

**CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DE L'EUROPE
CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE**

Council of Europe/Conseil de l'Europe
F – 67075 Strasbourg Cedex
Tel: +33 (0)3 88 41 20 00
Fax : +33 (0)3 88 41 27 51 / +33 (0) 3 88 41 37 47
<http://www.coe.fr/cplre/>



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Local and Regional Democracy in Portugal

Rapporteurs:

Mrs Kathryn SMITH (United Kingdom) and Mr Miljenko DORIC (Croatia)

EXPLANATORY MEMORANDUM

I INTRODUCTION

1. Since 1994, the Congress has been conducting a systematic programme of surveys on the situation of local and, where relevant, regional democracy in member states of the Council of Europe. So far, nearly 30 countries have been looked at¹. In all cases, the survey is conducted by a team led by one or two rapporteurs appointed by the Institutional Committee of the Congress or of the relevant Chamber. The survey report is presented before a Congress Plenary Session or a Chamber and on this basis a Recommendation to the national authorities concerned is adopted. The survey is conducted and the report and recommendation are formulated in the light of the principles and standards set out in the European Charter of Local Self-Government of 1985.

2. On 6 June 2002, the Institutional Committee appointed Mrs Kathryn Smith, United Kingdom (local democracy) and Mr Miljenko Doric, Croatia (regional democracy) as the Congress rapporteurs to carry out a survey and prepare a report on local and regional democracy in Portugal. The Bureau of the Congress consequently confirmed this proposal on 5 July 2002.

3. In order to fulfil their task, the rapporteurs were assisted by Prof. Eivind Smith (Norway, Vice-Chair of the Group of Independent Experts on the European Charter of Local Self-Government), Expert, and Mr Daniil Khoshabo (Council of Europe Secretariat).

4. On 30 and 31 January 2003, a Council of Europe-CLRAE delegation comprising the two rapporteurs, the Expert and the representative of the Council of Europe Secretariat visited the capital city of Portugal. On 5 and 6 March 2003, a delegation comprising Mr Doric (rapporteur on regional democracy), the Expert and the representative of the Secretariat visited Madeira. The programmes of these visits are reproduced in Appendix 1 and 2.

5. Further to the visits, the Expert prepared a preliminary text on the situation of local democracy in co-operation with the Secretariat. The text was based on official legal and other documents provided by the Portuguese authorities, but also reflects discussions held and material provided during the preliminary visits.

6. Under the responsibility of the rapporteurs, the preliminary text was submitted to the Portuguese authorities to be discussed during the second official visit of the Council of Europe-CLRAE delegation to Lisbon on 21 March 2003, in which the two rapporteurs, Prof. Smith and Mr Khoshabo took part. During this visit, the Council of Europe-CLRAE delegation met representatives from the autonomous region of the Azores. The programme of this visit is reproduced in Appendix 3.

7. Further to the final visit, the rapporteurs, assisted by the Expert and the Secretariat, prepared a draft report and a draft recommendation which were approved by the Institutional Committee of the Congress at the meeting of 8 April 2003.

¹ Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Moldova, Poland, Romania, Russian Federation, Slovakia, Slovenia, Spain, "the Former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom, Federal Republic of Yugoslavia (list in progress).

The rapporteurs would like to thank Professor Eivind Smith, Vice-Chair of the Group of Independent Experts on the European Charter of Local Self-Government for his valuable assistance in the preparation of this report and during the official visits.

II BACKGROUND INFORMATION: TERRITORIAL ORGANISATION

8. The overall surface area of the Republic of Portugal is 91,831 sq. km. It consists of the mainland and the archipelagos of the Azores (2,247 sq. km.) and Madeira (794 sq. km.). The total population is around 10 million, of which some 240,000 live in the Azores and some 250,000 in Madeira. Since 1976, Portugal has been a member of the Council of Europe.

9. Many years of dictatorship in Portugal came to an end with the peaceful 1974 revolution. The subsequent democratic Constitution was finally adopted in 1976. This background, the relatively recent nature of the democratic structures and the fairly homogeneous character of the population should be borne in mind when one tries to understand some of the features of the present administrative structures and their functioning.

10. According to the Constitution, Portugal is a unitary state. It is “structured and functions under the rule of the self-governing system of the islands and the principles of subsidiarity, the autonomy of local authorities and the democratic decentralisation of the public service” (Article 6). But “regional political and administrative autonomy shall in no way derogate from the complete sovereignty of the State; it shall be exercised within the framework of this Constitution” (Article 225 (3), see also Article 108).

11. The Constitution provides for the establishment of no less than four different types of local and regional self-government. The two “Autonomous regions” are the Azores and Madeira (see Articles 225 et seq). According to the Constitution (see Articles 235-262), the three levels of “local authorities” are parishes (freguesias), municipalities and administrative regions (on the mainland). However, no “administrative regions” have so far been set up. This means that whereas three tiers of local and regional self-government have been established in the Azores and in Madeira, only two tiers are in operation on the mainland.

12. In addition to the “Autonomous regions” established in the two archipelagos, there are at present 308 municipalities and 4,251 parishes in Portugal. Of these, 19 and 150 respectively are to be found in the Azores, 11 and 54 respectively in Madeira.

13. When it comes to their average number of inhabitants, Portuguese municipalities are among the largest in Europe (some 32,000), ranging from some 560,000 to 420. The average size of the population in parishes is by necessity much smaller, but even here the range between the smallest and the biggest is significant (from less than a hundred to some 60,000). The size of the municipalities and the diversity at the two levels should be borne in mind in order to understand the structure of the present system and the way it operates.

III THE LEGAL BASIS OF LOCAL AND REGIONAL SELF-GOVERNMENT IN PORTUGAL

14. As already pointed out, the Constitution itself lays down the basis for local and regional self-government in Portugal (Part III Sections VII and VIII). A more detailed consideration of some of its provisions will be given later in the rapport.

15. More detailed provisions governing the powers and activities of municipalities and parishes are laid down in ordinary legislation, the most recent of major importance being Law No. 159/99 establishing the framework for the transfer of functions and competences to local authorities.

16. Portugal signed the European Charter of Local Self-Government on 15 October 1985. The Charter was ratified on 18 December 1990 and entered into force on 1 April 1991. No particular declarations were made nor reservations taken by Portugal upon ratification.

17. Against this background, it seems reasonable to assume that the European Charter of Local Self-Government applies in Portugal at least in respect of the authorities that the Constitution itself refers to as “local authorities” (see above). Whether the same goes for the “Autonomous regions” (the Azores and Madeira) referred to in Articles 225 et seq of the Constitution may be more open to doubt. But for our purpose at present, this is not a major concern. The rapporteurs have been asked to study the situation of local and regional democracy not only in the light of particular provisions of the Charter, but also of the more general principles and standards established by it. This task is not only of a legal but also of a more open, political nature.

18. According to Article 8 (2) of the Constitution, “Rules provided for in international conventions that have been duly ratified or approved, shall apply in national law, following their official publication, so long as they remain internationally binding with respect to the Portuguese State.” The European Charter of Local Self-Government is effectively an international convention within the meaning of this provision. It is therefore clear that the Charter in its entirety (as far as the material content of each provision justifies it) may be referred to in Portuguese courts and taken into account when resolving legal disputes between local and regional authorities and central government, and between local authorities and the autonomous regions in which they are to be found.

19. The main parts of this rapport will be structured around the Constitutional norms on the three categories of local and regional self-government in Portugal: parishes, municipalities and (administrative and autonomous) regions.

IV COMPLIANCE WITH THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT: PARISHES (FREGUESIAS)

20. According to Article 236 of the Constitution, parishes are to be found both on the mainland and in the Azores and Madeira. They are subject to the same “general principles” (see Part III Section VII Chapter I) as the other categories of “local authorities”, i.e. municipalities (in all parts of Portugal) and administrative regions (on the mainland). As to the more detailed provisions regarding each of the categories, however, the constitutional

regulation of the parishes is less substantial (Chapter II) than that of the municipalities (Chapter III).

21. The constitutional provisions regarding parishes reflect a long-standing tradition of organising common affairs at very local level. As the name indicates, the institution originates from the church “parishes”. It has now lost all legal relationship with this part of the past. The rapporteurs have the strong impression that the institution of parishes enjoys considerable credibility and affection among the population. As currently regulated, parishes represent one of the more original contributions of Portugal to the European heritage of local self-government.

22. At the same time, however, the municipalities are actually regarded, within the political system and according to sub-constitutional Portuguese law, as the main instance of local self-government. This is rather natural given the high number of parishes and the small population in the vast majority of them. The result is that when powers are delegated from central government to local level, the main beneficiary is the municipal level. Under the law, the traditional core activities of the parishes are tasks such as officially certifying a person’s domiciliation and other matters. In addition, however, parishes initiate a number of local activities in fields such as culture, the maintenance of streets, parks, some road works and social facilities for children or elderly people. In such fields they even serve as the main points of contact for the relevant municipalities, and the municipality concerned quite frequently delegates functions to the parishes under contract involving measures of co-financing (a list of “functions of parishes” and procedures for such arrangements are laid down in Chapter II of Law No. 159/99). Some of the tasks that parishes in this way deal with would, in quite a few of the larger municipalities in Europe, be delegated to specific organs (for instance community or neighbourhood councils) set up by the relevant municipality itself. Sometimes, parish responsibilities may go beyond what is legally required, in view of their closeness to the people.

23. Against this background, it would not however be justified to submit the Portuguese system of parishes to the entire test of its conformity with the European Charter of Local Self-Government. In particular, the requirement that a “substantial share of public affairs” shall be managed by local self-government (cf Article 3 and Article 4 of the Charter) cannot reasonably be fully applied to local authorities that in most other states would be subdivisions of the municipalities concerned.

24. It may, however, be legitimate to assess whether the main principles of the Charter regarding the essence of “autonomy” are observed in respect of this particular level of local government. In this respect, it should be recalled that the existence and activities of these authorities are established by virtue of the Constitution itself, further regulated by sub-constitutional law and intended to fulfil important functions at local level that are well in line with the ideals of the European Charter of Local Self-Government.

25. Under Article 2 of the Charter, the principle of local self-government as laid down by Article 3 of the Charter shall be recognised in the Constitution or at least in domestic legislation. The word “autonomy” actually used in Article 6 of the Constitution refers to local authorities as well as to the autonomous regions. In more detail, this requirement seems to be met, for example by Article 237 (regulation by law), Article 238 (right to own assets and

financial resources) and Article 242 (administrative supervision regarding matters of legality exclusively).

26. Under Article 3 (2) of the Charter the right of local authorities shall be exercised by councils freely elected by secret ballot on the basis of direct, equal and universal suffrage. According to Article 239 of the Constitution, “every local authority shall include an elected assembly with powers of deliberation and a corporate executive body responsible to it”. The Council of Europe-CLRAE delegation sees no reason to believe that the Charter’s criterion of “freely elected by secret ballot on the basis of direct, equal, universal suffrage” is not met by the Portuguese electoral system, neither does it seem that the relationship between the parish assembly (or the citizen’s meeting, see below) and the parish board gives rise to the same remarks as those that may be raised in respect of the municipalities (see below).

27. Under Article 245 of the Constitution, provision may be made by law for the parish assembly to be replaced in parishes with a small population by meetings of all the citizens entitled to vote. The fact that the legislative power has been used at this point cannot reasonably be said to represent a violation of Article 3 of the Charter.

28. Under Article 4 (1) of the Charter, the basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute, but “the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law” is not excluded. These requirements are well met by Portuguese law: the system of delegation from the relevant municipalities to parishes is regulated in law. Among the merits of the system is its provision for taking into account differences in size and local conditions.

29. Under Article 4 (2) of the Charter, local authorities shall have full discretion, within the limits of the law, to exercise their initiative with regard to any matter not excluded from their competence nor assigned to any other authority. Even if this right does not seem to be clearly stated in the Constitution, it seems to be well satisfied by the way the present system operates in Portugal.

30. Article 4 (3) of the Charter lays down the principle that public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen (the so-called principle of subsidiarity). In Portugal, the parishes are clearly the authorities that are closest to the citizen. At the same time, their functions and – consequently – part of the total public spending are most limited. However, it is not possible to assess the extent to which the situation is in conformity with the requirements of the Charter on this point, without also taking into account the role of municipalities and the relationship between these two levels (see above).

31. Under Article 4 (4)-(6) of the Charter, powers given to local authorities shall normally be full and exclusive and powers given to other authorities to limit that freedom must be provided for by law; local authorities shall, insofar as possible, be allowed discretion in adapting the exercise of delegated powers to local conditions and they shall be consulted in the planning and decision-making processes for all matters which concern them directly. As far as the Council of Europe-CLRAE delegation is aware, there is no reason to suggest that Portuguese legislation does not meet these requirements.

32. Under Article 5 of the Charter, changes to the boundaries of local councils shall not be made without prior consultation of the communities concerned. Their right to be consulted does not seem to be provided for by law, but in practice, the relevant parish would always be consulted before, for example, a new parish was created.

33. Under Article 6 of the Charter, local authorities shall be able to determine their own internal administrative structure in order to adapt them to local needs and ensure effective management, and the conditions of service of local government employees shall meet with certain standards including the need to recruit high quality staff and provide adequate career opportunities. Except for the evident reservations necessitated by the very small size and limited tasks of most parishes, this requirement does not seem to give rise to problems.

34. According to Article 7 of the Charter, the conditions of office of local elected representatives shall provide for the free exercise of their functions, they shall allow for financial compensation for expenses, lost earnings etc, and any functions deemed incompatible with the holding of a local elective office shall be determined by statute or fundamental legal principles. Under the law, the presidents of the 200 largest parishes receive a salary of the equivalent of 8% of that of the President of the Republic (ie some 1,000 Euros a month), in the next 400 (by size) they receive some 500 Euros a month. In the remaining parishes, (ie the overwhelming majority of them), the presidents would receive an average of 200 Euros a month, to which should be added compensation for direct expenses incurred by their duties (all subject to income tax) . These figures, however, should be viewed in the light of the proximity nature of the parishes, and it may be argued that the fact that elected functions within them are more or less free of charge is an advantage in the sense that the population appreciates the profoundly voluntary nature of these functions.

35. Under Article 8 of the Charter, administrative supervision of local authorities may only be exercised according to provisions in the Constitution or in statutory law, shall normally aim only at ensuring compliance with the law and be exercised in a way in which the intervention of the controlling authority is kept in proportion to the interests protected. These concerns are well taken care of, for example by Article 214 of the Constitution (the Court of Audit) and Article 242 (Administrative supervision). More importantly, the Council of Europe-CLRAE delegation received no complaints alleging that these principles were not being complied with.

36. Under Article 9 of the Charter, local authorities shall be entitled to adequate financial resources of their own, which they may dispose of freely within the framework of their powers, and the resources shall be equal to their responsibilities. The Council of Europe-CLRAE delegation has been unable to verify objectively whether the Portuguese system on the financing of parishes effectively meets these requirements, but has not heard any substantive complaints which would lead it to reach the opposite conclusion. It has, however, been argued that at the moment there is a lack of sufficient resources in global terms. A clear distinction should, of course, be made between this assessment and the assessment of the amount of financial resources in comparison with the ambitions of certain parishes, and the National Association of Parishes argues that the share of the global amount of three national taxes receipts (personal income tax, corporate tax and value added tax) paid to them by central government through the Parishes Finances Fund should be increased from 2.5 to 3.5% to place them in a better position to discharge many important tasks for the local communities. The rapporteurs support this proposal.

37. Article 9 (3) of the Charter requires that part at least of the financial resources of local authorities should derive from local taxes or charges, the rate of which they have some power to determine. To a certain extent, this requirement is met by the freedom enjoyed by parishes to fix the charges to be paid for licences and certificates issued by them and for services provided such as the maintenance of local cemeteries (the parish assembly approves the rate). For practical reasons however, they have only limited scope to increase such charges. Furthermore, the major part of the financial resources of parishes stems from tax returns from central government (see above) and from contracts with the relevant municipality.

38. Article 9 (5) of the Charter calls for a regime of equalisation and redistribution of financial resources enjoyed by local authorities. Article 238 (2) of the Constitution explicitly states that the Portuguese system shall be based upon similar considerations. A part (2.5%) of the global amount of certain national taxes is directed to all parishes. Transfers come mainly and directly from the national Parishes Finance Fund. Some financial transfers to parishes come from the municipality concerned through different forms of delegation and co-financing of certain functions under contract. In the light of the de facto role of the two levels of local authorities in Portugal, this can hardly be said to be incompatible with the requirement of the Charter.

39. According to Article 9 (7) of the Charter, grants to local authorities shall not be earmarked for the financing of specific projects. On the other hand, most of the functions of parishes that go beyond the traditional tasks of issuing certificates, etc. seem to stem from different forms of delegation from the municipalities concerned (see above). Under such a system, “earmarking” of funds transferred from the relevant municipality in view of the carrying out of certain tasks cannot sensibly be avoided.

40. Under Article 9 (8) of the Charter, local authorities shall have access to borrowing for capital investments within the limits of the law. To a rather limited extent, this faculty is currently enjoyed by parishes.

41. According to Article 10 (1) of the Charter, local authorities shall be entitled to co-operate and to form consortia with other local authorities in order to carry out tasks of common interest. This faculty is explicitly provided for in Article 247 of the Constitution (“associations to administer common interests”) and by Law No. 175/99, and is currently used by a number of parishes.

42. Under Article 10 (2) of the Charter, local authorities shall have the right to belong to an association for the protection and promotion of their common interests. This right is explicitly recognised by Article 247 of the Constitution, and an active National Association of Parishes is in operation in Portugal. This Association represents a significant number of locally elected representatives.

43. Given the rather unique nature of the Portuguese institution of parishes in a European context, the Charter’s requirement that local authorities shall also have the right to belong to an international association is most probably of no real interest. The same goes for the right, according to Article 10 (3) of the Charter, to co-operate with their counterparts in other states.

44. According to Article 11 of the Charter, local authorities shall have the right of recourse to judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation. This requirement does not seem to give rise to concern under Portuguese law (for practical reasons, few parishes would effectively have recourse to such a remedy, whereas municipalities quite frequently make use of it).

V COMPLIANCE WITH THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT: MUNICIPALITIES

45. With regard to Portugal's compliance with the European Charter as far as the municipalities are concerned, the remarks in Section IV above on the Portuguese system of parishes also apply to municipalities in respect of Article 2 (recognition of the principle of local self-government), Article 4 (1)-(2) (the basic powers and responsibilities of local authorities shall be prescribed by the Constitution or by statute, etc.), Article 4 (4)-(6) (the powers shall normally be full and exclusive, etc.), Article 8 (supervision only on grounds of legality), Article 10 (2) (right to belong to an association) and Article 11 (the right of recourse to judicial remedy).

46. The remaining parts of the Charter may give rise to particular observations regarding municipalities. A first series of questions concerns the internal organisation of the political bodies of the municipality.

47. Under Article 3 (2) of the Charter the right of local authorities shall be exercised by councils freely elected by secret ballot on the basis of direct, equal and universal suffrage. According to Article 239 of the Constitution, "every local authority shall include an elected assembly with powers of deliberation and a corporate executive body responsible to it". The Council of Europe-CLRAE delegation sees no reason to believe that the Portuguese electoral system is not complying with European standards.

48. According to Article 250 of the Constitution, the representative organs of municipalities are the municipal assembly and the municipal chamber. Both are "representative" in the sense of being elected by the electorate, and both are collective. The nature and co-existence of two corporate bodies within each of the municipalities warrant further attention.

49. According to Article 251 of the Constitution, the municipal assembly – designed as "the deliberative organ of the municipality" – shall be composed of "directly elected members greater in number than the presidents of the parish boards they include". In other words, the assembly is a forum of dual representation. Formally, only the majority of the representatives who do not at the same time act as presidents of parish boards qualify, in line with the Constitution itself, as "directly elected members" of the municipal assembly (Article 251). On the other hand, it could be argued that the parish presidents are simultaneously elected directly to the two functions of president and as member of the assembly and therefore hold *de facto* a dual direct mandate. But for various reasons, the political profile of (each of) the parish elections *might* not correspond to that of the municipal electorate as a whole; for instance – in accordance with the ideology and practice underpinning the Portuguese institution of parishes as a whole (see above) – the parish president may enjoy considerable local support based upon his personality and past merits rather than as a representative (which

he or she may not at all be) of a political party competing in the municipal elections. Moreover, the person heading the electoral list receiving the highest number of votes within the parish (except in cases of direct election by the entire adult population, see above) is *ex officio* president of the parish board. Such factors may help explain why the national constitution has not retained the idea of “dual direct elections”.

50. The number and relative importance of the parish presidents within a given municipal assembly depend on the number of parishes in that municipality and the size of the municipal population that in turn co-determines the size of the assembly. And even where the proportion of parish presidents is smaller (which is often the case), their presence *may* alter the political profile of the assembly in a way that changes the political majority; according to figures provided by the National Association of Municipalities of Portugal, this *has* been the case in 10% of the municipalities, leading to four early elections. When this happens, the question is not just one of how the representatives are elected (see below), but also of the representative nature of the assembly for the municipal electorate as a whole. Clearly this is not desirable as it may affect the political will of the municipality’s electorate and may also affect the work of the assembly and the municipality as a whole. The rapporteurs take the view that further thought should be given by the Portuguese authorities in co-operation with local authorities’ representatives to how such situations could be avoided.

51. It is also clear that the system described above, reflects a recognition of the importance of parishes in the life of Portuguese municipalities. It might also provide excellent opportunities for co-ordinating the action of the parishes and of the municipality in which they are to be found (on the presumption that the assembly is the leading organ of the municipality).

52. The next question which warrants close consideration is the relationship between the assembly and the executive body within the municipality. According to Article 3 (2) of the Charter, local self-government shall be exercised by councils or assemblies (see above) “which may possess executive organs responsible to them”. According to Article 239 of the Portuguese Constitution, there shall be “a corporate executive body responsible to” the elected assembly with powers of deliberation. Insofar as the wording of the Constitution is concerned, no problem arises. However, when it comes to the way the Portuguese system is actually constructed and operates, there may be some doubts as to the extent to which the “responsibility” criterion is effectively met by the system taken as a whole.

53. It must first be borne in mind that the executive body (the municipal chamber) is entirely – unlike the assembly from a formal point of view – composed of persons *directly* elected by the electorate. Insofar as systems with directly elected mayors, for instance, are compatible with the Charter, the co-existence of two “representative” bodies within the same municipality can hardly in itself give rise to particular concerns. But the existence of a directly elected “executive” alongside the (at least partly) directly elected “deliberative” body should also be taken into account as an important factor when it comes to the overall understanding of the Portuguese system regarding the accountability of the executive to the assembly.

54. A second element to be taken into account in this respect is the fact that the municipal assembly meets at least four times a year (in practice, the average frequency is higher, reaching 10-12 meetings a year, according to the ANMP), whereas the executive meets more

frequently; this difference is further accentuated by the fact that the mayor and his close political collaborators are normally in office on a regular basis all throughout the year. Third, the assembly has no power to approve or pass a vote of no-confidence in the municipal chamber, for example by forcing the mayor and/or the whole camera to resign before the end of their electoral mandate. And fourth, the assembly does not appear to have any power of independent decision-making and initiative. It may discuss the most important municipal matters (like the budget and the activity plan), but the only option it has is to accept or reject the chamber's proposals en bloc. However, it should be noted that the municipal chamber has to comply with assembly's decisions and to change its proposals accordingly.

55. At the same time, the assembly has important general supervisory functions and a policy defining role (budget, local taxes, loans, urban plans etc.). While its members are of course free to criticise the executive when meeting and to make proposals, no important actions or decisions may be taken without the assembly's formal approval, and on relatively minor matters presented by the chamber, the assembly is able to adopt proposals in a modified form (or of course to refuse to accept them). The assembly cannot overthrow the executive but can in practice block its activities by not approving its proposals. However, the presidents of the parishes – it has been argued – are frequently bound to work closely with the mayor (who is the head of the executive body) and therefore unlikely to vote against him or her when important questions are at stake (see above on the system of dual representation within the municipal assembly). In general, the Council of Europe-CLRAE delegation feels that the municipal chamber is the stronger of the two political bodies at the head of each municipality.

56. It should be noted that this somewhat original system has been operating in Portugal since 1976 without any major problem or changes although some talks on introducing changes have taken place. However, in the rapporteurs' view, further thought could be given to how the institutional system could be improved in the light of Article 3 (2) of the Charter by making the executive body even more accountable to the assembly. The rapporteurs would recommend that the Portuguese authorities together with representatives of local authorities seek ways of establishing a more balanced relationship between the assembly and the executive body.

57. A second series of questions concerns the role of the municipalities in Portuguese society. Article 4 (3) of the Charter lays down the principle that public responsibilities shall be exercised, in preference, by those authorities, which are closest to the citizen (the so-called principle of subsidiarity). The provision must be read in connection with the requirement that local authorities should in accordance with Article 3 (1) of the Charter regulate and manage "a substantial share" of public affairs. Even if the parishes are the local authorities closest to the citizen, the municipalities must be regarded as by far the most important players at local level with regard to devolution of public power in Portugal. Consequently, it is primarily they that should be taken into account when evaluating the state of local self-government in Portugal.

58. Portuguese municipalities enjoy general competence to undertake activities affecting the interests of their citizens in accordance with each municipality's own decisions. In addition, the legislation also provides for a number of "functions of municipalities" laid down in Chapter II of Law No. 159/99. The list is quite long, but cannot be deemed to be exhaustive. In addition, sometimes tasks performed by municipalities go beyond legal requirements due, of course, to their proximity to the population. There is an ongoing

discussion in Portuguese political circles on the “fair” distribution of functions and competences between central government and the local level(s).

59. On the basis of the enumeration of a number of general principles, including the principle of subsidiarity (Article 2) and the requirement that the transfer be accompanied by resources sufficient to carry out the relevant functions (Article 3), the provisions set out in Chapter III of Law. No 159/99 considerably extend the scope for transferring functions and competences to municipalities. In accordance with Article 4, all the functions and competences set out in this Chapter of the framework law “will be gradually transferred to the municipalities during the four years following its entry into force”. But for political and financial reasons, this provision has not been entirely implemented and the process of effectively transferring the relatively wide-ranging competences referred to in the relevant Chapter of the law began only in 2002. Accordingly, the process has yet to be fully implemented.

60. A mere list of functions and competences which fall under the responsibility of municipalities (see above) does not, however, give a full picture of whether the municipalities effectively manage a “substantial” share of public affairs. Another way of evaluating the extent to which Portugal meets this requirement – or, in other words, its compliance with the principle of subsidiarity as set out in the Charter and in domestic law – would be to evaluate the municipal sector’s part of the national economy and overall public spending. According to the Dexia publication “Local Finance in the fifteen countries of the European Union” (2nd edition), the public sector as a whole spends 44.3% of the Portuguese GDP, the local public sector (in which even the parishes are included) alone accounts for 5.7% of the national GDP (2002). According to figures provided by the ANMP, in 2002, the spending of the local public sector would appear to represent some 10% of total public spending. This share is not impressive, but could hardly be qualified as exceptionally low when compared to the standards set by many other signatories to the Charter. Moreover, the share is bound to increase once the framework law of 1999 and other initiatives are applied in practice (see above).

61. Under Article 5 of the Charter, changes to the boundaries of local councils shall not be made without prior consultation of the communities concerned. Unlike for the parishes (see above), this right for municipalities is explicitly recognised by the Constitution (Article 249) and by subsequent ordinary legislation.

62. Under Article 6 (1) of the Charter, local authorities shall be able to determine their own internal administrative structure in order to adapt them to local needs and ensure effective management, without prejudice to more general statutory provisions. This freedom is recognised by the law (but the part of a municipality’s budget spent on salaries may not exceed 60% of the current budget for that year).

63. Under Article 6 (2) of the Charter, the conditions of service of local government employees shall meet with certain standards including the need to recruit high quality staff and provide adequate career opportunities. Under present Portuguese law, municipal employees enjoy the same guarantees as national civil servants and may, for instance, continue their career in other municipalities without losing their seniority as regards payment levels etc. Moreover, central government negotiates and fixes the salaries for the whole “civil service” (municipal employees included). This system may be well suited for facilitating the

recruitment of high quality staff and for enhancing the career opportunities of those recruited, and it does not represent an undue burden for the finances of municipalities because transfers from central government are automatically increased in line with increases in salaries that it itself has fixed. As regards the autonomy of municipalities to set salaries, etc according to their own needs, the system seems to be more limited (which may be explained by commitments to be met under the EU stability pact).

64. According to Article 7 (1) of the Charter, the conditions of office of local elected representatives shall provide for the free exercise of their functions. Under the present legislation, mayors have their own secretariat and members of the executive chamber their own offices. The possibility of removing a representative from office is extremely limited. For those fulfilling full-time mandates, national legislation provides for the right to be granted leave from other occupations during the mandate, and for full-time representatives, it provides for reintegration allowances. On the whole, therefore, it would appear that the situation complies with the Charter's requirement.

65. According to Article 7 (2) of the Charter, the conditions of office of local elected representatives shall allow for financial compensation for expenses, lost earnings, etc. Full-time officials receive full-time remuneration, calculated as a percentage of the salary of the President of the Republic and according to the size of the municipality. Other representatives are paid for lost earnings and receive attendance allowances, and travel costs are refunded. On the whole, therefore, it would appear that the situation complies with the Charter's requirement.

66. Under Article 7 (3) of the Charter, any functions deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles. Under the present legislation, eligibility is restricted in a few respects (civil servants of the relevant municipality, judges, police officers, etc.), full-time representatives cannot exercise certain types of supplementary financial activities, no-one can hold more than one elected mandate and the same person cannot be member of both the deliberative and the executive body of the same constituency. The Charter's requirement seems to be well met.

67. According to Article 9 of the Charter, local authorities shall be entitled to adequate financial resources of their own, which they may dispose of freely within the framework of their powers, and the resources shall be equal to their responsibilities. It would seem that things have improved since 1993 when the application of the law on local financing was suspended. However, it should be noted that the municipalities are still recovering from this and consider financing as one of the crucial aspects of their agenda in the negotiations with the national government. The situation, in particular, has worsened recently due to the ban on access to credit transactions. The rapporteurs would hope that once the global financial situation of the country has improved, it will be possible for the central government to lift these restrictions.

68. Article 9 (3) of the Charter requires that part at least of the financial resources of local authorities derives from local taxes or charges, the rate of which they have some power to determine. According to the relevant ministry, in 2001 the overall local tax revenue of Portuguese municipalities amounted to 29% of their total revenue. The municipalities have no power to create new taxes, and tax limits etc are set by central government. In this respect, the Rapporteurs would like to stress that in their view any local tax exemptions that may

occur should be based on common agreement between the national government and the representatives of the municipalities. If not, it may adversely affect the buoyancy of local finances.

69. As a matter of principle, the definition of local charges (for the use of certain types of municipal property, for instance), is left to the municipalities themselves. The same applies, of course, to setting the level of income from ordinary commercial transactions (selling of land or renting of houses owned by the municipality, etc.). According to the relevant ministry, in 2001 the overall revenue of Portuguese municipalities from such sources (and from loans) amounted to 27% of their total revenue.

70. Article 9 (5) of the Charter calls for a regime of equalisation and redistribution of financial resources enjoyed by local authorities. Article 238 (2) of the Constitution explicitly requires the Portuguese system to be based upon similar considerations, and the present system is based upon financial equalisation by distributing grants from central government according to objective criteria such as the number of inhabitants, the number of young people, the surface area, the size of the road network and the extent of the fiscal resources of each municipality. According to the relevant ministry, in 2001 financial transfers represented 44% of the overall revenue of the municipal sector, but the equalisation system means that the relative importance of the transfers varies quite considerably among the municipalities.

71. According to Article 9 (7) of the Charter, grants to local authorities shall not be earmarked for the financing of specific projects. In general, Portuguese law satisfies this requirement. But the rapporteurs are aware that some concern has been expressed over the extent of the use made of contracts between central government and some municipalities for the co-financing of projects for local or regional development, and the actual level of freedom available to the municipalities to influence the terms of such contracts; there is a tendency to resort to such contracts even on matters of genuine local relevance (parking areas, street repair, and so on). It may be appropriate to reconsider the relevance of this practice.

72. Under Article 9 (8) of the Charter, local authorities shall have access to borrowing for capital investments within the limits of the law. This right is recognised in Portuguese law, and borrowing traditionally plays a not inconsiderable role. According to the relevant ministry, in 2001 borrowing represented between 5 and 10% of the total revenue of Portuguese municipalities. At present, however, the municipalities' right to borrow is heavily restricted due to Portugal's problems in satisfying the criteria of the EU stability pact (see also above §67).

73. According to Article 10 (1) of the Charter, local authorities shall be entitled to cooperate and to form consortia with other local authorities in order to carry out tasks of common interest. Article 253 of the Constitution explicitly recognises this right, and Portuguese legislation is gradually moving further along this road by opening up possibilities for metropolitan, urban and regional areas governed by representatives of the participating municipalities. Even the possibility of establishing a similar system of indirect representation at the level of the existing administrative regions is being aired, but could not be carried out before the present system of regional representation of central government, as set out in the Constitution, is amended.

74. According to Article 10 (2) of the Charter, local authorities shall be entitled to belong to an association for the protection and promotion of their common interests. This right has effectively been made use of by the municipalities forming and actively taking part in the National Association of Portuguese Municipalities. The Association seems to have succeeded in establishing itself in a solid position as the main representative of the municipal sector vis-à-vis the state.

75. According to Article 10 (2) of the Charter, local authorities shall also be entitled to belong to an international association. This right is recognised by the law and the National Association of Portuguese Municipalities has made active use of it.

76. According to Article 10 (3) of the Charter, local authorities shall be entitled to co-operate with their counterparts in other states. This right is recognised by the law and a number of municipalities have made active use of it.

VI COMPLIANCE WITH THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT: THE POSITION OF LOCAL AUTHORITIES WITHIN THE AUTONOMOUS REGIONS OF THE AZORES AND MADEIRA

77. The basic premise is that the European Charter of Local Self-Government applies to local authorities not only vis-à-vis central government (see above, IV and V), but also vis-à-vis the autonomous region within which the relevant parish or municipality is situated.

78. Under Portuguese law, the provisions governing local authorities are the same for parishes and municipalities on the mainland and in the two autonomous regions. This implies that all the remarks of the system presented above apply equally to the parishes and municipalities situated in the two archipelagos.

79. Insofar as the functions of monitoring the activities of the local authorities is carried out by the relevant autonomous region, the principle that this should relate exclusively to the legality of their action would appear to be complied with (see Article 8 of the Charter).

80. At the same time, it would appear that the autonomous regions and (some of) the municipalities undertake common projects governed by contracts between them and at least in part financed by the regional authorities. In general, such arrangements could hardly be regarded as infringements of the principle of the autonomy of the municipalities according to the European Charter. But it has been argued that on some occasions, such techniques have effectively been used in ways that do not adequately respect the position of the municipalities as equal partners with the same right as the autonomous regions to draw up the terms and conditions of the contracts.

VII COMPLIANCE WITH THE PRINCIPLES OF THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT: REGIONS

81. In the Constitution of Portugal, the term “administrative regions” refers to self-governing regions on the Portuguese mainland. According to Article 255, the law shall establish such regions. But before legislation to that effect is adopted, the majority of the electorate taking part in the vote, must express its approval in a referendum. A majority is required at national level and in each of the regions to be set up (Article 256).

82. When a referendum on the establishment of eight regions in the Portuguese mainland was held on 8 November 1998, 64% of the 49% of the electorate that took part voted against the proposal. A more detailed account of the events is provided in a document produced by Mr Montalvo for the Standing Committee of the Chamber of Regions of the CLRAE on the results of the Portuguese referendum of 8 November 1998 (CPR/CP (5)15), to which reference should be made. The rapporteurs would like to underline that during their visit to Portugal they had the impression that the Portuguese people supported the idea of regionalisation as a way of solving some of the outstanding issues such as the growing gap between the coast and inland areas. However, in 1998 the vast majority of them disagreed with the scheme proposed and therefore voted against regionalisation. It might thus be legitimate to see in future whether genuine regions with a historical background and geographic coherence (which may bring about more solidarity and social cohesion in the country) with strong and well-defined powers could answer some of the outstanding questions. The rapporteurs believe that, in general and in view of the successful experience of many European countries, democratically elected regional authorities have a broad potential to fulfil some of the economic and sustainable developments functions which are an essential part of subsidiarity.

83. During its visits to Portugal, the Council of Europe-CLRAE delegation had the distinct impression that following the rejection of the proposal for establishing administrative regions under the relevant scheme of the Constitution, there were few or no political moves to put forward the question a second time, with a possible reworking of the regional pattern proposed in 1998.

84. The fate of the two “Autonomous regions” of the Azores and Madeira is extremely different. They have been in existence since the first years of the present constitutional era of Portugal and their autonomy seems to be very well developed.

85. As already pointed out, it is less than evident that the European Charter of Local Self-Government is directly applicable to regional authorities in this category. For that reason, an evaluation of Portugal’s compliance with the Charter should be based on the principles rather than the detailed provisions of that instrument.

86. As stated in part I (above), the Council of Europe-CLRAE delegation visited the capital city of Portugal and one of the autonomous regions (Madeira), and it met representatives of the autonomous region of the Azores. The delegation’s overall impression is that there are no important problems between central government and the two autonomous regions with regard to the scope of the Charter, ie the basic requirements relating to the autonomy of the sub-national entity. The same impression is forcefully supported by the Constitution itself and by other texts provided (see also above on the legal basis of local and regional self-government in Portugal).

87. On the contrary, the guarantees of autonomy as laid down by the Charter seem to be well respected with regard, for example, to the extent of devolution of competences to the two regional assemblies, their financial possibilities to carry out their tasks and to initiate projects that they themselves decide to initiate, strict observation of the legality principle regarding the different forms of monitoring of their activities and their access to justice in defence of their prerogatives under the Constitution and Portuguese law. During the almost 30 years since the

instauration of the present democratic regime in Portugal, the two regions have undergone a remarkable development that no doubt is at least partly due to the way the two systems of regional government have been able to function in the interests of their respective populations.

88. During the visits of the Council of Europe-CLRAE delegation, some concern was expressed by representatives of the autonomous regions regarding the delimitation of their powers vis-à-vis those of the Assembly of the Republic (the Parliament). The main point seems to lie in the relative vagueness of two criteria used by the Constitution in delimiting the powers of the regional assemblies (“Principles of the general laws of the Republic” and “matters of specific interest to the regions”, see Article 227a) read in conjunction with Article 112 (5) of the Constitution). When a conflict occurs, the interpretation of these provisions belongs to the Constitutional Court which has a tendency – it has been argued – to give the national interest priority over the interests identified by the regional assembly concerned.

89. This system is established by the Portuguese Constitution and can in no way be said to contradict the principles of the European Charter of Local Self-Government. In this respect, it should also be added that any given system based upon a delimitation of powers between two or more tiers of government may give rise to conflict on how exactly to interpret the provisions which are supposed to draw the dividing line. However, every effort to obtain a still clearer delimitation of the boundaries of regional autonomy should of course be welcomed in the light of the principles of the Charter. In this respect, the rapporteurs feel that a better definition of matters of specific interest to the autonomous regions should be based on the subsidiarity principle enshrined in the Charter and Portuguese law and which should guide any decision by national authorities.

90. The rapporteurs consider that the autonomous regions, as outermost regions of the European Union, must be able to continue to benefit from necessary EU structural funds as well as from other forms of aid and derogations provided for by Art. 299(2) of the Amsterdam Treaty.

VIII GENERAL CONCLUSIONS AS TO COMPLIANCE WITH THE CHARTER

91. The general impression of the Council of Europe-CLRAE delegation is that the Portuguese system of territorial autonomy in the two autonomous regions and at municipal and parish levels gives rise to few problems regarding the standards and principles laid down by the European Charter of Local Self-Government. This impression is based on the fact that few problems of a legal nature that could reasonably be qualified as questions concerning compliance with the Charter were raised during the different talks that the delegation had the opportunity to conduct.

92. Among the few remaining questions to be mentioned, the first concerns the composition of the municipal assembly. According to Article 3(2) of the Charter, the right to self-government of local authorities shall be exercised by councils freely elected by secret ballot on the basis of direct, equal and universal suffrage. Under the present Portuguese system, the assembly is only in part composed of persons that are directly elected as such (under the terms used by Article 251 of the Constitution), the presidents of the parish boards being *ex officio* members of the assembly of the municipality to which the relevant parishes belong. Of course, the latter are directly elected in their quality as member of the parish

assembly (and sometimes to the office of president of the board). However, if their membership in the municipal assembly were to alter the political profile of the latter, it would clearly not be to the benefit of the municipal electorate as a whole and may thus be somewhat damaging to the functioning of the municipality. Further thoughts might be given as to how to avoid this kind of situation.

93. According to Article 3 (2) of the Charter, the local assembly “may possess executive organs responsible to [it]”. The Portuguese system of dual collective representation within each municipality goes quite far in placing the executive in a position of strength towards the municipal assembly. This aspect of the system may give rise to some doubt regarding the extent to which the executive shall be “responsible” to the assembly. It would seem that this system which has been in operation since 1976 has in practice resulted in quite a few instances of institutional deadlock and despite all the criticism received has not yet been changed. In acknowledging this fact, the rapporteurs take the view that it may be beneficial to seek ways of a more balanced relationship between the assembly and the executive in the light of Article 3(2) of the Charter so as to make the executive even more responsible to the assembly.

94. Finally, further discussion should take place on the strict limits imposed by the present Portuguese law on the autonomy of Portuguese municipalities to determine the rate of local taxes (Article 9 (3) of the European Charter) as well as their freedom to fix the level and structure of the salaries of municipal staff, in the light of the very significant contributions which freedom in this respect could make to the responsibility of local self-government and to the position of municipalities within society as a whole.

95. Since, as already pointed out, it is less than evident that the European Charter of Local Self-Government is directly applicable to regional authorities, the fact that no administrative regions were set up on the mainland following the negative result of the 1998 referendum can hardly be considered a breach of Portugal’s obligations under the Charter. But an outcome in the opposite direction – as well as new political initiatives in that direction – would clearly be more in line with the ideology underpinning the Charter.

IX POLITICAL APPRECIATIONS AND PROSPECTS FOR REFORM

96. Portugal should quite justifiably be congratulated on the achievements accomplished in the field of local and regional autonomy since the instauration of the present democratic regime through the Constitution of 1976. Substantial progress has taken place at different levels, first of all as regards the two autonomous regions of the Azores and Madeira, and municipalities and parishes all over the country.

97. A somewhat fundamental comment that needs to be made concerns the financial problems encountered at many levels of the Portuguese system, for example the provisional ban on municipal borrowing: (cf the phrase “within national economy” in Article 9 (1) of the European Charter of Local Self-Government). It does not follow from the principles or provisions of the Charter that local and/or regional authorities have a right to financial well-being superior to that of central government, for example in a situation in which Portugal as a whole faced a number of problems concerning compliance with the criteria of the EU stability pact, but the restrictions currently in place should be lifted once the financial circumstances of the country have improved.

98. On a different scale, the quite original system of parishes (*freguesias*) under Constitutional protection merits some attention. It clearly reflects a long-standing tradition of organising common affairs at very local level and is very much in line with an important part of the ideals and principles underpinning the European Charter of Local Self-Government. In this respect, the Portuguese authorities may consider how representatives of parishes may best be kept informed and involved in future activities of the CLRAE when they have the appropriate level of responsibility. At the same time, the municipalities are manifestly the most important actors at local level and clearly play a local leadership role, and it would be inappropriate to submit the Portuguese system of parishes to the entire test of conformity with the European Charter of Local Self-Government, in particular the requirement that a “substantial share of public affairs” be managed by local self-government (cf Article 3 and Article 4 of the Charter). The parishes would in most other member states of the Council of Europe be the equivalent of sub-divisions of the municipalities (community or neighbourhood councils or the like).

99. Within the municipalities themselves, it may be time to review the system of two municipal collegiums. In any event, the representative nature of the municipal assembly, its role as the principal organ within the municipality and the responsibility of the municipal board towards it ought to be reconsidered (see above). A worthwhile subject for such a process of reconsideration might be the role of the mayor (the president of the municipal board), a role that – according to some observers – is overwhelmingly strong within the municipal system, yet at the same time rather unclear vis-à-vis the members of the board that are in political opposition to (the party of) the mayor. More significantly, the rationale behind the construction of the present system of dual representation through collegial bodies – a system that seems to be quite unique in Europe – might be difficult to grasp for an outsider.

100. When it comes to the role of the municipalities in Portuguese society, the basic principle of the European Charter whereby “a substantial share of public affairs” (Article 3) is regulated and managed by local authorities will be far better complied with once the process of transferring powers to municipalities under the scheme laid down by Chapter III of Law No 159/99 is completed and supplemented by other schemes for the further transfer of powers to local self-government. The Council of Europe-CLRAE delegation strongly encourages the fulfilment of these political commitments in a way that ensures that they are accompanied by the financial and material resources needed for successfully carrying them out.

101. Finally, the re-opening of the question of setting up “administrative regions” on the mainland as provided for by the Constitution (subject to approval by referendum) after the negative result of the 1998 referendum should be strongly encouraged. It seems likely, however, that such a development can only take place following thorough reconsideration of the regional pattern to be presented to the electorate. In this respect, the rapporteurs think that regions with traditional identities, historic background and anchored on territorial cohesion schemes should be a basis for any further development with regard to a possible regionalisation in the country. Such a solution is more likely to win the support of the electorate. Even more importantly, it seems reasonable to imagine that such a regional pattern would be more conducive to the setting up of viable self-governing entities. In any case, the rapporteurs strongly encourage the Portuguese authorities to support any public debate on ways of a possible regionalisation on the mainland, which might be put on the country’s political agenda.

102. At the same time, the “supra-municipalities” currently in place or under political consideration (metropolitan areas, etc.) although performing important and necessary tasks in providing services for the benefit of the population of urban areas should not substitute future regions which would be based on traditional identities, territorial cohesion schemes and cover wider areas. The rapporteurs feel that eventually genuine regions may well be suited to also serving the population living outside the urbanised parts of the country that are already among the most economically well-developed (for instance, the delegation was told that as much as 95% of the global tax revenue of the country is raised in the two existing metropolitan areas (around Lisbon and Porto respectively). A revised pattern of coast-to-border “administrative regions” might prove of considerable benefit to those parts of the country that so far have experienced less dynamic development. In this context, the rapporteurs call on the Portuguese authorities to continue a political dialogue with the Congress on ways and prospects of possible regionalisation in Portugal.

**Programme
of the CLRAE rapporteurs' visit
regarding local and regional democracy in Portugal
(Lisbon, 30-31 January 2003)**

30 January 2003

National Association of Parishes (*Freguesias*) of Portugal

Mr Armando Vieira, President
Members of the Executive Committee

Auditor General

Prof. Dr. Alfredo de Sousa, President
Mr José F.F. Tavares, Director General of the Auditor General

Assembly of the Republic

4th Committee on Local Authorities, Regional/Spatial Planning and Environment

Working meeting chaired by
Mrs Maria Ofélia Moleiro, Vice Chair
Members of the Committee (Social Democrat Party, Popular Party, Socialist Party, Greens)

Ministry for the City, Regional/Spatial Planning and Environment

Dr. Isaltino Afonso de Moraes, Minister
Mrs Maria Eugenia Santos, Director General for Local Authorities, member of the CDLR
Mrs Helena Curto, Deputy Director General of Local Authorities
Mr Paulo Alexandre Coelho, Chief of Private Office of the State Secretary for Local Administration

Municipality of Lisbon (*Câmara*)

Mr Carmona Rodrigues, Vice-president of the Municipal Chamber (*Câmara*)
Mrs Sofia Bettencourt, Deputy Mayor
Mr Antonio Reis, Assistant to the Deputy Mayor

31 January 2003

Metropolitan area of Lisbon

Mrs Maria da Luz Rosinha, President of the Metropolitan Council of Lisbon, Mayor of Vila Franca de Xira, member of the CLRAE Chamber of Regions

National Association of the Municipalities (*Municípios*) of Portugal

Dr. Fernando Carvalho Ruas, President
Mr Fernando Cruz, Deputy Secretary General of the ANMP

Experts

Mr Antonio Rebordao Montalvo, Member of the Group of Independent Experts on the European Charter of Local Self-Government, President of the Centre for Regional and Local Development
Mr Marcelo Rebelo de Sousa, Professor of Law at the University of Lisbon

**Programme
of the CLRAE rapporteurs' 2nd visit
regarding local and regional democracy in Portugal
(Madeira, Funchal, 5-6 March 2003)**

5 March 2003

Municipality of Funchal (*Câmara*)

Dr. Miguel Filipe M. Albuquerque, President of the Municipality (Mayor of Funchal)

Association of Municipalities of Madeira

Dr. Savino Correia, President

Members of the Administration Board:

Mr. João Duarte Mendes, Mayor of São Vicente

Mr. Gabriel de Lima Farinha, Mayor of Porto Moniz

Dr. Emanuel Gomes, Mayor of Machico

Dr.^a Maria João Monte, Senior Officer

Government of the Autonomous Region of Madeira

Mr Alberto Joao Jardim, President, President of the Portuguese Delegation to the CLRAE

Mr Jorge Oliveira, Director of Public and Local Administration

6 March 2003

Representative of the Republic in Madeira

Dr. Marques de Freitas, Representative of the Minister of the Republic, Deputy Attorney General

Regional Legislative Assembly of Madeira

Mr José Paulo Baptista Fontes, Vice-President

Members of the Assembly representing various political groups:

Dr. José António Coito Pita, Social Democrat Party

Dr. Bernardo Trindade, Socialist Party

Mr. José Manuel Rodrigues, Popular Party

Mr. Roberto Almada, People's Democratic Union

Mr. Leonel Nunes, Communist Party

**Programme
of the CLRAE rapporteurs' 3rd visit
regarding local and regional democracy in Portugal
(Lisbon, 21 March 2003)**

National Association of Parishes (*Freguesias*) of Portugal

Mr Armando Vieira, President

Mr Joaquim Cândido Leite Moreira, Vice-President

**Ministry for the City, Regional/Spatial Planning and Environment
State Secretariat for Local Administration**

Mr Paulo Alexandre Coelho, Chief of Private Office of the State Secretary for Local Administration

Mrs Helena Curto, Deputy Director General of Local Authorities

Mr Pedro M. A. Vitorio, Assistant to the Minister

Government of the Autonomous Region of Azores

Mr Roberto Amaral, Regional Secretary of Finances, member of the Portuguese delegation to the CLRAE, Chamber of Regions

Mr José Maria Matias, Director of European Affairs

Experts

Mr Antonio Rebordao Montalvo, Member of the Group of Independent Experts on the European Charter of Local Self-Government, President of the Centre for Regional and Local Development

National Association of Municipalities (*Municípios*) of Portugal

Mr Fernando Cruz, Deputy Secretary General

CLRAE delegation

| | |
|-----------------------|--|
| Mrs Kathryn Smith | Rapporteur, Chamber of Local Authorities, Councillor, London Borough of Bexley, United Kingdom |
| Mr Miljenko Doric | Rapporteur, Chamber of Regions, President of Primorje and Gorski Kotar, Croatia |
| Prof. Dr Eivind Smith | Consultant, Professor of Public Law at the University of Oslo, Vice-President of the Group of Independent Experts on the European Charter of Local Self-Government |
| Mr Daniil Khoshabo | Deputy Secretary to the Institutional Committee, CLRAE Secretariat |