



ADMINISTRATIVE CONTROL OF PUBLIC MANAGEMENT IN BRAZIL

Dann d'Avila Levita¹

Summary: This article discusses administrative control in Brazil, which is essential to ensure legality, efficiency, and transparency in public management. It highlights internal, preventive control, regulated by articles 70 and 74 of the Constitution, and external control, exercised by Audit Courts and the Legislative Branch. It highlights social participation as a key element, made possible by councils, transparency portals, and the Access to Information Law. Despite its relevance, control faces challenges such as bureaucracy, structural limitations, and low citizen participation. It proposes investing in technology, training, and engagement to strengthen oversight and promote a more ethical and efficient public administration.

Keywords: Administrative Control. Public Management. Transparency. Social Participation. Supervision.

ABSTRACT:

The article discusses administrative control in Brazil, essential for ensuring legality, efficiency, and transparency in public administration. It highlights internal control, preventive in nature and regulated by Articles 70 and 74 of the Constitution, and external control, exercised by Courts of Accounts and the Legislative Branch. Social participation is emphasized as a key component, enabled through councils, transparency portals, and the Access to Information Law. Despite its importance, control faces challenges such as bureaucracy, structural limitations, and low citizen engagement. It suggests investing in technology, training, and public engagement to strengthen oversight and promote a more ethical and efficient public administration.

Keywords: Administrative Control. Public Management. Transparency; Social Participation. Oversight.

1. INTRODUCTION

Administrative control in Brazil is an essential element of the democratic system and the rule of law. It seeks to ensure that the actions of public authorities are guided by the constitutional principles of public administration – legality, impartiality, morality, publicity and efficiency – in accordance with article 37 of the Federal Constitution of 1988.

The article is based on the premise that administrative control is not limited to the analysis of the legality of public acts, but also evaluates the merit, economy and results of administrative actions. Through an analytical approach,

1

¹Lawyer, Postgraduate in Law and Civil Procedure; Tax and Public and Project Management

discussed the control mechanisms, their implications for public management and the challenges for improving the system.

2. THEORETICAL AND LEGAL BASIS OF ADMINISTRATIVE CONTROL

Administrative control is based on the assumption that public administration must perform its functions efficiently, ethically and responsibly, ensuring compliance with the public interest in all its actions. According to the doctrine, it is divided into three main dimensions:

- Legality control: ensures that administrative acts are in compliance with current legislation.
- Merit control: assesses the convenience and opportunity of administrative acts, considering their impacts and results.
- Hierarchical control: arises from administrative organization and subordination hierarchical structure between public bodies.

From a normative point of view, article 74 of the Federal Constitution determines that each power establish internal control mechanisms, while article 70 assigns to the National Congress, with the assistance of the Federal Court of Auditors, the accounting, financial, budgetary, operational and patrimonial supervision of the Union, rules that must be followed by the States and Municipalities, with the provision, duly adapted, in their Constitutions and Organic Laws.

The principles governing public administration in Brazil are mostly set out in Article 37 of the 1988 Federal Constitution. They are essential for guiding the actions of public officials and underpin internal and external administrative control, ensuring that the administration's actions respect public interests and the legal order. These principles are directly related to the mechanisms for controlling public management and are essential for the legality and efficiency of the administration.

Initially, the principle of legality stands out, which requires that the public administration may only act in accordance with what is expressly authorized by law. This means that administrative acts must be subject to current legislation, and arbitrary action by public agents is not permitted.

The principle of impersonality requires that the public administration treat all citizens equally, without favoritism or discrimination, and that acts

administrative actions are carried out in the name of the public interest, and not to serve private interests.

Administrative morality follows suit, going beyond formal legality and requiring the administration to act ethically, honestly and with integrity. This principle binds the public administrator to the duty to act with probity and avoid abuse of power or misuse of purpose.

The principle of publicity requires that administrative acts be transparent, with broad dissemination of information to the public, except in cases where secrecy is necessary for reasons of security or protection of privacy.

Finally, the principle of efficiency requires that public administration act quickly, economically and effectively, seeking to offer quality services to society and manage public resources with maximum use.

In addition to the principles set out in Article 37 of the Constitution, other administrative principles are also important for controlling public administration, including the principle of reasonableness, which requires that administrative acts be appropriate, proportional and balanced, avoiding excesses or omissions; the principle of supremacy of the public interest, which establishes that the collective interest must prevail over individual interests in the actions of public administration; the principle of purpose, which determines that every administrative act must pursue the public objective for which it was created; and the principle of continuity of public service, which requires that public services be provided uninterruptedly, ensuring that the needs of the population are met.

The principles are essential to guide the actions of internal and external control bodies, as well as civil society, in the oversight of public management. They function as objective criteria for assessing the legality, morality and efficiency of administrative acts, allowing irregularities to be identified and corrected.

Furthermore, these principles promote society's trust in public institutions, reinforcing the legitimacy of the State and ensuring that public management is guided by constitutional and democratic values.

3. THE ROLE OF INTERNAL CONTROL IN PUBLIC ADMINISTRATION

Internal control is one of the fundamental pillars of the public administration oversight system in Brazil. It is characterized as the oversight exercised within

of the administrative structure itself, aiming to ensure that the acts and operations carried out are in compliance with the principles of legality, efficiency, transparency and morality.

Fernanda Marinela teaches:

Internal control is defined as all control carried out by the entity or body responsible for the controlled activity, within the scope of its own structure. Examples include: control carried out by the Executive Branch over its services or agents; control exercised by a ministerial body over the various administrative departments that comprise it, since they all form part of the same Executive Branch; and internal control exercised by the Inspectorates over Judiciary employees. Internal control does not require an express law, because the Constitution, in art. 74, provides that the Executive, Legislative and Judiciary Branches must maintain an integrated internal control system. (MARINELA, 2017, p. 1991)

Internal control systems play a preventive role in public management, being responsible for the continuous monitoring of administrative activities. These systems are regulated by specific legislation and have broad objectives, such as:

- Prevent irregularities, identifying and correcting faults before they occur become larger scale problems.
- Evaluate results, ensuring that public resources are used with efficiency and that government objectives are achieved.
- Provide reliable information to support decision-making by managers and legislators.

The 1988 Federal Constitution provides for internal control in articles 70 and 74, which establish the bases for its implementation and operation. The following stand out:

Art. 70. The accounting, financial, budgetary, operational and asset supervision of the Union and of direct and indirect administration entities, regarding legality, legitimacy, economy, application of subsidies and waiver of revenues, will be exercised by the National Congress, through external control, and by the internal control system of each Branch.
(...)

Art. 74. The Legislative, Executive and Judicial Branches shall maintain, in an integrated manner, an internal control system for the purpose of:

I - assess compliance with the goals set out in the multi-year plan, the execution of government programs and the Union's budgets;

II - verify the legality and evaluate the results, in terms of effectiveness and efficiency, of budgetary, financial and asset management in federal administration bodies and entities, as well as the application of public resources by private law entities;

III - exercise control over credit operations, guarantees and endorsements, as well as the rights and assets of the Union;

IV - support external control in the exercise of its institutional mission.

§ 1º Those responsible for internal control, upon becoming aware of any irregularity or illegality, shall notify the Federal Court of Auditors, under penalty of joint and several liability.

§ 2 Any citizen, political party, association or union is a legitimate party to, in accordance with the law, report irregularities or illegalities to the Federal Court of Auditors.

Thus, the internal control system is primarily responsible for assessing compliance with the goals set out in the multi-year plan, the execution of government programs and the Union's budgets; verifying the legality and assessing the results of budgetary, financial and asset management; exercising control over credit operations, guarantees and endorsements, as well as the Union's rights and assets; and supporting external control in the exercise of its institutional mission, without prejudice to other legally conferred attributions.

These devices highlight the function of internal control as a preventive mechanism, which seeks to identify and correct irregularities before they cause wider damage.

Several laws complement the constitutional provision for internal control, detailing its functions and operationalization. In this regard, Law No. 4,320, which establishes general rules for the preparation and control of public budgets, provides for the organization and structuring of internal control, mainly in relation to accounting and financial management. It highlights the importance of continuous monitoring of public expenditures and compliance with budget planning.

On the other hand, the Fiscal Responsibility Law (LC 101/2000) reinforces the role of internal control by establishing criteria for responsible fiscal management, determining

that public entities implement mechanisms that ensure efficiency and transparency in the use of resources. Article 59 of this law provides that the Courts of Auditors and internal control systems will monitor compliance with the LRF, mainly regarding the achievement of the goals established in the law of budgetary guidelines; the limits and conditions for carrying out credit operations and registration in Accounts Payable; the measures adopted to return total personnel expenses to their respective limits; the measures taken, as provided for in art. 31, to return the amounts of consolidated and real estate debts to their respective limits; the allocation of resources obtained from the sale of assets, taking into account the constitutional restrictions and those of this Complementary Law; and compliance with the total spending limit of municipal legislatures, when applicable; which expands the articulation between internal and external control.

The internal control system is implemented through specific units within the public administration, such as:

- Comptroller Generals: central internal control bodies in states, municipalities and the Union (Office of the Comptroller General of the Union - CGU), responsible for coordinating internal audits, inspecting processes and promoting compliance with standards.

- Sectoral control units: present in public bodies and entities, they perform decentralized monitoring and supervision functions.

Among the main activities performed by internal control are:

- Internal audits: systematic evaluation of operations and controls administrative to identify risks and inefficiencies.

- Monitoring of goals and indicators: monitoring compliance with objectives set out in government plans.

- Monitoring of contracts and tenders: verification of compliance in processes of acquisition of goods and services.

- Corrections: investigation of administrative irregularities and application of disciplinary measures, where applicable.

The main purposes of internal control systems are:

- Prevent irregularities: identify failures before they cause damage financial or administrative.

- Ensure legality: ensure that administrative acts are in accordance with compliance with legislation.

- Promote efficiency: evaluate the use of public resources, seeking maximize cost-benefit.

- Support external control: provide detailed information to support the supervision carried out by the Courts of Auditors.

Despite its importance, internal control faces significant challenges, including a lack of structure, given that many internal control bodies suffer from a lack of qualified personnel, infrastructure and adequate technological tools; administrative discontinuity, since changes in government often affect the implementation of internal control policies; and cultural resistance to internal oversight, seen as a threat rather than an ally for improving management.

Strengthening internal control is essential for a more efficient, transparent and accountable public administration. Technological innovations, such as the implementation of integrated management systems (e.g., SIAFI and e-SIC), have the potential to increase the effectiveness of internal control, allowing for more detailed and real-time analyses.

Furthermore, the ongoing training of civil servants and the consolidation of an organizational culture focused on transparency are crucial measures to overcome current challenges and transform internal control into a true agent for improving public management.

4. EXTERNAL CONTROL AND ITS RELEVANCE FOR PUBLIC MONITORING

External control is one of the most important mechanisms for monitoring public administration, playing an essential role in ensuring the legality, morality and efficiency of the management of public resources. Provided for in the 1988 Federal Constitution, it is exercised independently by the Legislative Branch and the Courts of Auditors, with the aim of verifying the regularity of administrative acts and ensuring that public management complies with the fundamental principles of administration.

Alexandre Mazza explains:

Legislative control is carried out within the scope of parliaments and auxiliary bodies of the Legislative Branch. Its scope includes: **political control**

on the exercise of the administrative function itself and the **financial control** on the management of public spending by the three branches of government. (MAZZA, 2019, p. 1806)

External control is regulated in article 70 of the Federal Constitution, which defines that the accounting, financial, budgetary, operational and asset oversight of the Union will be exercised by the National Congress, with the assistance of the Federal Court of Auditors (TCU). From article 71 onwards, the Constitution establishes the specific powers of the Courts of Auditors within the scope of external control.

In addition to the TCU, each state and municipality (when there is a municipal Court of Auditors prior to the CF) has its own Courts of Auditors, responsible for overseeing the administrative acts of their respective spheres of government.

Explains José dos Santos Carvalho Filho

It is important to emphasize, at this point, that the basic functions of the Audit Courts in general are exactly those set forth in art. 71 of the Federal Constitution, even though the rules are directly applicable to the Federal Audit Court. This means that, according to the principle of constitutional symmetry, the other Audit Courts cannot include, within their jurisdiction, functions not mentioned in the Federal Constitution. These Courts must adopt, as a model of jurisdiction, the functions set forth in art. 71 of the Federal Constitution. This understanding, in fact, has already been expressly embraced by the Supreme Federal Court, in an irreparable manner, in our view. (CARVALHO FILHO, 2020, P. 1690)

External control aims to ensure that public management is transparent, efficient and aligned with the collective interest. Its main objectives include:

- Verify that administrative acts comply with the laws and applicable regulations.
- Examine the efficiency and effectiveness of government programs, identifying whether public resources are being applied in a way that meets the intended objectives.
- Ensure that public managers are accountable to society for their actions, promoting transparency in public administration.
- Identify irregularities, misappropriation of resources or acts of impropriety, holding the public agents involved accountable.

The Audit Courts and the Legislature use various instruments to exercise external control, such as analysis of financial statements; audits and inspections to verify the regularity of contracts, agreements, bids and other administrative acts; monitoring of public policies to monitor the execution of government programs, with a focus on efficiency and social impact; application of sanctions to those responsible for irregularities, such as fines proportional to the damage caused to the public treasury.

External control has unique relevance for the supervision of public management, as it strengthens democracy and the rule of law, contributes to transparency and society's trust in institutions, supports internal and social control, prevents irregularities and deviations, and ensures compliance with goals and priorities.

External control is therefore an essential tool for ensuring that public resources are used responsibly and for the benefit of the community. Strengthening its performance is essential for the consolidation of a fairer, more ethical and efficient public administration.

5. SOCIAL PARTICIPATION AS AN ELEMENT OF CONTROL

In recent years, civil society has gained prominence in the control of public management, especially with the expansion of access to information and digital tools. The Access to Information Act (Law No. 12,527/2011) allows any citizen to request data from public bodies, promoting transparency and accountability.

Furthermore, the actions of non-governmental organizations, social movements and the investigative press strengthen social oversight by exposing cases of corruption, mismanagement and administrative inefficiency.

Provided for in the 1988 Federal Constitution as one of the pillars of the Democratic Rule of Law, social participation allows society to act as an agent monitoring government actions, contributing to the transparency, efficiency and legitimacy of public management, ensuring that the government is accountable to the population for its actions and decisions.

Maria Sylvia Zanella Di Pietro teaches that:

The principle of popular participation in the management and control of Public Administration is inherent to the idea of a Democratic State of Law,

referred to in the Preamble of the 1988 Constitution, proclaimed in its article 1 and reaffirmed in the sole paragraph, with the rule that "*all power emanates from the people, who exercise it through elected representatives, or directly, under the terms of this Constitution*"; furthermore, it implicitly derives from several rules enshrining popular participation in various sectors of Public Administration, especially in the part relating to social order. (DI PIETRO, 2019, p. 1435)

Social participation is provided for in several provisions of the 1988 Federal Constitution, which encourage the inclusion of society in the process of monitoring and formulating public policies. The following stand out:

- Article 1, sole paragraph: establishes that "all power emanates from the people, who exercises through elected representatives or directly".

- Article 5, item XXXIII: guarantees the right of access to information of interest public.

- Article 5, item LXXIII: ensures that any citizen is a legitimate party to propose a popular action that aims to nullify an act that is harmful to public property or to the property of an entity in which the State participates, to administrative morality, to the environment and to historical and cultural heritage.

- Article 74, §2: encourages popular participation in monitoring the actions of the public administration.

- Article 204: Provides for the participation of society in the formulation and control of actions focused on social assistance.

These devices form the legal basis for the creation of instruments and mechanisms that bring society closer to government decisions and the monitoring of public acts, promoting social control.

Initially, public policy councils stand out, collegiate bodies composed of representatives from the government and civil society (e.g.: Health, Education and Social Assistance Councils), which enable society to participate in the formulation, implementation and control of public policies.

Also very important are public hearings and consultations, which allow the population to discuss and influence government decision-making, such as the preparation of master plans, budget laws or environmental policies.

At the same time, Transparency Portals provide access to data on income, expenses and administrative acts, allowing monitoring and oversight by any citizen.

Public Ombudsman Offices are channels for citizens to present suggestions, complaints and reports about the performance of the public administration. They act as bridges between the government and society.

The Access to Information Law (LAI - Law No. 12,527/2011) guarantees anyone the right to access public information, strengthening social control and citizen participation.

Thus, social participation plays a crucial role in improving public management and ensuring that the government meets the interests of the community. Its main benefits include strengthening transparency and accountability, preventing irregularities, improving public policies and strengthening democracy.

To consolidate social participation as a central element of public administration control, it is necessary to expand education for citizenship, strengthen social control instruments, use technology in favor of social control and encourage participation at local and community levels.

Social participation is, therefore, an indispensable tool for improving public administration and consolidating an effective democracy. When citizens become an active part in monitoring and controlling public power, governance is strengthened, ensuring more transparent, efficient management that is aligned with the interests of the community.

6. CHALLENGES AND LIMITATIONS OF ADMINISTRATIVE CONTROL

Despite its relevance, administrative control faces significant challenges, including:

- Limited human and technological resources: many control bodies do not have sufficient personnel or technology to conduct comprehensive audits and inspections.

- Political interference: external pressures can compromise independence of the control bodies, compromising impartial supervision.

- Low technical training: public managers do not always receive training suitable for implementing effective control systems.

- Resistance to Inspection: many public managers see control administrative as an obstacle, resisting inspection and making it difficult to implement corrective measures.

- Low Social Involvement: Social control, essential to complement the administrative control, is still limited due to the lack of engagement of the population and the difficulty of accessing clear and understandable information.

Furthermore, excessive bureaucracy can make it difficult to carry out control, making it slow and unresponsive to society's demands.

Therefore, to address these limitations, it is necessary to reduce bureaucracy in administrative processes, ensuring greater agility in oversight; strengthen the structure of control bodies, expanding financial, technological and human resources; invest in training civil servants, ensuring that they have adequate and up-to-date technical knowledge; guarantee the autonomy of control bodies, protecting them from political pressure; improve transparency and access to information, promoting a culture of accountability; integrate internal and external control systems, avoiding overlaps and gaps in oversight; and promote social participation, raising awareness among the population about their role in public oversight.

Overcoming these challenges is essential to consolidate a more efficient, ethical public administration aligned with constitutional principles, ensuring good management of public resources and meeting society's demands.

Advances in digital technologies have the potential to transform administrative control. Tools such as big data, artificial intelligence and blockchain can be used to monitor the application of public resources in real time, identify patterns of irregularities and increase the efficiency of oversight.

Another important trend is the strengthening of collaborative governance initiatives, in which public bodies, civil society and the private sector work together to improve public control and management processes.

7. CONCLUSION

Administrative control is an indispensable mechanism for promoting efficient, ethical and transparent public management. It contributes to the prevention of

irregularities, promoting accountability and building trust between the State and society.

For administrative control to reach its full potential, it is essential to invest in modernizing oversight instruments, reducing bureaucracy, strengthening the technical training of public managers and expanding social participation. Only with an integrated and innovative approach will it be possible to face the challenges of contemporary public administration and ensure the fulfillment of its constitutional mission.

REFERENCES

BRAZIL. **Constitution of the Federative Republic of Brazil**, October 5, 1988. Available at: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm . Accessed on: November 25, 2024.

BRAZIL. **Complementary Law No. 101 of May 4, 2000** (Establishes public finance standards aimed at responsibility in fiscal management). Available at: https://www.planalto.gov.br/ccivil_03/leis/lcp/lcp101.htm . Accessed on: November 25, 2024.

BRAZIL. **Law No. 4,320 of March 17, 1964** (Establishes General Rules of Financial Law for the preparation and control of budgets and balance sheets of the Union, States, Municipalities and the Federal District). Available at: https://www.planalto.gov.br/ccivil_03/leis/l4320.htm . Accessed on: November 25, 2024.

BRAZIL. **Law No. 12,527, of November 18, 2011** (Regulates access to information). Available in: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/law/l12527.htm . Accessed on: November 25, 2024.

CARVALHO FILHO, José dos Santos. Handbook of Administrative Law. 34th ed.

DI PIETRO, Maria Sylvia Zanella. Administrative Law. 32nd ed. Rio de Janeiro: Forense, 2019.

MARINELA, Fernanda. Administrative Law. 11th ed.

MAZZA, Alexandre. Handbook of Administrative Law. 9th ed.