

# Democracy, Governance, Citizenship and Archives in Portugal

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### *ABSTRACT*

The approval of the European Digital Agenda and subsequent achievement of its objectives, will have obvious repercussions on the relationship between the European Democratic States and its citizens, particularly as concerns the provision of public sector information. This political and social development in the sense of governance, is reflected directly in archives and records keeping and States are obliged to reflect and propose legislative changes to achieve this objective. Therefore, a collection of legislative initiatives, its debates on parliament and approved laws adopted on the topic archives is presented, in order to analyze the views of the Portuguese legislator over the issue.

## Democrazia, governance, cittadinanza e archivi in Portogallo

### *SINTESI*

L'approvazione dell'Agenda Digital Europea e successiva realizzazione dei suoi obiettivi, porterà delle ovvie ripercussioni sul rapporto tra gli Stati europei democratici ed i suoi cittadini, in particolare per quanto riguarda la disponibilità delle informazioni del settore pubblico. Questo sviluppo politico e sociale nel senso di governance, si riflette direttamente negli archivi, per cui gli Stati sono obbligati a riflettere e a proporre modifiche legislative per raggiungere questo obiettivo. Si presenta così una raccolta delle iniziative proposte, dei dibattiti associati, e le norme adottate sul argomento archivi, con lo scopo di analizzare il punto di vista del legislatore portoghese sulla questione.

## Demokracija, upravljanje, državljanske pravice in arhivi na Portugalskem

### *IZVLEČEK*

Odobritev evropske digitalne agende in nadaljnje uresničevanje njenih ciljev, bodo imele očitne posledice za odnose med Evropskimi demokratičnimi državami in njihovimi državljani, zlasti kar zadeva zagotavljanje informacij javnega sektorja. Ta politični in družbeni razvoj v smislu upravljanja, se neposredno odraža v arhivskem in dokumentarnem gradivu in države morajo predlagati zakonodajne spremembe za dosego tega cilja. Zato prispevek s predstavitev zbirke zakonodajnih pobud, parlamentarnih razprav in odobrenih ter sprejetih zakonov v zvezi z arhivi analizira stališča portugalskih zakonodajalnih organov glede tega vprašanja.

## Democracia, governança, cidadania e arquivos em Portugal

### *SUMÁRIO*

A aprovação da Agenda Digital Europeia e posterior concretização dos seus objectivos, terão reflexos óbvios na relação entre os Estados Democráticos Europeus e os seus cidadãos, nomeadamente no que à disponibilização da informação do sector público diz respeito. Este desenvolvimento político-social no sentido da governança, reflecte-se directamente nos arquivos, sendo os Estados obrigados a reflectir e propor alterações legislativas para a prossecução deste objectivo. A presente comunicação tem como objectivo analisar e discutir o ponto de vista do legislador português sobre esta problemática, apresentando, para o efeito, um panorama das iniciativas propostas, dos debates associados e dos diplomas aprovados sobre o tema arquivos.

The revolution of 25 April 1974 and the consequent democratization of the Portuguese State, marks a turning point in the design and organization of the Portuguese Public Administration, and the subsequent European integration will bring increased responsibilities in terms of its management.

These changes in the direction of governance, were applied in two ways:

- Through the government structure, with the introduction of specific agencies for reform and modernization of public administration, and whose parliamentary discussion is restricted to discussion of the government program;
- The presentation of legislative initiatives in Parliament, with the ensuing political debate and eventual resolution of approval or rejection.

Thus, in the first case, it is possible to establish two distinct stages in the presentation and design of new public policies embodied in the government program, namely:

- The period between 1974 and 1983, corresponding to the consolidation of democratic rule, marked by a severe political instability (six provisional governments and eight constitutional governments, of which none had completed a term);
- The period from 1983 to nowadays, dominated by European integration and political stability of the governments.

During the period from 1974 to 1983, and despite the fact that all governments recognize the need to improve public administration, they were unable to develop coherent and systematic policy in this regard. Nevertheless, it was created an organic structure, whose main object of interest was to promote organizational studies and implementation of policies related to public administration, the Secretariat of State for Administration during the first and second the interim government, which became the Secretary of State for Public Administration under the third and fourth interim government and the first constitutional government (both under the Ministry of Internal Affairs). The second constitutional government, created the Ministry of Administrative Reform, which had a Secretary of State for Public Administration. The Ministry was soon put to an end, and became the Secretary of State depending directly from the Prime Minister between the third and sixth constitutional governments. The seventh constitutional government re-creates the Ministry of Administrative Reform, reduced to the secretary of state in the eighth constitutional government, this time under the auspices of the Minister of Justice and Administrative Reform.

Regarding the policies then adopted, there are some separate measures of rationalization and simplification of administrative files and procedures, which all governments in their programs, identify as an obstacle to the proper functioning of the administration and the poor relations with citizens. However, the creation in 1979, the National Institute of Administration (Decree-Law No. 160/79 of 30 May), with the aim of training and technical assistance in the area of administrative modernization, as well as the creation of the Center for Scientific and Technical Information on Administrative Reform (CICTRA) and the Office for the Study of Administrative Reform (GECRA) structures, specifically targeted for advice on reducing bureaucracy and simplifying administrative procedures, leading to the emergence of studies and specific training in the area, critical for modernizing the civil service itself.

Starting in 1985, and in structural terms, there is an innovation: the creation of a Secretariat for Administrative Modernization, reporting directly to the Prime Minister. This unity of mission, that from 1987 to 1991 amounts to the rank of Secretary of State, remaining in force until 1995 as an autonomous unit, introduces new concepts in administrative reform, namely its modernization. The public sector management is thus allied to the economic criteria for management by objectives, the recognition of rights and corresponding participation of citizens in decisions that concerns them and the need for the existence of administrative transparency.

The thirteenth constitutional government creates the Secretariat of State of Public Administration and Administrative Modernization, dependent on the Prime Minister, placed by the government following under the umbrella of the new Ministry of State Reform and Public Administration. Starting in 2002, reappears in the Secretary of State for Public Administration, this time under the Ministry of Finance, where it remained until the present day.

In policy terms, in 1991 is published in the Code of Administrative Procedure, which established the figure of the prior hearing of interested parties, a clear incentive to the transparency of decisions, as well as to citizen participation in them. Following these policies is published in 1993, the Public Service Charter of Ethics (Council of Ministers Resolution No. 18/93 of 17 March), and in October the same year, the Charter for Quality Public Services.

It would be the starting point for legislation involving a series of quality systems, administrative modernization measures to improve citizen-government relationship, covering reception and care of citizens, administrative communication, simplifying procedures, hearing and participation mechanisms, management support instruments, and the dissemination of administrative information.

From 1995 becomes stimulated the use of information and communication technologies (TIC) in public administration, creating networking and information portals, providing services and information to distance and implementing its use either by the public sector, either by citizens themselves. The first electronic submissions of documents (initiated by the tax) that will lead to the effort to computerize almost total public administration, with cross-checks and dematerialization of files and documents.

If the reform and modernization of public administration has always been assumed as a priority by the different governments, the discussion in parliament of their programs has never been opposed to his execution. In fact, from the discussion and the program of the ninth government, are constantly referred to the need for information to citizens, the existence of systems for collecting the data processing and development of networks of scientific and technological information, either to criticize the lack of resources allocated for its implementation, either to ensure that this implementation would reach the whole national structure, promoting decentralization initiatives.

In comparison, the presentation and discussion of legislative initiatives on these issues, can also be divided not only in chronological terms, but also in terms of issues, establishing a clear distinction between measures to prevent and promote cultural heritage and archives (which in Portugal is conceptually identified as concerning historical archives), and for the implementation of models of governance.

Thus as to the archival heritage, we can see the concern in legislating on the end and form of access to archives of previous rulers (Salazar and Marcelo Caetano Archive) as well as the archives of the PIDE / DGS (former secret police) and the Portuguese Legion. The debate in parliament of these issues takes place between 1981 and 1990, with the presentation of Bills by the Government and the main political parties of left and right wing (CDS - right wing party, PSD - Social Democracy Party, PS - Socialist Party, PCP - Portuguese Communist Party).

However, due to government instability, of the sixth bills submitted to the plenary, only one resulted in Law (Law No. 4/91), while the remaining expired. This matter will also see the development of new bills - already in a residual number, since the documentation was already placed and given access in the National Archives - by the PS and CDS, which, in 1996, presented bills in order to return private documents on public files of the PIDE (PS and CDS), proposing ways to ensure their access. Although they have generally been appreciated, both initiatives lapse at the end of the legislature, also leaving behind a proposal for a Parliamentary inquiry to the possible misuse of PIDE files to the KGB, proposed by the PSD, and which resulted in the resolution of the Assembly Republic No. 24/95 of April 19 proposing the creation of its commission of inquiry. Being the result of a parliamentary majority of right wing parties, which also had the majority of MPs in the commission of inquiry, it did not have any activity.

More peaceful was the parliamentary debate on the law of appreciation of the Portuguese cultural heritage, followed by the Basic Law of the Archives. However, it will be the government's own decree (Decree-Law No. 16/93) that will reach a consensus. As we move to identify initiatives that focus on administrative modernization and governance, the picture changes in number (much bigger) and themes.

We can divide its presentations on the following issues:

- Access to the information of public records;
- Re-use of public sector information;
- Rights concerning personal data on files;
- Copyright issues;
- Access to environmental information;
- Access to statistical data;
- Creation of public sector networks;
- Files dematerialization

Such issues will have constant parliamentary debates, and will oblige all political parties to the presentation of bills.

From the comparison of data concerning these bills, we can establish different forms of consideration of the goal of public sector information and its subsequent re-use. These data will be presented during the Conference.

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