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Title: Portuguese public managers and administrative reform in the global context of competitiveness

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Introduction

In a global community where social and economical environment is growingly unstable, the ability of public organisations to readjust to new strategic challenges has become an imperative. The globalisation of markets presents new pressures on national economies as well as on public administrations, as these constitute a pillar of productivity and competitiveness. Public organisations are essentially a construct of people and not only its physical structures or its formal organisational chart. The discussion on models of public employment and human resources management is therefore – and more than ever - relevant in public administration, as it is in politics or in civil society. In fact, public managers are considered to be the main catalysts in the change process as well as in assuring that public administration contributes to social and economic competitiveness. Both private and public sector success is closely tied to the quality and professionalism of managers (Denhardt & Denhardt, 2003).

Although international experience reveals the existence of different solutions in recruitment and performance evaluation models, they are always linked to local cultural and political history of bureaucratic elite. Administrative reform and the change process

must therefore take into consideration the cultural environment, and the Portuguese case is no exception to the rule (Araújo, 1999; Rocha, 2001).

All main reformist trends in western countries, inspired by different organisational theories and concepts and driven by distinct political orientations, have one aspect which is essential to the link between political power and administrative elite: Trust. This key-factor of *institutional loyalty* in public office (Page & Wright, 1999) can nonetheless be interpreted and applied in numerous and very different ways.

Administrative evolution

In the last 15 years, Portugal has seen succeeding approaches to the recruitment and the evaluation of public managers. With the fall of the dictatorial regime in the mid-1970's, public managers were no longer appointed for life, but in a temporary commission regime. In 1987, the first democratic majority government centralised administrative power in the hands of politicians and in 1989, government members were legally allowed to recruit public managers in the private labour market, with the intent of developing competence, loyalty and efficiency. In 2004, the implementation of the new Integrated Evaluation System for Public Administration¹ introduces the *management-by-objectives* concept in the performance assessment process. This was an abrupt change with the traditional system, which had been subverted to avoid differentiation of performances by establishing the common practice of giving the maximum grade to everyone. Nevertheless, this new system is applicable only to civil servants and intermediate managers, leaving top-level managers out. The presumption is that top managers are evaluated on the basis of the organisation's results. But in reality, public organisations are not evaluated in terms of results, be they service delivery or management performance. Although the general law indicates that the evaluation system must be applied to both individual and organisational levels (public servants and public services), only the individual performance evaluation was in fact implemented.

The binding of objectives, goals and performance indicators can only be possible in a scheme of linkage and interdependency between the performances in the different hierarchical grades. However, one must not forget that the absence of a formal sanction factor for top managers, in the case of poor performance, emerges as a relative injustice

¹ SIADAP – Sistema Integrado de Avaliação do Desempenho na Administração Pública, established by the Law N.º10/2004, published in March 22nd 2004 and the Regulatory Decree N.º19-A/2004, published in May 14th 2004

factor, as all other public servants have more rigorous conditions in this matter. Public servants can have their professional career stall for poor performance or sped up for good performance. The effective assessment of top managers' performance is left to the political power, which appointed them, therefore enhancing personal trust and institutional loyalty as key-factors in the evaluation process.

In an attempt to re-design this evaluation system and to incorporate organisational performance, linking it to the evaluation of top managers, the government has very recently announced the preparation of new legislation in the field of performance evaluation, which should be implemented by 2008. Although the specific characteristics of the new model are not completely known yet, since negotiations with public workers' organisations are still due, some relevant changes have been revealed by government members. The intention is to establish an effective three-way performance evaluation system, for public services, public managers and public servants, maintaining the focus on the assessment based on objectives. However, there seems to be no news in respect to top managers, since the focus remains on the monitoring of their mission statements, which are still not being implemented in all cases.

In fact, new public manager statute², published in 2007, does not introduce a rigorous performance evaluation method or strict consequences for poor and good results in the case of top managers, leaving once again the decision in the hand of political power.

Public Service Redesign

In pure bureaucratic administrative areas, the discussion on recruitment and evaluation models for top managers would not go much further, but in public service areas, where new organisational designs emerge, deeper questions arise. In fact, for the last three decades, studies have increasingly been pointing out the need to 'privatise' workplace relations in public administration (Osborne & Gaebler, 1992) and have consequently increased attention in regard to human capital expenses. As managerial principles were applied in many western countries during the last twenty years of the 20th century, successive attempts of downsizing public employment were carried out through methods like contracting-out to face occasional needs in qualified human resources (Kickert, 1999, Rhodes, 1995).

² Decreto-Lei N.º71/2007, published in March 27th 2007

But recent history shows that in some traditionally public domains, Portuguese Public Administration has gone further in redesigning its administrative organisation. During the last decade, Portugal has in fact seen many public services change its organisational and legal framework. To name some examples, we now find public hospitals that are being managed and administrated by private companies, local authorities for housing, urban development, parking, transportation or water and waste management turned into public owned companies. This conceptual shift is in line with the European and western approach to the wider macro-economic model, as major basic services have been privatised or semi-privatised in the past, like energy (electricity and fuel), telecommunications and post, transportation, road management, etc.

In most cases, the market for public services is more constrained than the private market, sometimes even totally closed to private competition. One common approach is to argue in favour of private-like management and operation models, but only to some extent. In Portugal, this increasing pseudo-privatisation trend gives way to organisational designs that benefit from both private and public rule. In these cases, as throughout public administration, top managers are selected and evaluated within the political sphere, furthermore raising the question of accountability.

Managers' accountability

The fundamental task of a manager is effectiveness. But to evaluate it, it is necessary to measure managers' performance by establishing activity plans as well as monitoring and control instruments. A recent OECD study (2005) points out the fact that politicians rarely use performance information in decision-making processes. This fact reveals that in general, the real performance of public top managers is not taken in consideration in political decisions. According to Schedler (2004), rarely are politicians guided by performance measures or evaluations when taking political decisions.

Nevertheless, one must not forget that the decision to choose a top manager in public administration - and consequently to evaluate him - can be considered as being more than a political decision, but also a pragmatic decision upon which can depend the global performance of a public entity. Moynihan (2005) believes that in order for administrative reform to transform public administrations into organisations that actively seek results, it is necessary that performance evaluation becomes part of a paradigm that is reproduced, multiplied and apprehended by the entire organisation.

In Portugal, the implementation of the new Integrated Evaluation System for Public Administration suggests that an effective evaluation implies the adoption of a cascading goals approach, from the top of the hierarchy to its operational base. In fact, notwithstanding any demerits it may have, this new system has the merit of trying to break with a predominantly passive cultural pattern, rehearsing a new evaluative intervention that is progressively more oriented towards meritocracy and not only seniority. However, as stated before, this new evaluation system has left top-level managers out, being applicable only to civil servants and intermediate level managers.

In recent years in Portugal, different legal approaches have changed the way managers are recruited into Public Administration, and two recent and fundamental laws have drawn a new paradigm. The 2004 Law n°2³, which approved the Statute of Management Personnel in Services and Organisations of Central, Regional and Local State Administration, sets out in Section II of Chapter II the rules for the recruitment and selection of intermediate management positions. Within this framework, Article 20 established the following pre-requisites for management positions:

- (1) Graduate's degree (some exceptions are allowed),
- (2) A minimum period of professional experience, and
- (3) The approval in a specific training course of Top Management in Public Administration.

In accordance with Article 21, the selection of intermediate managers has abandoned the competition procedure. Tavares (2004) argues that this new management statute has essentially served the purpose of dealing with deficits in public administration such as weak leadership culture, reduced autonomy, lack of specific training and the maintenance of bureaucratic and slow selection methods.

The 2005 Law n°51⁴ establishes rules for the appointment of top managers in public administration and reintroduces the situation prior to 2004 (revoking the 19 months old Law n°2/2004) in relation to the recruitment of intermediate managers. In fact, Article 20 establishes that 'intermediate managers are recruited by a competition procedure'.

In the same document, Article 21 states that there must be a jury composed of

- (1) The top manager of the institution,
- (2) One other manager in the same or higher level and grade than the position to be filled, and

³ Law N.º2/2004, published in January, 15 2004

⁴ Law N.51/2005, published in August, 30 2005

(3) An individual of recognized competence in the respective functional area, appointed by a higher education institution or public association that represents the corresponding profession.

The decision on the choice of the candidate must be sustained only on the proposed nomination, where the jury must indicate the reasons for its choice. With this system in place, only top managers are appointed directly by the government.

In terms of evaluation, one can find different arguments of statutory, functional, empiric or scientific origin to justify the differentiation of instruments and methods of evaluating the performance of top managers⁵. Section II of the Law n°2/2004 establishes the “Principles of action” for managers. Article 3 describes the ‘ Mission ’, Article 4 the ‘ Principles of General ethics ’ and Article 5 the ‘ Principles of management ’. This Article states that managers ‘ should promote a result-oriented management, according to annual objectives ’. The evaluation of this result-oriented management is later partially revisited in Article 14, which states that ‘management personnel will be evaluated in terms to be defined in proper legislation, with the intent of appraising the performance in their respective responsibility areas’. This setting results in the perpetuation of the non-existence of evaluation for top managers.

Only the Law n°51/2005 presents some news in relation to the evaluation of top managers in Portuguese Public Administration. Article 14 states that ‘ first degree top managers are evaluated according to the level of fulfilment of objectives established in the mission statement which Article 19-A refers ’. This article, added to the Law reads as follows:

‘ Article 14 – Mission Statement

- 1. When appointed, the competent member of government and the first degree top manager sign a mission statement, which constitutes a management agreement where objectives to be attained over the appointment period are explicitly defined, quantified and scheduled.*
- 2. The mission statement can establish, in terms to be regulated in the future, the attribution of management awards for services or*

⁵ As stated before, in the present Portuguese Public Administration, intermediate managers (service director and head of division) are evaluated according to SIADAP rules.

entities and/or for the manager, according to the progressive attainment of the defined objectives. '

The 2005 Ministers Council Resolution n°199 also refers the importance of the mission statement of the top manager of a public institution, mainly because it should act as the base element for establishing cascading objectives for the remaining managers as well as for all workers.

Page & Wright (1999) state that there is a sound assumption that, despite an administration's degree of neutrality and independence from politicians and political parties, any person that serves the State should respect the institutional loyalty principle. There is nowadays a common tendency in more depoliticised administrative systems to seek "trustworthy servants" for top-management positions. However, the use of this term has a reference to the concept of trust in its wider sense, not only political.

According to Romzek (2000), one can find four different types of accountability in organisations: hierarchical, legal, political and professional. When replacing traditional administrative structures with new modern ones, the former emphasis on hierarchical and political accountability (based on internal control and supervision and dependant on political power) is in theory shifted towards legal accountability (performance evaluation and contract compliance) and professional accountability (practice expertise, intrinsic norms and working models). In practice, this shift is rarely observed in public services for which new management settings and organisational models have been implemented. New performance assessment instruments have been approved, as from 2005 on, all appointed top-level managers have to agree with their governmental counterpart on a mission statement, which establishes specific goals to be achieved during their appointment period. However, the initiative to confront managers with these instruments on the basis of their achievements and results is in the hand of the government. In practice, political accountability seems to prevail, as the selection, appointment and evaluation of top managers is fully dependent on the political power.

In public owned companies, top managers are entitled to performance bonuses, based on a qualitative evaluation. According to a 2006 Court of Auditors report⁶, although the government has not used any explicit performance evaluation process, it is common

⁶ Report n.º49/06 – 2ª Secção, Audit to the pay system of public managers and good corporate governance practices, Court of Audits, December 2006

practice to pay such performance bonuses to their maximum extent. Another indicator of the prevailing political accountability model is the systematic appointment of new top managers every time the government changes. Such behaviour is symptomatic of the importance politicians give to the personal and political trust factor in detriment of more explicit factors like professional and management skills or performance indicators.

Conclusion

Even if, according to Paige & Wright (1999), this ‘ trust ’ factor is at the origin of managers’ choice in all western countries, unless their recruitment system is associated to an evaluation model that defines with absolute clarity their objectives, goals and performance indicators as well as the real consequences of success or failure, such system will never fulfil its intention to provide clear and transparent visibility to public management practices. On the long run, managers in public service delivery organisations are likely to concentrate on their institutional relationships and pay more attention to operational aspects of management, overlooking what should be their major concern: providing efficient and effective service, thus contributing to the economic and social development and competitiveness.

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