

LOCAL INTEGRITY SYSTEM ASSESSMENT

PORTUGAL | LISBOA & BRAGA

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Authors: Nuno Ferreira da Cruz and Luís de Sousa.

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I. INTRODUCTION

This Local Integrity System (LIS) Assessment is one of five pilots undertaken by Transparency International (TI) national chapters from Africa, Latin America, Europe and the Middle East to test the relevance and applicability of the LIS Assessment approach in different national and local contexts. The pilots took place between September and December 2013.

The study encompasses two municipalities: Lisboa (the capital) and Braga (in the north of the country). However, the focus of the work is on the reform of the Portuguese local administration as a whole. Indeed, more than documenting key findings and recommendations for a single municipality, the purpose of this LIS assessment is more comprehensive. In light of the on-going local government reform in Portugal (e.g. see the Green paper on the reform of local administration, Portugal 2011), we intend to identify the major strengths and weaknesses of the local governance system, whilst identifying opportunities offered by, and constraints to the current reform efforts. The main objective is to issue a set of recommendations and define an advocacy plan to put “good governance” in the current agenda and push the reform in this direction.

The selection of these two municipalities was based on very pragmatic considerations. Lisboa was selected due to proximity reasons and because, being the capital city, it is the municipality that controls and manages the highest amount of resources. Braga was selected because the newly elected Mayor demonstrated political will to facilitate the LIS Assessment and to arrange several meetings with key local decision-makers.

This draft report has been developed by the LIS Researcher, Nuno Ferreira da Cruz and was reviewed by the Project Coordinator, Luís de Sousa (Transparência e Integridade, Associação Cívica). The two Research Assistants, Sónia Pires and Susana Carvalho provided the secondary data and helped to schedule and conduct the interviews in Lisboa and Braga, respectively. The research team also includes António F. Tavares (University of Minho), Filipe Teles (University of Aveiro) and Susana Jorge (University of Coimbra) who helped to frame the project and perform the situational analysis.

The project team would like to acknowledge the valuable input provided by the advisory group and the remainder participants in the “Stakeholder Analysis” session, namely: Bárbara Rosa (Má Despesa Pública), Berta Nunes (Mayor of Alfândega da Fé), Giovanni Allegretti (Centre for Social Studies of the University Coimbra) and Orlando Nascimento (former Inspector-General of the for Local Administration – this entity has recently been dissolved). Finally, the authors are thankful for the collaboration of more than two dozen interviewees from the municipalities of Lisbon and Braga and the various entities carrying out oversight and accountability functions.

II. EXECUTIVE SUMMARY

Local Integrity System Context

Public services coverage and quality are no longer crucial issues for the Portuguese local administration. Indeed, major investments have been undertaken in the past decades and the progress is visible in this regard (da Cruz and Marques, 2014). Currently, the key concern is the quality of local democracy (Diamond and Morlino, 2005). Local governments have seen their budgets and competences increase in the past two decades without a proportional increase of controls and disciplinary procedures. Despite its crucial role in terms of proximity and social cohesion (according to the subsidiarity principle), the recent history of local government in Portugal has also been bounded by institutional failure and wrongful governance practices. The great authority and discretion given to mayors and the fact that local governments are the major employers, regulators and service providers in many municipalities often led to corruption and clientelism (De Sousa, 2008). In fact, the lack of transparency and accountability in local government affairs is a major problem. According to a study on criminal sociology coordinated by Luís de Sousa (2010), 345 out of 838 court cases analysed for the period 2004 and 2008, concerned local government authorities and municipal companies.

On 5 May 2011, the Portuguese Government signed a Memorandum of Understanding with the European Commission, the European Central Bank and the International Monetary Fund, setting a series of structural reforms which Portugal has to undergo in order to benefit from financial aid. One of the measures was the need to reorganise local governments and the provision of central administration services at the local level (MoU, 2011). This reform caused considerable uproar amongst mayors, representatives of local parishes and the general public and launched an unprecedented debate about the future of local government in Portugal. Much of the discussion has focused on the downsizing of local authorities and not on the improvement of local government institutions and the efficiency of administrative services.

The absence of a middle tier between central and local government and the perceived level of corruption are two strong reasons to conduct a LIS Assessment in Portugal. Moreover, the local government reform currently taking place provides a singular window of opportunity to the LIS project. The context is therefore ripe for a decisive action from civil society, a clear demand for change supported on an evidenced-based report.

LIS Assessment: Actors and Functions

LIS Scorecard: Braga - Actors			
Actor	Capacity	Role in the LIS	Internal governance
Local Assembly			
Local Executive			
Local Bureaucracy			
Local Political Parties			

LIS Scorecard: Braga - Functions

Function	Capacity	Effectiveness
Complaints handling		
Auditing		
Centralised oversight of local government		
Investigation and exposure of corruption		
Awareness-raising and public education		
Social Accountability		

LIS Scorecard: Lisboa - Actors

Actor	Capacity	Role in the LIS	Internal governance
Local Assembly			
Local Executive			
Local Bureaucracy			
Local Political Parties			

LIS Scorecard: Lisboa - Functions

Function	Capacity	Effectiveness
Complaints handling		
Auditing		
Centralised oversight of local government		
Investigation and exposure of corruption		
Awareness-raising and public education		
Social Accountability		

Key findings

1. Deficient “checks and balances” to executive rule and powerful mayors (**preventive dimension**).
 - a. Political leadership/personal decisions are the main drivers of change (either good or bad for the LIS; however, concentration of powers poses more drawbacks than benefits; OECD, 1996);
 - b. The relevance of the assembly is limited;
 - c. The opposition lacks capacity;
 - d. Remaining actors are often captured (e.g. suppliers, associations).
2. Insufficient capacity for investigation and prosecution of corruption (**repressive dimension**).
 - a. There is a lack of coordination between investigation (and auditing) bodies;
 - b. Local government is not a priority for these entities (that naturally focus on major expenditures).
3. Weak political culture (**educational dimension**).
 - a. Tolerance, indifference or too much deference towards the corruption topic;
 - b. The LIS is not a focus of local media and civic associations.

Recommendations

1. **Preventive dimension** – development and adoption of strict codes of conduct for political decision-makers and public servants and mechanisms for managing conflicts of interest.

Portuguese local governments should be compelled to adhere to demanding rules and ethical standards that draw on international best practices and guidelines such as the Charter of Pisa (Avviso Pubblico, 2012).

The discussion about the drafting of these principles/rules/codes can be led by the civil society (including NGOs, academic institutions and all interested stakeholders). TIAC will attempt to contribute to this effort and to the ongoing discussion on local government reform by facilitating the drafting of a “white paper” that provides a civil society take on local democracy issues during 2014. However, the commitment to incorporate these values is contingent upon the political will of the Local Executives.
2. **Repressive dimension** – development of a coordination and communication system between all bodies in charge of investigation and monitoring.

The creation of comprehensive databases and the statistical treatment of data are crucial and urgent (i.e. efforts to accomplish this should be undertaken immediately). It is mainly up to the Ministry of Justice to fund and champion this change.
3. **Educational dimension** – use of the Municipal Transparency Index as a tool to induce change and create a virtuous cycle (where citizens demand a more open and transparent local government; the higher levels of transparency make local governments more accountable to citizens and the media; and the greater accountability curbs corruption and promotes the demand of citizens for integrity).

The Municipal Transparency Index can be used to create a “virtual competition” between local governments with positive externalities for citizens (ITM, 2013). TIAC will continue to partner up with other stakeholders and produce and improve the Municipal Transparency Index every year. Other civil society organisations and the media must also play a role in promoting this positive competition and in changing the mind-sets and tolerance towards corruption and other “bad governance” matters.

III. ABOUT THE LOCAL INTEGRITY SYSTEM ASSESSMENT

Since the early 1980s there has been an increasing trend towards the transfer of powers from the central level of government to local governments in the form of decentralisation. As a result, local governments have greater decision making, implementation and oversight powers. Whether decentralisation results in greater corruption in comparison to centralized governance arrangements is still a matter of debate. However, the reality is that corruption is a problem at all levels of government. Both elected and appointed officials have to deal with separating public duties from private interests. At the local level this is exacerbated by the fact that many officials have greater vested interests based on family, friendships and business ties that can influence decision-making. In addition, remuneration at the local government level is, in many cases, low in comparison to the national level and the institutions that are designed to hold public officials to account at the local level are not always adequate to perform their duties and to uphold public sector integrity.

A functioning local integrity system can play an important role in minimising the opportunities for corruption at the local level. A typical local integrity system incorporates a set of *core actors* that can be found in most local government configurations, namely: the local council (assembly), a mayor or alderman (executive), the local bureaucracy, local political parties, local courts (judiciary), and the police. It also encompasses a set of *oversight and accountability functions* which need to be performed in order to ensure that the local integrity system is effective. These functions include complaints handling, local government auditing, central government oversight, investigation and exposure of corruption, awareness-raising and public education, and social accountability.

Based on Transparency International's (TI) National Integrity Systems (NIS) approach, the Local Integrity System (LIS) Assessment combines the gathering of valid and reliable evidence on the performance of the local governance framework, actors and anti-corruption institutions with a consultative approach, engaging key stakeholders in the research, advocacy and planning elements of the project.

Given the diversity of local governance settings across the world, the LIS Assessment framework places a strong emphasis on flexibility and adaptability to different local governance structures and contexts. In many localities, for example, there is limited separation of powers between the different branches of local government and different levels of autonomy from higher levels of government. As a result, the roles and responsibilities of the core actors, as well as responsibility for performing oversight and accountability functions, may vary considerably from place to place. Therefore the LIS assessment framework can be adapted to accommodate these local variations.

Objectives

The key objectives of the LIS Assessment are to:

- (i) assess the existence and effectiveness of procedures and mechanisms to promote transparency, accountability and integrity in order to fight corruption at the local level,
- (ii) provide recommendations on areas for reform and
- (iii) provide the foundations for a follow-up action plan for strengthening local integrity in collaboration with key local stakeholders.

Methodology

The LIS Assessment may be conducted in one or more Local Government Units in a given country. In each of the Local Government Units under analysis, an assessment of two components: (1) a set of *Core Local Government Actors*; and (2) A set of *Oversight and Accountability Functions*.

1. Core Local Government Actors

The LIS assessment focuses on six “Core Local Government Actors” which are present in most local government set-ups. For each of the Actors, the assessment covers three dimensions:

- its overall *capacity* to function,
- its *role* in contributing to the overall integrity of the local governance system
- its own internal *governance* in terms of integrity, transparency and accountability

ACTOR	CAPACITY	ROLE IN THE LIS	INTERNAL GOVERNANCE		
			TRANSPARENCY	ACCOUNTABILITY	INTEGRITY
Local Assembly					
Local Executive					
Local Bureaucracy					
Local Political Parties					
Local Police					
Local Courts					

2. Oversight and Accountability Functions


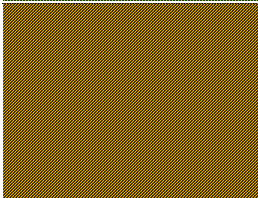

In addition to the Core Actors, and because Local Government set-ups vary considerably from place to place, the assessment also covers six key Oversight and Accountability Functions, which may be carried out by local and/or regional/national actors depending on context. For each of these functions, the assessment covers two dimensions:

- the *capacity* for that function to be performed (whether by local actors or at the national level)
- the *effectiveness* of that function (i.e. how effectively it is actually performed in practice)

FUNCTION	CAPACITY	EFFECTIVENESS
Complaints handling		
Auditing		
Centralised oversight of local government		
Investigation and exposure of corruption		
Awareness-raising and public education		
Social accountability		

For both Actors and Functions, each dimension comprises a number of indicators which are each evaluated qualitatively and assessed using a simple traffic light system (Green – Strong; Orange – Average; Red – Weak). Indicators cover elements of both the legal framework (Law) and actual implementation on the ground (Practice).

The following example is one of the indicators used to assess the Local Executive:

ACTOR	Local Executive	
DIMENSION	Transparency	
INDICATOR NUMBER	2.6	
INDICATOR NAME	Budget Transparency	
INDICATOR QUESTIONS	<p>To what extent does the local government present a clear and accessible budget?</p> <p>Is there a legal framework or other provisions that require the Local Government to make a transparent budget that can easily be understood by citizens and councillors? Are there clear guidelines and/or formats on how to present budget data? To what extent is the budget accessible to citizens and councillors and easy to understand in practice?</p>	
STRONG		The local government is required to present transparent annual budgets and these are easily accessible and easy to understand in practice
AVERAGE		The local government is required to present transparent annual budgets but the budget is difficult to access in practice and/or difficult to understand
WEAK		There is no such requirement and the budget is not accessible or only accessible to councillors

Adaptation of the LIS Assessment framework

Originally, the LIS Assessment Toolkit comprises 56 indicators. That is: eight indicators for the “Local Assembly”, eight indicators for the “Local Executive”, nine indicators for the “Local Bureaucracy”, six indicators for the “Local Political Parties”, six indicators for the “Local Courts”, six indicators for the “Local Police”, and 13 indicators for the “Oversight and Accountability Functions” (two for each function with the exception of “Auditing”, which has three indicators). However, the LIS Assessment in Braga and Lisboa is made up of 44 indicators in total. The indicators for the actors “Local Courts” and “Local Police” were removed so that the LIS Scorecard is consistent with the

Portuguese institutional framework. In Portugal, courts are not truly “local” (i.e., they have no autonomy and are managed in a centralised way under the Ministry of Justice). Likewise, the police with competence over all corruption-related cases is a centralised body. Therefore the contribution of these entities for the LIS will be mostly captured in the “Oversight and Accountability Functions” indicators.

In order to assess each indicator, data was collected through a range of different methods, with an emphasis on a desk review of existing legislation, policy papers, existing analyses of institutional performance of the actors, and key informant interviews. A focus group brought together to carry out the stakeholder analysis in the initial phase of the project was also a useful data source.

Once all the indicators were assessed and values (strong, average, weak) assigned, the results were aggregated and the final assessment is presented in the form of the LIS Scorecard.

Consultative approach and validation of findings

The assessment process in Braga and Lisboa had a strong consultative component, seeking to involve the key local actors in government, civil society, the media and the private sector. This approach had two aims: to generate evidence and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives.

On 30 October 2013 the LIS team carried out a “Stakeholder Analysis” session with elements from the Advisory Group and other practitioners and specialists. During this session the group discussed the criteria for selecting the unit of analysis, the main challenges and the reform of local democracy in Portugal and the objectives of the current LIS Assessment. The group decided that, in addition to the action plan and advocacy activities, this project should have two different reports. One standardised and in English (this report); and one in Portuguese more tailored-to-fit to contribute to the ongoing discussion on local government reform and provide a civil society take on local democracy issues. Both reports will be publicly available and widely disseminated.

Initially the project team intended to include four municipalities in the LIS assessment for Portugal. This proved to be unfeasible mainly to the very time-consuming process of setting up the interviews with the local and relevant national entities or representatives. For this LIS assessment 26 interviews were conducted.

List of interviewees for Braga:

- Ricardo Rio (Mayor);
- Firmino Marques (Councillor);
- Miguel Bandeira (Councillor, independent);
- Hugo Pires (Opposition Councillor);
- Carlos Almeida (Opposition Councillor);
- Jorge Pires (President of a Civil Parish);
- João Nogueira (President of a Civil Parish);
- Miguel Pedro Guimarães (Director of Administrative Management);
- Luís Teixeira Silva (Head of the Accounting Division);
- Hortense Santos (President of the Local Assembly);

- Fernando Lopes (Executive Director of Associação Comercial de Braga, the local business association);
- Rui Ferreira (Founder of Braga+, a local civic association);
- Bernardo Reis (Santa Casa da Misericórdia de Braga, local branch of a charity organization);
- José Carlos Lima (Journalist of Diário do Minho, a local newspaper).

List of interviewees for Lisboa:

- João Ferreira (Opposition Councillor);
- Pedro Delgado Alves (President of a Civil Parish);
- Luís Barbosa (Best Practices Commission)
- António Folgado (Director of the Urban Management Department);
- Mónica Ribeiro (Director of the Public Works, Prevention and Safety Department);
- Cláudia Madeira (Member of the Local Assembly);
- Paulo Ferrero and Nuno Caiado (Fórum Cidadania LX, a local civic association);
- Maria José Morgado (Coordinator of the Department for Investigation and Penal Action in the Lisbon region);
- Inês Boaventura (Journalist of the local section of Público, a national newspaper).

List of interviewees with national relevance:

- Amadeu Guerra (Director of the Central Department for Investigation and Penal Action);
- André Folque (Ombudsman Coordinator);
- José F.F. Tavares (Director-General of the Court of Auditors and Secretary-General of the Council for the Prevention of Corruption).

IV. SITUATIONAL ANALYSIS

In Portugal, local government has been democratic since 1974 (first elections in 1976). From then on, municipalities have become the major players in the country's territorial development and one of the most important pressure groups in Portuguese politics (Tavares and Camões, 2010). According to the Constitution, the Portuguese local administration is composed of administrative regions, municipalities and civil parishes (boroughs and villages). However, the administrative regions have not yet been established, and the authorities responsible for delivering local public services to the population are the municipalities (parishes' competences are limited). Presently, there are 308 municipalities, where 30 are on the islands (the two archipelagos are autonomous regions) and 3.091 parishes (since September 2013; previously there were 4.259 parishes). The autonomy of municipalities regarding the management of their responsibilities is a Constitutional principle.

Currently municipalities are responsible for delivering essential infrastructure services (e.g. water, wastewater, transportation and urban waste services) and for several other tasks (e.g. urban planning, licensing, cultural, educational and recreational services). Public services coverage and quality are no longer an issue in this country. Virtually all the Portuguese population has access to social and urban infrastructure services. On the other hand, these local authorities have seen their budgets and competences increase in the past two decades without a proportional increase of controls and disciplinary procedures. Despite its crucial role in terms of proximity and social cohesion (according to the subsidiarity principle), the recent history of local government in Portugal has also been bounded by institutional failure and wrongful governance practices. The great authority and discretion given to mayors and the fact that local governments are the major employers, regulators and service providers in many municipalities often led to corruption and clientelism (De Sousa, 2008). Furthermore, new modes of delivery of public services and/or infrastructures (e.g. the creation of municipal companies) and new types of interaction with the private sector (e.g. the development of local public-private partnership ("PPP") arrangements) raise important governance issues (da Cruz and Marques, 2012).

The lack of transparency and accountability in local government affairs is a major problem. According to a study on criminal sociology coordinated by Luís de Sousa (2010), 345 out of 838 court cases analysed for the period 2004 and 2008, concerned local government authorities and municipal companies. Local government is a major focus of corruption due to a series of perceived factors (Almeida, 2008; da Cruz and Marques, 2011; da Cruz et al., 2013; De Sousa, 2008; Jalali et al., 2012; Marques and Coroado, 2012; Teles, 2012 and 2014):

- **Public deals with high margins of profit** – Public works, outsourcing contracts, acquisitions and PPPs, subsidies, licensing, urban planning and supervision, etc.;
- **Decisional monopolies and executive discretion** – Decisional power is often concentrated in the hands of the Mayor and a few party cronies;
- **Weak systems of checks-and-balances** - Local government administrations tend to be submissive to the Mayor's will, who controls recruitment and career progression procedures. Municipal deliberative assemblies have very weak oversight powers over the executive and few veto powers over major spending decisions;
- **Feeble internal reporting mechanisms** – Local government administrations are subject to internal auditing procedures, but the reporting of illegality is rare and almost never

addresses higher rank officials or elected ones. Municipal deliberative assemblies play a minor role in exposing illegalities or ensuring integrity in local public affairs;

- **Longevity in office** – Some Mayors have remained in office for more than 10 years. Although a law has been passed setting term limits to Mayors and Presidents of parish assemblies, precluding them from running for office after three consecutive terms (12 years), this rule only applies to re-election in the same municipality. Note that while this law was passed in 2005, due to its lack of clarity (and the absence of political will of practically all the major parties to take a stand and make it clearer), its scope of application was only settled in 2013 (before the elections) after the interpretation of the Constitutional Court;
- **Party patronage** – Nepotism and party patronage in public recruitment to the local council administration is widespread;
- **Favouritism in public procurement contracts** – Local individuals and organisations – councillors, civil servants, citizens, associations, business, political parties, the media – often have close personal relationships;
- **Off-budget spending through the creation of municipal companies** (which manage public funding under private law). These bodies are often created to evade the overall regulation and supervision of the auditing authorities;
- **Most municipalities are run in a clientelistic manner and represent the focal point of local economic development:** local government is the major local employer, the major contractor, and the major sponsor of local media and civil society organisations/initiatives through municipal subsidies.

Despite the few incentives for achieving good municipal governance provided by the current context, local governments have been known to deal with these issues and with reporting and accountability procedures quite differently from one municipality to another (Carvalho et al, 2007). Therefore, it should be interesting to compare and contrast the findings of the LIS Assessment in different Portuguese municipalities.

On 5 May 2011, the Portuguese government signed a Memorandum of Understanding (MoU) with the European Commission, the European Central Bank and the International Monetary Fund, setting a series of structural reforms which Portugal has to undergo in order to benefit from financial aid (MoU, 2011). One of the measures is the need to reorganise local governments and the provision of central administration services at the local level. This reform caused considerable uproar amongst mayors, representatives of local parishes and the general public and launched an unprecedented debate about the future of local government in Portugal. Much of the discussion has focused on the downsizing of local authorities and not on the improvement of local government institutions and the efficiency of administrative services (da Cruz and Marques, 2014; Teles, 2014).

The absence of a middle tier between central and local government and the perceived level of corruption are two strong reasons to conduct a LIS Assessment in Portugal. Moreover, the local government reform currently taking place provides a singular window of opportunity to the LIS project. In addition to specific fiscal measures and the improvement in reporting mechanisms, Measure 3.43 of the MoU required the Portuguese Government to implement a major reorganisation of local government administration that came into effect by the last local elections (29 September 2013). As already mentioned, there are currently 308 municipalities and 3.091 parishes still with great disparity in terms of territorial size, economy and population. However, the number of civil parishes was significantly reduced after the elections. In view of this obligation, the Central Government published a Green paper on the Reform of Local Authorities, which under chapter 4 operationalised this obligation (Portugal, 2011). Increasing the competences of the Inter-municipal Communities (arguably, to exploit economies of scale) was another governmental intention. However, upon the submission of the respective legislative piece to the Constitutional Court by the President of the Portuguese Republic, this “top-down” attempt to create a sort of intermediate

government tier was considered to be illegal (in May 2013; DR, 2013). The context is therefore ripe for a decisive action from civil society, a clear demand for change supported on an evidenced-based report.

V. LOCAL INTEGRITY SYSTEM

The scoring guideline from the LIS Assessment Toolkit (TI-S) that best represents the actual situation in the municipality is always provided in italics at the beginning of each indicator. Note, however, that these are just broad parameters around which we base our assessment. In many cases only some of the elements covered in the cited sentences actually apply. The “Comments” section of each indicator provides the necessary clarifications.

BRAGA – CORE LOCAL GOVERNMENT ACTORS

1. LOCAL ASSEMBLY

Summary

Capacity
Role
Governance

Capacity



1.1. Adequate resources

To what extent does the local assembly have adequate resources to carry out its duties in practice?

“The local assembly has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties” (TI-S).

Comments

There is an absence of training (either for new or re-elected members). The new President and other new members of the Local Assembly are “learning by doing” (interview with Hortense Santos, November 2013). There is a lack of expertise to scrutinise complex documents (financial statements, contracts, etc.) and spot problematic issues.

1.3 Independence



To what extent is the local assembly independent from the executive?

“There is some overlap of roles between the local assembly and the executive” (TI-S).

Comments:

The different roles (i.e. duties) are quite clear (Law no. 75/2013). However, local political parties dominate the actions of the members of the Local Assembly; i.e. generally, there is party discipline (interview with Hortense Santos, November 2013; AMB, 2013a).

Role

1.4 Oversight of the local executive



To what extent are local councillors able to exercise and enforce their decisions and oversight role?

“Local councillors have the mandate to oversee the work of the executive and are somewhat effective at providing this oversight. They are partially able to enforce their decisions” (TI-S).

Comments:

The predictive instruments (e.g. budget, investment plan, etc.), financial reports (e.g. balance, income statement, etc.) and other documents have to be discussed and approved by the Assembly (Law no. 75/2013).

1.5. Representation



To what extent do local councillors represent the interests and priorities of their constituency in practice?

“Local councillors are not considered to represent the interests and priorities of their constituency” (TI-S).

Comments:

The members of the Local Assembly are largely bound by local politics. The local elections are focused on the Executive (interview with Hortense Santos, November 2013). On the bright side, two of the 75 members are from a civil society movement (AMB, 2013b).

Governance

1.6. Transparency of the local assembly



To what extent can citizens access relevant information on the local assembly and councillors?

“Citizens can access some relevant information on the local assembly and councillors and/or information is difficult to access” (TI-S).

Comments:

The proceedings are not up to date (last proceeding is from 30 April 2013; AMB, 2013a). The meeting agendas are not available online. All assembly meetings are public. However, the time given to the public is at the end of very lengthy meetings and is seldom used (e.g. see AMB, 2014).

1.7. Accountability of local councillors



To what extent are local councillors answerable for their actions in practice?

“Local councillors are not answerable for their actions in practice” (TI-S).

Comments

Public engagement is poor. There is no formal procedure for submitting complaints against the assembly and/or councillors in practice (interview with Hortense Santos, November 2013).

1.8. Integrity of local councillors



To what extent is the integrity of local councillors ensured?

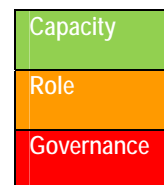
"No rules on conflict of interest, gifts & hospitality, asset disclosures, whistleblower protection are in place and there have been numerous recent examples of conflict of interest in the local assembly" (TI-S).

Comments:

Other than the by-law regulating the Local Assembly functioning (currently not available online), there are no comprehensive rules and codes for the members of the local assembly (interview with Hortense Santos, November 2013). One example of a "structural" conflict of interest is the case of the Presidents of Civil Parishes. As established by law, the Local Assembly is constituted by the all the Presidents of local Civil Parishes and by a higher number of directly elected members (Law no. 169/1999). That is, having executive powers in their parishes and limited resources (which require a close cooperation with the Local Executive), the Presidents of Civil Parishes also have deliberative powers in the Local Assembly.

2. LOCAL EXECUTIVE

Summary



Capacity



2.0 Local Elections

To what extent are local elections timely, free, fair and representative?

"Local elections are largely timely free, fair and representative" (TI-S).

Comments:

There are, however, some reports of improper conduct in some parishes. For example, elderly citizens transported to the polling station using the van of the Civil Parish; voters escorted by the candidates (to the Presidency of the Civil Parishes) to the voting booths (interview with Hugo Pires, November 2013; interview with Carlos Almeida, November 2013).



2.1. Clear functions

To what extent does the Local Government have a clear and realistic strategy/action plan and a coherent set of functions?

"The local government's strategy and functions are rather vague, ambiguous or too wide and unrealistic" (TI-S)).

Comments

The competencies of the local executive are defined by law (Law no. 75/2013). However, there is room for discretion. The main strategy/action plan is the electoral program of the winning list (interview with Firmino Marques, November 2013). There is some overlap of functions with the civil

parishes (interview with João Nogueira, November 2013; interview with Jorge Pires, November 2013).



2.2. Predictable resources

To what extent does the Local Government have access to the resources it requires to carry out its functions and deliver its vision?

“The Local Government has access to all the resources it requires to carry out its functions and deliver its strategy effectively” (TI-S).

Comments:

The austerity shrunk the budgets of all municipalities. However the financial resources have been somewhat stable. The main fluctuations in the budget of Braga are due to the existence and execution of EU funds (interview with Firmino Marques, November 2013).

Role



2.3 Management of the local bureaucracy

To what extent does the local executive effectively perform its role in terms of providing effective oversight of, and support to, the local bureaucracy?

“The executive is inactive and unsuccessful in developing a local public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness” (TI-S).

Comments:

The members of the local executive do not have the ability/resources to effectively monitor the integrity and/or behaviour of local public servants (interview with Hugo Pires, November 2013). The performance evaluation system is ineffective and managed inadequately especially nowadays where the evaluation scores have no consequences (interview with Firmino Marques, November 2013). The local bureaucracy manages itself.



2.4. Oversight of private providers of public goods

To what extent does the local executive effectively perform its role in terms of holding private service providers of public goods accountable for the service delivery they are contracted for?

“The local executive is somewhat effective in holding private service providers to account” (TI-S).

Comments:

Overall, public procurement procedures have improved (interview with João Nogueira, November 2013). However, there are still a lot of direct awards (BASE, 2013a). There is also a lack of expertise to monitor more complex contracts (long term or PPPs, such as AGERE).



2.5. Regulation of local business

To what extent does the local government effectively perform its role in terms of regulating local businesses in an even-handed and effective manner?

“Business regulations are effectively enforced and inspections are considered fair and transparent” (TI-S).

Comments:

There is no evidence of unfair treatment by local government inspectors of local businesses (interview with Firmino Marques, November 2013; interview with Fernando Lopes, November 2013).

Governance



2.6. Budget transparency

To what extent does the local government present a clear and accessible budget?

“The local government is required to present transparent annual budgets and these are easily accessible and easy to understand in practice” (TI-S).

Comments:

Annual budgets are available online and respect the legislation along with a general explanation of each entry (CMBa, 2013).



2.7. Accountability of the local executive

To what extent is the local executive answerable for its actions?

“The local executive is not answerable for their actions in practice” (TI-S).

Comments:

The local executive is not required to give reasons for its decisions and actions. There are no systems in place for regular citizen consultation with regards to strategic planning and budgeting although there is active participation in some urban planning instruments (interview with Hugo Pires, November 2013; interview with Miguel Pedro Guimarães, November 2013). Citizens can complain to the national Ombudsman.



2.8. Integrity of the local executive

To what extent is the integrity of the local executive ensured?

“No rules on conflict of interest, gifts & hospitality, asset disclosures “revolving door” appointments, whistleblower protection are in place and there have been numerous recent examples of conflict of interest or the revolving door phenomenon” (TI-S).

Comments:

The legislation is feeble and very permissive especially regarding asset disclosure and conflicts of interest. No local measures have been taken in Braga to solve this. Among the various examples of conflict of interest reported by the local and national media in the past years, the most recent event is related with the decision of the previous Local Executive to expropriate buildings belonging to the daughter and son-in-law of the previous Mayor (e.g. see Vilaça and Cunha, 2013; Sousa, 2013; Silva, 2013).

3. LOCAL BUREAUCRACY

Summary

Capacity
Role
Governance

Capacity



3.1. Adequate resources

To what extent does the local bureaucracy have adequate financial, infrastructural and human resources to effectively carry out its duties?

“The local bureaucracy has significant resource gaps leading to a certain degree of ineffectiveness in carrying out its duties” (TI-S).

Comments:

The administrative sector is understaffed making process management “chaotic”. The procedures are not fully computerized (interview with Miguel Pedro Guimarães, November 2013; interview with Luís Teixeira Silva, November 2013).



3.2. Independence

To what extent is the local bureaucracy free from external interference?

“Whilst rules on merit-based recruitment exist, they are a few examples of nepotism/favouritism and/or interference from local political actors although this is not widespread or severe” (TI-S).

Comments:

Seniority is the main driver of promotion. The “merit” of the decisions is a prerogative of the executive; local public servants are merely concerned with the legality of the procedures. However, “merit” and “legality” are more entangled in public procurement of urban planning issues (interview with Miguel Pedro Guimarães, November 2013).

Role



3.3. Ensuring transparency and integrity in local public procurement

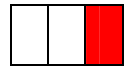
To what extent is there an effective framework in place to safeguard transparency and integrity in local public procurement procedures?

“Whilst procurement systems exist at the local level, these contain certain loopholes which are vulnerable to corruption and bidding processes are not always timely and/or transparent” (TI-S).

Comments:

The public procurement law is quite comprehensive and aligned with the modern EU guidelines (Decree-Law 18/2008 transposes the Directives 2004/17/CE and 2004/18/CE). However, direct

awards are still widespread and the time given to bidders to present their proposals in competitive procedures is often inadequate (BASE, 2013a).



3.4. Promoting social accountability and participation

To what extent does the local bureaucracy promote social accountability mechanisms that provide local citizens with opportunity to interact with and make demands on local governments

“The local bureaucracy is completely inactive in promoting social accountability initiatives and the participation of school boards, school committees, health management boards etc in decision-making processes” (TI-S).

Comments:

Public participation and social accountability initiatives are a prerogative of the Executive and are highly absent in practice (with a few exceptions in urban planning issues; interview with Miguel Pedro Guimarães, November 2013; interview with Hugo Pires, November 2013).



3.5. Tax collection

To what extent is local revenue collection fair and transparent?

“Local revenue collection methods are not entirely clear, overly complicated and/or leave some space for extortion and/or personal benefits in practice” (TI-S).

Comments:

Some local taxes are still not calculated through automatic systems (interview with Miguel Pedro Guimarães, November 2013).



3.6. Protecting land and property rights

To what extent are land and property rights protected by the local government?

“Local land, property and urban planning regulations exist but do not cover all relevant issues and the ability of citizens to contest decisions by the local government is limited in practice” (TI-S).

Comments

The spatial planning instruments allow for a certain level of discretionary use by the Executive (which, for example, has the power to decide on the merit of expropriations). Usually, final decisions on expropriations follow a judicial process. Some land development problems arose in Braga in recent years (interview with Miguel Pedro Guimarães, November 2013; interview with Hugo Pires, November 2013).

Governance



3.7. Administrative transparency

To what extent is there transparency in financial, human resource and information management of the local public sector?

“Provisions are in place but these do not cover all aspects related to the transparency of the public sector and this information is difficult to access in practice” (TI-S).

Comments:

The assets of senior officials are not made public but most procurement records and vacancies are available on national databases available online (BASE, 2013a; BEP, 2013).



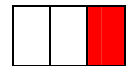
3.8. Accountability of local public servants

To what extent are local public servants answerable for their actions in practice?

“There are some provisions to ensure that local public servants have to report and be answerable for their actions but these are not comprehensive and/or are implemented in a piecemeal way” (TI-S).

Comments:

Annual or bi-annual audits are common but there are no sanctions and it is difficult to cover all public servants. There are information asymmetries between the executive and the local bureaucracy and even between different departments (interview with Luís Teixeira Silva, November 2013).



3.9. Integrity of local public servants

To what extent is the integrity of local public servants ensured?

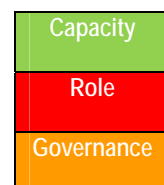
“No rules on conflict of interest, gifts & hospitality, whistleblower protection, unauthorised use of official property/facilities, employment of family members are in place and/or the levels of corruption are significant in the local public sector” (TI-S).

Comments

In addition to the absence of automatic instruments to deal with conflicts of interest, gifts & hospitality, whistleblowing and abusive use of public property/facilities, there is a clear lack of training and awareness regarding these issues and the proper conduct in face of such situations (interview with Miguel Pedro Guimarães, November 2013).

4. LOCAL POLITICAL PARTIES

Summary



Capacity

4.1. Adequate resources

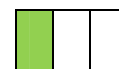


To what extent do the financial resources available to local political parties allow for effective political competition?

“Resources for local political parties and access to the media are largely adequate but somewhat biased towards certain parties compromising political competition” (TI-S).

Comments:

During the last campaign access to the media was more equitable but still with some tendency to emphasise the two major national parties. The main differences in terms of financial resources are felt in the electoral propaganda (interview with Carlos Almeida, November 2013).



4.2. Independence

To what extent are local political parties free from unwarranted external interference in their activities?

“Local political parties operate freely and are subject only to reasonable oversight linked to clear and legitimate public interests. Local branches of national parties are able to exercise a fair degree of discretion” (TI-S).

Comments:

Local political parties have full autonomy regarding local issues provided that the positions taken conform with the main values of the national parties (interview with Ricardo Rio, November 2013; interview with Carlos Almeida, November 2013; interview with Hugo Pires, November 2013).

Role



4.3. Interest aggregation and representation

To what extent do local political parties aggregate and represent a broad range of social interests at the local level?

“In general, political parties are based on clientelism and narrow interests and many relevant social interests do not find a voice in the local political scene” (TI-S).

Comments:

The previous Mayor remained in office for 37 years (until September 2013). The frontiers between the executive and the corresponding local political party became blurred during the years (interview with Hugo Pires, November 2013). Arguably, the new political party in office was only able to gather the majority of the votes because the previous Mayor was not allowed to run for the election (due to a new piece of legislation, Law 46/2005). Moreover, the perception that there were clientelistic relationships between the previous executive/party and certain private interests (mainly from the construction sector) is prevalent (Laranjo and Rodrigues, 2009; Rodrigues et al., 2009; interview with Ricardo Rio, November 2013; interview with Carlos Almeida, November 2013).

Governance



4.4. Transparency of local political parties/candidates

To what extent is there transparency in the operations of local political parties?

“While a number of laws/provisions exist, they do not cover all aspects related to the financial information of local political parties and/or accessing this information is usually a difficult, cumbersome and/or lengthy process in practice” (TI-S).

Comments:

There are comprehensive regulations requiring local political parties to make their financial information available but not to the public (Law 19/2003). The financial information is sent to the Constitutional Court. This entity discloses some financial information regarding local electoral campaigns (ECFP, 2013).



4.5. Accountability of local political parties

To what extent is there effective oversight of local political parties?

“An independent agency (e.g. electoral management body) oversees and supervises the finances and activities of local political parties and there are clear regulations governing the financing of local political parties which are enforced in practice” (TI-S)

Comments:

The Unit for Political Financing and Accounts (working under the Constitutional Court) oversees and supervises the finances and activities of local political parties (ECFP, 2013).



4.6. Nomination and selection of local candidates

To what extent are local candidates selected in a fair and transparent manner?

“There are no written procedures and criteria for the nomination and selection of candidates for local elections and selection and nomination of candidates is entirely undemocratic and opaque or done on the basis of clientelism” (TI-S).

Comments

Although the practices differ between local political parties, usually there are no clear and stable criteria for the nomination and selection of candidates for local elections (interview with Ricardo Rio, November 2013; interview with Carlos Almeida, November 2013; interview with Hugo Pires, November 2013).

BRAGA – OVERSIGHT AND ACCOUNTABILITY FUNCTIONS

7. COMPLAINTS HANDLING

Summary

Capacity
Effectiveness

Capacity



7.1. Access to a complaints mechanism

To what extent is there an independent procedure (e.g. through an ombudsman or similar function) to deal with complaints of perceived unjust treatment by the Local Government?

“There is an independent complaints procedure at national level which covers, but is not limited to, complaints of perceived unjust treatment by the Local Government. However no such procedure exists at the local level” (TI-S).

Comments:

There is a national Ombudsman that deals with complaints of unjust treatment by local governments (Provedor de Justiça, 2013). The Central Department for Investigation and Penal Action also provides an online system to submit complaints (DCIAP, 2013). The Water and Waste Regulation

Authority (Entidade Reguladora dos Serviços de Águas e Resíduos – ERSAR) deals with public infrastructure services complaints, namely drinking water, wastewater and urban waste services (ERSAR, 2013).

Effectiveness



7.2. Investigation of complaints

How effective is the complaints procedure in practice?

“The complaints procedure is somewhat complicated, complaints are processed with some delays or rulings are not always fair or effectively enforced” (TI-S).

Comments:

In general, the Ombudsman does not pursue anonymous complaints. Most opinions are issued within 30 to 60 days of receiving a complaint. However, this entity mostly deals with more operational issues. If there is strong evidence of corruption, the matter is sent to the public prosecutor’s office (interview with André Folque, December 2013). If the issue concerns a single municipality, it is usually sent to the local public attorney interview with Amadeu Guerra, November 2013).

8. AUDITING

Summary

Capacity
Effectiveness

Capacity



8.1. Provisions for local government audits

To what extent are there regular audits of the local government and comprehensive sanctioning provisions?

“There are clear rules for local government audits but in practice audits are not conducted regularly, auditors are low in capacity and/or results are not made public” (TI-S).

Comments:

There are annual or bi-annual audits for internal control (the results are never made public) and the financial records are reviewed by a Chartered Accountant. These audits never entail sanctions. Occasionally the municipality has been subject to audits (or other types of supervision) by the Court of Auditors and the General Inspector of Finances (interview with Luís Teixeira Silva, November 2013). Only the final reports of the Court of Auditors are made public (TC, 2013).

Effectiveness



8.2. Effectiveness of local government audits

How effective are local government audits?

“The outcomes and recommendations of the audits are sometimes acted upon by the local government and sanctions only occasionally enforced” (TI-S).

Comments:

In general, sanctions by the Court of Auditors are viewed as a measure of last resort; if certain aspects are mended during the audit, it will not be part of the final report (interview with José F.F. Tavares, November 2013). Despite the current auditing initiatives some aspects remain unsatisfactory; for instance, Braga does not provide a consolidated account (interview with Luís Teixeira Silva, November 2013).

8.3. Oversight of local government auditing



To what extent is there effective oversight of local government auditing?

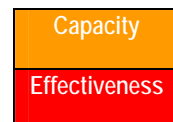
“The central government has some authority and access to investigate financial mismanagement of the local government but does not use these powers proactively. The central government does not regularly examine the effectiveness of internal auditing within the local government and provides only minimal technical support” (TI-S).

Comments:

The Court of Auditors and the General Inspector of Finances have full authority and access to investigate financial mismanagement of the local government; the Court of Auditors also examines the effectiveness of internal auditing within the local government while carrying out its scrutiny (interview with José F.F. Tavares, November 2013). However, these entities do not have the capacity to examine all local government units (although the Court tries to ensure that a municipality is audited at least once every four years).

9. CENTRALISED OVERSIGHT OF LOCAL GOVERNMENT

Summary



Capacity



9.1. Capacity for oversight of local government

To what extent does the central government have the necessary resources to effectively perform its assigned role in terms of overseeing the operations of the local government?

“Central government agencies/national parliament have moderate capacity to perform their assigned role in terms of detecting and addressing misbehaviour, advocating for reforms and providing training advice and technical support to local governments” (TI-S).

Comments:

The Directorate-General for Local Administration is responsible for the design and implementation of measures to support local government (e.g. regarding financial management) and for the cooperation between central and local administrations (DGAL, 2013). The Agency for Administrative Modernisation endeavours to modernise and simplify public services and administrations (including local governments, mainly through e-government initiatives; AMA, 2013).

Effectiveness

9.2. Effectiveness of oversight of local government



How effective is central government in performing its assigned role in terms of oversight of the local government?

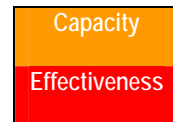
“Central government agencies/national parliament do not perform their assigned role in terms of detecting and addressing misbehaviour, advocating for reforms or providing training advice and technical support to the local government” (TI-S).

Comments:

The focus of these and other agencies is generally on legality and not on integrity or the public interest. Some cases of “legal corruption” are thus bound to occur (interview with Ricardo Rio, November 2013).

10. INVESTIGATION AND EXPOSURE OF CORRUPTION

Summary



Capacity



10.1. Capacity for investigation and exposure of corruption

To what extent is there capacity for independent investigation and exposure of corruption at the local level?

“The national/local media take some interest in corruption issues in the local area (whether national or local media). There is no local anti-corruption body although the national-anti corruption body has some powers to investigate corruption at the local level” (TI-S).

Comments:

Local media do not have the capacity to undertake investigative journalism (interview with José Carlos Lima, November 2013). The situation is even worse when the media depends upon the publicity revenue coming from the local government. There are several national (Central Department for Investigation and Penal Action and a special unit of the Judicial Police) and regional (Departments for Investigation and Penal Action) bodies with anti-corruption mandates. However, the coordination between these bodies is very poor and based on obsolete means (interview with Amadeu Guerra, November 2013).

Effectiveness

9.2. Effectiveness of investigation and exposure of corruption



To what extent are cases of corruption in the local government actually investigated and exposed in practice?

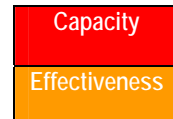
“There is some investigation and exposure of corruption the local government but with limited prosecutions as a result” (TI-S).

Comments:

There are no reliable national statistics (interview with Amadeu Guerra, November 2013). The previous Mayor of Braga was investigated for several cases but was never charged with a crime (e.g. see Rodrigues et al., 2009).

11. AWARENESS RAISING AND PUBLIC EDUCATION

Summary



Capacity



11.1. Capacity for awareness-raising and advocacy on anti-corruption

To what extent is there capacity for educational activities, public information and advocacy on anti-corruption issues at the local level?

“Educational activities, public information and advocacy on anti-corruption issues at the local level are absent” (TI-S).

Comments:

Anti-corruption bodies seldom engage the public in anti-corruption issues (the one exception is the “images against corruption” national contest for students of the basic and secondary education sponsored by the Council for the Prevention of Corruption; interview with José F.F. Tavares, November 2013). There are no public education campaigns or training programmes for local officials in this regard. The media lacks incentives to take on these issues (interview with José Carlos Lima, November 2013).

Effectiveness



11.2. Effectiveness of awareness-raising and advocacy on anti-corruption

To what extent are educational activities, public information and advocacy on anti-corruption issues at the local level successful in combating corruption?

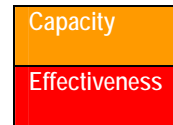
“The national/local media take some interest in corruption issues in the local area (whether national or local media). There is no local anti-corruption body although the national-anti corruption body has some powers to investigate corruption at the local level” (TI-S).

Comments:

The Diário do Minho newspaper (property of the Catholic Church) publishes some pieces on topics with high corruption risks (interview with José Carlos Lima, November 2013). Following a recommendation of the Council for the Prevention of Corruption (applicable to all municipalities), Braga has a corruption plan that is revisited annually but it only clearly binds the heads of the departments and divisions (CMB, 2013b; interview with José F.F. Tavares, November 2013).

12. SOCIAL ACCOUNTABILITY

Summary



Capacity



12.1. Capacity for social accountability

To what extent are non-governmental actors active in promoting social accountability to hold the local government to account?

“Non-governmental actors are somewhat active in promoting social accountability initiatives to hold the local government to account” (TI-S).

Comments:

Business associations (such as Associação Comercial de Braga) have been active for many years. However, they keep to defending the commercial interest of their associates and have the position that corruption or integrity-related issues are “political matters” and therefore beyond their scope (interview with Fernando Lopes, November 2013). Other local NGOs such as the Santa Casa da Misericórdia de Braga share the belief that integrity and anti-corruption are strictly political issues and beyond their scope of action (interview with Bernardo Reis, December 2013). Local civic associations are slowly beginning to play a relevant role on local matters and have been attracting more associates and media attention (interview with Rui Ferreira, November 2013).

Effectiveness



12.2. Effectiveness of awareness-raising and advocacy on anti-corruption

To what extent have social accountability initiatives by non-governmental actors been successful in holding the local government to account?

“Social accountability initiatives are absent or have been unsuccessful in holding the local government to account with no behaviour/policy change as a result” (TI-S).

Comments:

The local government is often able to “capture” non-governmental actors by establishing financing or other type of cooperation agreements (e.g. there is a contract established between the Associação Comercial de Braga and the municipality; interview with Fernando Lopes, November 2013). The focus of civic associations has been on heritage issues and not on promoting good governance (interview with Rui Ferreira, November 2013).

LISBOA – CORE LOCAL GOVERNMENT ACTORS

1. LOCAL ASSEMBLY

Summary

Capacity
Role
Governance

Capacity



1.1. Adequate resources

To what extent does the local assembly have adequate resources to carry out its duties in practice?

“The local assembly has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties” (TI-S).

Comments:

Training depends of the local parties. Most of the members of the Local Assembly have other full-time jobs and have to prepare the issues on their free time. Each “municipal group” has an auxiliary office with staff from the local government (interview with Cláudia Madeira, December 2013).



1.3 Independence

To what extent is the local assembly independent from the executive?

“There is some overlap of roles between the local assembly and the executive” (TI-S).

Comments:

In the previous mandate the majority in the Assembly was different from the political force holding the Executive office. The independence was therefore assured to a greater extent and political negotiation was a common practice. After the last election, the majority coincides in both branches of government. This reduced the need to achieve political compromises (AML, 2013a; interview with Cláudia Madeira, December 2013).

Role

1.4 Oversight of the local executive



To what extent are local councillors able to exercise and enforce their decisions and oversight role?

“Local councilors have the mandate to oversee the work of the executive and are somewhat effective at providing this oversight. They are partially able to enforce their decisions” (TI-S).

Comments:

Smaller parties do not have voice. The work of the executive is discussed and deliberated in the Local Assembly but with the current majority the rejection of documents/proposals is not a risk for the Executive (interview with Cláudia Madeira, December 2013). The scrutiny of municipal companies and local PPPs is not thorough (AML, 2013b).

1.5. Representation



To what extent do local councillors represent the interests and priorities of their constituency in practice?

"Local councillors are considered to represent the interests and priorities of their constituency to some extent" (TI-S).

Comments:

The focus of the local elections is on the Executive. The role of the Assembly is not clear for all citizens thorough (interview with Cláudia Madeira, December 2013). The members of the Local Assembly are willing to and occasionally meet with citizens. Contact and address details are available online.

Governance

1.6. Transparency of the local assembly



To what extent can citizens access relevant information on the local assembly and councillors?

"Citizens can easily access a wide range of relevant information on the local assembly and councillors" (TI-S).

Comments:

All sessions are public and transmitted live on the internet, the agendas of the Local Assembly are advertised, and the proceedings are somewhat timely and available online (e.g. AML, 2013a and 2013b).

1.7. Accountability of local councillors



To what extent are local councillors answerable for their actions in practice?

"Local councillors are not answerable for their actions in practice" (TI-S).

Comments:

Citizens do not usually monitor the performance of the members of the Local Assembly. Whereas occasionally public participation is focused on subjects of interest to the whole community, most interactions relate to particular interests (mainly issues concerning social housing; interview with Cláudia Madeira, December 2013).

1.8. Integrity of local councillors



To what extent is the integrity of local councillors ensured?

“Only some rules on conflict of interest, gifts & hospitality, asset disclosures, whistleblower protection are in place with piecemeal enforcement and/or there has been at least one recent example of conflict of interest in the local assembly” (TI-S).

Comments:

There are no “Disclosure of Interests” or “Conflict of Interests” statement systems mandatory for all members. One example of a “structural” conflict of interest is the case of the Presidents of Civil Parishes. As established by law, the Local Assembly is constituted by the all the Presidents of local Civil Parishes and by a higher number of directly elected members (Law no. 169/1999). That is, having executive powers in their parishes and limited resources (which require a close cooperation with the Local Executive), the Presidents of Civil Parishes also have deliberative powers in the Local Assembly.

2. LOCAL EXECUTIVE

Summary

Capacity
Role
Governance

Capacity

■	□	□
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2.0 Local Elections

To what extent are local elections timely, free, fair and representative?

“Local elections are largely timely free, fair and representative” (TI-S).

Comments:

There are, however, some reports of improper conduct in some parishes (e.g. use of assets from the Civil Parishes by incumbent candidates; interview with João Ferreira, December 2013).

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2.1. Clear functions

To what extent does the Local Government have a clear and realistic strategy/action plan and a coherent set of functions?

“The local government’s strategy and functions are rather vague, ambiguous or too wide and unrealistic” (TI-S).

Comments:

The competencies of the local executive are defined by law (Law no. 75/2013). However, there is room for discretion. The Local Government issued a “Strategic Letter” but it is rather vague (CML. 2009). There is some overlap of functions with the civil parishes (interview with Pedro Delgado Alves, December 2013).



2.2. Predictable resources

To what extent does the Local Government have access to the resources it requires to carry out its functions and deliver its vision?

“The Local Government has access to some of the resources it requires to carry out its functions and deliver its strategy” (TI-S).

Comments:

Lisboa is the municipality with the greatest budget and also the greatest capacity to generate own revenue (Carvalho et al., 2013). However the huge size of the Local Government hinders its financial health.

Role



2.3 Management of the local bureaucracy

To what extent does the local executive effectively perform its role in terms of providing effective oversight of, and support to, the local bureaucracy?

“The executive is somewhat active, but rather unsuccessful in developing a local public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness” (TI-S).

Comments:

Some initiatives have been taken in order to ensure higher integrity levels in the local public sector (e.g. the creation of a Good Practice Commission). However, the size of the public sector makes it virtually impossible for the executive to effectively supervise and manage its work (interview with Luís Barbosa, December 2013).



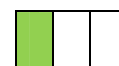
2.4. Oversight of private providers of public goods

To what extent does the local executive effectively perform its role in terms of holding private service providers of public goods accountable for the service delivery they are contracted for?

“The local executive is somewhat effective in holding private service providers to account” (TI-S).

Comments:

More than 50 per cent of the public expenditure with public contracts is performed through direct awards (BASE, 2013b). On average, Lisboa takes more than 100 days to pay for the provision of a service, material or equipment. (DGAL, 2013) In principle the payment is not processed in case of underperformance or service providers.



2.5. Regulation of local business

To what extent does the local government effectively perform its role in terms of regulating local businesses in an even-handed and effective manner?

“Business regulations are effectively enforced and inspections are considered fair and transparent” (TI-S).

Comments:

These activities are mostly carried out by the local police (PML, 2013).

Governance



2.6. Budget transparency

To what extent does the local government present a clear and accessible budget?

"The local government is required to present transparent annual budgets and these are easily accessible and easy to understand in practice" (TI-S).

Comments:

Budget alterations are also publicised online (CML, 2013a).



2.7. Accountability of the local executive

To what extent is the local executive answerable for its actions?

"The local executive is partially answerable for their actions in practice" (TI-S).

Comments:

The local executive is not required to provide detailed reasoning for its decisions and actions. Besides the mandatory participatory mechanisms for urban planning instruments, participatory budgeting is carried out annually. Citizens can complain to the national Ombudsman. The response of the "Na minha rua" portal (a local complaint system) is not satisfactory (interview with Paulo Ferrero and Nuno Caiado, November 2013). The presence of the opposition in the meetings of the Executive enhances accountability but there are still some important information asymmetries (interview with João Ferreira, December 2013).



2.8. Integrity of the local executive

To what extent is the integrity of the local executive ensured?

"None of the above rules and codes (rules on conflict of interest, gifts & hospitality, asset disclosures "revolving door" appointments, whistleblower protection) are in place and there have been numerous recent examples of conflict of interest or the revolving door phenomenon" (TI-S).

Comments:

The legislation is feeble and very permissive especially regarding asset disclosure and conflicts of interest. No particular measures have been taken in Lisboa to solve this. Several cases of alleged corruption, embezzlement or conflict of interest have been reported by the local and national media in the past decade involving previous Executive members (e.g. the "Bragaparques" case, see Henriques, 2013) or managers of municipal companies (e.g. the "Gebalis" case, see LUSA, 2013).

3. LOCAL BUREAUCRACY

Summary

Capacity
Role
Governance

Capacity



3.1. Adequate resources

To what extent does the local bureaucracy have adequate financial, infrastructural and human resources to effectively carry out its duties?

“The local bureaucracy has significant resource gaps leading to a certain degree of ineffectiveness in carrying out its duties” (TI-S).

Comments:

Insufficiency of office equipment and human resources has been reported. There may be a disconnection between responsibility and respective remuneration in some cases (interview with António Folgado, November 2013; interview with Mónica Ribeiro, December 2013).



3.2. Independence

To what extent is the local bureaucracy free from external interference?

“Whilst rules on merit-based recruitment exist, they are a few examples of nepotism/favouritism and/or interference from local political actors although this is not widespread or severe” (TI-S).

Comments:

Significant political pressure is not felt. The system to evaluate staff performance does not suit evaluators (interview with António Folgado, November 2013). Recent reports of nepotism/favouritism in recruitment and promotion are more widespread in the civil parishes (e.g. see Cerejo, 2013).

Role



3.3. Ensuring transparency and integrity in local public procurement

To what extent is there an effective framework in place to safeguard transparency and integrity in local public procurement procedures?

“Whilst procurement systems exist at the local level, these contain certain loopholes which are vulnerable to corruption and bidding processes are not always timely and/or transparent” (TI-S).

Comments:

Transparency and integrity in local public procurement have been improving in the past years (interview with Mónica Ribeiro, December 2013). However, more than 50 per cent of public procurement expenditure is made through direct awards (BASE, 2013b).



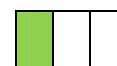
3.4. Promoting social accountability and participation

To what extent does the local bureaucracy promote social accountability mechanisms that provide local citizens with opportunity to interact with and make demands on local governments?

“The local bureaucracy is somewhat active in promoting social accountability initiatives and the participation of school boards, school committees, health management boards etc. in decision-making processes although this is piecemeal” (TI-S).

Comments:

There has been an effort to involve citizens mainly through web-based. However, public participation is not extensive so far platforms (interview with António Folgado, November 2013).



3.5. Tax collection

To what extent is local revenue collection fair and transparent?

“Local revenue collection methods are uncomplicated, transparent and are enforced uniformly and without discrimination” (TI-S).

Comments:

Local taxes and fees are calculated by automatic software. Citizens can access and consult their processes online (interview with António Folgado, November 2013).



3.6. Protecting land and property rights

To what extent are land and property rights protected by the local government?

“Local land, property and urban planning regulations exist but do not cover all relevant issues the ability of citizens to contest decisions by the local government is limited in practice” (TI-S).

Comments:

Local land records are still incomplete and not publicly available (interview with António Folgado, November 2013). Ulterior changes to construction permits are a problem and lack the adequate scrutiny. Municipal company with competencies over urban regeneration issues its own construction permits (interview with Paulo Ferrero and Nuno Caiado, November 2013).

Governance

3.7. Administrative transparency

To what extent is there transparency in financial, human resources and information management of the local public sector?

“Provisions are in place but these do not cover all aspects related to the transparency of the public sector and this information is difficult to access in practice” (TI-S).

Comments:

Vacancies and procurement records are gradually made available online in national databases (BEP, 2013; BASE, 2013b). The assets of senior officials are not disclosed. No list of municipal owned assets is publicly available interview with António Folgado, November 2013).





3.8. Accountability of local public servants

To what extent are local public servants answerable for their actions in practice?

“There are no or very limited provisions to ensure that local public servants have to report and be answerable for their actions” (TI-S).

Comments:

Although the heads of the departments have higher levels of accountability the great size of the public sector in Lisbon makes it very difficult to ensure that all local public servants have to report and be answerable for their actions (interview with António Folgado, November 2013).



3.9. Integrity of local public servants

To what extent is the integrity of local public servants ensured?

“No rules on conflict of interest, gifts & hospitality, whistleblower protection, unauthorised use of official property/facilities, employment of family members are in place and/or the levels of corruption are significant in the local public sector” (TI-S).

Comments:

There is a lack of tradition and training for dealing with conflicts of interest (interview with António Folgado, November 2013; interview with Mónica Ribeiro, December 2013).

4. LOCAL POLITICAL PARTIES

Summary

Capacity
Role
Governance

Capacity



4.1. Adequate resources

To what extent do the financial resources available to local political parties allow for effective political competition?

“Resources for local political parties and access to the media are largely adequate but somewhat biased towards certain parties compromising political competition” (TI-S).

Comments:

During the last campaign access to the media was more equitable but still with some tendency to emphasise the two major national parties (e.g. some lists held press conferences without the attendance of any journalist; interview with João Ferreira, December 2013).



4.2. Independence

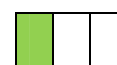
To what extent are local political parties free from unwarranted external interference in their activities?

“Local political parties operate freely and are subject only to reasonable oversight linked to clear and legitimate public interests. Local branches of national parties are able to exercise a fair degree of discretion” (TI-S).

Comments:

Local political parties have full autonomy regarding local issues provided that the positions taken conform to the main values of the national parties. Post-electoral coalitions most likely would have to be approved by the national structures (interview with João Ferreira, December 2013).

Role



4.3. Interest aggregation and representation

To what extent do local political parties aggregate and represent a broad range of social interests at the local level?

“In general, political parties are able to aggregate and represent the entire range of relevant social interests in the political sphere” (TI-S).

Comments:

Several political forces are present and competed in the last elections. Local political parties have been able to co-exist and form coalitions with independent movements (CML, 2013b).

Governance



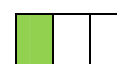
4.4. Transparency of local political parties/candidates

To what extent is there transparency in the operations of local political parties?

“While a number of laws/provisions exist, they do not cover all aspects related to the financial information of local political parties and/or accessing this information is usually a difficult, cumbersome and/or lengthy process in practice” (TI-S).

Comments:

There are comprehensive regulations requiring local political parties to make their financial information available but not to the public (Law 19/2003). The financial information is sent to the Constitutional Court. This entity discloses some financial information regarding local electoral campaigns (ECFP, 2013)



4.5. Accountability of local political parties

To what extent is there effective oversight of local political parties?

“An independent agency (e.g. electoral management body) oversees and supervises the finances and activities of local political parties and there are clear regulations governing the financing of local political parties which are enforced in practice” (TI-S).

Comments:

The Unit for Political Financing and Accounts (working under the Constitutional Court) oversees and supervises the finances and activities of local political parties (ECFP, 2013).



4.6. Nomination and selection of local candidates

To what extent are local candidates selected in a fair and transparent manner?

“There are no written procedures and criteria for the nomination and selection of candidates for local elections and selection and nomination of candidates is entirely undemocratic and opaque or done on the basis of clientelism” (TI-S).

Comments:

Although the practices differ between local political parties, usually there are no clear and stable criteria for the nomination and selection of candidates for local elections (interview with João Ferreira, December 2013).

LISBOA – OVERSIGHT AND ACCOUNTABILITY FUNCTIONS

7. COMPLAINTS HANDLING

Summary

Capacity
Effectiveness

Capacity



7.1. Access to a complaints mechanism

To what extent is there an independent procedure (e.g. through an ombudsman or similar function) to deal with complaints of perceived unjust treatment by the Local Government?

“There is an independent complaints procedure at national level which covers, but is not limited to, complaints of perceived unjust treatment by the Local Government. However no such procedure exists at the local level” (TI-S).

Comments:

There is a national Ombudsman that deals with complaints of unjust treatment by local governments (Provedor de Justiça, 2013). The Central Department for Investigation and Penal Action also provides an online system to submit complaints (DCIAP, 2013). The Water and Waste Regulation Authority (Entidade Reguladora dos Serviços de Águas e Resíduos – ERSAR) deals with public infrastructure services complaints, namely drinking water, wastewater and urban waste services (ERSAR, 2013).

Effectiveness



7.2. Investigation of complaints

How effective is the complaints procedure in practice?

“The complaints procedure is somewhat complicated, complaints are processed with some delays or rulings are not always fair or effectively enforced” (TI-S).

Comments:

In general, the Ombudsman does not pursue anonymous complaints. Most opinions are issued within 30 to 60 days of receiving a complaint. However, this entity mostly deals with more operational issues. If there is strong evidence of corruption, the matter is sent to the public prosecutor’s office (interview with André Folque, December 2013). If the issue concerns a single municipality, it is usually sent to the local public attorney interview with Amadeu Guerra, November 2013).

8. AUDITING

Summary

Capacity
Effectiveness

Capacity



8.1. Provisions for local government audits

To what extent are there regular audits of the local government and comprehensive sanctioning provisions?

“There are clear rules for local government audits but in practice audits are not conducted regularly, auditors are low in capacity and/or results are not made public” (TI-S).

Comments:

There have been audits for internal control (the results were never made public) and the financial records are reviewed by a Chartered Accountant. The municipality has also been subject to some thematic audits (and other types of supervision) by the Court of Auditors and the General Inspector of Finances (interview with António Folgado, November 2013). Only the final reports of the Court of Auditors are made public (TC, 2013).

Effectiveness



8.2. Effectiveness of local government audits

How effective are local government audits?

“The outcomes and recommendations of the audits are sometimes acted upon by the local government and sanctions only occasionally enforced” (TI-S).

Comments:

In general, sanctions by the Court of Auditors are viewed as a measure of last resort; if certain aspects are mended during the audit, it will not be part of the final report (interview with José F.F. Tavares, November 2013).

8.3. Oversight of local government auditing



To what extent is there effective oversight of local government auditing?

“The central government has some authority and access to investigate financial mismanagement of the local government but does not use these powers proactively. The central government does not regularly examine the effectiveness of internal auditing within the local government and provides only minimal technical support” (TI-S).

Comments:

The Court of Auditors and the General Inspector of Finances have full authority and access to investigate financial mismanagement of the local government; the Court of Auditors also examines the effectiveness of internal auditing within the local government while carrying out its scrutiny (interview with José F.F. Tavares, November 2013). However, these entities do not have the capacity to examine all local government units (although the Court tries to ensure that a municipality is audited at least once every four years).

9. CENTRALISED OVERSIGHT OF LOCAL GOVERNMENT

Summary

Capacity
Effectiveness

Capacity



9.1. Capacity for oversight of local government

To what extent does the central government have the necessary resources to effectively perform its assigned role in terms of overseeing the operations of the local government?

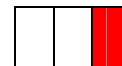
“Central government agencies/national parliament have moderate capacity to perform their assigned role in terms of detecting and addressing misbehaviour, advocating for reforms and providing training advice and technical support to local governments” (TI-S).

Comments:

The Directorate-General for Local Administration is responsible for the design and implementation of measures to support local government (e.g. regarding financial management) and for the cooperation between central and local administrations (DGAL, 2013). The Agency for Administrative

Modernisation endeavours to modernise and simplify public services and administrations (including local governments, mainly through e-government initiatives; AMA, 2013).

Effectiveness



9.2. Effectiveness of oversight of local government

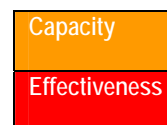
How effective is central government in performing its assigned role in terms of oversight of the local government?

“Central government agencies/national parliament do not perform their assigned role in terms of detecting and addressing misbehaviour, advocating for reforms or providing training advice and technical support to the local government” (TI-S).

Comments:

The focus of these and other agencies is generally on legality and not on integrity or the public interest. Some cases of “legal corruption” are thus bound to occur (interview with Maria José Morgado, December 2013).

10. INVESTIGATION AND EXPOSURE OF CORRUPTION



Capacity



10.1. Capacity for investigation and exposure of corruption

To what extent is there capacity for independent investigation and exposure of corruption at the local level?

“The national/local media take some interest in corruption issues in the local area (whether national or local media). There is no local anti-corruption body although the national-anti corruption body has some powers to investigate corruption at the local level” (TI-S).

Comments:

Local media do not have the capacity to do investigative journalism (interview with Inês Boaventura, November 2013). There are several national (Central Department for Investigation and Penal Action and a special unit of the Judicial Police) and regional (Departments for Investigation and Penal Action) bodies with anti-corruption mandates. However, the coordination between these bodies is very poor and based on obsolete means (interview with Amadeu Guerra, November 2013; interview with Maria José Morgado, December 2013).

Effectiveness

9.2. Effectiveness of investigation and exposure of corruption



To what extent are cases of corruption in the local government actually investigated and exposed in practice?

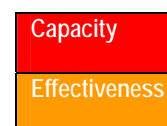
“There is some investigation and exposure of corruption the local government but with limited prosecutions as a result” (TI-S).

Comments:

There are no reliable national statistics. Although there were some prosecutions in the case “Bragaparques”, several convictions are still pending (interview with Maria José Morgado, December 2013).

11. AWARENESS RAISING AND PUBLIC EDUCATION

Summary



Capacity



11.1. Capacity for awareness-raising and advocacy on anti-corruption

To what extent is there capacity for educational activities, public information and advocacy on anti-corruption issues at the local level?

“Educational activities, public information and advocacy on anti-corruption issues at the local level are absent” (TI-S).

Comments:

Anti-corruption bodies seldom engage the public in anti-corruption issues (the one exception is the “images against corruption” national contest for students of the basic and secondary education sponsored by the Council for the Prevention of Corruption; interview with José F.F. Tavares, November 2013). There are no public education campaigns or training programmes for local officials in this regard. The media lacks incentives to take on these issues (interview with Inês Boaventura, November 2013).

Effectiveness

11.2. Effectiveness of awareness-raising and advocacy on anti-corruption



To what extent are educational activities, public information and advocacy on anti-corruption issues at the local level successful in combating corruption?

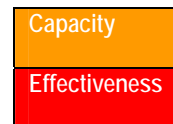
“The national/local media take some interest in corruption issues in the local area (whether national or local media). There is no local anti-corruption body although the national-anti corruption body has some powers to investigate corruption at the local level” (TI-S).

Comments:

Being the capital, several national newspapers publish pieces on topics with high corruption risks (interview with Inês Boaventura, November 2013). Following a recommendation of the Council for the Prevention of Corruption (applicable to all municipalities), Lisboa has a corruption plan that is revisited annually but it only clearly binds the heads of the departments and divisions (CML, 2013c; interview with José F.F. Tavares, November 2013).

12. SOCIAL ACCOUNTABILITY

Summary



Capacity



12.1. Capacity for social accountability

To what extent are non-governmental actors active in promoting social accountability to hold the local government to account?

“Non-governmental actors are somewhat active in promoting social accountability initiatives to hold the local government to account” (TI-S).

Comments:

The focus of civic associations is mostly on heritage and public spaces/equipment issues (which nevertheless have many corruption risks attached). Several forums exist mainly on the internet (interview with Paulo Ferrero and Nuno Caiado, November 2013).

Effectiveness



12.2. Effectiveness of awareness-raising and advocacy on anti-corruption

To what extent have social accountability initiatives by non-governmental actors been successful in holding the local government to account?

“Social accountability initiatives have been somewhat successful in holding the local government to account with at least one recent example of behaviour/policy change as a result” (TI-S).

Comments:

The receptivity of the local government to act upon the criticism is low (interview with Paulo Ferrero and Nuno Caiado, November 2013).

VI. CONCLUSION AND RECOMMENDATIONS

The differences between the scorecards of both municipalities are not extreme. Whereas the contribution of the Local Assembly for the LIS is weak in both municipalities (due to institutional reasons common to all Portuguese municipalities) the setup seems to be a little worse for Braga.

Despite the lack of capacity to scrutinise the activities of the Executive, in Lisboa the Local Assembly has been a place for public participation (and more effective oversight when the majority of the members were from a different political colour than the Executive).

It also interesting to note that being smaller than Lisboa, the governance problems in Braga are mostly at the Executive level. The abnormal longevity of the previous Mayor in Braga may also have contributed to these problems and certainly distorted the local political scene. In Lisboa, on the other hand, the size of the local public sector raises governance concerns at the level of the local bureaucracy.

In both municipalities the issues of integrity, transparency and accountability (i.e. the quality of local governance) are still not a priority. Local governments approach these themes as procedural issues. Civil society and local non-government entities are also failing to push the anti-corruption agenda and prefer to focus on more operational subjects.

The scorecards of the Actors are not that different and the ones regarding the Functions are exactly alike. This is mainly because the entities in charge of these functions are the same for all municipalities and because the disinvestment of the media on local issues and the lack of political culture of the population are common trends (De Sousa and Triães, 2008). These scorecards suggest that the ineffectiveness of the oversight of local government and of the investigation and exposure of corruption at this level may be a concern.

The following points represent our key findings:

1. Deficient “checks and balances” to executive rule and powerful mayors (**preventive dimension**).
 - a. Political leadership/personal decisions are the main drivers of change (either good or bad for the LIS; however, concentration of powers poses more drawbacks than benefits; OECD, 1996);
 - b. The relevance of the assembly is limited;
 - c. The opposition lacks capacity;
 - d. Remaining actors are often captured (e.g. suppliers, associations).
2. Insufficient capacity for investigation and prosecution of corruption (**repressive dimension**).
 - a. There is a lack of coordination between investigation (and auditing) bodies;
 - b. Local government is not a priority for these entities (that naturally focus on major expenditures).
4. Weak political culture (**educational dimension**).
 - a. Tolerance, indifference or too much deference towards the corruption topic;
 - b. The LIS is not a focus of local media & civic associations.

The following points represent our key recommendations:

1. **Preventive dimension** – development and adoption of strict codes of conduct for political decision-makers and public servants and mechanisms for managing conflicts of interest.

Portuguese local governments should be compelled to adhere to demanding rules and ethical standards that draw on international best practices and guidelines such as the Charter of Pisa (Avviso Pubblico, 2012). The discussion about the drafting of these principles/rules/codes can be led by the civil society (including NGOs, academic institutions and all interested stakeholders). TIAC will attempt to contribute to this effort and to the ongoing discussion on local government reform by facilitating the drafting of a “white paper” that provides a civil society take on local democracy issues during 2014. However, the commitment to incorporate these values is contingent upon the political will of the Local Executives.

2. **Repressive dimension** – development of a coordination and communication system between all bodies in charge of investigation and monitoring.

The creation of comprehensive databases and the statistical treatment of data are crucial and urgent (i.e. efforts to accomplish this should be undertaken immediately). It is mainly up to the Ministry of Justice to fund and champion this change.

3. **Educational dimension** – use of the Municipal Transparency Index as a tool to induce change and create a virtuous cycle (where citizens demand a more open and transparent local government; the higher levels of transparency make local governments more accountable to citizens and the media; and the greater accountability curbs corruption and promotes the demand of citizens for integrity).

The Municipal Transparency Index can be used to create a “virtual competition” between local governments with positive externalities for citizens (ITM, 2013). TIAC will continue to partner up with other stakeholders and produce and improve the Municipal Transparency Index every year. Other civil society organisations and the media must also play a role in promoting this positive competition and in changing the mind-sets and tolerance towards corruption and other “bad governance” matters.

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