on integrity standards be provided to all persons with top executive functions upon taking office and at regular intervals, and (ii) confidential counselling on ethical issues be made available to them and related statistics on such confidential counselling be duly kept**.

Transparency and oversight of executive activities of central government

Access to information

58. Article 268 of the Constitution of Portugal enshrines the right to be informed by the administration, whenever so requested, about the progress of procedures and cases in which individuals are directly interested, and the right to be made aware of the definitive decisions that are taken in relation to them. In addition, the right of access to information is regulated by Law no. 22/2016[30] of 22 August 2016 on the regime governing access to administrative and environmental information and re-use of administrative documents (the Access to Information Act).

59. Article 5 of the Access to Information Act provides a right of access to administrative documents, without the need to state any reasons. Under Article 12, access to administrative documents must be requested in writing, by means of a template request form available on the websites of public entities. Verbal requests may be accepted in cases in which the law expressly requires so. Information requests are examined within ten days by a designated person responsible for compliance with the Access to Information Act. In exceptional cases, the ten-day time-limit may be extended up to two months. The requestor is to be informed of the extension along with the respective grounds justifying the extension.

60. Restrictions on the right of access to information include, amongst others, secret or classified information, documents protected by copyright or related rights, documents involved in preparing a decision or contained in cases or proceedings that have not been concluded, the content of audits, inspections, inquiries, investigation and fact-finding examinations until the initiation of disciplinary proceedings, personal data information, documents that contain commercial or industrial secrets, documents relating to the operational capacity, safety or security of facilities or personnel of the Armed Forces, the intelligence services, the security forces and services and the criminal police bodies, documents likely to cause harm that is serious and hard to reverse to property or asset-related interests of third parties, and health information.

[30] https://www.parlamento.pt/sites/EN/Parliament/Documents/Lei26_2016.en.pdf

61. During the on-site visit, the GET was informed by several interlocutors that the Access to Information Act has lowered the standards that used to exist in national law prior to its entry into force. The Access to Information Act has introduced restrictions, the application of which has made it increasingly difficult for journalists and members of the public to access information from the Government and public authorities. Furthermore, it was pointed out to the GET that a culture of secrecy, which has historical roots, is still present and leads to delays by the Government institutions and public administration in disclosing information. According to the authorities, the Commission for Access to Administrative Documents (*Comissão de Acesso aos Documentos Administrativos* - "CADA") has taken the view that, in some cases, the protection of personal data or other motives have favoured the use of restrictions on access to information and that the majority of decisions taken by the public administration has generally adopted a balanced approach.

62. With a view to granting the widest possible access to official documents, the GET wishes to stress that restrictions on the right of access to information should be applied narrowly, balancing the interest of public access to official documents against the interest protected by the restrictions. That the Access to Information Act imposes a maximum time-limit should not encourage the authorities to delay releasing the requested information until this time-limit has been reached. Consequently, **GRECO recommends improving the public's access to information by taking further measures to limit the use of restrictions under the applicable law governing access to administrative information and documents and make the whole process of access to information more efficient**.

63. The Access to Information Act further provides that, in cases of the absence of a response by the end of the statutory time-limit, denial, partial response to a request or another decision restricting access to administrative documents, the requestor may lodge a complaint with CADA. CADA has forty days to draw up a non-binding report assessing the situation. It will send the report, together with the conclusions, to the interested parties. Its reports are not binding. Within ten days from receipt of CADA's report, the entity, body or organ to which the request for information was initially made will communicate its final reasoned decision to the requestor. Interested parties may challenge both decisions, as well as the absence of any decision by the end of the statutory time-limit before the administrative courts in accordance with the rules of the Code of Procedure of the Administrative Courts. The authorities report that the vast majority of CADA's opinions are followed by the entities involved. Thus, during the last two years the compliance rate with CADA's reports stood at 85%. The filing of a complaint with CADA stays the running of the time-limit for having recourse to judicial remedies.

64. Lastly, according to Article 10 of the Access to Information Act, ministries are obliged to publicise certain information on their websites in a periodic and updated manner, at least once every six months. Documents regarding governmental activity can be accessed through the (XXIIIrd) Government's official website[31], which appears to be updated regularly, as opposed to the practice observed by the GET during the on-site visit. Briefings about meetings of the Council of Ministers are made available to the public through press releases on the Government's website[32]. The Council of Ministers' Rules of Procedure state that meetings of the Council of Ministers are held in private and its agenda, assessments and deliberations are confidential. Members of the Government are bound by a duty of secrecy about its meetings.

[31] https://www.portugal.gov.pt/pt/gc23/comunicacao/documentos
[32] https://www.portugal.gov.pt/pt/gc23/governo/comunicados-do-conselho-de-ministros

A final press communiqué is prepared for each meeting, which is publicly disclosed. The GET is pleased that the Government's official website publishes updated information and encourages the authorities to maintain the same level of transparency regarding the publication of such information in the future, particularly whenever there is a change of Government.

65. Portugal has neither signed nor ratified the Council of Europe Convention on Access to Official Documents[33]. The GET encourages the authorities to do so in due time, as this could further pave the way for advancing the implementation of freedom of information.

Transparency of the law-making process

66. As opposed to laws and organic laws passed by the Assembly of the Republic, the Council of Ministers adopts decree-laws: on matters which do not fall within the exclusive competence of the Assembly of the Republic or, subject to the Assembly's authorisation, on matters that fall within the latter's partially exclusive competence, or on matters concerning laws that develop the principles or the general bases of the legal regimes contained in laws that limit themselves to those principles or general bases, or on matters that concern its own organisation and *modus operandi*. Decree-laws may be subject to consideration by the Assembly of the Republic in accordance with a procedure prescribed by Article 169 of the Constitution. Decree-laws issued by the Government are to be signed by the Prime Minister and the Minister(s) with competence for the matter in question. Laws passed by parliament and decree-laws adopted by the Government enjoy, in most cases, equal force. The Government may also adopt regulations which will take the form of regulatory decision when so required by the law.

67. According to Article 45 of Decree-law no. 32/2022 on the organisation and functioning of the Government (see paragraph 24 above), this procedure comprises several phases. The initiative to present decree-laws lies with members of the Government, who, in turn, submit it to the Secretary of State of the Presidency of the Council of Ministers[34].The draft decree-law is to be accompanied by a justification note, which is to include, in all cases, amongst other elements, the current legal framework and the basis for its amendment, summary assessment of the financial and human resources needed for its implementation, a reference to the need for participation or hearing of entities, an impact assessment on, amongst others, competitiveness, poverty, gender, disability and the risks of fraud, corruption and related offences. The Secretary of State of the Presidency of the Council of Ministers is responsible for assessing the draft decree-law, after which, it may be decided to circulate it to the offices of all members of the Government or return it to the proposing member of the Government if it does not comply with the statutory requirements. Once cleared at a meeting of Secretaries of State, it is put on the agenda of the Council of Ministers for final adoption.

[33] https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=205

[34] Article 13 of Decree-law no. 32/2022 provides that the Presidency of the Council of Ministers is the central department of the Government, the mission of which is to support the Council of Ministers, the Prime Minister and other members of the Government and promote the inter-ministerial coordination of various Government departments. It includes the following members of the Government: the Minister of the Presidency, the Minister for Parliamentary Affairs, the Secretary of State for Digitalisation and Administrative Modernisation, the Secretary of State of the Presidency of the Council of Ministers, the Secretary of State for Planning, the Secretary of State for Public Administration, the Secretary of State for Equality and Migration and the Secretary of State for Youth and Sport.

68. Article 71 of Decree-law no. 32/2022 states that the Secretary of State of the Presidency of the Council of Ministers may promote public hearings (*audições*), as required by the Constitution[35]. The proposing Government member will provide the list of entities to be heard. If justifiable, the draft legislation may be submitted to the Council of Ministers for a first reading, before the end of the public hearing, with the final adoption to take place after the hearing. When deemed necessary or convenient, the Secretary of State of the Presidency of the Council of Ministers may determine that the proposing Government member hold the said public hearing. In addition, Decree law no. 274/2009[36] of 2 October 2009 regulates the procedure for holding public consultations (the Public Consultations Act). It lays down two modalities to implement the obligation of formal consultation: direct and public consultations. Direct consultations occur when the proposing ministry directly contacts public or private entities in order to obtain their views about the entirety or parts of the draft legislation. The deadline for direct consultation is ten days and it may be extended depending on the complexity of the subject matter. Public consultations take place through the public disclosure of all or parts of the draft legislation, for a defined period of time, on ConsultaLEX[37] which is the Government's public consultations portal allowing for participation in the legislative and regulatory process. Public consultations may also be carried out by posting the draft legislation on a website under the responsibility of the proposing ministry. It is up to the proposing ministry to ensure the collection, processing and assessment of the contributions made in the framework of public consultations. The adoption of the modality of public consultations does not exempt the direct consultation of entities which may be required by law, such as trade unions.

69. It emerged from the on-site interviews that there was no statutory obligation on the Government to carry out public consultations on decree-laws and publish them on the ConsultaLEX website. A public consultation requirement for a period of no less than 30 days applies only to regulatory decisions, pursuant to Articles 97-101 the Code of Administrative Procedure[38] (CPA). As a matter of fact, the GET notes that, as of 20 January 2023, the search engine of ConsultaLEX website resulted in only 51 decree-laws having undergone through public consultations for the period from 2018-2023, while 185 regulatory decisions had been subject to public consultations over the same period. In the view of the GET, the Public Consultations Act needs to be reviewed to respond to today's realities and exigencies. All pieces of legislation emanating from the Government, whether decree-laws or regulatory decisions, ought to be subject to public consultation as a main rule. Appropriate timelines and modalities should be provided for and respected so as to render the public consultations meaningful. Finally, transparency ought to extend to the proposals submitted by the public and their outcome. Consequently, **GRECO recommends that the procedure for public consultations in respect of decree-laws be reviewed to ensure that decree-laws be, as a rule, submitted for public consultations, including through the provision of adequate timelines, the documentation of the contributions received and parties involved, as well as the**

[35] For example, Article 60 (3) of the Constitution states that consumers' associations and consumer cooperatives have the right, as laid down by law, to receive support from the state and to be consulted in relation to consumer-protection issues. Under Article 67 (2) (g) of the Constitution, in order to protect the family, the State is responsible for, *inter alia*, defining and implementing a global and integrated family policy after first consulting the associations that represent the family. the Article 249 of the Constitution provides that municipalities are only created or abolished, and their area is only altered by law, following prior consultation of the organs of the local authorities in question.

[36] https://dre.pt/dre/detalhe/decreto-lei/274-2009-491203

[37] https://www.consultalex.gov.pt/Homescreen.aspx

[38] https://dre.pt/dre/detalhe/decreto-lei/4-2015-66041468

publication of the outcome of public participation procedures in a timely and easily accessible manner.

Third parties and lobbyists

70. Other than the existence of the Legislative Footprint Register, which is described in paragraph 71 below, there is no legislation regulating lobbying. Prior draft legislation on lobbying did not gain enough support in the previous legislature which came to an end in December 2021. There is no obligation on PTEFs to disclose their contacts with lobbyists and third parties, nor any rules or guidance on how PTEFs should interact with these persons. In order to increase transparency of these contacts and PTEFs' accountability, **GRECO recommends that (i) detailed rules be introduced on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other work, and (ii) sufficient information about the purpose of these contacts, the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion be disclosed**.

71. On 3 November 2021 the Council of Ministers adopted Resolution no. 143/2021[39] on the approval, on an experimental basis, of a one-year pilot project for the implementation of a system of 'legislative footprint'. The aim of the project is to register all interactions between PTEFs and interested third parties, which provide technical advice at any of the phases of the Government's law-making procedure, in the Legislative Footprint Register (*Registo da Pegada Legislativa* – "RPL"). RPL requires to record the origin of the draft legislative act, i.e. whether it has been prepared by public administration bodies, the members of cabinet of the Government members or external consultants. Subsequent to the on-site visit, the authorities have provided that an evaluation report of RPL is being drafted. Until a final decision is taken by the Council of Ministers in 2023, the Presidency of the Council of Ministers intends to proceed with RPL. The GET welcomes the creation of RPL which can be viewed as a step in bringing transparency in the Government's law-making process. However, during the on-site visit, the GET was informed of situations involving renowned law firms which had been directly contracted to draft technical or specialised pieces of legislation on behalf of the Government, allegedly circumventing the transparency requirements pertaining to the selection and procurement of services. The fact is that the provisions of Decree-law no. 149/2017 on the organisation of the State Centre for Legal Skills[40] (*Centro de Competências Jurídicas do Estado*), also known as JurisAPP, allows for the use of external contracting under certain specific conditions, namely if there is no technical capacity in the State administration to draft technical or specialised legislation, the external contracting is the most appropriate way to pursue the public interest, and the external contracting is subject to a prior and binding opinion of the director of JurisAPP who determines the fulfilment of such conditions. Be that as it may, in addition to disclosing all interactions of PTEFS with lobbyists and third parties, as recommended in the preceding paragraph, the GET further wishes to encourage the authorities to use RPL to always document all external intervention in the legislative process from the outset of the process, as directed in point 3 of Resolution no. 143/2021.

Control mechanisms

[39] https://dre.pt/dre/detalhe/resolucao-conselho-ministros/143-2021-173732852
[40] https://dre.pt/dre/detalhe/decreto-lei/149-2017-114311302

72. It emerged from the on-site meetings that there is a functioning internal audit unit in each Government ministry.

73. In addition, the Inspectorate General of Finance (*Inspeção-Geral de Finanças* – "IGF"), which was established by Decree-law no. 96/2012[41] of 23 April 2012 as an entity under the remit of the Ministry of Finance, carries out financial, compliance, systems, performance and IT audits, contributing to the legality, rationality and effectiveness of revenue collection and public expenditure as well as inspections, enquiries and investigation of any public services to assess the quality, effectiveness and efficiency of services. If it suspects that an offence has been committed, the IGF informs the Public Prosecution Service and the Court of Auditors. IGF produces results of a multidisciplinary nature, such as recommendations, opinions, proposals for legislative and regulatory changes, financial corrections, verification of infractions (financial, criminal, administrative, etc.), as well as contributes to the dissemination of a culture of ethics and transparency in the management and control of public resources. IGF publishes a summary of the results of its audits within the scope of the central administration on its website[42].

74. Furthermore, in accordance with Article 214 of the Constitution and the Court of Auditors Act (Law no. 98/97[43] of 26 August 1997 on the organisation and functioning of the Court of Auditors – *Tribunal de Contas*), the Court of Auditors is the supreme body responsible for supervising the legality of public expenditure and revenue. It issues opinions on and, as from 2023, it will certify the General State Account, including the social security account. It also assesses public financial management and enforces financial liabilities. Depending on the nature of opinions and acts, some of them are published in the Official Journal. Save for a few exceptions relating to matters concerning the national security, it publishes its opinions, reports, decisions and judgments on its website. The Court of Auditors is allowed to develop all kinds of audits, including real time audit and investigations, and also maintain an important *a priori* control mandate, beyond the concomitant and the *a posteriori* controls. Its opinions are also submitted to the Public Prosecution Service, which accompanies the processes and procedures, and may request other supporting documents or files, as necessary, in order to institute criminal proceedings.

75. Lastly, members of the Government are accountable to the Assembly of the Republic (Parliament). They are thus obliged to respond to parliamentarians, either in plenary sessions, in meetings of parliamentary committees or in writing to questions put by them. The parliamentary committee for finance and budget oversees the annual State expenditures. The Assembly of the Republic may also carry out parliamentary inquiries, the function of which is to monitor compliance with the Constitution and the laws and to assess the acts of the Government and public administration, and other public entities, including independent regulatory entities. In a meeting with parliamentarians, the GET heard concerns that, owing to the Government's absolute majority in parliament, the latter does not effectively play its role of external control.

Conflicts of interest

[41] https://data.dre.pt/eli/dec-lei/96/2012/04/23/p/dre/pt/html
[42] https://www.igf.gov.pt/publicacoes12/resultados-de-auditorias.aspx
[43] https://dre.pt/dre/detalhe/lei/98-1997-193663

76. Article 6 of the Government's Code of Conduct defines a conflict of interest as a situation in which there may be reasonable doubts as to the impartiality of PTEFs' conduct and decision. This provision is to be read together with Articles 69-76 of the Code of Administrative Procedure which lay down rules on disqualification/prohibitions (*impedimentos*). Thus, Article 69 of the CPA provides a detailed list of instances, whereby heads of public administration bodies and their agents (such as PTEFs) cannot intervene in administrative proceedings or in an act or contract of public or private law of the public administration, when they have an interest in it. Other instances have also been provided for in Article 8 of the Political and Senior Public Officeholders Acts which applies to the Prime Minister and members of the Government.

77. According to Article 7 of the Government's Code of Conduct, a Minister or Secretary of State, who is directly answerable to the Prime Minister and when s/he is faced with a conflict of interest, current or potential, must immediately report the situation to the Prime Minister who may decide on the disqualification of the person concerned. Secretaries of State and members of the cabinet, who are answerable to a respective Minister and when they have been exposed to a conflict of interest, current or potential, must immediately report the situation to the Minister who may decide on the disqualification of the person concerned. Decisions, whether or not there is a disqualification, are not made public, but they may be accessed in accordance with the Access to Information Act. PTEFs must take the necessary measures to avoid, remedy or put an end to the conflict in question, in accordance with the provisions of the Code of Conduct. Under Article 72 of the CPA, a declaration of disqualification leads to the exclusion of PTEFs from the decision-making process and the obligation to have them replaced, if possible. Article 76 of the CPA states that failure to communicate grounds for disqualification constitutes serious misconduct for the purpose of disciplinary proceedings.

78. The authorities provide that there are no known breaches of rules governing conflicts of interest by PTEFs, and that there is no register centralising the collection and monitoring of PTEFs' declarations of conflicts of interest nor the decisions pertaining thereto.

79. The GET welcomes that the Government's Code of Conduct contains a legal definition of the conflict of interest and that there is an obligation to report such situations as they appear (i.e. *ad hoc* conflicts of interest). However, it notes that neither the Code of Conduct, nor the Code of Administrative Procedure describe the different typologies of conflicts of interest: real, potential and perceived. Furthermore, PTEFs should be given regular trainings on the identification and prevention of conflicts of interest. The GET also notes that the Code of Conduct does not indicate the procedure and the decision-making body in case the Prime Minister is faced with a situation of conflict of interest. In this connection, GRECO refers to the recommendations regarding the need to complement the Government's Code of Conduct with clear guidance regarding the conflicts of interest and the existence of a credible and effective mechanism of supervision and sanctions as well as to provide compulsory briefing and training on integrity standards (see paragraph 53 and 57 above).

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

80. According to Article 6 of the Political and Senior Public Officeholders Act, the Prime Minister and members of the Government exercise their functions on an exclusive basis, without prejudice to the specific provisions contained in the Statute of members of the Assembly of the Republic, the Statute of members of the autonomous regions, the Statute of local elected representatives, the Statute of public managers, the Statute of public administration senior officials. The exercise of their functions on an exclusive basis is incompatible with any other professional functions, whether remunerated or not, as well as with membership of governing bodies of any for-profit legal persons, except for (i) functions or activities derived from the office itself and those which are inherent therein, (ii) literary and artistic creation activities as well as any other activities leading to earnings resulting from copyright, intellectual property or relating earning, and (iii) cases where the law expressly allows for the compatibility in the exercise of functions. Article 9 of the Political and Senior Public Officeholders Act further provides that the Prime Minister and members of the Government cannot serve as arbiters or expert witnesses, whether without charge or for remuneration, in any lawsuit in which the State or any other public-law legal person is a party. If a member of the Government (except for the Prime Minister) is found to have engaged in unauthorised activities, the Constitutional Court may order his/her removal from office in accordance with Article 11 of the Political and Senior Public Officeholders Act (see also paragraph 110 below).

81. As regards members of ministerial cabinets, including the Prime Minister's, Article 7 of Decree-law no. 11/2012 also states that the exercise of their functions is on an exclusive basis, save for: representative activities of the respective member of the Government; participation in commissions or working groups indicated by the respective member of the Government; participation, on behalf of the Government, in consultative councils, technical monitoring or inspection commissions or other collegiate bodies provided for by law; artistic and literary creation activities as well as any other activities that result in the receipt of remuneration from copyright; the holding of conferences, lectures, short-term training actions and other activities of a similar nature; the participation in corporate bodies of non-profit legal persons provided that they do not belong to the sector of activity for which the respective member of the Government is responsible. When expressly authorised by the respective member of the Government, members of the cabinet may exercise activities in higher education institution, namely teaching and research activities, on a full-time or part-time basis, in observance of the legislation in force, and activities included in the respective professional specialisation provided, on a non-permanent basis, to entities outside the sector of activity for which the respective member of the Government is responsible. If members of ministerial cabinets, including the Prime Minister's, are found to have engaged in unauthorised activities, they can be suspended or dismissed from office, it being recalled that they are they are freely appointed and dismissed by order of the respective member of the Government (see paragraph 31 above).

Contracts with state authorities

82. Article 9 (2) of the Political and Senior Public Officeholders Act states that the Prime Minister and members of the Government may neither take part in public procurement procedures nor intervene as a consultant, expert witness, technical expert or mediator, in any way, in acts related to the procurement procedures, when they hold more than 10% of a company's share capital, or the percentage of capital held is higher than EUR 50,000, or they exercise management functions in the said company. This statutory obligation equally applies

to (i) enterprises in respect of which the Prime Minister and members of the Government, in their own right or jointly with their spouse or civil partner, forebears or descendants to any degree and collateral relations to the second degree, hold a stake above 10% of the company's share or the capital held is higher than EUR 50,000; (ii) the spouses who are not legally separated or with whom they cohabit in a civil partnership, in relation to the public procurement procedures initiated by the legal person on whose bodies the spouse or civil partner is a member.

83. In order to ensure compliance with the preceding statutory obligations, the Prime Minister and members of the Government, as well as their spouses not legally separated have the right to settle the share they hold, without being subject to any other formalities, in accordance with the provisions of the Civil Code, to resign as a shareholder, in accordance with the provisions of the Companies Code, or to suspend their social participation while in office. These rights may be exercised in relation to the settlement and release of the total share amount or only to the part exceeding 10% or EUR 50,000. If the Prime Minister and members of the Government do not exercise any of these rights, the company may decide to suspend their social participation.

84. Under Article 9 (9) of the Political and Senior Public Officeholders Act, contracts concluded by public-law entities with forebears or descendants of any degree, spouses or civil partners of members of the Government, who are members of those public-law entities, are subject to a reference therein and published on the public contracts' website, stating the relevant family relation. In addition, the same obligation applies to contracts concluded with companies in which members of the Government have majority control and to contracts concluded with companies in which members of the Government, in their own right or jointly with their spouse or civil partner, hold a stake of less than 10% or less than EUR 50,000.

85. As regards members of ministerial cabinets, including the Prime Minister's, Article 8 (4) of Decree-Law no. 11/2012 states that, during the exercise of their respective functions, members of cabinets may not enter into any employment or service provision contracts with entities which are under the supervision of the respective member of the Government and which contracts are to be in force after the cessation of their functions.

Gifts

86. Articles 8-10 of the Government's Code of Conduct and Article 16 of the Political and Senior Public Officeholders Act contain similar provisions about the acceptance of offers, goods and gifts. Thus, PTEFs are to refrain from accepting offers, in any capacity, from private individuals and legal entities, national or foreign, or material, consumable or durable goods or services that may affect the impartiality and integrity of the exercise of their functions. It is understood that there is a presumption towards affecting impartiality and integrity of the exercise of functions, when the gifts, goods or services are equal to or higher than EUR 150. When PTEFs accept gifts, goods or services from the same person or entity in the course of the same year, the value of which is equal to or higher than EUR 150, they are obliged to inform the respective general secretariat, which maintains a record for public access.

87. PTEFs are to refrain from accepting, in any capacity, invitations addressed to them to attend social, institutional or cultural events, or other similar benefits, organised from national or foreign, private individuals or legal entities. That notwithstanding, they may accept

invitations from national or foreign, private individuals or legal entities up to an estimated value of EUR 150, in particular if they (i) are compatible with the institutional nature or with the relevance of representation proper to the position or (ii) constitute socially acceptable behaviour in line with customs and practices.

88. Under Article 4 of the Government's Code of Conduct, members of the Government must (i) refrain from any action or omission, exercised directly or through an intermediary, which can objectively be interpreted as aiming to unduly benefit a third person, natural or collective, and (ii) reject offers or any of the advantages referred to in Articles 8 and 9, as a retribution for exercising an action, omission, vote or enjoying the influence over the taking of any public decision.

89. In the last five years the General Secretariat of the Presidency of the Council of Ministers has received from PTEFs sixty-six gifts with a value of more than EUR 150 and three with a value under EUR 150. As regards breaches, the General Secretariat of the Presidency of the Council of Ministers reports that there are no known breaches regarding the obligation to declare gifts above EUR 150.

90. The GET learned from the on-site meetings that, in practice, there is no obligation on PTEFs to declare gifts, goods or services received under the value of EUR 150, even though the gift may lend itself to affecting the impartiality and integrity of PTEFs. Nor is there an obligation to declare gifts, goods or services received by PTEFs' spouses or civil partners or dependent children. The value of gifts is estimated by PTEFs themselves, there being no checks on its valuation. Subsequent to the on-site visit, the authorities provided that the transparency unit can establish such value in case of doubt. In this connection, the GET considers that, in the interests of transparency and irrespective of their value, all gifts and hospitality received by PTEFs and related persons should be reported. There are no time-limits within which PTEFs are obliged to declare the gifts received. The value of gifts which PTEFs may be allowed to retain should be substantially lowered. Accompanying guidance, to be illustrated by practical examples, should be made available in sufficient details, and the acceptance and reporting of gifts should be recorded in a centralised register. In view of the foregoing, and in addition to the recommendation contained in paragraph 53 above, **GRECO recommends that information about the receipt of gifts, offers, hospitality, invitations and other benefits by persons with top executive functions be recorded in a central register and be made available in a timely manner to the public.**

Misuse of public resources

91. Under Article 4 of the Government's Code of Conduct, PTEFs must refrain from using or allowing third parties to use, outside of reasonable and socially appropriate parameters, public goods or resources that are exclusively made available to them for the exercise of their functions

92. Moreover, the Criminal Code (Articles 375, 376 and 382) and the Law no. 34/87[44] of 16 July 1987 on the Criminal Responsibility of Political Officeholders (the Political Officeholders' Criminal Responsibility Act which applies to members of the Government) (Articles 20, 21 and 26) provide a number of offences regulating the misuse of public resources.

[44] https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=281&tabela=leis

Misuse of confidential information

93. As stated in paragraph 52 above, the Code of Conduct requires PTEFs to safeguard confidentiality regarding the reserved matters of which they become aware in the exercise of their functions. Article 27 of the Political Officeholders' Criminal Responsibility Act provides for the criminal offence of the disclosure of a secret by members of the Government, without being duly authorised, with the intention of obtaining, for themselves or for others, an illegitimate benefit or to cause damage to the public interest or to third parties. The violation of secrecy provided will be punished even when committed after the members of the Government have ceased to exercise their functions. Furthermore, Article 383 of the Criminal Code provides for the offence of disclosure of a secret which is punishable by a fine or a term of imprisonment of up to five years.

Post-employment restrictions

94. Article 10 of the Political and Senior Public Officeholders Act provides that the Prime Minister and members of the Government may not, for a period of three years starting from the date on which they leave office, (i) exercise functions in private enterprises which do business in the sector that was subject to their direct oversight if, during their term of office, the enterprises were the object of privatisation operations, benefited from financial or fiscal incentives or from systems of a contractual nature, or were subject to direct intervention by the members of the Government; (ii) engage in employment or act as consultants in international organisations with which they had maintained institutional relations while representing the State, save for a few exceptions provided for by law. Under Article 11, breaches of post-employment restrictions will result in removal from office of members of the Government, except of the Prime Minister. A ban on the exercise of functions by members of the Government for a period of three years may also be imposed by the Constitutional Court upon an action lodged by the Public Prosecutor's Office.

95. As regards other members of ministerial cabinets, Article 8 of Decree-law no. 11/2012 provides that they may not, for a period of three years after the end of their functions, hold the positions of general inspector and general sub-inspector, or expressly equivalent to these, in the specific sector in which they exercised their functions.

96. The GET acknowledges that there are rules in place on post-employment restrictions for members of the Government. However, it emerged from the on-site meetings that, after the end of their term of office, certain ministers had been employed in the private sector in areas for which they were responsible during their tenure and did not observe the legislation in force. When asked about the existence of a system of monitoring and sanctions for breaches of post-employment restrictions for PTEFs, the authorities provided no information. In this connection, the GET underlines the importance of having an effective enforcement mechanism in place. As regards members of the cabinets, the GET notes that the only post-employment restriction concerns their employment as general inspector and general sub-inspector, there being no other restrictions as regards their employment in the private sector. In the GET's view, the phenomenon of members of ministerial cabinets leaving office to work in the private sector ("revolving doors") needs to be further addressed, in particular with a view to preventing conflicts of interest and potential misuse of information. Measures regarding prohibitions to seek new employment while in office, a cooling-off period before a

new position can be taken up, restrictions on certain types of activities or a mechanism from which members of ministerial cabinets, including the Prime Minister's, must obtain approval or advice in respect of new activities following public service, may be envisaged. **GRECO recommends that (i) similar post-employment restrictions applying to members of the Government be extended to all persons with top executive functions , and (ii) an effective enforcement mechanism be established.**

Declaration of assets, income, liabilities and interests

Declaration requirements

97. Article 13 of the Political and Senior Public Officeholders Act requires political officeholders, such as members of the Government and heads of ministerial cabinets, to submit, by electronic means, a single declaration of income, assets, liabilities, interests, incompatibilities and disqualifications, as appended in an annex to the law, within 60 days from taking up office. The declaration includes disclosure of gross of income (from various sources for the purpose of paying personal income tax), assets (comprising real estate, shares, stocks or other financial stakes, portfolio investment, bank accounts, etc. whether in Portugal or held abroad), liabilities (including loans or financial security, the promise of a financial advantage) and interests (such as professional activities, public, private and social offices, other functions and activities, membership, participation, or performance of any duties in any association and corporate offices held in the three years prior to filing the declaration and/or to be carried out cumulatively or up to three years after ceasing functions). In addition, the declaration must include the acts and activities that might give rise to prohibitions or disqualifications.

98. The single declaration is publicly accessible through an access-to-information request, subject to certain conditions laid down in Article 17 of the Political and Senior Public Officeholders Act. However, it may not be disclosed on the internet or social media. In accordance with Article 15 (2), the register of interests of members of the Government is published on the parliament's website[45].

99. Under Article 14 (2) of the Political and Senior Public Officeholders Act, in the exercise of their functions, political officeholders, such as members of the Government and heads of cabinets, are required to submit new, updated declarations within 30 days, when there is an actual change in assets by reference to a specifically defined amount or there are new facts or circumstances warranting a new filing. Article 14 (1) of the Act provides that political officeholders are to submit new, updated declarations within 60 days after ceasing the functions that led to the submission of the initial declarations or after the reappointment or re-election of political officeholders. The declarations to be submitted at the end of the mandate will reflect the evolution of assets during that period. In addition, Article 14 (4) of the Act obliges political officeholders to submit a final declaration three years after ceasing their functions.

100. The GET welcomes the detailed disclosure requirements imposed by law on members of the Government and heads of ministerial cabinets. However, it emerged from the on-site meetings with the authorities that there was no obligation on other members of ministerial

[45] https://www.parlamento.pt/RegistoInteresses/Paginas/XXIII-Governo.aspx

cabinets, including the Prime Minister's, who are regarded as PTEFs in accordance with paragraph 29 above, to file a single declaration. The GET believes that, owing to their important role in conveying the political views of the members of the Government and their closeness to both the decision-making and policy-making processes, members of ministerial cabinets should be covered by the same obligation to file declarations. Consequently, **GRECO recommends that similar disclosure requirements of income, assets, interests, incompatibilities and disqualifications applying to members of the Government be extended to all persons with top executive functions**.

101. The GET further notes that the law provides for electronic filing of single declarations. The unfortunate fact is that the electronic platform for filing single e-declarations has yet to be tested and become operational. The GET also points to another serious flaw of the current system, namely the failure to publish the declarations as a whole, which can be accessed upon filing an access-to-information request with the Constitutional Court.. At present, only the register of interests of members of the Government is made easily accessible to the public. Last, but not least, the declarations do not require the disclosure of all financial information of spouses (or civil partners) - other than the disclosure of shares in a company and financial subsidies - and dependent family members. In these circumstances, **GRECO recommends that (i) the electronic platform for filing single electronic declarations be put in place and made operational as soon as possible; (ii) persons with top executive functions' declarations of income, assets, interests, incompatibilities and disqualifications be systematically and easily made accessible online; and (iii) consideration be paid to include additional financial information for spouses, partners and dependent family members (it being understood that such information of close relatives does not necessarily need to be made public)**.

Review mechanisms

102. At present, members of the Government and heads of cabinets, file the single declarations in paper format with the Constitutional Court, which is responsible for receiving and carrying out a mere formal review of their regularity. The Constitutional Court does not have any staff members exclusively dedicated to this task. The Public Prosecutor's Office at the Constitutional Court is responsible for carrying out a substantive and material assessment. The GET heard from the on-site meetings that the Public Prosecutor's Office did not have the material and financial resources to verify over 19,000 declarations filed by political and senior public officeholders. They only had access to two databases (real estate and commercial registry).

103. In order to remedy the situation, Article 20 of the Political and Senior Public Officeholders Act has entrusted a new entity, which will be identified by a specific law, with the review of single declarations. Consequently, Organic Law no. 4/2019[46] of 13 September 2019 provides for the statute of the Entity for Transparency (*Entidade para a Transparência* – sometimes referred to as the Transparency Authority), which is an independent entity that will operate within the Constitutional Court. Under Article 8 of the statute, the Entity for Transparency will be responsible for, amongst other things, reviewing the single declarations of political and senior public officeholders, requesting clarifications on the content of the declarations, deciding on the formal regularity of the declarations and compliance with the time-limits, reporting the suspicion of the commission of a criminal offence to the prosecutor's

[46] https://dre.pt/dre/detalhe/lei-organica/4-2019-124680587

office, communicating the commission of an alleged offence to the entities responsible for sanctioning holder of political and senior public office for the purpose of imposing an appropriate sanction.

104. The GET heard during the on-site visit about the authorities' failure to set up the Entity for Transparency, the three members of which would be appointed by the Constitutional Court for a four-year term, renewable once. The authorities subsequently provided that, on 17 January 2023, the plenary of the Constitutional Court appointed the three members of the Entity for Transparency[47], who took office in on 15 February 2023. The GET considers that the appointment of the members of the Entity for Transparency is a positive step. The GET would further underscore that it is of paramount importance to make the Entity for Transparency fully operational in order to deliver the important tasks with which it has been entrusted. While the authorities provided that, in 2020, the Public Prosecutor's Office had intervened in 524 cases concerning suspicions or irregularities in the filing of single declarations by all categories of political and public officeholders covered by the scope of application of the Political and Senior Public Officeholders Act, the GET noted with concern that no substantive checks of single declarations have been carried out since then. In practice, this meant that situations of unjustified accumulation of wealth, conflicts of interests, incompatibilities went undetected, unreported, unexamined and unsanctioned. This inevitably undermines the public confidence in the authorities. The GET also recalls GRECO's concerns expressed in the Fourth Round Evaluation Report (see paragraphs 75-76) regarding the effectiveness of the control by the Public Prosecutor's Office of declarations filed by parliamentarians, who are also among the political officeholders covered by this system. The corresponding recommendation was assessed as only partly implemented in GRECO's latest compliance report, adopted in June 2022. Consequently, **GRECO recommends that, (i) as a matter of priority, the effective functioning of the Entity for Transparency be fully ensured by taking the appropriate regulatory, institutional and operational measures and allocating necessary resources to this body, and (ii) the single declarations of persons with top executive functions be subject to regular substantive checks, by establishing robust and effective cooperation/interaction with all relevant control bodies/databases and imposing proportionate sanctions in case of breach**.

Accountability and enforcement mechanisms

Criminal proceedings and immunities

105. Article 196 of the Constitution provides that members of the Government cannot be detained, arrested or imprisoned without the authorisation of the Assembly of the Republic, save for an intentional crime committed in *flagrante delicto* and punishable by imprisonment for a maximum term of more than three years. In the event that criminal proceedings have been brought against a member of the Government and s/he is definitively charged with an offence[48], the Assembly of the Republic will decide whether or not the member of the

[47] https://www.tribunalconstitucional.pt/tc/imprensa0200-bd6995.html

[48] Criminal proceedings in Portugal consists of three phases: (i) the investigation phase in which the public prosecutor's office has the power to close the case or to accuse the defendants of a crime; (ii) the instruction phase in which the proceedings will proceed and be presided over by an instruction judge; and (iii) the trial phase carried out by one or more judges. The phrase "definitively accused", as contained in Article 196 of the Constitution, concerns the moment of pronunciation, after competition of the instruction phase or, if pronunciation is no required, directly the third phase, namely the trial.

Government must be suspended so that the proceedings could take their course, the decision of suspension being mandatory in the case of a crime committed in *flagrante delicto* and punishable by imprisonment for a maximum term of more than three years. The suspension of functions for members of the Government covers crimes carried out during and outside the exercise of their functions. According to Article 11 of the Code of Criminal Procedure, the full criminal sections of the Supreme Court of Justice have jurisdiction to hear criminal cases brought against, amongst other officials, the Prime Minister, for crimes committed in the exercise of their functions.

106. The Political Officeholders' Criminal Responsibility Act, which applies to members of the Government, enshrines certain corruption and corruption-related crimes. Article 35 reaffirms the principle enshrined in Article 196 of the Constitution that authorisation of the Assembly of the Republic is required to arrest or imprison a member of the Government.

107. Article 18-A of the Political and Senior Public Officeholders Act provides that failure to submit the single declaration, following notification (see paragraph 111 below), may be punishable by prison of up to three years for the crime of qualified disobedience. Also, failure to submit the single declaration at the end of the mandate and three years after leaving office, deliberate failure to submit the single declaration within 30 days if there is an actual change in assets that alters the amounts declared by an amount higher than 50 monthly minimum wages, and the omission from the single declaration with the intention of concealing certain amounts are punishable by prison of up to five years. If the above actions are not accompanied by a failure to comply with the reporting obligations with the tax authority during the period of performance of their functions, the conduct is punishable by a fine of up to 360 days. Unjustified additions to assets determined under the tax scheme, by an amount exceeding 50 monthly minimum wages, will be taxed for the purposes of income tax at the special rate of 80%.

108. The authorities report that there have been no cases initiated or investigated, and no criminal penalty and disciplinary sanctions imposed in respect of PTEFs.

Non-criminal enforcement mechanisms

109. As stated in paragraph 52 above, failure to comply with the provisions of the Government's Code of Conduct implies political accountability towards the Prime Minister, in the case of members of the Government, or accountability towards the respective member of the Government, in the case of members of cabinets. It does not exclude or prejudice other forms of accountability, namely criminal, disciplinary or financial, as applicable by law. To date, there have been no known breaches of the Code of Conduct.

110. Under Article 11 of the Political and Senior Public Officeholders Act, breaches of Articles 6, 8 and 9 (see paragraphs 80 and 82-86 above) will result in removal from office of members of the Government, except of the Prime Minister. A three-year ban on the exercise of functions may also be imposed by the Constitutional Court upon an action lodged by the Public Prosecutor's Office.

111. Article 18 of the Political and Senior Public Officeholders Act provides that in case of omission, incomplete or incorrect submission of the declaration, the entity responsible for analysing and reviewing the submitted declarations notifies the declarant to submit, complete

or correct the declaration within a period of 30 consecutive days following the deadline for submission of the declaration. If, following the notification, the declarant fails to submit the declaration, s/he will be subject to removal from office, depending on the case, save for the Prime Minister. Any former officeholder who, after receiving the notification, has failed to submit the declaration, will be banned from exercising the functions that led to the aforementioned declaration for a period of one to five years.

V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

Organisation and accountability of law enforcement/police authorities

Overview of various law enforcement authorities

112. The following bodies fall under the scope of the Internal Security Law n. 53/2008, of 29 August 2008 (hereafter LSI): the National Republican Guard (*Guarda National Republicana)*, the Public Security Police (*Polícia de Segurança Pública*), the Criminal Police (*Polícia Judiciária)* and the Immigration and Border Service (*Serviço de Estrangeiros e Fronteiras* - SEF). This report focuses on the National Republican Guard and the Public Security Police, given the nature and extent of their respective missions, the number of their staff and their geographical scope of action.

113. During the on-site visit, the GET was informed that the Government had decided to disband the SEF, the tasks, staff and capacities of which will be transferred to the Public Security Police, the National Republican Guard and the Criminal Police.

114. The Criminal Police has as its mission to assist the judicial and prosecuting authorities in criminal investigations specifically entrusted to it under Law n. 49/2008, of August 27, the Law on the Organisation of Criminal Investigation (LOIC), or delegated to it by the competent judicial or prosecuting authorities**.** Its objectives are the development and promotion of prevention, detection and criminal investigation actions within its competence or entrusted to it by the LSI, the LOIC and national strategies defining criminal policy goals, priorities and guidelines. The Criminal Police has exclusive investigative powers of prevention and investigation of corruption and economic and financial crimes. This in incumbent on its National Unit against Corruption (UNCC), a specialised body within which a specific sector investigates corruption and related crimes which involve the security forces and services, military structures and agents of the judicial system, as well as its own internal affairs.

Organisation and accountability of selected law enforcement authorities

115. The Public Security Police (PSP) exercises internal security functions in accordance with Article 25(2) of the LSI. As referred by Article 1 of its Organic Law (LOPSP), Law n. 53/2007, of August 31, amended by Law n. 73/2021, of November 12 , it is a civil security force, uniformed and armed, with a public service nature and tasked with ensuring internal security and citizens' rights throughout the national territory, excluding areas legally assigned to other security forces and services (FSS). In the autonomous regions of the Azores and Madeira, it has exclusive competence as regards public order and security. As established by Article 3 of the LOPSP, its duties include, among others, ensuring public order and the protection of sensitive points, namely road, railway, airport and port infrastructures, public buildings and other critical facilities, preventing crime in general, in cooperation with other FSS, carrying out criminal investigation[49] and actions against administrative infringements delegated by judicial and administrative authorities and licencing and supervision tasks linked to weapons.

116. The PSP is a hierarchical organisation led by a National Director, who reports to the Minister of Home Affairs (MAI). The MAI has competence to formulate, coordinate,

[49] As foreseen in the LOIC.

implement and evaluate policies on internal security, road safety and border control. In the framework of the criminal investigations for which it is competent, the PSP is directed by the public prosecutor in charge of the investigation (Article 263 of the Criminal Procedure Code). Apart from this, the PSP enjoys operational independence in the performance of its police tasks, as established by the LOPSP and the LOIC, which set out the criminal investigation competences of the PSP, the GNR and the Criminal Police. Article 2 of the LOIC provides that the judicial authority (the Public Prosecutor's Office during the inquiry) is responsible for directing the investigation. It also states that the criminal police bodies act in the process under the direction and functional dependence of the competent judicial authority, without prejudice to their hierarchical organisation. It also establishes that the criminal investigation is guided by technical and tactical autonomy. Consequently, decisions on how and/or where to intervene, as well as achieving the objectives within the scope of the criminal investigation are made by the PSP.

117. The PSP comprises a National Directorate and several specialised units at headquarters, two Regional Commands (Madeira and Azores) and 18 districts throughout the country. The PSP's internal organisation and chain of command can be found on its website[50]. The legal texts governing its activity are the Constitution, the LSI, the Code of Criminal Procedure, Organic Law no. 53/2007[51] of 31 August 2007and Decree-law no. 243/2015[52] of 19 October 2015 on the professional status of personnel with police duties in the Public Security Police Force.

118. The PSP has a total staff of around 20 000 persons, broken down as follows:

Career	Gender				Total
	M	%	F	%	
Senior Technician	79	45,40%	95	54,60%	174
Assistant Technician	37	13,55%	236	86,45%	273
Operational Assistant	8	7,34%	101	92,66%	109
Informatics Officer	25	59,52%	17	40,48%	42
University Lecturer	15	78,95%	4	21,05%	19
Inspection Career	0	0,00%	1	100,00%	1
Medical Career	7	87,50%	1	12,50%	8
Diagnostic and Therapeutic Technician	1	100,00%	0	0,00%	1
Police Officers Career	745	83,80%	144	16,20%	889
Chief Police Officer Career	2042	92,02%	177	7,98%	2219
Police Agents Career	15491	92,09%	1331	7,91%	16822
Total	18450	89,75%	2107	10,25%	20557

[50] https://www.psp.pt/Pages/homePage.aspx
[51] https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1079&tabela=leis&ficha=1&pagina=1
[52] https://dre.pt/dre/legislacao-consolidada/decreto-lei/2015-114584637

PSP - Police Numbers by Career	Total	%
Career of police officer	792[53]	3,99%
Career of police chief	2219	11,19%
Career of police agent	16821[54]	84,82%
Total	19832	100%

119. The National Republican Guard (GNR) is a military security force, with jurisdiction throughout the national territory – of which it covers 94% - and the territorial sea, excluding areas legally assigned to other FSS. Its duties include among others ensuring public order, preventing crime in general, in cooperation with other FSS, carrying out criminal investigation[55] and actions against administrative infringements delegated by judicial and administrative authorities, preventing and investigating environmental, tax, fiscal and customs offences.

120. As established by the Organic Law of the GNR (LOGNR), Law n. 63/2007, of November 6, as rectified by declaration of Rectification n. 1-A/2008, of January 4, and as amended by Decree-Law n. 113/2018, of December 18, and by Law n. 73/2021, of November 12, the GNR is led by a General Commander assisted by a Second General Commander and comprises 20 territorial commands. Its internal organisation and chain of command are available on its website[56]. It reports directly to the MAI and its forces are placed, in the terms referred to in Article 2 of the LOGNR, under the operational responsibility of the Chief of the General Staff of the Armed Forces, through its General Commander. It reports to the Minister of Defence with regard to the uniformity and standardisation of the military doctrine, weapons and equipment. In the context of the criminal investigations for which it is competent, the GNR is directed by the public prosecutor in charge of the investigation. Apart from that, and similarly to the PSP, the GNR enjoys operational independence in carrying out its law enforcement duties, as established by the LOGNR and Article 2 of the LOIC.

121. The legal texts governing the activity of the GNR are the Constitution, the LSI, the Code of Criminal Procedure, the Military Justice Code, Organic Law no. 63/2007[57] of 6 November 2017 on the GNR and Decree-law no. 30/2017[58] of 22 March 2017 approving the statute of the military of the GNR (EMGNR).

122. The GNR has a total staff of 22 277 persons, composed as follows:

[53] Does not include students

[54] Does not include students

[55] As foreseen in the LOIC.

[56] https://www.gnr.pt/organizacao.aspx

[57] https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=939&tabela=leis&so_miolo=

[58] https://dre.pt/dre/detalhe/decreto-lei/30-2017-106642828

CAREER	GNR - MILITARY STAFF (31JAN22)				
	MALE	PERCENTAGE	FEMALE	PERCENTAGE	TOTAL
OFFICIAL	800	90.40 %	85	9.60 %	885
SARGEANT	2197	92.4 %	167	7.06 %	2364
GUARD	16774	92.26 %	1407	7.74 %	18181
TOTAL	**19771**	**92.26**	**1659**	**7.74**	**21430**

CAREER	GNR - CIVIL STAFF (31JAN22)				TOTAL
	MALE	PERCENTAGE	FEMALE	PERCENTAGE	
NURSING		0,00	1	100.00 %	1
IT	2	50.00 %	2	50.00 %	4
TRAINING	1	10.00 %	9	90.00 %	10
OPERATIONAL ASSISTANT	28	11.34 %	219	88.66 %	247
TECHNICAL ASSISTANT	16	19.05 %	68	80.95 %	84
GENERAL OF SENIOR TECHNICIAN	10	19.23 %	42	80.77 %	52
MEDIC	21	63.64 %	12	36.36 %	33
FOREST GUARD	387	95.79 %	17	4.21 %	404
DIAGNOSIS AND THERAPEUTIC TECHNICIAN	1	8.33 %	11	91.67 %	12
TOTAL	**466**	**55.02**	**381**	**44.98**	**847**

123. As far as gender balance is concerned, the GET notes that the percentage of female staff is very low in both organisations – 10,25% in the PSP and 7,74% in the GNR. Although gender balance is proclaimed as an objective and the open calls for recruitment competitions include guidelines aimed at increasing the percentage of women to be recruited, the GET was not made aware of any concrete measures to address this imbalance, aside from different requirements between men and women for physical entry tests. In the GET's view, security forces should represent, as much as possible, society as a whole. Diversity, including at managerial level, can have positive effects on the profession – e.g. in contacts with the public, in creating a more heterogeneous environment in some parts of the law enforcement agencies which could counter a possible code of silence, further developing multiple-eyes routines etc. In light of this, **GRECO recommends that further measures be taken to strengthen the representation of women at all levels in the Public Security Police and the National Republican Guard.**

124. Both the PSP National Director and the GNR General Commander are appointed by a joint order of the Prime Minister and the relevant ministers for a term of three years, renewable. They may be dismissed at any time by an order of the competent minister.

Access to information

125. The PSP and the GNR, as public authorities, are both subject to the Access to Information Act (see paragraphs 59 to 60 above for more details about this law). Articles 89 and 90 of the Code of Criminal Procedure regulate the consultation of information and documents within the framework of criminal proceedings.

126. In the Department of Private Security of the PSP, all the persons directly concerned by law enforcement and private security regulations have access to administrative data, through a data base, called SIGESP. The Arms and Explosives Department also makes the SEROnline platform[59] available to the public for consultation on legislation and the status of administrative processes under the jurisdiction of that department.

127. The GET's interlocutors from the media and civil society highlighted unanimously that law enforcement authorities, especially the PSP, lack transparency on internal procedures and in disclosing information of public interest. Both the PSP and the GNR websites were said to miss important information and not to be user-friendly. Some documents, such as management reports or activity plans appeared not to be published by the legal yearly deadline of 31 March. Both institutions have press officers but the GET received conflicting information on whether access requests were answered within the legal deadlines and there seemed to be a certain level of mistrust in some cases between law enforcement authorities and the media. Several opinions issued by the CADA to the PSP in recent years were not followed, notably in respect of cases where protection of personal data or of the confidentiality of investigation was at stake. It was pointed out by some interlocutors that a culture of confidentiality had developed in Portugal due to historical reasons, which remains an issue of concern also to date. The GET considers it necessary that the authorities engage in a reflection on how to improve the current framework on public access to policing information, so that non-individualised information may always be released within reasonable deadlines in response to requests for information and that more information (not sensitive to ongoing investigations etc.) may always be routinely published and disclosed. The Portuguese authorities are aware that transparency is not only an anti-corruption measure; it is a tool to enhance the public trust in the PSP and the GNR. Therefore, **GRECO recommends that the framework on access to policing information be reviewed to make the information more readily available while preserving the confidentiality of ongoing investigations by the Republican National Guard and the Public Security Police.**

Public trust in law enforcement authorities

128. The 2019 Eurobarometer on corruption[60] indicates that 56% of those surveyed would turn to the Police to complain about a corruption case (EU average: 58%) and 47% think that bribery and abuse of power is widespread in the police and customs (EU average: 26%).

129. According to the 2021 Global Corruption Barometer[61], 5% of respondents in Portugal thought that most or all people in the police were corrupt. Among all the institutions cited, the Police – along with the President of the Republic – was seen as the least affected by corruption.

130. The PSP conducted between 5 July and 3 August 2021, a National Public Security Police Satisfaction Assessment Survey 2020-2021, coordinated by the Research Centre of the Higher Institute of Police Sciences and Internal Security, with funding from National Funds through the Foundation for Science and Technology. According to the authorities, around two-third of the 2.562 respondents "totally agreed" or "tended to agree" that the Police use force

[59] https://seronline.psp.pt/psp/login.pdc
[60] https://europa.eu/eurobarometer/surveys/detail/2247
[61] https://images.transparencycdn.org/images/TI_GCB_EU_2021_web.pdf

appropriately. 83.9% of respondents assessed positively the ability of the Police to deal with security problems. 85.2% of respondents gave a positive assessment of the Police response capacity in emergency situations and almost all of them gave a positive rating on the adequacy of resources. The levels of satisfaction with the attitude of police officers were similarly high, according to the authorities.

Trade unions and professional organisations

131. Trade unions and professional associations exist in both the GNR[62] and the PSP[63]. In the PSP, there are 21 trade unions that gather in total 14.155 members (police officers and civilians), representing 68,86% of the total number of PSP staff. In the GNR, there are six professional associations (one of which represents military personnel in the reserve and retirement), bringing together around 7.750 members, representing about 35% of the GNR staff.

Anti-corruption and integrity policy, regulatory and institutional framework

Anti-corruption and integrity policy, risk management measures for corruption prone areas

132. The National Anti-Corruption Strategy 2020-2024, which was adopted in 2021 (see paragraph 39 above), does not contain specific priorities in respect of any of the police services, the PSP and the GNR. It, however, has general priorities covering the whole of public administration, among which managers' training on integrity, the adoption of risk analysis and risk prevention and management plans, the adoption of codes of ethics or conduct and manuals of good practice, as well as the establishment of reporting channels and of adequate whistleblower protection mechanisms.

133. The PSP publishes every year a Plan for the Prevention of Risks of Corruption and Related Offences (PPR), which is institutionally regarded as an important management tool allowing the promotion of accountability resulting from good management of public resources. PPRs from previous years are also published[64]. All internal services are consulted for the elaboration of the PPRs, which are based on a recommendation from the Council for the Prevention of Corruption (CPC). At the end of the year, a report is drafted on the execution of the PPRs, which is also published[65].

134. Weaknesses identified in the 2022 PPR include *inter alia* the reduced number of employees assigned to certain functions/poor functional segregation, difficulties in hiring staff, conducts that are permeable to non-compliant practices and deviations of the wide margin of discretion in performance. In order to address the segregation of functions, which was highlighted to the GET as one of the most sensitive issues in the PSP, procedures are in place to safeguard the transparency and compartmentalisation required between access to the various computer systems and compliance with these procedures is monitored. The financial management system is based on standardised computer programmes and consequently, on an effective standardisation of procedures and control which have reduced irregularities around monetary transactions, especially during office hours. However, outside

[62] For example, the Guards Professionals Association, *Associação dos Profissionais da Guarda*, APG-GNR.

[63] For example, The Police Professionals Association, *Associação Sindical dos Profissionais de Polícia, ASPP-PSP*.

[64] The 2022 Plan and those of the previous years may be found here.

[65] The 2022 Plan and those of the previous years may be found here.

these hours, *ad hoc* payments are an institutional concern. Payments associated with traffic matters, with the use of external documents, are an example of a thematic focus that the PSP intends to develop.

135. The GNR also has its own PPR, which is published online[66]. It dates from 2020 and at the time of the on-site visit, it was being updated to reflect the provisions of the General Regime for the Prevention of Corruption (RGPC) established by Decree-Law no. 109-E/2021 which also created MENAC (see paragraphs 42 and 46 above). Previous PPRs, dating from 2016[67] and 2010[68], are also available online. Risks identified include the quality of governance, the integrity of operations and processes, the quality of the internal control systems, staff motivation and communication. The PPR comprises a mapping of functions exposed to a higher risk of corruption. The GNR has a decentralised financial management system, in which financial statements are sent monthly to the audit services which verify them by sampling and make monthly reports. Fines collected are entered into an online system, which sends an alert if the payment of a fine is not deposited on the relevant account within 10 days of its receipt.

136. The implementation of the PPR is under the responsibility of the Commander General of the GNR, who delegates this function to the Guard Inspectorate. A report is drawn up on a yearly basis, based on the semi-annual mandatory response from managers and the analysis of the replies to a questionnaire drawn up by the Inspectorate. Managers must also inform the Commander of the occurrence of new or high risks. A database gathering this information is under development by the Guard Inspectorate and it will be implemented upon approval of the PPR.

137. Together with the PPRs, the authorities refer to procedure manuals, the disclosure of relevant information about the various types of risks and respective mitigating measures, as well as the monitoring of the effectiveness of these measures as some of the tools towards reducing the risks of corruption and related offences. The Court of Auditors routinely audits the risk prevention plans, and it reported to the GET that it did not identify any weaknesses in the GNR's and the PSP's PPRs in this exercise.

138. The GET welcomes that the PSP and the GNR have their own PPRs. These are necessary complements to the National Anti-Corruption Strategy for 2020-2024 and the RGPC as they are dedicated to critical issues in each of the law enforcement services. However, it would appear that the PPRs are focused on immediate problems and are lacking a more long-term perspective which would span over several years and comprise measures aimed at targeting some of the issues identified in this report, such as to increase transparency, public access to information, training needs, etc. The GET takes the view that such issues cannot be accommodated in the annual PPRs. Consequently, **GRECO recommends that a longer-term perspective on institutional measures be provided in the form of dedicated anti-corruption strategies within the Public Security Police and the National Republican Guard, as a complement to the Plans for the Prevention of Risks of Corruption and Related Offences.**

Handling undercover operations and contacts with informants and witnesses

[66] https://www.gnr.pt/InstrumentosGestao/2020/PPGRCIC_2020.pdf
[67] https://www.gnr.pt/InstrumentosGestao/2016/PPGRCIC_2016.pdf
[68] https://www.gnr.pt/InstrumentosGestao/2010/PlanoPrevencaoCorrupcao.pdf

139. PSP and GNR officers are not allowed to use undercover operations, as this is the sole prerogative of the Criminal Police. In terms of criminal investigations, the rules of action for police officers are defined by the Code of Criminal Procedure and the LOIC. Law n. 101/2021, of August 25, on Undercover Operations for purposes of Criminal Prevention and Investigation, defines that undercover operations are those carried out by criminal investigation officers or by a third party acting under the control of the Criminal Police for purposes of preventing or combating the crimes indicated in such law, while hiding their quality and identity. The criminal cases where undercover operations may be used are the ones relating to the crimes described in Article 2 of the law, while Articles 3 to 6 provide for the conditions, protections, fictitious identity and exemption of accountability.

Ethical principles and rules of conduct

140. Some rules of conduct are contained in the laws applicable to the PSP and the GNR respectively, especially in their respective Disciplinary Statutes. They establish general duties of exemption, zeal, loyalty, secrecy, obedience, correctness, assiduity, punctuality and propriety, as well as special duties.

141. A Code of Ethics for the Police Service[69], that applies to both the PSP and the GNR, has been in force since 2002. It was drafted at the initiative of several associations representing security forces personnel, in cooperation with representatives of the National Directorate of the PSP, the General Command of the GNR, the General Inspectorate of Home Affairs and the cabinets of the members of the Government. It was adopted by the agents of the security forces themselves and endorsed in Council of Ministers Resolution no. 37/2002 of 28 February 2022.

142. This Code aims at promoting the quality of police service and enhancing the prestige and dignity of the security forces, as well as at contributing to setting up objective and subjective conditions which, within the framework of police action, guarantee the full exercise of citizens' rights and freedoms. It contains 14 articles dealing with respect for fundamental human rights, including those of detained persons, fair-mindedness and impartiality, integrity, dignity and probity, probity while on duty, adequacy, necessity and proportionality of the use of force, obedience, accountability, secrecy, cooperation in the administration of justice, solidarity in action and individual preparation. These principles are followed by a brief explanation but are not further illustrated by examples.

143. The Code and all regulations related to the deontology of police forces are accessible to all the PSP and GNR personnel on their respective internet and intranet sites. This matter is also included in the training references of the entry and promotion courses, as well as, when so determined by the respective commanders, in the scope of the continuous training programmes of the units/subunits of the PSP and GNR. Violation of the provisions of the Code gives rise to disciplinary proceedings.

144. The GET takes the view that the Code of Ethics for the Police Service is a worthwhile document. However, it has not been updated since its adoption 21 years ago to reflect emerging trends and issues. The content of the Code mainly focuses on the preservation of the rights and dignity of members of the public, as well as on avoiding abuse of authority. Even

[69] https://dre.pt/dre/detalhe/resolucao-conselho-ministros/37-2002-254790

though some of its provisions deal with the integrity of the law enforcement and the necessity to avoid conflicts of interest, they lack detail in this area and do not give any practical guidance or examples of ethical dilemmas. For example, there are no specific provisions on gifts, misuse of information, abuse of resources etc. Additionally, codes of conduct for the PSP and the GNR will have to be adopted in line with the RGPC's requirements. Therefore, **GRECO recommends that (i) the Code of Ethics for the Police Service be updated or similar documents be adopted to address current challenges relating to corruption prevention and integrity matters (e.g. conflicts of interest, gifts, confidential information, use of public resources, accessory activities etc.), and (ii) that such documents be complemented with practical guidance and concrete examples.**

Advice, training and awareness

145. All law enforcement officers (LEOs) take part in compulsory initial training before taking up their duties, which is based on the UN Human Rights Training Manual for Police and the European Union Agency for Fundamental Rights' Handbook on Fundamental Rights-based Police Training. The PSP and the GNR have their own training structures, occasionally collaborating with the CPC for the design of specific training materials in the area of ethics, integrity and deontology of police activity. The CPC also provides training on ethics and integrity, best practices and management and prevention of corruption risks in public service, which have been attended by some GNR and PSP officers.

146. In the GNR, all initial, promotion and specialisation training programs include curricular courses where aspects of ethics, integrity and deontology are addressed. Courses deal, for instance, with the Code of Ethics, offences committed in the exercise of public functions or with the identification of the assumptions of active and passive corruption. These topics are approached essentially in their operational and logistical context, with the teaching methodology depending on the purpose of the course, highlighting real cases and discussing measures to be adopted for real and fictitious cases. Attendance is compulsory.

147. Also in the PSP, all training programs have curricular courses focusing on integrity and prevention of corruption from a legal, ethical and procedural perspective. For instance, the police officers' initial training program at bachelor and master's level comprises a 45-hour course on police ethics and deontology, which is mandatory. The Police Command and Management promotion program includes a 15-hour compulsory course on the same subject, and the Police Strategy and Management promotion program has a 35-hour compulsory course on citizenship, ethics and deontology. The programmes for Police Agent and Police Chief include courses on Ethics and Deontology, as well Fundamental Rights and Citizenship, the duration of which has been increased.

148. The GET notes that there is no dedicated mechanism responsible for providing advice on integrity rules in the PSP and the GNR. When prompted on available channels, it received many different replies from its interlocutors, mentioning colleagues, the chain of command, human resources, the General Inspection of the GNR or the Inspection Service of the PSP. It is clear to the GET that, in the interest of awareness, a more institutionalised approach should be introduced in this respect, by entrusting an entity or persons outside the chain of command with the task of providing confidential advice to LEOs in respect of ethical dilemmas, conflicts of interest etc. Consequently, **GRECO recommends that a mechanism be introduced for**

providing confidential counselling on ethical and integrity matters for staff of the Public Security Police and of the National Republican Guard.

Recruitment, career and conditions of service

Initial selection and appointment

149. The personnel with police functions in the PSP integrate one of three special careers of police officer, police chief or police agent. Entry into the PSP is subject to a specific selection and recruitment process, with general and special requirements determined by law. The appointment of senior managers is carried out in accordance with the provisions of the Organic Law of PSP. Decisions on appointment are made by the National Director or different responsible entities, depending on the rank/role of the person to be appointed. Other career decisions (promotion, mobility, dismissal) are made by the National Director.

150. Personnel with police functions in the GNR comprise the careers of officer, sergeant or guard. These are all employed on permanent contracts. Officers are admitted through the Military Academy, while guards are directly recruited by the GNR. Guards can later attend sergeants' class through internal career development procedures. The primary responsibility for decisions on appointment and career lies with the General Commander, although it may be delegated to other entities in the case of appointment and dismissal.

151. Both law enforcement organisations have a multi-annual recruitment plan approved at the level of the Government, which sets out the number of posts available for admission to initial training courses and common selection procedures. On the basis thereof, the GNR Human Resources Department presents an annual recruitment plan corresponding to the recruitment priorities to the General Commander. In the PSP, recruitment of senior police officers is carried out annually, in accordance with the established school calendar. There is no specific calendar for the recruitment or promotion of officers. Such recruitments are made according to the needs of the institution and require ministerial authorisation.

152. Initial selection for both PSP and GNR staff follows a merit-based procedure, candidates being ranked according to the results obtained in selection phases by a jury composed of three members appointed for a given selection procedure. Jury members rotate regularly. The list of candidates is then approved by the relevant managers. For recruitment at officer level, as well as police agents (PSP) and guards (GNR) courses, the selection procedure also comprises a psychological interview carried out by a certified psychologist and a motivation interview.

153. In order to verify the integrity of candidates to initial recruitment, a criminal record certificate is required as part of the application package. Candidates who have a criminal record indicating that they have committed a criminal offence with intent cannot be admitted. Candidates who were former military personnel cannot have been sentenced to disciplinary imprisonment, disciplinary penalty of re-entry prohibition or service suspension equal or superior to ten days. Candidates who have been ruled out from previous graduation courses, military education establishments or from security forces or services, due to disciplinary reasons or incapacity for service, are also excluded. Potential problematic behaviours are addressed during the selection interview, which are of an informal nature, in order to ascertain the reaction or posture of the candidate in relation to the topic addressed. Personality tests are also carried out to screen candidates for inappropriate interpersonal

skills or values. Through medical examinations and analyses, several conditions are also verified, including drug use.

154. The GET takes the view that the current vetting procedures need to be reviewed and strengthened. First of all, there is no policy providing for periodic in-service vetting/security checks, other than the integrity-related aspects assessed in the course of performance appraisals. They do not comprise financial background checks or security checks in relation to close relatives/associates. There is a need to take full account of the fact that the environment or personal situation of individual officers can change throughout their working life and expose them to new risks. In this context, vetting at regular intervals is indeed an indispensable tool to prevent corrupt activities by officers in service. Also, a system to check whether police officers have been convicted for offences since they joined the service would appear necessary in this context. **GRECO recommends strengthening the current vetting processes in the Public Security Police and the National Republican Guard and introducing vetting at regular intervals during their staff members' careers.**

155. Decisions on appointment and career are always motivated and subject to hierarchical or judicial appeal. No candidate can be rejected without further and justified explanation, according to the requirements applicable to the procedure.

156. During the on-site visit, both law enforcement organisations referred to difficulties in attracting enough staff, especially for PSP staff stationed in Lisbon and Porto, where the living costs are higher. This was attributed in part to the low level of wages but also to the specificities of an aging population with different career expectations. These difficulties seem to affect mostly the functions with lower qualifications.

Promotion and appointment to managerial positions

157. Promotion in ranks in the PSP occurs following an open call to a competition procedure. Candidates are assessed on the basis of their curriculum vitae. A provisional ranking list is drawn up, with the assistance of a computer system, by the human resources department and a promotion jury appointed by the National Director. The provisional list is notified to all candidates for verification purposes and the jury decides on any following complaints and draws up the final ranking list. Candidates can appeal hierarchically to the MAI or directly to the courts.

158. Appointment to managerial positions is decided at the discretion of the National Director from among all officers within a given rank. For the position of Deputy National Director, candidates may also come from outside the police, provided they have recognised competence and professional experience.

159. Promotions in the GNR can occur following a qualification course, seniority, choice, distinction or on an exceptional basis. Promotion following a qualification course is carried out by decreasing order of the classification obtained in the course. Promotion by seniority presupposes the existence of a vacancy and satisfaction of the conditions for promotion. This is also the case of promotion by choice, but it occurs regardless of the candidate's position in the order of seniority, so as to select the candidate considered to be more competent and who has shown to have greater aptitude for the performance of functions inherent to a higher rank. Promotion by distinction occurs regardless of the existence of a vacancy and aims to

reward exceptional professional qualities or leadership skills that contributed to the prestige of the GNR and the country. Finally, exceptional promotion occurs regardless of the existence of a vacancy and in the following cases: for persons classified as disabled, when special legislation so provides; and by rehabilitation, as a result of appeal in criminal or disciplinary proceedings. In all promotions, candidates must meet general conditions, such as the fulfilment of their duties, efficient performance, behavioural requirements etc, as well as conditions specific to the given rank, such as seniority or the exercise of certain functions. Promotion must respect the classification of candidates by merit. Candidates who are not promoted may complain to their own units, which must forward the complaints to the Human Resources Department.

160. Appointment to managerial positions in the GNR is at the discretion of the General Commander upon the proposal of the regional commander, by volunteering or by seniority.

161. Criticism was expressed during the on-site visit about the lack of transparency and predictability of the promotion process. The GET is also concerned that the appointment to managerial positions in the PSP and the GNR appears to rely heavily on discretion, with no clear process to define selection criteria or explain decisions on appointment.

162. The GET also notes that the organic laws on the PSP (art.52) and the GNR (art. 23 and 25) do not provide for a merit-based appointment process and state clearly that the appointment of these high officials is discretionary. This was confirmed by the interlocutors on site. The candidates may come from within the GNR or the PSP or from outside. In spite of these discretionary appointments by the executive power, there was a consensus among the GET's interlocutors that the PSP and the GNR are not subject to pressure or influence by the executive in their day-to-day operations and investigations. Nonetheless, it is the GET's view that appointment at such crucial positions must be based on merit and suitability for the position and subject to transparent procedures. While a degree of discretion is understandable for the appointment to positions of trust or because of the special needs of a service, this should not overrule merit as an objective basis for appointment, to prevent possible biased practices, cronyism, favouritism or nepotism. **GRECO recommends that the Public Security Police and the National Republican Guard review their current appointment and promotion processes in respect of managerial positions, with a view to improving the objectivity and transparency of such processes and decisions.**

Performance evaluation

163. All staff members of the GNR and PSP in active service undergo annual performance evaluations, in accordance with the Regulation for the Evaluation of the Performance of the Military in the GNR (RADMGNR)[70] and Order n.9-A/2017[71], of January 5, establishing the integrated system for the management and assessment of the performance of police officers of the PSP (SIAD-PSP), respectively. GNR staff may also undergo extraordinary evaluations, for instance in the case of transfer or dismissal.

164. As a rule, evaluations of GNR staff involve the intervention of two evaluators, the more senior validating the initial evaluation carried out by the less senior. The evaluation criteria are based on a set of skills defined for military personnel according to category and rank. It

[70] Portaria n.º 411/2019 | DRE
[71] Portaria n.º 9-A/2017 | DRE

comprises both quantitative elements (such as human relations and cooperation, initiative, sense of duty and discipline etc.) and qualitative elements, among which integrity of character and emotional intelligence. The evaluation process also includes *inter alia* a self-evaluation, an evaluation meeting and possibilities for complaint and hierarchical appeal. Evaluation of PSP staff follow similar criteria and process.

165. For both the GNR and the PSP, the final performance evaluation is expressed in qualitative mentions according to the final score obtained, which may go from excellent to insufficient. For GNR staff, good performance may lead to the attribution of a performance bonus, an increase in the duration of the vacation period of up to three days or a change in the remuneration positioning. Insufficient performance – which must be substantiated – may lead to the identification of further training needs, decisions to better use the capabilities of the evaluated person or the exclusion from the selection processes for appointment to certain functions. It also influences the calculation of the evaluation of merit of the GNR military, with consequences on ranking and promotion. In the PSP, the results in the performance evaluation may lead *inter alia* to the determination of further training needs, monetary compensation or additional holidays. It also affects grades in promotion competitions for higher job categories and the appointment to certain posts, which are analysed on a case-by-case basis by the National Director.

166. The performance evaluation process was perceived by some of the GET's interlocutors as complex, not sufficiently transparent and generally subjective. Criteria were said not to be sufficiently differentiated between field and desk staff, an over-reliance on quantitative elements was reported, as well as the liberal granting of the overall "excellent" rating. As performance results impact promotion and the appointment to higher positions, which relies largely on discretion, the GET refers to its concerns and the recommendation contained in paragraph 162 above.

Rotation

167. Staff rotate regularly in the GNR, according to internal regulations which define criteria such as the time spent on positions. Rotation obligations may be waived based on reasonable and justified reasons. The decisions on rotation in the GNR are taken by the General Commander, based on the needs of the service. In the event that a military staff member is appointed to a promotion course, s/he may also resign from the course if s/he foresees that, with the promotion, s/he will be moved to another location. Regarding the PSP, there is no rotation system other than in the context of promotions, which entail the need to fill vacant positions.

Termination of service and dismissal from office

168. GNR staff may be subject to dismissal further to a disciplinary procedure resulting in separation of service. They may also be excluded from service if their behaviour indicates clear deviations from moral, ethical, military or technical-professional requirements needed by their quality and functions. This statutory measure is decided following a process defined by the EMGNR which preserves the rights of the defence, with the subsidiary application of the disciplinary procedure. In both cases, the decision is taken by the MAI upon the proposal of the GNR General Commander, preceded by an opinion of the GNR Council of Ethics, Deontology and Discipline. It is subject to appeal.

169. In the PSP, termination of employment may occur for disciplinary reasons under the PSP Disciplinary Statute, following the imposition of the sanctions of compulsory retirement or dismissal from service. The imposition of these sanctions falls under the competence of the MAI and is subject to appeal.

Salaries and benefits

170. The gross annual salary of a start-of-career post as a Guard in the GNR in 2022 is EUR 14,993.44. It includes the basic remuneration, a supplement for service in the security forces and a holiday and Christmas allowance. This salary may vary according to the respective functions, seniority or performance evaluation. Additional allowances are granted for special service, patrol, scale, command, residence, meal, uniform and expenses attributed to directors. Depending on specific situations, GNR employees are entitled to transport and housing benefits, which may be given in cash when it's not possible to use other means of payment.

171. Regarding the PSP, the following information was provided by the authorities:

Careers/Ranks		Total	Total annual
National Director		6 116,98 €	85 637,72 €
Deputy National Director (Operations)		5 351,57 €	74 921,98 €
Other Deputies National Directors and National Inspector		4 968,87 €	69 564,18 €
OFFICERS	Chief Superintendent	4 458,59 €	62 420,26 €
	Superintendent	3 756,96 €	52 597,44 €
	Intendent	3 310,48 €	46 346,72 €
	Sub intendent	2 934,84 €	41 087,76 €
	Commissioner	2 559,65 €	35 835,10 €
	Deputy Commissioner	1 996,85 €	27 955,90 €
CHIEFS	Chief Coordinator	2 497,12 €	34 959,68 €
	Principal Head	2 246,98 €	31 457,72 €
	Head	1 746,72 €	24 454,08 €
AGENTS	Coordinating Agent	1 934,31 €	27 080,34 €
	Principal Agent	1 621,65 €	22 703,10 €
	Agent	1 179,72 €	16 516,08 €

172. In addition, social benefits and allowances are provided for parental protection (maternity, paternity and adoption), family, special education, monthly life annuity, career, funeral, bereavement, accident and occupational disease and meals.

173. Regarding the GNR, the following information was provided by Portuguese authorities:

Category/Post		**Total**	**Annual Total**
General Commander		5 999,00 EUR	83 985,94 EUR
Deputy Commander		5 248,60 EUR	73 480,40 EUR
Officers	Lieutenant General	4 935,94 EUR	69 103,16 EUR
	Major General	4 373,13 EUR	61 223,79 EUR
	Brigadier General	4 248,06 EUR	59 472,90 EUR
	Colonel	3 622,72 EUR	50 718,08 EUR
	Lieutenant Colonel	3 184,98 EUR	44 589,78 EUR
	Major	2 809,78 EUR	39 336,92 EUR
	Captain	2 434,59 EUR	34 084,23 EUR
	Lieutenant	1 934,31 EUR	27 080,31 EUR
	Second Lieutenant	1 746,72 EUR	24 454,14 EUR
Sergeants	Sergeant Major	2 434,59 EUR	34 084,23 EUR
	Chief Master Sergeant	2 246,98 EUR	31 457,72 EUR
	Master Sergeant	1 996,85 EUR	27 955,93 EUR
	First Sergeant	1 746,72 EUR	24 454,14 EUR
	Staff Sergeant	1 621,65 EUR	22 703,07 EUR
	Sergeant	1 496,58 EUR	20 952,18 EUR
Guards	Corporal Major	1 871,79 EUR	26 205,03 EUR
	Chief Corporal	1 746,72 EUR	24 454,14 EUR
	Corporal	1 496,58 EUR	20 952,18 EUR
	Senior Guard	1 308,99 EUR	18 325,83 EUR
	Guard	1 070,96 EUR	14 993,38 EUR

Conflicts of interest

174. The relevant legal and regulatory provisions deal with certain forms of conflicts of interest but do not define this notion. Articles 69 to 76 of the Code of Administrative Procedure (CPA) establish a regime of prohibitions and excuses for staff members of public

administration bodies and of any other entities that, regardless of their nature, exercise public powers. If they or one of their close relatives have a personal interest at stake, or if they have been involved in a procedure, they have to communicate this fact to their immediate superior, suspend their activity in the procedure and be replaced. They must request exemption from intervening in a procedure when, reasonably, there may be serious doubts as to the impartiality of their conduct or decision.

175. The Code of Ethics of the Police Service also contains a provision providing that members of the security forces must "not engage in activities that are incompatible with their status as police officers or that place them in situations of conflicts of interest likely to compromise their loyalty, respectability and honour or the dignity and prestige of the institution to which they belong" (article 6).

176. In accordance with Recommendation No.3/2020 of the CPC on the management of conflicts of interest in the public sector, internal control procedures verify the absence of conflicts of interest or legal prohibitions in the procedures entrusted to each employee, as well as the absence of any incompatibilities of functions of police and non-police personnel of law enforcement authorities. In the GNR, all known situations, including those arising from anonymous complaints, are investigated by the Guard Inspectorate. In the PSP, the Department of Human Resources and the Police Inspectorate, working in tandem, exercise control over this matter. Each service director and each police unit commander, as well as the directors of educational institutions, must report to the Police Inspectorate all situations of disqualification, excuse, incompatibilities and conflicts of interest.

177. The GET recalls its findings regarding the lack of detail of the provisions regarding conflicts of interest and related issues and refers in this respect to the recommendation on the need to update the Code of Ethics for the Police Service (see paragraph 144 above).

Prohibition or restriction of certain activities

Incompatibilities, outside activities and financial interests

178. Staff of both law enforcement agencies are subject to Articles 19 to 24 of Law no. 35/2014[72] of 20 June 2014 on the general work in public functions, which contains the general rules of incompatibilities, outside activities and financial interests. Moreover, these matters are also regulated by the respective Statutes of the PSP and GNR, as well as, for the GNR, NEP 1.06.02 of 31 January 2017 regarding the accumulation of duties of GNR military personnel, which regulates the procedure for requesting, granting and monitoring authorisations. Infringement of the relevant regulations constitutes a disciplinary offence.

179. Accordingly, LEOs may engage in other public duties that have manifest public interest, provided they are not remunerated. If remunerated, only activities such as participating in working or advisory groups, teaching, lecturing or research are allowed. As regards private functions, personnel on active duty may not, by themselves or through an intermediary, engage in any private activities competing or conflicting with their police or military functions, or related to the provision of equipment, infrastructure or material for the armed or security forces; they may not perform activities that are incompatible with their rank or military

[72] https://dre.pt/dre/detalhe/lei/35-2014-25676932

decorum. Authorisation to perform an outside activity may not be granted when the activity is incompatible or compromises impartiality, when it may affect the physical capacity or availability of the staff member concerned or when it may cause damage to the public interest.

180. In the GNR, applications for outside activities are submitted electronically, accompanied by a recommendation of the unit commander for granting or refusal and are evaluated on a case-by-case basis at central level by human resources. Authorisations are valid for three years, or until the staff member is promoted or transferred. They are registered in the integrated personnel management system and their exercise has to be followed up by the line manager.

181. The GNR provided the following statistics regarding the authorisation of outside activities in recent years:

Year	Requests not authorized	Requests authorized	Total Requests
2021	129	343	472
2020	124	269	393
2019	134	81	215
2018	225	641	866

182. No specific procedure or statistics were reported by the PSP more than that requests for outside activities are to be addressed to the Human Resources Department and authorised by the Directorate General on a case-by-case basis, after consultation with the legal department. Authorisations are given for a fixed duration of one to three years. The GET is of the opinion that more needs to be done in respect of outside activities in the PSP. There appears not to be a clear policy and procedure in place, and it was not possible to obtain any information in respect of the scale of outside activities among PSP employees. Consequently, **GRECO recommends that the Public Security Police establish clear rules on outside activities and that such activities be duly recorded and subject to regular checks thereafter**.

Gifts

183. The authorities refer to Article 5(3) of the Code of Ethics for the Police Service, which prescribes that the members of the security forces must abstain from any act that may jeopardise their freedom of action, their independence of judgment and the credibility of the institution to which they belong; Article 6(3), which provides that they must combat and report all abusive, arbitrary and discriminatory corruption practices; and Article 7(3), which provides that members of the security forces must exercise their activity according to the criteria of justice, objectivity, transparency and rigour and must act and decide promptly to avoid damage to the asset or legal interest to be safeguarded. The PSP also refers to article 10 of its Disciplinary Statute, containing an obligation of impartiality, which consists in not deriving direct or indirect pecuniary or other advantages for oneself or a third party from the functions one performs.

184. The GET takes issue with the absence of a specific provision in the Code of Ethics or other texts regulating the acceptance of gifts and other advantages. The concerns expressed in

respect of the regime of gifts for PTEFs (see paragraphs 90 above) apply also to LEAs. The provisions of the Code of Ethics referred to by the authorities are much too general to cover this issue in an adequate manner. There is no clear indication on which gifts or hospitality can be accepted or not depending on the context, the giver, the value or the occasion. The GET stresses the importance of remedying this gap in the context of the recommendation to update the Code of Ethics given in paragraph 144 above.

185. Both law enforcement agencies receive donations in kind for furniture, equipment, cars, computers etc., for variable but sizeable amounts. For instance, the PSP received goods for an approximate total value of EUR 370,000 between 2019 and 2022, mostly from private companies and a few municipalities. The PSP and the GNR also receive sponsorships from private entities. However, donations in cash are not allowed. In each force, donations and sponsorships are approved and managed at central level and are reported to the tax authorities, in order for the donors to receive tax rebates. The PSP and the GNR are legally obliged to provide information on all donations received to the Court of Auditors at the level of the Public Accounts of the State. Such information is open public data. According to the Public Procurement Code, companies that have donated goods or services free of charge to a public entity in the current or previous two years are excluded from participating in tenders.

186. The GET notes that private donations and sponsoring of the police are allowed in Portugal. This matter is regulated by internal guidelines, requiring strict documentation and a centralised approval process. However, details of the donations are not published online or subject to any other form of public scrutiny. The GET takes the view that all police forces should preferably be financed solely on the basis of democratically decided and transparent public budgets. It is concerned that donations and sponsorships may taint the reputation of the police or compromise the perception of its neutrality. Full transparency must always be required in respect of all funding to public bodies, such as the law enforcement services. Consequently, **GRECO recommends that the system of donations and sponsorships to the Public Security Police and the National Republican Guard be reviewed in order to (i) putting in place safeguards against real, potential or perceived conflicts of interest; and (ii) publishing donations and sponsorships online on a regular basis, indicating the value, donor's identity and how the assets donated were spent or used.**

Misuse of public resources

187. The applicable provisions are contained in the Disciplinary Statutes of the GNR and the PSP, combined with the Code of Ethics for the Police Service, which applies to both GNR and PSP staff. Specifically, article 13 of the Disciplinary Statute of the PSP on the duty of zeal requires staff not to deviate property belonging to the service from their legal destination and the use with caution and care of all goods and equipment distributed or entrusted to them; Article 12 (j) of the Disciplinary Statute of the GNR prohibits using or allowing, without authorisation, the use of facilities, armaments, vehicles and other material or purposes other than those related to the service; and Article 7(3) of the Code of Ethics on probity requires officers to act with common sense and to avoid damage to the assets or legal interest. Depending on the situation at hand, the crimes of embezzlement or embezzlement of use regulated in the Criminal Code may apply.

Third party contacts, confidential information

188. The Disciplinary Statute of the GNR contains a duty of secrecy (Article 16). Article 11 of the Code of Ethics for the Police Service, that applies to both GNR and PSP personnel, provides that members of the security forces must maintain professional secrecy of any information of confidential nature or relating to the methods or tactics of operational action which they obtain in the performance of their duties, without prejudice to the needs of the administration of justice or of compliance with professional duties. Depending on the situation at hand, Criminal Code provisions may also apply.

Post-employment restrictions

189. There are no general post-employment restrictions applicable to PSP and GNR staff. There is, however, a specific restriction applicable to PSP personnel, who cannot exercise private security functions in the three years following the end of their employment in the PSP.

190. In this regard, the GET acknowledges that certain specialist skills and knowledge former police officers can bring to the private sector can be invaluable and provide welcome employment opportunities. At the same time, however, moves to the private sector by police specialists can entail a number of risks – for example, that certain information gained in the police service is misused, that a LEO is influenced in the exercise of his/her authority in light of an expectation of future employment, or that communication channels with former colleagues are being used for the unwarranted benefit of the new employer. The GET points out that Council of Europe Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials includes special guidelines on leaving the public service (Article 26). Drawing from the information gathered during the on-site visit, it was unclear how much of an issue this is in Portugal. Consequently, **GRECO recommends that a study be conducted concerning the activities of Public Security Police and National Republican Guard staff after they leave the force and that, if necessary, in the light of the findings of this study, rules be established to ensure transparency and mitigate the risks of potential conflicts of interest in this respect.**

Declaration of assets, income, liabilities and interests

191. As explained above in the section on incompatibilities and outside activities, LEOs have to declare any outside activities they exercise or plan to exercise, as well as companies in which they hold, directly or indirectly a share of at least 10%. Disclosure also applies to shares held by their spouse, cohabiting partner, ascendants and descendants in any degree, for the purpose of monitoring the application of the rules on incompatibilities.

192. The GET encourages the authorities to pay further attention to the topic of financial disclosure for certain officials within LEAs (e.g. in respect of top management and/or certain positions vulnerable to conflicts of interest), especially in the context of the implementation of the recommendation on enhanced vetting procedures.

Oversight mechanisms

193. In the PSP, internal control falls within the competence of the department directors and offices of the National Directorate of the PSP, the commanders of police units and the directors of police educational establishments.

194. Based within the National Directorate and depending on the National Director, the Police Inspectorate exercises internal control at national level in the operational, administrative, financial and technical fields, and it is responsible for verifying, monitoring, evaluating and informing on the performance of all PSP services, with a view to promoting: (a) the legality, regularity, effectiveness and efficiency of operational activity, budgetary and wealth management and staff management; (b) the quality of the service provided to the population; and (c) compliance with the business plans and internal decisions and instructions. To this end, it regularly carries out inspections.

195. In the GNR, internal control is exercised by the Functional Commands, through multidisciplinary audits (human, financial and logistical resources) under the coordination of a deputy inspector of the Guard Inspectorate; internal audits of a financial scope are carried out by the Internal Control Division of the CARI Financial Resources Department; planned and unexpected inspections are carried out by the Inspectorate; and daily regular control is exercised by the chain of command.

196. The Inspectorate General for Home Affairs (IGAI) was established in 1995. Its activity is governed by Decree-Law no. 22/2021, of March 15[73] with the mission to ensure high level functions of audit, inspection and control over the entities and services regulated or supervised by the MAI. It has technical and administrative autonomy. The Inspector General may decide inspections without previous notice, initiate and decide on investigation and inquiry procedures, as well as propose the opening of disciplinary proceedings and the performance of audit actions. In the context of its inspection, audit and supervision activities, the IGAI enjoys wide prerogatives, which include *inter alia* a right of access to all premises subject to the exercise of their duties, a right to request and seize any pertinent documents, to examine evidence and collect samples and to request the cooperation of the police authorities in case of obstruction. All services of the state subject to inspection have a duty to inform and cooperate with IGAI staff.

197. IGAI's investigations are selective, since it pays a special attention and directly investigates the most serious cases, such as police ill-treatment, torture, bodily harm and death of citizens, as well as misuse of firearms, without prejudice of exercising oversight, even if indirectly, on less serious cases, following up the disciplinary cases that are investigated within the law enforcement bodies. The activity of the IGAI is especially focused on the control of legality and defence of citizens' rights; it has to investigate all reports of serious violation of citizens' fundamental rights. It pays special attention to reports of ill-treatment of citizens bylaw enforcement officers, as well as any manifestation of excessive use of force and racially motivated misconduct. In that connection, the IGAI invited the heads of the GNR and the PSP to implement a plan for the prevention of manifestations of discrimination in the security forces and services, with interventions in the areas of recruitment; training; interaction of LEOs with other LEOs and with citizens, including on social networks; security forces image promotion and communication; preventive mechanisms and monitoring.

198. Some of the IGAI's activities also focus on integrity and corruption in security forces. Besides acting in individual cases of LEOs reported as being involved in such misconduct, the IGAI *inter alia* evaluates the PPRs submitted by entities under the MAI, including the PSP and the GNR; carries out audits and capacity building in the area of risk management; performs

[73] Decreto-Lei n.º 22/2021 | DRE. (in Portuguese, with a summary in English).

training and awareness-raising of both its own and other LEOs in matters of ethics and corruption. Discussions during the on-site visit highlighted the severe understaffing of the IGAI, as confirmed by their annual report[74]. Out of a planned total staff of 55 persons, only 39 positions were filled in 2021. Currently, three of the 14 inspector positions are vacant and only one inspector was in charge of performing audit and control activities. The GET takes the view that this situation needs still to be addressed, as adequate resources are instrumental to an effective exercise of the oversight functions that the IGAI is tasked with. Consequently, **GRECO recommends that the staffing level of the Inspectorate General for Home Affairs be further increased.**

199. The Portuguese Ombudsman is an independent state body elected by the Assembly of the Republic for a four-year mandate, renewable once. Its main role is to protect and promote the rights, freedoms, guarantees and legitimate interests of citizens, foreigners and stateless persons, whether or not they are legally living in Portugal. It performs its duties in response to complaints[75] or *ex officio* and has significant powers of investigation. It has no binding powers but ensures, through its recommendations, the justice and legality of the exercise of public powers. It may also refer the complainant to the competent authority when a judicial or administrative remedy is available. The Ombudsman can only intervene in relation to the action of Portuguese national entities, the political and jurisdictional functions being excluded from its competence.

200. The Ombudsman receives complaints regarding the conduct of police forces. In these cases, it hears police stations and addresses the PSP or the GNR Inspectorates, as well as the IGAI when necessary. It may also hear police forces directly on the spot. Complaints do not typically deal with cases of corruption. When they do, cases are directed to the prosecution service or to the IGAI. A significant number of complaints concern the quality of police attendance. In several cases, the Ombudsman referred to the Code of Ethics for the Police Service, underlying the need to comply with its principles and rules of conduct, and to ensure training on human rights. In 2021, the Ombudsman received 51 complaints on police security issues: 32 regarding the conduct by police forces and 11 regarding an omission of police intervention.

201. Other "supervisory bodies" of the PSP and the GNR include the MAI, the parliamentary Commission on Constitutional Affairs, Rights, Liberties and Guarantees, the Court of Auditors as regards accounts and financial management, the criminal and administrative courts whenever facts related to the performance of LEOs or internal security services is at stake, the Public Prosecution Service and the Criminal Police, as regards criminal investigations.

Complaint system

202. Complaints about LEOs may be submitted to the PSP, the GNR, their respective Inspectorates, the Criminal Police, the CPC, the IGAI, the Ombudsman or the Public Prosecution Service. By law, each police station is required to have a complaint book. A poster advertising the existence of this complaint book appears in all police stations. Complaints may be submitted by any means and are free of charge. The GNR, the Criminal Police and the IGAI

[74] https://www.igai.pt/pt/InstrumentosDeGestao/RelatorioDeAtividades/Documents/Relatorio%20de%20Atividades%202021.pdf
[75] File a complaint – Provedoria de Justiça (provedor-jus.pt)

also have an electronic channel on their respective websites to receive complaints. Complaints may be anonymous.

203. If the facts are of an administrative nature, they are forwarded to the PSP or the GNR to launch an investigation and, possibly, disciplinary proceedings, although the IGAI may choose to investigate the facts itself. In all cases, it opens an administrative procedure as a way to monitor the disciplinary investigation carried out within the PSP or the GNR. If the facts are of a criminal nature, they are communicated to the Public Prosecution Service, which is in charge of investigating corruption and related offences. The Public Prosecution Service may order the Criminal Police to carry out an investigation under its direction (see paragraph 114 above). Complainants receive information about the follow-up to their complaint – except in the case of an anonymous complaint – and they may challenge the decision not to investigate a case through an internal administrative appeal or by applying to the administrative court.

204. The Prosecutor General's Office also manages an electronic reporting system called "Corruption: Report here[76]", where reports can be made, including anonymously, regarding corruption and related offences. The website of the CPC has a direct link to this reporting system. According to data collected by the Prosecutor General's Office, 1966 complaints were submitted, including through this system, of which 695 were submitted by identified whistleblowers (35.4%). The analysis of the complaints led to the initiation of 249 investigations and 31 preventive investigations, with 787 complaints sent to other entities and 896 filed. These figures are not specific to PSP and GNR staff.

205. The GET takes the view that complaints against PSP and GNR staff should preferably not be dealt with by the PSP or GNR itself and never by the immediate hierarchy of the employees concerned (see also "Disciplinary proceedings", below). Moreover, it would appear that the system of complaint books held in each police station needs to be complemented by a centralised system in order to provide for broad statistics on complaints against the LEAs covering the whole country. Such information ought to be available publicly (without disclosing the identity of the individuals concerned) as a basis for measures to be taken in anti-corruption strategies, risk management mechanisms, training activities, etc. Consequently, **GRECO recommends that complaints against staff members of the Public Security Police and the National Republican Guard and measures taken in this respect be reflected in centralised statistics available to the public, while respecting the anonymity of the persons concerned.**

Reporting obligations and whistleblower protection

Reporting obligations

206. LEOs in both services have the duty to report any crime of which they become aware (Article 242, Code of Criminal Procedure), as well as any misconduct or suspicion of disciplinary offence committed by a colleague, to any hierarchical superior of the offender (Article 76, GNR Disciplinary Statute; Article 61 PSP Disciplinary Statute).

207. Failure to report may give rise to disciplinary proceedings as well as criminal proceedings for the crime of denial of justice (Article 369 of the Criminal Code).

[76] https://simp.pgr.pt/dciap/denuncias/den_criar.php

Whistleblower protection

208. Whistleblower protection is regulated by Law no. 93/2021[77], of December 20, which entered into force on 18 June 2022 and transposes Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law[78]. This new law, together with Decree-Law no. 109-E/2021, of December 9, which sets out the RGPC and creates MENAC – an independent administrative authority which will incorporate the CPC – establish that public and private entities with more than 50 employees are required to have internal whistleblowing channels, which will be supervised by the MENAC. Also, MENAC has the power to process administrative offences and apply corresponding fines for certain breaches of the law on whistleblower protection. These channels have to ensure the secure submission and follow-up of whistleblowing reports. The law also foresees that internal measures have to be taken to verify the facts reported and that the whistleblower has to be informed of the follow-up of the denunciation. Anonymous reports are allowed, and the law foresees fines and an obligation of compensation in case of retaliation against whistleblowers.

209. External whistleblowing channels are the Public Prosecutor's Office or the Criminal Police in the case of crimes, and the competent administrative authorities or police and supervisory authorities as regards misdemeanours. The Whistleblowers Protection Act also provides for protection measures for whistleblowers, including the prohibition of retaliation, support measures and judicial protection. Disregard for the provisions of the law may incur administrative fines between EUR 500 and 250,000 to be pronounced by MENAC.

210. The GET notes that at the time of the on-site visit, the PSP and the GNR, to which the Whistleblowers Protection Act applies, had not yet established internal whistleblowing channels, although work was reportedly ongoing to that end. Moreover, the MENAC, which is entrusted with overseeing compliance with the law, is not yet fully functioning (see also paragraph 44 above). Lastly, it is crucial to promote awareness of LEOs in this domain at all levels, to counter the "code of silence" that could informally rule in hierarchical organisations and to ensure proper implementation of the law, which, as noted by a report[79] adopted by the OECD Working Group on Bribery in October 2022, "introduces far-reaching changes in Portugal's legal framework". **GRECO recommends (i) strengthening the protection of whistleblowers within the Public Security Police and the National Republican Guard, particularly by establishing internal reporting channels; and (ii) conducting dedicated training and awareness-raising activities about whistleblower protection measures for all levels of hierarchy and chains of command.**

Enforcement procedure and sanctions

Disciplinary proceedings

211. Disciplinary liability of LEOs is regulated by their respective Disciplinary Statutes. Disciplinary proceedings may be opened by the officer's hierarchical superiors or by the IGAI.

[77] https://dre.pt/dre/detalhe/lei/93-2021-176147929

[78] Until June 2022, the Portuguese Ombudsman sat as an observer in the Network of European Integrity and Whistleblowing Authorities (NEIWA), which aims to ensure assistance and exchange of good practices with regard to Directive (EU) 2019/1937.

[79] https://www.oecd.org/daf/anti-bribery/portugal-phase-4-report.pdf

Suspected misconduct is investigated in all casesby the internal deontology and discipline departments of the force to which the officer belongs, which appoints an instructor (investigator) for the procedure. The progress of the investigation is monitored by the IGAI, which may also carry out the investigation itself. If the investigation demonstrates that an alleged misconduct has been committed, the instructor prepares a report presenting the facts and circumstances of the case, as well as the applicable texts and sanction. The concerned LEO and his/her representative are given a time period to present their defence, during which they have access to the file and may present evidence and witnesses. The instructor then prepares a final report indicating whether the facts of the case amount to misconduct and proposing an appropriate sanction. This report is handed to the competent authority which, depending on the seriousness of the infraction, is the LEO's direct superior or a higher hierarchical authority, which decides whether or not to agree with the instructor's conclusions and proposals. The final decision must be motivated. Disciplinary sanctions include a written reprimand, fine, suspension, compulsory retirement and dismissal. The application of the sanctions of compulsory retirement and dismissal is preceded by an opinion of the Council of Deontology and Discipline. Disciplinary sanctions may be appealed to the superior of the decision-maker or to the administrative court. Disciplinary penalties are published internally. The statute of limitation is three years from the commission of a disciplinary offence.

212. In 2022, the IGAI started publishing on its website[80] decisions in disciplinary cases that were investigated and dealt with by its staff. This publicity includes so far abstracts, reports and decisions, duly anonymised, rendered in 16 disciplinary cases between 2016 and 2022. The GET welcomes this measure as good practice that the authorities are encouraged to maintain and develop.

213. However, the GET is seriously concerned about the fact that disciplinary proceedings are almost entirely in the hands of the officer's hierarchical superiors, who are responsible for initiating proceedings, assessing the results of the investigation and deciding on a sanction, with a collegial board giving an opinion only on the application of the gravest sanctions. This lack of separation between the authority to initiate proceedings and the authority to decide on sanctions may be conducive to a lack of impartiality and fairness in the proceedings. A process in which the case would be heard and decided by a collegial authority could offer better guarantees. Therefore, **GRECO recommends reviewing the disciplinary regime of the Public Security Police and the National Republican Guard with a view to excluding any possibility of a hierarchical superior deciding on disciplinary matters single-handedly.**

Criminal proceedings and immunities

214. Staff of the PSP and the GNR do not enjoy immunities or other procedural privileges. They are subject to regular criminal proceedings.

Statistics

215. The table below contains statistical information on new investigations involving members of security forces and services (FSS) as defendants:

[80] https://www.igai.pt/pt/Publicacoes/RelatoriosDisciplinares/Pages/default.aspx

New inquiries per Crime/Year being the defendant a member of the FSS				
Crimes	2019	2020	2021	Total
Abuse of power	8	2	1	11
Active corruption	6			6
Passive corruption	1		2	3
Intentional insolvency	2			2
Economic participation in business	1			1
Embezzlement	2	2	1	5
Embezzlement for its own use		1		1
Undue receiving of an advantage	1			1

216. The following tables provide data on investigations carried out by the IGAI. As explained above, it should be noted that the IGAI systematically initiates administrative procedures (AP) as a form of monitoring the relevance and progress of disciplinary investigation proceedings conducted in LEAs. The number of AP also reflects unsubstantiated complaints or complaints wrongly addressed to the IGAI, which are assessed in AP before, when justified, being addressed to the competent authorities.

	Facts	AP[1]	PDN[2]				AIP[6]
			EP[3]	IP[4]	DP[5]	Penalty	
2018	Abuse of authority	44	-	-	4	-	-
	Issues of internal or professional nature	52	-	1	-	-	-
	Wound and/or threat with firearm	6	-	-	-	-	-
	Illegalities by action or omission	66	-	-	-	-	-
	Ill-treatment or physical injuries	255	2	7	31	4	
	Discriminatory practices	6	-	-	-	-	4[81]
	Incorrect action/behaviour	175	-	3	4	1	-
	Illegal Detention	3	-	-	-	-	-
	Death	-	-	-	-	-	-
	Others	253	1	7	2	-	-
	Total	860	3	18	41	5	4

1 – Administrative procedure
2 – Proceedings of disciplinary nature
3 – Enquire procedure
4 – Inquiry procedure
5 – Disciplinary proceedings
6 – Administrative infraction proceedings

[81] Administrative infraction proceedings on account of discrimination investigated in accordance with Law n. 46/2006, of August 28, and Decree-Law n. 34/2007, of February 15.

	Facts	AP	PDN				AIP
			EP	IP	DP	Penalty	
2019	Abuse of authority	51	0	1	0	0	0
	Issues of internal or professional nature	62	0	0	0	0	0
	Crimes against property (larceny, theft, damage, swindling, extortion)	26	0	0	0	0	0
	Illegal detention	0	0	0	0	0	0
	Death	0	0	0	0	0	0
	Physical injuries (physical abuse, ill-treatment)	289	0	7	1	0	0
	Crimes against sexual and personal liberty (threats, coercion, kidnapping, rape, sexual coercion, pimping, child sexual abuse)	15	0	0	1	0	0
	Discriminatory practices	11	0	1	0	0	2
	Violation of professional duties (incorrect procedures or behaviour, refusal of customer service, illegalities, irregularities and omissions)	275	0	12	2	0	2
	Domestic violence	50	0	0	0	0	0
	Others	76	0	1	0	0	0
	Total	855	0	12	2	0	2

	Facts	AP	PDN				AIP
			EP	IP	DP	Penalty	
2020	Abuse of authority	105	0	0	1	1	0
	Issues of internal or professional nature	98	0	0	0	0	0
	Crimes against property (larceny, theft, damage, swindling, extortion)	22	0	0	0	0	0
	Illegal detention	0	0	0	0	0	0
	Death	3	0	2	16	2 (a)	0
	Physical injuries (physical abuse, ill-treatment)	212	0	4	11	4 (b)	0
	Crimes against sexual and personal liberty (threats, coercion, kidnapping, rape, sexual coercion, pimping, child sexual abuse)	12	0	0	1	0	0
	Discriminatory practices	14	0	1	0	0	1 (d)
	Violation of professional duties (incorrect procedures or behaviour, refusal of customer service, illegalities, irregularities and omissions)	454	0	11	13	(c)	2
	Domestic violence	34	0	0	0	0	0
	Others	119	0	1	0	0	0
	Total	1073	0	17	41	7	1

(a) three cases were suspended and two cases gave rise to disciplinary proceedings;
(b) three cases were filed/dropped and two cases gave rise to disciplinary proceedings;

(c) nine cases were filed/dropped, one case was suspended and one case gave rise to disciplinary proceedings;
(d) administrative infraction proceedings based on discriminatory practices towards a handicapped person (Law no. 46/2006, of August 28).

VI. RECOMMENDATIONS AND FOLLOW-UP

217. In view of the findings of the present report, GRECO addresses the following recommendations to Portugal:

Regarding central governments (top executive functions)

i. **that (i) rules on integrity checks apply to all persons with top executive functions, ahead of their appointment, in order to identify and manage existing and potential conflicts of interest; (ii) the information provided be cross-checked, and the results be published upon their appointment in office; and (iii) the area of competence and specific duties of all members of ministerial cabinets, including the Prime Minister's, be published online and kept up to date** (paragraph 32)**;**

ii. **that the National Anti-Corruption Strategy be accompanied by a dedicated action plan for its implementation in practice** (paragraph 41)**;**

iii. **that, as a matter of priority, the National Anti-Corruption Mechanism become fully operational, in practice, by providing it with adequate measures and appropriate resources (financial, personnel, administrative, legal, etc.)** (paragraph 44)**;**

iv. **that (i) a plan for the prevention of risks of corruption specific to persons with top executive functions, comprising the identification of integrity-related risks and appropriate remedial measures, be established and published online, and (ii) the plan be subject to regular monitoring by the National Anti-Corruption Mechanism, making public its findings and recommendations as well as the responses of the authorities** (paragraph 48)**;**

v. **that the Code of Conduct for persons with top executive functions (i) be revised and complemented with additional provisions containing clear guidance regarding conflicts of interest and other integrity related matters (such as gifts, contacts with third parties, outside activities, contracts with State authorities, the handling of confidential information and post-employment restrictions), and (ii) be coupled with a credible and effective mechanism of supervision and sanctions** (paragraph 53)**;**

vi. **that (i) formal training on integrity standards be provided to all persons with top executive functions upon taking office and at regular intervals, and (ii) confidential counselling on ethical issues be made available to them and related statistics on such confidential counselling be duly kept** (paragraph 57)**;**

vii. **improving the public's access to information by taking further measures to limit the use of restrictions under the applicable law governing access to administrative information and documents and make the whole process of access to information more efficient** (paragraph 62)**;**

viii. **that the procedure for public consultations in respect of decree-laws be reviewed to ensure that decree-laws be, as a rule, submitted for public consultations, including through the provision of adequate timelines, the documentation of the**

contributions received and parties involved, as well as the publication of the outcome of public participation procedures in a timely and easily accessible manner (paragraph 69)**;**

ix. **that (i) detailed rules be introduced on how persons entrusted with top executive functions engage in contacts with lobbyists and other third parties who seek to influence governmental legislative and other work, and (ii) sufficient information about the purpose of these contacts, the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion be disclosed** (paragraph 70)**;**

x. **that information about the receipt of gifts, offers, hospitality, invitations and other benefits by persons with top executive functions be recorded in a central register and be made available in a timely manner to the public** (paragraph 90)**;**

xi. **that (i) similar post-employment restrictions applying to members of the Government be extended to all persons with top executive functions , and (ii) an effective enforcement mechanism be established** (paragraph 96)**;**

xii. **that similar disclosure requirements of income, assets, interests, incompatibilities and disqualifications applying to members of the Government be extended to all persons with top executive functions** (paragraph 100)**;**

xiii. **that (i) the electronic platform for filing single electronic declarations be put in place and made operational as soon as possible; (ii) persons with top executive functions' declarations of income, assets, interests, incompatibilities and disqualifications be systematically and easily made accessible online; and (iii) consideration be paid to include additional financial information for spouses, partners and dependent family members (it being understood that such information of close relatives does not necessarily need to be made public)** (paragraph 101)**;**

xiv. **that, (i) as a matter of priority, the effective functioning of the Entity for Transparency be fully ensured by taking the appropriate regulatory, institutional and operational measures and allocating necessary resources to this body, and (ii) the single declarations of persons with top executive functions be subject to regular substantive checks, by establishing robust and effective cooperation/interaction with all relevant control bodies/databases and imposing proportionate sanctions in case of breach** (paragraph 104)**;**

Regarding law enforcement agencies

xv. **that further measures be taken to strengthen the representation of women at all levels in the Public Security Police and the National Republican Guard** (paragraph 123)**;**

xvi. **that the framework on access to policing information be reviewed to make the information more readily available while preserving the confidentiality of ongoing**

investigations by the Republican National Guard and the Public Security Police (paragraph 127)**;**

xvii. **that a longer-term perspective on institutional measures be provided in the form of dedicated anti-corruption strategies within the Public Security Police and the National Republican Guard, as a complement to the Plans for the Prevention of Risks of Corruption and Related Offences** (paragraph 138)**;**

xviii. **that (i) the Code of Ethics for the Police Service be updated or similar documents be adopted to address current challenges relating to corruption prevention and integrity matters (e.g. conflicts of interest, gifts, confidential information, use of public resources, accessory activities etc.), and (ii) that such documents be complemented with practical guidance and concrete examples** (paragraph 144)**;**

xix. **that a mechanism be introduced for providing confidential counselling on ethical and integrity matters for staff of the Public Security Police and of the National Republican Guard** (paragraph 148)**;**

xx. **strengthening the current vetting processes in the Public Security Police and the National Republican Guard and introducing vetting at regular intervals during their staff members' careers** (paragraph 154)**;**

xxi. **that the Public Security Police and the National Republican Guard review their current appointment and promotion processes in respect of managerial positions, with a view to improving the objectivity and transparency of such processes and decisions** (paragraph 162)**;**

xxii. **that the Public Security Police establish clear rules on outside activities and that such activities be duly recorded and subject to regular checks thereafter** (paragraph 182)**;**

xxiii. **that the system of donations and sponsorships to the Public Security Police and the National Republican Guard be reviewed in order to (i) putting in place safeguards against real, potential or perceived conflicts of interest; and (ii) publishing donations and sponsorships online on a regular basis, indicating the value, donor's identity and how the assets donated were spent or used** (paragraph 186)**;**

xxiv. **that a study be conducted concerning the activities of Public Security Police and National Republican Guard staff after they leave the force and that, if necessary, in the light of the findings of this study, rules be established to ensure transparency and mitigate the risks of potential conflicts of interest in this respect** (paragraph 190)**;**

xxv. **that the staffing level of the Inspectorate General for Home Affairs be further increased** (paragraph 198)**;**

xxvi. **that complaints against staff members of the Public Security Police and the National Republican Guard and measures taken in this respect be reflected in centralised**

statistics available to the public, while respecting the anonymity of the persons concerned (paragraph 205)**;**

xxvii. **(i) strengthening the protection of whistleblowers within the Public Security Police and the National Republican Guard, particularly by establishing internal reporting channels; and (ii) conducting dedicated training and awareness-raising activities about whistleblower protection measures for all levels of hierarchy and chains of command** (paragraph 210)**;**

xxviii. **reviewing the disciplinary regime of the Public Security Police and the National Republican Guard with a view to excluding any possibility of a hierarchical superior deciding on disciplinary matters single-handedly** (paragraph 213)**.**

218. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of Portugal to submit a report on the measures taken to implement the above-mentioned recommendations by 30 September 2024. The measures will be assessed by GRECO through its specific compliance procedure.

219. GRECO invites the authorities of Portugal to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: www.coe.int/greco.

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