

SGI Sustainable Governance Indicators 2011

Portugal report

Thomas C. Bruneau, Carlos Jalali, César Colino



Portugal report

Thomas C. Bruneau, Carlos Jalali, César Colino

Prof. Thomas C. Bruneau, Stanford University

Prof. Carlos Jalali, Universidade de Aveiro

Prof. César Colino, Spanish Distance-Learning University

Executive Summary

Portugal initiated the third wave of democratization with the coup of April 25, 1974, an event that became a revolution and ultimately evolved into democracy. It has been a fully consolidated democracy at least since the mid-1980s, and there has been no change in this regard. Elections are free and fair, political rights are protected both de jure and de facto, there is media pluralism and freedom, and the judicial system is independent. The legal basis and practical means of functioning of the democratic system are evident. Moreover, Portugal's accession to what was then the European Economic Community in 1986, and its ability to be at the forefront of integration in Europe (as a part of the Schengen agreement, and as one of the first to join the unified currency) is a reflection of Portugal's solid and unquestioned position as a fully consolidated democracy.

However – as is the case with other consolidated democracies in Europe – the Portuguese are increasingly dissatisfied and disaffected with the functioning of their democracy, a pattern reflected inter alia in low levels of trust in political actors and agents. While Portugal's democracy is consolidated, it now faces the challenge of addressing the quality of democracy. While this is a complex subject, five interrelated aspects can be highlighted, all of which impact negatively on public policy, governance capacity, and citizens' trust and satisfaction with their democracy:

(1) Sustainability of public finances. Portugal has faced major difficulties in meeting its euro zone obligations in terms of budgetary consolidation in the new millennium. Since 2001, it has been able to stay within the 3% deficit ceiling only four times – in 2002 and 2003, then again in 2007 and 2008. These gains are not sustainable, as the period of 2008 – 2010 has shown – from a deficit of 2.7% in 2008, public finances spiraled out of control to a deficit of 9.3% in 2009.

(2) Economic growth. Portugal's economy saw a period of considerable growth in the first decade and a half after entry into the European Union. In 1985, Portugal's GDP per capita was 59.6% of the EU-15's average GDP per capita (on the basis of purchasing power parity); by the year 2000, Portugal's GDP was 74.5% of the EU-15's average GDP. This economic success was symbolically underlined when Portugal became part of the first wave of EU states to adopt the single currency in the late 1990s. However, the buoyancy of the 1990s has given way to a more despondent economic situation in the new millennium, with Portugal's GDP per capita consistently diverging from the EU-15 average since 2002. This has been largely a result of a prolonged recession: In the 2002 – 2009 period,

Portugal's average per capita GDP growth rate has been a mere 0.38%. The first decade of the new millennium was thus a "lost decade" in terms of economic growth for Portugal. This pattern also helps explain Portugal's difficulties in meeting its euro zone obligations, as it has sought to curtail expenditure and raise revenue in a heavily countercyclical manner.

(3) Socioeconomic inequalities. These are as much a cause as a consequence of poor economic growth. As is highlighted in this report's socioeconomic data, Portugal is the most unequal society of the European Union; in the OECD, only Turkey, Mexico and Chile present a higher Gini coefficient. Poverty levels are also very high, and are likely to worsen along with the growing rate of unemployment of the last few years. This is largely explained by the generally very low and very unequal levels of educational attainment. As is also evidenced in this report, Portugal has the OECD's lowest proportion of the population aged 25-64 with at least an upper-secondary level education. These low levels of educational attainment not only feed through to socioeconomic inequalities (the best predictor of income in Portugal is educational attainment), but also help explain Portugal's stunted economic growth. Weak economic growth in Portugal is a reflection of low productivity levels in the country, hardly surprising given such very low levels of educational attainment.

(4) A deficit in converting legislation into actual public policy. The Portuguese political system does produce legislation to deal with problems. However, the implementation of these measures often falls short of the intentions. This is a reflection of the generally low productivity levels in the public administration (which is in turn associated with the low levels of educational attainment among civil servants, especially low-level bureaucrats); of a very legalistic tradition that has proven difficult to shake off; and since the new millennium, of the attempt to achieve more with fewer resources.

(5) A very slow legal system, with decisions often taking years to reach. This not only corrodes citizens' trust in the judicial system, but also weakens the rule of law.

While the current prime minister, José Sócrates, came into power in 2005 with a clearly reformist agenda, it seems clear that the reforming zeal lost drive in the 2008 – 2010 period under analysis here. In part, this reflects the approach of the 2009 legislative elections, with the more unpopular measures concentrated in the first half of the legislative term. Since the September 2009 elections, this relative lack of reform motivation has reflected the government's minority in parliament, which makes it reliant on piecemeal deals with opposition parties to push through its measures.

Strategic Outlook

Portugal faces two major challenges in the short and medium-term:

(1) Regaining control of public finances. The revelation of worse-than-expected public finance results in January 2010 has led to substantial pressure from international lending markets, reflected inter alia by the downgrading of Portugal's debt by credit agencies in January 2010. The worst-case scenario of a Greek-style debt crisis in Portugal appears unlikely, at least in the short run. However, the situation in Portugal is one of vulnerability, especially if there is further bad news from its southern European peers of Greece, Italy and Spain.

The government's draft Stability and Growth Program (SGP) for the 2010 – 2013 period, unveiled in March 2010, projects a reduction of the budget deficit to below 3% in 2013. Public debt is expected to rise before stabilizing, reaching 86% of GDP in 2010 and then rising to 89.4% and 90.7% respectively in 2011 and 2012, before beginning to drop in 2013 (back to 89.8% of GDP). The SGP attributes much of this reduction to cutbacks in public expenditure rather than increases in state revenues.

Are these measures sufficient to prevent a Greek-style meltdown? The initial reactions from the European Union and other international organizations suggest that their expectations are on the whole optimistic. The president of the Eurogroup, Jean-Claude Juncker, assessed the government's plans as "courageous measures that will allow Portugal to correct the unfavorable situation in which it finds itself," while the president of the European Commission, José Barroso, considered it a "credible, ambitious and feasible" plan. Similarly positive assessments also emerged from the OECD and the IMF, the latter calling the proposals an "appropriate" and "strong plan," based on "realistic macroeconomic assumptions and goals." Moreover, the Sócrates administration can point to its track record in reducing the budget deficit between 2005 and 2007, when it cut government red ink by more than half in two years; and to the global crisis of 2008 as a key factor in the subsequent derailing of public finance stability.

(2) Generating economic growth. The need to ensure long-term economic development and growth was highlighted in the SGI 2009 report. This is, if anything, all the more pressing now. The downgrade and continued negative outlook on Portugal's debt by rating agencies is only partly explained by the deterioration in public accounts highlighted above. As the agencies have also made clear, the downgrade is also a reflection of Portugal's low growth potential, which ultimately weakens the capacity to generate a long-term

solution to public finances.

This criticism is not unwarranted. Economic studies point to declining levels of growth in the country's GDP potential in the new millennium, from approximately 3% in 2000 to close to zero by 2008, a pattern caused by falling levels of investment and productivity in the Portuguese economy. While the prediction of a "slow death" for Portugal's economy – made by Moody's in January 2010 – seems a little overstated, the specter of another "lost decade" certainly looms large. The government's hope is that its planned structural reforms in the public sector, combined with measures implemented over the last five years aimed at raising educational levels and the large public investment projects it has retained (notably, the high-speed Lisbon-Madrid train link, and a new airport in Lisbon), will serve as a sustainable foundation for growth in the coming years. However, with such heavily procyclical measures being taken, such an outcome is far from being a certainty.

Neither of these challenges is new, and there is still time to address them. However, the window of opportunity is growing smaller and smaller, and the country can ill afford another lost decade in economic terms. The political conditions in which the challenges must be met have also become potentially more complex. While incumbent Prime Minister José Sócrates' center-left Socialist Party (PS) won the 2009 legislative elections, it lost its overall majority in parliament, obliging it to seek support from the opposition for its measures. This minority status can increase political instability – indeed, while all single-party majority governments have lasted a full term in Portugal, this has happened only once with a minority government. However, there are some signs (albeit still tentative) that the government is seeking a broader consensus with the main opposition party, the center-right PSD. If this consensus emerges – and if it then translates not only into greater public support for difficult reforms but also into better thought-through reforms – this minority status may ultimately help rather than hinder the approach to these challenges. Indeed, previous history suggests that such an outcome is possible: The 1983 – 1985 grand coalition between the PS and PSD oversaw a severe IMF-sponsored austerity program, which served as the basis for the subsequent decade and a half of convergence with the European Union.

However, this will require the parties to eschew short-term political point-scoring, in favor of promoting reforms that are – and are perceived as – fair and equitable. Portugal's 2009 legislative elections saw these two main centrist parties, which have led every single constitutional government since democratization in 1974, obtain a combined total of just over 65% of the vote. This was the first time

since 1987 that their combined share had fallen below 70%, and was closer to the pattern of Portugal's first (and unstable) decade of democracy. Failure to generate public support for the reforms could lead to further vote loss by the centrist parties, a situation that is unlikely to generate stability in Portugal's political system.

Status Index

I. Status of democracy

Electoral process

Candidacy
procedures
Score: 9

In both law and in fact, individuals and political parties enjoy largely equal opportunities to register for and to run in elections. The laws are adhered to in reality.

Parties espousing racist, fascist or regionalist values are all constitutionally prohibited, as are parties whose names are directly related to specific religious communities. Moreover, while independent citizen lists can run in municipal elections, they are barred from contesting legislative elections.

The requirements for running in elections are relatively onerous. Candidates for legislative elections must be affiliated with a party. This has been a feature of Portuguese democracy since its very outset, facilitating the consolidation of the Portuguese party system and reinforcing parties' hold on the political system. While there is no consistent movement advocating an end to this situation, a poll carried out in April 2009 showed that the overwhelming majority of Portuguese (78%) considers that independent lists should also be allowed to contest parliamentary elections.

Parties require the legally verified signatures of 7,500 voters to be formed. However, this did not impede four new parties from running in the September 2009 legislative elections. Moreover, the number of parties contesting the 2009 legislative elections increased vis-à-vis the 2005 elections, from 11 to 16.

Moreover, the most restrictive elements of the legislation are largely moot. The barring of parties is relatively rare, having occurred most recently in 1995. Indeed, a small extreme-right party (Partido Nacional Renovador) was allowed to contest the 2009 legislative and local elections. Moreover, after the Constitutional Court considered enforcing a 2003 political party legislative provision stipulating that parties with fewer than 5,000 party members should be disbanded – an action that, in 2008, would have affected virtually all parties aside from those with parliamentary representation – the legislation was changed in May 2008 to remove this condition.

Citation:

On the laws see, for example, Eleição da Assembleia da República 1 / Outubro/1995: Legislação eleitoral actualizada e anotada (Lisbon: STAPE/MAI, 1995).

Media access
Score: 8

Parties have access to broadcast time on television and radio for political purposes during election campaign periods. This time is divided equally among the parties, according to the number of candidates they field. Parties need to present lists in at least 25% of electoral districts, and field a total of candidates equal to at least one-quarter of the total number of possible candidates, in order to qualify for these broadcasts. However, despite airing in prime time, these short broadcasts (lasting a maximum of three minutes for each party) do not attract much of an audience. Thus, in September 2009, none of the political broadcast segments for the legislative elections of that month were in the top 20 most-watched television programs of that month.

In practice, the party political broadcasts serve as the only certain media platform for smaller parties (of which there were 11 in the 2009 legislative election). Party access to media news programs and political debates is overwhelmingly concentrated on the five parties that have parliamentary representation (the Socialist Party (PS), the Social Democratic Party (PSD), the Democratic and Social Center/Popular Party (CDS-PP), the Left Bloc (BE) and the Unitarian Democratic Coalition (CDU)). Thus, before the 2009 legislative elections, a total of 10 debates took place between the leaders of these main parties, with each debate featuring two leaders. The leaders of the remaining 11 smaller parties had only one televised debate, in which all participated. As such, the coverage in televised debates was some 10 times greater for the main parties than for their smaller counterparts. These debates drew considerable attention in the 2009 legislative elections, with four featuring in the top 20 most-watched television programs of September 2009. Television news coverage – which is also popular in terms of TV ratings, and is the predominant source of information for the Portuguese – is also heavily concentrated on the five main parties.

Voting and
registrations rights
Score: 9

All adult citizens are guaranteed the right to participate in national elections, and this right is respected in practice. The government even provides transportation to those requiring it. Citizens in hospitals and in jail are also assisted in being able to vote, and Portuguese citizens living abroad are similarly eligible. There is no observable discrimination.

As in the 2009 report, problems with substantial inflation of the electoral register remain. For the 2009 legislative elections, the register's count stood at slightly above 1 million voters, thus inflating

the abstention rate by more than seven percentage points. This is very high in comparative terms. Such inflated registers are often associated with risks of electoral fraud. However, this does not appear to be the case in Portugal.

The problem of inflated voter registration figures masking cases of non-registration, highlighted in the previous report, is being resolved. The implementation of new citizen cards, which began nationally in 2008, led to the adoption of a process of automatic registration. As these cards are more widely diffused, the proportion of nonregistered voters is likely to dwindle. However, the system continues to lack absentee voting options.

Party financing
Score: 7

Oversight responsibility regarding political party funding lies with the Constitutional Court, which has a specific body to monitor party financing and accounts, the Entidade das Contas e Financiamentos Políticos (EFPC). There are two main sources of funds: First, the government provides funding based on the number of votes a political party has received in previous elections; second, parties can receive private contributions, which must be registered with party electoral commissions at the local, district and national levels.

Parties' annual accounts and separate electoral campaign accounts are published on the EFPC website, and are scrutinized by this entity. As of the time of writing, assessments of the 2009 election campaign accounts had not yet been published. However, taking into account previous experience, we can conclude that:

- (1) There remains scope for irregularities in party financing and campaign financing; and
- (2) The EFPC assessments have led to a tighter control of party funding in recent years, which is positive. However, sanctions take place long after infractions are committed. This situation was reflected in fines issued by the court in the 2008 – 2010 period. Thus, in February 2008 the PSD was issued a substantial fine related to illegal funds provided by the Somague company, an event which took place in 2001. Likewise, in March 2010 the court issued fines of €30,000 to the PS and PSD, of €20,000 to the CDU, and of €14,000 to the CDS for irregularities in campaign financing, including illegal funding. Once again, these decisions came very late, stemming from the 2005 local elections.

Overall, the consensus is that oversight of party funding is tightening, but is not sufficient to control all infringements.

Access to information

Media freedom
Score: 6

The Portuguese media system by and large continues to conform to the criteria of media independence. However, as in the 2009 report, there continue to be increasingly worrying signs of alleged and/or attempted government interference with media operations. In September 2009, a popular television news program was cancelled. That news program (Jornal Nacional de 6^a– JN6, of the private TVI channel) had been very critical of the prime minister, and had been leading high-profile investigations on an alleged corruption scandal dating to the time when the prime minister was minister of the environment, in 2001. Moreover, the program had a very polemic style of reporting, which many disliked.

The prime minister publicly expressed criticism of this news program several times in 2009. In April of that year, he accused the program during a prime-time interview of being “a travesty of journalism” and of heading a “manhunt.” In February 2009, during the Socialist Party congress, he alluded to “dark campaigns” against him, in which the media were included. Likewise, he stated that the government was chosen by the people, not the heads of TV channels, a reference widely interpreted even then as being aimed squarely at TVI.

The news program was due to return to the airwaves after the summer break on September 4, 2009, and had been promoted by its anchor heavily in the preceding days. However, it was cancelled on the day before airing (September 3), under circumstances that still today are not entirely clear. The TV channel said it decided to cancel the program to reinforce the homogeneity and consistency of its evening news program throughout the week (the Friday program was a ratings leader in its time slot, but it did also have a very grating and polemic style). However, the decision was not well received amongst the channel’s journalists – the news editorial team resigned, and the channel’s journalists signed a petition repudiating the cancellation. While the prime minister and the Socialist Party denied any involvement in the decision, other parties cried censorship, and argued that the TVI board’s decision was influenced by the government’s opinion.

These allegations gained further traction in early 2010. In June 2009, Portugal Telecom (in which the Portuguese state retains a “golden share” as well as some influence) was involved in a quickly aborted attempt to purchase TVI. At the time, the prime minister stated in parliament that he did not know of this deal, and two days later said the government would veto this purchase through use of its “golden share.” However, a corruption case involving a close ally of Sócrates

was to reopen allegations of government interference, giving rise to allegations that Sócrates not only knew of the deal but it was the government that had orchestrated the deal to buy TVI in order to silence its criticism. No case was opened against Sócrates, who has strenuously denied the allegations. However, opposition parties see this as further evidence of attempts to control the media, and a poll carried out in March 2010 showed that the majority of Portuguese citizens thought the prime minister deliberately lied to parliament. In an unprecedented move, the opposition parties voted for the opening of a commission of inquiry to investigate the prime minister's involvement in the PT/TVI deal. This commission, which began its work in April 2010, was the first in the history of Portuguese democracy to question a sitting prime minister.

Media pluralism
Score: 9

The media is a very competitive business in Portugal, and there is a great deal of competition both between the different forms of media and within each form of media. Consequently, there is competition in opinions. In addition, the 1976 constitution and the laws noted above (see Media Access) prohibit monopolies in the media, with extensive government opinions providing additional support on this issue.

The state-owned RTP and RDP each have seven channels or stations. However, there are also two private TV channels. One of them, TVI, or Independent Television, attracts the largest TV audience share. Overall, the media, consisting of TV, radio, daily and weekly newspapers, and magazines, are owned by three main groups of private investors. The competitive business environment ensures a pluralism of views and opinions.

The scenario in general remains largely similar to that described in the 2009 report. The changes that can be noted are the following:

(1) The Sol weekly newspaper was purchased by a Luso-Angolan holding company in March 2009. Who is behind this holding company is unclear, and this was to be a point of some controversy in February 2010. In early 2010, Sol released alleged telephone wiretap recordings that implicated the prime minister in the PT/TVI deal (see Media Freedom above), despite a legal order barring the publication of the material. Socialist Party legislators raised questions as to who was behind the Sol newspaper, which were not answered in full. In the same month, Sol editor José António Saraiva accused the government of trying to shut his newspaper down, by leaning on one of its main lenders, the BCP bank.

(2) The TVI group launched a 24-hour cable news channel, TVI24, in February 2009.

(3) The free weekly Sexta closed in January 2009.

Access to gvmnt.
information
Score: 7

Free and readily available access to official information is guaranteed in Article 48.2 of the 1976 constitution, and there are mechanisms in place to ensure that this access is respected. There are extensive legal stipulations providing guarantees for access to official information. In addition, the EU Aarhus Convention, signed on July 25, 1998, was ratified by Portugal on September 7, 2003. Maybe most important in this regard, the government has put virtually all official information online, as well as requirements for documents such as permits and licenses, allowing the population to access this information through computers at home and for free in a wide variety of public places such as municipal libraries. This issue is discussed and monitored in Portugal, and access to official information does in fact take place. The Commission on Access to Administrative Documents (Comissao de Acesso aos Documentos Administrativos, CADA), established in 1995, deals with complaints regarding public access to information. Thus, there is broad access, according to the law. However, the information that is available is difficult to locate and uneven across government departments.

Civil rights

Civil rights
Score: 8

The Portuguese constitution of 1976 defines the population's broad categories of rights and guarantees in articles 12 – 23 and 24 – 27. These are generally respected in practice. However, several elements of concern highlighted in the previous report remain largely unchanged.

(1) Reports of police violence and brutality continue to emerge. Indeed, the government department responsible for investigating police brutality, the Inspeção-Geral da Administração Interna, received some 1,018 complaints in 2008 – a very substantial increase when compared with 2007 (207 complaints). The U.S. Department of State Report on Human Rights Practices in Portugal for 2009 considers there to be “credible reports of excessive use of force by police.”

(2) The treatment of prisoners continues to be a point of concern, with the U.S. Department of State Report on Human Rights Practices in Portugal for 2009 identifying once again as “credible” reports of “abuse of detainees by prison guards.” Moreover, this report quotes data from the Directorate-General of Prison Services that, in September 2009, the prison system was operating at 91.6% of capacity, a fact not inconsistent with allegations of overcrowding. However, there have been some improvements in this domain, with the approval of the new Code of Execution of Sentences and other Freedom-Depriving Measures (Law 115/2009, of October 12, 2009),

which increased prisoner's rights.

(3) The legal system continues to hold the possibility of lengthy pretrial "preventive" detentions, without charges being filed. According to the U.S. Department of State Report on Human Rights Practices in Portugal for 2009, some 19% of the prison population was in preventive detention of this kind in September 2009. While this is somewhat lower than the proportion highlighted in the 2005 – 2007 report – a reflection of the new penal code adopted in September 2007 – this figure is nevertheless high and remains, according to the US report, "a problem." Also according to this report, the average detention time under preventive arrest was eight months, with approximately 20% of such detainees spending more than one year in preventive arrest.

Aside from this issue, there were further advances in the area of religious freedom. In September 2009, a new decree-law (Decreto-Lei 253/2009) laid out rules for established non-Catholic religious groups, including Jews, Evangelicals, Muslims and Bahá'ís, to provide spiritual and religious assistance in hospitals. This was previously permitted only to the Catholic Church.

Political liberties
Score: 9

There are widely agreed-upon political liberties. These are guaranteed by the constitution's basic provisions and subsequent regular legislation, and they function well.

Non-discrimination
Score: 7

Cases of discrimination are rare. Generally, the Portuguese are extremely tolerant. However, Portugal is home to 500,000 legal immigrants, about 5% of the population, and also about 50,000 gypsies. These are large numbers, and there are some cases of discrimination. To prevent, discourage and punish discrimination, the government has done a number of things, including: passing a law prohibiting racial discrimination; creating programs to integrate immigrants and gypsies into societal, work, and educational settings; promoting increased awareness of human rights issues among police and judges; and giving the Commission for the Elimination of Racial Discrimination (Comite para a Eliminacao da Discriminacao Racial, CERT) authority to analyze and call attention to cases of racial discrimination.

There has been little change in terms of the gender pay gap. The World Economic Forum's 2009 Global Gender Gap Index ranks Portugal 46th out of 134 countries – below such countries as Mozambique, Costa Rica, Mongolia, Botswana, Uganda, Panama and Peru. This represents little change as compared to the 2006 – 2008 period, either in terms of Portugal's ranking or its absolute score on the index.

In the SGI 2009 report, we highlighted the lack of legislation mandating access for disabled people to private businesses or other

facilities. According to the Department of State Report on Human Rights Practices in Portugal for 2009, this lacuna still persists.

Rule of law

Legal certainty
Score: 7

Portugal is an extremely legalistic society. However, as highlighted in the 2009 SGI report, the legal environment is very complex, allowing considerable decision-making discretion to the government and public administration.

There is currently a debate over whether the laws are being applied consistently and predictably in the financial sector. However, while the PS majority held its majority in parliament, the government did not act at all times fully in accord with the spirit of the law.

Judicial review
Score: 7

The judiciary is independent and is fairly active in seeking to ensure that government actions conform to the law, albeit unevenly so. The most relevant body in this respect is the Court of Auditors (Tribunal de Contas). This is a constitutionally prescribed body, and is defined as a court in the Portuguese legal system. It audits public funds, public revenue and expenditure, and public assets, with the aim of ensuring that “the administration of those resources complies with the legal order.” The Court of Auditors has become increasingly active in auditing and controlling public accounts. Assessment by other bodies is perhaps less effective, largely due to the slow nature of the legal system. The highest body in the Portuguese judicial system is the Supreme Court, constituted by four civil chambers, two criminal chambers, and one labor chamber. There is also a disputed claims chamber, which tries appeals against Higher Judicial Council decisions. The Supreme Court decides appeals on matters of law and not on the facts of a case, and has a staff of 60 justices (conselheiros). There are also district courts, appeals courts, and specialized courts, as well as a nine-member Constitutional Court that reviews the constitutionality of legislation. In total, there are more than 500 courts in Portugal and 3,000 judges. Even so, there are shortages of judges in comparison to the number of cases outstanding, and delays in reaching judicial decisions continue to be a problem.

In late 2009, there were some indications that the government was seeking to influence the judicial system. It must be noted that the judges are nominated by the political parties in a ratio based on the parties’ electoral strength, and those nominated by the PS have mainly voted in favor of the prime minister and the government’s policies, while others have voted against the government.

Appointment of
justices
Score: 8

The High Council of the Public Prosecution Department (Conselho Superior do Ministério Público), which oversees the appointment of judges, consists of 17 judges, including the Attorney General's Office (Procurador-Geral da República). Five are appointed by the Assembly of the Republic (AR), Portugal's unicameral parliament, which was controlled by the PS between 2005 and 2009. An additional two are appointed by the Ministry of Justice. There are allegations that the executive sought to influence the Attorney General's Office (the president of the highest level of judicial system) with regard to a licensing issue involving the Freeport commercial complex. The attention, in the media and the AR, called attention to political influence on the judicial system, but did not result in any solid proof of undue influence or corruption. The case began in late 2009 and continued beyond March of 2010.

Corruption
prevention
Score: 6

As noted in the 2009 SGI report, Portugal's formal corruption-prevention and integrity mechanisms have had relatively limited success in stopping corruption. Some additional measures were adopted during the period presently under review. Law 54/2008 created the Council for the Prevention of Corruption, which is to be an independent administrative unit working within the Auditors Court. However, a leading corruption magistrate criticized the means given to this council in October 2008, saying that "without a permanent body of specialists" this would become a "castle of anti-corruption bureaucracy." Anti-corruption legislation was a recurrent theme of parliamentary debate during the past two years, reflecting growing public disquiet over the problem's apparent prevalence. However, many of the proposals were rejected. Some new measures proposed by the Socialist Party were approved in late April 2010. However, their actual impact is not clear and a leading Socialist, João Cravinho, considered the measures to be "ad hoc measures" that fulfilled only the most basic criteria, and which revealed a lack of strategy in combating corruption.

In law, abuse of position is prohibited and it is a crime to do so. This is stipulated in the Statute on Persons in Positions of Responsibility No. 3 of Estatuto 24/84 - Estatuto Disciplinar dos Funcionários e Agentes da Administração Central, Regional e Local. However, corruption persists despite this legal framework. In its most recent annual report, Transparency International gave Portugal a lower rank than in the previous year on the issue of perception of corruption, dropping the country from 28th place to 32th place worldwide. In Europe, Portugal was ranked at 19th place.

II. Policy-specific performance

A Economy

Economy

Economic policy
Score: 7

Economic policy since 2002 has focused on getting public finances under control, and on staying within the euro zone's 3% budget-deficit ceiling. This was seen as the first step before fostering growth. The PSD-CDS center-right coalitions that governed from 2002 to 2005 were able to stay within the 3% ceiling in 2002 and 2003, but were unable to sustain this performance as budget deficits spiraled out of control in 2004 and 2005, with deficits of 3.3% and 6.1% percent respectively. The ensuing Sócrates government (2005 – 2009) retained budgetary consolidation as a key priority, and its austerity measures proved effective until 2007. Budgetary control appeared to coincide with signs (albeit tentative ones) of economic recovery, with growth in 2007 hitting its highest level since 2001 (even if, at 1.9%, it remained below the EU-15 average) and unemployment stabilizing, leading the government to declare that the crisis was over.

However, Portugal's timid signs of recovery were unable to withstand the global financial and economic crisis in 2008. The economy took a big hit, with a marginally negative GDP growth rate in 2008 (-0.04%) and further recession in 2009 (GDP growth of -2.7%, although this decline was less drastic than the EU-15 average of -4.3%). The impact was particularly salient on public finances (see Budgetary Policy below).

Inevitably this situation accentuated pressure on Portugal, with the country's debt downgraded by rating agencies in January 2010 (following similar downgrades affecting Spain). The Portuguese government's response came in the shape of the budget for 2010, announced in late January and approved in March; and particularly in its draft Stability and Growth Program (SGP) for the 2010 – 2013 period. These measures are likely to resolve the budget deficit issue, although further measures were being considered in late April 2010. However, there seems to be little response to the issue of Portugal's low growth potential. Economic studies point to declining levels of growth in potential GDP in the new millennium, from approximately 3% in 2000 to close to zero by 2008, a pattern caused by falling levels of investment and productivity in the Portuguese economy.

Labor market

Labor market policy
Score: 5

The anemic growth highlighted in this report has inevitably had effects in other dimensions of the economy, perhaps most notably on the labor market. The unemployment rate has almost trebled in the past decade, rising from 4% in 2000 to 10.5% in January 2010, a level that is 0.6 percentage points above the EU-15 average. The recession of the 2008 – 2010 period trickled through to further job losses, with unemployment rising by more than three percentage points between the second trimester of 2008 and January 2010. Labor laws were changed in 2009, partially liberalizing the employment sector. In early 2010, the government created the Employment Initiative, 2010 (Iniciativa Emprego, 2010) program, attempting to stimulate employment by reducing or eliminating employer social security contributions for new hires who are more than 40 years old. However, policies have lagged well behind the needs of the labor market, with little discernible impact in slowing down a galloping unemployment trend.

Enterprises

Enterprise policy
Score: 5

Portugal is ranked by foreign investors as one of the least competitive countries in Europe, and private investment has been decreasing since 2003. Enterprise policy does not stimulate private investment. However, the government under Prime Minister José Sócrates has attempted to make it easier to open new businesses and to encourage investment. In Decree Law No 244, of July 23, 2007, the government created the Portuguese Agency for Foreign Investment and Commerce (Agência para o Investimento e Comércio Externo de Portugal, AICEP). In 2006, Portugal was ranked 33rd of 175 countries in a World Bank survey on the speed at which businesses could be opened. Consulting firm Ernst & Young presented a report in Lisbon on November 6, 2009, at the Agency for Portuguese Foreign Investment, highlighting the inefficiency of the judicial and fiscal system, and citing this as a major obstacle to foreign investment in Portugal. However, there have been improvements, notably through the Simplex program. A 2009 OECD report found that “significant steps have been taken towards reducing the number of licenses and the waiting time for application approval.” This improvement is exemplified by the “On-the-Spot-Firm” measure, which has reduced the time necessary to legally set up a business from over 50 days to less than an hour.

Taxes

Tax policy
Score: 4

Tax receipts dropped substantially in 2009 with the economic recession. In the period between January and August 2009, overall receipts fell by 9.6%, helping generate the substantial public deficit. In addition, tax policy falls well short of the goal of equity. There continues to be widespread tax avoidance in the realm of personal income tax, especially on the part of self-employed professionals. This places tax burden mostly on employees. At the corporate level too, vertical equity continues to be lacking, with studies indicating that the effective tax rate is often lower for more profitable companies. The insufficient revenue from corporate and personal income taxes leads to a greater dependence on indirect taxation to sustain public expenditure. Indeed, looking at the first eight months of 2009, almost 60% of tax revenue was derived from indirect taxation. Moreover, value-added tax (VAT) revenues were higher than personal income tax and corporate tax receipts combined. While a small reduction in VAT— from the EU's maximum permissible level of 21% to 20% – took place in July 2008, this was insufficient to alleviate the considerable negative impact of indirect taxation in terms of vertical equity. Moreover, rumors of a return to 21% VAT were strong in late April 2010. In early 2010, in an attempt to control the spiraling budget deficit (see Budgetary Policy below), the government announced a new upper tax bracket of 45% on households earning over €150,000 per year, introduced taxation on stock market gains, and reduced existing tax exemptions. Overall, however, tax policy appears to be reactive to budget needs (and often late in reacting) and has not tackled the crucial tax evasion issue.

Budgets

Budget policy
Score: 4

As highlighted in the SGI 2009 report, efforts at controlling the budget deficit exceeded the government's own expectations in the 2005 – 2007 period: The government expected reach a level below 3% in 2008, but in fact achieved this a full year earlier, with a deficit of 2.6% in 2007. Since then, however, there has been nothing short of a budgetary collapse.

In December 2008, the government's projection for 2009's budget deficit was 3%. In February 2009, the government approved a supplementary budget which projected the deficit for that year at 3.9%. This was revised to 5.9% in mid-2009, a projection the government stuck with until the September 2009 legislative elections. In November, this was revised to 8.4%. In fact, the actual 2009

budget deficit was to exceed even this last estimate, in the end reaching 9.3%. This deficit inevitably percolated through to Portugal's public debt, which reached 81.1% of GDP in 2009 – 10 percentage points more than 2008, and more than 20 percentage points higher than in 2003.

While some deterioration was expected given the recession and the government's bailout of parts of the financial sector, its extent was a surprise – even for the government, as the above revisions suggest. As such, policy in the period under analysis here seriously failed to achieve the goal of fiscal sustainability.

The Portuguese government's response to this situation came in the shape of the budget for 2010, announced in late January and approved in March; and particularly in its draft Stability and Growth Program (SGP) for the 2010 – 2013 period. The SGP, unveiled to euro zone finance ministers on March 15, projects a reduction of the budget deficit to 8.3% in 2010 (a measure also outlined in the 2010 budget), 6.6% in 2011, and 4.6% in 2012, before reaching 2.8% in 2013. With regard to public debt, this is expected to rise before stabilizing, reaching 86% of GDP in 2010 and then rising to 89.4% and 90.7% respectively in 2011 and 2012, before beginning to drop in 2013 (to 89.8% of GDP).

The bulk of the declines in the deficit is to come from cutbacks in public expenditure, which are expected to account for half of the overall deficit decrease. This is to be achieved through a reduction in real public sector wages over the next four years, as well as through cuts in public employment, the government adopting a “retain one public-sector worker for every two that leave” rule. The goal here is to reduce expenditure on public sector wages and personnel to below 10% of GDP by 2013, from the current level of 11.2%. Reflecting the finance minister's focus on reducing public spending, gains in terms of state revenues are comparatively more modest, accounting for only 15% of the projected reduction in the deficit. This will be done notably through selling off part or all of the state's holdings in several companies, as well as through a variety of tax changes. The remainder of the budgetary containment is to be achieved through the impact of automatic stabilizers as the economy begins to pick up, with the government estimating fairly moderate growth rates of 0.7% in 2010, 0.9% in 2011, 1.3% in 2012 and 1.7% in 2013.

B Social affairs

Health care

Health policy
Score: 7

Portugal's population shows comparatively good levels of overall health. Life expectancy has grown consistently in the last decade, reaching 76.24 years for men and 82.41 years for women in 2008. Infant mortality was 3.3 per 1,000 live births in 2008, a rate lower than that of United Kingdom, Austria, Netherlands, Italy, Denmark, Germany or Spain. Portugal has a universal and general National Health Service (NHS), accessible to all residents. According to the constitution (Article 64) this service, "with particular regard to the economic and social conditions of the citizens who use it, shall tend to be free of charge," and is financed predominantly through taxation. While this system faces challenges, as do virtually all systems of this kind in Europe, it is a relative success story in Portugal. Indeed, the relative effectiveness of the health service is reflected in the comparatively high score achieved by Portugal when considering the life expectancy-to-spending ratio: Portugal's life expectancy is close to the OECD average, with a significantly lower than average health care expenditure per person.

Health policy in the 2008 – 2010 period continued the reform highlighted in the SGI 2009 report, seeking to rationalize health provision structures. Some emergency health services were closed in areas of low population density, generating as a result substantial protests in Valença in March 2010. The government also introduced health center clusters (approved in 2008 with Decree-Law No. 28/2008, and further specified in the form of Decree-Law 82/2009) and implemented public health services in these clusters (Decree-Law 82/2009). One emerging problem in this period is that of a lack of doctors in the NHS.

There is in addition a private health care system that provides high-quality care, but this is expensive, and can be afforded by only a small minority of perhaps 5% of the population.

Social inclusion

Social inclusion
policy
Score: 4

Government social policy seeks to limit the most extreme socioeconomic disparity, but this effort is poorly funded and does not effectively prevent poverty. Taxes have recently been increased, including on pensions. The ostensibly minimum salary level of €475 per month in 2010, which is in fact higher than what some workers

earn, is not enough to prevent poverty. The same is true for some pension levels.

The gravity of the country's poverty and socioeconomic disparity is demonstrated in a whole series of current indicators. Portugal has the most unequal distribution of income in the European Union, and the greatest percentage of people in poverty (20%). The country has slipped from 26th to 27th place in the United Nations' Human Development Index. The lack of social cohesion is widely recognized, and there is currently a great deal of discussion of how to remedy this serious situation. The obstacles including the following: the existence of multiple uncoordinated social security programs; archaic and underfunded pension programs; a large number of poorly skilled workers; and a low minimum wage, which serves as a reference for other remunerations. Policies able to remedy these many problems have yet to be implemented. Moreover, social inclusion policy is likely to weaken rather than the opposite. The economic recession and the rising levels of unemployment have increased the risks of social exclusion. Indeed, the number of recipients of the "social inclusion income" (a successor to the guaranteed minimum income) increased by 38.6% between January 2007 and May 2009. In March 2010, the government announced reductions in welfare benefits, including unemployment benefits, and implemented more stringent eligibility criteria. These are aimed at curbing the budget deficit. However, with savings amounting to a total of just 0.5% of GDP by 2013, their cost in terms of social inclusion is likely to be higher any associated budgetary consolidation benefits.

Families

Family policy
Score: 5

The hard realities of the economy and the labor market typically prevent women from combining parenting with successful participation in the labor market. Due to the rigidity of the labor market, potential employers are unwilling to hire women who are likely to become pregnant. Or, if they have been hired and do not have a long-term contract, they will be let go. Mothers are legally entitled to four months of parental leave at 100% of earnings, or five months at 80% (fathers may also be entitled to part of this, should the couple so decide). The fertility rate continues to be low, standing at an average of 1.4 children per woman in 2008 (a modest gain vis-à-vis the results reported in the SGI 2009 report). The government has not provided targeted resources aimed at increasing female employment, so women's salaries and unemployment levels are worse than those of males. For example, although the proportion of women in higher education is now higher than that of men, this advantage is not

recognized or rewarded by employers, and women's situation is actually worsening. Whereas women held 33.9% of the "upper category" (quadros superiores) positions in the job market in 2005, this figure had fallen to 31.4% by 2009. It was only with regard to lower-skilled positions that this percentage increased.

Furthermore, whereas 44.3% of female Portuguese workers were unemployed or held precarious employment in 2009, some 40.6% of men were in that situation. In the last quarter of 2009, 26.8% of unemployed women had been unemployed for more than a year, as opposed to some 22.8% of men.

In the SGI 2009 report, we highlighted the Sócrates government's commitment to increasing number of child care places for children between three months and three years of age. This goal was one focus of the Program to Widen the Network of Social Equipment (Programa de Alargamento da Rede de Equipamentos Sociais, PARES), which was launched in March 2006 and was to last through 2009. However, the PARES program has not met its goals. In February 2010, the government estimated that it would cover 36% of needs by the end of that year. The PARES program had aimed at building 400 new child care facilities with a capacity of more than 18,000 children. Of these, only 100 were in operation by the end of 2009, though the government estimates that a further 180 to 200 "may also start operating" by the end of 2010. Coverage thus remains insufficient.

Pensions

Pension policy
Score: 4

Portugal's pension policy does not achieve any of the system's primary goals. That is, available funds are not sufficient for any of the three goals: Poverty is not prevented, retirees only receive one-third of the country's minimum wage, and the program is not fiscally sustainable. Moreover, it is worse for women. For example, in January of 2010, the average old age pension for a woman was €301.42 (with 991,841 women receiving old age pensions), while the average for men was €505.41 (with 874,071 male recipients); that is, the pension level for women was only 59% of that received by men.

Integration

Integration policy
Score: 8

Portugal's integration policy is generally a very good one, albeit unevenly so. The UNDP's Human Development Report of 2009 praised Portugal as an example of good practices in some aspects of immigrant treatment, notably in providing health care access to migrants regardless of their legal status; allowing the extension of

temporary residence permits; allowing migrants to obtain permanent residence permits after five years of regular residence in the country; and providing language courses to migrants. However, this is counterbalanced by areas in which Portugal lags, with the UNDP's report highlighting Portugal's failure to provide "schools with teachers and educational resources of similar quality to those attended by locally born pupils." The role played by the High Commission for Immigration and Ethnic Minorities (ACIME) must also be noted. This has had a prominent and widely praised role in promoting integration.

C Security

External security

External security
policy
Score: 8

Defense policy, as much else in Portugal, must be analyzed in the context of EU goals and policies, and the country's active involvement in NATO. Portugal's ties with the United States, which result in security assistance and a very close bilateral relationship, must also be seen in terms of security policy. Portuguese defense policy with respect to security risks such as organized crime and terrorism are in fact Europe-wide defense policies. Public opinion surveys indicate that the Portuguese view Europe as more important than Portugal itself in issues of defense policy. It must be stressed that the Portuguese do not perceive their nation as having internal security problems. In the public view, everyone is integrated, and if there are terrorist cells in the country, they will attack targets outside Portugal rather than inside.

Portugal has historically and consistently hedged its bets in the relationship within NATO's European Security and Defense Identity (ESDI) and the Atlantic relationship. Moreover, the country is undergoing very serious economic problems, and lacks the funds to purchase all of the equipment it had once foreseen. It should be noted that the Military Programming Law (Lei da Programação Militar) will be cut 42% as a result of the Program for Stability and Growth (Programa de Estabilidade e Crescimento). But even aside from financial and technological problems, and the emphasis on NATO, it has been argued that Portugal's input to the development of the European Security and Defense Policy (ESDP) has been curtailed by the politico-diplomatic leadership's mindset regarding the so-called European project. Portugal has always been against a "federal bond" or federalist model as a part of the integration process. This is evident in the country's rejection of the "communitarization" of the security and defense pillars, and also in its complete rejection of any dilution in

states' sovereign rights to make independent decisions concerning the definition and implementation of their foreign, security and defense policies.

Internal security

Internal security
policy
Score: 8

Criminality has risen with the increase in drug use and unemployment. The freedom of movement resulting from the Schengen agreement, especially with respect to the eastern European countries, has resulted in the imprisonment of individuals associated with international groups involved in illegal immigration, trafficking in women, and robbery. While the Basque terrorist group ETA does not pursue operations in Portugal, it was recently shown that the group does exist in the country. In early 2010, Portugal and Spain worked out protocols of cooperation to combat ETA, and jointly succeeded in capturing ETA cadres with explosives in Óbidos, Portugal.

D Resources

Environment

Environmental
policy
Score: 6

The period under review was marked by considerable improvement in terms of Portugal's environmental performance. Portugal had overshoot the Kyoto target for greenhouse gas (GHG) emissions by 11% in 2007. In 2008, this excess fell to 5%, and the government estimates that it will fall further, to between 3% and 3.5%, by 2012.

This drop is in part a reflection of the period's state of economic crisis, which has led to lower levels of polluting activities such as road transport (which was also affected by rising gasoline prices). However, it is also a reflection of policy choices. Prime Minister José Sócrates made the development of renewable energy sources a key priority in this period, and this policy is beginning to show results. Portugal ranked 10th in the Ernst & Young Renewable Energy Country Attractiveness Indices of 2009, ahead of Australia, Japan, Netherlands, Sweden and Denmark, among others. Wind power provided 15% of Portugal's electricity in 2009, and the country has the world's first commercial wave farm, which officially opened in September 2008. Portugal's renewable energy policy objectives for the period 2007 – 2020 are particularly ambitious, including the European Union's most ambitious carbon dioxide emissions target.

Research and innovation

Research and
innovation policy
Score: 6

The first Sócrates government (2005 – 2009) placed innovation and R&D at the heart of its development strategy, as part of the planned “technological shock” that constituted a central element of the party’s electoral appeal at the 2005 elections. As such, the government has sought to place a high priority on science and innovation. The sustained investment in R&D by the Portuguese government since the 1990s (to a large extent spearheaded since 2005 by Sócrates’ minister for science and higher education, Mariano Gago, who was also minister for science in the António Guterres administration from 1995 to 2002) has consistently improved the country’s position in terms of European R&D rankings. The 2009 European Innovation Scoreboard found Portugal’s innovation performance to be below the EU-27 average, putting it in the group of moderate innovators. However, it notes that “the rate of improvement [in Portugal] is three times that of the EU-27, making it a growth leader within the group of moderate innovators.”

However, Portugal has a substantial amount of catching up still ahead. On a broader global scale, Portugal ranked 30th out of 45 countries on the EU’s Global Innovation Scoreboard for 2008. Structural deficiencies in Portugal’s R&D arrangements remain, notably with respect to the relatively weak level of private R&D expenditure and low levels of educational attainment, including youth and tertiary education and lifelong training. The private-sector issue is showing improvement, with considerable growth in private R&D investment in recent years, including a 28% increase between 2007 and 2008 alone. The educational weaknesses generate a very segmented labor force, which inevitably limits the development of broader knowledge-based economic activities.

Education

Education policy
Score: 5

Portugal’s education policy failures are more salient in some dimensions than others, with median quality and universal access as the most obvious weaknesses. Access to educational resources remains low and unequal. The government has sought since 2005 to combat this by encouraging more lifelong learning, vocational training and adult education opportunities, notably through its New Opportunities Initiative, launched in late 2005. This is a laudable initiative. However, there remain questions over its implementation, and opposition parties both on the right and the left have particularly criticized a perceived lack of quality in the training provided.

The most relevant measure implemented during the period under review was the government's extension of the compulsory education period until the end of secondary school (12th grade), a policy approved in August 2009. Previously, students were obliged to remain in school only until ninth grade. This measure will generate important gains in terms of secondary school attainment, a field in which Portugal lags behind its EU peers. However, it has yet to be fully implemented, and questions remain as to how this will take place.

Management Index

I. Executive Capacity

A Steering capability

Strategic capacity

Strategic planning
Score: 6

Portugal's situation remains much the same as outlined in the SGI 2009 report, with strategic planning having a considerable influence on governmental decision-making, due both to domestic and supranational frameworks. On the domestic side, this is grounded by Law 43/91 (the Framework Law of Planning), which defines three types of national planning: the so-called Major Planning Options (Grandes Opções do Plano, GOP) , which have to be approved in parliament; yearly plans; and medium-term plans. The GOP serve to define the "strategic orientation of the economic and social development policy." These are thus fairly long documents, dealing with a wide variety of fields (the current plan, for 2010 – 2013, runs to 114 pages). The yearly plans describe economic and social policy measures that the government intends to carry out each year, and correspond with budgetary policy; the medium-term plans reflect national, sectoral and regional plans to be implemented over the term of a legislature. However, even beyond this domestic institutional framework, the notion of strategic planning continues to gain ground in Portugal, as highlighted in the SGI 2009 report.

The supranational framework is also generating additional pressures to engage in strategic planning. Along with the need for such planning in order to access regional and structural funds, and as a part of implementing EU policy, Portugal's membership in the single currency played a crucial role with respect to planning in the 2008 – 2010 period. The Stability and Growth Program (SGP) has become Portugal's foremost instrument of planning in terms of economic policy, superseding domestic instruments (including the budget). This was evidenced in early 2010, when the bulk of measures were presented not in the budget of January 2010 but in the SGP of March 2010.

Strategic planning is also becoming increasingly evident in the course of government operations. The government uses specially

designated expert task forces comprised of outside experts, or permanent “offices” consisting of government employees, in formulating policies. Examples include the Departamento de Prospectiva e Planeamento do Ministério do Ambiente, do Ordenamento do Território e Desenvolvimento Regional; the Direcção Geral de Estudos, Estatística, e Planeamento (concerning employment); and the Gabinete de Estudos das Pescas. Most of the ministries have some kind of center or group for strategic planning.

Scholarly advice
Score: 6

Government receptivity to academic input continues to be high, with universities remaining a primary recruiting ground for ministers. In the new Sócrates government formed in the aftermath of the September 2009 legislative elections, a total of seven of the 17 incumbent ministers could be described as academics, with a handful of other ministers having some academic experience; and this pattern of academic prominence is equally perceptible at the junior minister level.

This pattern inevitably has an impact on the role of academic expertise in government. On the one hand, it does make the government more receptive to academic expertise; on the other, this can be occasionally provided “in-house,” and very frequently in an informal manner, given the ties that ministers have to universities.

Under the first Sócrates government (2005 – 2009), there was a trend toward the institutionalization of nongovernmental academic expertise, in the form of mission units (unidades de missão) and other types of committees and taskforces. In the period here under analysis (2008 – 2010), we find few new mission units being formed.

Inter-ministerial coordination

GO expertise
Score: 7

In this area, there has been no substantive change as compared to the 2009 SGI report. The Prime Minister’s Private Office (PMO) so-called “gabinet” has some policy expertise, but of an insufficient level to assess draft bills fully in terms of policy content. The PMO is considerably larger today than in the early 1980s, when it had a maximum of 10 advisers and four secretaries (leading one observer to write that “it is estimated that the prime minister’s cabinet has very scant intervention in the legislative process. We do not know what kind of support the PMO provides for the purpose of preparing Council of Ministers’ meetings; everything suggests, however, that it provides essential personal and political support to the prime minister”). However, while PMOs have been given increasing policy oversight since the mid-1980s, they remain hybrid and multifunctional structures, largely lacking in-depth policy assessment capabilities. The pattern thus remains as outlined in the SGI 2009 report: Bills are

discussed internally by the responsible ministries, by the Ministry of Finance and the Ministry of Foreign Affairs (in cases involving budgetary or foreign-policy issues), and in some (rare) cases with external social partners. The PMO also participates in these discussions, but largely in terms of political oversight rather than deep policy analysis.

GO gatekeeping
Score: 7

Government office behavior remains largely unchanged with respect to the 2009 SGI report. The government office or PMO plays a key gatekeeping role, accentuated by the prime minister's internal power. It exerts strong control over the agenda of the Council of Ministers, and can de facto return materials. However, this takes place on the basis of political considerations more often than on policy grounds.

Line ministries
Score: 7

There have been no major changes in line ministries' functioning since the last report. A practice of bilateral meetings between the prime minister and other ministers has become relatively institutionalized since the mid-1980s. The extent of these varies according to policy area. While regular briefings by line ministries to the PMO continue, there has been some evident decline in the coordination and communication of policy in 2010. In particular, some dissonance was clear in April 2010 between the minister of finance and the minister of public works, over the potential continuation or suspension of major investments such as the high-speed rail link, the planned new Lisbon airport, and a third bridge over the Tagus river to Lisbon. The final decision on these projects was not clear by the end of the review period, in April 2010. Additionally, the cuts in social benefits contained in the Stability and Growth Program approved in March were also rumored to have generated substantial internal divisions in the government, leading to two extraordinary weekend Council of Ministers meetings in March 2010. While the government subsequently provided a fairly united front, with the minister of the presidency stating that the Stability and Growth Program had the "solidarity" of all government members, such allegations of internal divisions offer a sharp contrast with the previous Sócrates government period.

Cabinet committees
Score: 9

There has been no substantial change relative to the SGI 2009 report. The practice of meetings between the prime minister, his staff and core political ministers remains in force. Beforehand, junior ministers (known as secretaries of state) meet with PMO officials in order to prepare the agenda. These meetings serve to define the government's agenda, and are used to assess the political dimensions of outstanding proposals. If anything, these meetings have become more relevant under the new Sócrates government. As it no longer has a parliamentary majority, the government is obliged to negotiate policy with opposition parties. The meetings of the

government's inner core serve to define the strategy of negotiation with the opposition, with little input from the Council of Ministers as a whole.

Senior ministry
officials
Score: 7

Since the mid-1980s, cabinet meetings have been prepared in advance by senior ministry officials, either junior ministers (secretaries of state) or director-generals (the top position within the ministries), depending on the issue. Both of these roles are typically filled by politically appointees. In our interviews on the topic of foreign and defense policy, it seemed clear that senior ministry officials are heavily involved. In the SGI 2009 report, we noted that a great number of issues are settled and decided within the ministries themselves, with the Council of Ministers meetings serving to rubber-stamp decisions. While this situation remains largely unchanged, the minority status of the new Sócrates government means that ministers have less latitude for decision, given the possibility that measures will not be approved in parliament.

Line ministry civil
servants
Score: 2

There are no effective structures of horizontal administrative coordination between ministries. The lack of clearly established channels of communication is compensated for through personal contacts or ministerial instructions. While this process generally worked effectively in the 2005 – 2009 period, it has come under strain in the new Sócrates administration, as the government's minority in parliament and pressures to control public expenditure have generated additional demands for interministerial coordination.

Informal coordination
procedures
Score: 8

Informal coordination mechanisms are central to governmental functioning and coordination in Portugal. The absence of formal structures of interministerial coordination is both a cause and a consequence of the degree of informality within the ministries and government. Moreover, the government's inner core has retained its role as political coordinator. The new Sócrates government, which took office in October 2009, retained half (eight) of the ministers of the outgoing government. Of these, the ministers with important political roles all remained in office, indicating that the political inner core was being maintained. Finally, the PMO's influence on ministries and agencies is also exerted largely through informal means. While these mechanisms have on the whole served the Sócrates governments well, there is evidence of increasing strain in terms of coordination in the new Sócrates government. As highlighted above, public signs of internal splits and rifts have become more common, and the coordination mechanisms have not yet fully adjusted to the conditions imposed by minority support in parliament, or to the pressures to control public expenditure.

RIA

RIA application
Score: 5

There remains a need for greater assessment of the socioeconomic impact of legislation. The first Sócrates government took measures to rectify this situation by means of its “Simplex Test” (an estimation of the bureaucratic footprint associated with legislation) and its “Legislating Better” Council of Ministers resolution of 2006. This drive was developed further in the 2008 – 2010 period. A Council of Ministers resolution in December 2008 (Resolução do Conselho de Ministros No. 196/2008) sought to incorporate the Simplex Test into the EU’s action program for reducing administrative burdens, and to standardize its implementation. Moreover, another Council of Ministers resolution (Resolução do Conselho de Ministros No. 198/2008) changed that body’s own rules of procedures, making the Simplex Test mandatory for all proposed legislation with its results submitted along with the proposal to the council. This is a positive step in terms of the implementation of ex ante assessment. However, it is not clear how effectively this has been implemented. The Council of Ministers’ rules of procedures stipulate that these assessments are for the government’s eyes only. Moreover, while Council of Ministers Resolution No. 196/2008 ordered that annual reports be prepared be made evaluating the Simplex Test assessments, “in order to facilitate its public scrutiny” (No. 18, iii), no such reports assessing the use of the Simplex Test in draft legislation were found for either 2008 or 2009.

Needs analysis
Score: 5

Under the terms of a Council of Ministers resolution (Resolução do Conselho de Ministros No. 198/2008), legislative proposals are required to incorporate an analysis of needs and purpose. Thus, Article 17, No. 1 indicates that ministers making proposals to the Council of Ministers must submit an assessment that specifies both the need for and the impact of their proposal. Article 18 stipulates that concise impact-analysis conclusions must be submitted, and that these must make clear the need for the policy proposal. Indeed, a written explanation of the need must be submitted with any policy proposal (Article 29). However, it is unclear how effectively this has been implemented, as the ministries have relatively minimal research capacities, and no evaluation of the measure’s impact has been made.

Alternative options
Score: 5

Under the terms of a Council of Ministers resolution (Resolução do Conselho de Ministros No. 198/2008), legislative proposals are required to include an analysis of alternatives. Thus, Article 17, No. 1 indicates that ministers submitting legislation to the Council of Ministers must include an assessment of their proposal’s impact “with

reference to the analysis of alternatives.”

While this is a positive step, it is not clear whether alternative options are in fact systematically assessed when legislation is developed. Indeed, the previous lack of such systematic analysis was been evident in several major decisions. An example of this was the process of choosing the location for a new airport to service the Lisbon region. The government’s initial decision, on a site north of Lisbon, was widely criticized for its lack of alternative options. A vigorous public debate as to the impact of alternative locations emerged. Indeed, this lack of analysis of alternatives, and the perception that other locations might be more effective, led a number of organizations (notably business groups) to call for their own studies on the airport’s location. The ensuing public pressure – from sources including the president of the republic and the opposition – ultimately led the government to ask the National Laboratory of Civil Engineering for an assessment of different locations, notably including one south of Lisbon. The ensuing report found in favor of this new location, and the government finally revised its decision in 2008, with the Council of Ministers resolution (Resolução do Conselho de Ministros No. 85/2008) of May 8, 2008.

Societal consultation

The Council of Ministers’ rules of procedure stipulate that ministers can carry out consultations with other groups they consider relevant prior to presenting draft legislation. In practice, this occurs with varying frequency. As described in the SGI 2009 report, some areas (pensions, wages and labor regulations) are still influenced by corporatist arrangements, set through formal negotiations between the government, trade unions and employers’ associations. Other interest groups have considerable influence in areas such as health, justice, defense, security and education.

The period under analysis has been marked by a relative easing in the relationship between the government and interest groups, with the government more willing to compromise as compared to the situation described in the SGI 2009 report. Thus, when a conflict emerged between the government and the powerful National Association of Pharmacies over pharmacies’ profit margin, the government ultimately decided in favor of the industry group’s position in late May 2009, overturning the Health Ministry’s initial decision. This is not to say that all such conflicts have ended; in April 2009, for instance, the government challenged the National Association of Pharmacies over its decision to replace medical prescriptions for branded drugs with equivalent generics (which are

Negotiating public support
Score: 5

more profitable to pharmacies than branded drugs). The relationship between teachers and the government was particularly conflict-prone, over proposals to assess teacher performance. These led to a massive and unprecedented wave of demonstrations and strikes by teachers, which continued throughout 2008 – 2009, abating gradually over the course of this period. It seems that the government's unyielding position became less intense as the 2009 legislative elections approached, suggesting an adaptation of the government's position to the electoral cycle.

Portugal has a social concertation committee, called the Permanent Committee for Social Dialogue (Comissão Permanente de Concertação Social, CPCS), which is a part of the country's Economic and Social Council. This latter group is "a constitutional body for consultation, concertation and participation in the field of economic and social policies." As highlighted in the 2009 SGI report, this group has been called to provide input on policies dealing with pensions, wages and labor regulations. In June 2008, the CPCS approved new public sector hiring rules with support by the employers' associations and one of the trade union organizations. It also approved a new system for the regulation of labor relations, employment policies and social protection in Portugal, which led inter alia to a revision of the labor code in 2009 (Law 7/2009). As with other previous measures of this kind, these provisions were approved by employers' associations and the UGT, one of the trade union organizations. The largest trade union confederation, the CGTP-Intersindical (which is close to the Portuguese Communist Party (PCP)) continues to reject these measures, and accuses the CPCS of excluding the PCP from negotiations.

Policy communication

Two phases may be identified. The first, lasting until late 2009, is marked by the continuation of the previous pattern of very effective coordination of communication, as highlighted in the SGI 2009 report. Since that time, however, the government's communication has been less cohesive and coordinated. An example of this is the public disagreement in April 2010 between the minister of finance and the minister of public works, highlighted above (see Line Ministries). It seems that the communication system has not yet fully adjusted to the government's minority status (and consequent need to negotiate legislation with opposition parties), or to the need to generate substantial cuts in the budget deficit.

Coherent
communication
Score: 8

B Policy implementation

Effective implementation

Government
efficiency
Score: 6

There is indeed a 2009 government program, but the government has not been successful in implementing much of it. This includes policies regarding the environment, economic policy, unemployment and more. There is, for example, a strategy to invest European funds, but this aim was not well realized. By the close of the period under review, just 6% of the 2007 – 2012 National Strategic Reference Framework (Quadro de Referência Estratégico Nacional, QREN) funds had been invested. The government did develop a plan for investing funds, and the European Union was slated to provide implementation funding. However, Portugal was to monitor the disbursement of the funds with the help of an electronic system, which took a year to develop. During this time the government of Portugal could not receive the funds from the European Union. Thus, the government could not implement its plans, since the conditions under which the funds could be received and invested had not been met.

Ministerial
compliance
Score: 9

The organization of the parliamentary/cabinet system, as well as its internal power dynamics, assists the government in implementing its program. All ministers, and the government as a whole, depend on the good will and support of the prime minister. Moreover, the prime minister's coordination and oversight power is being increased with the implementation of Decree-Law 202 of October 27, 2006. The ministers can only operate in ways that correspond with the prime minister's priorities.

Monitoring line
ministries
Score: 8

The government is small, with 15 ministries, and the prime minister is strong. But given the lack of expertise highlighted above, the PMO sometimes lacks the capacity to monitor the activities of all line ministries fully.

Monitoring agencies
Score: 7

Semi-autonomous executive agencies (also known as quasi-autonomous nongovernmental organizations, or quangos) are taking a more prominent role. These are often created to circumvent tight restrictions on public administration bodies. However, this can lead to difficulty in controlling their action. For instance, the opposition parties complained in parliament in June 2009 that they were unable to understand the precise function of the government-created Foundation for Mobile Communications. Overall, ex post monitoring of these agencies by outside bodies is minimal. Ministers of course

have greater oversight power. However, members of the government appear to pay greater ex post attention to the official public administration (i.e., ministerial departments) than to the quango sector. What oversight exists is largely of an ex ante nature, most particularly through the political appointment of the senior figures in these executive agencies, with ministers often appointing individuals that are close to them on policy matters.

Task funding
Score: 5

Portugal continues to be one of the most centralized countries in Western Europe, with autonomous self-governing areas solely in the insular regions of the Azores and Madeira. The 308 municipalities represent the main subnational level of government. This level has limited resources available. In 2007, Portugal continued to have the EU's fifth-lowest ratio of subnational public expenditure to GDP – a position that appears considerably worse if we take into account that three of the four countries below Portugal are Luxembourg, Malta and Cyprus. Subnational public expenditure represented approximately 14% of total public expenditure in 2007, more than two times lower than the EU-27 average of almost 34%.

The relatively new Law of Local Finances (passed into law in January 2007) severely limited local governments' ability to obtain loans from financial institutions, and reduced the share of state revenue allotted to town halls. The figures for 2008 show town halls to be increasingly unable to meet their financial commitments, with a majority in debt.

The Azores and Madeira, which enjoy autonomous legal status, have their own policies. However, they too rely on central government funds, which are again in short supply. Both regions are governed by financial laws different than those affecting other local governments, in the form of the *Leis de Financias Locais e Lei de Financias Regionais*. These laws resulted in the resignation of Madeira's head of government, Alberto Jardim, who argued that the available funds were insufficient to the policies he was expected to implement. The government's very difficult economic situation has resulted in the curtailing of many of these tasks due to a lack of funds. Among these are some education and health care services, as well as such basic functions such as road maintenance, water, sewage, and the like.

Constitutional
discretion
Score: 5

The financial dependence of local governments on transfers from the central government means that the latter has considerable control over ostensibly decentralized functions. In December 2008, the central state owed an estimated €100 million to more than 100 town halls.

The central government significantly diminished its financial contribution to the autonomous region of Madeira beginning in 2010.

National standards
Score: 6

National minimum standards are generally met at the subnational level, though to a large extent this is because many of the services

are directly provided by the central government rather than being the responsibility of local governments. However, some discrepancies between the services provided by municipalities exist, notably in the culture and infrastructure sectors.

C Institutional learning

Adaptability

Domestic
adaptability
Score: 7

The European Union is extremely important to Portugal in all respects. Since joining the European Economic Community in 1986, the country has now become an integral part of Europe, with all the implications arising from integration into a huge variety of legal and organizational frameworks. However, the government of Portugal has not yet adopted all EU laws and regulations. Obviously, since Portugal is so much a part of the European Union, and dependent upon it for funds and trade, the country has adapted its structures accordingly. Whether these function as expected by the decision makers in Brussels is another matter.

International
coordination
Score: 7

There has been no substantial change in Portugal's approach to international coordination vis-à-vis the 2009 SGI report. The country's size and somewhat peripheral position in Europe limit its impact in international reform efforts. Portugal thus seeks to cooperate with others in pursuing reform initiatives, without seeking a leading role. That said, Portugal does perform well when asked to play a substantial part at the international level, as the country's 2007 EU presidency (during which the Lisbon treaty was approved) showed.

Organizational reform capacity

Self-monitoring
Score: 7

The Council of Ministers' rules of procedure were revised in December 2008 (see RIA Application). These changes maintained previous monitoring mechanisms and introduced additional ones that reinforce ex ante and ex post monitoring, improve cross-sector oversight, and seek to modernize administrative functions. Indeed, the latest rules of procedure identify a series of domains in which new ministerial measures require input from the minister in charge of administrative modernization. However, the reservations expressed above with respect to regulatory impact assessment are also largely applicable to the government's self-monitoring, with little evidence showing how this is being done or how effective it actually is.

Institutional reform
Score: 6

The government has shown itself willing to adapt institutional arrangements at the top, as evidenced by the amendment to the Council of Ministers' rules of procedure in December 2008. This was aimed at improving the functioning of the government, at providing better ex ante and ex post oversight of proposals, at ensuring the use of RIAs, and at ensuring draft legislation fit more smoothly into the existing legislative framework. There have also been attempts to generate a larger quantity of information within the public administration, notably via the Rede Interministerial de Tecnologia de Informação e Comunicação (Resolution 109/2009 2 October), which aimed at providing electronic links for businesses and citizens to public administration services. However, challenges remain in terms of improving the public administration's human resources. Beyond these issues, there has been little reform in terms of providing greater strategic capacity. The primary means of generating strategy remains the semi-permanent task forces and unit missions highlighted above.

II. Executive accountability

D Citizens

Knowledge of government policy

Policy knowledge
Score: 4

Policy knowledge is very unevenly distributed through the population, with few relatively well-informed citizens coexisting with a large number who have only a rudimentary knowledge of policy. This situation is inevitably a reflection of the deeply unequal levels of educational attainment in Portugal. However, it is compounded by the generally highly legalistic presentation of policy, in a language that tends to be exclusionary for many citizens; by a media system that very rarely provides in-depth policy analysis; by a weak civil society that does not have the capacity to engage and socialize citizens on policy issues; and by opposition parties that tend to focus on short-term political critiques of the government rather than offering in-depth policy alternatives.

E Legislature

Legislative accountability

Obtaining documents
Score: 8

Parliamentary committees are largely free in terms of what they can request from the government. However, delivery can occasionally be untimely or incomplete. Thus, 3,236 questions and requisitions were made by members of parliament to the central administration between September 2008 and July 2009, to which must be added a further 852 questions and requisitions made in the previous legislative session but which had not yet been answered. Of this total, 1,063 had not gained a response by the session's close in July 2009. However, these shortcomings do not appear to derive from a deliberate attempt to misguide parliament, but rather from a lack of institutional procedures inside ministries, through which such documents could be easily produced.

Summoning ministers
Score: 9

Parliamentary committees are largely free in terms of requesting ministers' attendance at committee meetings. Formally, ministers must be heard at least four times per legislative session. Additionally, each parliamentary group may hold ministerial hearings, varying from one to five per session, depending on the size of the parliamentary group. In general, ministers accede to requests for their attendance at hearings.

Summoning experts
Score: 9

Parliamentary committees are largely free in terms of requesting the attendance of experts at committee meetings.

Task area coincidence
Score: 7

There are currently 13 committees in Portugal's Assembly of the Republic. The only committee to be added since the 2009 SGI report is the Committee of Ethics, Society and Culture. By including culture, this committee partially rectifies the situation identified in the 2009 report, in which one committee monitored three different ministries, one of which was culture. However, as there are 15 executive ministries, there inevitably remain cases of committees that oversee more than one ministry. Indeed, there are two committees monitoring more than one ministry: One monitors the ministries of Justice and of Internal Administration; the other the ministries of Education and of Science, Technology and Higher Education.

Audit office
Score: 5

The Court of Auditors is totally independent, and has real authority. It is part of the judicial system, on an equal level with other courts. The body is not accountable to the Assembly of the Republic, but must report to it regularly.

Ombuds office
Score: 4

Portugal has no parliamentary ombudsman. However, the Portuguese Ombudsman Office (Provedor de Justiça) is a part of the judicial system. This office serves as an advocate for citizens' interests.

F Intermediary organizations

Media

Media reporting
Score: 6

Media reporting analyses government decisions poorly and superficially, very rarely engaging in in-depth policy analysis. Some policy analysis is carried out by in-house or guest expert commentators (often academics), but in-depth journalistic work on policy issues is almost nonexistent. In a poll of leading journalists (editors, coordinators and directors of newspapers and other media outlets), the overwhelming majority (70%) said the media coverage of the 2009 legislative campaign period focused predominantly on political controversies, as opposed to 30% that thought there was a sufficient balance between coverage of controversies and party programs. None of the poll respondents considered the campaign coverage to have been predominantly focused on parties' policies and programs. Given that election periods are high points in political coverage, this is quite indicative of the lack of in-depth analysis by the Portuguese media.

Parties and interest associations

Party competence
Score: 6

Party manifestos are generally written by competent teams, often with academic ties. While these documents were quite long in previous elections, in the 2009 election parties sought to present shorter (thus more readable) and more cohesive programs. Nevertheless, there does remain a considerable degree of ambiguity in party manifestos, and programs are not treated as a complete road map once parties attain power.

None of the parties have developed an adequate response to the global economic crisis, and to Portugal's very vulnerable economic position.

Association
competence
(business)
Score: 5

There are a number of associations that make policy proposals, notably trade unions and employers' associations. These groups' proposals are generally reactive to government measures, rather than being innovative in themselves. The influence of the CIP employers' association was evident with regard to the location of the

future Lisbon airport; indeed, its study of alternative sites helped generate momentum that ultimately forced the government to change the airport's planned location (see Alternative Options). The study carried the argument based on technical and economic arguments by the specialists who did the study. However, these groups' influence is generally low.

Association
competence
(others)
Score: 6

Associations' proposals often receive government attention, largely through established communication networks between associations and governments. Relatively recently created civil society movements aimed at generating governance and public policy proposals also receive government attention, in part because of their proposals' potential for media coverage.

This country report is part of the Sustainable Governance Indicators 2011 project.

© 2011 Bertelsmann Stiftung

Contact:

Bertelsmann Stiftung
Carl-Bertelsmann-Straße 256
33311 Gütersloh

Dr. Daniel Schraad-Tischler
daniel.schraad-tischler@bertelsmann-stiftung.de

Najim Azahaf
najim.azahaf@bertelsmann-stiftung.de