



STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY

Portugal

PORTUGAL

Territorial set-up



STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY

Portugal

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1. LEGAL BASIS

1.1. Constitutional provisions

The Constitution of the Republic of Portugal lays down detailed rules governing local authorities and expressly establishes the principles of self-government and decentralisation.

Article 6 (1) of the Constitution provides that “the state shall be a unitary one organised according to the principles of local self-government and the democratic decentralisation of public administration”.

The whole of Section VIII of Part III is devoted to local government. Its provisions:

- define local authorities as territorial bodies corporate with representative organs whose purpose is to further the interests of the local population (Article 235);
- establish the categories of local authorities, namely parishes, municipalities and administrative regions (Article 236);
- recognise the existence of specific functions regulated by law in accordance with the principle of administrative decentralisation (Article 237);
- recognise the principle of autonomy of finances and assets: local authorities have their own assets and own financial resources (Article 238);
- specify the structure of local authority organs, providing for a deliberative assembly and a corporate executive body (Article 239);
- grant local authorities their own powers to issue regulations, within the limits of the Constitution and of the laws and regulations of higher local authorities or authorities with supervisory powers (Article 241);
- define administrative supervision of local authorities, confining it to supervision of legality (verification that local authority organs operate in accordance with the law), which may only be performed in the ways laid down by law (Article 242);
- establish that local authorities have their own staff, to whom the rules governing public servants and state employees are applicable (Article 243).

In addition, under the Constitution:

- members of the elected local-government organs are elected at regular intervals on the basis of universal suffrage by direct and secret ballot; votes cast are converted into seats according to the principle of proportional representation (Article 239);

- the Assembly of the Republic has sole legislative competence in the following matters: local elections, the conditions of office of the members of local-government organs, direct consultation of the electorate at local level, and the rules on setting up or abolishing local authorities and making changes to their boundaries (Article 164);
- except when legislative power is delegated to the government, the Assembly of the Republic has sole legislative competence in the following matters: the general rules governing the preparation and organisation of local authority budgets, the regulations on local authorities (including local finance) and citizens' participation in local government (Article 165);
- laws revising the Constitution must retain not only regular universal suffrage and secret ballot for the appointment of the elected members of local government bodies but also autonomy of local authorities (Article 288);
- foreign nationals and stateless persons staying temporarily or living in Portugal have the same rights and obligations as Portuguese nationals, with the exception of political rights, the right to hold a public office that is not extremely technical in nature and those rights and obligations that are constitutionally or statutorily the preserve of Portuguese nationals (Article 15).

Certain rights not enjoyed by foreigners may be conferred on nationals of Portuguese-speaking countries under international treaties whereby those countries grant Portuguese nationals the same treatment.

Subject to reciprocal arrangements, the law may give foreign nationals living on Portuguese territory the right to vote in elections to local government bodies.

1.2. Main legislative texts

- Acts 169/99 of 18 September and 5-A/2002 of 11 January (powers and operation of local authority organs);
- Act 159/99 of 14 September (local authority powers);
- Acts 42/98 of 6 August, 87-B/98 of 31 December, 3-B/2000 of 4 April, 15/2001 of 5 June and 94/2001 of 20 August and Institutional Act 2/2002 of 28 August (rules governing municipal and parish finances);
- Legislative Decree 363/88 of 14 October (financial aid);
- Legislative Decrees 384/87 of 24 December, 157/90 of 17 May and 319/2001 of 10 December (programmes contractually agreed with municipalities);
- Act 27/96 of 1 August (administrative supervision);
- Acts 29/87 of 30 June, 97/89 of 15 December, 1/91 of 10 January, 11/91 of 17 May, 11/96 of 18 April, 127/97 of 11 December, 50/99 of 24 June, 86/2001 of 10 August and 22/2004 of 17 June (conditions of office of local elected representatives);
- Acts 11/96 of 18 April, 169/99 of 18 September, 87/2001 of 10 August 2001 and 36/2004 of 13 August (discharge of duties by members of parish executives);
- Acts 64/93 of 26 August, 39-B/94 of 27 December, 28/95 of 18 August, 12/96 of 18 April, 42/96 of 31 August and 12/98 of 24 February (ineligibilities attaching to political office);

- Act 11/2003 of 13 May (rules governing the establishment, functions and powers of intermunicipal communities governed by public law and the operation of their component bodies);
- Legislative Decrees 116/84 of 6 April and 198/91 of 29 May and Acts 44/85 of 13 September and 96/99 of 17 July (organisation of municipal services);
- Act 19/2004 of 20 May (rules governing the setting up of municipal police services);
- Legislative Decree 39/2000 of 17 March (governing career structure for municipal administrative police);
- Acts 65/93 of 26 August and 8/95 of 29 March and 94/99 of 16 July (right of access to administrative documents);
- Institutional Acts 1/2001 of 14 August and 5-A/2001 of 26 November (electoral law applying to local-authority organs);
- Institutional Act 4/2000 of 24 August (rules governing local referendums);
- Act 19/2003 of 20 June (financing of political parties and election campaigns);
- Acts 11/82 of 2 June and 8/93 of 5 March (rules on establishing and abolishing local authorities and on the different categories of human settlement);
- Acts 8/93 of 5 March and 51-A/93 of 9 July (outline law on the establishment of parishes);
- Acts 142/85 of 18 November, 124/97 of 27 November, 32/98 of 18 July and 48/99 of 16 June (outline law on the establishment of municipalities);
- Act 10/2003 of 13 May (rules governing the establishment, functions and powers of metropolitan areas and operation of their component bodies);
- Act 56/91 of 13 August (outline law governing administrative regions);
- Act 58/98 of 18 August (outline law governing municipal, intermunicipal and regional enterprises);
- Legislative Decree 287/2003 of 12 November (approves the Municipal Tax Code provisions on immovable property and payment of property transfer tax, amends the Stamp Duty Code, the Tax Benefits Rules and the IRS (personal income tax) and IRC (corporate income tax) Codes and repeals the Property Duty Code, the Agricultural Industry Tax Code, the Municipal Tax Code, the municipal transfer tax and the taxes on inheritances and donations).
- Act 48/99 of 16 June (rules governing the establishment of municipalities);
- Act 93/2004 of 20 April (service regulations of staff managing municipal services).

2. STRUCTURE OF LOCAL/REGIONAL AUTHORITIES

2.1. Main subdivisions

The Constitution establishes three levels of local government in mainland Portugal: administrative regions, municipalities and parishes.

The administrative regions have not yet been set up, with the result that the eighteen districts set up in 1835 still exist. In practice, the districts are now simply units of decentralised public administration.

2.2. Statistical data

2.2.1. Number of municipalities

Year	1835	1836	1898	1950	1974	1996	2004
Mainland	827	351	261	273	274	275	278
Azores	22	22	19	19	19	19	19
Madeira	7	10	10	11	11	11	11
TOTAL	856	383	290	303	304	305	308

2.2.2. Number of parishes

Year	1836	1840/46	1898	1950	1974	1996	2004
Mainland	4 050	3 769	3 739	3 667	3 835	4 018	4 047
Azores		117	126	134	141	149	150
Madeira		45	52	52	53	54	54
TOTAL	4 050	3 931	3 917	3 853	4 029	4 221	4 251

2.2.3. Maximum, minimum and average area of municipalities and parishes

(Source: Portuguese Geographical Institute)

	Area (sq. km)
Municipalities	
Maximum (Odemira)	1 784
Minimum (S. João da Madeira)	8
Mainland average	319
Average (mainland, Azores and Madeira)	299
Parishes	
Maximum [Santa Maria do Castelo (Alcacer do Sal)]	461.8
Minimum [S. João do Souto (Braga) and S. Mamede (Evora)]	0.023
Mainland average	21.9
Average (mainland, Azores et Madeira)	21.6

2.2.4. Maximum, minimum and average population of municipalities and parishes

(Source: National Statistical Institute. Estimate made on 31 December 2003)

	Population (number of inhabitants)
Municipalities	
Maximum (Lisbon)	540 022
Minimum [Corvo (Azores)]	445
Mainland average	35 941
Average (mainland, Azores and Madeira)	34 009
Parishes	
Maximum [Algueirão-Mem Martins (Sintra)]	62 557
Minimum [Bigorne (Lamego)]	39
Mainland average	2 438
Average (mainland, Azores and Madeira)	2 436

The country's total population is 10 474 685, broken down as follows: 9 991 654 in mainland Portugal, 240 024 in the Azores and 243 007 in Madeira.

2.2.5. Breakdown of municipalities and parishes according to population size

Number and percentage of municipalities

Size	Number	Percentage
Less than 1 000 inhabitants	1	0.3
1 000 to 4 999	32	10.4
5 000 to 9 999	76	24.6
10 000 to 49 999	144	46.8
50 000 to 99 999	31	10.1
100 000 to 500 000	23	7.5
Over 500 000	1	0.3
TOTAL	308	100.0

Municipalities by number of inhabitants (%)

Size	Mainland	Azores	Madeira	Total
Less than 1 000 inhabitants	-	5.3	-	0.3
1 000 to 4 999	8.6	31.5	18.2	10.4
5 000 to 9 999	24.5	26.3	27.3	24.6
10 000 to 49 999	47.8	31.6	45.4	46.8
50 000 to 99 999	10.8	5.3	-	10.1
100 000 to 500 000	7.9	-	9.1	7.5
Over 500 000	0.4	-	-	0.3

Number and percentage of parishes

Size	Number	Percentage
Less than 200 inhabitants	335	7.9
200 to 999	1 831	43.1
1 000 to 4 999	1 638	38.5
Over 5 000	447	10.5
TOTAL	4 251	100.0

Parishes by number of inhabitants (%)

Number of inhabitants	Mainland	Azores	Madeira	Total
Less than 200	8.1	4.0	0.0	7.9
200 to 999	43.4	42.0	20.3	43.1
1 000 to 4 999	38.0	50.0	50.0	38.5
Over 5 000	10.5	4.0	29.7	10.5

2.2.6. Average size of municipalities and parishes

Average size of municipalities

	Area (sq. km)	Per Thousand inhabitants (2003)
Mainland	319	35 491
Azores	122	12 632
Madeira	75	22 091
TOTAL	299	34 009

Average size of parishes

	Area (sq. km)	Per Thousand inhabitants (2003)
Mainland	21.9	2 438
Azores	15.4	1 609
Madeira	15.3	4 537
TOTAL	21.6	2 436

2.3. Special structures

2.3.1. List

Metropolitan areas (17)	Municipalities	Area (sq. km)	Inhabitants
Lisbon grand metropolitan area	18	2 902	2 740 237
Oporto grand metropolitan area	9	814	1 267 400
Algarve grand metropolitan area	16	4 996	405 380
Aveiro grand metropolitan area	12	1 785	434 605
Coimbra grand metropolitan area	16	3 372	429 408
Minho grand metropolitan area	12	2 430	790 582
Viseu grand metropolitan area	21	4 788	355 982
Beiras urban community	12	5 293	180 764
Douro urban community	14	3 104	183 847
Leiria urban community	8	2 495	329 285
Lezíria do Tejo urban community	11	4 277	245 423
Médio Tejo urban community	10	2 290	188 873
Tâmega urban community	5	1 031	164 546
Trás-os-Montes urban community	16	8 707	233 279
Oeste urban community	11	2 138	334 296
Vale-e-Mar urban community	6	1 501	223 194
Vale do Sousa urban community	6	767	332 163
Autonomous regions (2)	Municipalities	Area (sq. km)	Inhabitants
Azores autonomous region	19	2 322	240 024
Madeira autonomous region	11	828	243 007
Intermunicipal community under public law (1)	Municipalities	Area (sq. km)	Inhabitants
Vale do Minho intermunicipal community	5	813	62 091

According to a study carried out in 2001, there are also 71 associations of municipalities and 2 associations of parishes.

2.3.2. Description

– ***Metropolitan areas***

Since 1976, the Portuguese Constitution has allowed other forms of local-government organisation in large conurbations in view of their special circumstances.

It was not until 1991 that various difficulties involved in framing the rules on such units and agreeing the procedure for setting them up were finally overcome.

The conurbations of Lisbon and Oporto are two areas of the country recognised as having their own administrative status, since they have features that are genuinely metropolitan from a geographical standpoint.

The metropolitan areas of Lisbon and Oporto, which are regulated by Act 44/91 of 2 August, have already been brought into line with the new rules governing establishment, functions and powers of metropolitan areas as set out in Act 10/2003 of 13 May 2003.

The legal provisions currently governing the establishment of metropolitan areas, to which Act 10/2003 revoking Act 44/91 of 2 August applies, distinguish between two types of entity, both based on the principle that the municipalities that make them up are geographically connected:

- grand metropolitan areas;
- urban communities.

At October 2004, 15 metropolitan areas had been set up in addition to the already existing metropolitan areas of Lisbon and Oporto, together with an intermunicipal community governed by public law.

Legally, they are public-law territorial bodies corporate whose purpose is to promote the interests of residents of the municipalities within their boundaries.

Their legal status is that of a “special association of municipalities”. The procedure for setting up a metropolitan area requires a majority vote in favour by the municipal assemblies concerned.

LISBON GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
ALCOCHETE	95	14 347
ALMADA	70	164 844
AMADORA	24	176 670
BARREIRO	32	79 047
CASCAIS	97	178 985
LISBOA	85	540 022
LOURES	169	199 713
MAFRA	292	59 798
MOITA	55	69 603
MONTIJO	348	40 199
ODIVELAS	26	141 182
OEIRAS	46	167 096
PALMELA	463	57 014
SEIXAL	96	161 327
SESIMBRA	195	42 076
SETÚBAL	172	118 696
SINTRA	319	398 992
VILA FRANCA DE XIRA	318	130 626
TOTAL	2 902	2 740 237

OPORTO GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
ESPINHO	21	32 177
GONDOMAR	132	167 698
MAIA	83	127 369
MATOSINHOS	62	167 840
PORTO	41	244 998
PÓVOA DE VARZIM	82	64 914
VALONGO	75	89 635
VILA DO CONDE	149	75 473
VILA NOVA DE GAIA	169	297 296
TOTAL	814	1 267 400

ALGARVE GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
ALBUFEIRA	141	34 221
ALCOUTIM	575	3 482
ALJEZUR	324	5 282
CASTRO MARIM	301	6 496
FARO	202	58 060
LAGOA	88	22 005
LAGOS	213	26 495
LOULÉ	764	61 246
MONCHIQUE	395	6 560
OLHÃO	131	41 580
PORTIMÃO	182	46 350
SÃO BRÁS DE ALPORTEL	153	10 846
SILVES	680	34 402
TAVIRA	607	24 971
VILA DO BISPO	179	5 339
VILA REAL DE SANTO ANTÓNIO	61	18 045
TOTAL	4 996	405 380

AVEIRO GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
ÁGUEDA	335	49 456
ALBERGARIA-A-VELHA	155	25 230
AVEIRO	200	73 521
ESTARREJA	108	28 236
ÍLHAVO	73	38 581
MURTOSA	73	9 591
OLIVEIRA DE AZEMÉIS	164	71 069
OLIVEIRA DO BAIRRO	87	22 012
OVAR	147	56 296
SEVER DO VOUGA	130	12 977
VAGOS	165	22 904
VALE DE CAMBRA	147	24 732
TOTAL	1 785	434 605

COIMBRA GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
CANTANHEDE	391	38 349
COIMBRA	319	143 829
CONDEIXA-A-NOVA	139	16 115
FIGUEIRA DA FOZ	379	62 962
GÓIS	263	4 663
LOUSÃ	138	16 746
MEALHADA	111	21 282
MIRA	124	13 025
MIRANDA DO CORVO	126	13 322
MONTEMOR-O-VELHO	229	25 126
MORTÁGUA	251	10 368
PENACOVA	217	16 785
PENELA	135	6 454
SOURE	265	20 684
TÁBUA	200	12 470
VILA NOVA DE POIARES	84	7 228
TOTAL	3 372	429 408

MINHO GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
AMARES	82	19 045
BARCELOS	379	123 222
BRAGA	183	168 927
CABECEIRAS DE BASTO	242	17 784
FAFE	219	53 261
GUIMARÃES	241	161 129
PÓVOA DE LANHOSO	133	23 425
TERRAS DE BOURO	278	8 049
VIEIRA DO MINHO	218	14 506
VILA NOVA DE FAMALICÃO	202	130 374
VILA VERDE	229	47 676
VIZELA	25	23 184
TOTAL	2 430	790 582

UISEU GRAND METROPOLITAN AREA

Municipalities	Area (sq. km)	Population (inhabitants)
AGUIAR DA BEIRA	207	6 268
CARREGAL DO SAL	117	10 490
CASTRO DAIRE	379	16 836
FORNOS DE ALGODRES	131	5 453
GOUVEIA	301	15 827
MANGUALDE	219	21 029
MOIMENTA DA BEIRA	220	11 031
NELAS	126	14 387
OLIVEIRA DE FRADES	145	10 552
PENALVA DO CASTELO	134	8 799
PENEDONO	134	3 401
SANTA COMBA DÃO	112	12 424
SÃO PEDRO DO SUL	349	19 125
SÁTÃO	202	13 342
SEIA	436	27 640
SERNANCELHE	229	6 167
TAROUCA	100	8 271
TONDELA	371	31 002
VILA NOVA DE PAIVA	175	6 286
UISEU	507	95 842
VOUZELA	194	11 810
TOTAL	4 788	355 982

BEIRAS URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ALMEIDA	518	7 926
BELMONTE	119	7 613
CELORICO DA BEIRA	247	8 788
COVILHÃ	556	53 663
FIGUEIRA DE CASTELO RODRIGO	509	6 938
GUARDA	712	43 981
MANTEIGAS	122	3 940
MEDA	286	6 060
PENAMACOR	556	6 247
PINHEL	485	10 545
SABUGAL	823	14 381
TRANCOSO	362	10 682
TOTAL	5 293	180 764

DOURO URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ALIJÓ	298	14 005
ARMAMAR	117	7 356
CARRAZEDA DE ANSIÃES	279	7 318
LAMEGO	164	27 276
MESÃO FRIO	27	4 721
MURÇA	189	6 548
PESO DA RÉGUA	95	18 194
SABROSA	157	6 879
SANTA MARTA DE PENAGUIÃO	69	8 440
SÃO JOÃO DA PESQUEIRA	266	8 418
TABUAÇO	134	6 584
TORRE DE MONCORVO	532	9 509
VILA NOVA DE FOZ CÔA	398	8 302
VILA REAL	379	50 297
TOTAL	3 104	183 847

LEIRIA URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ALVAIÁZERE	160	8 182
ANSIÃO	176	13 654
BATALHA	103	15 391
LEIRIA	568	123 145
MARINHA GRANDE	185	37 754
OURÉM	417	48 598
POMBAL	626	57 985
PORTO DE MÓS	260	24 576
TOTAL	2 495	329 285

LEZÍRIA DO TEJO URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ALMEIRIM	222	22 434
ALPIARÇA	95	8 157
AZAMBUJA	263	21 332
BENAVENTE	521	25 166
CARTAXO	158	24 209
CHAMUSCA	746	11 373
CORUCHE	1 117	20 827
GOLEGÃ	77	5 660
RIO MAIOR	273	21 524
SALVATERRA DE MAGOS	245	20 721
SANTARÉM	560	64 020
TOTAL	4 277	245 423

MÉDIO TEJO URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ABRANTES	715	41 560
ALCANENA	127	14 709
CONSTÂNCIA	80	3 792
ENTRONCAMENTO	14	19 582
FERREIRA DO ZÊZERE	190	9 368
MAÇÃO	400	7 893
SARDOAL	92	4 023
TOMAR	351	43 054
TORRES NOVAS	271	37 105
VILA NOVA DA BARQUINHA	50	7 787
TOTAL	2 290	188 873

TÂMEGA URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
AMARANTE	301	60 652
BAIÃO	174	21 724
CELORICO DE BASTO	181	20 201
MARCO DE CANAVESES	202	53 489
MONDIM DE BASTO	172	8 480
TOTAL	1 031	164 546

TRÁS-OS-MONTES URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ALFÂNDEGA DA FÉ	322	5 746
BOTICAS	322	6 181
BRAGANÇA	1 174	34 696
CHAVES	591	43 995
FREIXO DE ESPADA À CINTA	245	4 049
MACEDO DE CAVALEIROS	699	17 254
MIRANDA DO DOURO	488	7 797
MIRANDELA	659	25 767
MOGADOURO	756	10 891
MONTALEGRE	806	12 287
RIBEIRA DE PENA	217	7 279
VALPAÇOS	549	19 203
VILA FLÔR	266	7 764
VILA POUCA DE AGUIAR	437	15 058
VIMIOSO	482	5 134
VINHAI	695	10 178
TOTAL	8 707	233 279

OESTE URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ALCOBAÇA	408	54 980
ALENQUER	304	41 940
ARRUDA DOS VINHOS	78	10 911
BOMBARRAL	91	13 630
CADAVAL	175	14 254
CALDAS DA RAINHA	256	50 847
LOURINHÃ	147	24 282
ÓBIDOS	142	11 112
PENICHE	78	27 946
SOBRAL DE MONTE AGRAÇO	52	9 555
TORRES VEDRAS	407	74 839
TOTAL	2 138	334 296

VALE-E-MAR URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
ARCOS DE VALDEVEZ	448	24 600
CAMINHA	137	16 939
ESPOSENDE	95	34 271
PONTE DA BARCA	182	12 968
PONTE DE LIMA	320	44 454
VIANA DO CASTELO	319	89 962
TOTAL	1 501	223 194

VALE DO SOUSA URBAN COMMUNITY

Municipalities	Area (sq. km)	Population (inhabitants)
CASTELO DE PAIVA	115	17 128
FELGUEIRAS	116	58 278
LOUSADA	96	45 829
PAÇOS DE FERREIRA	71	54 300
PAREDES	157	84 780
PENAFIEL	212	71 848
TOTAL	767	332 163

– ***Autonomous regions***

Given the geographical, economic, social and cultural features specific to the archipelagos of the Azores and Madeira and the islanders' historical aspiration to autonomy, the two territories have their own specific form of self-government under the Portuguese Constitution.

Their powers of self-government are more extensive than those of mainland administrative regions.

The Azores and Madeira have the status of autonomous regions with political and administrative powers that enable them to pass regional legislation on matters within their political and administrative ambit that have not been assigned to the organs of supreme authority.

Within this framework, they possess legislative powers (through the legislative assemblies) and executive powers (exercised by the regional governments) but do not have their own court system.

In addition, they are empowered to issue regulations and initiate legislation and may take part in various national bodies and institutions.

As far as their own powers are concerned, the Azores and Madeira can, in local government:

- establish and abolish local authorities and change their boundaries;
- exercise supervisory authority over local government bodies;
- determine the category to which a place belongs;
- adapt local government units to regional features;
- adapt any general national legislation in matters not reserved to the national institutions.

National authority is represented in each autonomous region by a representative of the Republic appointed and dismissed by the President of Portugal on the government's advice.

– ***Associations of municipalities and associations of parishes***

The municipalities and parishes may set up associations to look after their common interests.

The associations of municipalities and associations of parishes may concern themselves with areas assigned by law to the municipalities and parishes. They may pursue matters relevant to municipal or parish functions but may not take on functions which the municipalities and parishes themselves are required to perform.

The associations of municipalities and associations of parishes, as public-law bodies corporate, are subject to the rules on administrative supervision of local authorities.

The legal rules on establishment of intermunicipal communities governed by public law (Act 11/2003 of 13 May, which repealed Act 172/99 of 21 September), distinguish between two types of entity:

- intermunicipal communities with general objectives, consisting of geographically connected municipalities;
- associations of municipalities with specific objectives.

The Vale do Minho intermunicipal community was established in 2004 under this legislation.

The statutes of associations of municipalities set up under the previous legal rules (71 associations in 2001) must be adapted to conform to the provisions of Act 11/2003 of 13 May.

The associations of parishes are regulated by Act 175/99 of 21 September. Two associations of parishes were set up in 2001.

2.4 Regulations governing changes in structures

In Portugal, the establishment and abolition of municipalities and modifications to their territory are subject to the law and prior consultation of the relevant bodies.

Under the constitutional provisions currently in force, the power to lay down rules on the establishment, abolition or territorial modification of local authorities lies solely with Parliament, which under Acts 11/82 of 2 June and 8/93 of 5 March also has to legislate on decisions setting up or abolishing local authorities or modifying their boundaries.

When examining relevant legislative initiatives, Parliament must take account of reports or assessments by local-government organs.

– *Municipalities*

Establishment of new municipalities is regulated by Acts 142/85 of 18 November, 124/97 of 27 November, 32/98 of 18 July and 48/99 of 16 June.

The requirements are:

- a. a minimum number of resident voters (between 10 000 and 30 000);
- b. a minimum area (between 24 and 500 sq km);
- c. the existence of an urban centre with a minimum number of resident voters (between 5 000 and 10 000);
- d. the existence of a certain number of public amenities for the local population.

Other considerations include the wishes of the local population; historical and cultural factors; national, regional and local administrative interests; and the financial capacity of the new municipality and the existing municipalities that would be split up to create it.

– **Parishes**

New rules on establishment of parishes have been in force since 1993 (Acts 8/93 of 5 March and 51-A/93 of 9 July).

Establishment of new parishes depends on several criteria, which vary according to population density in the municipality. These criteria are:

- the number of voters in the new parish;
- the rate of population growth;
- the range of shops, services and cultural facilities;
- the number of voters in the administrative centre;
- transport between the centre and the main neighbourhoods;
- the distance between the administrative centres of the new and the old parishes;
- and, finally, a minimum points score awarded on the basis of a table of weighted factors.

In municipalities belonging to the first category (population density less than one hundred voters per sq. km) a new parish must have at least 800 resident voters. For the last category (municipalities with a population density of 500 or more voters per sq. km) the minimum electorate is 2 000.

In the case of administrative centres of municipalities and urban centres with over 7 500 resident voters, the minimum electorate required to create a parish is 7 000 in Lisbon and Oporto and 3 500 elsewhere, and the population must have grown by more than 5% between the last two electoral censuses (carried out every five years).

A new parish can be established only if the original local authorities will continue to be viable and will not cease to meet the minimum requirements laid down by law. In addition, the creation of new parishes must not affect municipal boundaries unless, in exceptional cases, there is good reason for it.

The autonomous regions of the Azores and Madeira have special powers enabling them to create local authorities and to adapt the national rules to their island context.

2.5. General units of state administration at local/regional level and their relationship to local/regional authorities

Most ministries have decentralised units at the local or regional level for performing their functions.

The present situation is complex. On the whole, a logical or harmonised approach is distinctly lacking, both in terms of organisational structure and the geographical divisions adopted.

The individual ministries decide, either informally or on the basis of agreements, what links and forms of co-operation there will be with the local authorities.

Basic responsibility for developing links between local authorities and the Ministry of Towns, Housing and Regional Development (MCALHDR) lies with the General Directorate for Local Authorities (DGAL) at central government level, with the Regional Co-ordination and Development Committees (CCDRs) in each of the five mainland areas at the NUTS II level and, at sub-regional level, with Technical Support Offices (GATs, of which there have been forty-three since the 1994 reform) co-ordinated by the CCDRs, to which they report.

The DGAL is the central department responsible for studying, implementing and co-ordinating measures in support of local government. At the same time, it promotes co-operation between the local authorities and central government. The DGAL is thus the key to dialogue and co-ordination between the two levels of government.

The CCDRs are government bodies in charge of co-ordinating technical, financial and administrative support to local authorities. They are also responsible for implementing schemes to develop the particular region.

The role of a CCDR is also to set up official forms of co-operation and dialogue between government ministries' sectoral action and local authorities.

The GATs are technical bodies providing support to local authorities in areas known as "groupings of municipalities". They are accountable to the ministry responsible for local authorities (the MCALHDR). The GATs are responsible for drafting reports and proposals, identifying inadequacies in terms of infrastructure and facilities, and producing studies and plans.

3. ORGANS OF EACH CATEGORY OF LOCAL OR REGIONAL AUTHORITY

ORGANISATIONAL CHART OF EACH TIER OF AUTHORITY (Mainland)

	PARISHES	MUNICIPALITIES	ADMINISTRATIVE REGION
Executive bodies	Parish Committee (Junta de freguesia)	Municipal Chamber (Câmara municipal)	Regional Committee (Junta regional)
Deliberative bodies	Parish Assembly (Assembleia de freguesia) ou Citizens' Plenum (Plenário dos cidadãos)	Municipal Assembly (Assembleia municipal)	Regional Assembly (Assembleia regional)

3.1. Deliberative body

a. Region

Although it is provided for by the Constitution, this administrative level has not yet been established. On 8 November 1998, the people were asked by referendum for their opinion on the establishment of five mainland regions but the majority were not in favour.

Regional assembly

The regional assembly will consist of fifteen to twenty representatives of municipal assemblies and members directly elected by the regional electorate. It will have thirty-one members if the region has less than 1.5 million voters and forty-one if it has 1.5 million voters or more.

The municipal representatives will be elected by an electoral college consisting of directly elected members of the municipal assemblies. The other members of the regional assembly will be directly elected by the population. Proportional representation and the d'Hondt method of the highest average score will be used in both cases.

b. Municipality

Municipal assembly

The municipal assembly is made up of the parish executive organs, together with a number of members equal to the number of parishes plus one and elected by the voters living in the municipality.

In the case of the elected members, proportional representation and the d'Hondt method are used.

c. Parish

Parish assembly

Members are directly elected by citizens on the electoral register.

Proportional representation and the d'Hondt method are used.

In parishes with 150 voters or less, a plenary meeting of voters resident in the parish takes the place of the parish assembly.

3.2. Executive body

a. Region

Regional committee ("junta regional")

The "junta regional" consists of a chair plus six other members in regions with over 1.5 million voters and four other members in all other regions.

Representatives are elected from among the members of the regional assembly using the system of majority voting by secret ballot and multi-candidate lists.

b. Municipality

Municipal chamber ("Câmara municipal")

The number of members varies from a maximum of seventeen to a minimum of five, depending on the size of the municipal electorate. The chamber is chaired by the candidate who headed the list that obtained the most votes.

The municipal chamber is made up of members elected by direct suffrage under the system of proportional representation and the d'Hondt method.

c. Parish

Parish committee ("junta de freguesia")

The "junta de freguesia" consists of a chair and other members, who vary in number according to the size of the parish electorate.

In parishes with more than 150 voters, the members of the *"junta"* are elected by the parish assembly from among its members. The chair is the member who headed the list that obtained the most votes in the election of the parish deliberative body.

In parishes with 150 voters or less, members of the parish committee are elected by a plenum of all resident voters.

3.3. Political head - Head of the administration

This type of function does not exist in Portuguese local authorities.

In the main Portuguese local authorities (the municipalities), the (directly elected) executive organ consists of the chair (mayor) and other members of the chamber (permanent members, part-time members or members simply attending the meetings when they have no specific posts or responsibilities assigned to them), whose numbers vary according to the size of the municipality.

The mayor has the power to decide on the number of members of the chamber who will carry out their functions full-time, the number varying between one and four municipal councillors. However, he or she may opt for full-time and part-time municipal councillors on the basis of two part-time to one full-time. It is therefore the chair of the chamber who has to choose the members in the two cases and determine their posts and responsibilities.

The municipal chamber has powers regarding the organisation and operation of municipal services and can delegate some of its functions to its chair, who, in turn, can sub-delegate them to members of the chamber.

However, it is the chair of the chamber who has overall responsibility for municipal staff.

The municipalities have autonomy in organising themselves as regards their internal structure and their staffing arrangements, including managerial staff and other employees. However, there is a statutory framework regarding these questions (see 3.6.).

3.4. Division of powers and responsibilities between the different organs

Under the Portuguese Constitution, local authorities have a deliberative assembly and a collegial executive body, with the latter accountable to the former.

a. Region

The regional assembly is responsible for monitoring and supervising the activities of the executive body (*"junta regional"*) and for examining, at each of its ordinary meetings, written information on the activities of the regional committee (*"junta"*). It is also responsible for approving action plans, budgets, progress reports and the accounts, and for authorising the *"junta"* to take certain measures, such as awarding exclusive contracts or entering into agreements. It may hold votes of no confidence in the executive.

The regional committee ("*junta*") has certain powers in connection with regional planning and development, the way services are run and the day-to-day management of the authority.

b. Municipality

The main functions of the municipal assembly are:

- monitoring and supervising the activities of the municipal chamber;
- keeping itself informed and issuing opinions on subjects of concern to the local community;
- holding votes of no confidence in the executive body (this does not have the effect of dismissal);
- adopting the legal rules and regulations in the municipality in an efficient manner;
- approving the options taken in the annual plan, including the budget estimates and the draft multi-annual investment plan;
- examining and approving the accounts;
- approving plans and municipal planning rules;
- approving the municipal staffing plan;
- authorising the municipality to join associations of municipalities and set up or hold stakes in public companies;
- fixing municipal taxes and approving loans;
- authorising delegation of municipal powers to the parish "*juntas*".

The municipal chamber is the permanent executive organ and has fairly broad powers with regard to the organisation and operation of services, town planning, public works and relations with other local authority bodies.

Inter alia, the municipal chamber must:

- carry out decisions taken by the municipal assembly;
- manage the staff and public assets;
- draw up the provisions of the plan, the budget and the accounts;
- execute public works;
- grant licences;
- support the parishes in its territory.

c. Parish

In addition to exercising its normal powers, the parish assembly can deal with such matters as:

- the fixing of taxes and the organisation of services;
- approve rules and regulations;
- agree to carry out functions delegated by the municipality;
- deliberate on matters of concern to the parish.

The executive body ("*junta de freguesia*") is empowered, in particular to:

- certify the residence and economic situation of parish residents;

- manage cemeteries;
- carry out public works and local improvements;
- organise the electoral census;
- implement measures on behalf of the municipality;
- co-operate with other public bodies, particularly on statistics, development, education, health, culture, welfare and civil defence.

3.5. Legal provisions concerning the internal structures of local/regional authorities

In accordance with their powers of self-government, the local authorities decide on their internal organisation. The executive body submits a proposal on its own organisational structure to the deliberative body for the latter's approval (Acts 169/99 of 18 September and 5A/2002 of 11 January).

Services must be organised in such a way as to enable the local authority to perform its functions; and the structure of services and the way they operate must be adapted to the authority's permanent objectives.

The organisation of municipal services is governed by Legislative Decree 116/84 of 6 April, amended by Act 44/85 of 13 September and Legislative Decree 198/91 of 29 May.

4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING

4.1. Local/regional referendums

Since 1990, local authorities in Portugal have been able to consult the electorate on important local issues by means of local referendums on matters in respect of which they have exclusive powers. However, there are subjects on which it is not possible to consult the public, for example financial matters or any other questions that, by law, must always be decided by local-government organs or are governed by past decisions that cannot be changed.

The decision to hold a referendum is taken by the deliberative assemblies and applies to the whole of the local-authority area. Citizens on the electoral register are entitled to vote and the outcome is legally binding on the local-authority organs if the numbers voting exceed half the number of votes on the register. Questions must be worded in such a way that voters' replies are unambiguous.

Before a local referendum can take place, a request must be submitted to the Constitutional Court, which examines the proposal to ensure that it complies with the Portuguese Constitution and current legislation.

Local referendums are organised in accordance with Institutional Act 4/2000 of 28 August and the law governing elections to the Assembly of the Republic.

4.2. Other forms of direct participation

Citizen participation in matters relevant to the local area and to management of local affairs is guaranteed by the Portuguese legal system and is also specifically provided for in the Constitution. The political organisation of the country is based on the principle of democracy, so that citizens are not only able to elect the organs of local government but also have many opportunities for free, direct and active participation in local life.

There are many ways for citizens to participate in local affairs and exercise their rights, the most important being those set out below.

a. Public meetings

Meetings of the deliberative bodies of local authorities are open to active participation by members of the general public. The executive bodies must also organise monthly public meetings and arrange to have sufficient time to answer questions on local matters.

b. Extraordinary meetings

It is possible for a number of voters in a given local authority to instigate extraordinary sessions of the deliberative bodies.

c. Minutes of meetings

Minutes are produced after all meetings of local-government organs. They must provide a summary of the main items discussed and, in particular, any decisions taken. These decisions must be carried out once the minutes have been approved.

Under the Constitution, citizens are guaranteed access to minutes of meetings as well as other administrative records and registers, except in some matters protected by law.

d. Publication of decisions

Before local government decisions can be enforced, they must be published in a local authority bulletin and displayed on notice boards in various public places.

e. Associations of local residents

Under the Constitution, the people of a community smaller than a parish can form "local people's organisations". They enjoy certain rights within the local authority, especially the parish, including being allowed to organise petitions, take part in meetings without the right to vote, or exercise delegated responsibilities.

f. Groups of citizens as candidates in elections

Groups of citizens on the electoral register may stand in parish assembly elections alongside the lists of candidates put forward by the political parties.

g. Plenary assembly of voters

In the smallest parishes (with 150 voters or less), there is no elected deliberative body (parish assembly). There is accordingly a system of direct democracy via a plenary assembly of the electorate.

h. Right to organise petitions

Citizens, either individually or in groups, are entitled under the Constitution to organise petitions and lodge complaints in writing.

Residents or stateless persons living in Portugal are allowed to defend their specific rights, and their interests are protected by law.

i. Access to the Ombudsman

This body can intervene to defend the citizen's rights, freedoms and guarantees as well as to ensure justice and compliance by public authorities with the law.

In this context, citizens may themselves approach the Ombudsman about rights they consider to have been infringed or about breaches of the law, particularly in matters of public interest.

j. Appeal to a court

It is possible to appeal to the courts against decisions taken by the local authorities.

Decisions by local-authority organs flawed by procedural irregularity, incompetence or illegality (and also some contracts) can be annulled by the courts. In addition, local authorities are liable in damages for any infringement of third party rights or of legal provisions protecting third-party interests.

k. Popular action

The Constitution guarantees everyone, either individually or through associations, the right to bring a "popular action" (*acção popular*), which consists in a request for the prevention or cessation of breaches of the law and in the initiation of legal proceedings with respect to legally protected interests, especially in matters of public health, the environment, quality of life and the cultural heritage.

I. Public approval of land-management instruments

In Portugal, procedures for approving municipal land-use plans involve prior public discussion of such plans. This participation mechanism consists in making the preparatory documents available to the public and collecting any comments and suggestions before the competent authorities give their approval.

Under the guarantees provided to the citizen, the Code of Administrative Procedure lays down, *inter alia*, the principles of participation and decision-making. The first guarantees individuals and associations wishing to defend their interests the right to participate in a decision-making process affecting them, while the second requires administrative bodies to give a decision on any matter within their jurisdiction referred to them by the citizen.

In addition, the public authorities, under the principles of public access to information, openness, equality, justice and impartiality, guarantee access to administrative documents, whether of concern to the individual or not, relating to their activities.

5. CONDITIONS OF OFFICE OF LOCAL ELECTED REPRESENTATIVES

Candidates in local elections must be Portuguese nationals aged 18 or over or nationals of an EU member state or a Portuguese-speaking country who have held a residence permit for more than two years under reciprocal arrangements or have had a residence permit in Portugal for more than three years on condition that Portuguese nationals have the same rights in the country of origin. Local representatives are elected for a four-year term of office.

Anyone deprived of political rights by judicial decision, certified as having a mental disorder or barred by a court ruling is ineligible for election.

Similarly, the following cannot stand for local election:

- public servants employed by the local authority in which the election is being held, unless they apply for leave of absence as from the date when the list containing their candidature is submitted;
- judges/law officers of the government legal service;
- certain senior public officials;
- police officers and members of the armed forces on active service;
- ministers of religion.

The financing of candidates' campaigns and economic support from public authorities to parties putting candidates forward in local elections are governed by Act 19/2003 of 20 June.

An electoral campaign can, subject to certain legal conditions, be financed by fund-raising, state subsidies, and donations from political parties or individuals.

It is illegal simultaneously to stand for election in more than one authority or in more than one parish of a municipality.

Elected representatives must attend all meetings at which their particular duties require them to be present. Full-time elected representatives are obliged to declare their earnings. Elected representatives may be removed from office on certain conditions laid down by the law on administrative supervision.

Office-holders of local authority organs may step down. No specific conditions apply to resignation. The only requirement is that a resignation be tendered in writing.

If an elected representative no longer meets the requirements for election they must step down.

The activities that disqualify a person from holding local office are set out in Acts 64/93 of 26 August, 39-B/94 of 27 December, 28/95 of 18 August, 12/96 of 18 April, 42/96 of 31 August and 12/98 of 24 February. This legislation applies to mayors, members of municipal chambers and full-time members of parish executive bodies.

Chairs of municipal chambers and permanent municipal councillors employed part-time or full-time may engage in other work. When they do a full-time job, they must inform the Constitutional Court and the municipal assembly at the first meeting after the start of their term of office or on taking up their duties.

On leaving office, full-time elected representatives have a statutory entitlement to a vocational reintegration allowance, which is equal to one month's salary for every six months in office, subject to a maximum of eleven months' salary, if the period of service has not been taken into account in calculating their retirement pension.

Working conditions are governed by national legislation. There are no statistics available for working hours but, as an indication, the law provides for up to thirty-two hours' leave from ordinary employment per month for members of local-authority executive bodies who do not perform their duties full-time or half-time. Representatives elected on a full-time basis devote, on average, more than forty-five hours a week to their political duties.

With other local elected representatives, the number of working hours varies considerably, depending on the size of the municipality, the duties they perform, the committees of which they are members and the frequency of meetings.

Meetings of the executive body tend to take place during the day, meetings of the deliberative organ in the evening, although there is no hard and fast rule in either case.

The mayor (ie the chair of the chamber) and full-time municipal councillors may establish personal support offices. The mayor must also make sure that all the municipal councillors have the space and personal assistance necessary to carry out their duties in the relevant department.

Training for elected representatives is provided by various entities, in particular the political parties, the National Association of Portuguese Municipalities and the ministry responsible for supervising the local authorities.

The law allows employees to be absent from work, after informing their employer, when the obligations of their local elected position require it.

Members of municipal and parish executives who work full-time receive a monthly salary. Their pay is calculated as a percentage of the salary paid to the President of the Republic, according to the size of the local authority in which they are elected. Half-time members receive half of this remuneration. Other local elected representatives receive an attendance allowance. Their travel costs are refunded. Mayors are also entitled to an official car.

All local elected representatives working full-time or half-time are entitled to 30 days' annual holiday. Elected representatives' earnings from their political activities are taxable.

Full-time elected representatives are entitled to contribute to the social security scheme. However, the resulting pension rights cannot be added to the pension from an occupation they continued carrying on. Years during which a full-time elected office is held count towards pension rights.

6. DISTRIBUTION OF POWERS BETWEEN THE VARIOUS CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES

6.1. Principles governing the distribution of powers

The present framework for the performance of local-authority functions, which are far-reaching at municipal level, differs greatly from the system prior to 1974.

The previous system was based on a detailed list of the fields in which the local authorities could operate, and they were prohibited from stepping outside that legal framework. This rule was complicated by the distinction drawn between compulsory and optional functions and the differentiation between local authorities of the same level, based on a tiered classification system with major structural and operational repercussions.

The present system, established by Act 159/99 of 14 September, is very straightforward. It is based on the principles of decentralisation and self-government, which lead to much greater flexibility in implementing, at local level, the framework for the transfer of central-government responsibilities to the local-authority organs. The statutory framework for the local authorities' own powers was laid down by Acts 169/99 of 18 September and 5-A/2002 of 11 January.

In practice, the new system centres on the principle of general jurisdiction, whereby local authorities may deal with all matters affecting the interests of residents within their area, in particular:

- rural and urban infrastructure;
- energy;
- transport and communications;
- education;
- heritage, culture and science;
- sports and leisure activities;
- health;
- social welfare;
- housing;

- civil defence;
- environment, public hygiene and basic sanitation;
- consumer protection;
- promotion of economic development;
- regional and town planning;
- municipal police;
- external co-operation.

The only limits to this general responsibility have to do with the principle of state unity and the rules on sharing of responsibility for public investment between central and local government.

6.2. Responsibilities of local and regional authorities

In accordance with Act 159/99 of 14 September and secondary legislation, municipalities are responsible for public investment in the following areas:

a. Facilities in rural and urban areas

- open spaces;
- roads;
- municipal cemeteries;
- facilities for municipal public services;
- municipal markets.

b. Energy supply

- supply of low-voltage electricity;
- public lighting in urban and rural areas.

c. Transport and communications

- municipal road network;
- urban transport;
- non-urban transport exclusively within the territory of the municipality;
- structures to do with road transport;
- railway level crossings or grade-separated interchanges on national and regional roads;
- municipal airports and heliports.

d. Education

- pre-schools;
- primary and secondary schools;
- school transport;
- halls of residence and boarding facilities for pupils in primary and secondary schools;
- other ancillary services in pre-school, primary or secondary education, particularly in the field of school welfare.

e. Heritage, culture and science

- cultural centres; scientific centres; municipal libraries, theatres and museums;
- the cultural, environmental and urban heritage of the municipality;
- cultural facilities for the use of the local population and other activities of municipal interest.

f. Recreational activities and sport

- municipal campsites;
- municipal sports and leisure installations and facilities

g. Health

- municipal medical facilities;
- health centres;
- municipal spa facilities.

h. Social welfare

- crèches, nursery schools, homes or day-care centres for elderly people and centres for the disabled;
- municipal social welfare programmes and projects, especially to combat poverty and social exclusion.

i. Housing

- low-cost housing and urban renovation;
- social housing stock;
- programmes for renovating or replacing degraded housing.

j. Civil defence

- municipal fire brigade;
- fire stations for voluntary and municipal fire brigades;
- equipment for voluntary fire brigades;
- municipal civil defence installations and centres;
- infrastructure for the prevention of, and support for fighting, forest fires;
- scrub-clearance and maintenance programmes for forests and maquis.

k. Environment and basic sanitation

- municipal water supply systems;
- municipal drainage and urban waste-water systems;
- municipal cleaning and urban refuse collection and treatment systems;
- local air-quality monitoring networks;
- protected areas of local interest, areas of temporary protection or zoological, botanical or other interest;
- hydrographic network within the urban area;
- water resources;
- upkeep of beaches and seaside resorts;
- supervision of, and research into, water wells and extraction of inert materials.

I. Consumer protection

- consumer information and protection;
- mediation in consumer disputes;
- arbitration in consumer disputes at the local level.

m. Promotion of development

- municipal sub-programmes appended to regional development programmes;
- local employment initiatives and development of vocational training;
- participation in drawing up tourism policies concerning the municipality;
- development of craft activities and organisation of ethnographic events of local interest;
- construction of rural lanes and tracks;
- municipal forest intervention plans;
- business location;
- index of industrial, commercial and tourist properties.

n. Regional and town planning

- master plans for municipal development;
- areas of urban development and priority construction;
- urban defence and control, land reclamation and redesignation for planning purposes, plans for remedial work on degraded areas and rehabilitation of the historic centre.

o. Municipal police

- setting up municipal police forces.

p. External co-operation

- projects and measures of decentralised co-operation, especially in the context of the European Union and the Community of Portuguese-Speaking Countries.

In the light of the statutory provisions, the municipalities will gradually take on new functions within the public investment programme. The state budget will have to make the necessary financial resources available to them.

A wide variety of secondary legislation affecting several fields and governing the transfer of powers from central to municipal government has been passed in the last twenty years.

When they are set up, the administrative regions created under the Constitution will focus on the following areas:

- economic and social development;
- regional planning;
- environment, nature conservation, water supplies;
- social amenities and transport networks;

- education and vocational training;
- culture and the historic heritage;
- youth issues, sport and recreation;
- tourism;
- public procurement;
- support for production;
- support for municipal activities.

As well as performing functions specifically assigned to them, municipalities and administrative regions may engage in joint projects with various government departments under special agreements drawn up between the parties concerned.

Under the Portuguese Constitution, local authorities are allowed to issue their own regulations within the limits of the Constitution and of laws and regulations established by either a higher level of local government or a supervisory authority.

The present parishes (*freguesias*) have their origin in the old religious parishes of the Middle Ages. Their lack of institutional structure and shortage of staff and financial resources leave them with little say in local government matters and they work to a large extent in co-operation with the municipalities.

The competences of local and regional authorities

PORTUGAL

Function	Competent authority			Type of competence				Exercise of the competence			Remarks ***	
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right		For another authority
Religious facilities	●		●									
Other			● (6)									
Traffic, transport												
Roads	●		●									
Transport	●		●									
Urban road transport	●		●									
Urban rail transport	●		● (7)									(7)
Ports	●											
Airports	●		● (8)									(8)
Other												
Economic Services	●		● (9)									(9)
Gaz	●											
District heating												
Water supply	●		●									
Agriculture, forests, fishing	●		●									
Electricity	●		● (10)									(10)
Economic promotion	●		●									
Trade and industry	●		●									
Tourism	●		●									
Other												
Other functions												

(*) where several intermediate levels exist the competent local government is indicated

(**) the competence refers to infrastructures (I) or the management (M) or both (●)

(***) for any remarks see last page in this country's table

NOTES

- Competent authority:

Municipal level: replies concern the mainland and the autonomous regions of the Azores and Madeira.

Intermediate level (region): the relevant column has not been completed because regions have not yet been established.

Remarks

- (1) The municipal police forces are empowered to check in the territory of the local authority on all breaches of municipal regulations concerning matters falling within the scope of municipal responsibility
- (2) Central government and parish
- (3) Residences and accommodation centres for students in basic education; school transport; management of pre-school and primary school canteens
- (4) Child and old people's welfare
- (5) Only cemeteries
- (6) Campsites
- (7) Grade-separated railway crossings
- (8) Municipal airports and heliports
- (9) Grant allocation
- (10) Distribution of low-voltage electricity and street lighting

- Type of responsibility:

With a few exceptions, responsibility is shared by the state and the municipalities. At municipal level there has been no distinction between compulsory and discretionary responsibility since 1974.

- Exercise of responsibility:

The administrative tradition in Portugal is that responsibility is exercised directly on behalf of the relevant authority.

6.3. Participation of local/regional authorities in national planning

The legislation governing planning procedure in Portugal grants local authorities their own powers in this field and likewise guarantees their participation in the planning process at a higher level, including the national level.

6.4. Tasks delegated to local or regional authorities

Current legislation in Portugal establishes a major distinction between local self-government and local government by the state. In the present system and in traditional administrative practice in Portugal, the state does not delegate its responsibilities to the local authorities.

Powers and responsibilities are transferred to established local authorities under legal instruments that specify the type and manner of transfer, as follows:

- transfers of powers relating to exclusively municipal matters which are of a general character and universally applicable;
- transfers of powers relating to matters connected with regional action programmes, these powers being exercised by municipalities according to the priorities laid down by the regional development co-ordination boards, which are decentralised central-government administrative units;
- transfers of powers relating to matters connected with national action programmes, these powers being exercised by municipalities according to the priorities set by the Assembly of the Republic at the Government's instigation.

6.5. Proposals for changes in the distribution of powers

Once the administrative regions have been set up changes will have to be made in the distribution of powers and responsibilities, between the state and the regional authorities. Under the Portuguese Constitution, the creation of administrative regions may neither affect the autonomy of the municipalities nor reduce their powers in any way.

However, notwithstanding this, new legislation is planned governing transfer of powers from central government to the municipal authorities and parishes.

As it has hitherto proved impossible to set up administrative regions, it is hoped that it will be possible, with the creation of new supramunicipal entities (especially metropolitan areas and intermunicipal communities) under Acts 10/2003 and 11/2003 of 13 May, to change the distribution of powers so as to bring public administration closer to the community and make it more economic, efficient and effective.

7. CO-OPERATION AND OTHER TYPES OF RELATIONS BETWEEN LOCAL/REGIONAL AUTHORITIES

7.1. Institutionalised co-operation

7.1.1. Legal framework

The legal framework governing the establishment of metropolitan areas and intermunicipal communities is set out in Acts 10/2003 and 11/2003 of 13 May.

7.1.2. Nature

Metropolitan areas

The metropolitan areas are local public entities which have the status of associations with a territory. They have legal personality and, accordingly, enjoy autonomy vis-à-vis the municipal authorities that set them up.

There are two types of metropolitan areas:

- grand metropolitan areas;
- urban communities.

Grand metropolitan areas can be set up by geographically continuous municipalities (the minimum requirement is nine municipalities and 350 000 inhabitants).

Urban communities must consist of at least three municipalities and 150 000 inhabitants.

Setting up metropolitan areas requires a vote in favour by the municipal assemblies on a proposal from the municipal chambers. The municipal assemblies' decisions on these questions are communicated to the Government within thirty days. Metropolitan areas are set up by officially recorded instrument and their constitution is published in the Official Gazette and communicated to the Government.

Municipalities cannot belong to more than one metropolitan area at once. Similarly, municipalities belonging to a metropolitan area cannot join a general-purpose intermunicipal community.

After joining a metropolitan area, municipalities must remain in it for five years. If they leave before the end of this period, they lose all the financial and administrative advantages acquired on joining and cannot join another metropolitan area for two years. After five years, any municipality can leave its metropolitan area. Leaving merely has to be approved by the municipal assembly, by a two-thirds majority of the members present.

Intermunicipal communities governed by public law

Public-law intermunicipal communities are public entities that have legal personality and, accordingly, enjoy autonomy vis-à-vis the local authorities that set them up.

There are two types of intermunicipal community:

- general-purpose intermunicipal communities;
- associations of municipalities with specific purposes.

General-purpose intermunicipal communities are set up by geographically linked municipalities.

Special-purpose associations of municipalities are established to deal with specific matters common to the municipalities that set them up.

The chambers of the municipalities concerned file a document establishing an intermunicipal community and their decisions on this must subsequently be approved by the municipal assemblies. Intermunicipal communities are set up by officially recorded instrument and their establishment is published in the Official Gazette and communicated to the Government.

Municipalities can belong to only one general-purpose intermunicipal community but may join more than one special-purpose association of municipalities.

Municipalities belonging to a metropolitan area cannot join a general-purpose intermunicipal community.

As in the case of the metropolitan areas, municipalities must remain in the general-purpose intermunicipal community for five years. If they leave before the end of this period, they lose all the financial and administrative advantages of membership and cannot join another general-purpose intermunicipal community for two years.

After five years, any municipality can leave the general-purpose intermunicipal community, the only condition being that a decision to do so is taken by a two-thirds majority of the members of the municipal assembly. In the case of special-purpose associations of municipalities, any municipality can leave after five years on condition that the decision to do so is approved by a simple majority of the municipal assembly.

7.1.3. Purpose

With the introduction of the new framework for intermunicipal co-operation in 2003, administrative decentralisation was given new impetus, especially with foundations being laid for a regional level of government (which has never existed in spite of the constitutional recognition of administrative regions and the approval of an outline law on such authorities). Establishment of metropolitan areas and intermunicipal communities was also given momentum by the subsidies made available by the 2004 state budget for entities set up by 31 March 2004.

Metropolitan areas and intermunicipal communities are set up for the following purposes:

- a) linking municipal investment of supramunicipal/intermunicipal relevance;
- b) collaborative action by municipalities and central departments in the following areas:
 - basic sanitation infrastructure and public procurement;
 - health;
 - education;
 - environment, nature conservation, natural resources;
 - security and civil defence;
 - accessibility and transport;
 - facilities for the use of the general public;
 - support for tourism and culture;
 - support for sport, youth provision and leisure facilities;
- c) planning and strategic, economic and social management;
- d) integrated territorial management.

In order to perform their functions, the metropolitan areas and intermunicipal communities have their own services but also have to use technical support from central government bodies in accordance with the rules applying to municipalities.

Metropolitan areas and intermunicipal communities can form associations, enter into agreements, and establish contractual schemes or protocols with other entities (public or private) whose role is to look after public interests.

7.1.4. Organisational forms

Each metropolitan area and intermunicipal community has its own statutes and decides the name by which it wishes to be known, the location of its headquarters, its objectives and the participating municipalities, with due regard to the legislation in force.

The organs of the grand metropolitan areas are the metropolitan assembly, the executive body (*junta metropolitana*) and the metropolitan council; those of the urban communities are the assembly, the committee (*junta da comunidade urbana*) and the council.

The organs of the general-purpose intermunicipal communities are the intermunicipal assembly, the executive council and the consultative commission (*comissão consultiva*). The special-purpose associations of municipalities only have two types of organ: the intermunicipal assembly and the executive council.

The staff necessary to operate metropolitan areas and intermunicipal communities should preferably come from the participating municipalities. The entities have their own staff. As the regulations are still being drawn up, staff can also be recruited under individual employment contracts.

Metropolitan areas and intermunicipal communities can raise loans from credit institutions and are entitled to specific grants. Like the municipalities, the intermunicipal communities are subject to controls carried out by the Court of Auditors and are also governed by the statutory supervision arrangements.

7.2. Legislative provisions concerning associations of local authorities at national and regional levels

Municipalities may form national associations to represent them, provided these have at least one hundred members.

The National Association of Portuguese Municipalities (ANMP) is now an association under private law. A legal instrument that has been in force since 1984 obliges the Government to seek its opinion on all legislative measures concerning local authorities.

Since 1995, the National Association of Parishes (ANAFRE) has had the status of a government interlocutor in respect of legislative initiatives affecting Portuguese parishes.

7.3. Co-operation between local/regional authorities in different countries

It is necessary to highlight certain forms of co-operation between local authorities in Portugal and local authorities in other countries:

- co-operation under the Outline Convention on Transfrontier Co-operation between Portuguese local authorities along the border with the neighbouring Spanish local authorities;
- twinning schemes between local authorities in Portugal and foreign local authorities;
- formation or membership of associations of local authorities, as a private initiative.

Co-operation between Portuguese municipalities and those in other countries under the Intermunicipal Co-operation Programme set up by Council of Ministers Resolution No. 174/2000 of 30 December and co-operation with other European local authorities within various bodies, such as the EU Committee of the Regions and the Congress of Local and Regional Authorities of the Council of Europe, are forms of specific co-operation that are developing within the Portuguese institutional framework.

8. FINANCE

8.1. Taxes

The proceeds from the following taxes are paid in full to the municipalities:

- municipal real property tax;
- tax on the transfer, against payment, of real property rights;
- municipal vehicle tax;
- the *derrama* (additional municipal tax) on corporate incomes.

These taxes are levied by the relevant central government departments. All specifically local taxes are compulsory, except for the *derrama*.

Local authorities have no powers to create new taxes, this being a matter for which the Assembly of the Republic has sole responsibility. Consequently, under the Local Finance Act, all local authority organs are banned from levying taxes not laid down by law.

The municipal real property tax, which has replaced the municipal franchise tax, is a property tax which is based on the value of family or collective real property in the municipality. Municipalities can, through their assemblies, fix the rate within the limits laid down by law.

The tax on the transfer, against payment, of real property rights has replaced the municipal *sisa* tax.

The municipal vehicle tax is levied on vehicles registered by the municipality's population, and takes the vehicle's characteristics into account.

The only tax additional to state taxes (the *derrama*) is an optional tax levied on corporate income and is collected at the municipal level at a maximum rate of 10%. The decision to levy the tax and set the rate, within the legal limits, lies with the municipality. It may only be levied in order to fund capital investment and/or in connection with financial equalisation contracts; it is calculated and collected by central government.

Geographically, the parishes occupy the same area as the municipalities and do not receive any of the revenue from these taxes, which are paid in full to the municipalities.

8.2. Grants

The Local Finance Act prohibits the payment of specific grants from the state to the local authorities except in particular cases prescribed by law.

The share of state tax revenue (*participação nos impostos do Estado*, or PIE) is the main annual lump-sum grant made by the state to the local authorities. The annual amount equals 33% of the average for tax receipts for year N-2 in respect of personal income, corporate income and VAT. It is distributed in the following manner: 30.5% to municipalities and 2.5% to parishes, according to the objective criteria laid down by law.

Special grants may be awarded to enable local-authorities to cope with exceptional circumstances or to fund capital investment in connection with local or regional development on the basis of contractual schemes.

In 1997 grants accounted for about 38% (PIE 30%; special grants 8%) of total local-authority revenue. In some municipalities the figure was over 85%. In 2002, grants accounted for 37% of revenue, including 30% for the PIE.

Portuguese municipalities receive European Union grants through the structural funds and, in particular, the European Regional Development Fund (ERDF). In 2002, such grants accounted for approximately 7% of total local-authority revenue.

The PIE is not earmarked for specific items of expenditure. The Local Finance Act fixes the percentage for current and capital expenditure at 60% and 40% respectively.

Special grants are paid to local authorities in exceptional circumstances, such as:

- public disasters;
- disadvantage as a result of capital investment by central government;
- reclamation of illegal building sites or areas designated for urban renewal;
- fire-brigade operational difficulties;
- creation of new municipalities or parishes;
- local-authority headquarters buildings with serious problems.

The state also makes another type of special grant to local authorities, on a contractual basis, to fund capital investment (in either local or central government matters) on condition that participation by both these levels of government is essential.

The types of investment project eligible for this method of funding cover a wide variety of fields, such as:

- basic sanitation;
- environment and natural resources;
- transport and communications infrastructure;
- culture and sport;
- education and training;
- civil defence;
- subsidised housing;
- promotion of economic development;
- local-authority headquarters;
- health and social security.

In the context of special grants, municipalities can also conclude administrative modernisation agreements with the state with the aim of improving the quality and efficiency of local public services faced with the complexities of social, economic and technological modernisation.

Grants allocated by the EU, in addition to state transfers, are special payments to specific projects.

The amount of the special state grant to local authorities takes account of the proportion of expenditure to be met by the municipalities and equals a set percentage of that expenditure, the local authority being required to make a financial contribution in several types of capital investment.

The state's contribution can amount to as much as 90% of the total cost of the capital investment project in the case of projects initiated by or falling within the responsibility of central government and up to 60% in the case of projects initiated by or falling within the responsibility of local government. In general, the percentage is about 50%, with the local authorities required to put up the rest of the funding

The system of state grants to local authorities is provided for in the Local Finance Act and regulated by the Government.

The legislation lists, for example, the circumstances in which local authorities may obtain such grants, as well as the eligibility criteria and the limits to the financial contribution from the state.

The government minister in charge of each sector generally sets the priorities and criteria for selecting projects for funding.

In the case of contractual programmes, the rights and obligations of both levels of government must be clearly and explicitly set out. All contracts drawn up are published in the Official Gazette (*Diário da República*).

8.3. Financial equalisation

The PIE is based on objective criteria laid down by law. Its aims are to ensure that public resources are distributed fairly among local authorities and to correct socio-economic imbalances and financial distortions resulting from unequal capacity to generate revenue.

Currently, since the publication of Act 42/98 of 6 August, 30.5% of the PIE is distributed among the municipalities from three funds:

- 4.5% from the Basic Municipal Fund (FBM);
- 5.5% from the Municipal Cohesion Fund (FCM);
- 20.5% from the General Municipal Fund (FGM).

The aim of the FBM is to provide the municipalities with the minimum financial capacity to fund their activities. It is distributed among all the municipalities.

The purpose of the FCM is to strengthen municipal cohesion and it only aids the most disadvantaged municipalities. It is distributed according to the fiscal shortfall index (*índice de carência fiscal*, ICF) and the unequal opportunities index (*índice de desigualdade de oportunidades*, IDO), which measure disadvantage against the corresponding national averages.

While the ICF of each municipality corresponds to the difference between the average national *per capita* yield from municipal taxes and the average municipal *per capita* tax yield, the IDO represents shortfall in opportunities for the population of each municipality, in terms of less access to factors for longer life, to improvements in medicine, to amenities, to basic sanitation and to acquisition of knowledge. The figures for this index, which is akin to a poll tax, are published in the Official Gazette (*Diário da República*).

The FGM is a fund intended to provide municipalities with financial means appropriate to their functions and according to their levels of funding and investment. It is distributed in two stages.

First, the total amount is shared between three territorial units, namely the mainland and the two autonomous regions of the Azores and Madeira, based on the criteria below:

- 50% according to the number of inhabitants, with the autonomous regions given a 1.3 weighting;
- 30% according to the number of municipalities;
- 20% according to land area.

In the second stage, the FGM is distributed among municipalities in the territorial unit in accordance with the following criteria:

- 40% according to the number of inhabitants and the average number of visitor nights in hotels and campsites;
- 5% according to the number of inhabitants under the age of 15;
- 30% according to land area, weighted according to the municipality's altitude;
- 15 % according to the number of parishes;
- 10% according to revenue from personal income tax paid by those living in each municipality.

The criteria employed to share out the PIE are clearly largely based on indicators that reflect the costs borne by the municipalities and therefore involve sharing the spending burden. This procedure is complemented by a redistribution system aimed at compensating for inequalities between same-level authorities.

In order to pursue this objective, the redistribution system has compensation mechanisms that involve applying minimum and maximum annual growth rates according to population size and compared with the average national growth rate, the minimum benchmark being the inflation rate anticipated in the annual National Budget Act.

The PIE as transferred annually to the parishes takes the form of the Parish Financing Fund (FFF) and provides parishes with means appropriate to their functions. It is distributed in two stages.

First, the total amount is shared between the three territorial units (mainland Portugal and the two autonomous regions of the Azores and Madeira) based on the following criteria:

- 50% according to the number of inhabitants;
- 30% according to the number of parishes;
- 20% according to land area.

Second, the FFF is distributed among the parishes of the territorial unit in accordance with the following criteria:

- 25%, with an equal amount allocated to each parish;
- 50% according to the number of inhabitants;
- 25% according to land area.

Given the constitutional objective of fair distribution of resources between same-level authorities, the distribution system provides for compensation mechanisms that involve applying minimum and maximum annual growth rates, the former being based on population size and the inflation rate anticipated in the National Budget Act.

8.4. Other sources of income

Municipalities' and parishes' other sources of income are charges for use of their services and revenue from municipal assets. This "non-fiscal own income" represents approximately 12% of municipal revenue.

Local authorities set their own rates for services they provide to the local community, particularly for:

- drinking-water supply;
- sewerage;
- waste collection, disposal and processing;
- public transport of people and goods;
- distribution of low-voltage electricity.

They are free to set charges and to price services whether they provide them themselves or through a sub-contractor.

At all events, since the Local Finance Act establishes the user-taxpayer principle, the amount fixed by the executive body must, in principle, cover both the direct and indirect costs pertaining to the supply of goods and services.

The municipalities are also free to set the charges for covering the costs of operating and managing the infrastructure and facilities made available to the local population. The deliberative body is responsible for deciding these charges.

Municipalities may, for example, impose charges for the following:

- construction of urban infrastructure;
- granting permission to develop land, carry out special building works and make use of public land;
- occupation and use of reserved spaces at markets and showgrounds;
- parking of vehicles in car parks or other parking areas;
- use of amenities and entertainment facilities;
- permission to display advertisements;
- cemeteries;
- rifle and hunting permits;
- health inspections of installations.

Municipalities also receive payment in return for use of their property (housing) and income from financial assets such as bank deposits, bonds and loans granted, as well as income from land and intangible assets.

Further sources of municipal revenue are:

- income from disposal of property;
- income from fines and other penalties for offences;
- income from inheritances, donations and bequests to the municipality.

8.5. Borrowing

The Local Finance Act imposes a number of restrictions on raising loans on the capital markets. In particular it lays down limits to local-authority debt.

Local authorities have access to the capital market and are allowed to issue bonds in accordance with ordinary law and take out medium- and long-term loans.

The central bank does not place any restriction on bond issues other than the general economic requirements applying to economic agents who wish to use this means of funding.

Municipalities must accordingly have any issue of bonds approved by the deliberative body – the municipal assembly – and the Ministry of Finance.

Medium- and long-term loans may only be taken out for capital-investment projects or in order to stabilise municipal finances. Annual charges (added to the charges on bonds) may not exceed 25% of the share of state taxes (PIE) or 20% of capital-investment spending by the municipality during the previous year.

Since 2002, as a result of commitments entered into by Portugal in the context of the Stability and Growth Pact, new limits have been imposed annually on municipal debt, especially zero increase over the previous year and halving the limits.

Local authorities may borrow from authorised lending institutions.

Municipal receipts and expenditure in 1997 and 2002

RECEIPTS	1997 %	2002 %	EXPENDITURE	1997 %	2002 %
Current	58.8	58.6	Current	49.5	50.6
Direct taxes	22.6	25.1	Staff	25.1	24.7
Indirect taxes	3.5	2.8	Goods and services	15.5	17.4
Other taxes and fines	2.8	2.3	Debt servicing	1.5	1.4
Real estate income	1.9	1.2	Current transfers	6.6	5.2
Goods and services	7.2	6.6	Other expenditure	0.8	1.9
Current PIE	17.6	17.8			
Other transfers	1.7	1.9			
Other receipts	1.5	0.9			
Capital	41.2	40.7	Capital	50.5	49.4
PIE capital	12.8	11.9	Investments	41.0	38.8
ERDF	9.8	7.1	Financial assets	0.4	1.1
Other transfers	6.4	4.5	Financial liabilities	2.4	3.3
Financial assets	0.3	0.0	Capital transfers	6.5	6.0
Financial liabilities	8.2	15.6	Other expenditure	0.2	0.2
Other receipts	3.7	1.6			
Replacements not deducted from payments	-	0.1			
Suspense accounts	-	0.6			
TOTAL	100.0	100.0	TOTAL	100.0	100.0

9. CONTROLS OVER LOCAL AUTHORITIES

The Government, via the Ministry of Finance and the Ministry of Towns, Local Administration, Housing and Regional Development, is the body that performs general administrative supervision over the local authorities.

Under the Constitution and the relevant law (Act 27/96 of 1 August), the purpose of administrative supervision is limited to verifying the legality of local-government measures. Supervision is thus performed through inspections, inquiries and investigations, involving the collection and analysis of information and explanations that are important for making sure that laws and regulations are enforced by local government organs and departments, metropolitan areas and intermunicipal communities.

Inspections are carried out on a regular basis according to an annual schedule approved by the competent bodies. Inquiries and investigations are decided by the government where the need arises.

Unlawful practices at local-government level can result in two kinds of penalty: removal from office of members of local-government bodies who have committed offences and dissolution of local government bodies where it is their action or failure to act that has led to the illegality.

Removal from office can be decided where members:

- fail to attend sessions or meetings of local-government bodies;
- become ineligible to hold office on various grounds;
- join a political party other than the one they represented when they stood for office;
- interfere with procedures, decisions or contracts with the aim of securing personal pecuniary advantage;
- when it is found after the election that during their previous term of office a member acted, failed to act or engaged in unacceptable practice.

Dissolution of local-government bodies can be pronounced, *inter alia*, for:

- failure to obey a judicial decision;
- obstruction of inspections, enquiries or investigations, provision of information or access to documents;
- infringement of regional or town planning legislation;
- setting of unlawful rates, charges or rebates;
- failure to approve budgets or accounts;
- over-indebtedness or overspending on staff.

Decisions to remove members of local-government bodies from office or to dissolve such bodies come within the jurisdiction of the local administrative courts and are taken under urgent procedure.

Administrative supervision cannot be carried out with the aim of checking the expediency of local-authority measures, since, in accordance with the constitutional principle of local self-government, supervision is limited to supervision of legality.

Local-authority accounts are checked in two ways:

- inside local authorities, by the deliberative bodies, which are empowered by law to examine and approve the documents and accounts submitted by the executive bodies;
- outside local authorities, by the Court of Auditors, empowered by law to inspect local-authority accounts.

In addition to the powers vested in the Minister of Finance and the Minister of Towns, Local Administration, Housing and Regional Development, the Minister of the Interior is responsible for determining the seriousness of infringements of citizens' rights, freedoms or guarantees by municipal police officers in the course of their duties.

In addition to administrative supervision, approval by the Ministry of Towns, Local Administration, Housing and Regional Development of municipal master plans (which are a responsibility of municipal executive bodies and are also approved by the deliberative assemblies) provides further supervision of local government.

The purpose of such approval is to make sure that municipal plans comply with certain laws and regulations as well as complying and fitting in with other, supra-municipal plans.

Another form of supervision is carried out by the Court of Auditors, which has powers not only to scrutinise the different accounts but also to carry out prior checks on the legality of expenditure involving medium- to long-term financial commitment and on whether the expenditure is covered by the budget.

10. REMEDIES FOR INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES

In exercising their functions, municipal organs must treat everyone with whom they have dealings fairly and impartially.

Anyone who disagrees with decisions taken by a local-government body or its members may lodge a complaint with the body itself or appeal to the administrative court.

In addition, citizens have access to the Ombudsman, who defends their rights and freedoms and ensures that the state acts justly and lawfully.

Citizens may seek direct help from the Ombudsman in defence of rights they consider to have been infringed or in the event of breaches of the law, particularly in matters of public interest.

Decisions taken by local authorities may be contested in appeals before the courts. As a result of such appeals, decisions by local government bodies may be annulled on the grounds of procedural irregularity, abuse of power or illegality. In addition, local authorities are liable in damages for infringement of rights of third parties or of legal provisions protecting third-party interests.

The Constitution confers upon all citizens, either individually or in groups, the right of “popular action” – the right to take legal action for offences committed against public health, the environment, consumer rights, the quality of life or the cultural heritage.

The Constitution also guarantees proper protection of citizens’ statutory rights or interests, such as recognition of those rights or interests, provision for challenges to any administrative decision, and information on the administrative measures that municipalities must take under the law.

The law governing the Portuguese administrative courts was reformed in 2004 in order to broaden the guarantees concerning compliance with the rules in the Constitution and to deal with delays in administrative procedure.

11. LOCAL ADMINISTRATIVE PERSONNEL

Local administrative personnel are divided into the following categories: managerial staff, senior technical staff, technical staff, technical professional staff, administrative staff, auxiliary staff and manual workers.

Managerial staff are responsible for managing and co-ordinating the various departments. A university qualification (master's degree) representing four or five years of study is generally required.

Senior technical staff with planning functions are also required to possess a master's degree. The minimum qualification required for other senior technical staff is a non-university diploma of higher education.

For all the other categories of staff with executive functions, the following qualifications are required: advanced vocational diploma, vocational college, specialised art school or equivalent in the case of technical professional staff; second-last year of upper secondary education or equivalent for administrative staff; compulsory schooling plus any additional conditions relating to specific jobs (such as a driving licence) in the case of auxiliary staff and manual workers – Legislative Decree 404-A/98 of 18 December, Act 44/99 of 11 June and Legislative Decree 412-A/98 of 30 December.

In 1995, the occupation of municipal administrative police officer was created and is subject to special rules in view of the special nature of this work. This question is currently regulated by Legislative Decree 39/2000 of 17 March.

Local-authority fire brigades (*bombeiros municipais* and *bombeiros sapadores*) are also governed by special rules (Legislative Decree 106/2002 of 13 April).

Municipalities are free to organise and run their departments as they see fit. Under Article 243 of the Portuguese Constitution, local authorities must have their own staff. Local-government officials and other local-authority staff are, with such adjustments as may be necessary, governed by the same rules as state officials and public servants.

The chair of the municipal chamber takes decisions on management and supervision of the municipality's human resources.

Responsibility for the recruitment of staff to local government lies with the local authority's executive body and decisions must be made without outside influence.

The number of municipal staff is approximately 83 873 (1999 central government statistics), broken down as follows:

PERSONNEL GROUPS – NATIONAL TOTAL

Managerial staff	1 605
Senior technical staff	4 236
Technical staff	896
Professional technical staff	6 951
Administrative staff	11 433
Auxiliary staff	33 121
Manual workers	23 063
Municipal firefighters	2 044
Computer staff	524

PERSONNEL STRUCTURE OF MUNICIPALITIES (%)

Managerial staff	2%
Senior technical staff	5%
Technical staff	1%
Technical/professional staff	8%
Administrative staff	14%
Auxiliary staff	40%
Manual workers	27%
Municipal firefighters	2%
Computer staff	1%

12. REFORMS ENVISAGED OR IN PROGRESS

The transfer of new functions and powers to the local authorities was provided for by the outline law on administrative regions with a view to creating a new tier of local administration. However, the outcome of the 2001 referendum was not the one expected so the process has been suspended.

However, the aims inherent in the decentralisation currently under way following the reform of territorial organisation at the municipal level are being pursued. They are also the subject of regulations laid down by Acts 10/2003 and 11/2003 of 13 May.

At the same time, the transfer of new powers to the municipalities is under way and is covered by Act 159/99 of 14 September (framework legislation transferring functions and powers to the local authorities).

The aim of this legislative framework is to transfer more functions and powers to the municipalities so that they will be able to organise themselves better and develop activities of common interest within a supramunicipal framework. The objectives enshrined in the European Charter of Local Self-Government will thus be implemented, and this will improve the effectiveness of administrative action, which will be closer to the citizen.

At the inframunicipal level also, the emphasis is on organising the various services so as to improve efficiency and performance.

Act 58/98 of 18 August regulates the creation of municipal and intermunicipal enterprises.

Like central government, the municipalities have modified the legal framework concerning senior local-authority staff by introducing a diploma in leadership of the new supramunicipal entities.

The new system for evaluating efficiency aims to revolutionise assessment of public servants and managerial staff and constitutes one of the main tools for modernising public administration in Portugal. It is part of a comprehensive reform currently under way which seeks to equip the country's public administration to meet the demands of modern society, in particular by developing a culture of management by objective aimed at providing service to the individual and to enterprise.