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Debate: Auditing and political accountability in local government—dealing with paradoxes in the relationship between the executive and the council

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This article addresses the role of external auditing in enhancing accountability in local government, building upon several paradoxes that result from the political relationship between elected bodies. It takes the example of Portuguese municipalities.

In local governments, the council scrutinizes and inspects the general activity and financial management of the executive, censuring where necessary, and supervising the overall performance of the local management (CEMR, 2016). The local authority budget, the main instrument of local policy, must be approved by the council. The executive is then responsible for implementing it and is accountable through the annual accounts. In this (internal) accountability process, statutory external auditors play an important role in ensuring fair presentation, assuring the reliability of the information reported (Maclean, 2014; Nogueira & Jorge, 2017).

The Portuguese reporting framework includes both financial and budgetary requirements and statements. Consequently, the external auditor has to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework. Furthermore, they also have to state that the public entity complied with the requirements for the budgetary execution and statements, according to what is set out in the Portuguese public sector budget and accounting standards (Jorge et al., 2022).

A weakness in this system is that the electoral process for both the executive and the council can interfere with the auditor's role. For example, in Portuguese municipalities, both the council ('Assembleia Municipal') and the executive ('Câmara Municipal') are directly elected and allocated through the d'Hondt proportional representation voting method (Law 1/2001). Consequently, although the mayor (like the council chair) is the candidate who received the most votes, they do not choose the municipality's management team, because both the executive and the council can include opposing party members with their own political agenda.

Therefore, while contributing to improving accountability in the political relationship between the council and the executive, and among their members, the statutory external auditor may face a number of paradoxes.

Although these paradoxes are considered in this article taking the case of Portugal, they apply to other countries, and are particularly striking in contexts where the local authority's management bodies include members of opposing political parties.

Paradox 1: Different powers and roles between the budget and the accounts

As the core instrument of local public policy, the local budget is usually presented by the executive, but must be approved by the council. Any substantial changes in the budget require council approval. On the other hand, the executive must submit its account of the budget execution (within the set of annual accounts) to the council—the deliberative body—to scrutinize the executive's (financial) activity (Jones & Pendlebury, 2010).

However, in some jurisdictions, such as in Portugal, the council is not required to approve, but only to appraise ('apreciar' in Portuguese) the annual accounts (Jorge et al., 2022). In this case, there is an imbalance of power between executive and council: the council is at a clear disadvantage because its authority to scrutinize and to demand accountability from the executive is weakened (De Sousa, 2015).

Budgets are instruments of political management and, unlike financial statements, their foundation is not verifiable records of transactions. For these reasons, public sector budgets are not audited (Jones & Pendlebury, 2010). Statutory auditors therefore do not give an opinion on municipalities' budgets and, consequently, do not have any role in terms of the establishment of local policies and budgetary projections. Nevertheless, the execution of budgeted policies is reflected in the annual accounts and financial reporting, on which the statutory auditor must give an opinion, including on the compliance with budgetary execution statements (in Portugal, this is required by Law 73/2013). While budgets, as instruments of public policy management, overpower the accounts as mere instruments of financial management, only the accounts are certified and assured by the statutory auditor.

Paradox 2: Political composition of the executive and council

The d'Hondt representation voting system for both the executive and the council favours democracy and political pluralism. Where there is heated political competition (in the executive and the council, and between these two bodies), members of the opposition will often use the auditor's opinion as a political weapon—criticising those in power and demanding accountability (Guarini, 2016). As well, it can be used for policy legitimation by those in power. Therefore, the auditor's opinion is used for purposes

other than those usually committed to the auditor—instead of certifying for assurance and fair presentation of the entity's financial affairs, as intended, it is used for political gains. This may even be exacerbated in cases where the opposition is in a minority.

Paradox 3: Executive's responsibility for submitting reliable accounts

In some jurisdictions, there is a distinction between those who prepare the accounts (financial officers) and those who submit them and are responsible for their approval (management bodies) (IPSASB, 2014). In Portuguese municipalities, the mayor submits the accounts to the executive for approval, prior to submitting them to the council for appraisal. However, the executive may detach itself from the truthfulness, probity and quality of the accounts by demanding to know the auditor's opinion before approval. This behaviour may be more frequent with higher political competition within the executive. In these cases, the executive passes to the auditor the unintended burden for presenting reliable accounts ('washing their hands'), as if this would not be their duty, given their responsibility for managing and maintaining the accounting services and the internal control system. In Portugal, this is a clear responsibility of the mayor and of its party's elected officials with management functions, given that the aldermen of the opposition parties seldom hold management positions in the executive.

Paradox 4: Chronology of the requirement of the auditor's opinion

A mayor demanding to know the auditor's opinion in advance, before the approved accounts, as in Paradox 3, is important to all members of the executive, and particularly for opposition members. But, such demand contradicts the profession's regulation (namely that of the International Federation of Accountants), by which the statutory auditor delivers their opinion on the accounts already approved by the executive, before submission to the council for appraisal (in Portugal, see Law 140/2015).

In addition, an international audit standard (ISA 705) states that 'those charged with governance must have an opportunity, where appropriate, to provide the auditor with further information and explanations in respect of the matter(s) giving rise to the expected modification(s) in the auditor's opinion' prior to the formal submission of the accounts.

Accordingly, in the cases of this requirement in advance, auditors will present a draft opinion to be discussed by the executive, including members in the opposition, before approving the accounts and submitting them to the council. The mayor uses the auditor's draft opinion as a shield so that all the executive members feel reassured while approving the accounts.

External audit and internal political accountability

We have called attention to conflicts of interest in local government external auditing, among important actors who will have different views and interests in the whole process of the budget cycle, from budget approval to the appraisal of the accounts. Although our case study is Portugal, the problems apply to other countries, especially where the electoral process allows for different parties to be represented in the collegial management bodies, so political competition is heated. In their relationship with the local government executive and council, statutory external auditors have to deal with political issues that interfere with audit functions, namely affecting their contribution to improving accountability by the executive to the council. These issues provide fertile ground for future discussions and research, both in academia and among policy-makers and local government managers.

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