



EUROSAI TASK FORCE ON AUDIT & ETHICS

Seminar Enhancing Ethics within Supreme Audit Institutions

**ETHICS MANAGEMENT IN THE FEDERAL COURT OF
ACCOUNTS – BRAZIL**

WALTON ALENCAR RODRIGUES, TCU Minister

Lisbon, January 29 and 30, 2014



ETHICS MANAGEMENT IN THE FEDERAL COURT OF ACCOUNTS – BRAZIL

BACKGROUND

Since the Lima Declaration, from 1977, there is clearly a concern with ethics management in superior audit institutions, a duty that took on larger proportions during the 16th INTOSAI Congress that took place in the end of 1998, in Montevideo, when the Organization's Code of Ethics was adopted (ISSAI 30).

Before the issuance of ISSAI 30, the Federal Court of Accounts – Brazil (TCU) had already published its Norm nº 304, of June 8, 1998, creating a committee with the purpose of producing standards regarding the conduct and ethics of its employees.

The above Norm stated that, without prejudice to the INTOSAI Code of Ethics, it was necessary to “issue a regulation that would apply to TCU's employees, in face of the specificities of the country's legislation and the particular structure and composition of the Court”.

Likewise, the INTOSAI Code of Ethics established that the development of a specific code would be the responsibility of each Supreme Audit Institution.

Once the committee was formed, a comprehensive study was undertaken. The study required consulting codes of ethics and other norms from different institutions, peers and non-peers. Among them: Office of the Auditor General of Canada (OAG); Australian National Audit Office (ANAO); International Federation of Accountants (IFAC); Institute of Internal Auditors (IIA); Public Ethics Committee of the Presidency of the Republic of Brazil (CEP); Brazilian Federal Accounting Council (CFC); Federal Supreme Court (STF).

In 2003, the work group presented a draft code of ethics, suggesting that it be discussed and approved by the TCU Plenary. At the time, an administrative case docket was created where, to this day, one can follow history of the case (TC-021.745/2003-7).

In July 2005, the project was then submitted to public consultation and received suggestions from professional associations that represent TCU auditors. Once the suggestions were consolidated, the issue was sent to the Minister that was chosen as the case rapporteur, by means of a raffle Minister João Augusto Ribeiro Nardes, currently the President of the Court. He presented the case to the Plenary on 06/28/2006.

At the time, I informed that there was already a special procedure to investigate ethical faults, established by the law that governs public servants in Brazil (Law nº 8.112/90), and that there was a conflict of mandates between the planned Ethics Committee and the Court's Internal Affairs Office.

Several standards that would be listed in the Code of Ethics would already exist in the public servants law that, as a law, would override the Resolution and also cover TCU employees.

Nevertheless, in the session held on May 27, 2009, the Court examined the final version of the project and approved Resolution nº 226/2009 that approved the Code of Ethics of the employees of the Federal Court of Accounts.

CODE OF ETHICS

The Code of Ethics of the employees of the Federal Court of Accounts is an official document, with 14 articles, published on the internet portal of the Court.

It is structured in four chapters, in addition to the preamble, and establishes that ethics regards the principles of conduct that guide an individual or a group of individuals, dealing with what is morally good or bad, right or wrong.

Chapter I, with two sessions, has two articles containing the preliminary provisions of the code, its scope, application, and objectives.

Chapter II is divided into six sessions, with seven articles (3 to 9), which contain the principles and standards of ethical conduct, fundamental values, rights, duties, prohibitions, standards regarding relationship with auditees and situations in which a public servant is considered impeded or under suspicion.

The third chapter is subdivided into three sessions and, in its four articles (10 to 13), deals with ethics management in TCU and provides for the creation of the Ethics Committee of the Federal Court of Accounts (CET), its mandates and functioning.

The fourth - and last - chapter contains the final provisions which extend the application of the code, when appropriate, "to the individual who, although part of another institution, delivers services or develops any kind of activity within the Court, whether of a permanent, temporary or exceptional nature and even if there is no financial compensation paid by the Court".

This norm is of fundamental importance and is in line with the international audit standards (ISSAI)

ETHICS COMMITTEE

Since the beginning of the comparative study, the need for creating a specific unit to manage ethics in the Court and implement the code became clear. According to the studies, such unit should be created in the form of an Ethics Committee.

Thus, article 2 of the Code of Ethics established, in its item 6, established that one of the objectives of the code is to offer, by means of the Ethics Committee, a consulting body aiming at answering questions regarding conformity of conduct of public servants with the principles and standards of conduct contained in the code.

Therefore, article 10 of the code, in the chapter that deals with ethics management, established the creation of the CET with the purpose of implementing and managing the code.

The CET would be composed of three members, and the respective alternates, all of whom must be tenured public employees, nominated by the President of the Court, chosen among employees who were never the object of disciplinary action or criminal convictions.

In order to regulate the Committee created by the Code of Ethics, Norm nº 271, of November 30, 2010, was published. It deals with the composition and functioning of the CET. In its ten articles, it establishes that the CET is a permanent collegiate body of a pedagogical and consulting nature.

It was determined that the three members would be chosen one from the office of the President (the CET is presided over by the President of TCU), one from the office of the Minister who has been in the Court for the longest time, and one from the office of the Public Prosecutor General within the Court (MP/TCU).

This composition is based on the qualification required of the public servant in order to occupy special appointment positions in the Court. The norm requires that CET members have a high level of ethical conduct in addition to requiring that members have never been the object of disciplinary actions nor criminal convictions.

CET works on demand, by holding meetings called by its President or any of its members, with the purpose of examining issues that are addressed to it regarding the conduct of Court employees. Minutes of the meetings are produced containing the results of the deliberations. The minutes are signed by all committee members.

In 2013, CET held six ordinary meetings and sent the annual report to the President of TCU, according to the provisions of article 6, item 7, of Norm nº 271/2010.

Although it is a consulting body, the CET carries out other functions, such as investigation, and the Committee may “request from employee (...) information regarding personal relations, status of assets, economic activities (...).”

FINAL CONSIDERATIONS

In summary, ethics management in TCU is advancing.

The standards adopted are in conformity with the international standards, issued by OLACEFS and INTOSAI.

Ethics is considered the basis, foundation, and prerequisite for carrying out audits (ISSAI 200). The Federal Court of Accounts is convinced that dissemination of the ethical principles and values contributes to the efficacy of the institutional objectives and is essential to ensure the integrity, objectivity and impartiality of the audits.

Aiming at disseminating the Code of Ethics of its employees, the Committee gives lectures during the training program designed for new employees showing how the Committee works and presenting the Code of Ethics for TCU employees.

This guideline attempts to broaden the perception of Court employees with regard to the existence, functions and mandates of the Committee, a fundamental action in order to disseminate the Code of Ethics and ensure its full enforcement.

In 2014, we will conclude the studies that are being carried out to devise a communication and dissemination plan of the Code of Ethics and of the mandates of the Ethics Committee. This is a way of enforcing the provisions of item 1, article 3 of Norm nº 271/2010 which states that it is the responsibility of the CET to “create an efficient system of information, education, follow-up and evaluation of results of ethics management in the Court.”

There are also proposals suggesting for the improvement of the Code of Ethics and suggesting that the President of TCU, based on a proposal by the CET, define a system regarding how the Committee will express itself about the conformity of conduct of employees with the principles and standards of the Code of Ethics (article 7).

The proposal must list the procedure for sending the Committee's opinion to the Internal Affairs Officer, as well as the other measures to be adopted in case the Committee identifies a violation of the Code.

With these considerations, I close this brief presentation and take the opportunity to thank the Court of Accounts of Portugal and EUROSAI, especially the *Task Force on Audit & Ethics*, represented by Counselor Helena Maria Mateus de Vasconcelos Abreu Lopes, for the opportunity given to the Federal Court of Accounts of Brazil to talk about some aspects of ethics management in our SAI.

Because Brazil is not a member of the Special Technical Committee on Public Ethics, Administrative Probity, and Transparency, of OLACEFS (CEPAT), we did not participate in the last seminar, carried out in Luxembourg in September 2013. However, we became aware of the results during the 23rd General Assembly of OLACEFS, in Chile, in December 2013, in the very useful presentation given by the Vice President of this Court of Accounts, Counselor Carlos Alberto Lourenço Moraes Antunes.

Thus, since Brazil is occupying the Presidency of the Organization, it is an honor for us to be here representing not only our SAI, our country, but, in a way, also representing Latin America and the Caribbean, through OLACEFS.

Finally, I would like to thank the President of the Court of Accounts of Portugal, Counselor Guilherme d'Oliveira Martins, and all the Judges, Members of the Public Ministry, as well as all employees, for this special welcome in Lisbon.

Thank you.

WALTON ALENCAR RODRIGUES
Minister of the Federal Court of Accounts - Brazil