Inspectorate General of Home Affairs

Conference

Integrity between the Law and the (Good) Science of the Administration

— Risks of Integrity and Risk Management—

Lisbon, 14.11.2019

— Articles of the speakers —

Foreword

This volume gathers the articles presented by four of the speakers invited by the Inspectorate General of Home Affairs (*Inspeção–Geral da Administração Interna* - IGAI) to the conference *Integrity between the Law and the (Good) Science of the Administration — Risks of Integrity and Risk Management,* which, reserved to board members and technical personnel belonging to the Services of the Ministry of Home Affairs (*Ministério da Administração Interna* – MAI), as well as students of military and police higher schools — in a total of more than a hundred guests and registered participants on service in the National Republican Guard (*Guarda Nacional Republicana* - GNR), in the Public Security Police (*Polícia de Segurança Pública* - PSP), in the Immigration and Borders Service (*Serviço de Estrangeiros e Fronteiras* -SEF), in the National Authority of Emergency and Civil Protection (*Autoridade Nacional de Emergência e Proteção Civil* - ANEPC), in the National Authority of Road Safety (*Autoridade Nacional de Segurança Rodoviária* -ANSR), in the Secretariat General of the MAI (*Secretaria–Geral do MAI* - SGMAI) and in IGAI itself —, took place in Lisbon, in the Auditorium of the Home Affairs, located at Praça do Comércio (East Wing), during the morning of 14 November 2019.

The texts, all of them original and to which is aggregated the opening speech of the Conference, correspond to the thematic therein approached by each of the corresponding authors and are thus made available to the public.

For future reference, the Programme of the Conference is published at the end of this volume.

Lisbon, 27 December 2019.

The Inspector General of Home Affairs,

Anabela Cabral Ferreira
Judge of the Court of Appeal

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Anabela Cabral Ferreira | *Inspector General of Home Affairs*

[Opening speech of the Conference *Integrity between the Law and the (Good) Science of the Administration,* uttered on 14 November 2019]

Your Excellency the Minister of Home Affairs

Your Excellency the President of the Court of Auditors

Your Excellency the Commander General of the GNR

Your Excellency the National Director of the PSP

Your Excellency the Secretary General of Home Affairs

Your Excellency the Assistant National Director of SEF

Your Excellency the National Director of Audit and Control of the National Authority of Emergency and Civil Protection

Civil and military Authorities here present

Ladies and Gentlemen

A first word to say that it is an honour for us, the Inspectorate General of Home Affairs, to have the presence of His Excellency the Minister of Home Affairs at this conference, which we understand as a clear expression of the attention he gives to the thematic that we are going to address here.

I also wish to thank the generous and ready contribution of the speakers, as well as the significant response of all who are present here today.

The prevention of events of corruption and related offences is nowadays a requirement of the community and of the State based on the rule of law that concerns everybody, citizens and organizations alike.

We are proud, and rightly so, of being ranked the third safest country in the world, something due, to a large extent, to the efforts, commitment, and efficacy of the security forces.

It is imperative that we continue to take safe, structuralised, and steady steps in order that, in what concerns the indicator regarding the combat of corruption and aiming at its eradication, our rank will also be something to be proud of.

That combat must be fought in several fronts, to begin with through an appropriate legal framework.

But also with enquiries conducted in such ways that lead to condemnations.

It is something to reflect upon the fact that, according to data presented by the Council for the Prevention of Corruption regarding the reports received in 2018, we verify that, in what concerns the 97 decisions in which there are proofs and evidences of the commission of crimes — including here the indictments, the judgements of condemnation and acquittal, and the conditional discontinuance of proceedings —, only 19 cases led to condemnatory sentences declared *res judicata*.

The perception by the community of the end of impunity is directly linked to the efficacy of the combat against it, a circumstance that cannot be separated from the results obtained following an investigation.

A Public Administration guided by the principle of transparency, namely but not only, in crucial sectors such as public procurement, will certainly be a very relevant manner to prevent corruption.

An echo of the relevance of this subject is, among others, the space that the "resolute combat against corruption" and the "prevention of corruption and fraud" conquered in the programme of the newly empowered Government.

The Public Administration, the courts of law, as well as organizations with audit functions, namely the Inspectorate General of Home Affairs, must assume this combat as a major commitment towards the community.

This is their responsibility and a way to contribute to the quality of democracy.

I would like to emphasize here the very relevant work developed by the Council for the Prevention of Corruption, to begin with by issuing Recommendations regarding plans for the prevention of risks of corruption and related offences and about the management of conflicts of interests.

The usefulness of the existence of such plans is unquestionable since after all their aim is the upstream combat against the phenomenon of corruption.

And it is precisely there, in the field of prevention, that we must concentrate our efforts.

Obviously, IGAI has been developing work in this field.

To begin with, in the long-lasting commitment with the European Partners Against Corruption (EPAC), in the context of which IGAI contributed to the preparation of relevant documents, namely those approved by the Lisbon Declaration, adopted in the framework of the 17th Annual Professional Conference and General Assembly of EPAC, which IGAI organized in November 2017.

IGAI has also been developing other activities, whenever asked to do so, such as the collaboration with the Portuguese Institute of Quality aiming at the translation of the International ISO Standard 37001:2016 on Anti-bribery

Management Systems, a translation on which was based the Portuguese Standard ISO 37001:2018.

Currently, IGAI is involved in the "EU Integrity" project, which, headed by members of the EPAC network, intents to have produced by 2021 documents that will be presented to various areas of governance of national public administrations of nearly forty countries.

This ambition expresses the awareness that the combat against corruption and related offences begins with the allegiance and commitment of each citizen, of each State, and the collaboration that each person may have towards the whole.

Besides these specific collaborations, it must be said that the daily activity of IGAI (allow me the simplicity of the expression), either through the audits it executes, either through the disciplinary proceedings it carries out, or yet through the training actions it performs, and intends to increase, in collaboration with several organizations, the activity of IGAI, as I was saying, is comprised in the general effort to combat corruption and fraud, here in the specific remit of the legal competences that this Inspectorate carries out.

The organization of this event, as a result of a decision of His Excellency the Minister of Home Affairs, represents a further contribution to this relentless combat.

Throughout the scheduled agenda we will listen to a series of interventions by experts in the relevant fields of this area, interventions that will make possible, I am certain, a useful and valuable reflection on the thematic of the management of the risk of integrity of the organizations.

The ensuing debate will certainly be the first echo of that usefulness.

Thank you very much.

José Fontes | *Professor*

INTEGRITY AND POLICE ACTIVITY IN THE 21ST CENTURY[1]

José Fontes
Professor at the Military Academy
Visiting Professor at the Faculty of Law at the Universidade Nova de Lisboa and at the Higher Institute of Police Sciences and Domestic Security (Instituto Superior de Ciências Policiais e Segurança Interna - ISCPSI)

Summary: General considerations; i. Related juridical institutions; ii. Other legal instruments; iii. Some proposals for the future

General considerations

People tell that Montesquieu once said that "every man invested with power is apt to abuse it". The reason and fairness of this statement remains to be proved but some attention must be given to the control of the performance of administrative power in its multiple dimensions, especially in what concerns the entire police activity and not only its operational component.

The conference *Integrity between the Law and the (Good) Science of the Administration — Risks of Integrity and Risk Management* is an opportunity to revisit some of the work that the Military Academy and the Higher Institute of Police Sciences and Domestic Security have done in the framework of the lecture in *Science of the Law* and particularly in what concerns the thematic of *integrity*, transparency, combat to economic and financial crime and corruption as being damaging practices to the sustainability of the State and Public Administrations.

[1] Résumé of the speech. Given the nature of the text, no bibliography is provided but some merely adjective considerations were added to what was said during the presentation.

Interestingly, on 14 November 2018 — exactly one year ago — the Inspectorate General of Home Affairs (IGAI) organized and promoted a meeting, at Torre do Tombo, on *Human Rights and External Oversight of the Security Forces and Services of the Ministry of Home Affairs*. That occasion gave us the opportunity — such as the present one — to revisit what has been done in terms of teaching and what may be improved in terms of study and of subjects and topics that will be the future object of scientific and academic researches.

The theme of this meetings allows us to analyse, in an academic perspective, how much the public military and police institutes of higher education, but essentially, as referred, the Military Academy and the Higher Institute of Police Sciences and Domestic Security, which job is to train the future Commanders of the National Republican Guard and the Public Security Police, have *invested* in the areas of *Integrity* and *Risk Management*.

There has been – it is clear – a tendency to focus our study mainly in the areas that are considered critical – and with a greater visibility – of the operational component, such as the excessive use of force or police violence, but the administrative area (the bureaucracy) is essential, particularly because of the great sum of money that police activity has to manage in the remit of domestic security.

In order to make this exercise more accurate, there are three aspects in particular that must be mentioned:

i. Related juridical institutions;
ii. Other legal instruments; and
iii. Some proposals for the future.

It is also important to mention that this contribution only intends to suggest some hints for reflection, in a necessarily panoramic vision, which will require, in a near future, further study and analysis.

i. Related juridical institutions

Among many others that may be called to the discussion, there are three big juridical institutions, close to the field of study of the Administrative Law, that are also relevant to this analysis.

They are,

The *transparency and impartiality*, here analysed in a perspective of unity although usually understood and studied in parallel and autonomously; the *principle of anti-corruption;* and, finally, the *administrative hierarchy*.

It appears, in our opinion, that the *dogmatic investment* that has been made regarding the first of the juridical institutions is recurrent and very relevant. It is important to recognise that the *mobilization* that has been made regarding the second, in the fields of the national doctrine and jurisprudence, has been sparse, and, finally, regarding the third one, the *administrative hierarchy*, it is often — in our opinion — wrongly perceived (at least to its full extent).

As we said, *transparency and impartiality* are usually studied as autonomous principles; we would even say as independent, as distinct realities, as figures with their own meaning, but in the *economy of the equation* that is expressed by this conference and in which *integrity* and *police activity in the 21st century* are united, there is no profound or objective reason to prevent their understanding as a unity.

So, with this integration of two *variables* we mainly aim at the plainness of conduct, the non-favouring, the correctness of procedures, the prevention of the risk, the control of opacity, the hindrance of privilege.

For years, and especially with the entry into force of the *Code of the Administrative Procedure* (*Código do Procedimento Administrativo* – CPA), the principle of impartiality is one of the few, if not the only one, to which the legislator gave a very specific and restrictive supervision power through three procedural warranties, foreseen in Articles 69 and following of the said *Code of the Administrative Procedure* (the prevention from acting, the refusal, and the risk of lack of impartiality), which exclusively aim at ensuring and safeguarding the impartiality of the administrative conduct.

Transparency on its own does not ensure exempt conducts but, to a certain extent, generates a culture of *open and binding administration* and *submits* the decisions that are being taken by Public Administration bodies to mechanisms, nowadays already largely spread, of *accountability* by a great, multidimensional structure of control or oversight.

It seems clear that, when teaching these subjects, we very much reinforce the study, for instance, of the guaranties of impartiality foreseen in the CPA, which ensure, or are intended to ensure, transparent, but mainly exempt, decisions.

We may clearly see the importance that such value — the impartiality —, closely interconnected with the transparency, has to the legislator, both in the merely administrative or bureaucratic activity and equally in the operational activity (which is also administrative, but not *bureaucratic* in a restricted sense). These principles or their dogmatic uniqueness have been the object of a profound attention of the national doctrine.

But,

On the other hand, it is important to recognise that the attention that is given to the academic and scientific study and the investigation of the *principle of anti-corruption* has been sparse and almost non-existent.

This principle has been, for a long time, studied at international level, even because there are international conventions that regulate some aspects linked to corruption, such as for instance the paradigmatic case of the *United Nations Convention against Corruption* (cf. Resolution of the Assembly General of the United Nations No. 58/4, dated 31 October 2003), but its understanding as a principle that is subjacent to the evaluation of the quality of our democracy and which derives, even though in an implicit or tacit way, from the constitutional text is something that has not been given a great attention by the Portuguese doctrine.

This *principle of anti-corruption* has a consequence in the ordinary legislation, namely through norms that are in force in the universe of the Portuguese Criminal Law.

In Portugal, Jónatas Machado has been giving a particular attention to the study, analysis and framework of this principle, but it is necessary, in our opinion, to *spread the constitutional sense*, which implies to consider it, in the present, as one of the structural and fundamental principles of a democratic State based on the rule of law and with autonomy regarding the others.

This principle surely derives from the *Universal Declaration of Human Rights*, but also from other consolidated international texts, such as the already mentioned *United Nations Convention against Corruption*, of 2003, or even from international structures and working platforms, as it happens in the remit of the Council of Europe with, among others, the *Group of States against Corruption* (GRECO) or even in the remit of the OECD or the *International Association of Anti-Corruption Authorities* (IAACA).

The phenomenon of corruption has been considered one of the most dangerous threats to the democratic nature of western political regimes, to the stability of the States, mainly because it weakens their capacity to (cor)respond to the challenges of the communities due to the lack of resources, which are *caught and captured* by some public and private sectors.

In the *Preamble* of the international convention above-mentioned, corruption appears as a phenomenon that is no longer a *local* concern but a problem of transnational dimension that allows the institutionalisation of plutocratic and kleptocratic regimes.

The phenomenon is serious in any circumstance, but it *gains relevance and dimension* in times of economic and financial crises and often goes against fair and sustainable development.

In this specific aspect, we must acknowledge that it is necessary to go further in order to allow the *principle of anti-corruption* to gain juridical consistency, but also academic dogmaticalness, jurisprudential mobilization, and thus a real protection that ensures compliance with it.

Finally,

In what concerns *administrative hierarchy* there is seemingly a bad perception of the whole extent of the *phenomenon*, being only perceived its merely organizational dimension. That is to say, it appears to be understood just as a model of vertical organization, without material or even – and this is even more serious – guarantee content.

When we bring to the discussion the figure of *administrative hierarchy* we mainly wish to call the attention to the preventive trait that the informed hierarchy, conscious of the regular performance of the administrative activity, may have regarding a good and correct performance of the actions and acts, avoiding risk and misconduct.

If it is certain that the organizational perspective is relevant, because Public Administrations and especially the security structures do not subsist without the hierarchy dimension, it is also certain that the managing, supervision powers, mechanisms of competence, and evaluation, are fundamental for the decisions to be correctly made.

Only in this way the *administrative hierarchy* assumes ample content and complete dimension. That is, considering that the hierarchy — fully aware of the risks — manages by its action to launch measures and decisions that prevent the error or, at least, minimize it.

Naturally, the intervention *a posteriori* is equally relevant because it revokes, replaces, changes, corrects acts and procedures, but the function *a priori* is even more relevant since it serves not only as guidance but also because it acts in a preventive way, by reason of experience and deep knowledge, with the ensuing numerous advantages. In this respect, we must note the importance of *healthy training* of the structures of command, management and direction, which is obtained with the preparation throughout the career and mainly with the courses for advancement in the ranks and functions, such as the courses for the promotion to general officer, promotion to chief officer, promotion to captain, strategy and police management, or command and police management, in order to, through updating actions and exchange of experiences, improve their training and knowledge so they may (cor)respond to the challenges of their missions.

The teaching of Administrative Law, either to the courses of *Military Sciences* (Weapons and Administration of the GNR) or to those of *Police Sciences*, must approach these themes, these rules, and these principles. To begin with, by promoting, near the students, the need for knowledge of the legal instruments, but also of some other ethical and deontological *tools*, such as the *Ethical Charter of Public Administration* (*Carta Ética da Administração Pública*)and the *Code of Conduct of Police Service* (*Código Deontológico do Serviço Policial*), as we shall see later on.

The way to implement a culture of *integrity* in the police administrative activity also includes the reinforcement of training actions, but more and more with *legal teaching*, with an integrated analysis of rules, precedent administrative decisions, jurisprudence, of real cases.

ii. Other legal instruments

Although asserting the relevance of the juridical feature, we must acknowledge — today more than ever — that for the implementation of an entire culture of *integrity and management that prevents the risk* it is necessary to summon other areas of knowledge, as well as other instruments that are *enclosing* and, especially, that highlight or aggregate principles.

We do not deny the importance of the *Science of the Law* — on the contrary, we state its indispensable value and unique position as a normative social order that is characterised, in a monopoly position, by its coercive nature —, but we add that other normative instruments that may provide discipline to this matter are necessary and indispensable. Among them, we must mention the codes and charters of ethics, conduct, or the guiding principles of good practices.

It is important to acknowledge that the *creation* of these instruments may face two great difficulties.

The first concerns its elaboration since, for example Decree–Law No. 4/2015, dated 7 January 2015, which approved the reform of the *Code of the Administrative Procedure*, has, in its Article 5, par. 1, a norm that imposes that in the time-limit of one year a resolution with a *Guide of Good Administrative Practice* should be published… and until now that guide is still unknown. Maybe this absence proves the difficulty of making this kind of normative body without juridical dimension...

The second difficulty lays, in our opinion, in the answer to the question about its relevance. It seems that we may conclude that it will derive from the way the mentioned non-juridical normative instruments are elaborated. If they are mere proclamations to include in the *bronze of History*, their practical dimension is surely very small, but if, on the contrary, their structured construction is based on the knowledge of the most serious areas and on a compilation of the risk, we believe they may help the *Juridical Science* and complement its disciplinary role through Ethics, conduct, and good practices.

In this respect, the role of the Inspectorate General of Home Affairs is central and essential because of its awareness of the mentioned critical areas through the investigation of actual and concrete cases that are brought to its knowledge and then analysed.

In a brief conclusion, we may say that training in ethics and conduct, besides the juridical component of the integrity issues, must be regularly re-evaluated.

iii. Some proposals for the future

Based on what was said above, it is obvious the reason for the *very intense* relationship that the Military Academy and the ISCPSI must have with IGAI because it is the only entity that, in Portugal, has a compilation of data and a fixed knowledge that make possible for those public military and police institutes of higher education to reflect on the training needs of the future Officers of the GNR and the PSP and the most adequate pedagogic strategy.

For several reasons, IGAI gathers knowledge and data that are useful to allow us to define what appears to be *geographies of risk* and to promote in our Cadets and Training Officers – through that exercise – the knowledge of problematic areas, the juridical institutions that protect them and safeguard the assets they are supposed to.

On the other hand, we suggest the possibility of the creation of a figure similar to that of the Inspections without Previous Notice (*Inspeções sem Aviso Prévio - ISAPs*), without restraining the autonomy of the organizations, of their managing boards and leading structures, without, in any way, impairing the principle of the legality of competence, without promoting bureaucratisation, but, given the importance of the sum of money and the amount of the investments, in such a way as to create a merely pedagogic component, of follow-up, as a *kind* of methodology of *compliance*. None of this would imply an absence or impossibility of a later control or even of an intervention of the Court of Auditors or even of the Council for the Prevention of Corruption, which works in the remit of that Court; on the contrary, what we suggest are conciliatory and complementary actions.

This way, the proposal is neither mistaken for the figure of the *previous approval* nor for the performance of an *audit*, but it must rather be seen as a strictly preventive and guiding mechanism of follow-up.

This proposal, possibly controversial, is framed by the need of permanent collaboration and cooperation among the several organizations mentioned, namely IGAI, the Military Academia and the ISCPSI.

The dialog that is required to be permanent with IGAI aims at that reciprocal relationship in which both sides profit:

i. The universities will be granted a preferred knowledge in areas to which they have to pay a closer attention;
ii. IGAI will have the expectation – it cannot ask for more – that in the future the critical cases will decrease…

The juridical dimension of the risks of integrity and risk management in the framework of public security cannot be left unattended, but the public military and police institutes of higher education must prepare the officers for the new realities of the 21st century and so we cannot continue to draw curricula schedules with the criterion of the *old professor* of the University of Coimbra of the 19th century, far away from the reality we have today.

Training is of the essence. The model of training and learning through life (which we have exported to civilian institutes of higher education) is very important, but it would also be very useful if IGAI could, given time, prepare the announced *manual of police action* that surely may progress to a future *manual of good police conduct*. It would certainly be very useful, not only regarding its operational component but also regarding the performance of administrative duties, furthering a project that has already begun and aims at the study of the *cartography of the risk*.

We must reinforce and promote more knowledge, more legal training, just as the operations of maintenance of public order, the use of firearms or the use of coercive force are trained. It is with this training that safety and the right criterion of decision are obtained, looking back at previous cases, to what went not so well,

with a pedagogic dimension that prevents or avoids the error and promotes the integrity of, and in, police administrative conduct.

António João Maia | *Lecturer*

CITIZENSHIP, PUBLIC MANAGEMENT AND PREVENTION OF CORRUPTION

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Introduction

This presentation approaches, in a necessarily brief way, the problematic of corruption and fraud in public management from the standpoint of citizenship and, very especially, of the Citizen himself/herself, since it is around him/her and his/her superior interest that the whole logic of the existence of the State and how its management must be processed is structuralised.

The Citizen is the recipient of the action of the State and this action is materialised by a process of choices, also centred in the Citizen, and which expresses the definition and concretization of the so-called Public Choices, more commonly known as Public Policies.

In the State's model of management and safeguard of the collective interest, it is the Citizen who chooses who must perform the office of governing in the name of the superior interest of all. The Citizen is the recipient of the performance of that office of Public Governance. It is also the Citizen who, with his/her taxes, provides financing for the existence and operation of the structure of Public Governance.

During this presentation we will take a look at the function and dynamics of the action of Public Governance and also at the problematic of fraud and corruption that may occur in the course of that action, in the sense that all these realities are interconnected and, consequently, they appear essentially as issues of citizenship, as issues focused on the Citizen.

1. Citizen, public management and citizenship

The Citizen is the focal element on which is based the whole structure of the action and the management of the State.

From a point of view of the Citizen, we may concede that the State is every individual, or is present in each one, and that the validity of its existence depends, to a large extent, on the way each one is involved and believes in that existence and feels its presence through the effects of its action.

We are the State, as we often say or hear, is to a certain extent a true perspective. And, in a complementary way, we may also emphasize that *the State is what we want it to be and what we are able to build together to the benefit of our collective interests*.

The State may be understood as a kind of supreme entity, situated in a higher plan to that of the individual, in a supra-individual plan, and whose existence and subsistence in time derives exactly from a kind of collective belief, which is called to play a role of fundamental importance for all, without exceptions, and which is that of being the trustworthy depositary of our most important and profound common interests and values.

Only an entity with similar characteristics, with a supra-individual dimension that is recognised by all, could carry out that office of fundamental importance for all. Regarding Portugal and in constitutional terms, it is assumed that the State must provide, as fundamental tasks, the guaranty of the national independence and of the fundamental rights, freedoms, and safeguards of the Citizens, the defence of democracy, the promotion of the wellbeing and quality of people's life, the protection and enhancement of the value of its heritage, as well as to ensure education and the harmonious development of society and the equality between men and women.

The State may be understood, in a perspective (we assume) of great simplicity, as a kind of supreme and trustworthy guardian of our common heritage. As a safe or a vault where we keep, in a risk-free way, our values and our most important and deep collective references, such as our historical, cultural, economic, social values, our great bench marks, the traditions and the rituals and everything else we may indicate that characterizes our cultural matrix. That is to say, our cultural features of the most different nature and that ancestrally have been moulded, revisited, and rebuilt by each generation, which received them from previous generations, and gave them in legacy to those that came afterwards, in a process and in continuous dynamic that brought that compilation of values and references to us, to our days, with the assumption that we would be capable, in a responsible way, of honouring and using them in a correct manner to serve our collective interests and having into consideration the circumstances that characterise our time. And also of being able to leave them, in a sound way, to our children and grandchildren.

But, thus understood, the State does not only have a passive function, that of being the supreme guardian of the collective interests and values of each

generation. It must also, and chiefly, assume its position of an entity with an active role. It is also required that it must have the capacity to operate those collective interests and values in order to assure and ensure their concretization near each of us and considering the concrete circumstances we are in.

The State is, considering all this, a structuring entity in any society. It is, possibly, the only entity that can assume a profile and a function with the nature and range above-mentioned. And all the sense and coherence of its existence derives from that dual function that we granted to it and assume it to be able to accomplish. The State is an entity with a profile and capacity that are, at the same time, passive and active. It is the trustworthy depositary of the central nucleus of fundamental values and references of a society, having simultaneously the duty to ensure that all that precious and unique heritage will be materialized in relation to all and each one of us, granting thus to that compilation of values and references a coherent meaning and sense, which is to say, a validation.

And, existing like this, the State creates natural expectations in each Citizen about what that action must consist of, what must be included in that capacity to materialize the collectively shared values that constitute a reference and a matrix. And, as it fulfils those expectations, as it materializes those matrix references near each of us, the State reinforces the legitimacy of its existence and of its function and, through them, of the very fundamental values. The values achieve meaning and validity, and the trust of the Citizen in the State and its action becomes stronger.

A State that is able to materialize a framework of expectations of that nature contributes, in a very clear way, to increase the rates of confidence and social cohesion. On the contrary, a State that proves to be less capable of adequately ensuring that function and that framework of expectations becomes a factor of mistrust towards itself and the validity and coherence of the values it carries. It becomes a factor of decrease of the rates of trust and social cohesion.

In historical terms, we may accept that, in essence, human societies have always had the need — and also the capability — to create forms and structures, more or less complexes, to manage and materialize collective needs and expectations, such as, for instance, the solutions of protection and security at the most different levels (security, defence, protection of the most vulnerable, search and sharing of food and shelters, etc.), both in the individual and the collective levels.

Of course, the evolution of societies, expressed, among other factors, by the increase in the number of individuals and their concentration in bigger and bigger urban settlements, in parallel with the technological and social complex nature of the solutions of organization of collective life, has also been expressed, and in a very normal way, by a growing complex nature of the State, of its structures and of the very social expectations about what it is and what its role must be. Of the way it must assume and materialize its matrix function of trustworthy guardian of the central values of any society and ensure their concretisation.

In essence and regardless of the historical period we consider, the State, and the structures which shape it and allow the operation of its functions and the materialization of the expectations it is supposed to carry out, has always presented that prominently dual nature. And it is that dual nature, of guardianship and agent of validation of the common values, which makes the State a central and structural entity in any society, especially when it manages to ensure and maintain a relationship of trust near the Citizens.

The fulfilment of the collective interests and values that we entrust the State with, and demand to be always assured, is done through a structure we may call Public Governance.

Public Governance results from the coordinated action of the structures of the Government and Public Administration.

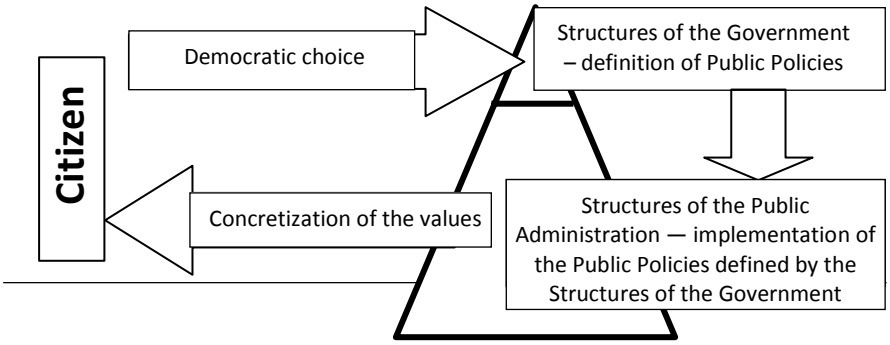
The structures of the Government, which are directly chosen by the Citizen through the well-known democratic electoral process, have the important function of choosing management options that are more suitable for the materialization, near the Citizens, of the legacy of the values and references that are ascribed to the State. The options chosen by the structures of the Government correspond to the so-called Public Choices or Public Policies already mentioned.

The operation of these options, that is to say the materialization near the Citizen of those Public Choices or Public Policies, is made by the structures we generically call Public Administration and whose generic characteristic is the development of activities which are exclusively meant to serve the public interest.

The Citizen chooses who, in his/her name, carries out the power to govern the common values and interests. And the structures of Public Administration materialize, near the Citizen, those very options of Public Policies.

The following figure intends to make a representation of the model of the Public Governance that operates the management of the State, showing also the central role of the Citizen.

The Citizen and the operation of the action of the State — the Public Governance



The model presented and described shows, in a way deemed clear, that the Citizen is the only and true reason of being of this whole structure. Thus, the Citizen is a party concerned and central element of the management of the State according to, at least, three points of view:

— It is he/she who, through the democratic vote, chooses who must carry out the function of governing the collective destiny during each electoral cycle, which in Portugal varies between 4 and 5 years depending on the type of political organ. From this process of choice derives the formation of the several structures of Government (in Portugal these structures are the President of the Republic, the Assembly of the Republic and the Government, usually identified as organs of political sovereignty). From the joint action of these structures of the Government comes the delineation of the Public Choices or Public Policies, which are no more than the options regarding the way that the materialization of the collective values and interests of the Citizens will be made.

— It is he/she who is the addressee of the action of the structures of the Government, which is carried out by the structures of Public Administration and their function of materialization of the Public Policies. In the Portuguese model, the structures of Public Administration are essentially of three types: 1 — The structures of the so-called Central Administration, linked in a more or less direct way to the Central Government ministries (an example of which are, in a more direct relationship, the Directorates General and the Inspectorates General, and, in a more indirect relationship, the Public Institutes and the so-called State-owned enterprises); 2 — The structures of the Local Government Units, in a geographically more restricted democratic model of Public Governance, which serve locally elected officials in each one of the 308 communes and,

in a geographically even more restricted plan, the many Parish Councils; 3 — The structures of the Regional Administrations of Azores and Madeira, which, also according to the same democratic logic of the performance of Public Governance, serve the structures of the Regional Government and Administrations of both autonomous regions.

— It is he/she who, through the payment of taxes, financially backs up the costs of existence and operation of the whole structure of Public Governance. It is the Citizen who funds the existence and management of the State.

To that extent, it does not seem to be – or be credible to exist – any kind of issue or problem associated to or deriving from the management of the State and the operation of the structures of Public Governance that does not have a framework or a relationship with the Citizen and his/her interests.

From this point of view, the management of the State, as a whole, is also and mainly a question of citizenship. Citizenship occurs, and must occur, also with the attentiveness, with the involvement, and especially with the direct participation of each one in all the dynamic of management of the State, of the structures of Public Governance, and of the common values and interests, in a continuous process of creation and further expansion of the so-called Public Value.

For all these reasons, the management of the State cannot ignore nor leave out the possibility of the participation of the Citizen. Of receiving and express his/her inputs, which must be expressed and presented through the so-called civil society. After all, as we have been showing, all this process is made in the exclusive interest of the Citizen and is centred on the Citizen; so, from this point of view, his/her involvement and participation are only natural, expected, and even chiefly desirable.

And, regarding this point, it must be mentioned that the national legislation already includes the possibility of that participation in some aspects of the action of Public Governance. For instance, through the possibility, foreseen in the constitution, of the participation in the legislative process, in which *groups of Citizens* may present legislative initiatives to the Assembly of the Republic, and also in the remit of the administrative procedure, which foresees the participation of the concerned person regarding the decisions in which he/she has a direct interest.

Notwithstanding these possibilities already foreseen by the law, the reality is that in Portugal the rates of participation and involvement of the Citizens in public life are still scarce and very occasional, as referred, for instance, in reports of the V-DEM Institute regarding the levels of democracy in the several countries of the world, namely the level concerning the involvement of civil society in the questions of collective interest.

One other dimension of great importance in the relation between the Citizen and the State (daily represented by the structures of Public Governance) is trust.

Trust is built with and solidified by the degree and the quality of materialization of the frameworks of expectations associated to that relationship. A greater trust in Public Governance and, consequently, in the State and everything it represents, denotes more credibility and validation of the model and, through it, of the common values and references whose management we entrust it with.

On the contrary, a greater mistrust, deriving from the denial or from a less careful satisfaction of the expectations regarding the way the Citizen has a perception of the action of the structures of Public Governance – practices of minor integrity and especially of fraud and corruption at any level of the operation of Public Governance are clearly the cause of potential scenarios of mistrust – tends to discredit the model and the validity of everything it represents. The values and the references which are entrusted to the State are at risk of losing sense and coherence. They become weak and, in extreme situations, they may even no longer be referrals in social relationships, becoming hollow and with unclear contents and senses.

And it is somehow due to what has been said that we support this notion that the State, and the way its management occurs, tends to be a model and an example regarding what must be the levels of Ethics and Integrity in any society.

When the management of the State and of the structures of Public Governance shows signs of minor integrity, the Citizens tend, on the one hand, to lose confidence in the institutions and, on the other hand, also to present smaller levels of integrity in their daily conduct. They tend to lose confidence in the institutions and towards the others.

The levels of confidence and social cohesion tend to positively interconnect with the levels of integrity in the management of the State and of the structures of Public Governance.

The surveys of Transparency International conducted each year on corruption perception indexes in several countries of the world have shown that Portuguese people generically characterise corruption in Portugal as follows:

— High levels of corruption, especially in the framework of the action of political leaderships, with the corresponding effects of mistrust, which explain, at least to some extent, the increase that has been registered in the rates of abstention in the successive electoral acts.

— Incapacity of the justice system to carry out its punitive function over corruption, which expresses a clear sign of the perception of impunity, which, in itself, may be detrimental in the sense that it may become a facilitator factor and explain some options of practices of absence of integrity, of fraud and even of corruption.

— Perception that the problem of corruption will have a tendency to increase in the future, in a clear sign of mistrust and even of discredit regarding that same future.

These set of signs, together with others that have no place in these lines, may reveal the existence of a certain effect of disbelief and mistrust and even of some social restlessness. And, as we said earlier, a context with these characteristics may damage or at least modify the relationship of trust that must exist between the Citizens and the State.

2. Integrity, corruption and citizenship

Corruption is undeniably a problem that affects the credibility of the State and of the whole symbolic edifice it represents.

The management of the State is done, as we said above, through the structures of Public Governance.

The accomplishment of the functions entrusted to these structures of Public Governance, in any of the two levels that define them — the structures of the Government and those of Public Administration —, is ensured by a set of public servants, meaning all those who, in any way, carry out functions in those structures. And, insofar as the State must ensure the safeguard of the compilation of the collective values and interests we entrust it with, all those who serve in its management cannot but ensure and assure at all times, through their conduct and example, the validity and coherence of that very framework of values. So, the performance of public functions is considered to be bound to the responsibility to exclusively serve and assure the accomplishment of the general interest. To be honest and ensure the integrity is to act continuously in accordance with that framework of values and references.

On the assumption that it is bound by the requirement of integrity, the management of the State rises the problem of the conflicts of interests, namely because there is always the possibility, even if only in the field of merely theoretical hypotheses, that the interests inherent to each public servant – linked to his/her own private projects – cross the path of the general interest and eventually create a crisis regarding the need to satisfy the latter.

The conflict of interests is, most probably, the main route that leads to the problems of lack of integrity, corruption, and fraud in the management of the State. Whenever a public servant, regardless of his/her hierarchic rank and the function he/she performs in the structure of Public Governance, denies the safeguard of this fundamental assumption of assuring the accomplishment of the general interest because he/she chooses to put in the first place the satisfaction of his/her personal interest or the interests of a third party to which he/she has a connection, we are before situations of fraud and corruption in the management of the State. We are before situations of lack of integrity.

And, in itself, the absence of integrity is the total denial, a kind of subversion, of all the assumptions associated to the existence of the State and its function to

safeguard and validate the compilation of the collective values entrusted to it. Corruption denies and subverts the framework of expectations of what must be Public Governance.

Corruption may occur (and it does! — every day we have newspapers, radio stations and television channels signalling it) in any one of the levels of Public Governance. If it happens in the remit of the action of the structures of the Government we are talking about political corruption, to which most of the times tend to be related transactions of bribes of considerably high values. The values of the bribes are generally related to the financial dimension pertaining to a certain option of Public Policies. At the level of the structures of Public Administration we find the so-called administrative corruption, which tends to be associated to the operation of public services and implies, as a rule and with some spontaneity, bribes of significantly lower values.

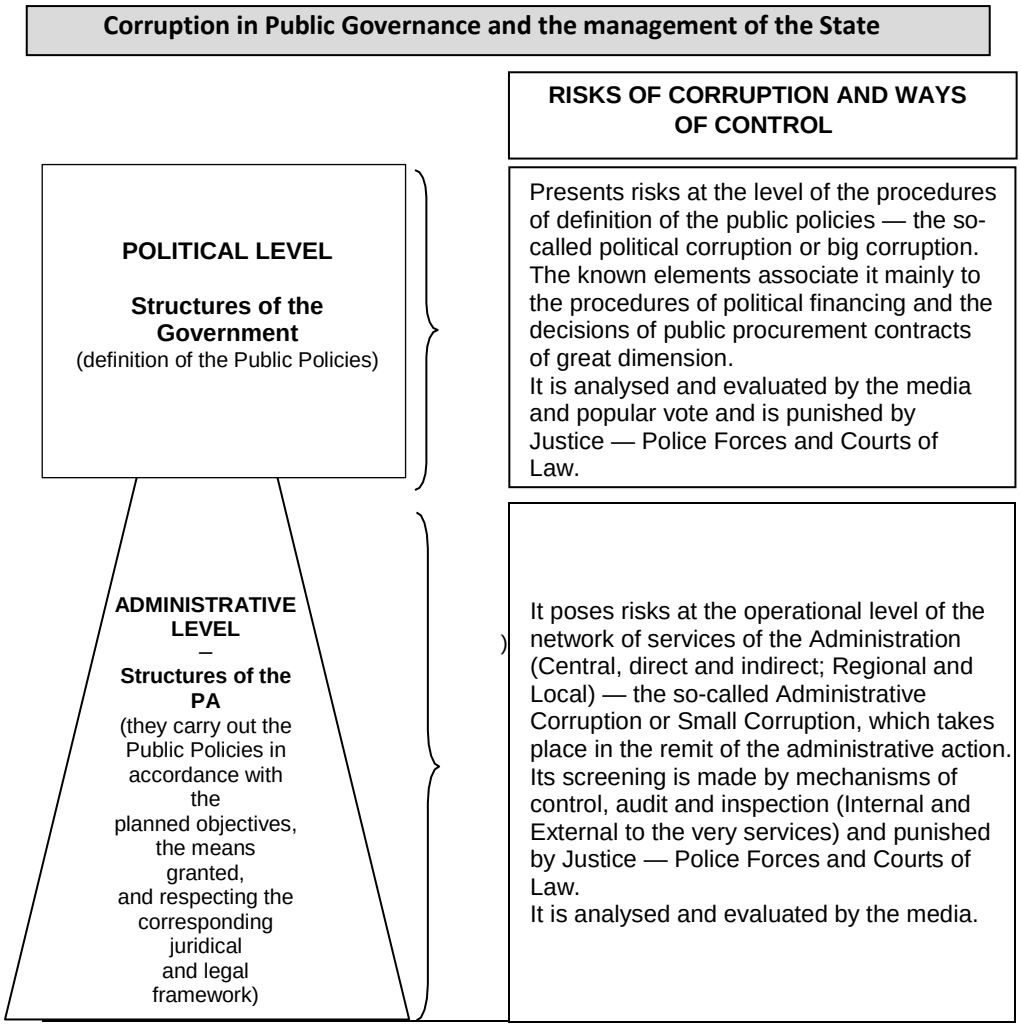
However and regardless of the kind of act of corruption committed, the amount in question, as well as the level of the structure of Public Governance where it happens, any act of corruption expresses a very deep critical perversity regarding the management of the State because, as we said before, any absence of integrity will always be a denial of the expectations on what must be the accomplishment of the action and function of the State and everything it represents.

Thus, the problem of corruption represents a tension between the public values, collectively sustained and stated, and the prevalence of attitudes tendentiously selfish shown by some public servants, which turn out to be options that give preference to the safeguard of private interests (their own or of third parties) to the detriment of assuring the collective interests, as it would be expectable and supposed. The practices of corruption represent a confrontation between private interests and public values of the whole society.

Corruption undermines and wears down, sometimes irremediably, the relationship of trust that must subsist among the Citizens, the State, and its structures. Corruption also undermines the trust that must characterise citizenship.

Besides undermining and wearing down trust, corruption also reduces the quality and efficacy of the action of the structures of Public Governance in the performance of its competences and increments the corresponding costs of operation. Fraud and corruption reduce the quality of public service and increase the cost of its existence and operation.

A study carried out by the European Union in 2018 reckons that the cost of corruption in Portugal corresponds to 7.9% of the GDP, that is to say, an amount around €18.2 billion. And considering that these financial impacts are also associated to the operation of the structures of Public Governance, they are also inevitably supported by the Citizen.



3. Control over corruption

Corruption is clearly recognised by the States as an extremely serious problem, precisely because it puts at risk the coherence and the stability of the State itself and, by association, of the very social cohesion.

So, and having in mind the seriousness of the problem and the negative effects that may derive from it, all States have at their disposal the normative instruments and the operative structures whose functions are to control and prevent it to happen. But having at hand these instruments is only a part, which is

not even the most important, of the process of facing the problem. It is equally important that there is a political will to their adequate implementation and that those measures and instruments are effective.

The Portuguese model of control of corruption is very similar to the model that exists in the great majority of the countries, namely the countries in the European space. That framework of instruments of control is essentially developed in four plans that are complementary among them and are the following:

— The Internal Control over the action of the structures of Public Governance, which contemplates the existence and implementation of a normative framework that includes: the Code of Conduct of the Government; the Constitution of the Portuguese Republic (*Constituição da República Portuguesa* – CRP), the Code of the Administrative Procedure (CPA), the organic laws of all bodies that give shape to the Public Administration; the Internal Control System (*Sistema de Controlo Interno* – SCI); and also the Inspectorates General of the Ministries. These normative instruments, as a whole, must promote the control over the proper and adequate implementation of the several political and administrative procedures that are carried out in all structures that integrate the Public Governance.

— The External Control, which is carried out by the Court of Auditors (*Tribunal de Contas* – TC), and that, with the performance of audits, must also verify the conformity regarding the good and adequate performance of the functional duties entrusted to the structures of Public Governance.

— The prevention of corruption, which is made through the action of the Council for the Prevention of Corruption (CPC), and which must be expressed by the performance of studies for the identification and analysis of the factors and areas of risk in the structures of Public Governance and corresponding proposals of measures of control and prevention.

— The repression and punishment, which is made through the existence of: a criminal law that typifies as crimes a collection of possible actions that are to be blamed from the point of view of the absence of ethical values and of integrity and that may take place in all the structures of Public Governance; a criminal procedural law that defines the normative framework for the performance of criminal enquiries whenever there is a suspicion that these offences may have occurred; the structures that operate with those rules, namely the Public Prosecution Service and the Criminal Police, which jointly perform, in the Inquiry phase, the criminal enquiries arising from reports of alleged illegalities and other suspicious situations reported to them; and, finally, the courts of law that are in charge of the trial of the cases with sufficient evidence presented by the Public Prosecution Service.

The model of control of the operation of Public Administration and prevention and repression of corruption		
	Level of control	**Function**
1	**Internal control**	
	Code of conduct of the Government	Establishes the measures and criteria for an ethically adequate conduct regarding the performance of functions by public officials
	CRP and CPA	Define the assumptions of the administrative action and the performance of functions ensured by the services of the PA
	Organic Laws of the organizations that constitute the PA	Define the governmental functions that must be assured by the corresponding organizations. These functions are distributed through the organizational structures of the services, up to the functions of each element
	SCI	Coordinates the control over the administrative action of the services of the PA, which is carried out by the Inspectorates General
	Ministerial Inspectorates General	Perform control actions, audits and inspections on the acts and administrative procedures of the organizations that carry out functions in the remit of the corresponding ministries
2	**External control**	
	TC	Performs control actions, audits and inspections on the legality and accuracy of the incomes and expenditures of the State regarding all the organizations that, in any way, carry out functions of a public nature
3	**Prevention of Corruption**	
	CPC	Defines areas of risk and proposes preventive measures based on the analysis of elements and reports made by organizations with functions of internal and external control and of judicial decisions in the framework of criminal proceedings associated to the level of repression of corruption
4	**Repression and control of corruption**	
	Criminal laws	Define and classify the acts corresponding to criminal practices
	Criminal procedural laws	Define the normative framework for the opening of criminal proceedings
	Public Prosecution Service	Responsible for the criminal action during the Inquiry, in the remit of which the criminal investigation takes place and, through it, the collection of evidence
	Criminal Police	Works alongside the Public Prosecution Service to carry out criminal investigation procedures
	Courts of law	Judge the criminal proceedings presented by the Public Prosecution Service with a decision to prosecute the suspects

Besides the normative measures and the existing structures, it is also important to mention the involvement of Portugal in projects of international cooperation, created in the remit of the action of supranational organizations, regarding the creation and adoption of measures and instruments that may contribute to the improvement of the control over fraud and corruption and the increase of the levels of integrity in Public Governance.

The need for the creation of these mechanisms of international cooperation derived predominantly from the effects of the dynamics of the process of globalisation and the internationalisation of the economy and of the great financial circuits, namely because they are also used by the great organized criminality of economic and financial nature, including corruption, and because they are the ground where the so-called schemas of money laundering also flourish.

Portugal has naturally been joining the several instruments of international cooperation that have been created on the subject of the control of corruption, and which are summarily identified in the figure that follows.

Regarding the directives deriving from the involvement of Portugal in these projects of cooperation of a transnational nature, it is important to mention that, in general, they appeal to the need of the States to be bound to the duty of the development and adoption of potentially more adequate and effective measures concerning the control and punishment of this phenomenon, of the promotion of more integrity in public management, and also to contribute to the creation of more and better international networks for sharing good practices concerning the control and repression of the problem.

Instruments of international cooperation against corruption ratified and adopted by Portugal
UN International Code of Conduct for Public Officials, signed at the UN General Assembly on 28 January 1997
OECD Convention on Combating Bribery in International Business Transactions, signed in Paris in May 1997
Convention on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union, signed in Brussels in May 1997
Publication of the OECD Convention against Corruption in International Business Transactions in the Official Gazette of the European Communities, November 1997
OECD Convention against corruption, signed in Paris in December 1997
Joint Action 98/742/JAI of the European Communities, regarding the crime of corruption in the private sector, December 1998
Criminal Law Convention on Corruption of the Council of Europe, signed in Strasbourg in January 1999
Additional Protocol to the Criminal Law Convention on Corruption of the Council of Europe, of May 2003
UN Convention against Corruption, signed in Mérida, México, in October 2003

One of the international organizations that has shown a particular attention to the problem of corruption is the OECD.

This entity presented, in 2017, a recommendation concerning the importance and the need for the States to promote more and better public integrity. And that recommendation is reinforcing an idea that we all had already considered and which is, after all, that talking about integrity is not only to look at the performance of public duties, at the performance of governing the State to the benefit of the fulfilment of the collective values and interests. It extends the remit of the question of ethics and integrity to the sphere of responsibility of the whole society and of all Citizens.

Ethics and integrity are truly questions of citizenship.

All of us in a society, regardless of the activities developed, either public or private, and the plan in which they are situated, are equally responsible and must be involved in the promotion of more and better ethics and integrity. In this broader approach, a reference must also be made to the example of conduct of integrity of each one. The example of each one is a point of reference of the huge importance for all those with who he/she interacts.

This OECD recommendation of 2017 on Public Integrity assumes, more precisely, that:

— Integrity is a coherent and socially comprehensive system, which presumes the involvement, commitment, and accountability of political and administrative leaderships in search for the highest standards of conduct on ethics and integrity.

— The culture of public integrity must be reinforced through the involvement of the whole society, with strong and adequate dynamics of leadership for the empowerment of the people and must be based on values such as meritocracy and transparency in public life.

— The accountability of the management of the State must include effective instruments of management, control, and prevention of risks of fraud and the enforcement of punitive measures regarding the situations that are detected and proved, as well as a more highlighted and demanding participation of the Citizens regarding political and administrative information.

4. What must be looked for and reinforced

To end this brief analysis on the centrality of the Citizen and citizenship regarding the operation and the model of organization and management of the State, we present some succinct final notes to contribute for the reflection on the measures and instruments of control of fraud and corruption in Public Governance and for the promotion of more and better citizenship and trust in the relationship between the Citizen and the State.

Accordingly, we esteem that, to begin with, it would be important, as already pointed out in the evaluation reports carried out in relation to Portugal by different international organizations, such as GRECO, the OECD, or even the European Union, that measures aiming at the survey and knowledge of the efficacy, and also the weaknesses of the existing measures of control, would be adopted.

Without the performance of a task of this nature, clearly in the remit of the assessment of Public Policies, we will continue with institutional speeches that presume and assume such good efficacy but which have no support, nor could they have, in great objective elements because simply they are not known.

To improve the control measures and the instruments already in force through the introduction of possible corrections and adjustments deriving from those studies would certainly be a way to increase the efficacy of such measures and thus reinforce the levels of credibility and trust in the structures of Public Governance.

It would also be important, and we believe necessary and useful, that a survey, as much detailed as possible, of the situations of fraud and corruption that really happened in the context of the performance of Public Governance should take place. What we know about the phenomenon and which feeds our collective perception about it — which is not good, as we showed — is what the news of the press, the radio, and the television bring to our homes, to the coffee tables and/or talks with friends. And what do we know about all the other cases? Those that also pass through the judicial system and regarding which there are evidences and trials and condemnations but, because of factors mainly linked to the social origin of the suspect, have no potential to be news? I would say: nothing. And here the idea would not be, naturally, that of knowing and expose the persons, but rather the circumstances, especially the institutional circumstances, that allow and explain the occurrence of such cases.

A survey of such institutional circumstances would be a very objective way to know and characterise, in more detail, concrete organizational factors of risk of fraud and corruption and, from that knowledge, devise and adopt, in a potentially more adjusted way, measures of control and prevention over them.

In this sense, and in the remit of the Observatory of Economics and Fraud Management (*Obsertório de Economia e Gestão de Fraude* – OBEGEF), we had already the opportunity to present, in the context of the 2018 Participative Budget, the project of mapping corruption in Portugal, which was then rejected with foundation in what we considered, and still do, minor grounds.

The program that the present Government (the 22nd) proposes to implement includes several concrete and ambitious measures to increase the control of fraud and corruption in Public Governance and to improve the quality of the public services.

All we can do is wait and see how such intentions will materialize, with the certainty that all positive signs that will be obtained in this framework have the potential to achieve, apart from everything else, the levels of more and better citizenship, more and better confidence in the management of the State and in

everything it represents, more and better integrity in life and public management, more public value.

Because after all and everything considered, it is the Citizen, and his/her supreme interest, who has the main interest in the existence of an adequate and qualified public management.

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THE IMPORTANCE OF A DOUBLE HULL IN THE PREVENTION OF SHIPWRECKS IN THE ORGANIZATIONAL INTEGRITY

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1. A bad example

Examples of bad risk management are numerous in the history of mankind. One of them that had media repercussions when it happened, and is certainly well known and studied, is the accident of the *Exxon Valdez* in 1989[1]. The *Exxon Valdez* was a gigantic oil tanker that, during a routine trip between Valdez in Alaska and Long Beach in California, struck a reef at Prince William Sound. As a consequence of this disaster an enormous oil spill occurred with great amounts of crude being released, which caused an unprecedented ecologic catastrophe. The reputation of the company that owned the ship, the North American Exxon Oil Company, was seriously shaken and also had to pay expenses and damages in an amount esteemed around $3 billion[2].

[1] Among the vast printed matter about this accident and its consequences see, for instance, Phillip Margulies, *The Exxon Valdez Oil Spill*. New York: The Rosen Publishing Group, 2003.

[2] The company that owned the *Exxon Valdez* was in fact the Exxon Shipping Company, a separated company, but controlled by the Exxon Corporation. For the rest, this distinction is ignored because it was irrelevant, both for the causes and consequences of this incident.

For the assessment of responsibilities that followed, several causes for the accident were pointed out. Among them, the most common are the following:

1. The crew was tired due the workload caused by shortage of personnel;
2. There had been failures in the supervision;
3. The captain himself was not at the controls when the accident happened;
4. The ship had an excellent radar system that, unfortunately, was left broken and disabled for more than a year due to budgetary blocking in Exxon; and finally,
5. This huge oil tanker had a single hull.

In a very regrettable tendency, but common in many organizations, the company tried to ease its corporate responsibilities by sacrificing an individual scapegoat. In this case, it blamed the captain, Joseph Hazelwood, whose healthy taste for strong drinks was generally known, of not being sober at the time of the disaster, something that latter was proved, in court, not to be true.

2. A cultural fault

All the five faults above mentioned show that, at the time, the organizational culture of Exxon did not emphasize the importance of the prevention of accidents. If it were not the case, the company would have made available the necessary resources in order that:

1. Its oil tankers did not have a single hull;
2. Its radar system was operational;
3. Its crew had proper shifts in order not to be forced to work for long periods under stress and tired; and
4. Its systems of supervision would be working properly.

And, we could ask, since the consequences of a disaster with only one oil tanker may be very harmful to the reputation of a trade name, to the moral of the collaborators, and to the financial management of a company, why did the Exxon organizational culture, a gigantic company operating in four continents, which at that time owned several oil tankers, not emphasize these values and was not paying due attention to the prevention of accidents?

The answer to this question, given the multiplicity of its causes and constraints, is not straightforward, but it may be adequately summarised by the Portuguese saying "*casa roubada, trancas na porta*" ("to shut the stable door after the horse has bolted"). Up to the disaster of the *Exxon Valdez,* within Exxon the accidents were something that happened to others. This lack of concern with the wealth and diversity of our decisions and actions is a way of life that is not

characteristically North American but one that we may observe, in a larger or smaller degree, in all cultures, either national or organizational.

Here, we can make a pause for reflection: and how is it in Portugal? How is it in our organizations? I wonder if accidents never happen in our companies and ministries! I wonder if there is a culture of prevention of the several risks, either operational, commercial, financial or of integrity! How many youths are saying today, as a refrain of the song of their lives, "There is nothing to worry about, in Portugal nothing ever happens"? Up to what point does the education provided by families and schools protect the new generations against their own unconsciousness and imprudence, giving them the tools for the prevention and management of risks?

3. Learn from the errors

If Exxon did not learn from the errors of others, at least it learned from its own errors. After the accident, the organizational culture of the company underwent a remarkable transformation that allowed a recent observer to classify it as *"a cultlike culture of discipline*"[3]. Security became one of the main objectives of the company. Procedures and norms of security were created. And it was made clear that the norms and procedures are to be always observed or, if it is verified that they are no longer adequate, must be reviewed in order to be always relevant.

The American governmental authorities also learned from the mistakes of Exxon and determined that all oil tankers operating in the United States of America should have a double hull; but even without this regulation, given the transformation in the organizational culture of the company regarding the prevention of accidents, there is no doubt that Exxon would no longer use single-hulled oil tankers.

Here we could make another pause for reflection: Have the organizations in which we are included a single or a double hull? A double hull in the organizational structure and a double hull in the procedures and proceedings?

4. The importance of double hulls

But, considering that a double hull is a duplication of resources, with the inefficacy, not to mention the waste, associated to the duplication of resources, we can with all legitimacy ask the following question: why the use of double hulls?

[3] The Exxon Valdez of cyberspace, *The Economist*, 10 August 2019, p. 52.

The answer is simple: because, adding an additional protection, double hulls give the opportunity to eradicate many of the damaging consequences of most accidents. It is true that if the impact is small, a single hull can handle the impact of an oil tanker without a spill. If the impact is very powerful, there is also no double hull that can handle it. But a double hull allows us to minimize the consequences of most crashes of medium force, neither too strong nor too weak. The force of the crash, it must be kept in mind, will be as stronger as the bigger the mass of the organization (or ship), and will be as bigger as its speed.

Another question that may be asked is whether the use of double hulls is it not a sign that the organization has no trust in the competency of its staff? Is it not an insult to their professional skills? Or, on the contrary, is it not possible that, with so much accumulation of unnecessary protection, we are making an invitation to laxity?

The answer to these questions is: no! This answer is based on the observation that human nature is weak, prone to distractions, temptations, and errors, and that to overcome that situation it needs the support of the community, in this case, of the organization, be it a corporation or a ministry. So, institutional measures to reduce the risks, including the risks of integrity, are not a certificate of incompetency neither lack of confidence in the collaborators, but rather an interested and responsible support to their safety and integrity.

5. Some practices of risk management

What may an organization do to help its collaborators to minimize their errors? The most important is to put at their disposal the following:

1. Provide them with clear objectives;
2. Establish simple norms; and
3. Make a permanent control of quality.

On their turn, each one of these measures, may and must have a double hull. What is a double hull for a clear organizational objective? It is to ensure that such objective is not only known to the management but also to all the persons in the structure. It is also to assure that such objective is not only known but also understood[4]. And something similar could be said regarding the norms established for the organization.

But the most important double hull for the control of risks in an organization is probably the permanent control of risks. There are several levels of control of quality.

[4] We assume that the organizational objectives are reasonable enough to be credible. There is nothing more irrelevant, if not dangerous to the organizational integrity and survival, as non-credible objectives.

The most important control of quality is no doubt that which is made by the individual. That the control of quality may be made by the individual causes at times some strangeness in our country, but it is an essential element in the culture of perfectionism that exists, for instance, in Japan. The advantages of the control of quality by the individual are multiple. When the individual makes a control of quality of the product he/she produces or the service he/she performs, a small error may be immediately corrected before it becomes a big error; he/she can learn from his/her errors and adjust and improve the way he/she performs his/her responsibility; he/she may avoid the constraint, before others, of having made a mistake.

However, the control of quality by the individual needs to be taught because usually people do not know how to do it spontaneously. The technique of assessment of the quality by the individual, very common in Japan, is the use of signals with the hands and voice. This technique is used, in this country, by multiple professions and even taught to the children, so they can autonomously execute, since an early age, a set of potentially dangerous activities. So, for instance, it is common and recurrent in Japan that very young children, of 5 or 6 years old, go alone to school. In order to perform safely this activity, without adult supervision, they are taught in school, in kindergarten or by their parents that, before crossing the road, they must verify the security, pointing with a finger repeatedly to the green light at the pedestrian crossing, to the carriageway to their right after verifying that there are no vehicles in movement in it and, finally, to the carriageway to their left after verifying that there are also no vehicles in movement in it. Later, in many professions this technique is used by surgeons, bus and train drivers, firefighters, workers in assembly lines, etc.[5].

We are not suggesting that workers in corporations and public servants in Portugal began literally to point to each task they perform. We are nevertheless suggesting that it is possible, even in management and supervision functions, even in Portugal, to point figuratively at a set of principles involving those management or supervision functions and that figurative pointing may help to prevent situations of risk, either technical or of integrity.

[5] Many short videos that illustrate this technique are available on the Internet. See, for instance, www.youtube.com/watch?v=C7PCj4ZCK9o (for a corporation video calling the attention of the workers to the importance of this technique to eliminate accidents) or yet www.youtube.com/watch?v=9LmdUz3rOQU&feature=youtu.be&t=18 (to exemplify its use in the railway network). Besides pointing, in some professions it is normal to confirm verbally that all necessary procedures for the faultless performance of the task were done, saying loud *yoshi*.

Another important technique for the control of quality, frequently applied to administrative, scientific or management functions, which also works as a double hull, is the technique known as “another pair of eyes”. Here it is only worth to state the obvious: the “another pair of eyes” must not be that of a subordinate, must not be that of a manager, but rather one of a peer working in a different section or department. That is, in order to work, the second pair of eyes must be a person with a great degree of independence.

Finally, a last double hull must be built by the management. Here, it will be important to prevent against the danger, so common nowadays, of a management based only on KPIs and numeric indicators. To prevent risks, the manager must know the field. Here, the expression “the field” has a symbolic mean.

Is it possible that the institutionalisation of all these precautions and techniques will eradicate all accidents? No, but it will certainly contribute to shorten the broadcast of news reports.

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RISK ANALYSIS AS A TOOL FOR THE PREVENTION OF ILLICIT ACTS IN PROCEDURES OF PUBLIC PROCUREMENT WITH MINOR COMPETITION — PRACTICAL ESSAY

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1. General framework. Risk management

In the abstract, any procedure of risk management is sustained in essence by the dichotomy between results and the inherent volume of sacrificed resources. Deep down, this relationship cost/benefit guides the objectives, the management and the intensity of that exercise that, by nature, moves in a context of relative uncertainty, that is to say, in environments in which the evolutional path depends on the incidence of factors with a certain degree of *randomisation susceptible of parameterisation*, in the sense that, with more or less difficulty, it can be minimally quantified or at least qualified in an ordinal logic.

The applications of the several tools of risk management are numberless and are not limited to the fields of security and prevention. Many others, from the financial to the sanitary conditions, adopt techniques and apply instruments that try to decrease the degree of uncertainty and direct the efforts in the most rational possible way, promoting the optimisation of the resources in the name of purposes of efficacy and efficiency, not seldom combined by relations of *trade–off*.

As we can see in Figure 1, any procedure of risk management begins with the identification and valuation of *critical assets* that need protection, from the general mission and objectives of an organization to its most important goods, equipments and infrastructures, going through nuclear activities, human capital and other intangible assets, such as reputation, shared values and its own identity. It seems evident enough because, when the ultimate objective is to select means to somehow protect assets, it is essential to recognize and highlight them in an unambiguous way. Unfortunately, perhaps due to some lack of reflection, this elementary logic is often forgotten.

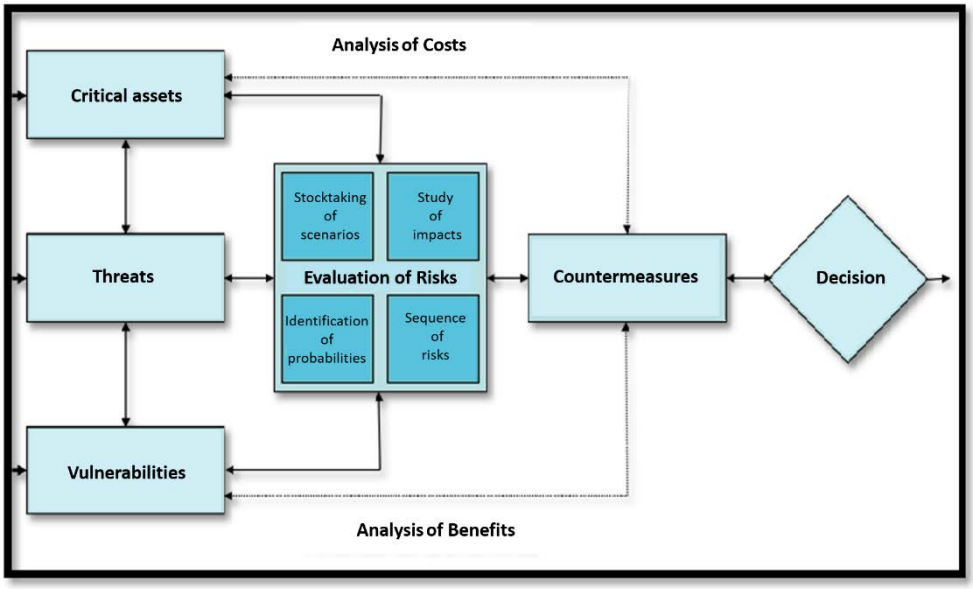


Fig. 1: Simplified procedure of risk management (source: adapted from Carl Roper — 1999)

After the identification of these *assets* that are considered critical regarding the context and objectives in question, it follows the listing of all hostile sources of problems — *the threats* —, either of natural or human origin, intentional or occasional/negligent. The system may present a greater or lesser number of weaknesses susceptible of being explored or catalysed by them — the so-called *vulnerabilities* —, establishing here the expectable degree of success of the agents of the threat.

After the assessment of these elements, it follows the phase of *evaluation of risks*, which encloses the stocktaking of plausible scenarios, the identification of the probabilities of occurrence – which result from the interaction between threats and vulnerabilities -, the study of impacts and the sequence of risks. Although here the doctrine is not unanimous, we may say that the phase of risk analysis encloses the definition of critical assets, the inventory of threats and vulnerabilities and, finally, the evaluation of risks, preceding thus the selection of adequate countermeasures for the signalled risks and the phase of decision itself. Basically it carries in itself a true exercise of diagnosis, characteristic of the *intelligence* and related services. It is a whole logic of signalling the problems, not yet a therapy. And, as we can see in the figure in question, all this procedure is recyclable, dynamically adjusting itself to the variations that took place in the different phases.

The figure hereunder shows in a relatively simple way the basic anatomy of risk analysis: for each scenario there is a dimensioned probability of occurrence that results from the two-way interaction between capabilities, intentions and sense of opportunity, in what concerns the threats, and the capacity of resistance and resilience of the system. On the other hand, that assimilation must be combined with a greater or lesser level of effects or consequence for the integrity of the critical assets (impacts).

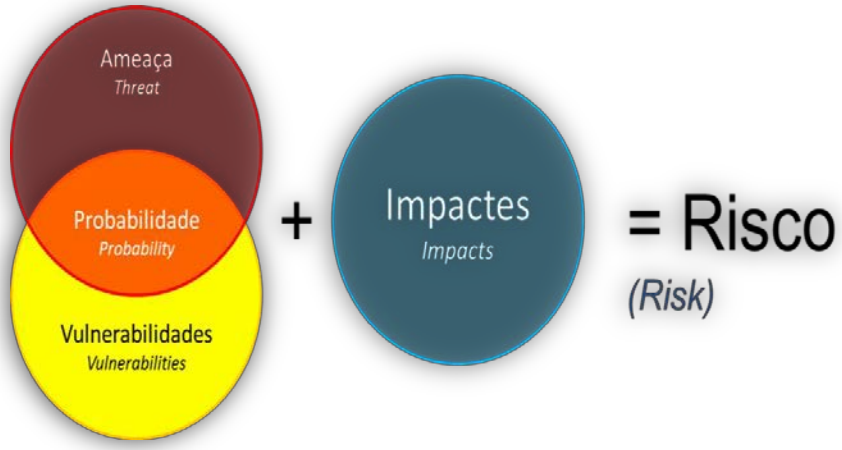


Fig. 2: Basic Anatomy of risk analysis (source: the author)

As a corollary of this representation we can say that a high probability degree of success against a certain threat may exist, being the risk virtually low in case the ensuing impacts are considered to have a reduced value. On the other hand, a low probability degree may produce very significant levels of risk if the derived impacts are extremely high. It may be the case, for instance of Islamic inspired terrorism in Portugal.

2. Risk analysis in proceedings of public procurement

Public procurement is an area of high technical complexity and that, by its nature, is ceaselessly under suspicion. This reality must be faced with some normality, even because it deals with public funds, coming from the annoyed taxpayers, reason why its rigorous application should be monitored by efficient internal and external mechanisms of surveillance. It is indeed a field where the concepts and the tools of risk management may be particularly useful, having in mind the huge dimension of proceedings of acquisition that the Public Administration carries out each year, imposing a very attentive management of priorities in order to, in the middle of that large amount of procedures, be able to focus its attention in what *a priori* really matters. In reality, a good system of prevention of risks of illicit acts in the activity of public procurement, in a broad sense, that is to say, of previous and successive control of the proceedings, may give a great contribution to the mitigation of criminal and fraudulent acts, introducing more reliability and transparency to the procedure.

It is common knowledge that the composition of any threat of human nature derives, among other factors, from volitional, capacitive, and opportunistic elements. So, besides the logistic, the technical and financial resources, and the factor of *opportunity* to materialize a threat, it is always present in the mind of the agent of the threat, among other factors, the perception, on the one hand, over the probability and the effects of being detected, and, on the other hand, the very seemingly vulnerability of the "target", in this case the activity of public procurement and everything around it. Now, a rational, structured system that can "sort the wheat from the chaff" has an unquestionable interest in the scope of general prevention, increasing the dissuasive effect of committing negligent or intentional offences.

So, we will take a look at a small applicable essay, trying to uncover some clues for further work in this vast field of risk in public procurement, keeping for now our focus only in the proceedings that, by their own nature, have formally and genuinely a minor degree of competition, that is to say, the simplified and standard contracts by private treaty, and the previous consultation.

a. The risk in procedural activity, in general

In order to assess the level of the risk in procedural activity in general, that is to say, in a context of successive (chronologic) interconnection between the several tasks and the moments that comprise it, we must go through a series of steps meant to scrutinize the critical points of surveillance and control, always having in mind the combination *probability x impacts*, investing naturally in those that maximize that relationship, which, as we have seen, translate the concrete level of the risk.

So, the first step is precisely the examination of the procedural activity in question, exposing completely the *procedural iter* (procedural path), which will allow the identification and signalling of the so-called *sensitive knots of decision*, that is to say, those where there is a strong subjective component, not deriving from formal/procedural automatisms and where there is, consequently, a broader space for a discretionary decision. Afterwards, the associated *factors of risk* are identified, that is to say, the elements that bring considerations of risk to the equation are examined, duly quantified or, at least, classified by means of qualitative degrees of ordinal nature, in accordance with a pre-established scale.

Finally, the aggregated evaluation of the signalled several *sensitive knots of decision* is made, based on the individual classification into grades of the factors of risk that compose them, considered or not in function of their relative importance, and resulting, *in fine*, in a comprised evaluation of the procedural activity in question. We can also, in a comparative logic, if that is the objective, sort out different procedural activities in terms of risk, enhancing, in an immediate and plain approach, those that, as a whole, deserve a closer attention from the responsible entities.

b. Critical assets, threats, vulnerabilities and impacts of the activity of Public Procurement

Reading the huge compilation of norms concerning public procurement, centred on the code of public procurement approved by Decree-Law No. 18/2008, dated 29 January 2008, with the ensuing amendments, several principles that the legislator intended to preserve stand out, namely and without prejudice to others, those of *legality*, *safeguard of the public interest, impartiality, proportionality, publicity, good-faith, transparency, procedural simplicity, economy, unit of the expenditure,* and finally *competition*.

The manager of the public procurement has thus a wide range of principles and guidelines that he must try to conciliate in a harmonious, effective, and efficient way, since not seldom there is a relationship of tension among some of them, by their own nature, or even with the very system of public procurement as a whole. For instance, the holy principle of legality, in its more formal dimension, may, at least on its own appearance, be harmed by the principle of safeguard of the public interest when we face a true “administration of emergency”, in a context of high unpredictability and incertitude, in which the action must sensibly precede its administrative and financial regulation, as in case of a natural disaster. It is evident that, as a whole, the legal system materially anticipates those “exceptions” to the rule as it foresees, in the remit of the general principles of law, causes of exclusion of the illegality and guilt, among other stabiliser mechanisms. In this sense, we could talk about a legality of formal basis and another of material basis, the latter with a more holistic, systemic nature.

On the other hand, the principle of procedural simplicity, because it is closely linked to circumstances of opportunity/logistic swiftness, also has a certain relationship of equation with the principles of competition or even of economy. However, sometimes urgency overlaps these last ones and the manager must know how to balance well the interests at stake. This is why, as we said before, risk analysis only provides alarms, signals problems or anomalies, and then leaves them to be properly deal with at another level, be it operational/procedural, of oversight or of investigation, as the case may be[1].

To the same extent, even in these times in which the economic and financial question is the centre of a special attention, the management of public procurement must not be excessively contaminated by the principle of economy, that is to say, the acquisition of goods and services in a way that is economically more advantageous, but rather always seeking to obtain the best possible compromise in this complex competition of guiding values. Besides, in the worst case, a solution that proves to be economically advantageous may, for instance, collide with purposes of good-faith, transparency and competition. This premise assumes a special validity in the case of proceedings with less competition, since there is never the assurance that a solution that appears to be good from the economic point of view could not even be better from a systemic point of view. This happens not only because there could somewhere be a better one, even in economic terms, but also because the State has the responsibility and the moral duty of respecting other intangible values that make it globally a trustworthy person. And that also includes the promotion of competition, the good-faith, and an absolute impartiality, as well as ensuring the transparency of the procedures at all moments.

We have seen that the threat in the case of public procurement, based on the classic triumvirate capacities-intentions-opportunity, is a factor especially important in what concerns the risk of contractual illicitness, even because it is based on the level of activity of the target – which increases in function of the economic profit in question – and of the probability, foreseen by the agent, of complete success.

On the other hand, the vulnerabilities of the public system, in what concerns contracts of goods and services, are essentially based on a greater or lesser degree of subjectivity/discretionary power of decision – in direct proportion – and of the very organizational culture of rigour and ethics, of the values shared within the Public Administration and the organization in concrete, that may contribute to a more or less regulated, supervised, and credible environment. In reality, the need for rules is in inverse proportion to the rootedness of values, being these materialized in a more perennial and effective guaranty against illicit acts potentially committed by internal agents (effect of the cohesion) and external agents (effect of the dissuasion).

[1] It is obvious that if we were in the remit of an inclusive exercise of *risk management*, and not "only" *risk analysis*, enclosing thus the formation and implementation of countermeasures for the protection of critical assets, we would actively contribute to neutralise/weaken the threat, to mitigate the vulnerabilities and/or to reduce the impacts. However, that is not the purpose of this brief essay.

This kind of vulnerabilities with a structural, systemic character are, understandably, the more difficult to solve since they depend on shared idiosyncrasies, sometimes for centuries, by the people. Only a continuous effort of investment in education and teaching may change this state of things, although normally is has to go through several generations. Until then, in contexts of ethical and moral undervaluation, either in a nation as a whole, in a big organization or in a small corporation, a strong course of action in the definition of behavioural, deontological norms, is necessary, even when we are talking about decision-making procedures with a low degree of discretionary power. On the other hand, when we are talking about contexts of high ethical and moral valuation and high degree of discretionary power, the focus is more directed to the procedural rules, trying to ensure some uniformity and stability in decision-making. When there is simultaneously a strong undervaluation of ethical and moral values and a high degree of discretionary power in decision-making – a kind of *perfect tempest* – there is no other way than the implementation of an omnipresent system of total control, based on a myriad of behavioural and procedural norms, to ensure a permanent oversight, both internally and externally (see figure 3).

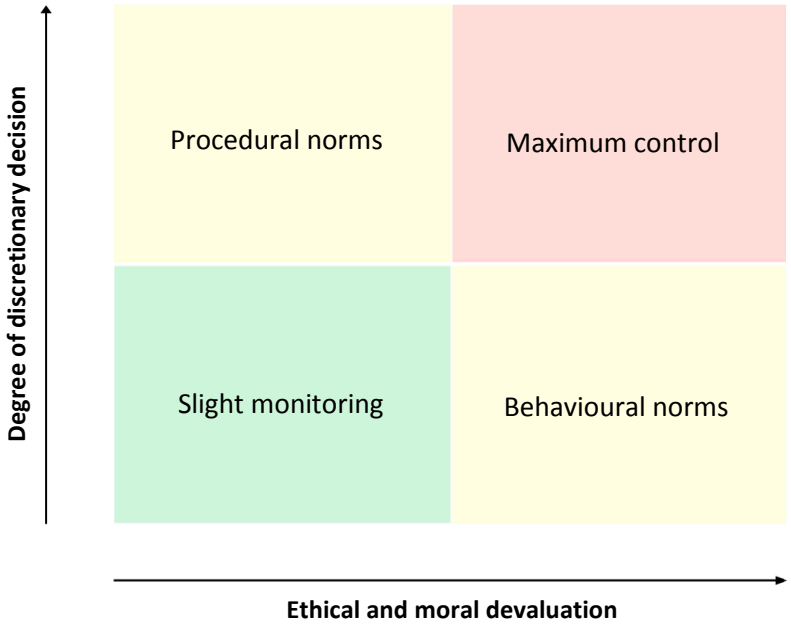


Fig. 3: Systemic and occasional vulnerabilities of the decision-making procedure (source: the author)

In what concerns the impacts or consequences of the decisions in the context of public procurement, we consider, at first sight, three elements of composition: 1) the direct effect in the economic and non-economic "critical assets" of public procurement; 2) the damaging potential to the organizational reputation, in absolute terms and with reference to the political and media agenda of the moment; and 3) the capacity to reverse the decision or the position in question.

The first element regards the impacts, as a whole, of the critical assets of public procurement already mentioned, which are intended to be harmoniously interconnected, even if sometimes with a natural tension that may turn into a game of null addition (what is won by one, is lost by the other). Thus, the impacts are not restricted to economic and financial issues, that is to say, it may not be at stake a procurement of goods and services, which is intended to be economically the most advantageous as possible to the State, but rather the entire credibility of the latter as a trustworthy person that acts with respect for the legal norms, with transparency, good-faith, and impartiality, aiming, as a last resort, at the public interest. This import takes us to the second element of this equation: the damages to the organizational credibility or to the State itself, as a whole. These damages are sometimes more difficult to surpass and may take a long time to heal, especially when they become very radical collective perceptions.

Finally, the third element of significant impact regards the greater or lesser weight that a sectorial or final decision assumes during the procedure of public procurement, in the sense of being able to be reversed with greater or lesser difficulty, in case it encloses irregularities or illegalities meanwhile detected. Following this line, in a characteristic procedure of public procurement the final decision has a greater impact than, for instance, the decision-making of the jury in the preliminary report, since this decision may be softened or even avoided during the procedure.

c. The specific risk in procedures of public procurement with minor competition

In procedures of public procurement with, by definition, minor competition, as in the case of the simplified or regular contracts by private treaty and of the new figure of previous consultation, we are facing contexts of a greater degree of discretionary decision, to begin with in what concerns the actors that are called to play a role in it. In reality, if this issue is not present in national or international competitive bidding – any entity may, in principle, participate -, in the former the public buyer has a specially relevant power that includes the possibility of making a "pre-selection" of competitor(s) that, in the end, may be just one.

If we analyse the *procedural iter* of a procurement procedure of this nature, from start to end, we may identify some *sensitive knots of decision* more or less evident. So, since the first moment, there is the expression of the needs that are intended to be surpassed with the ensuing procurement procedure, allegedly formulated by the public buyer.

Then, that expression of the needs is subjected to a validation by the direct hierarchic channel and, perchance still in an early phase of the procurement procedure, there is a specially sensitive knot of decision – the selection of the entity(ies) invited to tender – that comes before another important one, that represents the so-called *authorization for the opening of the procedure*, which, generally speaking, formally legitimates the sequence of the procedure, according to the proposal of the services of provision. Later on, there will be two other important moments of decision-making by the jury or, when there is none, by the manager of the procedure – the previous hearing and the final report of the jury – arriving, *in fine*, at that key-moment, which is the final decision by the competent entity with authority to do so, presumably the same that formally authorised the opening of the procedure. Figure 4 shows the sequence of the decision-making in a very clear and simplified way[2].

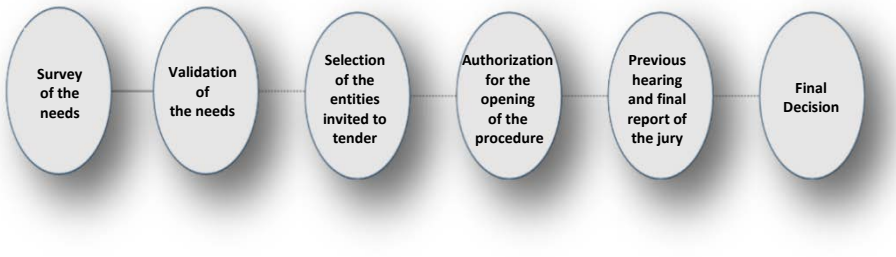


Fig. 4: Sensitive knots of decision in a procurement procedure with minor competition (source: the author)

To analyse in detail the sectorial risk of each sensitive knot of decision above listed we will have to separate the several *factors of risk* that have an influence over it, ascribing an ordinal degree of evaluation in accordance with the classic duo *probabilities x impacts*. So, for instance, the first sensitive knot of decision (survey of needs) presents possible factors of risk such as the history of problems with the kind of good in question (good, service or public works), the possible level of splitting the expenditure (in case of successive acquisitions of homogeneous goods in the same economic year) and the volume of the expenditure. As for the second (validation of the needs) there are factors such as the degree of coincidence with the entity that identified the needs (it is related to requirements of segregation of functions) and the formal/informal legitimacy for the decision-making in question. And so on, through the remaining knots of decision[3].

[2] Obviously, not always the procedural *iter* follows that sequence as it may change according to the context (for instance, in scenarios of emergency), the concrete type of procedure (for instance, an especially simple procedure, as the simplified direct contract by private treaty), and the applied doctrine or routines in use within the organization in question.

[3] In the annex we can see an essay of the whole chain of the mentioned sensitive knots of decision.

At the end, if the purpose is also to promote a sorting with a comparative basis of the risk between one procurement procedure and other similar procedures, in order to concentrate the efforts of a previous or successive control of the procedure, we may include the sectorial levels of risk of each sensitive knot of decision, possibly with a consideration in function of the relative importance of each one of them, assessing the global level of risk, in accordance with the Figure hereunder.

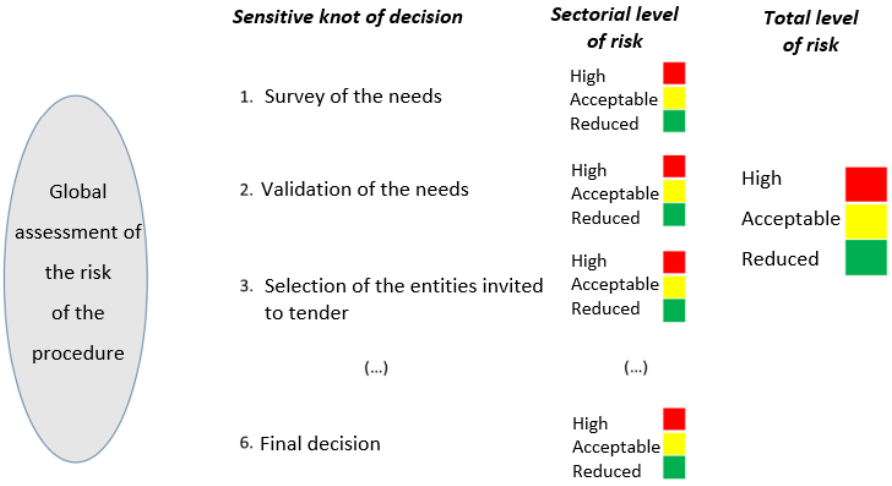


Fig. 5: Global assessment of the risk of a procedure of public procurement with minor competition (source: the author)

This level of global risk, drawn from the assessment of the sectorial risk of each sensitive knot of decision, turns out to be a simplified way of promoting a management of the efforts of prevention and control of illegalities of the several procurement procedures, focusing where it seems more probable from the point of view of the relationship cost/benefit. Basically, as we said at the beginning, that is the base of any exercise of risk management. It is obvious that this procedure, founded on rational choices based on priorities, is not exempt from faults since what *a priori* seems to have less priority may turn out to be the opposite. But if the method and the assumptions are well applied, the probability of its occurrence is surely lower than in case of a random decision. Anyway, the error in those circumstances, only possible to be detected *a posterior*, can never be reprehensible since in risk management, as they say, there are no wrong choices.

3. Conclusion

The increase of public procurement procedures that are launched each year by the Portuguese Public Administration makes unfeasible a complete follow-up of their development, either in a proactive (feedforward) or passive/reactive (feedback) perspective. Accordingly, the philosophy of risk analysis, with the help of some basic tools, may be an instrument at the service of the efficacy and credibility of the system, centring its attention on the procedures and, within these, on the procedural moments that are more susceptible of tampering and, simultaneously, of more impact, in accordance with a system of management of the priorities and observing a logic of cost/benefice (spending less resources than the potential proceeds).

As a critical factor to the success of this exercise we have, to begin with, a good understanding and delimitation of the *procedural iter* and the flagging of the so-called *sensitive knots of decision*, that is to say, the moments with a higher degree of discretionary decision and which end up influencing, in a more or less decisive way, the outcome of the procedure. These, also in accordance with a priority based in the combination *probability x impacts*, may also be arranged within the very contractual procedure according to the level of risk, in a preventive or reconstructive approach, above all with the ultimate purpose of deterring potential sources of danger of perpetration of illegalities in the remit of public procurement, certain that this activity pursues objectives that are not confined to the economic component but also to the ethical, moral, and reputational components, always in the name of the superior public interest.

So, the risk analysis may provide a huge contribution to the seriousness and credibility of the whole procedure of public procurement, not only in terms of the oversight and investigation but also of the detection and remedy of procedural faults that provide for vulnerabilities in abstract and expectations of success in the agents of the threat, at the same it restrains the impacts.

Obviously, that does not prevent that we keep on working on the most important component of the mitigation of risks of illegalities in this or any other ground – the establishment within the community of high civic values – since, being unquestionably the most complex, time-consuming, and expensive way, this is certainly the safest and most sustainable one, allowing the abolishment of a whole paraphernalia of juridical and deontological norms and rules that make more bureaucratic the action of the State, in general, and the activity of public procurement, in particular.

ANNEXES

I

Analysis on the application of the concept and some techniques of risk analysis in a procedure of public procurement with minor competition

Assessment of the risk in the "*sensitive knots of decision*"

	Factor of risk	*Probability*	*Impacts*
Survey of the needs	1. History of problems	High / Bearable / Non-existent	High / Bearable / Low
	2. Level of splitting of the expenditure	High / Doubtful / Non-existent	High / Bearable / Low
	3. Amount of the expenditure	High / Normal / Low	High / Bearable / Low

Fonte: Elaboração própria

	Factor of risk	*Probability*	*Impacts*
Validation of the needs	1. Degree of coincidence with the person who identified the needs	Absolute / Doubtful / Non-existent	High / Bearable / Low
	2. Formal / Informal legitimacy for the decision	Non-existent / Doubtful / Total	High / Bearable / Low

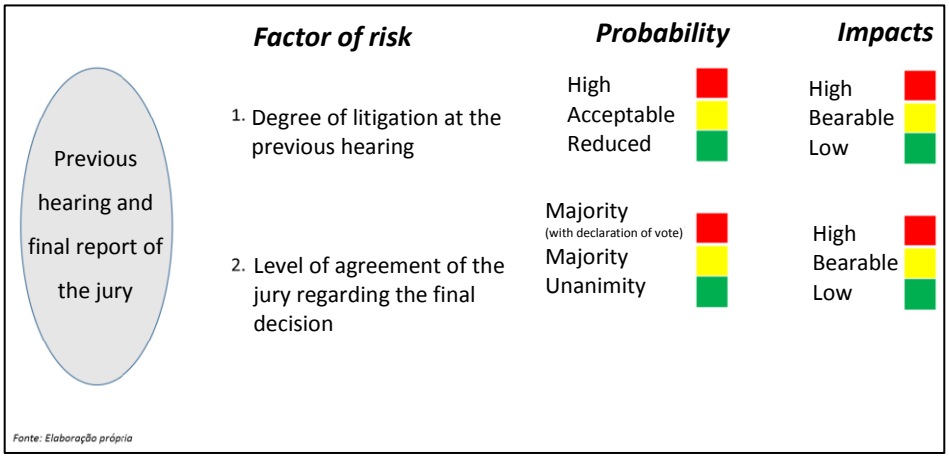
Fonte: Elaboração própria

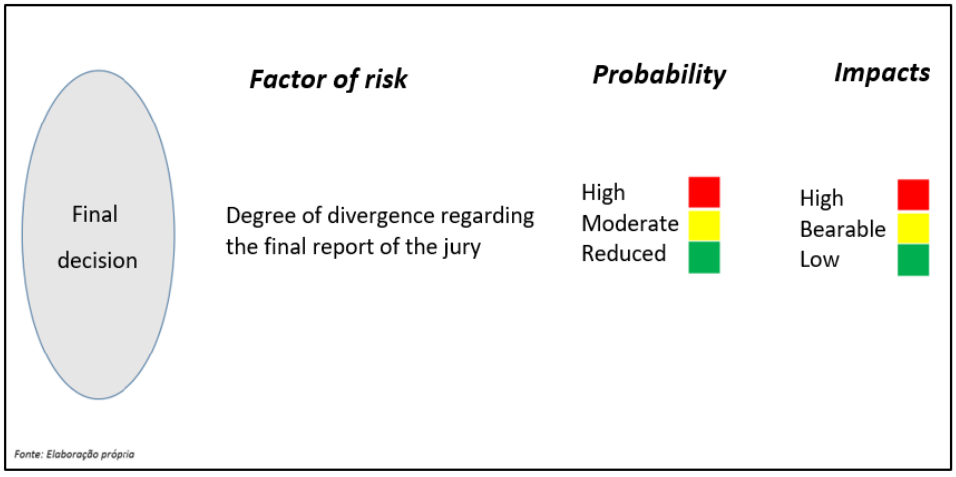
	Factor of risk	Probability	Impacts
Selection of the entities invited to tender	1. Number of entities invited to tender	One Reasonable High	High Bearable Low
	2. Level of reiteration of the entities invited to tender	High Acceptable Low	High Bearable Low
	3. Unusual demands of pre-requirements / uncommon special certifications	Obvious Common Non-existent	High Bearable Low

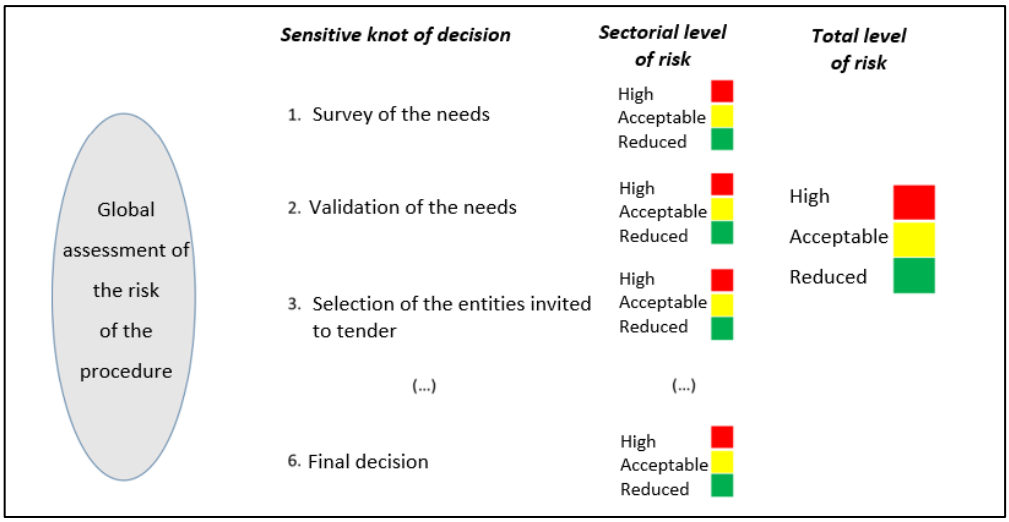
Fonte: Elaboração própria

	Factor of risk	Probability	Impacts
Authorisation for the opening of the procedure	1. Degree of coincidence with who raised / validated the needs	Absolute Doubtful Non-existent	High Bearable Low
	2. Formal / Informal legitimacy for the decision	Non-existent Doubtful Total	High Bearable Low
	3. Degree of influence in the set of entities invited to tender	High Average Reduced	High Bearable Low

Fonte: Elaboração própria


Previous hearing and final report of the jury
Factor of risk
Probability
Impacts
1. Degree of litigation at the previous hearing
High
Acceptable
Reduced
High
Bearable
Low
2. Level of agreement of the jury regarding the final decision
Majority
(with declaration of vote)
Majority
Unanimity
High
Bearable
Low
Fonte: Elaboração própria


Final decision
Factor of risk
Probability
Impacts
Degree of divergence regarding the final report of the jury
High
Moderate
Reduced
High
Bearable
Low
Fonte: Elaboração própria



II
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Programme of the Conference

Integrity between the Law and the (Good) Science of the Administration
— Risks of Integrity and Risk Management —

Lisbon, 14 November 2019

09:00am: OPENING SESSION

With the presence of His Excellency the Minister of Home Affairs, Eduardo Cabrita

Judge of the Court of Appeal, Anabela Cabral Ferreira
Inspector General of Home Affairs

09:30am: SPEECHES

09:30–09:45am | Professor José Fontes

Integrity and police activity in the 21st century

09:45–10:00am | Professor António João Maia

Citizenship, public management and prevention of corruption

10:00–10:15am | Professor José Miguel Pinto dos Santos

The importance of a double hull in the prevention of shipwrecks in the organizational integrity

10:15–10:30am | Major General José Luís de Sousa Dias Gonçalves

The management of risks of integrity — The case of the GNR in particular

10:30–10:45am | Chief Superintendent José Emanuel de Matos Torres

Risk analysis as a tool for the prevention of illicit acts in procedures of public procurement with minor competition – Practical essay

[pause]

11:30am: PRESENTATION BY THE COUNCIL FOR THE PREVENTION OF CORRUPTION

Senior Judge José F. F. Tavares
Secretary General of the Council for the Prevention of Corruption and Director General of the Court of Auditors

João Amaral Tomaz
Councillor of the Council for the Prevention of Corruption

11:50am: DEBATE

Moderator: Judge José Manuel Vilalonga (Inspector of the IGAI)

12:45pm: CLOSING SESSION

President of the Court of Auditors and the CPC, Senior Judge Vítor Caldeira

This collection of texts is first published, in PDF, in the official site of the Inspectorate General of Home Affairs on the Internet at www.igai.pt, in December 2019.

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