



## Structure and operation of local and regional democracy

Portugal

**PORTUGAL**  
***Territorial set-up***



# **Structure and operation of local and regional democracy**

## **Portugal**

Situation in 1997

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## CONTENTS

	Page
<b>1. LEGAL BASIS .....</b>	<b>5</b>
1.1. Constitutional provisions .....	5
1.2. Main legislative texts .....	6
<b>2. STRUCTURE OF LOCAL/REGIONAL AUTHORITIES .....</b>	<b>7</b>
2.1. Main subdivisions .....	7
2.2. Statistical data .....	7
2.3. Special structures .....	9
2.4. Regulations governing changes in structures .....	11
2.5. General units of state administration at local/regional level and their relationship to local/regional authorities .....	12
<b>3. ORGANS OF EACH CATEGORY OF LOCAL OR REGIONAL AUTHORITIES .....</b>	<b>15</b>
3.1. Deliberative body .....	15
3.2. Executive body .....	15
3.3. Political head/Head of the administration .....	16
3.4. Division of powers and responsibilities between the different organs .....	16
3.5. Legal provisions concerning the internal structures of local/regional authorities .....	18
<b>4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING .....</b>	<b>18</b>
4.1. Local/regional referendums .....	18
4.2. Other forms of direct participation .....	18
<b>5. CONDITIONS OF OFFICE OF LOCAL ELECTED REPRESENTATIVES .....</b>	<b>20</b>
<b>6. DISTRIBUTION OF POWERS BETWEEN THE VARIOUS CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES .....</b>	<b>22</b>
6.1. Principles governing the distribution of powers .....	22
6.2. Competences of local/regional authorities .....	23
6.3. Participation of local/regional authorities in national planning .....	24
6.4. Tasks delegated to local or regional authorities .....	24
6.5. Proposals for changes in the distribution of powers .....	24

<b>7.</b>	<b>CO-OPERATION AND OTHER TYPES OF LINKAGE BETWEEN LOCAL/REGIONAL AUTHORITIES .....</b>	<b>29</b>
7.1.	Institutionalised co-operation.....	29
7.2.	Legislative provisions concerning associations of local authorities at national and regional levels .....	30
7.3.	Co-operation between local/regional authorities in different countries.....	30
<b>8.</b>	<b>FINANCE .....</b>	<b>31</b>
8.1.	Taxes.....	31
8.2.	Grants.....	32
8.3.	Financial equalisation.....	33
8.4.	Other sources of income.....	34
8.5.	Borrowing.....	35
<b>9.</b>	<b>CONTROLS OVER LOCAL AUTHORITIES.....</b>	<b>36</b>
<b>10.</b>	<b>REMEDIES FOR INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES .....</b>	<b>38</b>
<b>11.</b>	<b>LOCAL ADMINISTRATIVE PERSONNEL .....</b>	<b>38</b>
<b>12.</b>	<b>REFORMS ENVISAGED OR IN PROGRESS .....</b>	<b>39</b>

## 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, paragraph 1 of the Constitution provides that “the state shall be a unitary one organised according to the principles of self-government of local authorities and 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 which aim to promote the particular interests of the local population (Article 237, paragraph 2);
- establish the categories of local authorities: parishes, municipalities and administrative regions (Article 238);
- recognise the existence of specific functions regulated by law in accordance with the principle of administrative decentralisation (Article 239);
- establish the principle of autonomy of finances and assets: local authorities have their own assets and own financial resources (Article 240);
- define the structure of local authority organs, providing for a deliberative assembly and a corporate executive body (Article 241);
- grant local authorities their own powers to issue regulations, within the limits of the Constitution, the laws and regulations of higher local authorities or authorities with supervisory powers (Article 242);
- define administrative supervision of local authorities, limiting it to mere supervision of legality (verification that local authority organs operate in accordance with the law), which may only be exercised in the ways laid down by law (Article 243);
- establish that local authorities have their own staff, to whom the rules governing public servants and other state employees are applicable (Article 244).

In addition, under the terms of the Constitution:

- members of the elective local government organs are elected at regular intervals by direct and by secret suffrage ballot; votes cast are converted into seats according to the principle of proportional representation (Article 116);

- 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 conditions governing the setting up and abolition of local authorities and changes to their territorial limits (Article 167);
- except when the government has been so authorised, 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 status of local authorities (including the rules on local finance) and the citizens' participation in local government (Article 168);
- laws revising the Constitution must respect not only a system of regular universal suffrage and secret ballot for the appointment of the elected members of local government bodies, but also the autonomy of local authorities (Article 288);
- foreigners and stateless persons staying 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 which is not extremely technical in nature and those rights and obligations which are constitutionally or statutorily the preserve of Portuguese nationals.

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 foreigners living on Portuguese territory the right to vote in elections to local government bodies.

## **1.2. Main legislative texts**

- Legislative Decree 100/84 of 29 March (Local government functions, powers and operation of the respective bodies);
- Legislative Decree 77/84 of 8 March (Limits to investment policy);
- Act 1/87 of 6 January (Local finance);
- Legislative Decree 363/88 of 14 October (Financial assistance);
- Legislative Decrees 384/87 of 24 December and 219/95 of 30 August (Programme Contracts with municipalities and parishes);
- Legislative Decree 37/93 of 13 February (Regulating the *derrama* tax system);
- Act 27/96 of 1 August (Administrative supervision);
- Act 29/87 of 30 June (Conditions of office of local elected representatives);
- Act 11/96 of 18 April (Discharge of duties by members of parish executives);
- Acts 64/93 of 26 August, 28/95 of 18 August and 12/96 of 18 April (Ineligibilities attaching to political office);
- Legislative Decree 412/89 of 29 November (Associations of municipalities);
- Legislative Decree 116/84 of 6 April (Organisation of municipal services);
- Act 32/94 of 29 August (Powers of municipal police forces);
- Regulatory Decree 20/95 of 18 July (Governing the occupation of municipal administrative police officer);
- Act 65/93 of 26 August (Access to administrative documents);



- Legislative Decree 701-B/76 of 29 September and Act 9/95 of 7 April (Law governing election to local government bodies);
- Act 49/90 of 24 August (Direct consultation of citizens at local level);
- Act 11/82 of 2 June (Rules governing the establishment and abolition of local authorities and the designation and determination of the different categories of human settlements);
- Act 8/93 of 5 March (Outline law on the establishment of parishes);
- Act 142/85 of 18 November (Outline law on the establishment of municipalities);
- Act 44/91 of 2 August (Metropolitan areas);
- Act 56/91 of 13 August (Outline law governing administrative regions).

## 2. STRUCTURE OF LOCAL/REGIONAL AUTHORITIES

### 2.1. Main subdivisions

The Constitution establishes the existence of three levels of local government on 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 and will continue to operate until the actual creation of the administrative regions provided for by the Constitution. In practice, the districts are now simply areas of decentralised public administration.

### 2.2. Statistical data

#### Total number of units today

	Municipalities	Parishes
<b>Mainland</b>	275	4 018
<b>Azores</b>	19	149
<b>Madeira</b>	11	54
<b>TOTAL</b>	305	4 221

#### Total number of units in 1950

	Municipalities	Parishes
<b>Mainland</b>	273	3 667
<b>Azores</b>	19	134
<b>Madeira</b>	11	52
<b>TOTAL</b>	303	3 853

### Surface area and population in 1991<sup>a</sup>

	Surface area	Population
Municipalities	km <sup>2</sup>	
Largest	1 721.00 <sup>b</sup>	659 649 <sup>d</sup>
Smallest	7.00 <sup>c</sup>	393 <sup>e</sup>
Average	301.00	32 305
Parishes		
Largest	373.00 <sup>f</sup>	61 293 <sup>h</sup>
Smallest	0.05 <sup>g</sup>	47 <sup>i</sup>
Average	21.80	2 342

a Provisional.

b Odemira.

c S. João da Madeira.

d Lisbon.

e Corvo (Azores).

f Penamacor.

g Castelo (Lisbon).

h Queluz (Sintra).

i Bigorne (Lamego).

### Breakdown of municipalities according to population size

Population	Number	Percentage of total
Under 1 000	1	0.3
1 000 to 4 999	25	8.2
5 000 to 9 999	77	25.3
10 000 to 49 999	156	51.2
50 000 to 99 999	23	7.5
100 000 to 499 999	22	7.2
More than 500 000	1	0.3
<b>TOTAL</b>	<b>305</b>	<b>100.0</b>

## 2.3. Special structures

### a. List of special structures

Metropolitan area of Lisbon: eighteen municipalities; 3 126 sq. km; 2 551 750 inhabitants in 1991.

Metropolitan area of Oporto: nine municipalities; 815 sq. km; 1 152 596 inhabitants in 1991.

Autonomous region of the Azores: nineteen municipalities; 2 334 sq. km; 236 709 inhabitants in 1991.

Autonomous region of Madeira: eleven municipalities; 795 sq. km; 253 045 inhabitants in 1991.

### b. Description

#### – *Metropolitan areas*

Since 1976 the Portuguese Constitution has allowed for other organisational forms of local government in large conurbations to take account of their special situation.

It was not until 1991 that the various difficulties involved in defining the status of such units and the procedure for their creation were finally overcome. The metropolitan areas of Lisbon and Oporto are governed by Act 44/91 of 2 August.

**Municipalities in the metropolitan area of Lisbon**

<b>Municipalities</b>	<b>Surface area (km<sup>2</sup>)</b>	<b>Population</b>
Alcochete	95	10 120
Almada	70	151 278
Amadora	23	182 673
Azambuja	262	19 557
Barreiro	34	86 346
Cascais	97	152 191
Lisboa	84	659 649
Loures	186	323 120
Mafra	291	43 753
Moita	55	65 064
Montijo	353	36 304
Oeiras	46	153 668
Palmela	462	43 679
Sesimbra	195	27 525
Setúbal	171	104 689
Seixal	94	116 699
Sintra	316	270 825
Vila Franca de Xira	294	104 610
<b>TOTAL</b>	<b>3 128</b>	<b>2 551 750</b>

### Municipalities in the metropolitan area of Oporto

Municipalities	Surface area (km <sup>2</sup> )	Population
Espinho	23	35 177
Gondomar	137	141 471
Maia	83	93 061
Matosinhos	62	153 206
Porto	42	297 506
Póvoa de Varzim	86	52 365
Valongo	68	74 076
Vila do Conde	147	64 098
Vila Nova de Gaia	167	241 636
<b>TOTAL</b>	<b>815</b>	<b>1 152 596</b>

They have the legal status of territorial bodies corporate under public law, whose aim is to promote the interests of the inhabitants of the municipalities within their boundaries.

Their status is that of a “special association of municipalities”, legislated by the national parliament after prior consultation with the municipal authorities concerned. The procedure for actually setting up a metropolitan area required a majority vote in favour by the municipalities contained within it.

#### – *Autonomous regions*

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

Their powers of self-government are broader than those conferred upon the administrative regions on the mainland.

The Azores and Madeira have the status of autonomous regions with political and administrative powers which enable them to legislate, within the limits of the Constitution and the general laws of the Republic, on matters that are of particular concern to the regions and not within the exclusive powers of the organs of supreme authority.

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

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

As to local government, the Azores and Maderia are empowered, *inter alia*, to establish and abolish local authorities and change such authorities' boundaries; to exercise supervisory authority over local government bodies; to determine the category to which a district belongs; and to adapt to their regional particularities any general legislation passed by parliament in spheres which are not its own preserve.

The supreme authority is represented in each autonomous region by a Minister of the Republic appointed and dismissed by the President of Portugal on the proposal of the Government and after consultation with the Council of State.

## **2.4. Regulations governing changes in structures**

Under the constitutional provisions currently in force, competence for laying down rules on the establishment, abolition or territorial modification of local authorities lies solely with the Parliament, which under Act 11/82 also has to decide on practical arrangements for setting up or abolishing local authorities or modifying their boundaries.

When examining the different legislative proposals, Parliament must take into account any reports or assessments drawn up by local government organs.

### **– Municipalities**

The establishment of municipalities is governed by Act 142/85 of 18 November, which cannot take effect, however, until the regional authorities provided for in the Constitution have been set up.

The conditions that need to be met concern in essence:

- a. the number of resident voters (which may vary between 10 000 and 30 000);
- b. the surface area of the future municipality (which may vary between 30 and 500 sq. km);
- c. the existence of an urban centre comprising a minimum number of resident voters (between 5 000 and 10 000);
- d. the existence of a certain number of public amenities serving the local population.

In addition to these conditions, various other aspects have to be taken into account, such as 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 those existing municipalities which would be split up as a result.

### **– Parishes**

New rules on the establishment of parishes have been in force since 1993 (Act 8/93 of 5 March).

The creation of new parishes is governed by a number of criteria, which vary according to the population density of the municipality in question. The criteria are the number of voters living in the new parish, the rate of population growth, the range of shops and services or cultural centres and organisations, the number of voters living in the parish seat of government, availability of public transport between the seat of government and the main neighbourhoods, the physical distance between the seats of new and old parishes, and a minimum number of points obtained according to a table of weighting factors.

In municipalities belonging to the first category (population density less than one hundred electors/km<sup>2</sup>) a new parish must have at least 800 resident voters. For the last category (municipalities with a population density greater than or equal to 500 voters/km<sup>2</sup>) the minimum electorate is 2 000.

In the case of municipal seats and population 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 subject to an assurance that the original local authorities will continue to be viable and to meet the minimum conditions laid down by law. Moreover, the creation of new parishes must have no effect on municipal boundaries unless, in exceptional cases, there is good reason.

The autonomous regions of the Azores and Maderia have special powers enabling them to create local authorities and to adapt the rules defined under the national legal framework to their island context.

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

Most sectoral ministries and their various departments have decentralised units at local or regional level for exercising their respective functions and powers.

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

It is the relevant departments that are responsible for defining the links and forms of co-operation with the local authorities, either informally or on the basis of agreements.

Basic responsibility for developing links between local authorities and the Ministry of Infrastructure, Planning and Regional Management (MEPAT) lies with the General Division for Local Authorities (DGAA) at central government level, with the Regional Co-ordination Committees (CCRs) in each of the five mainland areas at the level NUTS II 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 CCRs, to which they report.

The DGAA is a central government body 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 DGAA therefore provides an ideal framework for dialogue and co-ordination between the two levels of government.

The CCRs are decentralised government bodies in charge of co-ordination and accounting with respect to technical, financial and administrative measures in support of local authorities. They are also responsible for implementing schemes to develop their particular region. The role of a CCR is also to set up official forms of co-operation and dialogue between the sector-based policies of the different government ministries and local authorities.

The GATs are technical structures designed to provide support to local authorities in areas defined as “groupings of municipalities”.

The GATs are accountable to the Ministry responsible for local authorities (MEPAT). However, the municipal assemblies in a grouping may decide to place the GATs in their area under the direct control of the municipalities, which must accordingly form an association with that specific purpose.

The GATs are responsible for drafting reports and proposals, identifying inadequacies in terms of infrastructure and facilities and producing studies and plans.

**ORGANISATION OF THE LEVELS OF LOCAL GOVERNMENT (MAINLAND)**

	<b>PARISH</b>	<b>MUNICIPALITY</b>	<b>ADMINISTRATIVE REGION</b>
<b>Executive Bodies</b>	<b>Parish Committee</b> <i>(Junta de freguesia)</i>	<b>Municipal chamber</b> <i>(Câmara municipal)</i>	<b>Regional Committee</b> <i>(Junta regional)</i>
<b>Deliberative Bodies</b>	<b>Parish assembly</b> <i>(Assembleia de freguesia)</i> or <b>Plenary meeting</b> <i>(Plenário dos cidadãos)</i>	<b>Municipal assembly</b> <i>(Assembleia municipal)</i>	<b>Regional assembly</b> <i>(Assembleia regional)</i>



### 3. ORGANS OF EACH CATEGORY OF LOCAL OR REGIONAL AUTHORITIES

#### 3.1. Deliberative body

- a. **Region** (although provided for by the Constitution this administrative level has not yet been established).

##### *Regional assembly*

The regional assembly will consist of fifteen to twenty representatives of municipal assemblies elected by an electoral college consisting of directly elected members of the 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. Proportional representation and the Hondt method of the highest average score will be used in both cases.

- b. **Municipality:**

##### *Municipal assembly*

The municipal assembly consists of the chairmen of the *juntas de freguesia* (executive organ of the parishes) and members, corresponding in number to the number of parishes plus one, elected by the voters living in the municipality.

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

- c. **Parish:**

##### *Parish assembly*

Members are directly elected by citizens on the electoral register.

Proportional representation and the Hondt method are used.

NB: In parishes with 200 voters or less, a plenary meeting of the voters resident in the particular parish takes the place of the parish assembly.

#### 3.2. Executive body

- a. **Region:**

##### *Regional committee (junta regional)*

The *junta regional* consists of a chairman 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 relevant regional assembly using the system of majority voting by secret ballot and by list.

**b. Municipality:***Municipal chamber (Câmara municipal)*

Members of the municipal chamber are directly elected by proportional representation using the Hondt method.

The number 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 whose name appeared at the top of the list which obtained the most votes and exercise acts as mayor.

**c. Parish:***Parish committee (junta de freguesia)*

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

In parishes with more than 200 voters, the members of the *junta* are elected by the parish assembly from among its members. The chairman is the member whose name appeared at the top of the list which obtained the most votes in the election to appoint members to the deliberative body of the parish.

In those with 200 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**

In the local authorities, the municipal chamber has responsibilities in the area of the organisation and functioning of municipal services. It may delegate some of its duties to the mayor, who, in turn, may sub-delegate them to individual members of the municipal chamber.

The municipal chamber is the standing executive body and has relatively far-reaching powers over the organisation and operation of services, town planning and public works, as well as in the field of relations with other local authorities.

The municipal chamber's duties are, *inter alia*, to implement decisions taken by the municipal assembly, manage staff and municipal assets, draw up action plans, progress reports, budgets and administrative accounts, carry out public works, issue licences and offer support to its local parishes.

It is the mayor who decides, within certain limits, the number of members of the chamber carrying out their duties on a full-time or a part-time basis, their respective functions and responsibilities.

The mayor supervises the administration and manages municipal staff.

**3.4. Division of powers and responsibilities between the different organs**

Under the Portuguese Constitution, the structure of local authorities includes a deliberative assembly and a corporate 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*). It considers a written report, presented at each ordinary session, on the authority's work and it may pass votes of no confidence in the executive. It is also responsible for approving action plans, budgets, progress reports and administrative accounts, and for authorising the *Junta* to take certain measures, such as award exclusive rights, contracts or sign protocols.

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 functions of the municipal assembly include:

- monitoring and supervising the activities of the municipal chamber;
- keeping itself informed and reaching decisions on subjects of interest to the local authority;
- passing votes of no confidence in the executive body (this does not have the effect of dismissal);
- adopting rules and regulations;
- approving, on an annual basis, the action plan, budget, progress report and administrative accounts;
- approving plans and municipal rules in connection with town and country planning;
- approving the municipal staff establishment;
- authorising the local authority to accept associations of municipalities and set up or hold stakes in public companies;
- fixing municipal taxes and approving loans;
- deciding on the number of permanent members of the executive body above a certain number;
- authorising delegation of municipal powers to the parish *juntas*.

### **c. Parish**

In addition to the powers typical of such a body, the powers of the parish assembly also include the fixing of taxes, administration of state-owned waters within its jurisdiction, organisation of services, approval of ordinances and regulations, acceptance of responsibilities delegated by the municipality and decision-making on matters of interest 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, compile the electoral census, implement measures on behalf of the municipality, and co-operate with other public bodies, particularly on statistics, development, 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 municipalities decide on the structure of their services. The executive body – the municipal chamber – submits a proposal for its own organisational structure to the deliberative body – the municipal assembly – for the latter's approval (Legislative Decree 116/84 of 6 April).

Municipal services must be organised in such a way as to allow the municipality to exercise its functions; the structure of the services and the way they operate must be adapted to the municipality's permanent objectives.

## **4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING**

### **4.1. Local/regional referendums**

Since 1990 local authorities in Portugal have been able to consult the citizens on important questions in the field of the exclusive powers of the local authorities. However, there are subjects on which it is not possible to consult public opinion, for example financial matters or any other questions which, by law, must always be decided by local government organs or which are governed by past decisions that may not be revoked.

The decision to hold a referendum is taken by the deliberative assemblies and applies to the whole of the area concerned. Questions must be worded in such a way that voters' answers are unambiguous.

Before a consultatif referendum may 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 legislation in force.

Local referendums are organised in accordance with the legal provisions applicable to the election of local government bodies.

### **4.2. Other forms of direct participation**

Citizen participation in matters relating to the management of regional and 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, with the result that citizens are automatically granted not only the possibility of electing the organs of local government but also many opportunities for free, direct and active participation in local life.

Moreover, the Code of administrative procedure lays down the principles of participation and decision-making, among others. The first guarantees individuals and associations formed to defend individual interests the right to participate in a decision-making process affecting them. The second makes it incumbent on administrative bodies to give a decision on any matter within their jurisdiction referred to them by citizens.

Furthermore, the public authorities are subject to the principles of public access to information, openness, equality, justice and impartiality and are hence under an obligation to allow access to administrative documents, whether personal or not, relating to their activities.

The forms for citizens to participate in local affairs and exercise their rights include:

**a. Public meetings**

Meetings of the deliberative bodies of the local authorities are open to active participation by members of the general public. The executive bodies, for their part, must organise monthly public meetings so that some time is set aside for answering questions of local interest.

**b. Extraordinary meetings**

It is possible for a number of voters in a given local authority to take the initiative of convening 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.

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

**d. Publication of decisions**

Before local government decisions may be enforced, they must be published in a local authority bulletin or announced on a notice board in various public places.

**e. Associations of local residents**

According to the Constitution, citizens may form “local people's organisations”, and they enjoy certain rights in local authorities (particularly at parish level). They concern namely the possibility of organising petitions, taking part in meetings or exercising certain delegated responsibilities.

**f. Groups of citizens as candidates in elections**

Groups of citizens may stand in parish assembly elections, in addition to the lists of candidates put forward by the political parties.

**g. Plenary assembly of voters**

In the smallest parishes (200 voters), where there is no elected deliberative body (parish assembly), there is a system of direct democracy via a plenary assembly of the electorate.

#### **h. Right to organise petitions**

Portuguese nationals, either individually or in groups, are entitled under the Constitution to organise petitions, make representations, submit protests and lodge complaints in writing.

#### **i. Public enquiries on regional/spatial planning**

Under regional/spatial planning procedures in Portugal, all municipal planning projects are subject to a public enquiry. This form of participation consists in putting the documents in preparation on public display prior to approval by the competent bodies, so that citizens have the opportunity to submit their comments, criticisms and suggestions on the proposals.

### **5. CONDITIONS OF OFFICE OF LOCAL ELECTED REPRESENTATIVES**

Candidates must be Portuguese nationals aged 18 or over. Place of residence does not figure among the conditions. Local representatives are elected for a four-year term of office.

Deprivation of political rights by judicial decision, a recognised mental disorder or a bar by court ruling are grounds of ineligibility.

Similarly, the following cannot stand for election:

- civil servants employed by the local authority of a constituency where an election is being held;
- judges and, in some cases, other senior judicial officials are also ineligible (except in constituencies other than those where they hold office);
- police officers and members of the armed forces in active service cannot simultaneously hold an elected office;
- ministers of religion cannot be elected in a constituency under their care.

There are no regulations governing the financing of candidates' campaigns or economic support from public authorities for parties putting candidates forward in local elections. Candidates are prohibited from obtaining campaign financing directly from private individuals.

There is a statutory ban on simultaneously holding a local elected office in more than one constituency. It is also forbidden to be both a member of the government or parliament and a member of a local executive body, or to hold office in both the deliberative and executive bodies of the same local constituency.

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. All elected representatives enjoy criminal immunity, but proceedings may be brought against them for personal misconduct in the course of their duties. In the event of serious unlawful conduct they may be removed from office.

No specific conditions apply to resignations from office. The only requirement is that a resignation be tendered in writing.

Any elected representative who no longer fulfils the eligibility criteria must resign or be dismissed.

The activities that result in a disqualification from holding local office are set forth in Acts 64/93 of 26 August and 28/95 of 18 August. This legislation applies to mayors and full-time members of municipal chambers and parish executive bodies.

Holders of such office are banned from carrying on any occupational activity, whether remunerated or not, and from being members of managerial or supervisory bodies in profit-oriented corporate or other entities.

Part-time members of municipal executives are allowed to carry on other activities (but must report them to the municipal assembly) apart from:

- being members of the organs of public corporations, companies in which the majority of the capital is publicly owned or public service operators;
- providing services to such entities;
- performing commercial or industrial activities in the constituency involving the supply of goods or services.

On leaving office full-time elected representatives have a statutory entitlement to a vocational reintegration allowance, which is equivalent to eleven months' salary.

Working conditions are governed by national legislation. There are no statistics available for working hours, but an indication is provided by the law, which allows up to thirty-two hours' leave per month for political activities. 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 functions they occupy, the committees of which they are members and how frequently they meet.

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

Mayors have their own secretariat, whereas other local elected representatives may use the facilities of the municipal administration. Members of the executive body have their own offices.

Training for elected representatives is available from various sources, in particular the political parties, the National Association of Portuguese Municipalities and the relevant ministry.

By law an employee must be allowed to be absent from work for a given number of hours each month in order to fulfil the obligations inherent in a local elected office.

Members of municipal and parish executives who work full-time or for half-days receive a general remuneration for their services. Their salaries are 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. Other local elected representatives receive a compensation payment for loss of earnings, together with attendance allowances. Their travel costs are refunded. Mayors are also entitled to an official car.

All local elected representatives working full-time or for half-days have an annual holiday entitlement. Elected representatives' earnings from their political activities are taxable.

Elected representatives are entitled to contribute to the social security scheme. However, the resulting retirement pension cannot be drawn concurrently with a pension to which they are entitled on account of an occupation they carried on over the same period. Years during which a full-time elected office is held count towards pension rights.

There is no sexual discrimination with regard to the right to hold public office.

No reform of local elected representatives' conditions of office is envisaged.

## **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 at municipal level are far-reaching, differs greatly from the system prior to 1974.

The previous system was based on a detailed list of the competencies entrusted to local authorities which were otherwise prohibited from stepping outside the functional scope defined by law. This rule was further complicated by the distinction drawn between compulsory and optional functions and the differentiation between the various local authorities.

The present system, established by Legislative Decree 100/84 of 29 March, 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 general framework prescribed by law.

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

- administration of personal property;
- development;
- public procurement;
- public hygiene and basic sanitation;
- health;
- education and teaching;
- care of children and the elderly;
- culture, recreational activities, sport;
- preservation and protection of the environment and quality of life;
- civil defence.



The only limits to this general competence concern respect for the principle of state unity and the rules governing the sharing of responsibility for public investment between central and local government.

## **6.2. Competences of local and regional authorities**

In accordance with Legislative Decree 77/84 of 8 March 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;
- fire-brigade.

### **b. Basic sanitation**

- municipal water supplies;
- sewerage system;
- refuse collection and municipal cleaning.

### **c. Energy supply**

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

### **d. Transport and communications**

- road network in urban and rural areas;
- urban public transport;
- non-urban public transport operating solely within the boundaries of the municipality.

### **e. Education and teaching**

- pre-school education establishments;
- primary and secondary schools;
- halls of residence and boarding houses for pupils in primary and secondary schools;
- school transport;
- other ancillary services in pre-school and general education, particularly in the fields of school welfare and recreational activities;
- facilities for basic adult education.

### **f. Culture, recreational activities and sport**

- municipal cultural centres, libraries and museums;
- cultural municipal heritage;

- camp sites;
- municipal sports and recreational facilities.

**g. Health**

- health centres (authority not yet transferred).

Within the framework of the existing legal provisions, municipalities will gradually take on new responsibilities in connection with public investment, using funds made available for this purpose from the state budget.

Over the past twelve years a variety of additional legislative provisions governing the transfer of central powers to the municipal authorities have been published on a wide range of subjects.

The administrative regions are to focus their activities on the following areas:

- a. economic and social development;
- b. regional/spatial planning;
- c. environment, nature conservation, water supplies;
- d. social amenities and transport infrastructure;
- e. education and vocational training;
- f. culture and the historic heritage;
- g. youth questions, sport and recreation;
- h. tourism;
- i. public procurement;
- j. support for production;
- k. support for municipal activities.

### **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 guarantees their participation in the planning process at a higher level, including 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. According to the present system and traditional administrative practice in Portugal, the state does not delegate its responsibilities to the local authorities.

### **6.5. Proposals for changes in the distribution of powers**

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

New legislation on the transfer of powers from central government to the municipalities and parishes is envisaged.

[illegible]

[illegible]

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 cultural facilities			●(5)									(5)
<b>Traffic, transport**</b>												
Roads	●		●									
Transport	●		●									
Urban road transport	●		●									
Urban rail transport	●											
Ports	●											
Airports	●											
Other traffic & transport												
<b>Economic services</b>												
Gas	●											
District heating												
Water supply	●		●									
Agriculture, forests, fishing												
Electricity	●		●(6)									(6)
Economic promotion	●		●									
Trade & industry												
Tourism	●		●									
Other economic services												
<b>Other functions</b>												

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

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

(\*\*\*): in case there are any remarks see last page in this country's table

**NOTES ON THE ABOVE TABLES**

**- 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 still do not exist.
- . Remarks:

- (1) Central and parish
- (2) Residences and accommodation centres for students in basic education; school transport
- (3) Child and old people's welfare
- (4) Only cemeteries
- (5) Campsites
- (6) Distribution of low voltage electricity and street lighting

**- Type of competence**

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

**- Competence exercised**

- . The administrative tradition in Portugal is that competence is exercised directly in the name of the relevant authority.

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. Such contractual schemes are governed by a special framework setting out the conditions of access, the areas benefiting from state funding and the legal formalities which must be observed.

Under the Portuguese Constitution, local authorities are allowed to issue their own regulations, within the limits of the Constitution, 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 an 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.

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

### **7.1. Institutionalised co-operation**

#### **a. Legal framework**

The legal framework governing the creation of associations of municipalities is Legislative Decree 412/89 of 29 November.

#### **b. Nature**

Consortia of municipalities are public bodies forming legal entities in their own right. They are therefore independent of the municipal authorities of which they are composed.

They may be set up by two or more municipalities for the purpose of carrying out activities of common interest which fall within the scope of municipal functions but are not necessarily connected with the direct management of each local authority, which is considered separately.

The general principle governing the procedure for setting up a consortium of municipalities is that of freedom of association, the body being established through public registration in accordance with the relevant legal provisions. Central government is only involved in so far as the new consortium is added to the official register of existing associations.

#### **c. Purpose**

Although Portuguese municipalities now co-operate with each other much more than in the past, Portugal has not experienced the same tradition, dynamism or extent of co-operation between municipalities as many other European countries.

However, there are already about sixty consortia of municipalities in Portugal. They are active in the following areas:

- water supplies;
- sewerage systems;
- waste;
- gas supply;
- town planning;
- transport and transport infrastructure;
- environment;
- tourism;
- health;
- education;
- sport;
- culture;
- vocational training;
- information technology;
- technical support;
- civil defence;
- town and country planning and development schemes;
- public works;
- the natural heritage.

#### **d. Organisational forms**

Each consortium has its own statutes and is free to decide on the name by which it wishes to be known, the location of its headquarters, its objectives, the participating municipalities, conditions of membership and withdrawal and, lastly, financial contributions.

Consortia structure consists of an intermunicipal assembly (the deliberative body) and a board of management (executive body). The latter may appoint a managing director to take care of the day-to-day management of the consortium.

The staff needed to run the consortium should preferably live in one of the participating municipalities. It is always possible for a consortium to recruit staff on fixed-term contracts to perform tasks which do not correspond to permanent needs.

Consortia may contract loans with credit institutions and are entitled to benefit from specific grants. Like municipalities, consortia are subject to controls carried out by the Court of auditors as well as to the supervision procedure established by law.

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

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

The National Association of Portuguese Municipalities (ANMP) has been set up as an association under private law. Since 1984 the government has been legally obliged to seek its opinion on all legislative measures concerning local authorities.

The recently created National Association of Parishes (ANAFRE) has, since 1995, been dealing with central government in respect of legislative initiatives affecting Portuguese parishes.

At regional level, in 1992 the authorities in the Azores recognised the consortium of the region's municipalities, to which all municipalities in the region belong, as having comparable status with regard to all local government matters.

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

There are three forms of co-operation between local authorities in Portugal and local authorities in other countries:

- co-operation being developed 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 international associations of local authorities.



## 8. FINANCE

### 8.1. Taxes

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

- municipal tax (*contribuição autárquica*);
- municipal vehicle tax;
- tax on transfers of real property (Article 2, *Sisa* Code).

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

Municipalities are not free to fix the tax base or deductions and exemptions applicable to specifically local taxes and the tax rate and rate limits are set by parliament or by the government with parliament's leave.

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

Portuguese municipalities receive no share of taxes not levied at local level.

- Municipal taxes take the form of a land tax, which is levied on the value of individual family properties or co-owned properties within a municipality's territory. The Municipal Assembly has discretion to fix the tax rate within the limits defined by law (between 0.8% and 1.0% of the property value).
- The municipal vehicle tax is levied on vehicles registered by the municipality's inhabitants, consideration being given to the vehicle's characteristics.
- The *sisa* tax is levied on transfer of property ownership for payment.
- The only additional tax (*derrama*) levied on top of state taxes applies to corporate incomes (IRC). It is collected at municipal level at a maximum rate of 10%. This is an optional tax. The decision to levy the tax and its assessment, within the legal limits, are the responsibility of the municipality. It may only be introduced in order to fund investments and/or in connection with financial equalisation contracts; it is calculated and collected by central government.
- Municipalities also derive revenue from their 37.5% share of value added tax (VAT) collected on tourist activities within their territory. Where local or regional have established touristic infrastructures, their participation in the VAT is 50%. This is the only tax shared between central government and 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 Financial Equalisation Fund (FEF) is the main lump-sum grant paid by the state to local authorities on an annual basis. The amount of the grant depends on the estimated increase in revenue from VAT and is apportioned among the municipalities according to objective criteria defined by law.

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

In 1989 grants accounted for 41% (FEF – 37%; special grants – 4%) of total local authority revenue. In some municipalities, however, the figure was over 95%. In 1994 grants accounted for 39% of revenue, including 34% for the FEF.

Portuguese municipalities receive European Union grants through the structural funds and, in particular, the European Regional Development Fund (ERDF). Such grants account for approximately 10% of total local authority revenue.

The total grant is not earmarked for specific items of expenditure, although the state Budget Act does lay down each year the allocations for current and capital expenditure, which, in the case of the latter, must not be less than 40%. These allocations were respectively 58% and 42% in the budgets 1995 and 1996.

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

- public disasters;
- local authorities disadvantaged as a result of investments carried out by central government;
- recovery of illegal building sites or areas designated for urban renewal;
- freezes imposed on public transport services;
- freezes imposed on fire-brigade services;
- creation of new municipalities or parishes;
- drafting of municipal master plans (up to 1992).

The state also awards another type of special grant to local authorities, on the basis of contractual schemes designed to fund investments under the responsibility of either local or central government, when the participation of both levels of government proves essential for the implementation of the projects concerned.

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

- basic sanitation;
- environment and natural resources;
- transport infrastructure and communications;
- culture and sport;

- education, teaching and vocational training;
- civil defence;
- subsidised housing;
- promotion of economic development;
- municipal buildings;
- health and social security.

Special grants account for 1% of total budget transfers from the state to the local authorities.

The grants allocated by the European Community, like the state budget transfers, are special payments earmarked for specific measures.

The contribution from the state may, in some cases, be as much as 90% of the total cost of an investment project, where the project is a central government initiative and 60%, where there is a local government initiative. However, in general, the percentage is nearer 50%, with the local authorities obliged to put up the rest of the funding.

The system of state grants to local authorities was provided for in the Local Finance Act and subsequently regulated by the government.

The legislation lists, for example, the special 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 ministers in charge of each sector generally set the priorities and criteria for selecting projects eligible for funding.

In the case of contractual schemes, the rights and obligations of both levels of government must be clearly and explicitly defined. All contracts drawn up are published in the *Diário da República* (official gazette).

### **8.3. Financial equalisation**

The FEF 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 the unequal financial capacity of local authorities.

Since the publication of Act 2/92 of 9 December the FEF has been allocated in two stages.

First, the total amount is shared between the three territorial units, namely the mainland and the two autonomous regions of the Azores and Madeira, according to the following criteria:

- 50% number of inhabitants;
- 30% number of municipalities;
- 20% surface area.

The second stage is apportionment among municipalities of the same territorial unit, for which the following criteria are used:

- 40% according to the number of inhabitants and the average number of nights spent in hotels and on campsites;
- 15% according to the surface area, weighted according to the municipality's altitude range;
- 15% for each municipality on an equal basis;
- 10% according to the extent of the municipal road network;
- 5% according to the number of inhabitants under the age of 15;
- 5% according to a fiscal compensation index (ICF) calculated on the basis of negative differences between the amount of tax levied per capita in each municipality and the average amount of tax levied per capita (in each local authority) from rates, municipal vehicle tax and the *sisa*, weighted according to the size of the municipality's population;
- 5% according to the number of parishes;
- 5% according to a variable measuring geographical accessibility.

The criteria used to share out the FEF are clearly largely based on indicators reflecting the costs borne by the municipalities and serve to even out their spending requirements.

#### **8.4. Other sources of income**

Municipalities are provided with other sources of income in the form of charges made for use of their services or resulting from the management of municipal assets. Such “non-fiscal own income” represents approximately 15-17% of all revenues.

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

- drinking water supplies;
- waste collection, disposal and processing;
- sewerage system (connection, maintenance and treatment);
- public transport.

They are free to fix the fees (tariffs) and prices for use of services, whether they provide them directly 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 cover not only estimated study and administration costs but also equipment depreciation. When such conditions are not met, the municipality is obliged to show the amount corresponding to the compensatory payment in its budget as expenditure.

The municipalities are also free to fix the charges to cover the study and administration costs of infrastructure and facilities made available to the local population. It is the deliberative body which is responsible for deciding these charges.

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

- construction of urban infrastructure;
- granting of 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 leisure and other amenities;
- 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 issued, as well as income from land and intangible assets.

Further sources of municipal revenue are:

- income from the disposal of property;
- income from fines and other penalties resulting from offences committed;
- income from inheritances, donations and other voluntary payments to the municipality.

### **8.5. Borrowing**

Local authorities have access to the capital market and at the same time have the possibility of issuing bonds in accordance with ordinary law and of contracting medium – and long-term loans.

Municipalities must accordingly submit requests for the issue of bonds to the deliberative body – the municipal assembly – and the Ministry of Finance.

The 1987 Local Finance Act imposes a number of legal restrictions on loans raised on the capital market.

Medium – and long-term loans may only be contracted for investment purposes or in order to improve municipal finances. Annual charges (added to the charges on bonds) may not exceed 25% of the financial equalisation fund (FEF) or 20% of investment spending by the municipality during the previous year.

Local authorities may contract bank loans through authorised lending institutions. A large number of loans are contracted through the “General Deposit Bank” (CGD), a public sector bank. Loans contracted through private institutions must not give rise to higher fees or tougher repayment conditions than those resulting from loans contracted for the same purposes through public banks. The Treasury may also issue direct loans.

### Municipal receipts and expenditure in 1989 and 1994

RECEIPTS	% 1989	% 1994	EXPENDITURE	% 1989	% 1994
<b>Current</b>	<b>63.9</b>	<b>62.3</b>	<b>Current</b>	<b>52.4</b>	<b>56.3</b>
Direct taxes	24.8	23.3	Staff	28.5	29.4
Indirect taxes	3.2	3.7	Goods and services		
Other taxes and fines	3.0	3.0	Debt servicing	14.4	16.5
Real estate income	1.5	1.7	Current transfers	2.1	3.0
Goods and services	5.8	7.9	Other	6.2	6.3
Current FEF	22.5	20.3		1.2	1.1
Other transfers	1.3	1.1			
Other	1.8	1.3			
<b>Capital</b>	<b>36.1</b>	<b>37.7</b>	<b>Capital</b>	<b>47.6</b>	<b>43.7</b>
FEF capital	15.0	14.2	Investments		
ERDF	6.8	8.5*	Financial assets	40.9	34.8
Other transfers	3.9	4.3	Financial liabilities	0.2	0.6
Financial assets	0.2	0.1	Current transfers		
Financial liabilities	5.6	7.5	Other	1.7	3.7
Other	4.6	3.1		4.8	4.5
				0.0	0.1
<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>	<b>TOTAL</b>	<b>100.0</b>	<b>100.0</b>

\* Community Funds.

## 9. CONTROLS OVER LOCAL AUTHORITIES

The government, via the Ministry of Finance and the Ministry of Infrastructure, Planning and Regional Management, exerts general administrative control over the local authorities.

Under the terms of the Constitution and the relevant Act (27/96 of 1 August), the purpose of administrative supervision is limited to verifying the legality of local government measures. It takes the form of inspections, enquiries and investigations, involving the collection and analysis of information with a view to making sure that laws and regulations are enforced by local government organs and departments, metropolitan areas and consortia of municipalities.

Inspections are carried out on a regular basis according to an annual schedule approved by the competent bodies. In addition, specific enquiries 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 themselves committed such offences and dissolution of local government bodies where it is their own 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 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 a personal pecuniary advantage; or can be held liable for acts such as to justify the dissolution of a local government body.

Dissolution of local government bodies can be pronounced, *inter alia*, for failure to act upon 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 or charges; failure to approve budgets and administrative accounts; over-indebtedness or overspending on personnel.

Decisions to remove members of local government bodies from office or to dissolve such bodies come within the jurisdiction of the local courts and are given under an 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.

Checking of local authority accounts is carried out in two ways:

- inside local authorities, by the respective deliberative bodies which are empowered by law to approve the administrative accounts and progress reports submitted by the executive bodies;
- outside local authorities, by the Court of auditors, empowered by law to inspect local authority accounts.

In addition to administrative supervision, ratification by the Ministry of Infrastructure, Planning and Regional Management of municipal master plans (which are the responsibility of municipal executive bodies and are approved by their respective deliberative assemblies) provides another way of supervising local government activities.

The purpose of such ratification is to make sure that the approved municipal plans comply with certain laws and regulations as well as complying and fitting in with other plans drawn up by other local authorities or at a higher level.

Another form of supervision is carried out by the Court of auditors, which has powers not only to analyse the different accounts but also to carry out prior checks on the legality of expenses requiring a more or less long-term financial commitment on the part of the local authorities and the extent to which such expenses are covered by the budget.

## **10. REMEDIES FOR INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES**

Any individual who disagrees with decisions taken by a local government body or its members may lodge a complaint either with the body itself or with one of its members without prejudice to the right of appeal to the administrative court.

In addition, it should be noted that citizens have access to the ombudsman who defends their rights, freedoms and guarantees and ensures that the state acts justly and lawfully.

Citizens may seek direct help from the ombudsman in the 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 the local authorities may be contested in appeals before the courts. As a result of such appeals, decisions taken by local government bodies may be annulled on the grounds of procedural irregularity, abuse of power or illegality. Regulations and contracts may also be annulled by the courts. Furthermore, local authorities are liable in damages for the infringement of rights of third parties or of legal provisions protecting their interests.

The Constitution confers upon all citizens, either individually or in groups, the right of "popular action", consisting in the possibility of taking legal action in relation to offences committed against public health, the environment, the quality of life and the cultural heritage.

## **11. LOCAL ADMINISTRATIVE PERSONNEL**

Local administrative personnel are divided into the following categories: managerial staff, senior technical staff, technical staff, level 3 and 4 technical professional staff, administrative staff, auxiliary staff and manual workers.

For staff responsible for managing and co-ordinating the various organisational units, as well as senior technical staff with advisory duties, a university qualification representing four or five years of study is generally required.

For other senior technical staff, a non-university diploma of higher education is required.

For all other groups of staff with executive functions, the following qualifications are required: have completed the third year of higher education, or a technical vocational course lasting at least three years in the case of level 4 technical professional staff, three years of higher education followed by a vocational training course lasting at least eighteen months for level 3 technical professional staff, the general higher education programme or equivalent for administrative staff, and, lastly, compulsory schooling in the case of auxiliary staff and manual workers (Legislative Decrees 198/91 of 29 May; 323/89 of 26 September; 247/87 of 17 June; and 248/85 of 15 July).

In 1995 a Regulatory Decree set up the occupation of municipal administrative police officer, subject to special rules given the specific nature of this activity.



Municipalities are free to organise and run their departments as they see fit and according to Article 244 of the Constitution local authorities must have their own staff. Responsibility for recruitment of staff to local government lies with the executive body of the local authority and decisions are made without outside influence. Local government officials and other local authority staff are governed by the same rules as state officials and public servants.

The number of municipal staff is approximately 87 000 (1994 central government statistics) broken down as follows:

**Local authorities staff in 1994**

Managerial staff	2 524
Senior technical staff	2 942
Technical staff	723
Technical/professional staff	6 192
Administrative staff	9 727
Auxiliary staff	34 166
Manual workers	25 807
Municipal firefighters	2 126
Other staff	2 778

## **12. REFORMS ENVISAGED OR IN PROGRESS**

A study is in progress on ways of transferring new powers to local authorities, and regulations are being drawn up under the outline law on administrative regions so that this new level of local government may finally be established.

New legislation on local authorities is envisaged for the short or medium term concerning associations of municipalities, local finance, municipal and inter-municipal undertakings, the status of local government employees and the metropolitan areas.