

# Public Private Partnership Health Programme in Portugal – Court of Auditors’ Report of 2008 – Report no. 15/2009 AUDIT<sup>1</sup>

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Considering the importance of the negative consequences of budget overruns in the PPP Health Program, in April 2008 the Court of Auditors, within the scope of its statutory audit powers, decided to carry out an analysis regarding the management of a set of hospitals (Loures, Cascais, Braga and Vila Franca de Xira) which became to be known as “the first-wave experience”.

The aim was to "identify and characterize the facts that gave rise to delays in the procurement processes of these PPPs" (page 5)<sup>3</sup>.

Firstly, data was collected both from information already in possession of the Court and the one that resulted from the audit. Several bodies of the Health Administration (Ministry of Health and depending services), as well as of the Health Regulator were involved. Experts were also consulted within the audit period, ranging from April to October 2008.

The procedure had the contribution of the audited hospitals and a final report was produced.

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<sup>1</sup> Accessible at [https://www.tcontas.pt/pt/actos/rel\\_auditoria/2009/2s/audit-dgtec-rel015-2009-2s.pdf](https://www.tcontas.pt/pt/actos/rel_auditoria/2009/2s/audit-dgtec-rel015-2009-2s.pdf) (Portuguese version). The text is based on the Report.

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<sup>3</sup> The procedure used was based on the Audit and Procedures Manual of the Court. Please access information at [https://www.tcontas.pt/pt/publicacoes/manuais\\_publicacoes.shtm](https://www.tcontas.pt/pt/publicacoes/manuais_publicacoes.shtm) (Portuguese version). For the English version of the Portuguese Court of Auditors web page, please access <https://www.tcontas.pt/en/english.shtm>

From the executive summary of his report, the following stands out:

- a) the contracting process was very time-consuming, and after 5 years the procedure was not finished yet – procedural inefficiency;
- b) a possible explanation for this inefficiency seems to be linked to a partnership model which, besides being very complex, had not been tried before at the time; in addition, there was no sectorial planning, and strategic instruments also lacked
- c) to launch a pilot project was not an option, but rather the simultaneous launch of 2/3 projects/year;
- d) the proposal evaluation phase slipped from 160% to 360% in terms of deadline;
- e) inefficiency was also visible concerning the lack of clarity of the different procedure parts, showing weaknesses previously detected; i.e., a weak project pipeline management
- f) the final negotiation also proved to be a time-consuming and problematic phase;
- g) all weaknesses led the State to change the PPP model, withdrawing the clinical management even before the execution of the initial contracts.

The model was based on the "substantial risk" feature, and the contract included two distinct objects: clinical management and infrastructure construction. This model was later abandoned, also given the absence of international experiences that could have facilitated its implementation. The Court of Auditors emphasized the experimentalist nature of the option underlying the PPP, which proved to be fragile and justified the slippage that occurred.

A common aspect of this first wave-experience is in fact the slippage of deadlines both in the launching of the procedures and in their completion, with significant budgetary implications.

The option of successively launching procedures "eventually conditioned" their success (p. 12)

The Court identified several fragilities: the lack of both a prior diagnosis and planning; the rigidity of the procedure documents; lack of clarity regarding the procedures; procedure complexity; management inadequacy of the available resources.

The successive launch of such procedures had several damaging consequences, one of the most relevant being the lack of coherence of the project.

However, corrective measures were instituted since 2007: "The promotion of direct intervention by the Regional Health Administrations, from the beginning of the insolvency proceedings, through the participation of those entities in the commissions of evaluation of proposals; The simplification of the requirements of the specifications, by changing the detail of the building projects, at the stage of proposals, namely at the level of special installations (mechanical, electrical, water and sewage, foundations and structures, among others) of control of processes, by Central Administration bodies, in order to ensure compliance with the policy and regulations of the Ministry of Health; The strengthening of the technical staff of EMPS, in order to give that entity greater power of action to intervene and control their procedures; The hiring of new consulting firms, especially for the procedures of the second wave of PPP Health, in order to strengthen and diversify responsiveness, especially for new tenders; The development of a new insolvency model, to be applied specifically to new insolvency proceedings, without the clinical management component, which will aim at ensuring greater efficiency and economy of procedures, simplifying procedures, reducing overall deadlines and high transaction costs for the competitors and the State "(p.15).

Two major recommendations were made: "When implementing Public-Private Partnerships, within the scope of Public Administration Sectors with less experience in this type of hiring, the formal and participatory diagnosis and planning of the implementation capacities of the various sectoral bodies is to be involved taking into account their respective functions, as well as the need for their articulation throughout the public management cycle associated with PPPs. In the cases referred above, when implementing either PPP models of an innovative nature and of a particular degree of complexity, or untested hiring procedures, PPP projects should preferably start with the implementation of a pilot project (p. 20).

In conclusion, by 2009, only one procedure was concluded, another was canceled and another one was terminated and started again but with a less competitive feature. Hence, there was a negative impact in the market due to this context, but there was also some positive impacts as well. The second PPP experience benefited both from the change of

procedures and from the previous experience, and it was decided to implement a different kind of PPP procedure model.