

## **Memorandum on the Strategy for Innovation and Good Governance at Local Level**

### **PORTUGAL**

#### **Relaunching the Strategy at Local Level**

Since 2014, in line with the CDDG mandate, the General Directorate for Local Authorities has been promoting the Principles associated with Strategy for Innovation and Good Governance at Local Level.

On this matter, several specific actions have been carried out in cooperation with the National Association of Portuguese Municipalities (ANMP).

- A Portuguese version of the ELOGE benchmarking was released and nationally publicized (2014 and 2015)
- A “market sounding” to address the municipalities interest in participating in the ELOGE process was conducted (2015). More than 30 municipalities had responded favorably.
- A proposal to establish a national platform envisaging implementing the ELOGE was presented to the Secretary of State for Local Authorities (2016). At present, it is expected that this topic will be reevaluate after the local elections recently held (October 1<sup>st</sup>).

Meanwhile, the Local Government Workers Association (ATAM) in liaison with the European Association of Local Chief Executives (UDITE) intends to obtain the required certification from the European Stakeholders Platform to start to award the ELOGE to one or two Portuguese municipalities.

#### **The Twelve Principles at Local Level**

Portuguese Municipalities enjoyed a significant degree of political, administrative and financial autonomy.

It is generally recognized that Portuguese municipalities are already pursuing principles and adopting practices of Good Governance, although at different pace and degree.

Concerning the Twelve Principles, it is important to stress that the principles cover a relevant range of aspects and naturally many of them required further action and improvement on continuous basis as is the case for Responsiveness, Efficiency and Effectiveness, Openness and Transparency, Competence and Capacity, Innovation and Openness to Change, Sound Financial Management and Accountability.

Other Principles as Fair Conduct of Elections, Representation and Participation, Rule of Law and Human Rights are already well reflected in the national legal framework and system, in line with international standards, and are commonly acquired in practices not being considered a major concern.

### **The Twelve Principles at Central Government Level**

In line with the Secretary General's 2016 report on the "State of Democracy, Human Rights and the Rule of Law: A security imperative for Europe", the twelve principles are useful benchmarks for assessing the performance of member States on good governance at all levels.

In this regard, considering Central Government, Portugal is a member of the European Union and the Euro Zone endowed with a consolidated and functioning democracy based on a strong legal foundation.

The Portuguese Constitution defines the Portuguese Republic as a Democratic State based on popular sovereignty and the rule of law, pluralism of expression and democratic political organization, respect and guarantee of fundamental rights and freedoms and the separation and interdependence of powers, aiming at the materialization of economic, social and cultural democracy and the deepening of participatory democracy (article 2).

The Constitution defines broad categories of fundamentals rights and guarantees civil rights for the population without discrimination.

As a democratic State based on the rule of law, the judicial system is independent and is very active in ensuring that the government conforms to the law. The legislation is prolix and quite often complex and society is considered highly legalist.

The Constitution and subsequent regular legislation guarantee political liberties. Individuals and political parties enjoy largely equal opportunities to register for and to run in elections, both de jure and de facto. Legislative elections are contested only by registered political parties, but individual citizens can run in municipal elections.

Media freedom and media pluralism are mandated by the Constitution. Public and private media are independent from the government's influence and media and newspapers diversity ensures a high degree of pluralism of views and opinions. Parties and candidates have access to broadcast time on television and radio on a current basis and during the official campaign periods.

The Portuguese Democracy is anchored on representative democracy and contemplates the civil participation in the public affairs. Legal mechanisms for civic participation in political decision-making exist. For instance, the institution of referenda exists both at national and local

levels and stakeholder's consultation is generalized when political and legal measures have to be decided.

Portugal pursues an "Open Government" approach, participating in the "Open Government Partnership". Free and readily access to Government and official information is provide in the Constitution, and there are extensive legal stipulations providing guarantees and appropriate mechanisms for access to official information.

In the context of the financial and sovereign debt crises, Portugal has benefit from the European and international financial assistance, having conducted a major adjustment program to reestablish the balance of public and external accounts, in terms of deficit and debt. The country has successfully overcome the bail-out period and faces now a time of economic and financial recovery.

In light of this, sound financial management discipline and practices were reinforced across all levels of government and a more long term strategic orientation is being implemented in line with the requirements of the European sovereignty sharing framework. "Market regulators failures" have become evident and are now being addressed.

While bailout conditions have affected public services in general, they have also favor accountability, efficiency and effectiveness and challenge public sector responsiveness.

Structural adjustment has been a "wave of change" in almost all areas of Government and in the Gov-markets and Gov-society relations. Private sector participation in the delivery of public services has increased.

Society is demanding from political actors to actively seek to improve the quality of governance and policy as well as the quality of democracy. The reform and modernization of the State, the improvement of governance capacity and ethical governance have become central issues.

Considering the different dimensions of the Twelve Good Governance Principles, it is generally accepted that there remains scope for improvements at Central Government in many aspects of the concerned areas. For the present mandate (2015-2019), the Government has prioritized a set of measures with positive impact on various Governance standards.

In respect to the challenging goal to evolve towards "A STRONG, SMART AND MODERN STATE", some initiatives and measures are here highlighted in relation to different policy action strands.

i) Improvement of the Quality of Democracy

- Facilitating the exercise of the right to vote: Expand the list of professions and the cases for early and mobile voting.
- Facilitating citizens ' access to the Constitutional Court: Reduction of formal and financial constraints which affect the citizens ' access; create the figure of Constitutional Assistant;

establish maximum periods for Court decisions related with successive surveillance of constitutionality.

- Promoting civic participation and scrutiny of public institutions: Creation of the Petitioner's desk (Internet Web site); allow also foreign citizens residents to submit petitions; adoption of a participatory budget at the level of State budget; reinforcement of citizenship education in school curricula.
- Preventing and fighting corruption: Adoption of a Public Transparency Code; regulation of lobbying activities; ban the possibility of Parliamentary members, acting as lawyers, to advocate in favour or against the State; creation of a public register of interests in local authorities.
- Strengthening personal data protection: Create mechanisms for monitoring and evaluation of public and private electronic systems for recording and archiving of personal data; create fast and expeditious mechanisms to react and get compensation in the face of violation of the rights "to be forgotten", intimacy of private life and good name.

ii) Governing Better and Governing Differently

- Implementing performance management systems for public services: use benchmarking performance techniques; introduce merit mechanisms in human resource management; use transparent procedures in appointment of top managerial positions and staff recruitment.
- Improving the quality of legislation: Promote legislative coding exercises, eliminating scattered legislation; transpose EU directives on time and avoiding successive legislative exercises; approval of legislation in conjunction with the approval of all required regulations; evaluate the impact of structural legislation, in particular for SMEs.
- Reviewing public infrastructure planning and implementation: creation of a Steering Committee for Public Works entitled to issue mandatory opinion on relevant investment programs and projects; submit relevant investment programs and major projects to public discussion; creation of a centre of expertise in cost-benefit analysis and procurement; submit investment programmes and financing sources to qualified parliamentary approval (2/3 majority).
- Improving the quality of public expenditure: reduce the inefficiencies and redundancies in public services, namely in Health and Education sectors; reduce the use of external

consultants; increase the use of value for money audits; rationalize the granting of exemptions, deductions and other tax benefits.

iii) Streamlining Justice

- Improving the management of the judicial system: Institution of a conciliation council for the judiciary system; adoption of a new model of judicial organization and adaption of the judicial magistrates' statute; adapt the judicial year to the calendar year; creation of a productivity incentive scheme linked to performance for the court teams; use electronic tools more extensively in courts management; extend the Simplex approach to the courts.
- Decongesting the courts: Procedural simplification, reduction of redundant, useless or procedural acts without added value; review the rules of production of proof; dematerialize court proceedings; review insolvency regime.
- Bring the Justice closer to the citizens: creation of an internet Justice gateway, provide a customer service in the courts; simplification of language related with fundamental procedural acts; conduct periodic surveys on Justice services; adoption of good practices in the inquiry schedule of witnesses; promote trials by videoconference.

iv) Simplifying and Digitizing the Administration

- Relaunching the Simplex programme focussing on e-government and administrative simplification. The programme is publicly available online and includes 255 measures to be implemented by 2017: *inter alia*, are the creation of one-stop shops in different areas (as for employment, property and building information); single Internet Site for private companies report information obligations to different public entities; opening of public data to develop services with social added value; adoption of the fundamental "once-only" principle; implementation of the "Drop Your Idea" initiative.
- Improving the quality of service provision for citizens and businesses through the use of new generation networks (Digital Agenda – "New Technologies. Better Economy"). Key e-Government measures include Next Generation Networks (NGNs), Excellence in Education, Proximity Healthcare and Smart Mobility.
- Promoting innovation in the public sector: creation of an incubator to test innovative projects in PA; introduce a "right to challenge", allowing public entities (schools, hospitals, local governments and others) to be exempted from compliance with a

particular regime, during a certain period in order to test a new procedure; create “competence centres” to support technically and horizontally ministries and public services; provide prizes to innovative teams and officers.

- Improving public procurement: simplify procedures and reduce costs for companies and public services; extend the use of electronic tools to all phases of the procurement procedures; improve procurement shared services in public sector; improve management of public assets and create a single platform for asset management.

v) Decentralizing to Reform the State

- Democratizing the governance model of the regional coordination entities: Enhancing municipal representation at management bodies of regional coordination commissions.
- Strengthening the role of metropolitan areas: enhance democratic legitimacy, with governance bodies elected directly elected by the citizens; assign own competences to metropolitan areas to improve coordination and management of metropolitan networks in areas as transport, water and waste management, energy, economic and tourism promotion, and management of urban equipment and regional development programs.
- Strengthening inter-municipal communities: Review functions and tasks, models of governance and accountability.
- Enlarging municipalities intervention: Transfer new competences to municipalities in different domains as in education (primary and secondary level); healthcare (primary and continuing care), social action, transport, culture, housing, civil protection, public security and port and maritime areas.
- Upgrading parishes functions: differentiate the range of tasks assigned to parishes according to its nature; promote task municipal delegation to parishes.
- Linking local financing with territorial cohesion: change local finance rules to increase participation of municipalities in the tax revenues of the State; enable collection of local taxes and charges in areas of municipal jurisdiction.
- Reorganizing deconcentrated services and expand proximity services network: opening of new “citizens’ boutiques” and multi-service desks; creation of mobile units.

It should be noted that a large part of the measures envisaged by the Government will also spread positive effects on governance standards at Local Government level.

Meanwhile, the overall progress on reforms and measures implementation is regularly reported to the general public in the Government website (<http://www.portugal.gov.pt/pt/o-governo/pnr/pnr.aspx>).

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