

Chapter 2

Institutional capacities for Better Regulation

Regulatory management needs to find its place in a country's institutional architecture, and have support from all the relevant institutions. The institutional framework within which Better Regulation must exert influence extends well beyond the executive centre of government, although this is the main starting point. The legislature and the judiciary, regulatory agencies and the subnational levels of government, as well as international structures (notably, for this project, the EU), also play critical roles in the development, implementation and enforcement of policies and regulations.

The parliament may initiate new primary legislation, and proposals from executive rarely if ever become law without integrating the changes generated by parliamentary scrutiny. The judiciary may have the role of constitutional guardian, and is generally responsible for ensuring that the executive acts within its proper authority, as well as playing an important role in the interpretation and enforcement of regulations. Regulatory agencies and subnational levels of government may exercise a range of regulatory responsibilities. They may be responsible (variously) for the development of secondary regulations, issue guidance on regulations, have discretionary powers to interpret regulations, enforce regulations, as well as influencing the development of the overall policy and regulatory framework. What role should each actor have, taking into account accountability, feasibility, and balance across government? What is the best way to secure effective institutional oversight of Better Regulation policies?

The OECD's previous country reviews highlight the fact that the institutional context for implanting effective regulatory management is complex and often highly fragmented. Approaches need to be customised, as countries' institutional settings and legal systems can be very specific, ranging from systems adapted to small societies with closely knit governments that rely on trust and informality, to large federal systems that must find ways of dealing with high levels of autonomy and diversity.

Continuous training and capacity building within government, supported by adequate financial resources, contributes to the effective application of Better Regulation. Beyond the technical need for training in certain processes such as impact assessment or plain drafting, training communicates the message to administrators that this is an important issue, recognised as such by the administrative and political hierarchy. It can be seen as a measure of the political commitment to Better Regulation. It also fosters a sense of ownership for reform initiatives, and enhances co-ordination and regulatory coherence.

Assessment and recommendations

Considerable progress has been made in a short time, and foundations are being established for the further development of institutional capacities. Portugal now has institutional structures at the centre of government as well as a network of officials involved and interested in Better Regulation across the administration, who are ready to move forward. The implementation of the *Simplex* Programme has played a big role in raising interest across ministries, and has generated inter-ministerial co-operation for a major horizontal government programme for the first time without a formal legal requirement to do so. Two entities based within the Presidency of the Council of Ministers at the centre of government now play a major role in the development of Better Regulation in Portugal: CEJUR (the legal centre of the Presidency of Council of Ministers in charge of the *Legislar Melhor* Programme), and SEMA (Secretary of State for Administrative Modernisation) with the support of AMA (the Agency for Administrative Modernisation, in charge of the *Simplex* Programme). Among ministries, the Ministry of Justice is a particularly active and effective player with respect to the *Simplex* Programme, partly as an extension of its own initiatives to remove congestion in the judicial system. The Ministry of Finance and Public Administration and the Ministry of Economy and Innovation have been other key players in the development of simplification programmes.

Despite progress, the institutional motor at the centre of government for Better Regulation has some weaknesses. One is the need to enhance shared working. There is goodwill and a certain level of co-operation between the main players in the Presidency of the Council of Ministers and key ministries, but much of their work appears to be carried out independently of each other, and may be over-dependent on the enthusiasm of the officials currently in place. This will matter increasingly as new processes are rolled out, for example to capture the administrative burdens of new regulations, which will need to be meshed with the more established *Simplex* Programme. The second major weak spot is capacities and competences. These are inadequate for the work ahead. For example CEJUR has been given an important role for the development of the *Legislar Melhor* Programme, but its capacity to perform these tasks will be limited by its resources and competences, which are focused on law quality. It could not for example, as matters currently stand, provide much effective support for the development of *ex ante* impact assessment. Policies on administrative simplification and on the quality of new regulations are related, and require strongly co-ordinated actions. They are currently conducted by AMA and CEJUR, which are under different Secretaries of State within the Presidency of the Council of Ministers.

Recommendation 2.1. Short of setting up a fully integrated unit, which may cut too much across current structures, Portugal should develop a more co-ordinated approach to Better Regulation within the Presidency of the Council of Ministers so that officials can work together and share experiences on linked issues. At the same time it should consider how resources and relevant competences can be strengthened for CEJUR, so that it can effectively meet its responsibilities for the *Legislar Melhor* Programme.

Across ministries and agencies, capacities and competences for tackling reform appear to be highly uneven and also need attention. There have been considerable efforts to develop training, and an important initiative to link performance assessment with results obtained on Better Regulation policies such as the *Simplex* Programme. Some entities (such

as the Ministry of Justice and the financial regulators) appear to be fully equipped as well as enthusiastic for their role. Others, however, seem less at ease and not so well integrated.

Recommendation 2.2. Portugal should identify a high-level committee to take responsibility for Better Regulation, supported by a secretariat in the Presidency of the Council of Ministers, to which ministries would report progress on a regular basis. Within individual ministries, a Better Regulation contact point should be established to liaise with the central structures, co-ordinate reporting, and promote best practice.

The more formal engagement of external stakeholders, many of whom are highly supportive of the government's Better Regulation policies, could also be usefully strengthened. Leaving aside the Ministry of Justice's De-formalisation Commission, which covers both government and external representatives, Portugal does not at present have a fully independent external advisory body of the kind that has been set up in a number of other OECD countries. Such bodies, provided that they are established with careful regard to their independence and balance of representatives, can provide powerful support for sustaining Better Regulation over the long run, advising the government on how Better Regulation programmes can be strengthened, and acting as an effective public communication channel for the government.

Recommendation 2.3. Portugal should consider establishing an independent external advisory body of business and other representatives to support the development of Better Regulation policies.

The government and the parliament have a shared interest in Better Regulation, which needs to be exploited. The Assembly of the Republic is considerably engaged in Better Regulation initiatives aimed at strengthening the quality of law making, including through early efforts at impact assessment. (This is a key area for sharing developments (of which more in Chapter 4). Sharing of databases on the regulatory stock could be another entry point for encouraging communication and co-operation.

Recommendation 2.4. Initiatives should be taken to strengthen the contact and co-operation between the Presidency of the Council of Ministers and the parliament over the development of Better Regulation tools and processes, in particular *ex ante* impact assessment of new legislation, and databases.

Background

General institutional context

Major developments in the institutional structure

The constitution approved in 1976, following the 1974 revolution, established Portugal as a mixed parliamentary and presidential system.¹ Portugal became a member of the European Union in 1986. The general institutional framework has remained stable over the last decade. Portugal remains highly centralised, although there are growing discussions about delegating responsibilities to the regional level. Box 2.1 provides an overview of the institutional framework for policy and law making in Portugal.

Box 2.1. Institutional framework for Portuguese policy and law making

Portugal is a parliamentary republic ruled by the constitution of 1976. The President of the Republic is head of state.

Portugal is a unitary state. It has long been characterised by a tradition of strongly centralised government. Local government essentially consists of the municipalities, which are strongly autonomous. Mainland Portugal is also divided into regions, which have no elected body and do not have the status of local governments. There are however two autonomous island regions- Azores and Madeira.

The executive

The President of the Republic is directly elected for a 5-year term and re-eligible once. The main powers of the President are the right to appoint the Prime Minister whose programme must win a vote of confidence in the parliament, and the right to call an election (or to appoint a new prime minister) should the government lose the support of the parliament. The President can send bills to the constitutional court for verification that they are in conformity with the constitution. The President is also commander-in-chief of the armed forces.

The President does not hold any executive power but may interfere in political actions, when necessary, by using some of the powers granted by the constitution. They include the power of veto over legislation, the power to dismiss the government and the power to dissolve the parliament.

Executive power is vested in the government (Council of Ministers, chaired by the Prime Minister), which is accountable to the legislature. As in most other OECD countries, policy decisions must be agreed collectively by the Council of Ministers, and are first debated in relevant committees. The Prime Minister is appointed by the President of the Republic. Members of the Council of Ministers are appointed by the President of the Republic upon recommendation of the Prime Minister.

Although the Assembly of the Republic is the most important source of legislative power, the government may enact legislation within the limits of subject areas authorised by the parliament under parliamentary framework laws. The government may also develop the basic principles set out by parliamentary laws, so long as they are not within the exclusive competence of the parliament. Lastly, the government can legislate over all matters that are not within the exclusive competence of the parliament.

The Presidency of the Council of Ministers is a central ministry which provides support for the work of the Council of Ministers. It supervises a number of institutes, such as the National Statistical Office, the High Commission for Immigration and Intercultural Dialogue (ACID), the Centre for the Management of the government IT network, the Agency for Administrative Modernisation, the Legal Centre (CEJUR).

Ministries (14 in the current government) are generally headed by a minister and subdivided into secretariats or Departments, which are headed by a secretary of state.

Civil servants are politically neutral and remain in place even if there is a change in government.

The legislature

The Assembly of the Republic (*Assembleia da República*) is Portugal's unicameral parliament. It is composed of 230 members, elected to a 4-year term of office under a proportional representation system (with the vote based on party lists in 20 multi-member constituencies). The parliament exercises the most important legislative powers, including that of amending the constitution. The parliament is entrusted with the power to legislate on all matters, except for those which are the exclusive responsibility of the government

The judiciary

The constitution provides for the Constitutional Court, the Supreme Court of Justice and the Supreme Administrative Court (the last two have subordinate courts) and a variety of special courts, including a military court system.

The Portuguese legal and judicial system is based on Roman civil law. It has a complete body of law that has all been transcribed into codes. Judges are essentially seen as civil servants who are the ‘mouth of the law’. They must seek the appropriate law from the codes and apply it without any reservations, excesses, any interpretations.

Conselho de Estado (Council of State)

The Council of State is a body established by the constitution to advise the President of the Republic on the exercise of many of his reserve powers. The constitution states that it must be summoned by the President should he decide to dissolve the Assembly of the Republic, declare war or peace, or if a government steps down.²

Autonomous regions, municipalities and parishes

The public sector structure is also composed of autonomous regions and local self-government (municipalities and parishes, as decentralised structures), all of them having a high degree of political and administrative autonomy, defined by the constitution and by law.

There are two autonomous regions, Azores and Madeira, which both have special administrative, political and legislative powers. They have large administrative powers in general matters regarding their specific local lives, economic and social development. Except for these overseas territories, the regions are not a relevant feature of the administrative structure.

The 308 municipalities are politically and administratively independent from state government and have the power to plan, govern and make investments in a range of areas. They play an important role in delivering services and goods to citizens and businesses in areas such as water supply, drainage network, urban waste disposal, parks and gardens, street repairs, social and cultural facilities, primary schools (apart from a teacher’s pay) and municipal road network. They also have responsibilities concerning health, social protection, urban planning and environment. Municipalities’ revenue come largely from grants from the central government and property taxes.

Municipalities also have responsibilities to licensing several activities connected to these issues, to verify the compliance of citizens and businesses with the rules governing these activities, and to give financial support to citizens and businesses in connection to them.

Developments in Better Regulation structures

Development of Better Regulation structures is relatively recent compared with some other OECD countries (the first structure was established in 2001), and has been closely associated with managing the transformation of the public sector. Reflecting the high political attention given by the Portuguese government to the reform of the public sector and in particular to the *Simplex* Programme, responsibility for this transformation has always been at the centre of government, close to the Prime Minister’s cabinet or the Presidency of the Council of Ministers. The different branches of the Presidency of the Council of Ministers have played an increasingly prominent role over time, first with the development of the *Simplex* Programme, and associated e-Government initiatives, and more recently with the development of the *Legislar Melhor* Programme (Box 2.2).

Box 2.2. Milestones in the development of Better Regulation institutions in Portugal

2001

The government sets up the Commission for Legislative Simplification (Resolution of the Council of Ministers 29/2001).

2003

The government sets up a Technical Committee for the “Strategic Programme for the Quality and Efficiency of the Government’s Rulemaking Acts”.

2005

The government establishes UCMA (*Unidade de Coordenação da Modernização Administrativa* – Unit of Co-ordination of Administrative Modernisation) to provide support and co-ordinate the government’s action in the field of administrative modernisation and simplification (Resolution of the Council of Ministers 90/2005 of 13 May 2005).

2006

The Secretary of State for the Presidency of the Council of Ministers (SEPCM) is given overall responsibility for implementing the *Legislar Melhor* Programme initiated in 2006. CEJUR, the legal centre of the Presidency of the Council of Ministers, is given responsibility for overseeing the implementation of Better Regulation policies. The government also establishes AMA, the Agency for Administrative Modernisation, to provide technical support for the development and evaluation of activities related to administrative simplification and e-Government, including the *Simplex* Programme (Decree Law 202/2006 of 27 October 2006). AMA is placed under the responsibility of the Secretary of State for Administrative Modernisation (SEMA), within the structure of the Presidency of the Council of Ministers.

2007

In June 2007, a Secretary of State for Administrative Modernisation is appointed by Decree Law 240/2007. This replaces UCMA.

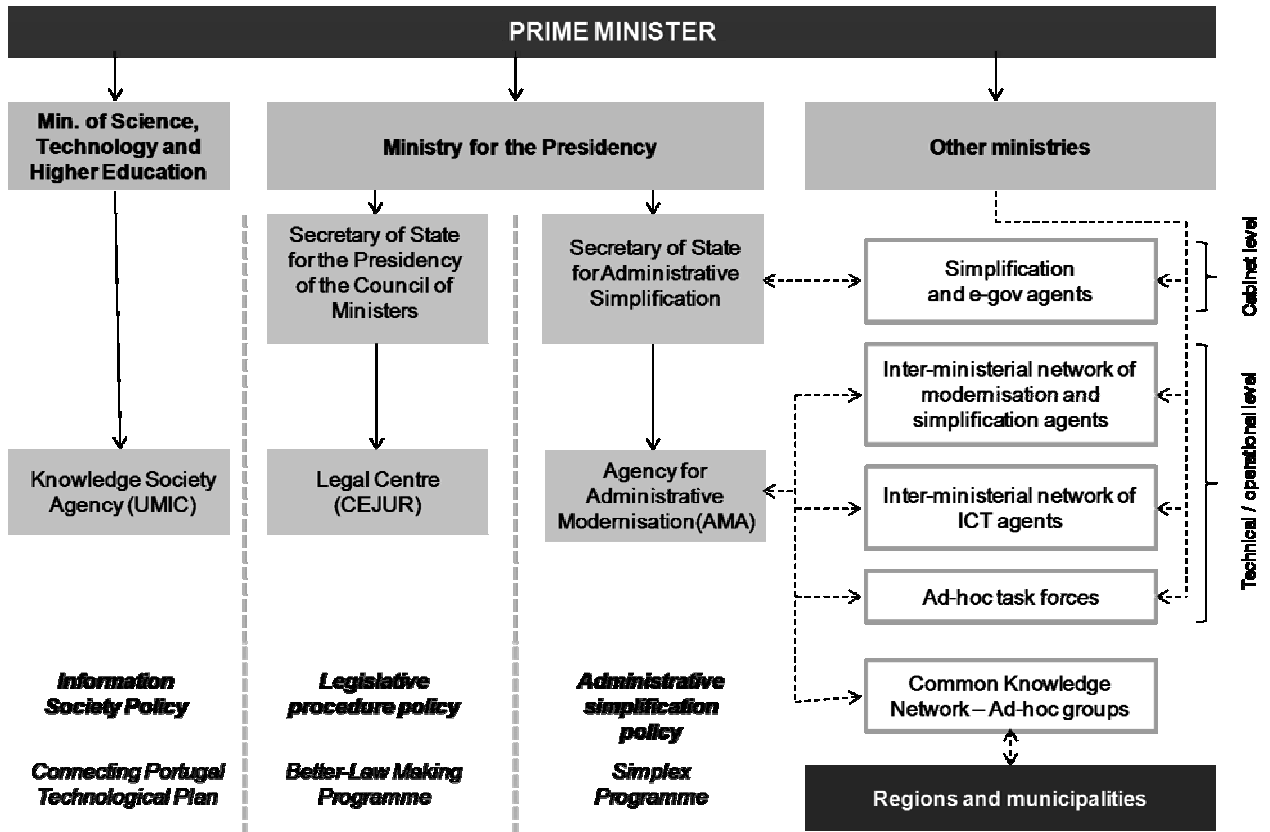
Key institutions for Better Regulation policy

The executive centre of government

The Presidency of the Council of Ministers

This is the key central Ministry (under the responsibility of the Prime Minister), which provides policy and technical/legal support for the Council of Ministers. Responsibility for the Better Regulation agenda currently lies with the Minister for the Presidency, with two Secretaries of State playing a leading role, the Secretary of State for Administrative Modernisation (SEMA) and the Secretary of State for the Presidency of the Council of Ministers (SEPCM).

Figure 2.1. Institutional framework for Better Regulation policies in Portugal



The Secretary of State for the Presidency of the Council of Ministers (SEPCM) is responsible for implementing the *Legislar Melhor* Programme initiated in 2006 and for co-ordinating the government's rule-making process, acting as a mediator between ministries. The SEPCM collects all proposals for laws and the most important secondary regulations from ministries, and circulates them to other ministries for comment. It reviews the proposals with view to reaching an agreement between ministries, in particular with the Ministry of Finance and Public Administration, before the meeting of the Council of Ministers. However SEPCM has no decision power as only the Council of Ministers has the power to decide that a draft law be sent to the parliament, or to adopt a decree law.

The Secretary of State for Administrative Modernisation (SEMA) has responsibility for administrative simplification and e-Government. It is in charge of co-ordinating and supervising initiatives for administrative modernisation with the operational support of the Agency for Administrative Modernisation (AMA).³ AMA develops and evaluates activities related to administrative simplification and e-Government, which includes the implementation of the *Simplex* Programme. SEMA co-ordinates with other ministries on policy issues, while AMA operates at a technical or operational level with relevant technical ministry and agencies staff.

The legal centre of the Ministry for Presidency (CEJUR) has been given a key role in the implementation of the *Legislar Melhor* Programme. CEJUR was initially created as a legal source of expertise to the government. In 2007 the government extended its mission as part of the reform programme to modernise the administration. Its main missions include:

- Providing legal assistance to the government in the preparation of draft laws, upon request of a ministry or a secretariat of state;
- Simplifying legislation, both in terms of flows and stock, and managing *Digesto*, which is a cluster of databases on existing regulations;
- Implementing *ex ante* impact assessment in the development of new regulations;
- Providing legal assistance to ministries when a law is sent to the Constitutional Court for verification; and
- Participating in international co-operation over Better Regulation.

Other key central government players

Other ministries play a specific role in the development and implementation of Better Regulation in Portugal, in particular through the implementation of *Simplex* Programme:

- The Ministry of Justice has been a key participant in the development of the *Simplex* Programme, with the implementation of a wide range of measures for the de-formalisation, elimination and simplification of acts and procedures for companies and citizens in its field of competence (for example, elimination of compulsory public deeds which duplicated public registration, creation of one-stop shop for the creation of a company, simplified marriage procedure).
- The Ministry of Finance and Public Administration has also been a leading ministry in the implementation of the *Simplex* Programme. It also plays a traditional role of scrutiny in the development of regulations which have an impact on the budget.
- The Ministry of Foreign Affairs has responsibility for overseeing transposition of EU regulations into the national legal system. When a text needs to be transposed, it delegates this responsibility to the relevant ministry, and then monitors the transposition process.
- The Ministry of Science, Technology and Higher Education has some responsibilities in the development of e-Government through the Agency for the Information Society (*Agência para a Sociedade do Conhecimento*, referred to as UMIC). UMIC used to be responsible for e-Government policy. E-Government policy is now under the responsibility of SEMA, but UMIC still holds an important role as it is in charge of co-ordinating policies for the Information Society, including through major programmes such as the Technological Plan and the Connecting Portugal Programme.

Co-ordination across central government

Networks for the *Simplex* Programme

The *Simplex* Programme has encouraged co-operation between ministries and led to new experiences of collaboration for civil servants in Portugal. This is the first horizontal programme of the government to be implemented throughout all ministries, without any laws requiring ministries to participate. This constitutes a breakthrough in the Portuguese administration, in which ministries traditionally work in a very autonomous way. The progressive implementation of projects, with pilot projects, has helped secure participation

of ministries. SEMA reports directly to the Prime Minister and regularly to the Council of Ministers about progress in the implementation of *Simplex*, which seems to have had a strong disciplinary effect, preventing delays, and to have fostered competition among ministries in implementing the programme.

AMA draws on two inter-ministerial networks with representatives from all ministries, one network for modernisation and simplification, and another one for ICT. Thanks to these networks as well as to various *ad hoc* inter-ministerial task forces or working groups, information flows more easily between ministries than it used to be. The adoption of a life-event approach for defining *Simplex 2008*, which leads to an increased number of cross-ministerial initiatives, has also reinforced the need to co-operate between ministries to ensure coherence of the projects. As initiatives are defined around clusters, involving participation of several ministries in some cases, this can contribute to breaking down organisational silos and gradually promoting a more collaborative culture within the public administration.

The Ministry of Justice has set up a De-formalisation Commission to help it identify areas for the reduction of administrative burdens and bottlenecks in the judicial system. This commission is now considered as a major player in the administrative simplification initiative. It is noteworthy for the fact that it covers stakeholders both from within and outside government (business associations, regional chambers of commerce, professional representatives, trade unions, consumers).

Other networks

Informal regular co-operation between ministries also takes place, not only for the implementation of the *Simplex* Programme but more generally for issues relating to Better Regulation. The various programmes related to public sector reform have been addressed through separate networks and committees. This has been partly compensated by informal co-operation between the Ministry of Justice, the Ministry of Finance and Public Administration, and the Presidency of the Council of Ministers.

Regulatory agencies

As in other OECD countries Portugal has established a range of agencies with varied tasks and responsibilities. There are two broad categories. The first comprises seven independent regulators which cover the financial and insurance sectors, competition policy, communications, energy, and health care (see Box 2.3). The organisation, functions, and powers of each agency are defined by the specific laws which set them up, but they share some common features relating to their powers and responsibilities. They:

- Elaborate and adopt secondary regulations in cases specified by law and when shown to be indispensable for the exercise of their responsibilities; collaborate with the Assembly of the Republic and with the government in the formulation of the policies and the law relative to their sector;
- Monitor the development of activities of the entities under their oversight; disseminate information, publish studies; and
- Monitor compliance with the law and applicable regulations in the sector; give orders and formulate recommendations, initiate and accompany cases to punish infractions; impose sanctions.

These regulatory agencies are independent public institutions. They have administrative and financial autonomy, but are accountable to the relevant parent ministry for the sector. The parent ministry must approve their annual forward-looking activity plan and budget and they must submit an annual activity report and accounts for the previous year. Some agencies (in the financial sector for example) have developed their own Better Regulation initiatives. It is important that these initiatives remain inspired by the general framework defined by the government. Otherwise the multiplicity of programmes could lead to confusion for businesses and citizens.

Box 2.3. Independent regulatory authorities in Portugal

Portugal has seven independent regulatory agencies.

The Bank of Portugal (*Banco de Portugal*) is responsible for the prudential supervision of credit institutions and financial companies, and for the supervision of their conduct in the retail market.

The **Portuguese Securities Market Commission** (CMVM – *Comissão do Mercado de Valores Mobiliários*), which was established in 1991, is charged with supervising and regulating securities and other financial instrument markets, as well as the activity of all those who operate within these markets.

The **Portuguese Insurance and Pension Funds Supervisory Authority** (ISP – *Instituto de Seguros de Portugal*) is responsible for the regulation, inspection and supervision in the markets of insurance, reinsurance, insurance intermediaries and pension funds, as well as connected or complementary activities. It is subject to the authority of the Ministry of Finance.

The National Regulatory Authority for Communications (ANACOM – *Autoridade Nacional de Comunicações*) is the regulatory body for electronic communications and postal services. Its framework was initially defined by Decree-Law 309/2001. It was modified by Law 5/2004 as a result of the transposition of the 2002 EU directives on electronic communications.

The **Energy Services Regulatory Authority** (ERSE – *Entidade Reguladora dos Serviços Energéticos*) is Portugal's regulatory authority for the electricity and natural gas sector. It was created by Decree Law 187/95 as the Regulatory Entity of the Electric Sector, and started its operations at the beginning of 1997. Its scope of activity was extended to the regulation of natural gas by Decree Law 97/2002, within the context of the 1998 EU Directive on the natural gas market.

The **Competition Authority** (*Autoridade da Concorrência*) was created in 2003. It has regulatory powers on competition over all sectors of the economy, including the regulated sectors. In this case the Competition Authority co-operates with the regulatory authority of the relevant sector.

The **Health Authority** (ERS – *Entidade Reguladora da Saúde*) is responsible for the regulation and supervision of the activities of health care providers. This includes ensuring right of universal and equitable access to public health care, ensuring competition among health care providers (in collaboration with the Competition Authority), monitoring quality of care.

The administration in Portugal also has a number of other agencies and institutes, responsible for monitoring, assessing and regulating activities in a given area (including inspections). In most cases these entities are endowed with administrative autonomy but remain within the hierarchical control of their parent ministry. Examples are the National Authority of Medicines and Health Products (*Infarmed – Autoridade Nacional do Medicamento e Produtos de Saúde*), which is accountable to the Health Ministry, and the Portuguese Environmental Agency (APA – *Agência Portuguesa do Ambiente*) which is accountable to the Ministry of the Environment.

The legislature

As is the case in most other OECD countries, the parliament has a structured system for the review of draft laws for enactment. It uses public hearings, and seeks views from a range of stakeholders including the unions, independent experts, and specialised bodies. The Assembly of the Republic has also taken initiatives in the field of Better Regulation. This has focused on promoting transparency and access to the law making process through the use of ICT tools. The website of the parliament provides an impressive amount of up-to-date information on the preparation of laws (discussion in committees, *rapporteurs'* reports, etc.) and allows citizens to interact directly with the parliament. Another focus is with respect to quality processes for the development of draft laws for enactment by the parliament, including *ex ante* impact assessment (see Chapter 4). These initiatives are mostly driven by the 1st Committee (Constitutional Affairs, Rights and Liberties) and the 11th Committee (Labour, Social Security and Public Administration).

The judiciary

The judiciary has not played so far a significant role in the development of Better Regulation policies. However the need to reduce lengthy delays in court has led the government to take regulatory measures in that area (see Chapter 6).

Local levels of government

Municipalities are the main level of local government in Portugal. The country is one of the most centralised countries in the OECD, with local governments accounting for less than 15% of government revenues and spending. There is also a regional level, but the mainland regions have no elected body and no formal powers. The islands of Azores and Madeira are the exception, and have been endowed with the status of autonomous regions since 1976. Better Regulation policies are beginning to reach out to the regional and local levels. Azores and Madeira have their own programmes. The *Simplex* Programme is beginning to draw in the mainland municipalities, and some of the bigger cities have started their own initiatives too. (For more see Chapter 8).

Court of Auditors

The Court of Auditors (*Tribunal de Contas*) is the senior body with authority to scrutinise the legality of public expenditure and judge public accounts. It is endowed with independence by the constitution, which includes it on the list of courts, qualifying it as a sovereign body. It performs *a priori*, concomitant or *a posteriori* financial control on public entities, on request of the Assembly of the Republic as well as the government.

Resources and training

The number of public officials directly involved in Better Regulation is estimated overall at 57. SEMA and AMA employ 7 persons on the *Simplex* Programme. CEJUR has a staff of 40 people (12 of whom are lawyers and 12 working on the *Digesto*, the online legal database). Its capacity to fully develop its responsibility for Better Regulation policies (such as the development of *ex ante* impact assessment) seems limited given resource constraints (its core activity remains the provision of legal assistance to the government) and by the lack of relevant competencies (notably economists). SEPCM has a staff of 10 people.

Portugal has specialised training centres for public servants. The most important training centre is the National Institute for Administration (INA – *Instituto Nacional de Administração*), which is responsible for the development of training courses, formal

certification courses, and academically-oriented courses on the Portuguese public administration, as well as an annual course on law making. Universities also provide training to meet increasing demand for ICT expertise.

Efforts to train civil servants have increased over the past few years. INA's annual course on lawmaking has been opened to civil servants and the staff of Ministers and Secretaries of State as well as parliamentary staff. The Faculty of Law of the New University of Lisbon, which has established a monitoring centre on Better Lawmaking, also organises regular training programmes, often tailored to adjust to the needs of individual ministries. The Faculty of Law of the University of Lisbon has a post-graduation course on lawmaking and the legislative process.⁴ Some ministries have organised their own training programmes for staff. One example is the Ministry of Justice, which has trained almost 10 000 employees in relation to the initiatives on deeds and notaries. A number of training programmes have also been conducted in the tax administration. Training of civil servants of municipalities appears more limited, although ICT training has taken place for example as part of the Digital Cities and Regions projects (OECD, 2008c).

Development of Better Regulation policies has also involved changes in administrative culture. Adapting skills and resources was reported to the OECD team as a serious challenge to the effective implementation of the *Simplex* Programme and the *Legislar Melhor* Programme. There are however encouraging signs that these programmes have resulted in a shift of the regulatory culture, towards less regulatory interference in the economy. This is a two-way process as changes in the regulatory culture also support the development of Better Regulation policies.

These changes come in the context of an in-depth reform of public administration, which includes control of admissions and recruitment, and a reform of careers and remunerations. The system in place had close to 1 470 different professional careers, with almost automatic career progression and seniority-based pay rise mechanisms, independent of professional performance. Following the adoption by the parliament of a law in July 2007,⁵ the government has started to put in place elements of a performance-based management system in 2008. As an example, for civil servants involved in the *Legislar Melhor* Programme and the *Simplex* Programme, performance can be assessed based on results obtained in the implementation of these programmes.

Notes

1. Portugal was a monarchy between the 12th century and 1910 when the first republic was established. It was overthrown in 1926 and Portugal experienced a period of authoritarian dictatorship until 1974. In this period the state managed the political and economic activities of the country. Decision-making power was highly centralised in a small state apparatus.
2. Its members are: the President of the Republic, the President of the Assembly of the Republic, the Prime Minister, the President of the Constitutional Court, the Presidents of the Regional Governments of Azores and Madeiras, former elected Presidents of the Republic, 5 members designated by the President of the Republic,

5 members designated by the President of the Assembly of Republic, the Secretary of the Council of State.

3. Until 2007 the entity in charge of public sector reform was the Office of Public Services Reform – *Unidade de Coordenação da Modernização Administrativa* (UCMA) – which was under the responsibility of the Minister of State and Internal Affairs.
4. Since its creation in 2004 the course has been attended by approximately 400 people, many of whom civil servants.
5. Law 66-B/2007 of 28 December 2007.



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