

**DISPUTE RESOLUTION**

National Anti-corruption Mechanism (MENAC)

Decree-Law 70/2025 of 29 April

On 29 April 2025, Decree-Law 70/2025 was published, introducing the first major amendment to Decree-Law 109-E/2021 of 9 December, which created the National Anti-Corruption Mechanism (*Mecanismo Nacional Anticorrupção* – “**MENAC**”) and established the General Framework for the Prevention of Corruption (*Regime Geral de Prevenção da Corrupção* – “**RGPC**”).

We analysed the main aspects of Decree-Law 109-E/2021 of 9 December in our note on the National Anti-Corruption Mechanism and the General Framework for the Prevention of Corruption, to which we refer for matters that remain in force.

This time, in line with the commitments made in the Anti-Corruption Agenda 2024, a profound and strategic restructuring of MENAC has been undertaken. The restructuring is aimed at strengthening its independence, transparency and intervention capacity. Its overall objective is to promote a culture of integrity and accountability in both the public and private sectors.

What changes in practice?

The new Decree-Law essentially covers the following three areas of MENAC: a) strengthening its powers, b) redefining its internal structure and c) establishing its own staffing framework.

In practice, all these changes are aimed at making MENAC more robust and agile in carrying out its functions.

a) Strengthening the powers of MENAC

First, the new Decree-Law stipulates that the Annual Anti-Corruption Report, which is now the responsibility of the Board of Directors, must be submitted not only to the Government but also to the Assembly of the Republic (Portugal’s national parliament). This change strengthens MENAC’s institutional transparency and its coordination with sovereign bodies. Above all, it promotes public scrutiny, awareness of MENAC’s activities and public reflection on the values it seeks to promote.

Secondly, the Decree-Law extends the cooperation obligations of the public and private entities covered. They are now required to provide MENAC with all information necessary for the strict performance of its duties, including copies of all decisions of dismissal, indictment or non-indictment, acquittal or conviction for facts related to corruption or related crimes, without prejudice to judicial secrecy.

b) Redefinition of MENAC's internal structure and governance model

MENAC's new organisational model is based on a simplified and functional structure, consisting of:

- Three management and supervisory bodies:
 - i) Board of Directors
 - ii) Advisory Board
 - iii) Sole Auditor
- Three permanent operational units:
 - i) Planning, Prevention and Information Unit
 - ii) Inspection and Administrative Offences Unit
 - iii) General Secretariat

In addition, the General Inspectorates, Equivalent Bodies and Regional Inspectorates remain fully operational. They are responsible for carrying out periodic inspections and audits of the departments or bodies in their areas of government. Their aim is to assess compliance with the rules laid down in the legislation on the existence of compliance programmes.

Change in MENAC's governance model

MENAC's governance model is changing from a one-person structure (President and Vice-President) to a collegial model based on a three-member Board of Directors with a four-year term of office, exercised on an exclusive basis.

This change aims to strengthen functional independence, collegiality and shared responsibility in the strategic management of MENAC.

The members of the Board of Directors are appointed and dismissed by decision of the Council of Ministers, on the joint proposal or in consultation with the members of the Government responsible for Justice and Finance, respectively.

The General Inspectorates, Equivalent Bodies and Regional Inspectorates remain fully operational. They are responsible for carrying out periodic inspections and audits.

The powers previously vested in the President of MENAC, including representation, management of services and the performance of acts necessary for its functioning, are now vested in the Board of Directors.

In addition, new powers have been strengthened, in particular:

- Initiating and deciding on proceedings for administrative offences, not limited to the imposition of fines or ancillary penalties
- Ensuring the implementation of the MENAC budget

Reconstitution of the Advisory Board

The MENAC Advisory Board now includes representatives of sectoral and regional audit bodies, the Audit Court and non-governmental organisations involved in the fight against corruption, thus promoting greater institutional independence and diversity.

However, the President of the Board of Directors may, on his or her own initiative or at the proposal of a member of the Advisory Board, invite external persons, without voting rights, to participate in specific meetings of the Advisory Board, if their contribution is considered relevant to the matters under discussion.

The Advisory Board is to play a more active role in the strategic and institutional monitoring of MENAC and will be responsible for

- Giving its opinion on the main management and planning instruments of the body, including:
 - iv) Four-year strategic plan
 - i) Annual activity plan
 - ii) Annual activity report
 - iii) Annual anti-corruption report
 - iv) Other matters referred to it by the President of the Board of Directors
- Issuing opinions on:
 - i) MENAC's staffing plan
 - ii) The appointment and dismissal of MENAC's Secretary General
 - iii) The MENAC's internal rules of procedure
- Submitting recommendations and suggestions within MENAC's remit that contribute to strengthening transparency, effectiveness and institutional integrity.

Creation of the Sole Auditor

The position of Sole Auditor of MENAC is established to strengthen internal control, financial oversight and accountability mechanisms and ensuring a more technical and independent approach.

The Sole Auditor is appointed by decree of the Member of the Government responsible for Finance and must be a statutory auditor or a firm of statutory auditors, in accordance with the legislation in force. The term of office is four years, renewable once for the same period.

The Sole Auditor is responsible for monitoring the legality, regularity and sound financial and asset management of MENAC, in particular through the following functions

- Monitoring and systematically verifying compliance with legal and regulatory standards, budget execution and the economic and financial situation of the entity
- Issuing opinions on:
 - i) The annual budget, as well as its revisions and amendments
 - ii) The activity plan, from the point of view of budget coverage
 - iii) The annual report and accounts
- Keeping the Board of Directors informed of the results of the controls carried out
- Drawing up inspection reports, including an annual summary report
- Giving technical opinions on any matter referred to it by the Board of Directors or the Audit Court
- Reporting irregularities detected to the competent authorities

In exercising its powers, the Sole Auditor has the following rights:

- Direct access to information: it may ask the Board of Directors for any clarification it considers necessary
- Free access to MENAC's departments and documents, and the right to request any relevant information from those responsible
- Organising meetings with the Board of Directors to discuss matters within its competence, whenever justified by their relevance
- Taking or proposing measures it deems indispensable to ensure legality and good management

The position of Sole Auditor of MENAC is established to strengthen internal control, financial oversight and accountability mechanisms and ensuring a more technical and independent approach.

Creation of Operational Units and General Secretariat

The Decree-Law creates two operational units – the Planning, Prevention and Information Unit and the Inspection and Administrative Offences Unit – and the new General Secretariat, which replaces the former post of Secretary General.

These structures take over the functions of the former Monitoring Committee and the Sanctions Committee, thus strengthening the functional specialisation and operational capacity of MENAC. Both units will be headed by the member of the Board of Directors appointed for this purpose.

The Planning, Prevention and Information Unit assumes MENAC's responsibilities in the areas of strategic planning, prevention and the production of relevant information:

- Develop the main instruments for planning and monitoring MENAC's activities, namely the four-year strategic plan, the annual activity plan, the annual activity report and the annual anti-corruption report
- Establish and maintain data collection and processing systems, including the RGPC effectiveness monitoring system, the information bank and the electronic reporting platform
- Develop and propose recommendations and measures to strengthen transparency and probity
- Produce, collect and disseminate information on corruption and related offences
- Ensure coordination with the general inspectorates and similar bodies and regional inspectorates, optimising the implementation of prevention plans
- Issue opinions and statements on matters within its competence, whenever requested to do so by the Board of Directors

The Inspection and Administrative Offences Unit is responsible for the MENAC's functions related to the inspection and enforcement of the administrative offences rules, and is tasked with:

- Monitoring the implementation of and compliance with the RGPC and the quality of the compliance instruments adopted by public entities, in coordination with the General and Regional Inspectorates
- Coordinating the activities of the Inspectorates in relation to the prevention and repression of corruption
- Evaluating complaints and reports of non-compliance with the RGPC
- Analysing relevant information on infringements collected on its own initiative or by other entities
- Proposing, investigating and monitoring administrative offence proceedings and promoting compliance with the resulting decisions
- Issuing opinions on matters within its competence, whenever requested to do so

The new General Secretariat now plays a central role in providing technical and administrative support to the agency's bodies and services, in particular in the areas of internal management, resources and compliance. It is therefore responsible for:

- Providing support for the management of human, financial and physical resources, including budget preparation and execution, processing of revenue and expenditure and preparation of management accounts
- Ensuring the processing of salaries and allowances, as well as the management of acquisitions, assets, facilities and equipment
- Managing the recruitment, mobility and training of staff, as well as performance appraisal systems
- Ensuring the functioning of the technological infrastructure and related technical support;
- Ensuring the existence and implementation of internal control, risk monitoring and compliance mechanisms, ensuring compliance with applicable legal and regulatory standards

c) Establishment of its own staff

MENAC will no longer be dependent on secondments from the civil service and will now have its own staff, allowing it to recruit staff with civil service status or under public service contracts. Up to six posts may also be allocated to inspection staff, to be assigned to the Inspection and Administrative Offences Unit.

The aim of this change is to provide MENAC with a more stable, permanent and autonomous team.

When will it change?

In principle, the new Decree-Law will come into force on 29 May 2025.

However, there are two important exceptions:

- The new procedural rules will apply immediately:
 - i) To ongoing proceedings, particularly those of a penal nature, which will have to be redistributed, if necessary, in accordance with the new organisational structure
 - ii) To projects and activities already underway, with any necessary adjustments to bring them into line with the new rules
- Reorganisation of MENAC: The current terms of office will end when the new rules come into force, but new bodies will have to be appointed within 60 days. Current members of MENAC bodies will remain in office until their successors take office. ■