

Intervention by the CFP Representative, Carlos Fonseca Marinheiro, at the first meeting of the Plenary Council of the CSOP

January 10th 2020

In this first speech in the Plenary Council of the Public Works Superior Council (CSOP in Portuguese) I would like to make some remarks regarding this body and its functioning on the basis of the Portuguese Public Finance Council (CFP) opinion, issued on 2 of August of 2018 and sent to the Planning and Infrastructure Minister's office, in the context of the consultation on the draft diploma establishing the CSOP.

On that occasion the CFP expressed its agreement with the initiative to set up a decision-making support body in the case of large programs and public investment projects. It also considered that it is commendable the intention to submit to specialized and independent technical scrutiny the processes that support the political decision-making in this area, since its effects (costs and benefits) affect the entire economy and extend far beyond the duration of a parliamentary term. However, the CFP also noted that the draft diploma had limitations, which were largely maintained in the approved Regulatory Decree and that I will quickly review.

The main limitation has to do with the organic independence, the support structures and the CSOP pronouncement limits. In the CFP's understanding, the CSOP's organic independence and technical competence should be the two most relevant characteristics to be aware of in the creation of this higher council. As supported by the OECD in 2017 «The independence of advisory bodies at arm's length is crucial for their functioning and their un-biased influence on decision- and policy-making processes. (...) Independence also gives advisory bodies the opportunity to bring "facts" and evidence into the decision- and policy-making process, which is crucial to be able to adopt a strategic perspective beyond daily issues.»¹

¹ *Policy Advisory Systems: Supporting Good Governance and Sound Public Decision Making*, OECD Public Governance Reviews, 2017, <https://doi.org/10.1787/9789264283664-en>, p. 66



Organic independence requires a set of conditions from which the availability of minimum resources to sustain operation and their professionalisation are especially relevant. In this area, the Regulatory Decree does not provide for technical staff to support CSOP's activity. The diploma that creates the CSOP only establishes that "the National Laboratory of Civil Engineering, I.P., provides the logistical, administrative and financial support essential to the functioning of the CSOP", omitting any qualification as to the means to be made available by both LNEC to the CSOP, as well as to the LNEC itself so that it in turn could provide them to the CSOP.

In order for the CSOP activity to be able to achieve the desirable effects, it is still necessary to ensure that this body contributes to inform the political decision-making process, which requires that its intervention occurs before that decision is taken and not that it just justifies or criticizes it after the decision was taken. This is welcomed in Article 4 (1) of the Regulatory Decree, which is why it is important that it is actually implemented, without deviations from this basic principle.

With regard to the organic structure of the CSOP, the Regulatory Decree sees the role of the Plenary Council as dependent on the deliberations of the Permanent Council (which, given its composition, cannot be regarded as an independent body, "at arm's length", in the OECD's expression). The technical reports are prepared under the direction and decision of the Permanent Council, while it is not guaranteed that the members of the Plenary Council can monitor the processes and intervene in it. In fact, the powers of monitoring the implementation of opinions and proposals by the Plenary Council are focused on "drawing up an annual activity report for the previous year by the end of the first quarter of each year" (Article 7(5)(b)). I hope that the practice will not validate this regulatory view and that there will be greater involvement of the Plenary Council in monitoring the preparation of opinions and proposals in the various stages of operation of the CSOP.

The CFP expressed some reservations about the composition, duration of mandates and mechanisms for replacing the Plenary Council. The independent entities that are part of the CSOP should be able to decide on their representation in accordance with the characteristics of each, including the possible renewal of the mandate of the respective representative.

With regard to the documents under consideration at this meeting, the CFP considers that the concrete choice of investment projects should fall on those who can contribute more to leveraging the potential product of the Portuguese economy and which as a whole can be funded without jeopardising the sustainability of public finances, respecting the multiannual budgetary restriction stemming from the budgetary framework based on numerical fiscal rules at national and community level, which requires compliance with prudent trajectories for the budget balance and for the public debt ratio.

This concern for the inclusion of budgetary sustainability criteria and the respect of the budgetary restriction is shared by the Portuguese Parliament (Recommendation of the Portuguese Parliament No 154/2019), which recommends to the Government the inclusion of these criteria in the definition of priority investments. In our opinion, the work that CSOP will develop in this area must necessarily have to take them into account.



A key aspect still open to the implementation of the PNI2030 (national investment plan until 2030) is the definition of the financial envelope from EU funds, given the lack of a decision on the post-2020 multiannual financial framework of the European Union, which is very pressured by the UK's withdrawal from the group of funding countries of the EU budget. Thus, in the work to be developed it does not seem to be realistic to consider that the amount of financial resources to be affected to PNI2030 may be higher than what is already assumed in that document.

I take a good note of the suggestion made in this meeting of elaborating a standard sheet per project, to which I add the need of a programming schedule (over time) of the financial resources (with a breakdown by sources of financing) to be allocated to this investment plan.