Good Morning!

I welcome you all to this Seminar, on behalf of the Court of Auditors of Portugal. The seminar, organised within the scope of the European Union Contact Committee of Supreme Audit Institutions, focus on the "**Accessing and dealing with protected data**".

I would like to salute today's speakers, and to thank them for their generous availability to participate in this seminar. Allow me to give a warm welcome to all, and in particular to:

- Mr. Andreas Kumin, the President of the 6.th Chamber of the Court of Justice of the EU
- Ms. Irene Nikolaidou, Deputy Chair of European Data Protection Board,
- Mr. Yvo Volman, representing the European Commission.

And, naturally, I salute the representatives of the European Supreme Audit Institutions, in particular, the Heads of the Supreme Audit Institution that agreed to join us at this seminar.

And you will certainly forgive me for taking the opportunity to express here my personal gratitude to my Colleague, Judge Helena Abreu Lopes, who has organised this seminar.

**A few words to contextualise today's seminar.**

**1. Several challenges have been experienced by the European Union's Supreme Audit Institutions regarding their access to data and its subsequent processing.**

It is obvious for Supreme Audit Institutions that the fulfilment of their mission and the execution of their tasks depend directly on the access, collection and analysis of the pertinent data, and that implies the access and analysis of nearly all data stored or detained by the audited public bodies.
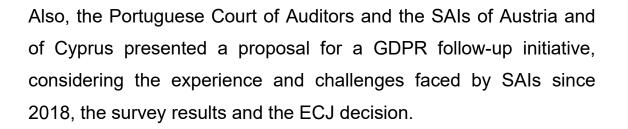
Nevertheless, the European Union strategic approach to data regulation has raised challenges throughout the last decades.

Specially the implementation of the GDPR (The General Data Protection Regulation) since May 2018 has promoted a debate on the conditions and limits of personal data processing also in the context of SAIs' activity. However, we should not forget that European regulation and national laws protect also other types of data, imposing restrictions to its access – such as commercial secrecy, tax secrecy, and further duties of confidentiality.

The challenges increase when EU regulations or national laws do not provide for the direct base to the processing of sensitive data or confidential information, nor define in general the exact balance between the interests and rights that are at stake at the audit activity. Then, a concrete balance between rights and public interests must take place and SAIs have to decide which measures to take, in order to ensure the access to and the processing of the necessary data, in accordance with the principles and conditions provided for the EU and national legislation.

A long path has already been made by SAIs to articulate the different legal provisions and to balance the interests and rights that are at stake.

An "Access to Data" project activity was set up, under the leadership of the S_A_I of Belgium, which was joined by the SAIs of Cyprus, Portugal and The Netherlands. This activity was initiated by a comprehensive survey. The results of this survey, presented during the 2024 Contact Committee meeting (Pafos, Cyprus, October 2024), allowed to map the S_A_I's main concerns and challenges in accessing and dealing with data during their activities.

Also, the Portuguese Court of Auditors and the SAIs of Austria and of Cyprus presented a proposal for a GDPR follow-up initiative, considering the experience and challenges faced by SAIs since 2018, the survey results and the ECJ decision.

Even when the access to data is justified by the purpose of the public interest that obviously the SAIs mission fulfils, it is of the most importance to have clear procedural guidelines concerning the data collection by SAIs, in order to ensure the adoption of measures that mitigate the risk of data misuse or of data breach.

Also, the SAIs should be aware of the need to define the data storage conditions and the data storage period, particularly concerning the information collected that was not considered pertinent for the audit. As well as guidance on the publicity of the SAI's reports and other decisions that contain personal data.

2. However, the challenges that SAIs face are not only related to the application of the GDPR or other provisions concerning restrictions to data access.

The development and spread of digital data driven technologies and of Artificial Intelligence (AI) models raise new challenges. To give some examples:

On one hand, the use of this technology by the audited bodies, in particular certain AI models which are characterised by its opacity, may represent a serious obstacle to the access to the pertinent information for the audit.

On the other hand, in the absence of legal provisions that legitimate directly SAIs to access and use data detained by other public bodies in order to develop and use technological tools (AI tools), specially when there are legal restrictions to that access and reuse, it might not be obvious if the public interest intended with the audit activity is sufficient to justify that access.

Although the new EU Data Strategy of promoting data sharing has originated new regulation that extend the legitimacy of the secondary use of data, the lack of a specific legal provision that legitimate a public audit institution to demand data access and use for that specific purpose has been pointed out by some voices in the literature. On this point, privacy-enhancing technology might be of significant help to overcome the objections.

To sum up, challenges appear at different levels of SAI's mission and activities, being different according to their nature and competences, and include personal data protection issues as well as other legal or institutional obstacles imposing restrictions to the access and use of information.

This webinar will be the first of three seminars that are expected to take place along this year. We intend to have a strategic discussion and, hopefully, reach some consensus of how SAIs should deal with the challenges that data regulations and technological development raise.

And to have that discussion, we count on the contribution of the members of the SAIs and the relevant perspective of the external stakeholders that kindly join us today.

It is now time to listen to them.

Thank you!

Filipa Calvão

President of *Tribunal de Contas*