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instruments are unproductive, which in practice means that the key information needed for criminal proceedings is obtained outside official channels for the flow of information. This state of affairs in turn conflicts with the fundamental assumptions of the legal system.

We are only now observing the beginnings of the debate over new instruments for

fighting cybercrime. We are facing a new and unfamiliar phenomenon. Thus, non-standard responses to the arising threats should be expected. Without the creation of effective methods for battling negative phenomena in cyberspace, society may quickly lose trust in new technologies. In these circumstances, to say that the law does not keep up with everyday life would be putting it mildly.

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Delegation of powers within corporations: a way to mitigate criminal liability for corruption offences

The general principle enshrined in Portuguese law is that only individuals can be held criminally liable, in line with modern penal systems. Portuguese law generally applies to criminal offences committed abroad by or against legal entities based in Portugal. Special rules apply to corruption in international trade and the private sector: regardless of the place where the relevant constituent acts occurred, active corruption in international trade can be prosecuted in Portugal if the offenders are Portuguese citizens or foreign citizens found in Portugal. In turn, regardless of the place where the relevant constituent acts occurred, passive or active corruption in the private sector can be prosecuted in Portugal if the person offering, promising to offer, requesting or accepting any undue advantage is a public official or political office holder in Portugal, or a Portuguese official working for any international organisation.

The corporation itself is punished for any offences committed in its name and to its advantage according to both the offence and the type of corporation at stake. Liability for corruption offences (in the public or private sector, in national or international trade) can attach to corporations, although not to all.

Portuguese criminal law does not specifically list which corporations may be held criminally liable for corruption offences,

but it does exclude the criminal liability of the state, legal companies (public or private) while exercising public law prerogatives, and international public sector organisations.

Considering the principles enshrined in the penal law of modern societies, to convict a corporation, or an individual for that matter, of corruption or any other type of crime, it is necessary to prove beyond a reasonable doubt that the company acting through its representatives, persons in a leadership position or employee committed a *mens rea* offence. Proving who was actually the mind and will of the company in the commission of the offence can be very difficult, especially in large and medium-sized enterprises.

If corruption has occurred in a type of company in which criminal liability is not excluded according to the aforementioned rules, responsibility may be attributed to such corporations in the case in which the crime is committed in the corporation's interest by the following: (1) any person occupying a leadership position; or (2) anyone acting under the authority of the leadership persons when these persons have breached their duties of surveillance or control.

However, no criminal liability will attach to the corporation if it is able to prove that the person in a leadership position or the employee acted in disregard of the relevant governance body's orders or express