

Court of Auditors and Legislative Responsibility for Fundamental Rights: Brazilian Case

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Abstract: *The Court of Auditors is crucial in ensuring good governance and the effectiveness of fundamental rights and duties. They check constituted powers within a system of checks and balances, promoting Democracy. This research study aimed to understand how audit courts influence public policy effectiveness and how legislative power can be held accountable for omissions or failures in promoting constitutional rights in Brazil. The results showed that the Audit Court functions as a containment body, safeguarding national development and enforcing legal order.*

Keywords: Public governance, court of account, legislative process, democracy

INTRODUCTION

The Brazilian Federal Constitution of 1988 enshrined the model of the Democratic Rule of Law, guaranteeing the effectiveness of fundamental rights as one of the pillars of the constitutional order (Brasil, 1988). In this context, the control of public policies emerges as an essential instrument for realizing these rights, especially regarding the efficiency of the Public Administration and compliance with constitutional norms (Heller, 2019; Lewis et al., 1982; Medauar, 2009). Public policies, understood as State actions aimed at promoting the common good, are subject to the supervision of specific bodies, with the Courts of Auditors being central actors in this process of control and inspection (Lima; Diniz, 2018).

Courts of Auditors have been recently addressed as independent institutions (Vogiatzis, 2019), performing with due effectiveness (Algarra-Paredes et al., 2025; Stephenson, 2015), adopting digital transformations (Nouaje & Benazzou, 2025), clarifying the professional audit supervision pattern

Vali et al., 2025), appreciating delegated governance (Leixnering et al., 2025), integrating large language models in Brazilian audit courts (Pereira et al.,2025).

However, as evidenced in Machado's studies (2020), the control of public policies by the Courts of Auditors gains relevance to the extent that such institutions have the competence to ensure the correct application of public resources and the legality, legitimacy, and economy of administrative acts. With the advance of contemporary constitutionalism, the judiciary and the Court of Auditors have taken an increasingly active role in promoting the effectiveness of social, economic, and cultural rights, as provided in the constitutional text (Heller, 2019).

Within this, as understood by Pereira et al. (2017), this action, however, imposes challenges related to the interaction between the various powers, especially regarding the role of the Legislative Branch, whose primary function is the creation of norms that ensure the effectiveness of fundamental rights. Paiva (2016) analyzes that the control of public policies is essential to ensure the effectiveness of government actions in realizing the rights provided for in the Constitution. The performance of the Court of Auditors aims to ensure that public resources are applied efficiently, minimizing deviations and ensuring that the public services offered meet the required standards of quality and universality.

In addition, the oversight of public policies contributes to the promotion of transparency and *accountability*, fundamental elements for the proper functioning of a democracy (Pereira *et. al.* , 2017). Starting from this thematic perspective, the problem investigated by this research was guided by the following scientific question: how can the control exercised by the Court of Auditors influence the effectiveness of public policies, and to what extent can the legislative power be held responsible for the omission or failure to promote the fundamental rights and duties established by the constitution?

Socially, the research is justified by the need to investigate how the interaction between the Court of Auditors and the Legislature can contribute to the improvement of public management and to the greater effectiveness of constitutional rights. The research also seeks to examine the role of the Legislative Branch in the inspection and implementation of public policies, especially in contexts of inefficiency or government inaction, which result in the violation of fundamental rights. The academic relevance of this study also lies in the possibility of contributing to the production of interdisciplinary knowledge, involving constitutional law, public administration and political science, in addition to offering subsidies for more effective practices in the field of public governance.

The general objective of the research was to understand that the control exercised by the Court of Auditors can influence the effectiveness of public policies, and the measure of the Legislative Branch can be held responsible for the omission or failure to promote the fundamental rights and

duties established by the constitution. To carry out a strategic review of the content pertinent to this theme, the following specific objectives were defined: (i) to analyze the role of the Courts of Auditors in controlling the legality, legitimacy and economics of public policies; (ii) to identify the legal implications of legislative omission in the enforcement of fundamental rights; (iii) to evaluate the interaction between the Court of Auditors and the Legislative Branch in the inspection of public policies in Brazil; and (iv) to propose measures to strengthen the control of public policies, with a view to promoting the effectiveness of fundamental rights.

In sum, this research investigates the influence of the control exercised by the Court of Auditors on the effectiveness of public policies and the extent to which legislative power can be held responsible for the omission or failure to promote fundamental rights and duties established by the Constitution.

METHODOLOGY

This article follows an inductive rationale and qualitative multiple-methods approach, combining an extensive literature review on Brazilian governmental archives with a descriptive single study, in which the Brazilian Federal Account Court is the unit of analysis (Yin, 1988). The methodology of the integrative literature review was used in the development of this research, based on the premise of building scientific results from the analysis of other studies produced by different authors of books. This study is also exploratory research of a fundamental nature with a descriptive objective, and it was carried out using the literature review procedure. The scientific studies were searched in the Google Scholar and SciELO databases, with a year of publication between 2015 and 2023, being admitted under the nature of a scientific article, dissertation, and thesis published in Portuguese. In the list of books consulted, there are works by Gilberto Paiva (2014), The research's development is structured in three sections, each presenting the results necessary to support the three specific objectives. In the last section, the research presents its final considerations, bringing the answer found to clarify the problem investigated and returning to the main results to demonstrate the fulfillment of its objectives.

Background

Courts of Auditor have been a part of Brazilian history since the colonial era (1500-1822). Under Portuguese authority, the denomination of Boards of Finances was established in 1680. Under D. João VI, the Royal Treasury was founded in 1808, and the Treasury Council was formed to keep an eye on public spending execution, attached to the legislative power, instead of being independent. Following Brazil's declaration of independence in 1822, the Royal Treasury was changed under the Constitution of 1824, including the first budgets and general balance sheets. Felisberto Caldeira Brandt, Viscount of Barbacena, and José Inácio Borges submitted a measure to that effect to the Senate of the Empire, therefore sparking the first notion of a Court of Auditors in Brazil on June 23, 1826 (TCU, 2025) Therefore, from 1680 to 1890, the Court of Auditors remained linked to the

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legislative power. However, in the first republican constitution (1890), the Court of Auditors was designed to work independently, as stated in Art 89: "A Court of Auditors is hereby established to settle the accounts of revenue and expenditure and verify their legality before they are submitted to Congress." (Brasil, 1890)

The Court of Auditors of the Union was created on November 7, 1890, by the Minister of Finance Rui Barbosa through decree 966-A, the first finance minister from the Republican regime (1889 to date). However, the Court of Auditors of the Union was effectively installed on January 17, 1893, by Minister Serzedello Corrêa, with the attributions of examining, reviewing, and judging operations arising from the republic's revenue and expenditure. Responsible for (a) inspecting public accounts, (b) monitoring the country's budgetary and financial execution, and (c) contributing to the improvement of Public Administration (Brasil, 1988, art. 70-75). There are currently 33 Courts of Auditors, divided into three levels: Union, States, and Municipality, as illustrated in Table 1:

Table 1 Brazilian Court of Auditors' structure

| | Court of Auditors | | |
|----------|-----------------------------------|---------------------------------|-------------------------------------|
| | Union | State | Municipal |
| Quantity | 1 | 27 | 5 |
| Name | Federal Court of Auditors | State Courts of Auditors (*) | Municipal Courts of Auditors (**) |
| Acronym | TCU | TCE | TCM |
| Function | Monitors federal public resources | Monitors state public resources | Monitors municipal public resources |

(*) One in each capital and in the Federal District

(**) Courts of Auditors of some municipalities, such as São Paulo, Rio de Janeiro, Bahia, Goiás and Pará

Table 1 shows the Federal Court of Auditors (Tribunal de Contas da União (TCU), our translation). In addition, the TCU comprises nine ministers, six indicated by the National Congress, one by the president of the Republic, and two chosen amongst the auditors and members of the Public Ministry, acting directly with the TCU. Moreover, there are four substitute ministers. The Public Prosecutor's Office is an independent body of the TCU but acts jointly, defending the legal order. It compiles eight members: one Attorney General, three Deputy Attorneys General, and four Attorneys (TCU, 2025b). Figure 1 illustrates the process paths of TCU:

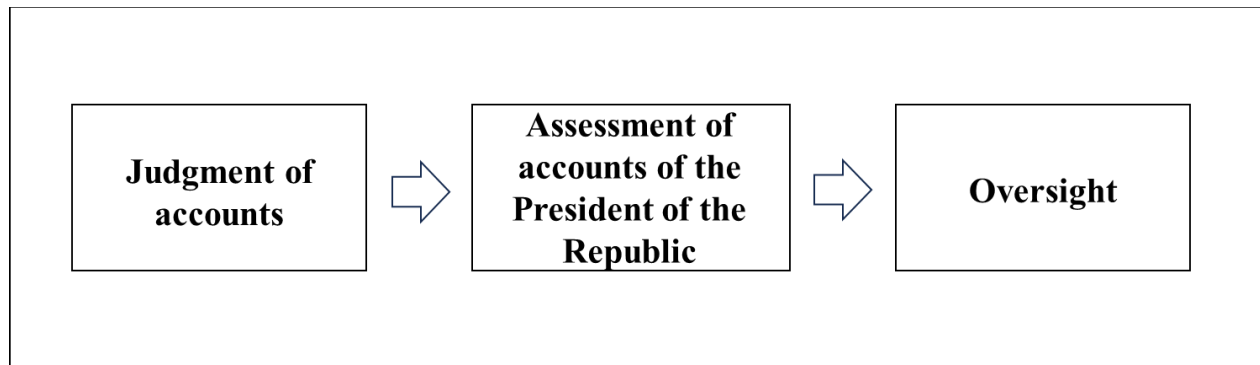


Figure 1 TCU process paths.

Source: Adapted from TCU (2025b)

The Role of the Courts of Auditors in the Evaluation of Public Policies

One of the main guidelines of the Court of Auditors in Brazil is the prioritization and valorization of operational audits, and the evaluation of public policies since the strengthening of democracy depends on the evaluation of public policy programs executed by governments (Lima; Diniz, 2018). As Grosser (2019, p.14) points out, "the Courts of Auditors, initially conceived to monitor budget execution by public managers, have been increasingly controlling government actions and programs." Medeiros (2019) adds that "the Court of Auditors inspects public policy, especially through evaluation, to require its provision, per the constitutional design, under penalty of liability of the manager." (p.1)

Another point to consider nowadays is integrating various areas of knowledge involved in constructing the public budget, including society, law, accounting, and economics specialists, among others. These, in turn, place development as a central theme, which starts to assume a leading role in the agenda of national society (Medeiros, 2019). In this sense, Grosser (2019, p.15) states that "the broad rights to benefits recognized in the citizen Constitution go hand in hand with the scarcity of public resources." Thus, Medeiros (2019, p.4) points out that "the Court of Auditors has as one of its attributions the evaluation of the actions and programs carried out based on the decisions made by the manager to meet the public interest considering efficiency, efficacy, and effectiveness."

The combination of the public and private worlds reveals essential differences. In the private economy, in environments, and in corporations, the great current need is for the development of Brazil's competitiveness so that the country advances as a nation compared to others of the same size. In the public world, good governance is required, which goes through direction, evaluation, and monitoring and is carried out with leadership, strategy, and control (Lima; Diniz, 2018). In this regard, Grosser (2019, p.30) points out that "external control aims to supervise, verify, and correct the acts of the Public Administration to ensure the execution of public policies."

In this way, the measurement of development, the reduction of differences, and the prioritization of the actions of the most vulnerable within society occur through the public budget, in which public policies are inserted. It is necessary to raise the evaluation of these policies to the highest civic and democratic level (Lopes et al., 2023). According to Grosser (2019), "the abuses of power practiced by public managers throughout the country's history have caused the erosion of voters' confidence in voting as a mechanism of accountability." (p.14)

The evaluation can be done in any environment, including the academy, which is legitimate to do it, and in civil society through its numerous organizations, including the executive itself, which has its structures to carry out the evaluation (Gomes et al., 2023). However, as analyzed by Lopes et al. (2023), it is pointed out that the institution with the most capacity and possibility to evaluate public policies are the courts of auditors due to their impartiality, independence, and medium to long-term vision. In addition, Grosser (2019) reinforces this idea by supporting the role of supervision of the Account Courts in Brazil.

It is asserted that this agenda of public policy evaluation is recent, both in society and in the Court of Auditors. In France, pioneering works appeared in 2006. In Brazil, this task began in 2011. Mainly because such public policies are evaluated to contribute to the structuring action of democracy; in such a context, the need for rejuvenation of the Court of Auditors, their members, and staff who are conditioned to pass through the prism of the evaluation of public policies is highlighted, supported by Grosser (2019). In addition, the literature on the evaluation of public policies is divided into two categories: the so-called ex-ante evaluation, which is carried out before the implementation of a public policy, and the ex-post evaluation, which occurs after the implementation of the public policy, to verify that it has achieved the proposed objectives (Silva, 2015).

The Process of Evaluation of Public Policies

Evaluation of public policies is an integral part of an evidence-based decision structure. One of the Good Governance Practices in the Public Sector must be executed as a systematic, integrated, and institutionalized process. It is permanent and must be integrated into the cycle of public policies, which also involves planning, execution, and budgetary and financial control (Botelo; Albuquerque, 2024). Grosser (2019) observes that the evaluation should preferably be conducted by other independent bodies not directly responsible for executing public policy (e.g., central bodies, internal control, private foundations, universities, and Courts of Auditors).

According to Serra (2006), many political actors try to influence government decisions with very diverse and even contradictory objectives: heads of state, legislators, judges, and the military are some of the public officials who seek to act in government processes. There are also many non-governmental actors: voters, civil society organizations, business people, unions, and the media that intend to leave traces in their actions and governmental steps (Lopes et al., 2023).

Thus, it is asserted that the policy and the evaluation are complex. In this scenario, actors of great relevance, such as heads of state, legislators, judges, and the military, are being treated (Pereira et al., 2017). This logic of rational election in the choice of dictatorship or democracy is highlighted by Daron Acemoglu and James A. Robinson (2005), who point out that if good public policies are not carried out, there will not be a consolidated democracy. In other words, the authors developed a theory that relates several economic, legal, and social variables to the advent of democracy and its eventual consolidation: the main force that stimulates social conflict is the distribution of economic resources.

Grosser (2019) states that about 195 courts worldwide, with only 36 having jurisdiction, such as the Brazilian Court of Auditors. Some documents are fundamental in the external control part; for example, the International Standards of Supreme Audit Institutions (ISSAI) 100 of 2001 brings all the fundamental principles of public sector auditing (Pereira et al., 2017). The year 2004 was a milestone in the scope of the Courts of Auditors. As taught by Loureiro et al. (2009), the Comptroller General of the United States, David Walker, in such a period, made a relevant decision; that is, it ceased to be an accounting office to be an accountability office (Siva, 2015).

Today, the U.S. audit office is a government office of governance. This fact influenced courts worldwide to become governance courts; it is no longer enough for such courts to be just guardians of the treasury; much more than that, they are guardians of society and citizens through effective governance (Siva, 2015).

In the USA, where David Waker led this movement, according to Lessa Carvalho and Rodrigues (2018), in Europe, from the French Court of Auditors in 2011, there was worldwide awareness through the publication of a document by the Organization for Economic Cooperation and Development (OECD) in which it traces an evolutionary line of the Courts of Auditors, that have moved from a first position of compliance (oversight) to an insight vision, focused on critical analysis and improving the performance of public policies (Lima; Diniz, 2018).

Thus, operational and performance audits, called operational audits, materialized in Brazil. According to the authors, the National Court of Auditors intends to be what is called guiding Courts, foresight, in the sense of being predictive, with the robust production of knowledge that will facilitate decision-making by public managers (Lima; Diniz, 2018).

The concept of utility is the policy's validity, considering the effects produced by it given the problems and needs it intends to meet. Thus, according to Helga Cristina Hedler (2007), utility promotes the provision of counterfactual knowledge. A particular social event or policy is taking place, and there is a specific intervention promoting a new result. Therefore, such a gap between what would happen without the policy and what is happening with the implementation of the policy

is called counterfactual. In the same way, according to Hedler (2007), relevance will verify whether public policy is adequate for the problem to be faced.

Therefore, the difference between operational auditing and the evaluation of public policies is evident when we move toward the implementation of more predictive paradigms, as taught by Loureiro et al. (2009). While operational auditing focuses on economy, efficiency, efficacy, and effectiveness, evaluation also seeks to understand usefulness and impact. In this sense, there are a series of phases for an effective public policy program, namely the preliminary phase, the execution and evaluation phase, and the evaluation and monitoring phase (Gomes et al., 2023).

Also, the operational audit evaluates people performing a certain with a particular result. For Helga Cristina Hedler (2007), in the evaluation of public policy, the focus is different; that is, one does not look at the agent, the individual, but rather at the policy in a broad sense, that is, how it is being applied. Its relevance and usefulness and how it transform people's lives are what matter. It is asserted that there is currently a risk for the canonization of institutions. Thus, if a Court of Auditors does not offer the citizens utility, these institutions, in the matter of budget dispute and in the prioritization of society, will inevitably suffer from their limitations (Lima; Diniz, 2018).

In this sense, Barroso (2009) points out that if public institutions do not serve society, offering a value that justifies their existence, they will lose legitimacy and be relegated to irrelevance, especially in the dispute over scarce public resources: power containing power, a system of checks and balances. The founding document of the Court of Auditors is the explanatory memorandum written by Barbosa (1849 - 1923) for the Decree of creation no. 966-A, of November 7, 1890, which appears before the Constitution of the Republic, created in 1891.

Barbosa's (1946) concern, the same as today, is that there was a need for an "intermediate magistracy" between those who execute – the Executive Power and those who authorize – the Legislative Power. At that time, it was common to make expenses that were not authorized by the legislature. Considering that the budget arose to control the Executive Branch, the king, in practice, lacked an institution that controlled the executive Branch, so it only spent what was authorized by the legislature. What was observed in such a scenario was that the Executive spent and, later, the legislative validated the act, that is, authorized additional and supplementary ceilings, after the expenditure had been made (Heller, 2019). The constitutional principle of symmetry between federated entities is presented in the next section.

Constitutional Principle of Symmetry Between Federated Entities

The Brazilian legal system follows a constitutional structure; therefore, all legislation and rules must comply with the links established in the CRFB in force since 1988. According to Abraham's (2023) conceptions, Public Financial Law, as well as the activities of the public administration and

federated entities, is governed by constitutional principles that aim to ensure elementary issues to maintain the lawfulness of government activities. In general, public activities must comply with the principles of legality, impersonality, morality, publicity, and efficiency contained in the caput of Article 37 of the CRFB in force (Brasil, 1988). No different, in the caput of its article 70, the CRFB of 1988 mentions that public inspection must obey the principles of legality, legitimacy, and economy (Brasil, 1988).

Concerning symmetry, Piscitelli (2022) states that this constitutional principle governs the organization, structuring, and functioning of federated entities (Union, States, Federal District, and Municipalities). All of them must follow similar standards, thus ensuring the maintenance of vertical and horizontal coherence in the federative system model that Brazil adheres to. Under the effects of the principle of symmetry, implicitly allocated by article 71, item I, of the CRFB of 1988, the legislator aimed to ensure that all State Constitutions and Organic Laws of the Municipalities can meet and respect the rules and principles of the Supra Constitution, especially about the guidelines applicable to the public and administrative organization of the State (Abraham, 2023; Brasil, 1988).

Still based on the principle of symmetry, all States and Municipalities, as well as the Union and the Federal District, must draft and apply laws, as well as carry out their legal activities, structuring their governments according to the precepts defined and contained in the CRFB of 1988, ensuring that there is a "symmetry" between the three governmental spheres (Federal, State, and Municipal) (Dias, 2021). Favaretto, Schommer, and Dias (2022) mention that the legal foundations of the symmetry principle can be extracted from the caputs given to arts. 25 and 29 of the CRFB of 1988, which, respectively, guarantee the States the right to organize through their Constitutions, provided that they comply with the principles of the Federal Constitution (art. 25) and regulate municipal organization, ensuring that municipalities have their LOs, provided that they also comply with constitutional principles (art. 29).

By applying the symmetry principle, there is a search for harmony between federated entities and in the governmental structure (between the Executive, Legislative, and Judiciary Branches) (Rosa, 2020). According to Leite (2020), symmetry should be applied within the scope of the autonomy of the powers, the legislative process, and, especially, inspection and accountability, among other possibilities. Accountability is a constitutional duty attributed to federated entities in an attempt to exercise control of employment and the use of public resources (Piscitelli, 2022). The following section discusses the main advice for non-compliance with technical opinions.

Consequences of Non-Compliance with Technical Advice

The Court of Auditors of Brazil, as Mello (2018) points out, citing Rui Barbosa, was inspired by the Italian model, which assumed an intermediate position *corte dei conti* (Italy's court of accounts), an independent institution, auxiliary to the Executive and Legislative Branches, which could judge

accounts, but before that, it had preventive control. Therefore, before any expenditure was made, it was necessary to have the approval of the Court of Auditors, which would analyze the adequacy of the expenditure to the budget laws. In Brazil, the 1988 Constitution abandoned this model of preventive control, but some courts of Auditors worldwide continue to follow it, such as the Court of Accounts of Portugal.

It is asserted that the Court of Auditors also emerges as an instrument of containment of power since it is very common that those who assume power tend to abuse it. Who assumes power in a democracy is the Democratic State of Law, which cannot become a dictatorship of the majority since a series of rights must be preserved, according to Celso Antônio Bandeira de Mello (2018).

Thus, when the Executive Branch executes an agenda, it has legislative power to contain it, such as authorizing the budget up to a specific limit. In this way, whoever wins an election wins within a legal structure, submitting to a specific agenda established by the legal system (Dias, 2021).

It is observed, for example, that dictatorships tend to weaken the institutions of containment. According to Celso Antônio Bandeira de Mello (2018), the Vargas dictatorship (1937 - 1945), for example, compulsorily retired several ministers of the Supreme Court, in addition to closing Congress at a certain point. Mello (2018) emphasizes that another form of containment is the governors in a federative state, in which there is no hierarchy between the Union and the States; dictatorships also try to weaken this model. Therefore, the system of containment of the checks and balances system has been attempted to be weakened by dictatorships.

For Mello (2018), this is also the case with the Court of Auditors, which, in the country's recent history, "TCU unanimously rejects accounts of the Dilma government of 2014." Several amendments to the constitution emerged in the National Congress to extinguish and weaken the performance of the TCU. Thus, for Lima Junior (2016), the Federal Court of Accounts functions to assist the Legislative Branch and the other branches. It is not subordinate to any of the powers, having full autonomy provided for in the Federal Constitution. When the mandate is hybrid, it functions as a power that directly influences, for example, providing a prior opinion for the accounts of the republic's president.

The Federal Court of Accounts (TCU) does this, and the State Court of Auditors also for the accounts of the governor and the mayor, acting as a direct assistant to the Legislative Branch because, when judging the accounts of the Executive, it does so with the issuance of a prior technical opinion that will exert a constraint on parliamentarians who will have to be accountable to their elected representatives and society as a whole. Because they do not vote by technical opinion, even though they can do so in city councils and legislative assemblies (Dias, 2021).

Lima Junior (2016) emphasizes that the Court of Auditors also directly assists the legislature when they carry out audits that the Legislative Branch requests. Therefore, any committee of the Chamber of Deputies in the Senate, the plenary of the Senate Chamber, or of each Legislative Assembly or City Council may request the Court of Auditors to audit inspections of works of the Executive Branch (Dias, 2021; Rosa, 2020).

DISCUSSION

The Court of Auditors, according to Lima Junior (2016), even acts with their own competencies, without any subordination, with the primary intention of containing power, when they carry out audits according to their criteria. At any time, they can carry out audits in the City Councils, in the Legislative Assemblies, and the TCU, for example, can carry them out in the Chamber of Deputies, in the Senate, as well as in any Ministry or public body, and the Legislative Branch in its administrative functions, verifying whether it is exercising its role by the legal system (Souza; Oliveira, 2021).

As Carvalho Filho (2020) points out, the Court of Auditors' typical primary function is to judge accounts; in fact, no other institution is responsible for judging the accounts of public administrators. Furthermore, neither the judiciary nor the National Congress is configured as an appellate body of the Court of Auditors, and the analysis carried out by the latter is exhausted within itself (Abraham, 2023).

In addition, according to the teachings of Carvalho Filho (2020), the Courts of Auditors exercise as an implicit power of their constitutional functions, the so-called general power of caution, which allows them to adopt urgent and necessary measures, even if there is no express provision in ordinary legislation. This power includes, for example, the precautionary suspension of bids, contracts, or any administrative acts tainted with illegalities or that may cause damage to the treasury until a detailed analysis of the facts is carried out (Dias, 2021; Rosa, 2020).

Thus, this prerogative aims to ensure the protection of public coffers and the regularity of administrative procedures, preventing the delay in judicial action or the Court itself from leading to the consummation of acts harmful to the Public Administration. In fact, according to Mello (2018), the Courts of Auditors, in the exercise of their function of external control, may carry out the control of constitutionality, including laws or normative acts that deal with budgetary matters or accountability, as established in Binding Precedent 347 of the STF, which provides as follows: The Court of Auditors, in the exercise of its duties, it can assess the constitutionality of laws and acts of the public power. Such understanding stems from the very supervisory competence attributed by the Federal Constitution to the Courts of Auditors, giving them the power to avoid damage to the treasury through the control of legality and constitutionality.

However, political interference in the decisions of the Courts of Auditors is a practice that threatens not only the autonomy of these institutions but also the effectiveness of fundamental rights since the Courts of Auditors play an essential role in controlling the legality and regularity of public management. The enactment of Amendment 87/2016, which extinguished the Court of Auditors of the Municipalities of Ceará, represents a milestone in this problem (Ceará, 2016).

Although the STF has validated the extinction, the debates that involved the matter demonstrated the relevance of protecting the independence of the Courts of Auditors in the face of political interventions. By suppressing a Court of Auditors, even at the municipal level, the legislator, for political convenience, calls into question the effectiveness of external control and weakens the mechanisms for protecting the treasury, constituting a direct threat to the fulfillment of the fundamental rights protected by the Constitution (Piscitelli, 2022).

A control body should not exist only as an adornment, and no State institution can be distorted by political interests when its primary function is to ensure transparency and correctness in dealing with public affairs. At this point, the fact that the Legislative Branch functions as an organ of democracy that acts through political criteria stands out. However, the exercise of control of public accounts through the verification of compliance, for example, with the Budget Law, the Law of Bids and Contracts, and the Law of Fiscal Responsibility, is not a political issue but a technical issue that is, of observing whether or not the legal system has been respected.

Thus, Mello (2018) points out that control, in any of its modalities, is always an activity aimed at gauging the conformity of the conduct of an agent or body with legality. Control cannot be seen as a mere formality or a simple institutional adornment, as it is the practical expression of a democratic regime and seeks to ensure correctness, legality, and probity in public administration. Therefore, control is not political but technical-legal, especially when verifying the conformity of acts with the legal system. The political nature of the body that carries out the control should not distort the technical purpose that the function imposes under penalty of subverting the principle of administrative morality (Lima; Diniz, 2023).

In this sense, letting such control pass through political scrutiny based on criteria of support or not from the government causes the technical aspects to be ignored. Therefore, the politicization of control is the first door to the annulment of justice in public finances, as it transfers to the arena of partisan interests, which should be judged in the light of law and public order. Rui Barbosa warned of this fact in the nineteenth century, highlighting that the technical effectiveness of the control would be lost if political issues covered it. For him, the control of public accounts should be a purely technical and legal exercise, as subjecting this control to political criteria means obscuring the fundamental duties of the State towards the nation (Gomes et al., 2023).

In Argentina, for example, the *Auditoria General de la Nación* (Nation General Court of Auditor, our translation) linked to Congress, is a political body lacking effectiveness in controlling public finances. The Court of Auditors model in Brazil is provided for in articles 71, 73, and 75 of the Constitution. Thus, the effectiveness of fundamental rights and duties depends on the Legislative Branch's compliance with the technical opinions issued by the Courts of Auditors, which are configured as basic instruments to enforce the primacy of the legal system (Gomes et al., 2023). For Silva (2024), the Courts of Auditors, bodies of external control of the public administration, perform an essential function for the Democratic Rule of Law insofar as they guarantee the supervision of the correct application of public resources, contributing to the realization of fundamental rights and compliance with constitutional norms.

Thus, the technical opinions issued by the Courts of Auditors have the following functions: analysis of fiscal management, compliance audits, guidance to the Legislature, inspection of the use of public resources, and recommendations for corrections. Di Pietro (2022) complements this idea by arguing that the Courts of Auditors exercise an essential technical-supervisory function, whose opinions are not limited to judging the regularity of the accounts but also to carrying out audits and inspections, proposing corrections and preventing irregularities in the use of public resources. In this way, they collaborate directly with the Legislature, offering technical subsidies to control the administration's financial activities (Lima; Diniz, 2023).

It should be noted that the principle of administrative morality is not reduced to a rule of ethical conduct. It binds public agents to act under probity, decorum, and good faith standards. Article 11 of Law 8,429/1992 establishes that "any action or omission that violates the duties of honesty, impartiality, legality, and loyalty to institutions constitutes an act of administrative improbity that violates the principles of public administration." Acting contrary to these standards, such as deliberate non-compliance with technical opinions of the Courts of Auditors, constitutes an administrative offense and an ethical deviation subject to judicial and political liability.

Implications

The evaluation of public policies is a crucial part of evidence-based decision structures and must be executed as a systematic, integrated, and institutionalized process. It should be conducted by independent bodies not directly responsible for executing public policy, such as central bodies, internal control, private foundations, universities, and Courts of Auditors. The evaluation process is complex, considering the influence of political actors, non-governmental actors, and the distribution of economic resources.

The Brazilian Court of Auditors has been instrumental in implementing operational and performance audits, which aim to provide foresight and predictability in public policy implementation. The concept of utility refers to the policy's validity, considering the effects

produced by it given the problems and needs it intends to meet. Utility promotes the provision of counterfactual knowledge, which helps verify whether public policy is adequate for the problem to be faced.

This research has some implications regarding Enhanced Accountability: The PLS 488/2017 promotes transparency and accountability in policy-making, as decisions are based on empirical evidence rather than intuition or ideology. This leads to better governance and more efficient use of public resources.

One implication regards the decision-making process: policy makers may understand and process how citizens respond to different policies, leading to more interventions in areas such as economic development and education, for instance. Some potential challenges regard the implementation of evidence-based policies. Resistance from stakeholders may arise, because they are accustomed to traditional approaches.

Finally, this research may influence the following fields and subfields of study: (a) public health (Craveiro & Dias, 2019); (b) civil construction projects (Dias, 2018; Dias & Teles, 2018; Dias et al., 2021; Dias, 2016); (c) civil service reforms (Dias & Aylmer, 2018); (d) government relations (Dias & Navarro, 2017; Dias et al., 2016; Navarro & Dias, 2024); (e) buyer-seller government negotiations (Dias et al., 2022; Silva & Dias, 2022); (f) government negotiations (Dias & Navaro, 2020), amongst others.

CONCLUSION

Our findings indicated that the Court of Auditors of Brazil is given relative seriousness since, with regard to compliance with the principles of public administration related to legality, efficiency, and morality, these are often relativized to favor political interests, corrupting the Legislative Branch and its decisions, and sometimes ignoring the technical opinions issued by the Court of Auditors.

In meeting all the research objectives, it was possible to clarify from the results, but it was soon seen that it occurs because such entities are not binding, maintaining their autonomy concerning the other powers of the republic. As Rui Barbosa pointed out, the nature of these containment bodies resembles an intermediate judiciary, which does not prevent them from being extinguished, as occurred in 2017 in the Municipalities of the state of Ceará.

However, the Legislative Branch's non-compliance with the technical opinions issued by the Court of Auditors can be construed as an ethical deviation, leading to administrative and legal liability. It can also negatively impact the electorate of those who make such decisions.

It is necessary to consider that efficient public governance is only achieved through coordinated action between the Legislative Branch and the Court of Auditors. The development of the Democratic Rule of Law permeates effective compliance with technical opinions that aim to promote effective public policies and the proper and efficient management of public resources.

In conclusion, the research investigates the influence of the control exercised by the Court of Auditors on the effectiveness of public policies and the extent to which legislative power can be held responsible for the omission or failure to promote fundamental rights and duties established by the Constitution.

Future Research

Future research could explore the link between political influence and the Court's capacity to guarantee good governance and defend fundamental rights, which will help future studies investigate the effect of political involvement on the performance of Courts of Auditors in Brazil. Studies might also examine how other organizations, such as the Public Prosecutor's Office, help to foster responsibility and openness in public administration and how recent changes affect the Court's independence and efficiency.

REFERENCES

- Acemoglu, D., & Robinson, J. A. (2005). *Economic origins of dictatorship and democracy*. Cambridge university press.
- Algarra-Paredes, A., Ortega-Larrea, A. L., & Bordonado-Bermejo, M. J. (2025). Economic importance of Aquaculture in Europe and in Spain: European Court of Auditors' Report on Aquaculture in the EU.
- Barbosa, R. (1946). *Obras completas de Rui Barbosa*. Fundação Casa de Rui Barbosa.
- Botelho, M. C., & Albuquerque, L. L. (2024). Ministério Público e Tribunal de Contas como competente na fiscalização das políticas públicas. *Revista do Direito Público*, 19(2), 50-65.
- Brasil (1890). *Federal Constitution 1890*. Retrieved from https://www.planalto.gov.br/ccivil_03/constituicao/constituicao91.htm on 10 April 2025.
- Carvalho Filho, J. dos S. (2020). *Manual de direito administrativo*. Atlas.
- Craveiro, Mariana F. & Dias, M. (2019). Case on Brazilian Public Health Information System. *Global Scientific Journals*, 7(10), 1-11. <https://doi.org/10.11216/gsj.2019.10.27963>
- Di Pietro, M. S. Z. (2022). *Direito administrativo* (35. ed.). Forense.
- Dias, L. (2021). *Controle externo de municípios: diálogo institucional entre câmaras municipais e o Tribunal de Conta Estadual em Minas Gerais*. Dissertação (Mestrado em Direito Constitucional) – Instituto Brasiliense de Direito Público, Brasília, DF, 2021

- Dias, M. (2018). Light Rail Vehicle in Rio de Janeiro: Alternative to Public Transportation in Brazil? *Australian Journal of Science and Technology*. 2(4), 187-193. <https://doi.org/10.6084/m9.figshare.7833362>
- Dias, M., (2016). São Francisco River Transposition Civil Work: Challenges to the Brazilian Economy. *The International Journal of Business & Management*. 4(12), 65-70. <https://doi.org/10.6084/m9.figshare.7834724>
- Dias, M., Navarro, R. (2017). O Fator Confiança em Relações Governamentais e sua importância para o futuro da atividade. *Revista Brasileira de Relações Institucionais e Governamentais*, 1(3), 38-41. <https://doi.org/10.6084/m9.figshare.7834697>
- Dias, M.; Aylmer, R. (2018) Is the Brazilian Civil Service reform about to succeed? *Global Journal of Political Science and Administration*, 6(2), 13-25. <https://doi.org/10.6084/m9.figshare.7834694>
- Dias, M.; Bezerra, A, Sousa,J.C., Costa, H.; Schmitz, F., Santos, C; Moreira,A.; Mattos,S.; Neves, M.; Filho, N.; Filho, C.C. (2021) Role-Play Simulation on Civil Engineering Works Negotiation. *GSJ*, 9(9), 1800-12, <https://doi.org/10.11216/gsj.2021.09.54483>
- Dias, M.; Navarro, R.; Barros, J., Valle, A. (2016). Negotiating with the Brazilian Government: Five Short Cases. *The International Journal of Business & Management*, 4(11), 181-189. <https://doi.org/10.6084/m9.figshare.7834721>
- Dias, M.; Teles, Andre (2018). From Animal Traction to LRV: Public Rail Transportation in Rio de Janeiro. *International Journal of Science and Research*, 7(11), 765-770. <https://doi.org/10.21275/ART20192818>
- Dias, M.;Pires,R.;Genial, R.;Santos, P.;Araújo, L.;Moura, F.; Lima, S.Nascimento, F. Marques Filho, C. (2022) Case Study on Buyer-Seller Negotiation: Ultrabook Government Acquisition. *GSJ* (10)9, 1737-45; <https://doi.org/10.11216/gsj.2022.09.77913>
- Grosser, M. (2019). Controle externo e políticas públicas no Brasil: o papel dos Tribunais de Contas. Saraiva.
- Hedler, H. C. (2007). Meta-avaliação das auditorias de natureza operacional do Tribunal de Contas da União: um estudo sobre auditorias de programas sociais. Tese (Doutorado em Psicologia Social, do Trabalho e das Organizações) – Universidade de Brasília, Instituto de Psicologia, Brasília, DF, 2007.
- Leixnering, S., Höllerer, M. A., Polzer, T., & Schiffinger, M. (2025). The role of public auditing in delegated governance. *Journal of Accounting and Public Policy*, 49, 107281.
- Lessa Carvalho, F. L., & Rodrigues, R. S. (2018). O Tribunal de Contas no Brasil e seus congêneres europeus: um estudo comparativo. *A&C-Revista de Direito Administrativo & Constitucional*, 18(71), 225-248.
- Lewin, A. Y., Morey, R. C., & Cook, T. J. (1982). Evaluating the administrative efficiency of courts. *Omega*, 10(4), 401-411.

- Loureiro, M. R., Teixeira, M. A. C., & Moraes, T. C. (2009). Democratização e reforma do Estado: o desenvolvimento institucional dos tribunais de contas no Brasil recente. *Revista de Administração Pública*, 43, 739-772
- Medauar, O. (2009). *Direito administrativo moderno*. São Paulo: Revista dos Tribunais.
- Meirelles, H. L. (2018). *Direito administrativo brasileiro* (43. ed.). Malheiros.
- Melo, C. A. B. de. (2019). *Curso de direito administrativo*. Malheiros.
- Navarro, R. , Dias, M. (2024) Nonmarket Negotiations:Leveraging Performance when Negotiating with Governments, Influencers, Media, NGOs, Communities and other Key Stakeholders.*BJMAS*, 5(2),90-113.DOI: 10.37745/bjmas.2022.0460
- Nouaje, F., & Benazzou, L. (2025). Exploring the Adoption of Digital Transformation in Supreme Audit Institutions: A Comprehensive Literature Review. *Moroccan Journal of Quantitative and Qualitative Research*, 7(1).
- Paiva, R. D. S. (2016). Supremocracia e a efetivação dos direitos fundamentais: o paradoxo entre democracia e constitucionalismo.
- Pereira, J., Assumpcao, A., Trecenti, J., Airoso, L., Lente, C., Cléto, J., ... & Lotufo, R. (2025). Inacia: Integrating large language models in brazilian audit courts: Opportunities and challenges. *Digital Government: Research and Practice*, 6(1), 1-20.
- Pereira, L. C. Q. (2017). A necessidade de regulamentação ético-jurídica na reprodução humana assistida: uma análise da Omissão Legislativa Brasileira.
- Piscitelli, T. (2022). *Direito financeiro* (8. ed.). Atlas.
- Rosa, N. A. (2020). Atrasos na entrega de prestações de contas municipais e a decisão dos Tribunais de Contas Estaduais [Trabalho de conclusão de curso, Universidade Federal de Uberlândia].
- Rosado, C. G. (2021). O controle técnico dos tribunais de contas e os critérios de avaliação de políticas públicas: uma avaliação das decisões do TCE/MG.
- Silva, J. A. da. (2024). *Curso de direito constitucional positivo* (45. ed.). Malheiros.
- Silva, G.B., Dias, M. (2022) How do The Governments Promote the Internationalization of Companies? A Multiple Case Study. *Social Sciences and Humanities Research*, 5(4), 1-10;<https://doi.org/10.5281/zenodo.6844949>
- Stephenson, P. (2015). Reconciling audit and evaluation? The shift to performance and effectiveness at the European Court of Auditors. *European Journal of Risk Regulation*, 6(1), 79-89.
- TCU (2025). [Tribunal de Contas da União]. Instrução Normativa nº 84, de 22 de abril de 2020. Retrieved on 9 April 2025 from <https://www.in.gov.br/en/web/dou/-/instrucao-normativa-n-84-de-22-de-abril-de-2020-254756795>
- TCU (2025a) [Tribunal de Contas da União]. Decisão Normativa – TCU nº 198, de 23 de março de 2022. Retrieved on 9 April 2025 from https://pesquisa.apps.tcu.gov.br/documento/norma/*/COPIATIPONORMA:%28%22Decis

Publication of the European Centre for Research Training and Development -UK

%C3%A3o%20Normativa%22%29%20COPIAORIGEM:%28TCU%29%20NUMNORM
A:198%20ANONORMA:2022/DATANORMAORDENACAO%20desc/0

TCU (2025b) Conheça o TCU. Retrieved from

[https://portal.tcu.gov.br/data/files/BA/10/E0/BB/2D13B710EA6C5BA7E18818A8/1%20](https://portal.tcu.gov.br/data/files/BA/10/E0/BB/2D13B710EA6C5BA7E18818A8/1%20Conheca%20o%20TCU.pdf)

[Conheca%20o%20TCU.pdf](https://portal.tcu.gov.br/data/files/BA/10/E0/BB/2D13B710EA6C5BA7E18818A8/1%20Conheca%20o%20TCU.pdf) on 10 April 2025.

Vali, Z., Malekian, E., Gholami-Jamkarani, R., & Maddahi, A. (2025). Clarifying the Professional Audit Supervision Pattern. *International Journal of Finance & Managerial Accounting*, 10(38), 167-178.

Vogiatzis, N. (2019). The independence of the European Court of Auditors. *Common Market Law Review*, 56(3).

Yin, R. (1988) *Case Study Research: Design and Methods*. Sage Publications.