**Report on the Impact of Counterterrorism on Peacemaking, Peacebuilding, Sustaining Peace, Conflict Prevention and Resolution**

Portugal’s comments

**a) Observations or examples of any “negative impacts when counter-terrorism legislation and other measures are applied contrary to international law, which may harm collective counter-terrorism efforts and infringe upon human rights, including by impeding the work, and endangering development, peacebuilding and impartial humanitarian action and civil society”.**

The National Counter-Terrorism Strategy, adopted in 2015, assumes the commitment to mobilization, coordination, and cooperation of all national structures with direct and indirect responsibility in the fight against terrorism and the implementation, in the national legal system, of all imperatives, at the national, European, and international levels.

In the context of the UN Global Counter-Terrorism Strategy, Portugal promotes efforts to implement all measures foreseen therein, with a focus on international cooperation and partnerships.

* The Judicial Police (PJ) is the criminal police body with reserved competence for the investigation of the crimes of terrorist organization, terrorism, international terrorism, and financing of terrorism - regardless of whether the perpetrator is Portuguese or a foreigner who is or resides in Portuguese territory.
* PJ and its National Counter-Terrorism Unit (PJ-UNCT) maintain direct links with other European and international police forces, both through multilateral platforms for international anti-terrorist cooperation, such as INTERPOL, the Police Working Group on Terrorism (PWGT), Europol's SIENA for CT and the Schengen Information System (SIS II), and bilaterally, through liaison officers in different countries.
* Other Portuguese law enforcement agencies have complementary functions and duties, such as general criminal prevention: community policing and protection of public order and public areas by the National Republican Guard [GNR] and the Public Security Police [PSP], in rural regions and main urban centers, respectively; border and immigration control (provided by the Immigration and Borders Service [SEF]), including the coastline (by the maritime Police [MP], attached to the Portuguese Navy).
* The Secretary General of the Internal Security System (SG-SSI) is responsible for the coordination, direction, control, and operational command when a major incident such as a terrorist attack or natural disaster may occur. According to its legal mandate, the Portuguese Security Intelligence Service (SIS) is the entity responsible for assessing the pending terrorist threat to Portugal.
* There is also an external intelligence service (Defense Strategic Intelligence Service - SIED) which is responsible for producing information and analyzing possible threats related to areas of insurgent conflict and scenarios abroad.
* In 2003, the Counter-Terrorism Coordination Unit (UCAT) was created. This is the body responsible for the coordination and sharing of information between all Portuguese entities that are involved in combatting terrorism, including all the above. Since the approval of the National CT Strategy in February 2015, it is also responsible for the coordination of the implementation of the National Action Plan for the Prevention of Radicalization and Recruitment to Terrorism, as well as in the context of international cooperation. It works under the authority of the SG-SSI. In February 2017, UCAT set up a permanent technical team (composed by representatives of the above-mentioned agencies and services) to liaise with each other (information sharing and coordination). Any service or agency may convene an extraordinary meeting (besides regular weekly meetings) when in possession of relevant last-minute information. UCAT maintains close cooperation with international entities dealing with terrorism.

Under the above context, we consider that, on a formal level (operational and procedural), all legislative measures and legal conditions are in place to prevent the existence of possible conflicts with international law.

**b) Observations of the relationship, positive or negative, between the UN counter-terrorism architecture and normative regulatory frameworks with the anticipated goals and objectives of “Our Common Agenda” and in particular regarding the “promoting peace and preventing conflict” elements of the Agenda.**

The commitment to peace, promoting and preventing conflict of the New Agenda for Peace (NAP), as anticipated under Our Common Agenda, would benefit from the mobilization of the UN CT architecture. Just as UNOCT has a role to draft the NAP, so has DPPA, DPO and ODA.

Taking into account UNOCT’s mandate and expertise, and considering the New Agenda for Peace’s six core areas, we find that the OCT could be especially useful in “reducing strategic risks” (including terrorism); “strengthening international foresight capacities to identify and adapt to new peace and security risks”; “reshaping responses to all forms of violence”; and “supporting regional prevention”.

The reduction of other strategic risks (nuclear weapons, cyberwarfare, autonomous weapons) requires a continuous effort of coordination between entities of the UN system, as foreseen, for instance, on Resolution 76/28 on Measures to prevent terrorists from acquiring weapons of mass destruction.

Other specific examples ought to be highlighted: the forensic role of UNITAD in Iraq, and UNODC’s support in training magistrates, security, and criminal investigation forces in the fight against terrorism in Cabo Delgado (Mozambique).

Cognizant of the diversity of mandates and their complementarity, it would be helpful to clarify the role of each actor under the UN CT architecture involved in the fulfilment of the New Agenda for Peace (and other proposals under Our Common Agenda).

**c) Inputs related to the impact of normative legal standards related to counter- terrorism on the protection of human rights and humanitarian law in situations of conflict, conflict prevention or resolution, negotiated settlement of conflicts, or peacebuilding.**

Portugal is a democratic State based in the rule of law as stated in Article 2 of the Constitution. The respect for human rights and fundamental freedoms in foreseen in several provisions of the Portuguese Constitution.

The Constitution itself already reflects the transposition into domestic law of the Conventions, Treaties, and other international norms to which Portugal has adhered and ratified, namely the UN Conventions on Human Rights and against Torture, Ill-treatment, and other cruel treatment, and to which all national legislative production is bound.

As an example of the respect of human rights and fundamental freedoms, we could refer to Article 7 of the Constitution (rules governing rights, freedoms and guarantees), Article 20 (access to law and effective judicial protection) or Article 25 (personal integrity), as well as Article 33 (safeguards in criminal proceedings) and Article 34 (inviolability of home and correspondence).

It must be stressed that there are no exceptions to the deontological obligations of the police forces with specific regard to their actions, even when dealing with terrorist crimes or violent and highly organized criminality. All law enforcement officers assigned to the different police forces, in their initial training for entry purposes, have access to a training component, dealing with matters of police ethics and deontology that apply to all types of crimes, including crimes of terrorism and possibly related to ideological extremism. Each eventual violation of these obligations has disciplinary and eventual criminal implications for the respective offenders.

In the framework of investigations of alleged terrorism or terrorist activities the Portuguese Criminal Police should, in a mandatory way, perform its duties according to the fundamental law (Constitution) and to the Code of Criminal Procedure.

The commitment to combat terrorism assumed by the National CT Strategy respects the European Convention on Human Rights and fundamental Freedoms of the Council of Europe, the EU treaties, the Charter of Fundamental Rights of the European Union, the constitutional principles of the Portuguese State, the Counter-terrorism policy of the European Union and is developed in strict compliance with the principles of necessity, appropriateness, proportionality and effectiveness, civil liberties, the rule of law and freedom of scrutiny.

The defense of the values of justice, security, democracy, freedom, and justice are present in «Prevention» (strategic objective) under the National CT Strategy.

As criminal procedure is applied under constitutional law, it will be the great protector of human rights (e.g., at the level of witnesses and defendants), including the system of nullity of evidence which, in the end, also safeguards fundamental human rights.

**d) Assessment of the way counter-terrorism technical assistance and capacity building may impact on the advancement of peacebuilding, sustaining peace, conflict prevention or resolution in complex conflict contexts, this may include observations on peacekeeping where relevant.**

Portugal, namely via the PJ-UNCT has regularly participated in numerous initiatives in terms of cooperation, training and capacity building, in countering terrorism and preventing violent extremism, through bilateral or multilateral programs, including the United Nations.

For instance, the Criminal Police receives requests for mutual legal assistance regarding fundamental international crimes not related to the Portuguese territory, but for the purpose of gathering evidence (e.g. financial or banking information) or seizing the proceeds of crimes committed abroad. In October 2021, a member of the PJ-UNCT has become a Programme Management Officer at the UNOCT Office in Rabat (Morocco); PJ UNCT has also had projects with the EU in Mali, Mauritania, Morocco, Niger, Pakistan, Yemen, and Nigeria.

Portugal has developed training sessions in the field of prevention of political-ideological radicalization, and countering terrorism, along two fundamental axes: 1) internal staff training (in line with best practices and international framework); and 2) external training (particularly with Portuguese speaking countries, most recently in Mozambique with UNODC and UNOCT).

**e) Assessment of counter-terrorism frameworks on the Youth, Peace and Security Agenda, in particular the protection of youth under the Convention on the Rights of the Child and the role of youth in fragile and conflicted societies.**

Drawing up prevention plans, intervention in the sectors of education, training, and youth work, is critical to develop a critical sense among young people and boosting an educational approach geared towards education for citizenship.

At national level, the PJ has partnerships with civil society, namely with CSOs that are in the frontline of the defense of the rights of women, youth, children, and migrants, with whom it renews annually civil society empowerment projects, namely in prevention of radicalization and terrorism. These projects have served not only to awaken the civil society to these phenomena, but also to empower security forces and services to the specificities of these groups, which are different from each other, whether in the form of recruitment or grooming, indoctrination, or later, in their eventual experience as victims or agents.

Regarding especially vulnerable victims, the proceedings are normally carried out in a room suitable for that purpose, without other people besides the investigator and the victim being present, in order to be possible to create the necessary atmosphere of trust for the good performance of the proceedings, complying with the Portuguese Code of Criminal Procedure. This includes hearings of child victims, disabled victims, and victims of sexual crimes.

With the increase of situations detected and monitored in Prevention of Terrorism arising the teenage population, it is urgent to create infrastructures dedicated to young people or to equip the existing ones with sensitivity in this matter.

**f) Assessment of counter-terrorism frameworks on the Women, Peace and Security Agenda, in particular the work of women peacebuilders, peacemakers and the rights of women and girls under the Convention on the Elimination of Discrimination against women and the UN Security Council WPS Agenda.**

No additional measures on the gender dimension in the countering of terrorism efforts, besides those enumerated in the previous answer.

**g) Assessment the impact of counter-terrorism frameworks on various**

**constituencies, communities, or civil society actors.**

Counter-terrorism frameworks have increased actions to combat situations of social exclusion, especially those that occur in more problematic areas. In parallel, the debate on terrorism and radicalization has been promoted widely, as well as inter-religious and intercultural dialogue among communities.

Another of the measures implemented has been the promotion of the removal or blocking of content (publicly accessible through the internet) that appeals to violence or terrorism.

**h) Inputs related to the impact on peacebuilders, peacemakers and other peace stakeholders on the emergence and consolidation of counter-terrorism frameworks and actors in fragile conflict and post-conflict contexts, including any distinct or disparate gender dynamics/impacts on women who play these roles or distinct or disparate impacts on peacebuilders, peacemakers and their organizations who belong to marginalized communities.**

In recent years, the terrorist threat level has been classified as moderate (level 4, on a scale ranging from 1 [critical] to 5 [low or minimal]). It still maintains the same key aspects as in previous years, despite some very significant developments, especially with regards to Da'esh activities in Syria and Iraq.

The most recent reports produced do not mention the presence of terrorist-related organizations in Portugal, despite the occurrence of some individual and specific cases in recent years, essentially linked to Islamist terrorism and still under investigation.

The data presented justifies, to a certain extent, the inexistence of a greater involvement

of the actors in these contexts.

**i) Assessment of how counter-terrorism frameworks impact on peace operations and peacekeeping forces and mandates in complex conflict and post-conflicting settings.**

As far as prevention is concerned, the role of communities, schools, churches and mosques, and social areas in early detection, prevention and de-radicalization is very important. They should always act in a coordinated manner with the judicial operators, the Police and the Public Prosecutor's Office.

**j) Assessment of the impact of counter-terrorism frameworks on the framing and negotiation of peace agreements, including humanitarian access arrangements, the complex question of prosecution for serious international crimes or amnesty provisions as provided for under the Protocol II, Additional to the Geneva Conventions of 1949.**

Humanitarian criminal law is internally provided for by Law no. 31/2004, of 22 July, amended by Law no. 59 /2007, of 04.09 and Law no. 11/2019, of 07.02. It adapts Portuguese criminal law to the Statute of the International Criminal Court and typifies the

conducts that constitute crimes of violation of international humanitarian law. The application of this law, given the matter in question and the non-inclusion of Portugal in armed conflicts, is not significant. However, given Portugal's international competence for the investigation of facts occurring abroad, if the agent is in Portugal, as in other European countries, it is important to avoid the issue of double incrimination (in effective concurrence) of crimes as provided by the Law on Combating Terrorism and the Law on Violation of International Humanitarian Law.