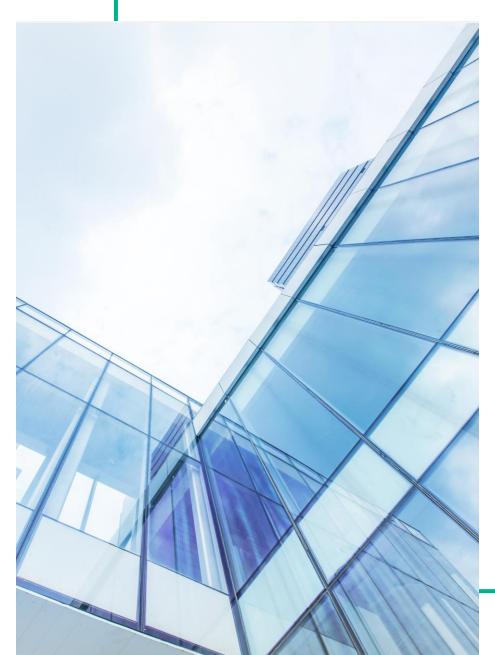


EXPERTISE

## INVESTIGATIONS & WHITE COLLAR

GENERAL CORRUPTION PREVENTION FRAMEWORK AND NATIONAL ANTI-CORRUPTION MECHANISM



January 2022



## Decree-Law 109-E/2021 enacting the Regime Geral de Prevenção da Corrupção [General Corruption Prevention Framework] ("RGPC") and setting up the Mecanismo Nacional Anticorrupção [National Anti-Corruption Mechanism] ("MENAC") was published December 10, 2021.

The RGPC applies to **entities** employing **50 or more workers**, which are required to establish and implement corruption prevention measures, including:

- a Corruption Risks and predicate or related offenses Prevention Plan ("PPR");
- ii. a conduct code:
- iii. training programs; and
- iv. whistleblowing channels.

The RGPC further requires entities to appoint a compliance officer that:

- i. performs his/her duties independently, on a continued basis and with decision autonomy;
- ii. has access to internal information and the necessary human and technical resources.

MENAC will be an independent administrative entity whose remit includes promoting, monitoring and supervising the RGPC's implementation, as well as launching, processing and deciding on administrative offense proceedings as set forth in the RGPC.

Failure to perform the obligations established in the act can entail potential reputational damages and liability for administrative offenses for the entities involved, who can be applied administrative fines and ancillary penalties, including the publication of their conviction on any newspaper and on MENAC's official website.

The decree-law **comes into force** 180 days following its publication, i.e., **June 8, 2022**. The act's chapter on penalties, however, will only become effective:

- i. one year following the act's entry into force; or
- ii. two years after the act's entry into force in the case of medium-sized enterprises.

The obligation to adopt measures to mitigate any risks of corruption and of predicate or related offenses is not new and was already a staple of certain areas of the law, notably public procurement. The RGPC only clarifies the legislator's intention in this respect.

Entities operating in Portugal can still be held criminally liable for corruption and/or predicate or related offenses. The new criminal framework of corruption and predicate or related offenses, which will soon be published in the *Diário da República* [Official Gazette], allows for criminal proceedings to be dismissed if the relevant entity adopts and/or implements the measures set forth in the RGPC.

VdA's Crimes and Misdemeanors team is highly experienced in creating and implementing anti-corruption compliance programs for various economic sectors, often in conjunction with foreign jurisdictions, and supports companies in this transition process.

## Contacts



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