Legal framework

The University Autonomy Act (Law no. 108/88, 24th September [1]) awarded public universities a considerable degree of autonomy, including full pedagogic autonomy, meaning in practice that public universities had almost complete freedom to start, suspend or cancel study programmes.

However the law, in its article 32, commanded the government to present to the Parliament a proposal of legislation regulating the assessment and supervision of the activities of universities.

The Polytechnic Autonomy Act (Law no. 54/90, 5th September [2]) awarded autonomy to public polytechnic institutes, although to a lower degree when compared to public universities, namely regarding pedagogic autonomy, as they needed a priori permission of the Ministry before being able to start, suspend or cancel study programmes.

The activity of private institutions was regulated by Decree-Law no. 16/94, 22nd January [3] (including changes resulting from Law no. 37/94, 11th November [4] and Decree-Law no. 94/99, 23rd March [5]). Although private institutions have very extensive autonomy in what concerns financial matters and staff, their pedagogic autonomy was limited and they needed a priori permission of the Ministry before being able to start, suspend or cancel study programmes.

The law also commanded the Ministry with responsibility for higher education with the task of ensuring the assessment of the pedagogic, scientific and cultural quality of private higher education, in parallel with that of public higher education.

In Portugal, the initial quality assurance activities were an initiative of the Portuguese Council of Rectors [6] (Conselho de Reitores das Universidades Portuguesas - CRUP) that organised a pilot experiment in 1993. The first assessment cycle was completed in 1999 and included only the public universities and the Catholic University.

The public polytechnics and the private higher education institutions have taken some time to join this process. Decree-Law no. 205/98, 11th July [7] created an overall coordination council for the assessment of higher education called National Board for Higher Education Assessment (Conselho Nacional de Avaliação do Ensino Superior - CNAVES).

The second assessment cycle began in 2000 and included all institutions, while CNAVES became responsible for ensuring the “harmony, cohesion and credibility” of the overall system and to carry out the meta-evaluation of the system, if necessary using foreign experts.

However, there were complaints that the system was not very effective, being too dependent on the higher education institutions (HEIs) and not producing results in terms of eliminating cases of low quality. In 2005, a new government commissioned from ENQA a review of the Portuguese quality
assurance system with a main aim of making recommendations for improvement and for creating a system complying with the European Standards and Guidelines.

Following the recent development of quality assurance systems, namely those in the European space, the Portuguese state decided to create the Agency for Assessment and Accreditation of Higher Education (Agência de Avaliação e Acreditação do Ensino Superior - A3ES), by Decree-Law no. 369/2007, 5th November, with the purpose of promoting and ensuring the quality of higher education.

A3ES has both a supervisory and an advisory orientation; the supervisory orientation corresponds to the accreditation processes granting permission to higher education institutions to operate and offer programmes on the basis of threshold quality standards. A3ES has also an advisory orientation with a focus on enhancement and improvement.

**Responsible bodies**

A3ES was established as a private foundation, independent both from the government and from HEIs. The Agency A3ES is a private law foundation, established for an indeterminate period of time, with legal status and recognised as being of public utility.

The members of the Agency’s management board were appointed in December 2008 and reappointed in 2012 for an additional period of four years. The Agency started its operation in 2009. The Agency is independent in its decisions which must take into account the guidelines prescribed by the State. The assessment and accreditation regime developed by the Agency is defined in Law no. 38/2007, 16th August.

After 3 years’ experience of conducting assessment and accreditation processes, the A3ES fulfilled the conditions to undergo an independent international review, as determined by The European Standards and Guidelines (ESG).

This evaluation is a condition for application for inclusion on the European Quality Assurance Register (EQAR). The external review of A3ES was performed under the coordination of ENQA, and the External Review Panel visited the Agency on the 15-16 January 2014; ENQA delivered its report in March 2014.

The review team considered the agency an excellent organization contributing to the enhancement of higher education quality in Portugal. The review team concluded that the agency meets all expectations to justify full membership of ENQA and in 2014, A3ES became a full member of ENQA.

This evaluation was a condition for application for inclusion of A3ES on the European Quality Assurance Register (EQAR) which was submitted in 2014, being accepted and formalized in November of the same year.

A3ES is also a member of ECA, of the CHEA International Quality Group and of the IMHE programme from OECD.

A first essential aspect of the legal framework on higher education is that the university autonomy is a fundamental Constitutional right (article 76.2 in its original version). The main legal documents regulating the area of higher education are:

- The Comprehensive Law on the Education System (Law no. 46/86, 14th October, amended
by Law no. 115/97, 19th September [12], and by Law no. 49/2005, 30th August [13]), defining the scope and organisational structure of higher education and the conditions for access.

- Decree-Law no. 74/2006, 24th March [14], amended by Decree-Law no. 107/2008, 25th June [15], and by Decree-Law no. 230/2009, 14th September [16], regulating the organisation of higher education degrees and its adaptation to the Bologna process.

- Law no. 38/2007, 16th August [10], framework law for quality assurance.

- Law no. 62/2007, 10th September [17], framework law for higher education institutions.


- Decree-Law no. 205/2009, 31st August [18], regulates the academic career for public universities.

- Decree-Law no. 207/2009, 31st August [19], regulates the academic career for public polytechnics.

Under the new legal framework, the Agency is responsible for the assessment and accreditation of all HEIs and their study programmes, taking into account the contribution of internal quality assurance systems. However, some of the legal provisions are not easily compatible with each other.

On the one hand, legislation determines that institutions should develop an internal quality assurance policy for their programmes, a culture of quality and quality assurance in their activities, and a strategy for the continuous improvement of quality. However, institutions are free to decide on the implementation details of their internal quality systems.

It also states that external assessment should take into account the contribution of internal quality assurance systems. On the other hand, it establishes that external assessment may lead to a comparison among HEIs, organisational units and study programmes, and involve the establishment of rankings according to parameters to be established by the Agency.

**Approaches and methods for quality assurance**

The main objective of A3ES is to promote the improvement of the performance of HEIs and their study programmes and to guarantee the fulfilment of the basic requirements for their official recognition.

This objective is pursued through the assessment and accreditation activities carried out by the Agency, and the promotion of an internal quality assurance culture within HEIs.

The activities of the Agency are in compliance with the European Standards and Guidelines as demonstrated in the recent review report by ENQA and its admission to full membership of the organization.

For external quality assurance the Agency uses an electronic platform. This is an efficient feature of A3ES as it allows building a comprehensive database, via which it conducts all phases of all evaluations, including the expert teams’ writing of their reports.

Developed from open-source software the database is updated regularly. Law no. 38/2007 [10] requires that “External assessment must include the participation of a significant number of experts from foreign or international institutions on panels which are relevant to the evaluation” (Article 14). Hence all documents, from the institution’s application and self-evaluation to the final reports and decisions, are written in both Portuguese and English.
The regular frequency of programme accreditation is of six years and it is the responsibility of the Agency to define the length of the accreditation period.

The review teams are the sole responsibility of the Agency’s management board. The team members are chosen from among experts that do not have conflicts of interest. Review teams include at least a student and a foreign expert. All members of the team have similar responsibilities.

The foci of the evaluation depend on the nature of the review (programme or institution or internal QA systems), with research being evaluated by a different organization, which is the Science and Technology Foundation (Fundação para a Ciência e Tecnologia [20]).

All the standards are published in the site of the Agency and are visible in the electronic platform where experts write the reports. Criteria for accreditation decisions of study programmes are set down in the assessment guidelines used by evaluators to draft their reports. There is a separate set of Qualifications Criteria for Teaching Staff used to evaluate the academic and research background in study programmes.

The assessment/accreditation processes follow the usual 4-phase model of self-assessment, site visit, report drafting and its publication, as well as the periodic reassessment of the assessed study programme or institution.

There is also an Appeals Commission (Conselho de Revisão - CR). The review teams make recommendations to the Management Board that makes the final decision. If institutions do not agree with the final decision they can appeal to the Appeals Commission. If institutions do not agree with the final decision of Commission they can take the case to an administrative court of justice. There is no interference of the Ministry in the whole process.

A great emphasis is placed on the importance of institutional enhancement policies as a central element in quality assurance. The guidelines for self-assessment reports include an important analytical dimension of SWOT analysis and suggestions for improvement.

In the pursuit of its quality policy the Agency establishes, among others, the following internal quality assurance mechanisms:

- Elaboration and disclosure of formally approved documentation relative to norms, regulations, procedures and instruments relevant for the operation of the Agency’s bodies and for developing assessment and accreditation processes;
- regular revision of the norms regulating the Agency’s assessment and accreditation procedures;
- monitoring, revision and regular updating of the assessment and accreditation mechanisms and procedures;
- regular meetings with the Agency’s Advisory Council;
- collection of feedback and improvement suggestions by means of enquiries addressed to HEIs, members of external assessment teams and project coordinators regarding the organisation, instruments, performance and results of the Agency’s assessment and accreditation procedures;
- informal hearings of HEIs and their representative bodies on the development of criteria, procedures and instruments related to assessment and accreditation processes;
- formal external feedback from the Agency’s Scientific Council, a body composed of six international experts in the area of quality assurance. They visit the Agency once a year and provide a report on the Agency’s organisation and performance, as well as recommendations on aspects they consider relevant for the development and continuous improvement of all processes;
internal feedback provided by project coordinators who have frequent and regular contact with the executive members of the Management Board who closely follow the different phases of the assessment and accreditation processes;
- analysis of collected information by the Agency’s Office of Research and Analysis;
- the Management Board internal reflection and prospective analysis. The Council systematically examines received comments, analyses and suggestions and when appropriate integrates them in the decision-making process;
- development of studies and research projects focused on quality assessment and accreditation processes; critical following of European trends and best practices in quality assurance and its possible integration in the Agency’s own processes;
- regular training of the members of external assessment teams and specialised training of the Agency’s permanent staff;
- external international assessment of the Agency, every five years, complying with the European Standards and Guidelines, and the consequent integration in ENQA as a full member and in EQAR.

The management board pledges to ensure the fulfilment of this quality policy and its periodic updating taking into account the evolution of the Agency’s needs and those of its environment.

The present quality policy is communicated to all internal and external members of the Agency and is available on the Agency website.

If a programme is not accredited it must stop accepting new students and must be discontinued after ensuring that enrolled students can complete the degree either in the institution or in an alternative programme or institution.

If a programme gets conditional accreditation (typically for a period of 1 to 3 years) there is a follow-up process that after the conditional accreditation period may lead to full accreditation or to the closure of the programme.

For internal quality assurance institutions are free to decide how it is organized within the prerogatives of institutional autonomy. Although the Agency organizes audits of the internal systems to ensure their effectiveness, it is not its task to tailor the internal systems of institutions.

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