



Committee on Budget, Finance and Administrative Modernisation

Initial Address by Governor Carlos da Silva Costa¹

23 March 2017

Madam Chair,

Members of Parliament,

I called for this hearing following a series of reports on television about the monitoring work undertaken by Banco de Portugal – as supervisory authority – on Banco Espírito Santo (BES) in the months leading up to its resolution in August 2014. These reports gravely misrepresented the reality of that monitoring, explicitly discrediting Banco de Portugal's exercise of the supervisory function.

As I stated in my letter to this Committee, it is my responsibility as Governor of Banco de Portugal to defend the reputation of the institution and protect public confidence in the effectiveness of banking supervision. I see it as my duty to restore the truth behind these facts and to clarify what the reports deliberately ignore, making myself accountable to the Assembly of the Republic.

In my view it is undeniable that, from the outset, Banco de Portugal was committed to being accountable to the Assembly of the Republic, transparently and in good time, in regard to the resolution of BES. Banco de Portugal actively collaborated with the Parliamentary Committee of Inquiry in fact-checking, by providing several depositions, and an immense set of documents that was requested.

¹ Version prepared for presentation.



In this initial address, I see it as important to clarify three questions raised in these reports and explored intensely in the ensuing public debate.

First question: Why was the Board of BES not removed sooner?

The law assigns responsibility to Banco de Portugal, as supervisory authority, for assessing whether the members of the management and supervisory boards of credit institutions meet conditions of:

- reputation;
- availability;
- and professional qualification, suitable for guaranteeing sound and prudent management of the credit institutions.

In carrying out that function, Banco de Portugal permanently monitors all the information that is relevant for verifying those requirements.

In the specific case of assessing the suitability of members of the Board of Directors of Grupo BES, **the note mentioned in the reports in question, dated November 2013, is part of this permanent monitoring exercise of all the relevant information**, and was drafted on request of the Board of Directors of Banco de Portugal.

This note involves personal information which is subject to the right of privacy and which came to Banco de Portugal's knowledge as a result of its supervisory function, and is thus subject to the duty of professional secrecy by law. For this reason, access to the document in question could only be provided to the Parliamentary Committee of Inquiry with the authorisation of the people referred to therein. **This was the only reason why this note was not submitted to the Parliamentary Committee of Inquiry.**

Thus, contrary to what has been insinuated, this note serves to prove that Banco de Portugal was analysing all situations that could influence the suitability assessment of members of the Board of Directors of BES.



However, as I have been constantly emphasising and is already on record, namely within the scope of the Parliamentary Committee of Inquiry, Banco de Portugal's decisions to prevent the carrying out of professional functions are subject to stringent legal conditions. These conditions effectively lay down specific factual prerequisites and, at the same time, the observance of general rules of procedure, proof and reasoning, governing the work of the public authority.

At the end of 2013, in relation to the problems coming to light and receiving news coverage for the first time, Banco de Portugal did not have the necessary factual proof that – within the legal framework then applicable and given the very restrictive jurisprudence of the higher administrative courts – would allow a formal process to be opened to reassess the suitability of the members of the Board of Directors in question. This is made clear in the note quoted in the report, when it mentions that the information existing at that time had to be duly verified and confirmed for the purposes of any actions in terms of suitability. **At no time did that information warrant the immediate removal of any member of the Board of Directors of BES, or even the immediate opening of a process to that end.**

What should be emphasised here, to remove all doubt, is that as a result of that and other information, **the competent services in Banco de Portugal undertook work to obtain confirmation of potentially relevant facts for the suitability assessment, both regarding those concerned – namely through the exchange of written communications and through face-to-face meetings – and regarding other entities.**

In this assessment process (as was fully outlined to the Parliamentary Committee of Inquiry), **Banco de Portugal did not approve the registration requests to carry out functions in other Grupo BES entities, which culminated in – after calling for successive explanations and clarifications from the members of the Board in question, both written and face-to-face – the withdrawal of those requests by the individuals themselves in March and April 2014.**

In parallel, **Banco de Portugal implemented actions to ensure the close involvement of all members of the Board of Directors and Board of Auditors**



of BES, as well as external auditors, in fulfilment of the determinations issued as a result of the supervisory exercise. I would like to re-emphasise that the Board of Directors of BES comprised 25 members, the large majority of which had vast experience in the banking sector, and included representatives of other major shareholders in addition to Grupo Espírito Santo.

Among these actions, I would like to point out the various interactions with Crédit Agricole – BES’s key shareholder – requiring a succession plan for the Board of Directors, with the appointment of an independent Board. This process led to the presentation by Mr. Ricardo Salgado, in mid-April 2014, of a schedule for his succession, and a plan based on the departure of the family members from the executive body of BES.

This was all clearly documented in information provided to the Parliamentary Committee of Inquiry.

Second question: Was the document delivered by BPI to Banco de Portugal on GES’s financial situation followed up?

On 1 August 2013, BPI delivered to Banco de Portugal an economic assessment of GES, with special focus on Espírito Santo International (ESI).

The claim that Banco de Portugal ignored this document and shelved it is false.

In fact, the information contained in BPI’s document was incorporated:

- In the scope of supervisory investigations undertaken on Grupo ESFG;**
- and**
- In the context of ETRICC2 – the review of the major economic groups that are the banking system’s debtors – which was under preparation by Banco de Portugal in early August 2013.**

I would also like to remind Members of Parliament that, as a result of the conclusions of the three horizontal supervisory initiatives undertaken since 2011, Banco de Portugal decided to deepen the evaluation of the business plans of major economic



groups that were the banking system's debtors, with a view to confirming that they were based on solid assumptions – the so-called ETRICC2. **I must add that this exercise – which may now seem common or trivial – was, at the time, unprecedented in Europe, in terms of its breadth and depth in the field of supervision.**

The non-financial arm of Grupo Espírito Santo was among the 12 economic groups selected. **At the end of November 2013, this exercise detected that the accounts published up to then by the Group's holding company – ESI – did not reflect their actual financial nature.** I must stress that this accounting noncompliance had not yet been reported by anyone – neither the Board of Directors of BES, nor audit firms, nor any other regulator or supervisor, nor any creditor institution of GES, nor any other individual.

Again, I would like to stress that all this, including the evaluation of BPI, was in due time shared with the Assembly of the Republic, in the context of the Parliamentary Committee of Inquiry.

Third and last question: How did Banco de Portugal act regarding the internal control problems in ESFG's subsidiary in Dubai?

Considering that ES Bankers Dubai is a subsidiary of ESFG in Dubai, **Banco de Portugal had no mandate to exercise its supervision on an individual basis**, although the subsidiary was included in the perimeter of supervision on a consolidated basis. **The subsidiary was solely subject to supervision by Dubai's supervisory authority (Dubai Financial Services Authority – DFSA), both in prudential terms and regarding money laundering prevention.**

However, within the scope of the cooperation process between supervisory authorities, **Banco de Portugal took the initiative to establish various interactions with DFSA.**

As part of these interactions, **DFSA informed Banco de Portugal of a number of shortcomings in the internal control mechanisms implemented in Dubai's subsidiary, also referring to doubts about the origin of the funds invested in**



GES entities. In addition, DFSA informed Banco de Portugal of the corrective measures imposed.

In view of this information, **Banco de Portugal called on ESFG to be informed on the state of implementation of the corrective measures imposed on said subsidiary and of the underlying implementation timeline.**

In parallel, contact was maintained with DFSA, in order to stay informed about the implementation of the corrective measures imposed.

Before concluding, let me note that, despite the constraints existing at the time regarding Banco de Portugal's powers to withdraw the suitability status (arising both from the law and jurisprudence), **Banco de Portugal at each moment was strongly committed to making rigorous and careful use of the means permitted by law.** A posteriori, and benefitting from the knowledge and information currently available, it is easy – and tempting – to question supervisory action and to claim that supervision could have been carried out differently. **However, I firmly believe that, under the extreme complexity of the context in which it had to be conducted, supervision deserves recognition for always having been carried out in a diligent and decisive manner.**

I am now at your disposal for questions.

Thank you.