



Tribunal de Contas Portugal

IV EUROSAI/ARABOSAI Joint Conference¹

Sub-theme 2:

ROLE OF SAIS IN ACHIEVING NATIONAL DEVELOPMENT GOALS–

The experience of Tribunal de Contas of Portugal

¹16-18 April 2013, Baku, Republic of Azerbaijan. Contribution of *Tribunal de Contas* of Portugal in the context of the main theme: *Modern Challenges for SAIs Capacity Building*.



Tribunal de Contas Portugal

Introduction

All over the world SAIs fulfill a crucial role in the promotion of good governance, and thus in setting up essential conditions for steady, sustainable economic development and the realization of citizens' right to appropriate life conditions.

The fulfilment of this role relies on the accomplishment of their mission of control over public financial activity in order to promote the good management of public funds and wealth. With different mandates, remits and resources, SAIs are nevertheless bound to the principles of independence, objectivity, transparency and integrity, that form the basis of their authority and citizens' trust, without which none of the goals they aim at would be possible to attain.

The question of good governance and sustainability of public finances as a requisite to achieve development goals is familiar to Portugal's Court of Auditors.

In fact, along the years the Court has expressed its concern about important matters related to this matter, through the audits that have been carried out and its report and opinion on the General State Account, warning about particular risks and structural features of Portuguese financial, social and economic situation that call for reforms, focusing, namely, the organizational aspects of the Public Administration, public indebtedness and the demographic issue.

1. The Portuguese Court of Auditors – its mandate and audit activity

The legal mandate of the Portuguese Court of Auditors, the national Supreme Audit Institution, under the Constitution and its Organizational and Procedural Law, which has been considerably reinforced and perfected in recent years, enables it to carry out a comprehensive control of the management of public funds and assets by public entities at national, regional and local levels, including state owned companies, companies with public capital share and concessionaires of public services or works.



Tribunal de Contas Portugal

The Court also has the competence to audit private companies and institutions of any kind that benefit from public funds or assets to the extent necessary to the examination of the legality and accurate financial and economic application of those funds and assets.

Although the control of good management by the entities under its jurisdiction is carried out by the Court in different ways, – namely, *ex ante* audit, report and opinion on the General State Account, and *ex post* audit –, most of the Court's activity is dedicated to *ex post* compliance, financial and performance audits.

In fact, in the context of national concerns related to good governance, enhanced by the financial and economic crisis many countries have been going through, namely Member States of the European Union, audit is a fundamental tool in the promotion of proper management of public funds but also of other dimensions of good governance, such as transparency and accountability.

Among the areas which have been especially examined, due to their impact on public expenses and revenue, the following should be underlined:

The current and future public financial burden, resulting public investment through public-private partnership (PPP) – the first audit on this matter was carried out in 1999;

Issues related to public procurement, considering its weight in public expenditure of 25% to 30%, approximately 15% of GDP;

The management model, funding and economic-financial situation of the National Health Service, including:

- ◆ The assessment of the performance of several hospitals under corporate management;
- ◆ The evaluation of possible earnings regarding efficiency and quality of services rendered;
- ◆ The identification of the corresponding financial deficit and indebtedness level, as well as situations where the productive capacity has not been fully used.



Tribunal de Contas Portugal

The sustainability of Social Security, examining, namely the medium and long term costs resulting from transfers to the General Pensions Fund of the assets and liabilities held by several state-owned companies' Pension Funds.

Public debt management, to which particular attention is turned to in the current situation, is systematically audited by the Court, in connection with debt evolution, debt cost and operations carried out as well as to its compliance with applicable laws and rules, especially the provisions contained in the Budget Law and the Guidelines for Government Debt Management issued by the Ministry of Finance, that define general debt management strategy and a comprehensive framework for public debt risk management.

Having in mind the response of Portuguese authorities to the economic and financial crisis, the Court's Strategic Plan for the period 2011-2013 states as its first strategic goal the systematic examination of the performance of public policies and programmes, in the context of the financial and economic crisis as well as their consequences in the sustainability of public finances and the intergenerational equity. In 2011, 83 audits have been performed in order to fulfil this strategic goal.

Also with respect to the achievement of national development goals, connected with the audit by the Court of the Governments' measures to fight the economic and financial crisis, the examination by the Portuguese Court of Auditors of the implementation in Portugal of the European Union development plan entitled "Lisbon Strategy for Growth and Jobs"² should be underlined.

The Court's assessment of the results of this process indicates several weaknesses which have persisted, despite some successes that were also referred to (see Box).

²In the Communication for the Spring European Council titled *Driving European Recovery*, by the European Commission (Document COM(2009) 114 final, Brussels, 4.3.2009), it is stated that: "The EERP (European Economic Recovery Plan) is part of the Lisbon Strategy for Growth and Jobs in the current crisis. It provides the right balance to combine an immediate stimulus with the long-term perspective needed." (p. 10).



Lessons from the experience – an example in the EU context

The Lisbon Strategy for Growth and Jobs

The Lisbon Strategy for Growth and Jobs, launched in 2000 by the European Council for the economy of the European Union between 2000 and 2010, was the EU's joint response to facing the challenges of globalization, demographic change and the knowledge society. It aimed at making Europe more dynamic and competitive to secure a prosperous, fair and environmentally sustainable future for all citizens.

Despite the joint European efforts, these objectives were achieved only partly, in the context of the serious economic crisis which has made challenges even more pressing.

Therefore, in order to emerge from the crisis and to prepare Europe for the next decade, the European Commission has launched the "Europe 2020 Strategy" which was adopted by the European Council in June 2010.

The assessment by the Portuguese Court of the results of the implementation in Portugal of the Lisbon Strategy (taking also into account the necessary link with "Europa 2020", which followed the former), denote the fact that several weaknesses have persisted, although some successes can also be referred to.

In fact, despite some improvements in the areas of Research, Development and Innovation; the level of graduates in Science and Technology and even entrepreneurship and exports of products incorporating high technology, the Lisbon Strategy goals were not accomplished in several important areas, such as education, labor productivity and fight against risks of poverty, thus persisting in the Portuguese economy some structural factors preventing the promotion of development.



Tribunal de Contas Portugal

Therefore, the Portuguese Court of Auditors has recommended the adoption of the following procedures (in general terms) with the purpose to improve the mechanisms for the connection between each measure adopted and the achievement of the Lisbon Strategy/Europa 2020 goals:

- To implement a monitoring system capable of facilitating the coordination among the different planning and programming instruments;*
- In the context of the European Semester, to ensure financial/budgetary transparency among the planning documents concerned and the State Budget, so as to clarify the costs of reforms and measures, the compliance with commitments of stabilization and the sustainability of public finances;*
- To ensure a rigorous establishment of goals and targets and their prioritization; the ways of implementing the measures; schedule/time planning; identification of the entities that are supposed to perform the measures and possible implementation risks; financial annual and multiannual costs as well as funding sources; performance and results indicators, so as to allow the evaluation of the implementation level and impact as far as Europa 2020 are concerned;*
- To ensure that the steps taken are in accordance with concise and consistent updates of "Portugal 2020", written in a clear and simple way;*
- To guarantee procedures which can allow reliable systematized information, and consistent in terms of quality so as to allow their monitoring in the context of the National Program of Reforms, thus allowing to assess the attainment of targets and to quantify the financial resources allocated;*
- To promote a greater participation of public bodies and social partners in the definition, updating and implementation of the National Program of Reforms.*



Tribunal de Contas Portugal

2. The Report and Opinion on the General State Account

One of the most important competences of the Portuguese Court of Auditors is to issue a report and opinion on the yearly General State Account, where are presented the results of the Government's execution of the State Budget, covering all aspects of its financial activity.

The examination of the accounts is based on preparatory work carried out along the year, in the implementing entities, namely those of the Ministry of Finance and the Ministry of Solidarity and Social Security, and on audits addressed to specific areas of the Budget management and implementation.

In this report and opinion specific chapters are dedicated to the exam and assessment of Government activity concerning, namely, public revenues, expenses, assets and, debt, direct and contingent, financial flows to and from the European Union and State owned companies, cash management and budget balances, as well as the compliance with the principles, laws and regulations the Government is bound to observe.

The gaps between the assumptions on the evolution of the economic variables underlying the national budget and the effective values observed in the period considered are also submitted to a detailed analysis.

Due to its comprehensive scope it is also a place for the Court to express its views on issues with relevant impact on global public finance sustainability and therefore on economic development, including the deepening of issues raised in audit reports, as those that were mentioned before, but with a particular focus on economic, social and financial structural factors, that the Court considers should deserve special attention from the Government when defining financial and economic strategies, such as:

- ◆ The oversize of underground economy which directly or indirectly affects substantially the economic growth and the fiscal revenue, thus menacing the survival of businesses operating within a legal competitive framework;



Tribunal de Contas Portugal

- ◆ The demographic issues in Portuguese society – especially the evolution towards the aging of the population, due both to the increasing life expectancy and decreasing of birth rates, with a deep impact on Health, Social Security and Education sectors;
- ◆ Rigidities of public expenses, giving rise to a “fiscal burden” that reduces the possibilities of competitiveness gains in the private productive sector of the economy;
- ◆ The present and predictable weight of public debt service as a percentage of GDP; and also
- ◆ The evolution of Government’s non-financial debt emphasizing the need to implement measures to correct delays in the payments to the suppliers of public administration, with strong negative effects in their financial situation.

On these matters, the Court has recommended that the most significant economic policy measures should certainly be those which more directly address structural conditions, either upstream or downstream, capable of promoting:

- ◆ The decrease of underground economy in order to fight tax evasion;
- ◆ The creation of more favourable conditions for entrepreneurship;
- ◆ The reform of the education system in order to adjust the level of provision and expenditure to the predictable decline in demand – safeguarding, nevertheless, as national strategic goals, the priority to education, science and culture.
- ◆ Changes in the health care system in order to achieve greater efficiency from both the financial and the service delivery perspectives.

3. Emphasizing the prevention of corruption

The promotion of good governance and thus of proper conditions to economic development cannot overlook the need for a determined, articulated fight against fraud and corruption.

As it is well known, corruption is the cause of great concern on the part of Governments, Parliaments, and of all who operate in the area of public finance, whether decision-makers and managers or agents involved in supervisory and control activities.



Tribunal de Contas Portugal

The effects of corruption are well known: it corrodes confidence in institutions, in particular political and judicial institutions, leading to the contempt for the primacy of the law, distorts the allocation of resources and perverts the functioning of markets, with most damaging consequences on economic growth and development.

International cooperation has been reflected, namely, in the approval of various conventions and other instruments, endorsing recommendations for national institutions on standards, policies and procedures capable of ensuring further effectiveness in the fight against corruption.

Considering that it is imperious to deter the spreading of corruption, and also taking into account the particular difficulties faced in the detection of acts of corruption, due to their very nature, it is deemed, nowadays, that prevention is the most powerful weapon in the fight against corruption.

Indeed, and regarding the Court of Auditors of Portugal, the activity it develops promotes transparency, by ensuring the regular presentation of accounts and clarity of operations and activities; defends legality and promotes accountability, supervising and making known to the public situations of irresponsibility, illegality and poor management; encourages good management and defends the primacy of the public interest, questioning the justification and utility of actions and promoting the use of competitive tenders; contributes to the improvement of institutions and their control and management systems, by detecting deficiencies, indicating ways to overcome them, and identifying areas of risk.

Indeed, the financial and sound management control activities developed by SAIs, which include the assessment of the systems of internal control, the verification of the existence of good management practices, and the examination of the financial statements, with a view to ensuring their precision and reliability, are embedded within a series of policies, procedures and actions aimed at the prevention of this phenomenon, performing a role of the greatest importance therein.

The experience of the Portuguese Court of Auditors has led to the conclusion, in a similar manner, indeed, to other SAIs, that among others the following operations and sectors of public administration are areas of special risk:



Tribunal de Contas Portugal

- ◆ Privatisations;
- ◆ Public contracts, in particular public works contracts and procurement contracts;
- ◆ The management, including the sale, of public properties;
- ◆ Local administration;
- ◆ Tax administration.

It is also opportune to refer to the creation in Portugal, in 2008, of the Council for the Prevention of Corruption, chaired by inherence by the President of the Court of Auditors, but enjoying full independence and autonomy towards the Court or any other public institutions. Amongst others, the Council has competencies to make recommendations to all public entities on the fight against corruption.

The audits undertaken by the Court verify the existence, quality and execution of the Plans for the Prevention of Management risks, including the risk of corruption, whose implementation was recommended by the Council for the Prevention of Corruption. Findings of signs or evidence of facts of corruption are included in the audit reports which are presented to the Attorney General, to possible initiation of prosecution procedures.

3. Conclusions

- The crucial role of SAIs in promoting transparency and good governance, internationally recognized, is also essential in setting up fundamental conditions for a steady and sustainable economic development and the realization of citizens' right to appropriate life patterns.
- The legal mandate of the Court of Auditors of Portugal enables it to carry out a comprehensive audit activity which allows it to examine some areas directly related to the attainment of a sustainable economic development, namely through specific audits and the Report and Opinion on the General State Account.
- The Court's Strategic Plan for the period 2011-2013 states as its first strategic goal the systematic examination of the performance of public policies and programmes, in the



Tribunal de Contas Portugal

context of the financial and economic crisis and their consequences in the sustainability of public finances and the intergenerational equity.

- Thus, the Portuguese Court has expressed its concern about important matters related to the subject concerned, such as:
 - The current and future financial burden resulting from public investment through public-private partnership (PPP);
 - Issues related to public procurement, considering its weight in public expenditure;
 - The management model, funding and economic-financial situation of the National Health Service;
 - The sustainability of Social Security.

- Also, public debt management, to which particular attention is turned to in the current situation, is systematically audited by the Court, in connection with debt evolution, debt costs and operations concerned, as well as to its compliance with applicable laws and rules.

- The examination by the Portuguese Court of the implementation in Portugal of the European Union development ten-year plan “Lisbon Strategy for Growth and Jobs” gave rise to several recommendations in order to be applied to the (also long-term plan) plan “Europa 2020”.

- In order to successfully accomplish their mission in aiding promoting development, as well as in contributing to the prevention of corruption, SAIs should carry out their activities in compliance with strict respect to the principles of transparency, integrity and objectivity.