



## **REFUTATION TO THE “REPORT BY ENQA REVIEW PANEL – QUALITY ASSURANCE OF HIGHER EDUCATION IN PORTUGAL”**

### **FOREWORD**

It is with deep regret that this document is written under circumstances that may blur a clear and calm reading of the Final Report presented by the Panel. It is known that, due to unduly behaviours of several actors, CNAVES was faced with a situation leading to its disinterest, to say the least, in the public presentation.

In our refutation to the Draft Report we warned the Panel that misuse of the Final Report was likely to happen. This statement might have sound very strange to the Panel but it must be recognised that what happened went beyond one’s imagination.

The most common traditions of any evaluation accept that the final findings should be primarily presented to the evaluated institutions. That is not explicit in the European Standards and Guidelines approved in Bergen, but we are sure that it is not because the proponents of the documents do not agree with that practice: it is a matter of common sense and natural wisdom, absent along the whole process of the evaluation of the Portuguese QA System.

As a matter of fact, CNAVES, as such, was never formally consulted or even informed about the procedures to be followed at the public presentation and the same happened with the Evaluation Councils; the Report was sent to the Ministry in advance and not at the same time to those entities, and CNAVES received it from a journalistic source! Officially, CNAVES received the Report from the Secretary of the Panel on the eve of the public presentation, at 10h 19m, after asking what was happening. Not all members of CNAVES were invited in that capacity (i. e., as member of the evaluated institution).

All these “events” constituted the basic reason to justify the absence of all members at the public presentation.

It is therefore under these highly abnormal and humiliating circumstances that the present document is written. Nevertheless, as experienced and mature people, we are doing our best to act with *independence* in the comments to be produced.

Finally we regret that ENQA was caught, in one of its first international exercises of this type, in a set of bad practices that do not constitute a good point of departure for future exercises. It could have been a good example and turned out to be the worst one to take as a good practice to be used. We only can hope that the experience may be fruitful to learn what should never be done.

## **THE REPORT<sup>1</sup>**

We are happy to verify that some of the comments we produced in the refutation to the Draft Report were taken into account by the Panel. As will be shown later some disagreements still exist, a fact that is normal in an evaluation. But it was important to notice that, although not explicitly referred in the Executive Summary (but referred in the Report), the Self-evaluation Report (SER) was validated by the Panel.

In spite of this positive remark, there are still some points to be clarified in the following sections. We will follow closely our previous remarks in order to make it easier to detect the still existing disagreements.

## **THE CONTEXT**

We read with pleasure that the Panel accepted not to give to the Standards and Guidelines, approved in Bergen, the importance it was given in the Draft Report. In any case we consider that the almost absolute non-consideration of the Portuguese legislation as the main frame for the CNAVES’ action is still a serious shortcoming of the Report. And we underline this fact because many of the points appointed in the Report as weaknesses of the so-

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<sup>1</sup> These comments should be read together with our previous refutation to the Draft Report.

called *CNAVES' evaluation system* (as if the system had been created by CNAVES!) are clearly due to legal restrictions, notwithstanding those that must be attributed to CNAVES.

Nevertheless, the Panel is to be congratulated for the improvements introduced in the Final Report regarding this issue.

Finally, taking into account what happened connected to the public presentation, we keep what we have written before when we were commenting the Draft Report: *“it is queer that a change in the terms of reference was accepted by the Panel in the middle of the process, as a consequence of the formal decision of the government to extinguish the quality assurance system under assessment without waiting for the results of the review. The nature of the exercise became unavoidably much different”* and *“it must be said that it seemed to us very strange that, being the ‘government of the day’ one part of the system (and thus also under judgement), the whole process was completely controlled by it, even choosing the institutions to be interviewed. It is not our intention to raise doubts about the independence of the process, but it seems strange that along the Report the authors give their views about the independence of the work of CNAVES and the Councils, and accepted to run the risk of being trapped by this process”* and now we even add that the warning given at the time was completely justified by the already mentioned facts connected to the public presentation. It was a trap and, unfortunately, the Panel did not do much to avoid being involved in it.

## INDEPENDENCE AND TRANSPARENCY

1. We can read in the Report: “The European standards emphasise that agencies must be independent from ministries as well as from higher education institutions. The representative nature of CNAVES and the evaluation councils, with the strong domination of particularly the public universities, compromises the independence of the system”<sup>2</sup> and “Independence in the nomination and appointment of experts is

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<sup>2</sup> It would be interesting to understand how to combine the real independence with the proposals of the Panel for the composition of a new Accreditation Agency (pg. 48): “The government further should appoint ordinary board members based on the nominations from the constituent member groups in the advisory council recommended below” and “To ensure a wider involvement of stakeholders in, the board should be supplemented by an advisory council with representatives from relevant stakeholders, including higher education institutions, employer organisations, professional associations, student unions and perhaps international

another critical issue in the Portuguese context. Formally, the appointment of experts is the responsibility of CNAVES. However, the appointment is based on recommendations from the four councils that invite the institutions (under assessment) to propose names. In the case of the public universities, proposals are submitted to FUP by the Advisory Thematic Committees in each of the study fields, which are composed of representatives from the member universities. Only in very few cases has CNAVES dismissed the nominations of the councils. MCTES finally approves the names”. As was said before, the representation of public universities is not dominant, according to the Law. The present composition is however dominated by teachers of public universities due to the fact that the members appointed by the government are university professors (with the exception of one). This is not a problem of the system but of the appointing entity. We repeat what we said before: *“the independence of the Councils is guaranteed by the fact that their members are appointed on a personal basis, cannot be removed during their mandate and cannot be influenced on their decisions and judgements. In each Evaluation Council, from its ten members only four are appointed either by the representative entity (the Chairperson and one member from its governing body) or by the higher education sector (two professors) and they are appointed on a strictly personal basis – the other members are three personalities from the external society (stakeholders), one personality appointed by the government and two students appointed by their unions. CNAVES includes 17 members: the President and six other personalities appointed by a Cabinet Resolution, the four Chairpersons of the Evaluation Councils, three delegates from the higher education sectors and three students; all of them acting on a personal basis. The independence of the Review Panels is also guaranteed. Their composition is decided within the Evaluation Councils and approved by CNAVES. The reviewers are appointed on a strictly personal basis, in view of their CV (even fashionable trends, such as gender balance, were not included in the selection criteria, in order to avoid distortions in the principle of selecting people with the best possible CV and highest reputation in their fields). The fact that the in-*

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experts”. We understand the point but miss the importance of the criticism when the Report mentions the independence of CNAVES.

*stitutions were consulted to help in identifying a wide pool of highly regarded possible reviewers – not only academics, but also members from the professional world and from abroad – does not hinder the individual nature of the choices decided by the Evaluation Councils and, on the contrary, must be seen as an important added value (and good practice) for the identification of the most relevant reviewers. As stressed in the self-evaluation Report, the suggestions presented by a particular higher education institution may not include members from that institution. So, no one can in good faith refer to members of the review panels as representatives from the institutions. On the other hand, the homologation of the review panels by the Minister, although may formally interfere with the principle of independence, was important to give an official stamp to the composition of the panels and, in practice, did not interfere, along all the exercise, with the composition of one single panel.”* And we added more: *“The work done by the visiting panels may be assessed by reading the refutations of the Institutions to their Reports. Those refutations are also published in the websites of the Representative Entities together with those Reports, a fact that is [was] strangely omitted throughout the Report”*. We are happy to see that this last issue was considered in the final version, although not enough underlined from our point of view, despite being an example of good practice, not followed in many countries in Europe, if any. We are also happy about the clarification concerning the honesty of the experts.

2. We can read in the Report: “One frequently noted weakness of the experts is the degree of reliance on reviewers from Portugal. CNAVES stresses that a measurable percentage of international evaluators was utilized in the reviews and increased over time. CNAVES also notes that it did not have the authority to require reviews in English, which would be necessary for foreign teams. Many of those interviewed observed that Portugal was a “small country”, and that reviewers and the reviewed frequently knew each other well, and this sometimes compromised the independence and objectivity of the external reviews. Also that many Portuguese faculties are in-bred (composed primarily of their own graduates), and, therefore, that Portuguese higher education needs the stimulation provided by the introduction of European standards and practice.” and later, in the same section “The ENQA Panel had

during the site visit the opportunity to meet several key individuals involved in, or with experience of, the research review exercise. The feedback to the Panel was very clearly that the exercise had been successful and credible especially due to the use of non-Portuguese experts. Obviously the research reviews have acted very positively as catalysts for an increased awareness of the implications of successful external reviews”. Once again, recognising the problem, we keep saying using different parts of our previous refutation that *“It was indeed low, but the Report leaves doubts to those who did not see the figures. Those figures were given and not mentioned in the Report. 5% of international experts is low. 20% could be low but much better. 50% would be very good. But 100% would also be exaggerated. Additionally one can see the positive slope in the participation of international experts and the SER clarifies the present difficulties. (...) The Report mentions the problem but it does not say anything about the “normal” understanding. (...) As stated in appendix 11 of the self-evaluation Report, in the university subsystem the number of foreign experts increased from 9% in the beginning of the second evaluation round to 22% at the end of the round, averaging 15.4% (98 out of 637 experts). As for non-academic national experts, they represented around 18% of the total of experts, i.e., about one third of the reviewers were either non-academic or foreign. In the polytechnic subsystem, the degree of externality in relation to the polytechnics is even higher, since only 42% of the panel members were academics from the polytechnics. (...) It also mentions the evaluation of the research groups. Are the authors of the Report sure that the international experts, in that particular case, had nothing to do with some of the evaluated research groups? Some people in Portugal don’t think so. No fair judgement of the work of CNAVES and the Evaluation Councils is possible if the constraints (and despite the constraints!) are not taken into account. And two of the main constraints are the legislation and the funds available.”*

3. Finally it is important to stress what we have said before: *“This does not mean that we do not agree that conditions to decrease the risk of non-independence are necessary. They are and are welcome. What is not acceptable in the Report is to say that CNAVES and the Evaluation Councils are being evaluated whereas the system of evaluation as such, created by Law, is mostly responsible for the supposed lack of*

*independence and transparency. However the reading of the Report leads the reader to consider the CNAVES and the Councils are the main responsible for the weaknesses of the system!”* The comments in the press after the public presentation only confirm what we predicted.

## **PARTICIPATION OF STUDENTS**

We can read in the Report: “Students are formally represented in CNAVES, the four councils and other committees engaged in quality assurance, e.g. the Bologna Committee, but their real influence is limited. During the site visit the students argued that they are not being listened to in CNAVES or the councils, where the majority of the members are senior academics”.

As we stated in our previous comments to the Draft Report:

*“The students are obligatorily involved in the self-evaluation process in the collection of their point of view, through questionnaires, and the review teams meet obligatorily with the students, so they have all the opportunities to express their views and influence the evaluation processes.*

*The composition of the self-evaluation team is a matter in the scope of the institutions autonomy, so CNAVES could not go further than to recommend that it should include students, which happened in some institutions, but not all.*

*The participation of students in the review panels was not an issue in the operation of the quality assurance system, because it is barred by law.*

*At policy level, the students are represented in the Evaluation Councils (2 out of 10 elements) and in CNAVES (3 out of 17). The students have also been invited as speakers or members of panels in most of the Seminars and Workshops organised by CNAVES.”*

We think no more comments are necessary.

## **PARTICIPATION OF EMPLOYERS AND EXTERNAL STAKEHOLDERS**

We agree with the concerns of the Panel regarding this issue, but cannot say more than before:

*“Indeed, the facts are:*

- a) The Ministry appointed one member of each Evaluation Council and seven members of CNAVES; the protocols signed with the representative entities do not foresee the discussion of the guidelines – this competence is delegated in CNAVES;*
- b) The composition of the Evaluations Councils includes three stakeholders (out of 10 members) and most of them are employers, so they had the opportunity to discuss the preparation of the guidelines; the problem is that they are very busy and miss many meetings;*
- c) Around 18% of the members of the university review panels and 10% of the members of the polytechnic review panels are stakeholders (personalities from the social and economic environment); it has been very difficult to mobilise more stakeholders to participate in the reviews, because they are not much available to spare their time;*
- d) CNAVES, making use of a possibility contemplated in the law, has created the Committee of Professional Societies and Associations and the Committee for Economic Activities to promote institutional interaction with the professional and the employers’ associations;*
- e) CNAVES organised an impressive number of Seminars and Workshops, relating either to the improvement of the higher education system and its relation to society, or to discussions on the evaluation process and the dissemination of its results. These Seminars, which counted with a wide and committed participation of relevant stakeholders, are listed in sections 3.6.3 and 5.2.1 of the self-evaluation Report.”*

## **FOLLOW-UP, CONSEQUENCES AND USE OF RESULTS OF THE EVALUATION**

We can read in the Report: “A widely acknowledged weakness of CNAVES’s evaluation process is the lack of consequences of or follow-up on the reviews. CNAVES makes this a central point in its self evaluation Report and argues that this was a failure on the part of the Ministry. In The Netherlands, for example, which was a model for the Portuguese process, the reviews made by the university agency, VSNU, were followed by a site visit by the Inspectorate for Higher Education, which first checked to see whether the university had developed an “Action Plan” in response to the evaluations, and checked back again several years later to ensure that the quality improvement plans were implemented.”

We keep our main positions:

*“The results of the assessments (conclusions and recommendations) met the legal requirements and had a strong impact in the development of a quality culture inside the higher education institutions, although they were not sufficiently geared towards an information to society easy to understand - this was a key priority point already identified for the third round, and the foreseen multidimensional rating system would be a valuable instrument in that direction.*

*The consequences of the evaluations are explicitly defined in the law and are a responsibility of the government, but absolutely nothing was done about it. The most obvious case relates to the consequences of the refusal to be evaluated: all the cases of refusal were communicated by CNAVES to the successive Ministers [we would appreciate that this is explicitly mentioned in page 29, line 18, of the Report], including the present Minister, but no action was taken. It is easy to understand that this fact alone meant a “kiss of death” for any consequences from the assessments.*

*Follow-up is also not a responsibility of CNAVES. The law establishes that it is a direct responsibility of the institutions to publicise the internal measures they take as a result from the assessments, and also that it is the government’s responsibility to support contract programmes agreed with the institutions based on the assessment results (Decree-Law 205/98, articles 8.3 and 8.4).*

*CNAVES felt the problem of an insufficient follow-up and at the beginning of the second round started to ask for mid-term reports from the institutions. However, it soon became apparent that the available human resources were not allowing to accompany those reports, which became therefore meaningless. A workable solution to introduce a reasonable follow-up mechanism was presented in point 6.2.e) of the self-evaluation Report.”*

We read attentively the Report and recognise the effort to make a fairer judgement of the situation, regarding the lack of action of the Ministry. And it is interesting to note that the Report mentions the example of the role of the Inspectorate in the Netherlands. The Inspectorate in Portugal also depends, as in the Netherlands, from the Ministry, and has never been used, although the Law makes an allowance for its intervention!

It should be noted that the only known consequences are the changes introduced by some Institutions, internally, as a result of the evaluations.

Nevertheless we keep some of our previous critical remarks: *“Still regarding the matters commented above, we believe that a general review of the judgements and recommendations contained in the review panels’ reports on the 1 209 programmes that were assessed would very much contribute to avoid wrong conclusions based more on impressionistic information than in real facts, reliable data and documentation.”*

## **THE ROLE OF CRUP**

This is perhaps the point that shows that some misunderstandings are not still overcome. In the Draft Report the Panel wrote, among other mistakes: “it appears that the guidelines were developed and coordinated by a standing committee under CRUP”. Despite our explanation, the Final Report keeps the same wrong statement, proving that the Panel did not understand, **at all**, the whole set of procedures since 1993. Therefore we have no choice but to repeat, now in more emphatic way, that this is not true: *“The guidelines for the second cycle were prepared by the Evaluation Councils and discussed and approved by CNAVES, following consultations with the different sectors of higher education. In particular, the experience from the first cycle, thoroughly discussed within a standing committee under FUP, represented an input of great value and assistance, but the responsibility for the elaboration and approval of the guidelines rested exclusively under the Evaluation Councils and*

*CNAVES. In this particular example the Report shows an internal inconsistency: it states, on the one hand, that the private sector thinks that the model of CNAVES was positive for the even representation and a more equilibrated use of power of decisions (these were not the words used) and, on the other hand, continues to say that CRUP was the dominating structure. At this purpose it is important to reiterate that the external panels were proposed to CNAVES by the Evaluation Councils of FUP and APESP [and the same happened with the Polytechnic sector, private and public]. The role of CRUP was crucial in the preparation of the legal framework, both through the interaction with Government and Parliament, but had no intervention in the operation of the evaluation system, which for the first round was independently run by the Evaluation Council of FUP and in the second round by the 4 Evaluation Councils and CNAVES, that had meanwhile been created.”*

## **OTHER ISSUES**

Despite our comments the Panel decided to keep some trends in the writing of the Final Report. Among those deserving special mentioning in our answer are the following:

1. The Report **neglects, and even forgets, the activities of CNAVES and Councils regarding dissemination of good practice and other activities and publications.** This could be acceptable if the work had not been directed towards a continuous improvement of the system. But the list of publications is long...
2. The Report **ignores the several formal recommendations of CNAVES to the Governments aiming at improving the quality assurance system** (never followed by the different governments). And some of them were clearly directed towards a global improvement of the system.
3. The Report refers to the inefficiency of the present organisation. The lack of technical support is evident. Nevertheless the number of evaluated study programmes increased during the second cycle. Indeed the inefficiency exists. But it would be better described by something like this: *“Despite the lack of technical support leading to inefficiencies, it is remarkable that CNAVES was able to increase the number of study programme evaluations by more than twice in the second cycle”*. This does not deny the inefficiency but gives a more realistic picture of the situation.

We can read in the Final Report: “The level of coverage increased from the first to the second round. 376 university study programmes were assessed in the first round, and 596 in the second. This could indicate that the approach of grouping increased the efficiency of the system and thus the level of coverage, but the explanation is rather that the private university sector joined the evaluation system for the second round”. This is true. But it does not allow for what is obvious: once again, *“despite the lack of technical support leading to inefficiencies, it is remarkable that CNAVES was able to increase the number of study programme evaluations by more than twice in the second cycle”*. The Report hardly mentions this fact.

4. Finally, we do not wish to forget our last point of the previous refutation: *“There is an additional point in the [Draft] Report that, although not referring to the quality assurance system, represents a misinterpretation of the use of the institutional autonomy in the public university system. In page 54 [repeated in page 57 of the Final Report], lines 5 and 6 [in the Draft Report, and lines 2 and 3 of section 7.15 of the Final Report], it is said that the explosive growth in the number of new study programmes in Portugal is “caused particularly by the extended autonomy of the public universities and their ability to launch new study programmes”. This is a dangerous statement in times of strong political appetite to curtail the autonomy of the higher education institutions and the factual numbers easily deny it. Indeed, the statistics in section 2.1 of the self-evaluation Report show that, from the 1 763 existing undergraduate study programmes, only 647 (37% of the study programmes, for an enrolment of 44% of the total of students) are run by the public universities, meaning that the remaining 1 116 were created by an act of the government. From those 647 programmes, a significant number of them already existed in 1988 when the Law on the Autonomy of the Universities was passed, so the vast majority of the undergraduate study programmes (at least 75%) was directly approved and authorised by an act of the government.”*

CNAVES

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