

MANAGING ACROSS LEVELS OF GOVERNMENT

PORTUGAL

1. Institutions and authority

1.1 Structures

Description of levels

Portugal is a republic and a unitary State which retains some traditional features of a centralised country. There are presently two levels of local government: municipalities and parishes (*freguesias*). Insular Portugal (the Madeira and Azores archipelagos) consists of two autonomous regions which have their own political and administrative systems and governing bodies.

The total area of Portugal is 92 400 square kilometres and the total population in 1994 was 9 900 000. There are currently 305 municipalities in the country compared with 303 in 1950. Table 1 summarises the distribution of population between them. There are also 4 220 parishes (3 853 in 1950) but their role in local government is very minor and most have a population in the range of 1 500 to 7 500.

Table 1. Area and population of sub-national governments (1991)

	Municipalities		Parishes	
	area (km ²)	population	area (km ²)	popul ation
Largest	1 721 (Odemira)	659 649 (Lisbon)	373 (Penamacor)	79 999
Smallest	7 (S. Joao da Madeira)	393 (Corvo)	0.054 (de Castelo)	47
Municipalities according to size of population				
	Population range	Number of municipalities		
	less than 1 000	1		
	1 000 - 4 999	25		
	5 000 - 9 999	76		
	10 000 - 49 999	157		
	50 000 - 100 000	23		
	over 100 000	23		

Source: *Structure and Operation of Local and Regional Democracy: Portugal*, Council of Europe, 1993.

In 1991, a decision of the Assembly of the Republic created two metropolitan areas, in Lisbon and Porto. This reflects the particular problems of managing large and expanding urban areas. The Lisbon metropolitan area has 2.7 million inhabitants covering 18 municipalities and 203 parishes while that of Porto has a total population of some 1.2 million in 9 municipalities and 130 parishes.

The Constitution provides for the establishment on the continent of administrative regions which would have a Regional Assembly and a Regional Committee. Their functions would be to help to draft and implement regional plans; provide support for the management of municipalities; and run regional public services. A framework law to this effect has been enacted but has yet to be implemented, although the new (October 1995) government is clearly putting regionalisation back onto the political agenda (refer also section 3.2).

Central government at sub-national levels

Continental Portugal has 18 administrative districts, each headed by a central government representative, the Civil Governor.

There are also five Regional Co-ordination Commissions (CCRs) at the regional level which are directly subordinate to the Minister of Infrastructure, Planning and Territorial Administration. They were created in December 1979 as a temporary response to the concept of regional government as provided for in the Constitution. Geographically they correspond to the five present regions (North, Centre, Lisbon, Alentejo and Algarve). They provide assistance to local authorities with their management needs (staff, computer technology and local finances); help them to prepare local and regional development plans; and manage funds coming from the European Union for regional development (FEDER) for municipal projects. They also monitor the implementation of regional development plans and co-ordinate, at the regional level, the activities of ministries in fields such as land use planning, regional development and the environment (refer also section 2.1).

Deconcentration has also started as some of the larger ministries have begun to create their own regional structures. At the beginning of the 1980's ministries started establishing their own administrative units in the regions and to delegate authority to them. A wider deconcentration took place in 1992 when, for example, the Ministries of Health, Social Security, Environment, Education and Industry established regional bodies in the five regions. In 1993, other ministries were significantly re-organised and the Directorate General for Local Administration examined the implications of this restructuring in a report entitled "Deconcentrated Services at the Regional Level".

In the two autonomous regions, the Minister of the Republic co-ordinates the activities of central government departments where these affect the region's interests. He also co-ordinates the activities of government offices with those of the region.

Creation, elimination and restructuring

The Constitution provides that the creation, dissolution or territorial modification of local governments is a matter reserved exclusively to the Assembly. No reorganisation of municipal boundaries was deemed necessary during the constitutional reforms of 1976 and the pre-1974 division was retained. The present municipal boundaries are, therefore, essentially the result of reforms introduced during the last century. The two main reasons taken into account for maintaining them were the established

historical and traditional attachment of citizens to the existing units and the fact that their average size was already large -- on average over 300 sq. km., making them amongst the largest in Europe.

The average size of the parishes, on the other hand, is less than 22 sq. km. About 200 new ones were created recently by sub-dividing others.

There is a growing interest in inter-municipal co-operation. Municipalities may form associations with other municipalities for the joint management of certain facilities and resources. This has proved to be a valuable and effective means of providing low-cost services, particularly in small and isolated communities (refer also section 2.1).

Control bodies

Administrative supervision of local governments by central government takes the form of checking the legality of all local government acts in accordance with the Constitution. This is done by the Inspectorate-General of Territorial Administration (IGAT) which is headed by a judge and has some independence but is directly attached to the Minister for Infrastructure, Planning and Territorial Development. The Directorate-General of Local Authorities in the same ministry is more concerned with matters of efficiency, but it can only suggest and not impose proposals for improvement, including the criteria used for the financial equalisation fund. It also co-ordinates some of the contract programmes between sectoral ministries and municipalities. The Inspectorate-General of Finance and the Court of Audit monitor the legality of the use made of municipal financial resources. The Court of Audit examines all requests for contracts exceeding a specified sum and performs an annual ex-poste control over all local authority accounts.

1.2 Powers

The basic feature of the local government system in Portugal is the separation of the executive and deliberative functions between two bodies, both with the same political legitimacy.

Nature of sub-national institutions

Municipalities have two governing bodies as follows:

- The Municipal Assembly, which is unicameral and approves all major municipal policies including voting the budget and land use plans. It consists of the presidents of the executive boards of all the parishes and an equal number, plus one, of directly elected representatives.
- The Municipal Chamber, which is the municipality's executive collegiate body and is elected directly by the municipality's electorate. It has between five and eleven members including a chairman (mayor) who is at the top of the list which obtained the most votes. Lisbon's, because of its size, has 17 members.

The deliberative body of the parish is the directly elected Parish Assembly. It has similar functions as the Municipal Assembly at the neighbourhood level. Its main purpose, however, is to elect the executive body, the Parish Committee (*junta*), which has from three to seven members including a president. The president is the main representative of the parish, a position taken by the leader of the list

which obtains the most votes in the Assembly election. The parishes generally act both as units of self-government and as delegated units of service delivery on behalf of the municipality.

Citizens vote simultaneously but separately for the Municipal Assembly, the Municipal Chamber, and the Parish Assembly -- all for a four-year mandate. Elections are by direct universal suffrage under a list system of proportional representation with seats allocated according to the Hondt highest average method.

The organic structure of the two new Metropolitan Areas is similar to that of the municipalities. It comprises a deliberative body -- the Metropolitan Assembly -- the members of which are elected by the Municipal Assemblies; and a Metropolitan Committee (*Junta*) which is the executive body and composed of the mayors of all the municipalities. Thus in Lisbon, the Metropolitan Assembly and *Junta* have 50 and 18 members respectively; and in Porto the equivalent figures are 27 and 9 members. There is in addition a consultative advisory body, the Metropolitan Council which should play a key role in co-ordinating services across the various administrative levels. The Metropolitan Council is made up of members of the *Junta* together with the President of the Regional Co-ordination Commission and the heads of the other main bodies providing public services in the area.

The Autonomous Regions of the Azores and Madeira have political and administrative autonomy with legislative powers and are not considered to be local authorities like municipalities, parishes and the administrative regions planned for the continent. The governing bodies of the two autonomous regions are the Regional Assembly and the Regional Government. The Regional Assembly is elected by proportional representation by direct universal suffrage. The Regional Government is politically answerable to the Regional Assembly -- its president is appointed by the minister for the region and its other members are appointed or dismissed by the minister for the region on the proposal of the president of the Regional Government.

Type and degree of autonomy

Local democracy is clearly provided for in the Constitution according to four important principles:- the autonomy of local units of administration; the existence of local government within the democratic organisation of the State; the financial and patrimonial autonomy of local authorities; and local government's regulatory capacity. A Statute-Law of 1984 stipulates that municipalities may define their own staff structures according to local requirements.

Local authorities have access to the capital market and may issue bearer-bonds. There are, however, strict limits on the extent to which municipalities may borrow money and incur debts, although a number of municipalities are currently experiencing deficit problems.

Despite the Constitution's provisions for local autonomy, there are limits to the financial resources directly available to local governments. Municipalities depend on grants from the centre to the extent that their authority to impose local taxes is limited, and because Parliament fixes limits on tax rates. In fact, only one of the six local taxes (the *derrama*, a supplement to the tax on corporate incomes) is determined and collected locally. Each municipality decides whether or not to apply it and at what rate (up to 10 per cent). Portugal may, nevertheless, be described as having a neutral policy towards financial transfers from central to local government in that the latter may act freely within a legally pre-determined framework which gives them a degree of autonomy over most of their receipts (refer also section 2.2).

1.3 *Responsibilities*

Distribution of competences

Local authorities are responsible for matters specifically concerning them and the interests of their inhabitants, for which they have general authority. These include the administration of their assets, local development and service infrastructure, public health, education, care of children and the elderly, cultural and sporting facilities, environmental protection and quality of life, and public safety. The role of the parishes is essentially one of neighbourhood administration. In practice their range of functions is very narrow; the financial resources at their disposal are generally insignificant; and (except in the main urban areas) their technical and administrative capacity is very limited.

Mandatory, optional and shared responsibilities

Since 1976, following constitutional and local reforms, there has been no differentiation between compulsory and optional responsibilities. Equally there are no differences between municipalities concerning how tasks are carried out. In accordance with present legislation the State may take part jointly in investments, within the framework of regional and local development, through contract-programmes carried out between the central administration and municipalities, their associations or concessionary companies. The specified areas in which these contracts may be drawn up include the following: basic sanitation, environment and natural resources, transport and communications infrastructure, culture and sport, education and vocational training, public safety, social housing, promotion of economic development, health, and social security.

2. **Management functions**

2.1 *Policy-making and co-ordination*

Coherence, consultation and conflict resolution

At the national level, the weekly meetings of the Secretaries of State plays an important horizontal co-ordinating role. It screens proposals for bills or decrees and drafts decisions before they are submitted to the Council of Ministers. It sorts out possible problems of overlap, duplication or misunderstanding -- including matters concerning sub-national government.

The Constitution gives a high priority to the notion of citizen participation and the implication of this political choice is greater in local authorities than in the central administration. Local authorities may consult their electorates on matters related to their mandate and the result of such a referendum becomes the final political decision.

Formal and informal mechanisms

In the mid 1970's the 275 mainland municipalities were grouped into about 50 blocks, each having a technical support offices (known locally as a GAT). These employ professional staff who have the status of civil servants. Their costs are shared by central and local governments and priorities are defined annually by the mayors of the municipalities in each block who also monitor progress. The Head of each GAT is appointed by the minister concerned after names have been put forward by the municipalities in the block. This has helped develop a sense of supra-municipal consciousness. Co-

ordination is ensured by the five Regional Co-ordination Commissions (CCRs), to whom the GATs report, but as the CCRs broadened their responsibilities and some GATs had slow response times to local needs, their relevance reduced.

The CCRs are an extension of central government with an essentially co-ordinating function. They ensure cohesion in administrative, financial and technical support provided to local authorities, their most important programmes being those which encourage inter-municipal co-operation (refer also section 1.1). The PROSIURB programme, directed at multi-sectoral development in medium-sized towns, notably in the social and agricultural fields, is one central government tool for both horizontal and vertical co-ordination.

Management of funds from the European Union has also provided a strong stimulus for co-ordination, especially at the regional level. In the context of the European Support Framework (CCA), the Regional Development Fund (FEDER) accounts for over 50 per cent of the structural funds from the European Union to Portugal and requires monitoring and co-ordination at the regional level through the CCRs.

The National Association of Municipalities is an active and well organised lobbying body which must be formally consulted in most government decisions about local authorities and which will certainly be involved in the upcoming debate on transfers of responsibilities. As, however, its leaders are mayors, the extent to which it can fulfil its consultative role is limited by the technical and professional capacities of those holding office. A National Association of Parishes has also recently been created.

Portugal, like other countries, has some shortcomings in both formal and informal co-ordination across its administration. There is considerable informality in inter-institutional relations -- particularly at the local level between neighbouring local authorities (but less so between administrations at different levels and of a different nature).

2.2 Financial management

Sources of revenue

The financial resources of municipalities come largely from the central budget in the form of grants. In 1993, these accounted for ten per cent of the central government budget, or four per cent of GNP. The main annual lump-sum grant from the State to municipalities is the Financial Equalisation Fund (FEF).

The total amount of the central government general grant to be transferred each year is linked to the anticipated trend in Value Added Tax. It is distributed to municipalities according to a formula defined by law which aims at a fair sharing of public resources and balancing social and economic differences. The calculation of shares is made in three main steps. The first step divides the total amount into three parts: the mainland and the two autonomous regions according to criteria of population, number of municipalities and area. The second divides the amount amongst the component municipalities, and the third distinguishes between capital and current expenditure by reserving 40 per cent of the available funds for investment projects.

Portuguese municipalities also receive grants from the European Union through the Structural Funds and, in particular, from the European Regional Development Fund (FEDER). Grants from the

European Union currently total about 10 per cent of total municipal revenues. In some cases municipalities have a problem of absorbing the funds and of contributing their own participation.

Table 2 shows the evolving distribution of municipal receipts. It demonstrates the four-fold increase in the total over the seven year period and the reduced importance of general grants in favour of European Union funds and taxes over the same time.

Local taxation, loans and user fees for certain local services are the other sources of local finance. Local taxes are mainly based on property values. In 1993, property tax revenues accounted for about 8 per cent of all local revenues.

The resources of the parishes does not usually exceed five per cent of total local government income and expenditure. Municipalities are required to distribute 10 per cent of the current transfers they receive from central government to the parishes, according to criteria of population and area.

Table 2. Main sources of local revenues (1986, 1990, 1993)

	(percentage)		
	1986	1990	1993
General grants (FEF)	55.6	36.9	34.1
Specific grants	5.6	5.7	4.3
European Union funds	1.1	5.4	10.2
Charges, Properties	11.9	12.1	13.9
Taxes	15.8	27.1	23.3
<i>of which:</i>			
property tax	8.6	7.7	7.8
vehicle tax	1.5	1.3	1.6
transfer duties		11.2	8.7
suppl. to corporate tax	3.3	4.8	4.1
other	0.6	0.6	0.1
VAT/tourism (shared)	1.8	1.6	0.9
Loans	3.5	5.3	6.8
Other	6.6	7.6	7.5
TOTAL	100.0	100.0	100.0
TOTAL (million contos) ⁽¹⁾	140.9	348.3	570.7

1. 1 *conto* = one thousand escudos.

Source: General Directorate for Local Authorities (DGAA).

Expenditure responsibilities

Municipalities have very limited involvement in the areas of education, health, social housing or public security. They are responsible for pre-primary and primary schools; school transport; providing local infrastructure; cultural, sports and recreational facilities; promoting tourism; urban public transport; town planning and environmental protection. Table 3 indicates the recent evolution of expenditure patterns in the municipalities.

Table 3. Main expenditure and investment patterns of municipalities (1986, 1990, 1993)

	(percentage)		
	1986	1990	1993
Personnel	31.7	30.1	26.8
Goods and services	14.2	14.9	15.3
Debt interest payment	4.2	2.6	2.8
Investment	38.0	37.7	40.6
<i>of which:</i>			
Land		0.9	1.1
Housing		4.0	3.7
Municipal buildings		8.4	8.5
Sport, culture, education		4.0	4.2
Social equipment		0.2	0.1
Transport/streets		6.4	7.8
Sewerage		2.5	2.7
Water supply		2.4	2.4
Rural roads		4.8	6.2
Waste disposal		0.1	0.4
Transport/equipment		3.6	2.9
Other		0.5	0.5
Capital repayments	1.7	2.3	2.0
Other	10.2	12.3	12.5
TOTAL	100.0	100.0	100.0
TOTAL (million contos)⁽¹⁾	138.0	349.2	583.4

1. 1 *conto* = one thousand escudos.

Source: General Directorate for Local Authorities (DGAA).

Balance between discretion and control

The present financial management system does not provide municipalities with any real financial decision-making power. Their only flexibility is a little discretion over the rate of the urban property tax and the corporate income tax -- but in both of these cases, Parliament determines the maximum permissible rates. Specific grants allocated through the contract-programmes system or from the European Union also imply a framework of regional or sectoral targets according to criteria set nationally. Recourse to these specific grants does, however, also depend on agreement between central and local authorities on aims and strategy.

Nevertheless, all limiting rules are explicitly spelt out in the 1987 Local Finances Act which defines the financial autonomy of local government. This limits interference from the current central government and reduces its margins for manoeuvre. It provides the financial framework for the municipalities in terms of sources of funding (both own revenues and central grants); budgetary principles; local fiscal policy; scope for municipal borrowing; and the financial relationship between

municipalities and parishes. More specifically it sets the relationship between current and capital expenditures; fixes a borrowing ceiling; and defines minimum transfers to parishes.

On the other hand, receipts from the Financial Equalisation Fund may be spent at the discretion of municipalities so that they determine their own spending priorities within the level determined centrally -- except that the annual State Budget Act specifies the percentage to be assigned to current and capital expenditure.

2.3 Performance management

Mechanisms

Guidelines on how to prepare "Quality Charters" have been prepared by the Secretariat for Administrative Modernisation (SMA) which also provides technical assistance and is involved in quality training programmes for municipalities. Several local authorities now have their own quality charters.

Quality standards

A pilot exercise was launched with nine municipalities under the Enterprise-Administration Commission (CEA) of the SMA led by the Debureaucratisation Project Team. Activities gave priority to rationalising the operation of units and personalising contact with the public. Guidelines for preparing quality standards have been developed by the SMA and quality pilot projects are being adopted by local authorities across the country. Since 1994 the State, through the Ministry which supervises local authorities, has made agreements on administrative modernisation between municipalities and their associations. These local entities may put forward proposals annually to obtain financial support within the framework of global modernisation programmes in order to raise the standards of services provided. A qualitatively different administration at the service of the community, and development and based on values of public service and the permanent search for better operational-levels, is envisaged. Supervision in Portugal is of an inspection nature and aims to check conformity with legal provisions. Administrative supervision is a strict counterpoint to the principle of autonomy for local authorities and the concept of administrative decentralisation. It does not use performance management although the inspection reports which are made include suggestions for overcoming shortcomings as well as a verification of the facts.

2.4 Human resource management

Statutory distinctions: Entry into the public service is through compulsory entrance exams and the Directorate-General of Public Administration (DGAP) of the Ministry of Finance plays an important role in recruitment and selection. Local authority employees are part of the same system, under the same regime, and subject to the same regulations as those for central government officials. Portuguese local authorities have autonomous powers as regards their staff. These powers reflect the principle of autonomy laid down in the Constitution and stipulated in the European Charter on Local Autonomy of which Portugal is a signatory. 1984 legislation states that municipalities must have their own staff complements which must be structured in accordance with the permanent needs of municipalities. Permanent tenure is ensured through legal appointment which confers the status of a public servant. Non permanent tenure is established by contract. Under the terms of the Constitution, the recruitment of local authority staff is always by public competition. The rules governing officials and personnel of the State apply equally to officials and personnel in local administration.

Table 4. Employment structure of administrative public sector in 1994

	1994	
	Number	%
Central administration	536 552	86.1
Local administration,	86 985	13.9
<i>of which:</i>		
Management	2 524	2.9
Senior technicians	2 942	3.4
Technicians	723	0.8
Professional technicians	6 192	7.1
Administration	9 727	11.2
Auxiliaries	34 166	39.3
Labourers	25 307	29.7
Firemen	2 126	2.4
Other	2 778	3.2
TOTAL	623 537	100.0

Source: "The Structure and Operation of the Local and Regional Democracy", Director General of the Local Administration, 1996

Managerial autonomy: Local governments have the authority to independently manage their staff. One weakness of local governments, in common with many other countries, however, is the low level of administrative and managerial training for local authority staff. Insufficiently qualified staff is a reflection of the fact that municipal responsibilities are becoming increasingly technical and of the trend towards contracting out of tasks to the private sector. In the central administration, less than three per cent of employees are manual workers and less than 20 per cent are auxiliaries; while comparable figures in local government are over 40 per cent and 35 per cent respectively. Another weakness is the limited political experience of many newly elected local representatives.

Mobility: While an official from the central administration can apply for a job in a local administration, the reverse is not possible since, in accordance with the Constitution, local administrations are not subject to regulations freezing public employment and local administrators do not go through a selection process comparable to that of the central level. Some ten years ago there was considerable movement from the central to local level as the municipalities (which do their own recruitment) had problems attracting staff. This situation has changed as medium-sized towns, where universities and hospitals have recently been built, are now perceived as attractive places to live and work.

3. Trends in redistributing authority across levels of government

3.1 *Evolving tendencies*

In the late 1970's some regulatory measures were taken in order to implement the autonomy granted to local authorities by the new Constitution.

The year 1976, with the new regime and new Constitution, was a major turning point in the democratisation and decentralisation of Portugal. It established the power of local authorities; granted

politico-administrative autonomy to the two island archipelagoes; and defined “administrative regions” on the mainland as an intermediate tier of government.

1986, when Portugal joined the European Union, was another benchmark in the country's regional evolution. This culminated in 1991 with the publication of the Administrative Regions Law which set out the principles to be taken into account in the process of regionalisation, and defined the competences and bodies of such regions without actually creating them or fixing their geographic boundaries. At the same time another law made possible the creation of metropolitan governments, and this led to the creation of metropolitan areas in Lisbon and Porto.

There has been some devolution of responsibilities from the Directorate-General of Territorial Planning and Urban Development to the Regional Co-ordination Commissions -- for example in approving requests for providing sports facilities. This has been achieved through the joint development of criteria for analysing such requests, which are now applied by the CCRs. The extent and nature of CCR involvement is, however, a factor of the sector concerned.

There is also a growing use of municipal co-operation through associations set up for specific sectors and services such as water supply and data processing.

3.2 *The current debate*

Regional government has been a matter of political discussion for many years. Some see it as a constitutional obligation and claim that it would bring decision-making and service provision closer to the public. Others consider the creation of a middle layer of government as an unwise use of resources in a country as small as Portugal.

Local finance is another issue permanently being debated -- especially in terms of the distribution of general grants from the centre to municipalities, and the associated notions of transferring new responsibilities to local governments and resolving their debt problems. There is also some discussion of allowing all municipalities to collect taxes locally, to replace the present system whereby they are collected by central government then paid back to the municipalities less a collection fee of 1.5 per cent. The feasibility of extending the powers and resources of the parishes for some functions as a way of bringing public matters closer to the citizens is also being discussed.

One view is that the concern now is more with ways of fine-tuning the system: improving relations between levels of government by enlarging the scope for local action and perfecting legal forms of control and tutelage so as to give coherence and unity to local actions. However, given that most of the basic infrastructure and road network is now in place, increasingly the main concern in medium sized towns is to provide jobs and reduce migration towards the larger urban areas.

The programme of the new (October 1995) government refers to the intention to apply the principle of subsidiarity through decentralisation, deconcentration and deregulation and in the context of reforming the public administration, to simplify the rules governing administrative procedures. It places the transfer of responsibilities to local government clearly on the political agenda for the coming period and will require new legislation. Areas being considered for transfer to local government include pre-school care, social housing, public security, tax collection and environmental matters.

The new programme sets, as a top priority for the government, new legislation to create administrative regions. Regionalisation is seen as part of a strategy for balanced development designed to

eliminate differences, promote equal opportunities, economic and social cohesion, national solidarity and competitiveness. The strategy is based on principles of subsidiarity (through decentralisation) and partnership (through contracting). Regionalisation is not expected to build upon existing local government responsibilities, but rather to define specific new tasks to be taken over from central government. A new commission is examining the problems and possibilities in this politically sensitive area. The debate includes how many regions there should be, where boundary lines should be drawn, and if the constitution should be changed to allow a referendum on the subject.

3.3 *Driving forces*

The desire to bring public services closer to the citizens is strong in Portugal and this is seen as a natural partner of the drive towards more efficiency and better accountability. There is also an acceptance of the relevance of local government to governance as a whole. This is shown, for example, by the interest of national politicians in running for local election.