

Abstract

The transition from the Social State, interventionist and welfare granting, to the Regulatory State, focused on efficiency and civil society initiative, which took place in the 80's of the XXth. century, motivates a deep reflection about the management and public policies. In particular, on the management of the public business sector.

The definitions of public policy and public administration in general seem increasingly influenced by the principles and procedures of the private sector activities; Bevir's «new governance» points to a public administration closer to market rules.

From the analysis of corporate governance theories, it seems possible to conclude that the governance of the public sector tends today to replace a hierarchical and bureaucratic approach with a transparent administration, focused on persons' empowerment and the ability to respond, establishing the «Metagovernance»: the State has to ensure governance, promoting it.

Concurrently, the definition of corporate governance, traditionally associated to the management of public companies (listed or issuers) encouraged interest in the scientific community and has reached considerable development, with significant repercussions, particularly at normative level.

The promotion of this conceptual framework, implying the application of good management practices and a special focus on management directed at the shareholders' interests has currently taken special relevance in Portugal. The increase in corporate value, resulting from the adoption of the principles of corporate governance tested in the private business sector has encouraged their transplant into the public business sector. This calls into question the use of business organization at State level. Given the privatizations occurred in the sector, in recent years, this assumption seems to function.

Once the public business sector is put into context, the concept of corporate governance is defined, new insights based on the particularities of the management of the public sector companies are presented in this paper.

Thus, emerges the need to implement a pedagogical process within this subject, as support of the applicability of corporate governance to public business sector companies – this may be achieved by proposing a particular normative model framework. It is known that the provisions of the regulations issued by the CMVM — Comissão do Mercado de Valores Mobiliários and the IPCG — Instituto Português de Corporate Governance are especially targeted for public companies (issuers or listed), expressing, however, an invitation to their extension to other types of companies. For this reason, a

new normative is proposed, as a subsidiary of the Corporate Governance Code of the Instituto Português de Corporate Governance, which is named «Subcódigo de Governo das Sociedades de Capitais Públicos e das Sociedades Participadas».

By way of the thesis «Corporate Governance e setor empresarial público – Contributo para um normativo regulador» a challenge is made to the fostering of a novel idea in order to extend to the public business companies the accountability requirements that are already known to the public companies (listed or issuers). The sector may then rely on rules containing explicit references to the need for good organizational performance and monitoring.

The contribution to the reform of economic and political thought resulting from the above, with particular effects on the citizens and on the public sector managers' awareness, will establish a clear definition for such companies, in a coherent and accessible manner of «inter alia»: (i) the rights and duties of their shareholders, (ii) special reporting and auditing requirements, (iii) clear rules regarding the relationship between management and shareholder, (iv) the appointment of the members of its corporate bodies.

Keywords: Corporate governance, State Owned Companies Sector, code of corporate governance, public companies, local companies and participations.