

# Assessing the Institutional Environment of Cities and Subnational Governments in Africa

2021, 4<sup>th</sup> Edition



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**CGLU AFRIQUE**

**Cities Alliance**  
Cities Without Slums

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# Preface

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**S**INCE 2012, United Cities and Local Governments of Africa (UCLG Africa) publishes every three years – in collaboration with Cities Alliance – a report on the evaluation of the institutional environment created by African states for the action of cities and subnational governments (CEE Rating).

The 2021 CEE Rating report covers 53 African countries, excluding Libya. It considers the original 10 criteria used to assess the institutional environment created by the State for subnational government action as recorded in the 2012 and 2015 editions and adds the two new criteria introduced in 2018, namely, the mechanisms put in place to ensure women's participation in the political life and governance of subnational governments, and the consideration of the role of subnational governments in climate action, to be in line with the recommendations of the Agenda 2030 setting the Sustainable Development Goals.

A score is assigned to each criterion on a scale of 1 point (lowest level) to 4 points (highest level). The sum of the scores for the selected criteria ranges from 12 points (lowest score) to 48 points (highest score). As in previous editions, the application of the different criteria allows the attribution of a synthetic rating (ranking) to each country. As in previous editions, the application of the different criteria leads to awarding a synthetic score (ranking) to each country. This synthetic rating is then the subject of an explanatory analysis leading to the identification of possible reforms with a view to improving the enabling institutional environment created by the State for subnational governments.


In order to identify the trends observed in the evolution of the institutional environment created by the States for the action of subnational governments between 2012 and 2021, it was agreed – for the sake of consistency – to consider only the rating obtained for the 10 criteria initially retained for the 2012 editions.

While there has been a slight increase in the number of countries where the institutional environment created by the State is favourable to subnational governments, the general trend is that in most African countries the institutional environment created by African States is generally unfavourable or rather unfavourable to subnational government action (31 of the 50 countries analysed). Yet the Heads of State and Government of the African Union expressed a strong political will in favour of decentralization when they adopted the African Charter on Decentralization, Local Governance and Local Development in June 2014. The difficulty in translating the political will for decentralization of most States into legal and institutional arrangements favourable to the action of subnational governments shows the importance of continuing to advocate for the adoption and implementation of the decentralization policy.

However, not everything is negative in this landscape, which is characterized by little progress in the implementation of the decentralization policy. In fact, 42 out of 53 countries have taken measures to improve the latitude given by the State to subnational governments. The indicators that have contributed most to this improvement are, in order of importance, and as a percentage of the number of countries concerned in relation to the total number of countries considered: 1) citizen participation in subnational governance (13.5 per cent); 2) financial transfers from the State to subnational government (12.6 per cent); 3) performance of subnational governments, transparency in subnational management (11.2 per cent); and 4) the urban strategy (11.2 per cent).

The fact that the adoption of an urban strategy is on the agenda in a large number of countries is encouraging and a sign that those countries are concerned with the implementation of the new global urban agenda and the achievement of Sustainable Development Goal No. 11 (SDG 11) which says: "Make cities and human settlements inclusive, safe, resilient and sustainable".

We hope that the 2021 CEE Rating report will contribute to enlighten decision-makers and all stakeholders on the need to focus on improving the institutional environment created by the State in favour of the action of subnational governments, if we want to have a chance of meeting the challenge of managing the rapid urbanization on the African continent and the transition to an Africa that will soon be predominantly urban; and that of good governance of the cities and territories of Africa in order to develop or restore trust between the populations and the public authorities. ■



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# Table of Contents

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<b>Introduction</b>	<b>7</b>
<b>Methodology</b>	<b>9</b>
1. The Project: Assessing the Environment Surrounding the Actions of Cities and Subnational Governments in Africa	9
2. The Context	9
3. Criteria for evaluating countries based on the favourable enabling environment they offer cities and subnational governments	10
3.1 Constitutional framework	10
3.2 Legislative framework	11
3.3 Local Democracy	11
3.4 Financial Transfers from the Central Government to the Subnational Governments	11
3.5 Own Revenues	12
3.6 Capacity Building of City and Subnational Government Administrations	12
3.7 Transparency	13
3.8 Citizen participation	13
3.9 Subnational government performance	14
3.10 Urban strategy	14
3.11 Gender equality	15
3.12 Climate change	15
4. Presentation of the ratings	15
<b>Review outline covering the period from 2012 to 2021</b>	<b>16</b>
<b>Country Profiles</b>	<b>24</b>



# Introduction

This report on the evaluation of the institutional environment of cities and subnational governments in Africa (CEE Rating) follows the first edition established in 2012, the second edition published in 2015 on the occasion of the seventh edition of the Africities Summit held in Johannesburg (South Africa), and the third edition published in 2018 on the occasion of the eighth edition of the Africities Summit, held in Marrakech (Morocco) in November 2018.

This fourth report updates the country fact sheets produced in 2018 and reviews the developments in the institutional environment of cities and subnational governments from 2012 to 2021. In particular, it measures the trends in the latitude offered to cities and subnational governments.

This 2021 CEE Rating report is the result of a collaboration achieved on eight successive stages.

The first step was to set up a systematic procedure to monitor the changes that have occurred in each country in the legal and regulatory frameworks surrounding the exercise of subnational government mandates since the last 2018 edition of the CEE Rating, and to standardize the methods for collecting and updating information and indicators related to decentralization, territorial governance, and the exercise of subnational government mandates.

The second step was a working meeting held in February 2020 on the sidelines of the World Urban Forum in Abu-Dhabi, which had four objectives: to validate the robustness of the criteria used and define new ones if necessary; to identify the different sources of information and modalities for collecting such information; to revise and/or update country profiles; to define the modality of the rating per criterion and the synthetic rating as well as the thresholds to be retained for the different levels of the country classification according to the more or less conducive environment created by the State for the initiatives and actions of subnational governments. The meeting gathered experts from the following institutions: African Development Bank; United Nations Economic Commission for Africa (UNECA); UN Habitat; Cities Alliance; UCLG Africa; Deutsche Gesellschaft fuer Internationale Zusammenarbeit- GIZ; the World Bank.

The conclusions of the meeting were as follows: (1) the criteria used until now for the CEE Rating are maintained as well as the rating matrix and levels; (2) the introduction of a criterion relating to the country fragility index developed by the AfDB was proposed; (3) the thresholds used to characterize countries (green, yellow, orange, red) are maintained; (4) A consensus was reached that the CEE Rating report drawn up in accordance with the above-mentioned indications should serve as a basis for drawing up the cooperation programmes of development partners in the area of support for decentralization and territorial governance; (5) It was recommended that countries with an institutional environment favourable to cities and subnational governments should be celebrated at successive editions of the Africities summits.

The third step was to develop the fact sheets for each of the 53 countries included in the review, addressing the following questions: (1) Is the information provided on the country relevant, up-to-date and correct? (2) Are there any key elements missing in the situations described? (3) Is the situation review objective, supported by verifiable data, and is it conducted with rigor? (4) Is the proposed country classification for each criterion and for the overall rating consistent with the argumentation and justification developed? This step was carried out within the UCLG Africa team by Dr Najat Zarrouk, Director of Development, Capacity Building, and Knowledge Management, for the case of Morocco; Mr. Charles Patsika, Advisor on Decentralised Cooperation, for the case of Zimbabwe, Malawi and Zambia and Mr. François Paul Yatta, Director of Operations and Technical Assistance for the others countries.

In the reform section of each country profile, the formulation of proposals was based on the following questions: (1) Are the recommendations and proposed reforms formulated consistent with the new situation described and the analysis conducted? (2) Are the proposed reforms relevant and genuinely adequate to improve the delivery environment for cities and subnational governments? (3) Is the proposed reform properly prioritized? (4) Is the proposed reform clear and explicit enough to provide concrete direction for action? (5) Are the stakeholders involved in defining and implementing the proposed reform clearly identified?

The fourth step consisted in the review of the country files by the colleagues of the UCLG Africa regional offices, namely: Juliet Sale Mekone and Yelbert Kofi Amissah (West Africa); Menhya Nyende Juma, Baraka Damas Marandu and Jerome Byukusence (East Africa); Rupert Hambira and Esther Reyneke (Southern Africa). The country files of the regions of Central Africa and North Africa were reviewed by officials of the UCLG-Africa General Secretariat at the headquarters of the organization in Rabat, Morocco.

The fifth step was the review of country profiles by the national associations of local governments in Africa, with support from the regional offices. Contributors: Mr Jean Baptiste Kirimwinzigo, Executive Director, ACO, (Burundi); Mr Damir Boinariziki, Permanent Secretary, National Association of Comorian Mayors (ANMC); Mr Andualem Tenaw Habtie, Director General, Ethiopian Cities Association (ECA, Ethiopia); Ms Jacqueline Mogeni, Chief Executive Officer, Council of Governors (CoG, Kenya); Mr Ken Oluoch, Senior Program Officer (CoG, Kenya); Ms Adele Ravaoalisoa, Permanent Secretary, Association of Mayors of the Large Cities of Madagascar (AMGVM Madagascar); Ms Lydia Charlie, Executive Director, Association of District of Victoria (ADV, Seychelles); Mr Elirehema Moses Kaaya, Secretary General, Association of Local Authorities of Tanzania (ALAT, Tanzania); Ms Gertrude Rose Gamwera, Secretary General, Uganda Local Government Association (ULGA, Uganda); Mr Segla Lihoussou, Permanent Secretary, National Association of Municipalities of Benin (ANCB), Mr Kima Sebastien, Executive Secretary Association of Municipalities of Burkina Faso (AMBF); Mr Goleba Kgari, Council Secretary,

Kweneng District Council (Botswana); Mr Lopang Pule, Town Clerk, Francis Town City Council (Botswana); Mr Gideon Mhlongo, Town Clerk / CEO, Municipal Council of Mbabane (Eswatini); Mr Melusi Hlanze, Town Clerk / CEO, Vuvulane Town Board (Eswatini); Dr Alfred Chanza, CEO for Blantyre City Council (Malawi); Mr John Chome, CEO for Lilongwe City Council (Malawi); Mr George Mayumbelo, Acting CEO, City of Windhoek Municipality (Namibia); Ms Monika Sheefeni, Secretary to CEO of Windhoek Municipality, Windhoek Municipality (Namibia); Mr Alex Mwansa, Town Clerk, Lusaka City Council (Zambia); Mr Cosmas Chalusa, Town Clerk, Ndola City Council (Zambia); Mr. Arzika Harouna, Permanent Secretary, Association of Municipalities of Niger (Niger).

The sixth step was the review of the country profiles by the ministries in charge of local governments and decentralization, with support from the regional offices. This stage received contributions from: Ms Fiffille Nkurunziza, Director General of Community Development and Decentralization, Ministry of Interior, Community Development and Public Security (Burundi); Mr Youssouf Abdallah Hassan, Director of Decentralization and Deconcentration, Delegate Ministry in charge of decentralization (Djibouti); Dr Zaheer Allam, Decentralization Expert, Ministry of Local Government (Mauritius); Dr. Hante, Decentralization Expert, Ministry of Local Government and regional administration (Tanzania); Mr Paul Okot Okello, Commissioner Local Government, Ministry of Local Government (Uganda); Mr Olossoumare

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The seventh step was the review and editing of the 53 Country Sheets to track down errors, typos and inconsistencies. This exercise was conducted by a team from the General Secretariat comprised of Ms Iyamma Paba Salé, Mr. Lionel Nzamba and Mr. Thierry Bokhally.

Once the country profiles were validated, the eighth step consisted of a cross-sectional analysis of the changes observed over the period from 2012 to 2021. This step was carried out within the UCLG Africa team by Mr. François Paul Yatta, Director of Operations and Technical Assistance.

We would like to express the gratitude of UCLG Africa and Cities Alliance to all for their valuable work and their kind collaboration. ■



# Methodology

## 1. The Project: assessing the environment surrounding the actions of cities and subnational governments in Africa

The City Enabling Environment (CEE) Ratings is a joint initiative of United Cities and Local Governments of Africa (UCLG Africa) with the support of Cities Alliance.

Rapid urbanization is an indisputable fact in Africa, and cities across the continent are increasingly driving national economies. Despite their growing role, many cities lack the institutional environment necessary to manage urbanization in a sustainable way that includes their poorest residents.

This initiative assesses the cities enabling environment in 53 African countries according to 12 commonly agreed criteria. It aims to open the debate on public decentralization and urban development policies by focusing on the institutional environment necessary for cities and subnational governments to play a more effective role in managing urbanization and implementing the Sustainable Development Goals (SDGs).

The goal is to help cities and subnational governments determine which actions should be taken at the national level to increase effectiveness in urban management. It also seeks to catalyse public debate on how urban policy can help create environments that are conducive to the productive, sustainable, and inclusive development of African cities.

### About the partners

The Cities Alliance is the global partnership for poverty reduction and the promotion of cities in sustainable development.

UCLG Africa is the umbrella organization and united voice representing subnational governments of the African continent and nearly 350 million African citizens. It aims to strengthen the role of cities and subnational governments as key partners in urban development across the continent.

### The goals

The CEE initiative provides a framework for cities and countries to relate to each other and take action to create an environment conducive to sustainable urban development. It helps identify the challenges countries face in achieving this goal and facilitates discussion among stakeholders of the reforms needed to meet them.

The initiative also helps guide international technical and financial partners in defining their support.

### A qualitative approach and a ranking

The CEE ratings approach examines the institutional conditions created by the different countries in favour of the initiatives and actions of their respective local and subnational governments. It takes as a starting point a qualitative assessment based on 12 indicators, and each country is ranked on a scale of 1 (the lowest level) to 4 (the highest level).

The indicators cover six areas: subnational governance, subnational capacity, financial autonomy, subnational efficiency, national institutional environment and global agendas. These areas correspond to the key elements of the institutional environment of cities in the context of decentralization and democracy.

## 2. The context:

Rapid and massive urbanization in Africa is an indisputable fact. Statistics compiled by international institutions show that Africa has already passed the 43.5 per cent urban threshold<sup>1</sup>, and nearly one out of every two Africans now lives in an urban area. Since 2007, the United Nations has stated that a majority of people worldwide live in cities, although neither Africa nor Asia have yet reached that point. In both regions, the dynamic of catching up with the rest of the world has accelerated, and experts estimate that the rate of urban growth in Africa will be double that of the rest of the world over the next 20 years.

In developing countries, and particularly in Africa during the first decades following independence, fear and loathing of cities nourished such strong intellectual, political and media currents that they were long seen as a burden and an obstacle to development. This historical aversion to cities means that few countries have developed strategies to cope with the challenges posed by rapid urbanization. When such urban strategies do exist, their focus has rarely been on the contribution cities make to national economic development.

Yet, since the middle of the last decade, the World Bank has shown that in countries where the urban population has reached or exceeded 30 per cent of the total population, cities contribute more than two thirds of the Gross Domestic Product (GDP). Experts have demonstrated that the development of African countries is increasingly linked to the performance of their cities. With the opening of countries and their connection to the global economy, African cities will play an even larger role.

The main impact of globalization on African economies is the redeployment of productive activities around urban areas. If the trends in how production systems are organized

1 Africa's average urbanization rate – 43.5 per cent in 2020 – hides great disparities among its five regions. Three regions reach or exceed the threshold of 50 per cent urban dwellers today: Central Africa (50.6 per cent), North Africa (52.5 per cent) and Southern Africa (64.6 per cent). West Africa has about 46.4 per cent urban dwellers, while East Africa is the least urbanized with 29 per cent urban dwellers. These figures suggest a significant pace of growth of the urban population in all regions for the next decades. (World Urbanization Prospects: The 2018 Revision).

and their relationship to space resulting from the increasing internationalization of the world economy are confirmed (such as polarization of activities in urban areas and demands for innovation, among others), the performance of cities will be come an even greater contributor to countries' economic growth.

Based on the current situation in most African cities, we know that most decision makers have not yet grasped how important the proper functioning of cities is to the overall functioning of national economies.

We also know that this proper functioning is best ensured when the government respects the principle of subsidiarity. There is little chance that Africa will overcome the challenges posed by rapid urbanization until cities and subnational governments are in a position to take the initiative and lead actions to make African cities more inclusive, competitive, sustainable, safer and better managed.

In this context, it is urgent that African national governments create an environment that is conducive to proactive action and autonomy for cities and subnational governments. The CEE ratings approach will enable African governments to meet the minimum standards required for cities and subnational governments to be in a position to make a significant contribution to the effective management of urbanization in Africa.

### 3. Criteria for evaluating countries based on the favourable enabling environment they offer cities and subnational governments

The following 12 criteria were used to assess countries based on the enabling environment they offer their cities and subnational governments:

1. Provisions in the constitutional framework;
2. Provisions in the legislative framework;
3. Provisions for subnational governance;
4. Provisions for financial transfers from the central government to the subnational governments;
5. Provisions concerning subnational governments' own revenues;
6. Provisions for capacity building for subnational governments;
7. Provisions for transparency in the operation and management of subnational governments;
8. Provisions for citizen participation;
9. Provisions for subnational government performance;
10. The presence or absence of a national strategy in terms of urbanization management;
11. Taking into account gender equality; and
12. The involvement or non-involvement of subnational governments in the fight against climate change.

#### 3.1 Constitutional framework

The best guarantee for action by cities and subnational governments is a national constitution that recognizes subnational governments as an autonomous sphere of governance, endowed with legal powers and financial

autonomy, and with clearly defined roles and responsibilities. In this way, the decentralized governments and the nation-state both derive their legitimacy from the same founding document and fundamental law.

#### Ratings

The rating system assigns a grade of 4, the highest score, to countries where the responsibilities of subnational governments are precisely and relatively exhaustively defined in the constitution.

Countries whose constitutions explicitly mention subnational governments as an autonomous level of public governance – but where the roles, status and powers of these subnational governments are defined in separate legislation – receive a grade of 3.

A grade of 2 is given to countries whose constitutions are neutral on subnational governments, leaving a large margin for the law to define the role and content of the tasks of subnational governments.

The lowest grade of 1 is given to countries whose constitutions implicitly or explicitly limit the role of subnational governments. There may be provisions in the constitution that limit the coverage of the national territory in subnational governments, or limit the autonomy of subnational governments, or introduce conflicting provisions that make it difficult for subnational governments to take initiatives.

Rating grades for constitutional framework	
The constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognised roles and responsibilities.	4
The constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.	3
The constitution is neutral on the question of subnational governments.	2
The constitution contains provisions that implicitly or explicitly restrict the actions of Cities and subnational governments.	1

#### 3.2 Legislative framework

In many cases, the constitutional provisions are supplemented by organic laws and legal texts that specify the matters for which subnational authorities have competencies that are specific or shared with the central government or other levels of subnational government. The laws specify in principle the role of cities and subnational government in activities such as development, planning, management of subnational institutions and human resources, management of taxation and finance and provision of basic services.

The most favourable legislative framework is that which is inspired by the principles of subsidiarity and complementarity between the levels of governance, differentiation, solidarity and efficiency.

#### Ratings

In countries where the legislation is clearly related to the constitution and where it states the provisions as presented above, and whose implementing decrees are promulgated and applied, the score awarded is 4.

In countries where the legislation as described previously exists and whose implementing texts are not taken or applied, the score is 3.

Countries where either the constitutional provisions and the legislation are inconsistent, or where certain constitutional provisions are not implemented, receive a score of 2.

Countries where cities and subnational government legislation is changing, and whose provisions are neither clear nor consistent, receive a score of 1.

Rating grades for legislative framework	
All responsibilities and powers are clearly defined in accordance with the constitution, and the relevant statutory laws and regulations are in place.	4
All responsibilities and powers are clearly defined in accordance with the constitution, but some relevant statutory laws and regulations are missing.	3
A number of legislative provisions are in conflict with the constitution, or some provisions in the constitution are not implemented.	2
The legislation is unstable and inconsistent.	1

### 3.3 Local democracy

It is generally considered that the designation of the deliberative and executive bodies of the subnational governments through democratic election is an essential element for the accountability of city and subnational government leaders vis-à-vis citizens. Such designation is in favour of better governance and the delivery of better services to the people. It contributes to the improvement of the relations of trust between the populations and the subnational public institutions and, consequently, to the solidity of the process of decentralization.

#### Ratings

Countries whose legal and regulatory texts guarantee the designation of local assemblies and the executive bodies of local authorities through a democratic election throughout the national territory receive a score of 4.

Countries that provide for local assemblies and local executive branches, but whose decentralization process does not concern the entire national territory or in which local elections are not organized in all subnational governments, receive a score of 3.

Countries where local assemblies are elected democratically, but where the executive officers are appointed by the central government from among the members of the elected assemblies or outside these, receive a score of 2.

In countries where the central government appoints local assemblies and local executive officers, the score awarded is 1.

Rating grades for local democracy	
Local assemblies and executive bodies are elected throughout the country.	4
Local assemblies and executive bodies are elected, but not necessarily throughout the country.	3
Local assemblies are elected, but executive bodies are appointed.	2
Local assemblies and executive bodies are appointed.	1

### 3.4 Financial transfers from the central government to the subnational governments

The autonomy of cities and subnational governments depends on how they are financed. The financing of subnational governments must be related to their missions. Three major types of tasks are generally carried out by subnational governments:

- Those for which they act as agents of the central government (such as civil registry of births, marriages and deaths; police; economic development policy; territorial planning policy; and employment policy);
- Those for which they partially play the role of agent for the central government (national sectoral policies, equity and welfare policies, policies supporting young people, women, pensioners, the disabled, etc.); and
- Those that concern just the city and subnational government (municipal services, administrative work, waste management, etc.).

The first two types of tasks justify financial transfers from the central government to cities and subnational governments. These transfers are meant to correct imbalances between the tasks assigned to the subnational governments and their limited resources, correct disparities in revenue-generating potential among subnational governments, and promote national goals in terms of equitable living conditions and development.

The amount of the transfers may be a specific percentage of central government resources or defined *ad hoc* from one year to the next. Transfers must be adequate (they must cover the expenses transferred to the subnational governments) and be based as much as possible on transparent and predictable formulas. The use of transferred resources may be conditional or unconditional.

#### Ratings

A rating of 4 is given to countries that:

- Define a predictable amount of state resources allocated to subnational governments, whether it is a percentage of state resources allocated to subnational governments or based on the cost of the responsibilities transferred;
- Use transparent mechanisms for financial transfers from the central government to the subnational governments and for their distribution according to known formulas, making them predictable; and
- Allow as much freedom as possible in the use of the transferred resources.

A rating of 3 is given to countries that have established a national amount of predictable resources for subnational governments, which are distributed according to known formulas, but where most transfers are conditional, which greatly reduces the decision-making autonomy of subnational governments in determining their use.

A rating of 2 is given to countries where the amount of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.

A score of 1 is assigned to countries that either do not make transfers from the central government to the subnational governments, or where the practice exists but is erratic, unpredictable and non-transparent.

Rating grades for financial transfers from central to subnational governments	
Amounts of the transfers to subnational governments and their distribution among subnational governments are clear and predictable, according to a transparent formula and without restrictions on how they may be utilised.	4
Amounts of the transfers of resources to subnational governments and their distribution among subnational governments are clear and predictable, with utilization determined at the national level (conditional transfers).	3
Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.	2
Resources are not transferred or are transferred erratically and irregularly.	1

### 3.5 Own revenues

The actions of cities and subnational governments depend a lot on their financial autonomy. This is an important function of local authorities' own resources, which are the proceeds of local taxes, the fees for services rendered to local service users, the proceeds of income-generating activities initiated by the subnational authorities, and/or the proceeds of loans or bonds issued on the financial market. Entering into public-private partnerships is also a way of financing investments based on communities' own revenues.

Subnational governments benefit from a greater or lesser margin in determining the nature and level of their taxes and fees, depending on whether their base and rate of such taxes and fees are set by the subnational governments themselves within the framework of the law or are determined by the central authorities. The autonomy of subnational governments is more or less effective, depending on whether they themselves collect the proceeds of local fees and taxes or whether they must rely on central government services for this collection.

The significance of subnational governments' leeway depends on whether the law allows them to resort to lending and/or the financial market to finance some of their actions.

#### Ratings

Countries where subnational governments can legally set or change the basis and rate of local taxes and levies, create new taxes, collect the proceeds of such taxes, and resort to lending and to the financial markets get a score of 4.

Countries where subnational governments can decide on the basis and rate of existing local taxes and collect the proceeds of taxes themselves but must rely on the central level for the creation of new taxes or for resorting to lending and/or to the financial markets, receive a score of 3.

Countries where subnational authorities can decide the rate of existing local taxes but whose basis for such taxes is set at the central level without possibility of modulation at the local level, where tax collection is the responsibility of the central government's services, and where access to lending and/or to the financial markets is not allowed to local authorities, receive a score of 2.

Countries where the ability to decide on local taxes and collect the proceeds is exclusively the responsibility of the central government, and were resorting to lending and/or to financial markets is prohibited for subnational authorities, receive a score of 1, which is the weakest rating.

Rating grades for own revenues	
Subnational governments have total autonomy to determine tax base, rates and fees, and to collect the corresponding revenues; access to financial markets is allowed.	4
Subnational governments have some latitude to determine existing tax base and rates, but the central government is responsible for setting new taxes and accessing loans and financial markets.	3
Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.	2
The central government defines and collects subnational government revenues.	1

### 3.6 Capacity building of city and subnational government administrations

Capacity building for subnational governments can be defined as "the process through which subnational governments obtain, strengthen, and maintain the capabilities to set and achieve their goals in a given environment" (Capacity Development: a UNDP Primer, 2009). Four broad categories of capabilities must be distinguished:

- Institutional capacity, which refers to rules set by the central government that are more or less favourable to city and subnational government action;
- Organizational capacity, which refers to the policies, structures, processes and procedures that allow subnational governments to operate and provide leadership in their jurisdictions;
- Human capacity with respect to the experience, tools and knowledge mastered by the human resources of subnational governments (elected and staff), which enable them to identify, analyse and respond to people's needs with appropriate strategies, policies, programmes and projects, ensure their implementation, and assess their impact; and
- Societal capacity, which refers to the empowerment of the community to hold subnational governments and administrations accountable for the services they offer and the good management of the community.

For this study, the criterion of capacity building focuses on the second and third categories – subnational governments' organizational and human capacities – which can increase the empowerment of subnational governments to take charge and fulfil their missions regardless of the environment in which they operate. For this rating, the existence or absence of a clear national strategy for capacity building was considered, including standards and procedures, training systems and human resource management planning, rules on integrity in hiring, and the conduct of operations by subnational governments, among others.

#### Ratings

Countries with a national framework of reference defining the qualifications and responsibilities of subnational government staff and a national strategy for training and promoting human resources in subnational governments, and that implement this framework in all subnational governments in the country, receive the highest score of 4.



Countries that have a national framework of reference defining the qualifications and responsibilities of subnational government staff and a national strategy for training and promoting human resources in subnational governments, but that have so far applied this framework in only a limited number of subnational governments, are scored 3.

Countries that either have a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, and that have applied these in only a few subnational governments, are scored 2.

Countries that have no procedural rules, frameworks of reference on qualifications and responsibilities, or national training strategies, are rated 1.

Rating grades for capacity building of subnational government administrations	
There is a national reference framework of professions within subnational governments and a national strategy for training and promoting subnational government human resources that is applied to all subnational governments in the country.	4
There is a national reference framework of professions within subnational governments and a national strategy for the training and promotion of subnational government human resources, but implementation has so far only covered a few subnational governments.	3
There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments.	2
There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.	1

### 3.7 Transparency

Transparency is an essential element of good governance of public affairs. It is necessary for the effectiveness and efficiency of city and subnational government action and for the accountability of subnational governments to the population. Transparency is greatly improved when:

- Citizens have access to information about the operation and management of subnational government;
- Subnational governments follow a number of rules and legal procedures relating to the hiring and administration of staff, calls for tenders, procurement, and monitoring of contract execution; and
- The law requires that subnational governments be subject to regular and independent financial and organizational audits according to a specific schedule and within a specific time frame, and this law is applied.

#### Ratings

Countries that have laws and regulations containing all the above provisions, and implement them in a timely manner, are rated 4.

Countries where these provisions are provided by laws and regulations but are not consistently applied or implemented according to the mandated frequency and schedule, are rated 3.

Countries where only some of the required provisions are outlined in laws and regulations, and where application is irregular, are rated 2.

Countries where there are no legal provisions requiring transparency in the operation and management of subnational governments are rated 1.

Rating grades for transparency	
Rules and legal provisions on transparency in the running of subnational governments that require regular, independent audits be conducted within specified timeframes exist and are applied.	4
Rules and legal provisions on transparency in the running of subnational governments that require regular, independent audits be conducted within specified timeframes exist but are not systematically followed.	3
Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed.	2
No rules or legal provisions on transparency in the running of subnational governments exist.	1

### 3.8 Citizen participation

One of the justifications given for decentralization policies is to promote people's participation in the management of matters that affect them. It is estimated that by having the level of public governance closest to the people, subnational governments become the ultimate framework for citizen participation. This participation expresses the extent to which subnational governments consider the views and concerns of civil society outside election periods.

Representative democracy is insufficient to ensure that citizens' voices are considered in the management of local affairs, especially when voter turnout in local elections is often low. It must be supplemented by forms of citizen participation, including: consultation processes whose mechanisms should be formalized to be effective; the possibility for citizens to submit petitions; the organization of citizen-led referendums; the practice of participatory budgeting; and the expression of public opinion through satisfaction surveys on topics that interest them.

These forms of citizen participation must be prescribed and organized by laws and regulations, and their implementation must be monitored at central and local levels to be truly integrated into subnational government practices.

This integration creates the conditions for societal capacity mentioned earlier, which does much to install a culture of accountability among citizens—an essential element in effective action by cities and subnational governments. Good urban governance cannot succeed without citizen participation.

#### Ratings

Countries that have passed laws and regulations on citizen participation in subnational government management and implement these laws, are rated 4.



Countries that have the appropriate laws and regulations, but do not implement them, are rated 3.

Countries that have not established laws and regulations that promote citizen participation, but that allow participation at the subnational government level in the context of ad hoc projects initiated by development partners or decentralized cooperation partners, are scored 2.

A score of 1 is assigned to countries where there is no legislation on citizen participation and no experience of this practice at the community level.

Rating grades for citizen participation	
National legislation on citizen participation exists and is applied.	4
National legislation on citizen participation exists but is not applied.	3
There is no national legislation on citizen participation, but there are locally organised spaces for dialogue and consultation.	2
There is no national legislation on citizen participation, and no locally organised spaces for dialogue and consultation.	1

### 3.9 Subnational government performance

Assessing the performance of subnational governments should be an integral part of the decentralization policy implemented by the central government, which should design tools to measure how effective subnational governments are in executing their mandate.

Performance can be expressed in terms of level and quality of services provided to local people, particularly the poorest; effectiveness and efficiency in the delivery of these services and the management of subnational government resources; and optimizing the use of natural, human and financial resources.

Monitoring mechanisms and indicators are generally needed to track progress in these areas, and a comparative approach is often taken to benchmark subnational government performance against other subnational governments and compare to the national average. Countries differ according to whether they have legal and regulatory provisions for measuring subnational government performance, which is a major stimulus to improving the quality, effectiveness and efficiency of their actions.

#### Ratings

Countries that have established laws and regulations governing the implementation of measures for monitoring and assessing subnational government performance by independent bodies, and effectively apply them to all subnational governments, are rated 4.

Countries that have taken such measures, but where implementation is done by the authorities responsible for supervising subnational governments rather than by independent bodies, are rated 3.

Countries where evaluation mechanisms exist, but are not consistently implemented or are only implemented for a limited number of subnational governments, are scored 2.

Countries that do not have legal provisions on subnational

government performance and have no experience in assessing subnational government performance, are rated 1.

Rating grades for subnational government performance	
There is legislation on measuring subnational government performance, and performance is assessed by independent bodies.	4
There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.	3
Subnational government performance is assessed irregularly.	2
Subnational government performance is not assessed.	1

### 3.10 Urban strategy

Urbanization is undoubtedly one of three phenomena that will have the most decisive influence on the fate of African countries, along with decentralization and globalization. How central governments are preparing to cope with the rapid urbanization taking place in Africa – and the role assigned to subnational governments in this effort – will determine the effects of urbanization on population dynamics and the development of the continent.

Countries that have developed a relevant urban strategy adopted by all stakeholders and availed themselves of the institutional, technical and financial resources to implement this strategy offer the best enabling environment for cities and subnational governments to contribute to the effective management of urbanization.

#### Ratings

Countries that have a clear and relevant urban strategy, including a precise implementation plan and where institutions and resources are mobilized to implement it, are rated 4.

Countries that have adopted an urban strategy but do not yet have the institutions and means to execute this strategy, are rated 3.

Countries where thinking on urbanization is taking place at the national level, but no strategy has been defined and the means to execute it do not yet exist, are rated 2.

Countries where there is no urban strategy and where leaders have a sense that evolving urban developments are neither welcome nor under control, are rated 1.

Rating grades for urban strategy	
A clear national urban strategy exists, along with the financial and technical arrangements and capacities necessary to implement it.	4
A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.	3
National reflection on urbanisation is underway, but an urban strategy has not yet been defined.	2
No national urban strategy.	1

### 3.11 Gender equality

The United Nations (UN) is promoting an effective participation and equal opportunities for women and men at all levels of decision-making in the political, economic and public spheres. Strengthening policies and legislation to promote gender equality involves taking women into account in subnational governance, which is an undeniable foundation for improving public governance.

This study reviews the mechanisms being put in place to ensure the participation of women in the political life of local and subnational governments, with a particular focus on women's presence in subnational elections.

Four mechanisms of women's involvement in local elections is to be considered:

1. Lists in local elections have a certain quota of women to be eligible, and these lists are rejected in the event of non-compliance with quotas.
2. Acceptance of the lists in local elections is assessed by considering the quota of eligible women.
3. Demands for at least 30 per cent of seats to be reserved for women in subnational government assemblies.
4. The leadership of the territorial community should include at least one woman (e.g., as mayor or deputy mayor).

#### Ratings

Countries that provide for these four mechanisms receive a score of 4. Countries that implement three of these four mechanisms receive a score of 3.

Countries that implement only two of these four mechanisms are rated 2. Countries that do not provide for any or just one of the four mechanisms are rated 1.

Rating grades for gender equality	
The country provides for four of the mechanisms for the promotion of gender equality.	4
The country provides for three of the mechanisms for the promotion of gender equality.	3
The country provides for two of the mechanisms for the promotion of gender equality.	2
The country does not provide for any or just one of the mechanisms for the promotion of gender equality.	1

### 3.12 Climate change

To address climate issues, UN Member States have adopted the Paris Agreement with the aim of making a joint effort to reduce greenhouse gas emissions and limit global warming to 2° C by 2100.

To achieve this goal, States Parties to the United Nations Framework Convention on Climate Change (UNFCCC) have committed to implementing nationally defined contributions (NDCs) to promote climate-friendly, low-carbon, resilient and solidarity-based development.

The effective enforcement of NDCs implies that they are territorialized, and that local and regional governments are empowered to develop and implement concrete and measurable programmes of action meeting the MRV

(Measurement, Reporting and Verification) criteria as specified in the Paris Agreement (2015).

Four mechanisms for involving cities and territories in African countries in the fight against climate change are listed:

- Laws and regulations provide for the inclusion of local and regional governments in the implementation of the national agenda in the fight against climate change, including through the development of a climate plan at the level of cities and territories.
- The national framework requires local and regional authorities to report on the implementation of the territorial climate plan.
- There are plans for the design of territorial risk prevention and/or emergency response in case of disaster.
- Explicit provisions ensure local and regional governments' access to climate finance.

The countries that provide for these four mechanisms for taking subnational governments into account in the fight against climate change are rated 4. Countries that implement three of these four measures are rated 3.

Countries that implement only two of these four mechanisms are rated 2. Countries that do not provide for any or just one of the four mechanisms are rated 1.

Rating grades for climate change	
The country provides four of the mechanisms in the fight against climate change.	4
The country provides three of the mechanisms in the fight against climate change.	3
The country provides two of the mechanisms in the fight against climate change.	2
The country does not provide any or just one of the mechanisms in the fight against climate change.	1

## 4. Presentation of the ratings

The rating results for each criterion are presented in an overall report classifying the countries into four colours:

1. **Green** (scores of 36 or higher): Countries with the most favourable environments for the action of cities and subnational governments in accordance with the standards adopted.
2. **Yellow** (scores of less than 36 and greater than or equal to 30): Countries whose environment is somewhat favourable to the action of cities and subnational governments, but where some improvements are needed.
3. **Orange** (scores of less than 30 and greater than or equal to 24): Countries whose progress towards an enabling environment for cities and subnational governments would require major reform efforts.
4. **Red** (scores of less than 24): Countries whose environment is generally unfavourable to the action of cities and subnational governments.

## Is the policy space available to cities and subnational governments improving in Africa?

# Review outline covering the period from 2012 to 2021

After the 2012, 2015 and 2018 editions, the CEE Rating 2021 report – prepared by United Cities and Local Governments of Africa (UCLG-Africa) with support from Cities Alliance (CA) – is the fourth triennial assessment of the institutional environment put in place by African States to support initiatives and actions of cities and subnational governments.

This fourth edition provides an opportunity to track the progress in the quality of the institutional environment offered to cities and subnational governments and to highlight the major changes that have occurred during the 2012–2021 period. Classically, the application of the 12 criteria used to evaluate the institutional environment created by the State for the benefit of subnational governments in the 53 African countries studied results in a classification of these countries into four groups described by colour-code: (1) Green (score higher than or equal to 36 out of 48), for countries with the most favourable environment for the action of cities and subnational governments according to the standards adopted; (2) Yellow (score less than 36 and greater than or equal to 30 out of 48), for countries whose

environment is rather favourable to the action of cities and subnational governments, but for which certain elements must be improved; (3) Orange (score less than 30 and greater than or equal to 24 out of 48) for countries whose progress towards an enabling environment for cities and subnational governments requires major reform efforts; (4) Red (score less than 24 out of 48) for countries whose environment is generally unfavourable to the action of cities and subnational governments.

The table below ranks countries in different colours (green, yellow, orange, red) according to the quality of the institutional environment created for cities and subnational governments. In 2021, four countries have an enabling institutional environment for cities and subnational governments; eight countries have a rather favourable environment; 22 countries need to initiate major reforms to make the environment for cities and subnational governments more favourable; and 19 countries have an unfavourable environment for cities and subnational governments.

Table 1

Ranking of countries according to the quality of the environment offered to cities and subnational governments in 2021

Countries	Scores	Countries	Scores	Countries	Scores
South Africa	40	Cameroon	29	Seychelles	23
Uganda	38	Benin	29	Angola	23
Morocco	38	Sierra Leone	29	Lesotho	23
Tanzania	36	Burkina	28	Gambia	23
Four (4) countries		Madagascar	27	Comoros	22
		Tunisia	27	Algeria	22
Kenya	35	Malawi	27	Guinea Conakry	22
Zimbabwe	33	Namibia	27	São Tomé and Príncipe	21
Rwanda	32	Eswatini	27	Eritrea	20
Senegal	32	Mali	27	Congo	20
Mauritius	31	Niger	27	Democratic Republic of the Congo	20
Ghana	31	Cabo Verde	27	Liberia	20
Burundi	30	Nigeria	26	South Sudan	19
Zambia	30	Togo	26	Equatorial Guinea	19
Eight (8) countries		Djibouti	25	Egypt	18
		Gabon	25	Central Africa	15
		Mauritania	25	Sudan	15
		Botswana	25	G. Bissau	15
		Côte d'Ivoire	25	Somalia	14
		Ethiopia	24	Nineteen (19) countries	
		Chad	24		
		Mozambique	24		
Twenty-two (22) countries					

Thus, only 12 African countries out of 53 offer a favourable or rather favourable institutional environment for cities and subnational governments, i.e., slightly less than one in four countries (22.6 per cent). In contrast, two out of three countries have an unfavourable or rather unfavourable institutional environment for cities and subnational governments (77.4 per cent). This means that despite the political will for decentralization expressed at the level of the Heads of State and Government of the African Union, through the adoption in June 2014 of the African Charter of

Values and Principles of Decentralization, Local Governance and Local Development, the reality in the implementation of this political will for decentralization is slow to materialize in various countries. However, the situation is not the same in all regions of the continent.

East Africa is the region with the largest number of countries with an enabling or somewhat enabling institutional environment for cities and territories (six countries out of a total of 12). This is followed by Southern Africa (three countries out

of 12), West Africa (two countries out of 12) and North Africa (one country out of 12). We note that no country in Central Africa offers an enabling environment for cities and subnational governments.

A total of 41 of the 53 African countries surveyed have an unfavourable or somewhat unfavourable institutional environment for cities and subnational governments, including: five out of seven North African countries (Libya was not included in the review due to lack of data); 13 out of 15 West African countries; all eight Central African countries; eight out of 14 East African countries; and seven out of 10 Southern African countries.

This clearly shows that a major effort still needs to be made to improve decentralized governance in most African countries, and that it is necessary to prioritize decentralization reforms in order to create the conditions for the development or restoration of relations of trust between populations and public authorities. Improving the enabling institutional environment for the action of subnational governments should therefore be one of the major areas of cooperation with African countries in the field of governance.

To review the developments in institutional environment created by States in favour of cities and subnational governments over the period from 2012 to 2021, we have chosen, for the sake of consistency, not to take into account the two new criteria introduced since the 2018 report, i.e., the institutional arrangements put in place to engage women in the governance of cities and subnational governments, and the consideration of climate-related and environmental requirements in territorial policies. For this 2012–2021

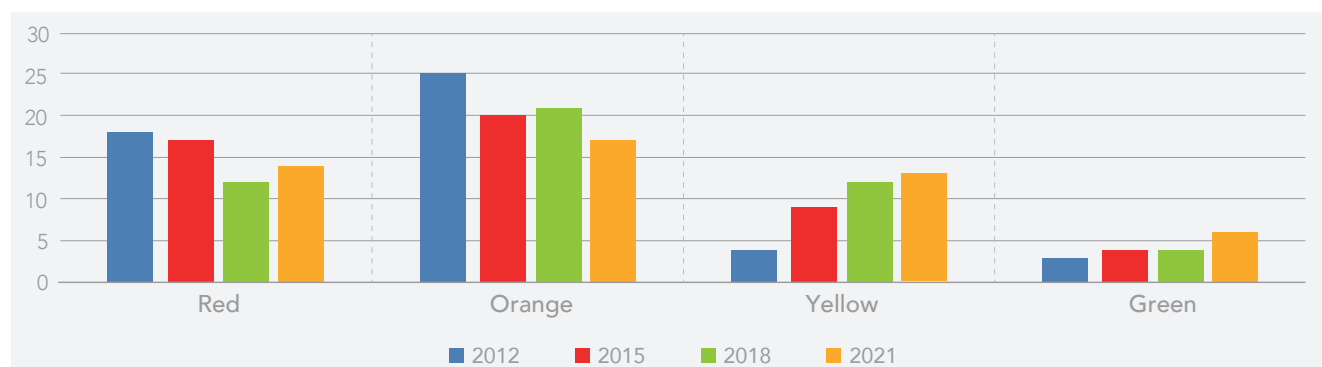
comparison, the 10 criteria used since 2012 are therefore maintained.

The figure below shows the dynamics between the four groups of countries: **green** (score greater than or equal to 30): countries with the most favourable environment for the action of cities and subnational governments according to the standards adopted; **yellow** (score between 25 and 30): countries whose environment is rather enabling the action of cities and subnational governments, but where certain elements need to be improved; **orange** (score between 20 and 25): countries whose progress towards an enabling environment for cities and subnational governments requires major reform efforts; **red** (score below 20): countries whose environment is generally unfavourable to the action of cities and subnational governments.

There is a twofold movement, with a slight decrease in the number of countries whose institutional environment is unfavourable or rather unfavourable to cities and subnational governments, on the one hand, and a slight increase in the number of countries with a favourable or rather favourable environment for cities and subnational governments, on the other hand.

Three groups of countries can be identified: (1) countries with a significant improvement in their quality index of the institutional environment conducive to the initiatives and action of cities and subnational governments; (2) countries where the quality of the environment has not changed; and (3) countries where the institutional environment available to cities and subnational governments has deteriorated compared to the 2012 evaluation.

Figure 1  
Country groups dynamics in 2012, 2015, 2018 and 2021



Forty-two countries have seen an improvement in the policy space available to subnational governments. Among them, 17 countries improved more than the average for African countries (21 per cent). Comoros experienced the greatest increase (+75 per cent) thanks to the holding of subnational elections, the improvement of the legislative and regulatory arsenal for decentralization, the strengthening of citizen participation, and improvements in the subnational governments' own resources. Liberia's 64 per cent increase is due to the progress made in the body of legislation and regulations, in the transparency, citizen participation and performance of subnational governments. Madagascar (59 per cent), Seychelles (53 per cent) and Togo (50 per cent) come second. Madagascar has drastically improved its institutional mechanism on subnational capacities while organizing subnational elections throughout the national territory, strengthening the human resources of subnational governments and providing an appropriate framework for its urban policy. Seychelles has improved its legislative and regulatory framework for decentralization,

defined the framework for public participation in subnational governance, and developed a genuine urban strategy. Togo held its first communal elections in 30 years, and has improved its mechanisms for transparency in communal management and citizen participation in subnational management.

Zambia (40 per cent) owes its remarkable progress to the clarification provided by laws and regulations on the transfer of powers and resources from the central government to subnational governments, the framework created for subnational taxation, and to capacity building of human resources of subnational governments. Malawi comes just behind (39 per cent) thanks to the organization of local elections which saw elected executive bodies and councils replace previously appointed ones, the enactment of laws and regulations in favour of public participation in subnational management, improving the framework for subnational governments to mobilize their own resources, and measuring the performance of those subnational governments.

Four countries: Botswana (-4 per cent), Nigeria (-4 per cent), Eritrea (-5 per cent) and Guinea-Bissau (-7 per cent) – are experiencing negative trends. In Nigeria, there is a financial transfer system; in Eritrea, local democracy is declining; and in Guinea-Bissau and Botswana, there are respectively a decline in the legislative and regulatory framework of the decentralization, and a decline in framework put in place for the human resources.

Four other countries: Algeria, Egypt, Lesotho and The Gambia – have ratings stagnating over the period from 2012 to 2021. The Gambia is in a unique situation in that none of the criteria increased or decreased; while the other three countries saw their scores on some criteria increase while others decreased in the same proportions so much so that the overall score remained the same over the period.

Figure 2 below shows the trajectories followed in the different regions. East Africa (48.79 per cent) is the region that recorded

the most significant progress in the enabling environment index for cities and subnational governments. This region is home to 8 of the 17 countries that have experienced an improvement in the quality of their institutional environment above the average for African countries.

The second region with the most progress in the index is West Africa (24.11 per cent), where the index is above the African average. The progress in the index for this region is mainly explained by changes in three countries, Liberia, Togo and Guinea-Conakry with indices of 64 per cent, 50 per cent and 25 per cent, respectively. Southern Africa has seen its index improve at the same rate as the African average, while the other two regions of Africa (North Africa and Central Africa) have seen their index improve more slowly than the continental average. Central Africa is characterized by the lowest growth, less than 5.95 per cent, strongly questioning the political will of the region's leaders.

Figure 2  
Improvement of the institutional environment by each region of Africa

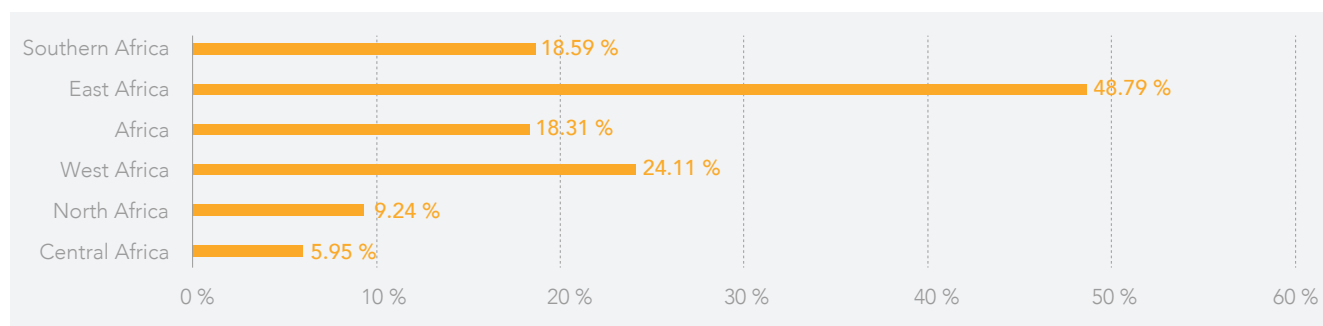
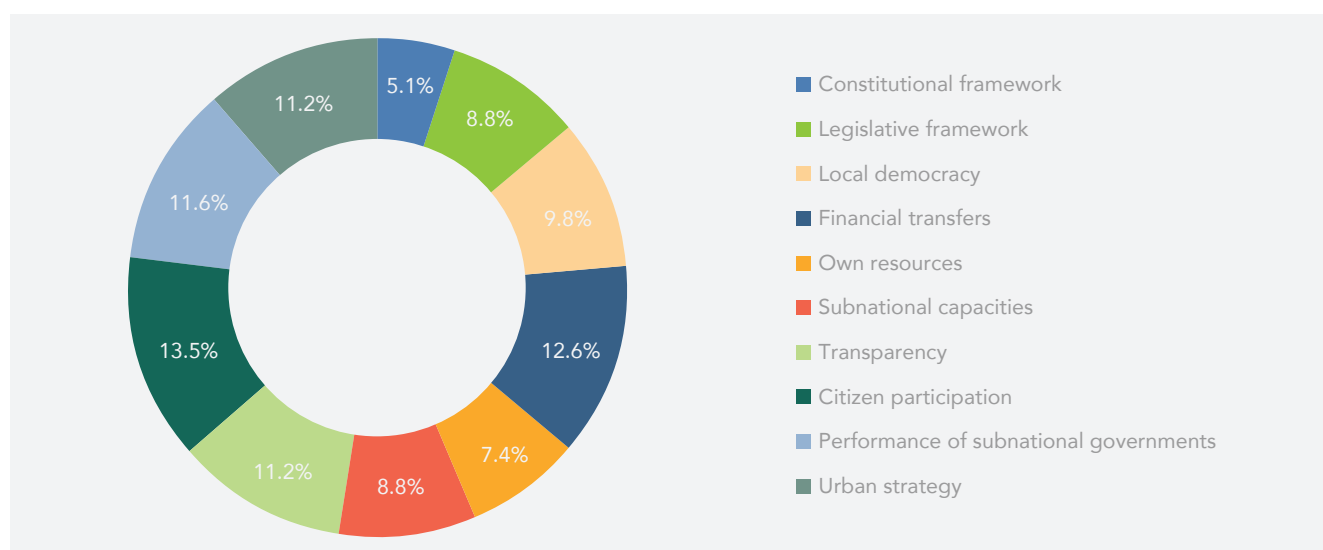


Figure 3 shows the relative contribution of each indicator to the average improvement recorded across Africa. The five indicators that contributed most to the improvement of the index are, in order: citizen participation in subnational governance (13.5 per

cent), central government financial transfers to subnational governments (12.6 per cent), subnational governments performance, transparency in subnational management (11.2 per cent) and urban strategy (11.2 per cent).

Figure 3  
Contribution of indicators to the overall improvement of the institutional environment in Africa



Figures 4 to 8 show the contribution of the different indicators to improving the institutional environment on the scale of the different regions.

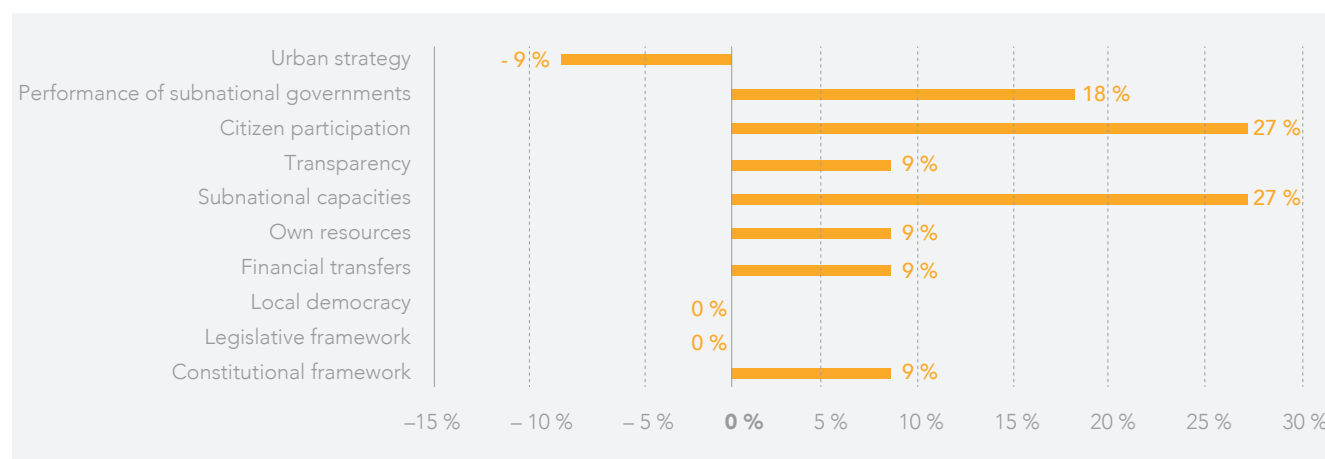
Figure 4 shows a differentiated contribution of the indicators in North Africa. While, in terms of local democracy and the legislative and regulatory framework, nothing has changed, this



is not the case for the other indicators. Thus, we note a strong contribution of capacity building and citizen participation to the progress of the index (27 per cent), which is almost three times the average increase in the region. On the other hand, transparency, financial transfers, own resources, and the

constitutional framework have brought a modest improvement in the index of the region, that is to say 9 per cent. On the other hand, only one indicator has evolved negatively; this is the case for urban strategies, many of which have expired and must therefore be renewed.

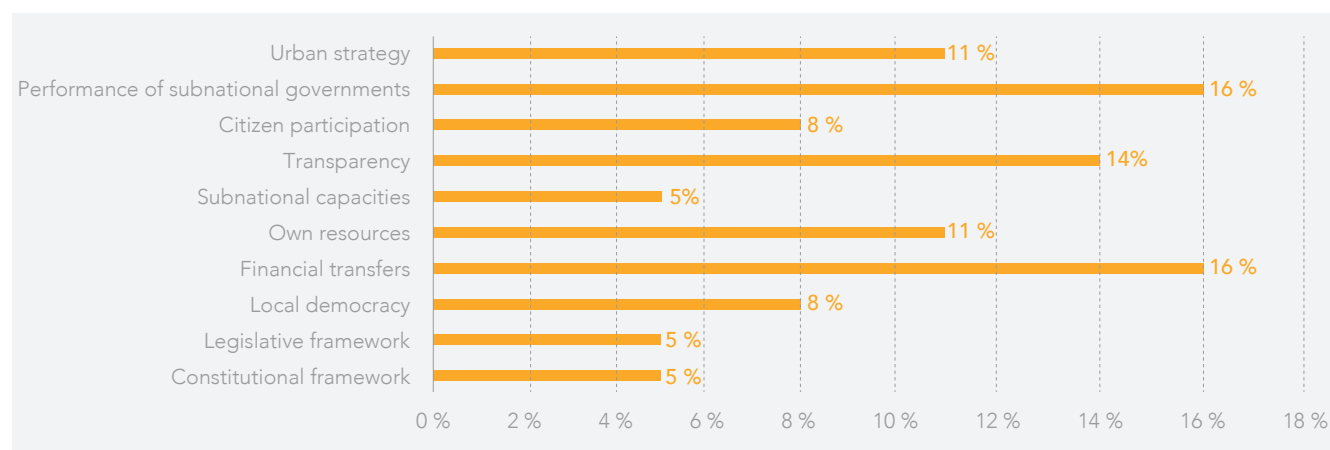
Figure 4  
Contribution of indicators to the overall improvement of the institutional environment in North Africa



In Southern Africa, there is a steady contribution of all indicators to the progress of the overall index for the region (see Figure 5). Subnational government performance, financial transfers, and transparency in subnational governance appear to be the indicators that contribute most to the overall improvement in the region. Subnational capacities, the legislative framework

and the constitutional framework seem to be among the indicators that have contributed moderately (5 per cent); citizen participation and subnational democracy contribute 8 per cent each, while urban strategy and subnational governments' own resources contribute 11 per cent each.

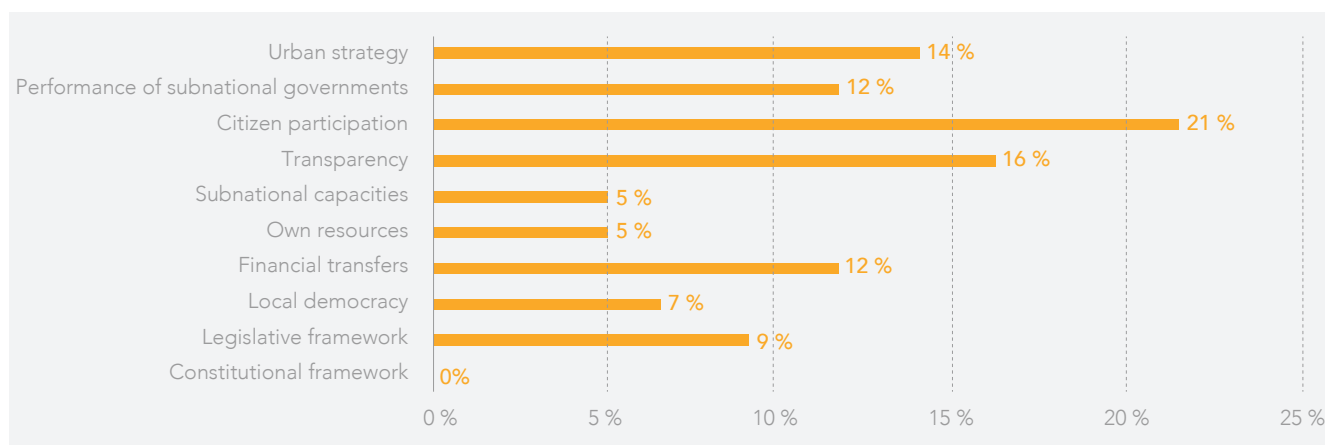
Figure 5  
Contribution of indicators to the overall improvement of the institutional environment in Southern Africa



West Africa is in the same configuration as Southern Africa; it is characterized by a positive contribution of all the indicators considered to the average progress of the region, with the exception of the constitutional framework, which has not moved over the period from 2012 to 2021. First of all, the greatest variation (21 per cent) is noted for citizen participation, with improvements noted mainly in Burkina Faso and Togo. The second level of contribution varies between 12 per cent and 16 per cent; these are the

indicators of transparency in subnational governance (16 per cent), urban strategy (14 per cent), and subnational government performance measurement, and transparency (12 per cent each). Finally, contributions of 5 per cent are noted for capacity building of subnational governments and their own resources. Subnational democracy and the legislative and regulatory framework contributed 7 per cent and 9 per cent, respectively, to the average improvement in the region.

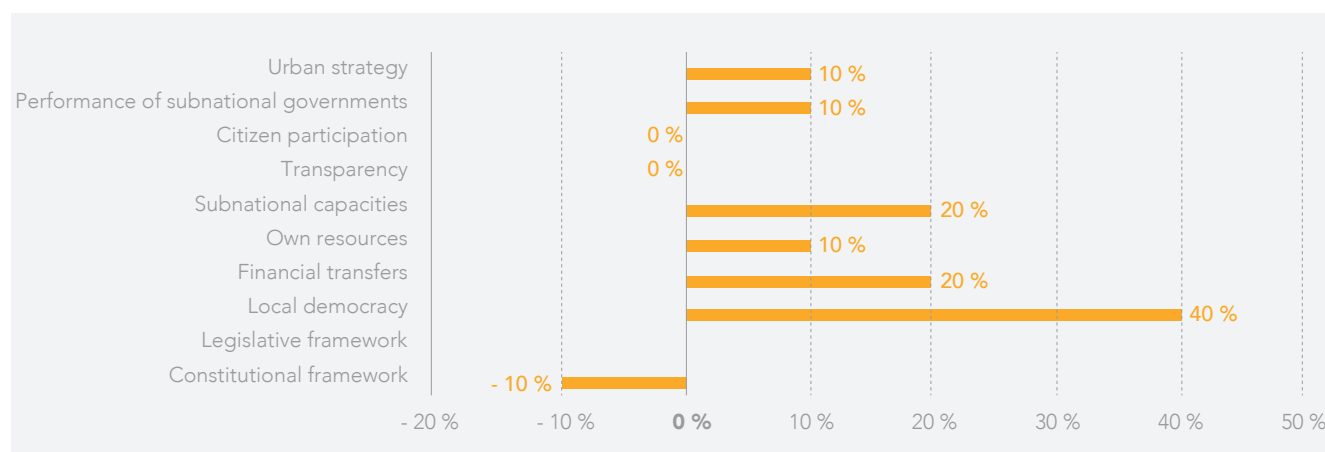
Figure 6  
Contribution of indicators to the overall improvement of the institutional environment in West Africa



Like North Africa, Central Africa has an indicator with a negative contribution (see Figure 7). This is the constitutional framework where a decline has been observed in Chad. Three other indicators (citizens' participation, transparency and legislative framework) have not changed. Subnational democracy makes the largest contribution over the period from 2012 to 2021, thanks mainly to the organization of governors' elections in the Democratic Republic of Congo (DRC) and the election of mayors of major cities in Cameroon in place of government delegates appointed by the President of the Republic. The frameworks put in place to improve subnational capacities and own resources

each contribute 20 per cent to the improvement observed in Central Africa over the period. Progress in subnational capacities is observed in Chad and Angola where a reference framework for professions and a national strategy for strengthening decentralization actors have been adopted. Progress in the area of financial transfers has been recorded in Chad and Congo, where advances have been noted in the legislation on systems of financial transfers between states and subnational governments. The other indicators (urban strategy, performance of subnational governments and subnational governments' own resources) have a contribution to the average progress of the region of 10 per cent.

Figure 7  
Contribution of indicators to the overall improvement of the institutional environment in Central Africa



East Africa (see Figure 8) is not only the region that experienced the greatest improvement in the overall index over the period, but also one of the two regions of the continent (along with West Africa and Southern Africa) that did not experience a decline in the indicators characterizing the institutional environment of cities and subnational governments. The urban strategy highly contributed to the progress of the index of the region (32 per cent). This contribution is due to the Seychelles, where an urban strategy with human, technical and financial resources has been adopted, and to Tanzania, where an urban strategy, although not yet fully provided with the necessary means, has been adopted, and to a

lesser extent Madagascar, Kenya, Comoros and Djibouti, where the urban strategy is being developed. Subnational government performance and financial transfers contribute 14 per cent each, while citizen participation and subnational capacity contribute 11 per cent each. Subnational democracy and subnational governments' own resources contributed 5 per cent to the improvement in the index over the period. This refers in fact to holding local elections in Comoros and Madagascar, in place of the local councils and executive bodies appointed in these two countries. As for the contribution of subnational governments' own resources, the progress involves the national institutional framework noted in Burundi, Comoros and Uganda.

Figure 8  
Contribution of indicators to the overall improvement of the institutional environment in East Africa

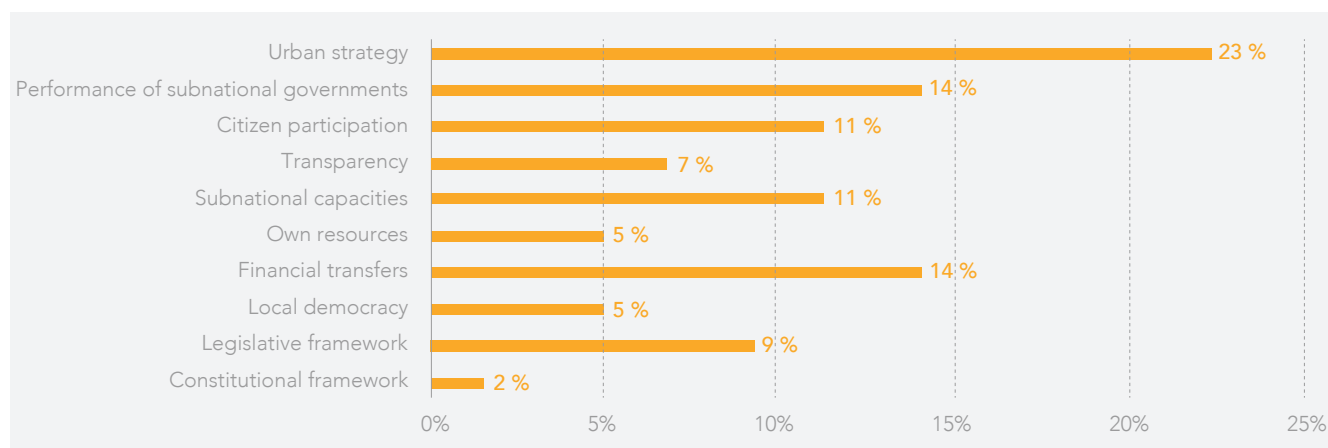


Figure 9 below classifies the different countries in each of the four categories according to the synthetic score obtained by each of them in applying the 10 initial criteria retained in 2012 to the 50 African countries then considered. It should be remembered that the countries were classified into 4 colours according to the overall score obtained out of a total of 40 possible points: (a) green (score above 30), for countries with the most favourable environment for cities and subnational governments action against the selected standards; (b) yellow (score between 25 and 30), for countries whose environment is rather favourable for cities and subnational governments action, but where some elements need to be improved; (c) orange (score between 20 and 25), for countries whose progress towards an enabling environment for cities and subnational governments requires major reforms; and (d) red (score below 20), for countries whose environment is generally unfavourable to the action of cities and subnational governments.

In general, the trend reflects slow improvement in all categories of countries when we compare the rankings at the different dates considered: 2012, 2015, 2018, 2021. The fact remains, however, that in the majority of African countries, the institutional environment created by States is unfavourable or rather unfavourable to the initiatives and actions of cities and subnational governments. The figures speak for themselves: 86 per cent of countries in 2012; 74 per cent in 2015; 68 per cent in 2018; and 62 per cent in 2021. While the trend reflects slow improvement in the situation, for the majority of countries there is still a long way to go towards an institutional environment favourable to subnational governments. Progress in the number of countries with an institutional environment that is enabling or somewhat enabling to subnational governments is rather incremental from one period to the next: 6 per cent of African countries in 2012, 8 per cent in 2015 and 2018 and 12 per cent in 2021. Three countries have consistently ranked high: South Africa, Morocco and Uganda. Three other countries have joined them: Kenya, Tanzania and Zimbabwe. What is noteworthy, however, is the significant progression in the group of countries that offer an enabling environment for cities and subnational governments. They were three countries in 2012, South Africa, Morocco and Uganda, to which Kenya was added in 2015. On the other hand, in 2018, Tanzania replaced Kenya in the top four, while in 2021, we have South Africa, Morocco, Uganda, Tanzania, Kenya and the newcomer – Zimbabwe.

Nineteen countries are showing a rather favourable environment for cities and subnational governments action in 2021, while there were only 12 in 2018, nine in 2015, and four in 2012 – Rwanda, Kenya, Ghana and Tanzania. Zambia,

Zimbabwe, Benin, Swaziland (Eswatini), Senegal and Namibia joined between 2012 and 2015. Then, between 2015 and 2018, Niger, Burundi, Burkina, Sierra-Leone and Kenya joined. In 2021, Cameroon, Madagascar and Malawi were added.

Kenya downgraded from enabling in 2015 (green) to somewhat enabling in 2018 (yellow) and placed back to the enabling countries group. Two other countries have been downgraded: Namibia, which moved from the group of somewhat enabling countries in 2015 (yellow) to the group of rather unfavourable countries in 2018 and 2021 (orange), as well as Tunisia, which moved from the group of countries offering an institutional environment in need of significant reforms (orange) in 2012 to the group of countries offering an unfavourable environment for the initiatives and actions of cities and subnational governments (red) in 2015, before returning to the countries classified as orange in 2018 and 2021.

Twenty-five countries in 2012, 20 countries in 2015, 21 countries in 2018, 17 countries in 2021 form the middle tier that requires serious efforts to improve institutional environment set up by the central governments for cities and subnational governments initiatives and actions (in orange). Between 2012 and 2021, 11 countries have made that effort to get into the next category, moving from the orange to the yellow category. These are: Benin, Burkina, Burundi, Cameroon, Eswatini, Madagascar, Malawi, Niger, Senegal, Sierra Leone and Zambia.

Thirteen countries are stagnating in the same category of countries that need major reforms (orange). These are Angola, Botswana, Côte d'Ivoire, Ethiopia, Gabon, Gambia, Lesotho, Mali, Mauritania, Namibia, Nigeria, Chad and Tunisia.

Eighteen countries in 2012, 17 countries in 2015, 13 countries in 2018 and 14 countries in 2021 make up the bottom group of African countries whose institutional environment set up by the central governments is unfavourable to the initiatives and actions of cities and subnational governments. From 2012 to 2015, two countries left this category (red) to join the immediately higher category (orange): Malawi and Madagascar. Only one country, Tunisia, joined this group at the back of the pack. Compared to 2012, Madagascar, Malawi, Seychelles, Djibouti and Guinea-Conakry moved from the red to the orange category. From 2012 to 2021, four countries moved from the group of countries where the environment is unfavourable (red) to one where improving the environment requires major reforms (orange). These are: Togo, Mozambique, Djibouti and Seychelles.

The above analyses shows that the progress observed can

be reversed, which argues for maintaining and strengthening advocacy for decentralization and reform efforts for the entrenchment and deepening of public policies of decentralization and empowering cities and subnational governments.

Analysis of developments in the indices for African countries over the period from 2012 to 2021 shows the significant contribution of financial transfers from central government to subnational governments, the performance of subnational governments, urban strategies and public participation in

subnational governance, which have played a major role in improving the institutional environment available to cities and subnational governments. While the political will of national decision makers in favour of decentralization has probably played an important role in the improvement of financial transfer systems to subnational governments, it should be mentioned that progress has also come from the adoption of urban policies and strategies in many African countries, which is an encouraging sign with regard to the implementation of the United Nations New Urban Agenda by African countries. ■

Figure 9  
2012, 2015, 2018 and 2021 ranking of countries according to the quality of their national institutional environment

2012	2015	2018	2020
South Africa 33	South Africa 36	South Africa 37	South Africa 37
Uganda 31	Uganda 34	Uganda 35	Uganda 36
Morocco 30	Morocco 31	Morocco 32	Morocco 35
	Kenya 30	Tanzania 31	Tanzania 32
Kenya 28		Morocco 30	Kenya 31
Rwanda 28	Zambia 29	Kenya 29	Zimbabwe 31
Ghana 20	Rwanda 28	Zimbabwe 29	
Tanzania 25	Tanzania 28	Ghana 29	Ghana 29
	Zimbabwe 28	Rwanda 28	Rwanda 28
Botswana 24	Benin 27	Zambia 28	Zambia 28
Nigeria 24	Ghana 26	Benin 28	Burundi 27
Senegal 24	Namibia 25	Senegal 27	Cameroon 27
Cameroon 23	Senegal 25	Sierra Leone 27	Senegal 27
Gabon 23	Eswatini 25	Burkina 26	Sierra Leone 27
Namibia 23		Burundi 25	Burkina 26
Zimbabwe 23	Botswana 24	Eswatini 25	Madagascar 25
Niger 23	Burundi 24	Niger 25	Malawi 25
Sierra Leone 23	Malawi 24		Eswatini 25
Benin 22	Niger 24	Madagascar 24	Benin 25
Burkina 22	Nigeria 24	Cameroon 24	Niger 25
Burundi 21	Burkina 23	Malawi 24	
Eritrea 21	Cameroon 23	Namibia 23	Namibia 24
Chad 21	Gabon 23	Côte d'Ivoire 23	Mali 24
Mauritania 21	Mali 23	Gabon 23	Togo 24
Lesotho 21	Mauritania 23	Mauritania 23	Gabon 23
Eswatini 21	Sierra Leone 23	Botswana 23	Mauritania 23
Gambia 21	Chad 23	Mali 23	Tunisia 23
Ethiopia 20	Eritrea 21	Nigeria 21	Botswana 23
Angola 20	Gambia 21	Tunisia 21	Côte d'Ivoire 23
Algeria 20	Lesotho 21	Chad 21	Nigeria 22
Tunisia 20	Algeria 20	Eritrea 21	Ethiopia 22
Zambia 20	Angola 20	Seychelles 20	Chad 22
Côte d'Ivoire 20	Côte d'Ivoire 20	Lesotho 20	Mozambique 22
Mali 20	Ethiopia 20	Gambia 20	Djibouti 21
	Madagascar 20	Djibouti 20	Seychelles 21
Sao Tome and P. 19		Ethiopia 20	Angola 21
Djibouti 18	Sao Tome and P. 18	Angola 19	Lesotho 21
Malawi 18	Tunisia 18	Algeria 19	Gambia 21
Madagascar 17	Djibouti 17	Guinea 18	
Congo 17	Congo 17		Algeria 20
G. Equatorial 17	Egypt 17	Sao Tome and P. 17	G. Conakry 20
Egypt 16	Guinea 16	Togo 17	Comoros 19
Mozambique 16	G. Equatorial 16	Comoros 17	Sao Tome and P. 19
Guinea 16	Mozambique 16	Congo 17	Eritrea 18
Togo 16	Togo 16	DR Congo 16	Congo 18
Seychelles 15	Comoros 15	G. Equatorial 15	RDC 18
DR Congo 15	DR Congo 15	Egypt 15	Liberia 18
G. Bissau 14	Seychelles 14	Mozambique 15	G. Equatorial 17
Central Africa 13	Guinea-Bissau 13	Liberia 14	Egypt 16
Comoros 12	Central Africa 12	Guinea-Bissau 13	Central Africa 13
Somalia 12	Somalia 12	Central Africa 12	Sudan 13
Sudan 12	Sudan 12	Sudan 12	G. Bissau 13
Liberia 11	Liberia 11	Somalia 11	Somalia 12





# Country Profiles

Indicators established by UCLG Africa with the support of CA

## Indicators

1. Constitutional framework
2. Legislative framework
3. Local democracy
4. Financial transfers from the State to subnational governments
5. Own resources
6. Capacity building of subnational governments
7. Transparency
8. Citizens' participation
9. Subnational governments performance
10. Urban strategy
11. Gender equality
12. Climate change

The highest score for each indicator is 4 and the lowest is 1.

### Partners:

- United Cities and Local Governments of Africa (UCLG Africa)
- Cities Alliance (CA)

### Enabling environment rating for cities and subnational governments

1	Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the constitution, but some relevant statutory laws and decrees are missing.	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	At the national level, there is either a reference system for trades, or a national strategy for training and promoting the human resources of subnational governments, but they are applied to only a few subnational governments.....	2
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	Neither a national legislation on citizen participation, nor local frameworks for dialogue and consultation.....	1
9	No evaluation of subnational governments performance.....	1
10	Reflection on urbanization at national level, but urban strategy not yet defined.....	2
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The history of decentralization is old in Algeria. The decree 63-189 of 16 May 1963 is the first official instrument of the Algerian State which reorganizes the communes resulting from French colonization. This text maintains the division of Algeria into 15 departments and gives the list of municipalities by departments and by boroughs (arrondissements). Ordinance 67-24 of 18 January 1967 created the communal code, which organized the Algerian commune, specified its powers and defined its financing. The communal code was redefined by law 90-08 of 7 April 1990; the law stipulates that the commune is the basic territorial collectivity, with legal personality and financial autonomy. It has a name, a territory and a head town. Finally, Law No 11-10 of 22 June 2011 redefines the municipal code.

The Algerian Constitution does not provide for specific chapters dedicated to territorial assemblies, but Article 15 specifies, however, that “the subnational governments of the State are the municipality and the wilaya; the commune is the basic collectivity”. The constitution also states that “the elected Assembly constitutes the basis for decentralization and the place for citizen participation in the management of public affairs”. After the territorial reorganization of 1984, Algeria has 48 wilayas (departments), 160 dairas (districts or constituencies) and 1,541 municipalities all governed by the same communal statute. The wilaya is the main level of territorial administration, both a decentralized administrative district and a territorial collectivity with a popular assembly.

In Algeria, the absence of certain regulatory texts constrains the assumption of transferred powers by local governments.

The whole of the Algerian territory is communalized and the Algerian communes are run by elected councils and executive bodies. The last municipal and wilaya elections were held Saturday, 27 November 2021.

Financial transfers from state to local governments are unpredictable and irregular. Besides, they are also insufficient because there is a clear mismatch between the responsibilities of local governments and the resources allocated to them. The Fonds commun des collectivités territoriales (FCCL) manages two lines: the Solidarity Fund and the Guarantee Fund. The Solidarity Fund targets two

types of operations, equalization and equipment subsidy: a) equalization funds aim to reduce inequalities and disparities in resources between communes and between wilayas. They supply the operations section of local government budgets. The equalization funds take into account the number of inhabitants and the financial situation of local governments. Equalization funds represent 5 per cent of the solidarity fund budget. Exceptional balancing subsidies may also be allocated to collectivities that are in a difficult financial situation that does not allow them to cover mandatory expenses (salaries, electricity, water, telephone, etc.) or that have to deal with disasters, natural calamities, etc.; and b) equipment subsidies are allocated to the equipment section of local budgets. Such subsidies represent 40 per cent of the Solidarity Fund. They cover investments in various areas such as drinking water, sanitation, electrification and others. The purpose of the Guarantee Fund is to compensate for tax losses incurred in relation to forecasts. However, those transfers from the FCCL are not new resources, but come from the mandatory contribution set annually at 2 per cent of the tax forecasts of the communes and wilayas. As for the portion of the value-added tax (VAT) paid to subnational governments, which began to be applied in 1992, its rate was recently reduced from 17 per cent to 15 per cent, which represents a considerable shortfall for local governments.

Local taxation is made up of the following main taxes: the tax on professional activity (TAP); the lump-sum payment (VF) on salaries, wages, allowances and emoluments; the property tax, which is the communal tax par excellence and generates the most resources; and the tax on sanitation and household waste disposal. Those taxes are determined at the national level.

Although the communal code defines the profile of key local government personnel, communes do not have qualified managers. In addition, there is no capacity-building strategy for local governments at the national level.

The Algerian legislation provides for annual audits of the accounts of local governments. This provision is only occasionally implemented.

There is no legislation on the participation of the populations in the management of local affairs. However, some communities are setting up consultation frameworks with civil society.

With an urbanization rate of 73.7 per cent in 2020 (and probably 84.5 per cent in 2050), Algeria must manage an increasingly dense urban framework: from independence to the early 2000s, the number of urban areas with between 5,000 and 20,000 inhabitants rose from 95 to 580. New thoughts are underway to develop a new urban strategy.

The organic law of 2012 imposes a quota of 30 per cent of women, but their positioning in the lists differs from one political formation to another, from one contest place to another, as it remains linked to other considerations.

Local governments are not involved in national climate change control programmes and projects.

## Proposed reforms

With an overall score of 22 out of 48, Algeria is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. Progress toward an enabling environment requires significant reform efforts.

- **The first reform** should be to clarify the transfer of powers to local governments. Indeed, legal texts bestow important powers upon subnational governments. The municipality has a general competence clause. According to the communal code, it can create “communal public services in order to meet the collective needs of its citizens”. It can also “directly operate public services in the form of a public service company”. The area of competence of the communes is so broad that it covers virtually all sectors of activity in addition to the traditional activities conducted on behalf of the central government, such as civil registry management, national service, elections and others. There is a clear mismatch between the many competences recognized to subnational governments and the human and financial resources allocated to them. As a result, it is the deconcentrated services of the central government in conjunction with their national directorates that continue to implement sectoral policies, including in areas that are recognized as the competence of subnational governments. It is therefore necessary and urgent to redefine the competences of the subnational governments to avoid an excessive mismatch with the means allocated them. The reform should either confirm the general competence clause, in which case the means allocated to subnational governments should be resized to allow them to exercise their missions, or, it should revisit the general competence clause, and at that point undoubtedly, resort to a transfer by blocks of competences more favourable to a better definition of the assumption of competences by stages.

- **The second reform** should involve the financing of subnational governments, both in terms of local taxation and in terms of financial transfers from central government to subnational governments. It is necessary to review the transfer mechanisms and make them more transparent and visible to the subnational governments. In this exercise, greatest attention should be paid to the principle of subsidiarity and to the financial relations between subnational governments of different levels (communes and wilayas).

- **The third reform** should be the establishment of mechanisms to improve local management. Enormous budget management problems of subnational governments have led in the past to a structural deficit that central government is trying to control. In 2007,

around 980 municipalities were in deficit; in 2008 this figure rose to nearly 1,200. Through the additional finance act of 2008, central government cancelled the debts recorded by communes to the tune of 22.3 billion Algerian dinars, and measures were taken to curb this trend in deficit of local authorities. In 2010, the number of municipalities with a deficit was limited to 400. There is clearly a lack of tools for evaluating the performance of the financial management of subnational governments, and of audit tools. These reviews should be systematically carried out and published, as much as possible on an annual basis. It is also essential to put in place methods and tools to improve the quality of local public spending. This involves promoting transparency and integrity in the awarding of contracts, and setting up competent teams to monitor contract performance.

- **The fourth reform** concerns the strengthening of the institutional capacities of subnational governments. In 1980–1981, the Ministry of the Interior launched an operation to recruit university professionals; a few years later, almost all the professionals recruited abandoned their positions. In 2008, 250 experts and university professors were mobilized to provide continuous training and retraining for local officials; a similar programme was organized for mayors. These two initiatives had no impact. The reform should focus on developing a national capacity-building strategy by involving the two human resource training support institutions under the Ministry of the Interior and Local Government, the École Nationale d’Administration (ENA) and the Université de Formation Continue (UFC). The reform should also deal with the status of the local civil servant and the modalities for retaining trained officials in subnational governments, in particular through better career prospects and better working conditions.

- **The latest reform** relates to combating climate change. The goal by 2030 is to reduce greenhouse gas emissions by 7 per cent to 22 per cent, to reduce national fossil energy consumption by 10 per cent, to have 25 per cent to 30 per cent of renewable energy in electricity generation (i.e., 22,000 MW), to reduce the volume of flared gases to less than 1 per cent, to convert 1 million vehicles to LPG/c and 20,000 buses to CNG, to organize the reforestation of 1.5 million hectares. This goal cannot be achieved without the full involvement of cities and subnational governments. This is why it is important to spatialize the NDC and to manage subnational governments’ access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	Constitution explicitly mentioning the subnational governments as a sphere of governance and specifying the roles and responsibilities which are recognized to them.....	4
2	All powers and responsibilities are clearly defined in relation to the constitution, but some relevant statutory laws and decrees are missing.	3
3	Local and executive assemblies are appointed by an external authority.....	1
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Subnational governments have latitude for defining the base and rate of existing taxes, but central government is responsible for setting new taxes and accessing loans and the financial market.....	3
6	At the national level, there is either a reference system for trades, or a national strategy for training and promoting the human resources of subnational governments, but they are applied to only a few subnational governments.....	2
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	Existence of national legislation on citizen participation, which is however not implemented.....	3
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The 1975 Constitution of the Republic of Angola enshrines the concept of subnational autonomy (*autarquias*) as well as the administrative and financial autonomy of local governments run by elected bodies. Despite those articles of the constitution, Angola's one-party government has remained centralized. From 1975 to 2002, Angola was the scene of a protracted armed conflict which seriously hampered its development process. The 1992 Constitution abolished the one-party rule and reinforced the country's gradual deconcentration, granting more powers to provincial governors for the first time. Following this period, the country again descended into civil war.

In 1999, Angola revived its decentralization process through Law No. 17/99 of 29 October 1999, which established government structures at the provincial, municipal and communal levels. It was only in 2007 and 2008 that Angola really developed a consistent policy by defining the decentralization strategy and the legal framework to strengthen the responsibilities of local governments. Angola's long-term vision document ("Angola Visão 2025") and its strategic plan for 2009–2013 both confirmed the importance of decentralization. Law No. 02/07 on local government sets out the responsibilities of subnational governments and formalizes citizen participation in decision-making through the appointment of provincial and municipal councils.

Administratively, Angola has 18 provinces, 163 municipalities and 532 communes divided into districts or villages. Communes are subdivisions of municipalities.

The 2010 Constitution specifically mentions local governments as spheres of governance and specifies their functions and responsibilities. Articles 213 to 222 define the responsibilities of local governments and govern their operating framework.

The laws and regulations that will implement devolution have not yet been passed; local governments have only a small impact on the delivery of local public services.

The assemblies and executive bodies across the country are appointed by the government. The first local elections scheduled for 2020, will probably not be held in 2021 according to the latest news.

In Angola, the various transfers to local governments are difficult to predict, leading to considerable difficulties in budget planning at the provincial and municipal levels.

Since 2006, the fiscal powers of subnational governments have been strengthened: they are empowered to set the tax base and the level of local taxes. However, local governments are not responsible for collecting the revenues from all local taxes.

Angola has a national strategy to strengthen the capacity of local governments, but no national reference framework defining the qualifications and responsibilities of local government staff. However, for the past 10 years, the country has had a Local Administration Training Institute (IFAL) which provides training to staff of subnational governments.

Under Law No. 02/07, local government budget execution and internal and public accounting must comply with the financial management system of the national government. Audits are not conducted out frequently or systematically.

National laws aim to ensure the promotion of citizen participation through the Municipal Council of Consultation and Social Dialogue (Conselho Municipal de Auscultação e Concertação Social or CMACS). This space for dialogue is not in place in local governments.

Angola has no law on the evaluation of local government performance in the delivery of local services, nor does it have an urban strategy.

Angola does not have any legislative provisions on gender equality.

Local and regional governments are not involved in national climate change programmes and projects.

## Proposed reforms

With an overall rating of 23 out of 48, Angola is one of the countries where the existing framework is generally unfavourable to the action of cities and subnational governments. Defining an enabling framework for cities and subnational governments would require fundamental reforms. Six reforms are suggested to improve the policy framework for cities and subnational governments.

- **The first reform** should be to ensure compliance with constitutional provisions. Article 220 of the constitution states that the assemblies and executive bodies of local governments are elected; governors of provinces, municipalities and communes must therefore be elected. Complying with constitutional provisions by holding of local elections is the top priority in order to improve the framework of action of cities and local governments. Legislation should strengthen the participation of men and women in local governance by establishing a quota to promote gender equality.

- **The second reform** should relate to the devolution of responsibilities to local governments. Law No. 02/07 on local government was the first law to assign municipalities significant responsibilities for the distribution, management and maintenance of water and electricity services. However, the relevant ministries continue to intervene at local level and the overlap of responsibilities between provinces, municipalities and communes is behind many jurisdictional conflicts.

The definition of responsibilities at the local government level remains vague. For example, education and health are the responsibility of both provinces and municipalities. Provincial vice-governors are responsible for agriculture, and there are also agricultural and industrial activities at the municipal level related to agricultural development stations, input procurement and distribution, and support to farmers, among others. Municipalities and communes are responsible for health and rural infrastructure, market maintenance, and the management, cleaning and maintenance of beaches and resorts. It would be useful to clarify and specify the exclusive responsibilities of each level of local governance and of the metropolitan area of the capital, as well as the responsibilities shared between the different levels of governance.

- **The third reform** should address the financing of decentralization. The Municipal Management Support Fund (Fundo para a Gestão Municipal or FUGEM), created in 2008 to transfer funds directly to municipalities, was a major step forward in the enforcement of Law No. 02/07. For the first time, municipalities were given responsibility for managing funds to address local priorities. FUGEM transfers are not calculated on the basis of a formula; it appears that subnational governments receive the same amount of funds regardless of their size, demographics, poverty levels and existing services delivered. Those transfers are made on an *ad hoc* basis and are unpredictable. Municipalities are not allowed to purchase goods or services, and procurement is done at the provincial level.

As for local government revenues, about 85 per cent of all tax revenues are collected by the national government, and the rest is collected by the provincial governments. Although Law No. 02/07 provides for the possibility for municipalities to collect revenue from several sources, they are in reality not able to collect their own taxes, and many cannot establish budgets. In practice, the communes have no separate budget, but their budget is included in the ministry budget and managed at the national level. Municipalities are not yet taxing entities, and therefore are not permitted to borrow funds, invest or administer their own assets.

The reform should provide for transfers of funds from the national government to local governments and ensure that local governments have a real say in local public spending decisions. The reform should also deal with the taxation

of local governments, which should be strengthened in order to consolidate the principle of local autonomy. With regard to the execution of public expenditures by local governments, financial management oversight by local governments remains problematic. There is no financial oversight mechanism. To date, there is no oversight over FUGEM funds; there is also no supervision of the disbursement and use of funds, and no technical support. The reform should analyse the modalities to reactivate the auditing body (Tribunal de Contas) to audit the accounts of subnational governments.

- **The fourth reform** should focus on building the capacity of local governments. Despite the existence of the Local Administration Training Institute (Instituto de Formação Administração na Local or IFAL), which regularly organizes training modules for local officials, expertise in local administration is low. The national government is responsible for hiring local staff, and local governments have no control over the size or quality of the local workforce. IFAL's training modules have little impact because they are aimed only at municipal leaders (who are political appointees) and because they cover only aspects related to the legislative and regulatory framework of decentralization. There is little or no technical training in financial management, auditing, planning and budgeting for low-skilled staff.

Decree No. 09/08 on the Paradigm of the Statutes of Provincial Governments, Municipal and Communal Administrations (Paradigma Dos Estatutos Governos Provinciais, Administrações Municipais e Comunaes) attempted to define the technical organization of local governments in order to enforce the 2007 law. The reform should propose a reference framework setting out the qualifications and responsibilities of staff, as well as a national human resources training strategy for subnational governments.

- **The fifth reform** relates to the urban strategy. According to the United Nations Department of Economic and Social Affairs, Angola's urbanization rate was 66.8 per cent in 2020, and it is expected to reach 80.4 per cent by 2050 (World Urbanization Prospects: The 2018 Revision). The urban strategy should focus on territorial planning and the creation of regional development centres. It should also develop a funding mechanism to integrate settlements, not yet fully integrated, in cities that have hosted refugees for decades.

- **The last reform** should focus on the fight against climate change. Local governments should be empowered to develop bankable projects and contribute to the implementation of Angola's Nationally Determined Contribution (NDC). Subnational governments should also have access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	Certain provisions of the law are conflicting with the constitution or some provisions of the constitution are not implemented.....	2
3	Local assemblies elected, but executive bodies appointed by an external authority.....	2
4	Amount of resource transfers to subnational governments or allocation among subnational governments predictable according to a transparent formula.....	2
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Existence and implementation of legal and regulatory instruments concerning transparency in the functioning of subnational governments and requiring regular and independent audits of the subnational governments involved according to a time frame and within specific deadlines.....	4
8	No national legislation on citizen participation, but existence of locally organized dialogue and consultation frameworks.....	2
9	Erratic evaluations of subnational government performance.....	2
10	Existence of a clear urban strategy at national level, but not supplemented by adequate technical and financial means.....	3
11	The country has two mechanisms for promoting gender equality.....	2
12	The country provides two of the measures in combating climate change.....	2

## Justification of the rating

The history of decentralization in Benin began with the multiparty system in 1990. The Constitution in its Title X, Article 150 to 153, "The subnational governments", establishes subnational governments and gives them the right to administer themselves freely through elected councils and executive bodies. It specifies that central government must ensure the harmonious development of all subnational governments on the basis of national solidarity, regional potential and interregional balance. The Constitution puts in place specific legislation to govern, inter alia, decentralized cooperation, borrowing, relations with the central government, financial resources, etc. The entire territory is covered by local governments, and is divided into 12 departments and 77 municipalities. There is no distinction between urban and rural communes, but there are common law communes and communes with special status such as the cities of Cotonou, Porto-Novo and Parakou.

Seven areas of competence are transferred to the municipalities according to the option of "devolution by blocks of competences". In addition to those powers devolved to all communes, communes with special status receive additional powers in terms of education and vocational training, transport and traffic, security and communication. Today, the competences have been transferred as a whole. In practice, whole sections of sectoral policies continue to be implemented by central administrations.

On the other hand, since 2016, the Government has set up several agencies, according to the official version, to accelerate the implementation of the Government Action Program (PAG). Nevertheless, in practice, this "agencification" translates into a recentralization of the implementation of sectoral policies such as health and education.

The latest local elections were held on 17 May 2020 throughout the country. By law 2020-13 of June 2020, communal councillors, the mayor and his/her deputies, as well as the sub-district chiefs (*chefs d'arrondissements*) are no longer elected by their peers. They are now directly appointed by the political party which obtained the absolute majority of elected councillors. Thus, the party appoints the mayor, the deputies to the mayor and sub-district chiefs and forwards the list to the prefect

who is responsible for convening the initial session which will be devoted to their official installation. In the absence of an absolute majority for a political party, the municipality is run on the basis of a governance agreement signed by the parties that have obtained councillors in the commune. The positions are thus distributed among said political parties.

Since 2008, Benin has had a mechanism for transferring resources from the central government to communes through the Fonds d'appui au développement des communes (FADeC). It is implemented through the inclusion in the general State budget of one or more credit lines intended to finance the operating and investment expenses of communes. These credits are covered by both national and TFP resources. The FADeC is placed under the supervision of the Ministry in charge of communes and administered by the National Commission on Local Finance (CONAFIL) which has a permanent secretariat. The funds are allocated to the communes in the form of annual grants, according to a distribution key defined by CONAFIL.

Apart from the local development tax (TDL) and the setting of local tax rates, for which a margin is left to the communes, the base and basis of local taxes are determined by the National Assembly, and the collection of tax revenues is performed by the state services. For the land tax on built properties, the latitude for local governments varies between 4 and 8 per cent. It should be noted that Beninese communes can resort to the financial market under certain conditions.

Benin has a reference framework for professions and a training strategy implemented through the Local Administration Training Centre (CeFAL) which has been operational since 2013.

The decentralization guidelines require annual audits to be carried out. This provision is implemented through audits of the Commune Development Support Fund (FADEC). These have been carried out annually for several years through CONAFIL.

There is no legislation on performance evaluation of communes. On the other hand, the exercise conducted within the framework of the Fonds d'Appui au Développement des Communes (FADEC) should be noted. This performance measured within the framework of FADEC is one of the indicators used to distribute funds to the communes; it is



measured according to three sub-criteria: functioning of the organs (deliberative and executive) and of the administration of the controlled structures (25/100); procurement and execution of public orders (30/100); traceability and feedbacks (15/100); local finance assessment (30/100). However, this performance measurement leaves little room for evaluating the delivery of services and access to those services by the populations.

Benin does not have specific legislation on participation, but there are local consultation frameworks, and citizen monitoring and oversight procedures. The communes render accounts.

The development and adoption of a spatial agenda is a useful complement to the thinking about urbanization in a country where spatial disparities are constantly widening as a result of differentiated dynamics of urbanization, economic growth and access to basic local public services. However, the urban strategy does not have adequate financial means for its implementation.

Benin has a legal arsenal relating to the participation and place of women in national and local politics, which results in the existence of a quota of women on the electoral lists and in eligibility positions.

Finally, Benin's institutional framework provides for the inclusion of subnational governments in the implementation of the national agenda on the fight against climate change. The National Environment and Climate Fund (FNEC), registered with the Green Climate Fund (GCF) strengthens the capacities of regional actors in terms of procedures and modalities for submitting requests on the one hand, and financing climate change control projects on the other hand.

## Proposed reforms

With an overall rating of 29 out of 48, Benin is one of the countries whose progress towards an enabling environment for cities and subnational governments requires significant reform efforts.

- **The first reform** concerns the consolidation of transfers to communes. It is true that significant efforts have been made since the establishment of the ADFeC. This effort deserves to be continued to allow LGs to have resources equivalent to the powers devolved unto them and to meet the expectations of the populations in terms of access to basic services. A real inventory of the transfers of competences and resources should be carried out in order to give the communes the means to deliver on their missions.
- **The second reform** concerns local taxation. More than the centralization of the tax chain and the fact that the communes are excluded from this chain, it is the State's interventions (the various exemption regimes) that weaken local financial autonomy. The plan to revise the current investment code, which extends the exemption periods, is not intended to improve the financial situation of the communes. The reform should consolidate the institutional arrangements that protect the resources of the communes, including judicial recourse.
- **The third reform** concerns local efficiency in the delivery of local public services, which needs adjustment. The evaluation of the performance of communes in the delivery of local public services should figure prominently among the elements to be improved. In a country where subsidiarity will be increasingly

reinforced with an increase in the share of public spending by communes, strengthening the quality of public spending at local level is an imperative to achieve efficient service delivery. The improvement should build on the initiative already developed by the National Association of Communes of Benin (ANCB).

- **Local capacity** also deserves special attention as part of the reforms to achieve. The legislation establishes communes as the contracting authority, but apart from the municipalities with special status which have well-trained, quality staff, many communes do not have adequate human resources to fully deliver on the devolved competences. It is true that there is a national strategy for strengthening the capacities of communes and a reference system of professions with training modules developed by CeFAL, but those tools have not been applied to all the communes. For a long time, there has been a loss of competent local human resources trained by the communes due to the prolonged absence of a clear status for local government employees. This status was enacted in 2015.
- **The other need for reform** pertains to local governance, particularly relating to citizen participation in local management. Benin can pride itself on holding regular local elections that result in elected legislative and executive bodies following a transparent and fair process. However, there is no legislation or provision for public participation in the management of local affairs. The principle of public participation through consultation frameworks has now become a reality in many communes. However, the reform should reinforce the implementation of Article 2 of Law No. 97-029 of 15 January 1999 on the organization of grassroots democracy, which would benefit from being systematized and generalized.
- **The operationalization of the urban strategy** also requires attention. With an urbanization level of 48.4 per cent in 2020, Benin is poised to reach a rate of 65.4 per cent in 2050 (*World Urbanization Prospects: The 2018 Revision*). The institutional and financial instrumentation of the national urban strategy is more than ever an imperative.
- **Finally**, with respect to climate change, the national institutional framework must provide for the development of a local climate plan, reporting on the implementation of that plan, and access to climate finance for communes. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution is neutral on the question of subnational governments.....	2
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes and accessing loans and financial markets.....	2
6	There is a national reference framework of professions within subnational governments and a national strategy for training and promoting subnational government human resources that is applied to all subnational governments in the country.....	4
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed.....	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the gender equality mechanisms.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Botswana has one of the oldest decentralization policies in Africa. The founding documents on decentralization – the Local Government (District Councils) Act and the Townships Act – date from 1965. These acts have subsequently been repealed and replaced by the Local Government Act No. 8 2012. The Constitution of Botswana is neutral on the topic of decentralization and contains no chapter or article devoted to local government. However, Botswana does have two spheres of power: the central government and local governments.

Local government in Botswana comprises of two types of local administration: 10 rural and six urban districts (four town councils, two city councils).

Botswana's legislative framework clearly defines the action of cities with a clear division of responsibilities between the various spheres of governance. Furthermore, the country holds regular local elections throughout the national territory. The mayors of the district councils are elected indirectly, while the mayors of urban district councils are elected directly. All mayors are non-executive, and they are not always granted full leadership over the local government. The term of office for mayors is half that of the council. The last local elections were held in October 2019.

Fiscal transfers from the central government to the local governments are unpredictable and do not allow for realistic local planning. In general, the national amount of these transfers is not determined with precision on the national level. In Botswana, the central government's financial support of the local governments comes through three mechanisms: 1) a system of subsidies to offset the expense of the responsibilities transferred (the Revenue Support Grant), whose revenue capacity represents nearly half of local revenues; 2) a local government loan system (the Public Debt Service Fund); and 3) equipment grants. When it was set up in 1994, the Revenue Support Grant adopted a formula for distribution to the local governments that considered population size, distance from the administrative capital and surface area of the local government in question. In 1997, this formula was revised

to take into account capital investment, the mobilization of local revenues and the local governments' operating costs.

For local governments, the constraint comes from the level of predictability for these transfers. Local elected officials make the effort to consult citizens on the projects that would meet their needs, only to hear after the fact that the projects cannot proceed due to budgetary constraints. Local councils define development projects as part of the budget and planning process, but the central government has the last word on the amounts allocated. The Ministry of Local Government mobilizes central government resources and transfers them to the local authorities. The Ministry of Finance and Development Planning sets the financial ceilings.

Local governments are legally authorized to collect taxes. Local taxation differs depending on the type of local government: district councils have mainly local taxes, while urban district councils also have property taxes and business taxes. Own revenues account for barely 10 to 30 per cent of local budgets.

Botswana is one of the few countries to have a framework of reference defining the qualifications and responsibilities of local government staff and a national local government capacity-building strategy that is effectively implemented for all local governments. The Local Government Management Service within the local government umbrella ministry is responsible for hiring and training supervisory staff for local governments, and the power to hire support staff is delegated to the local level.

Since the Public Service Act came into force in May 2010, central and local government staff are under the authority of the central government, particularly the Corporate Services at the Ministry of Local Government. Local government administration covers departments such as the treasury, education, health, technology, development and social planning, and community services. It is worth noting that Botswana has built on the accomplishments of the Unified Local Government Service (ULGS) set up in the early 1980s that gradually improved human resource quality. Capacity building includes training as well as improving salary structure, working conditions, and staff

well-being. The programme has had a stabilizing effect on local government administrations by lowering turnover among local executives.

The law provides for local government audits. In practice, there are three avenues to audit the books of local governments: The Auditor-General is responsible for auditing the books of all local governments every year. The Local Authorities Public Accounts Committee set up by the Ministry of Local Government periodically examines local government books. Finally, the Directorate on Economic Crime and Corruption can verify the books of local governments, in response to complaints. In practice, audits are occasional. When they are done, the remarks issued on the accounts of most councils are minor; only a few urban district councils have been the subject of serious corrections. Botswana's laws and regulations do not plan for measuring local government performance on the provision of local public services.

Botswana also does not have any laws on citizen participation. It does have local spaces for consultation, specifically the village assemblies (called *kgotla*) and Village Development Committees (VDCs).

Botswana currently does not have an urban strategy.

The number of women in the National Assembly and local councils remains low, and no effective measures have been put in place to promote the participation of women in electoral processes as well as political representation.

Local governments are not involved in the elaboration of National Determined Contributions (NDCs) and their implementation.

## Proposed Reforms

With an overall score of 25 points out of 48, Botswana is one of the countries whose progress towards an enabling environment for cities and subnational governments would require major reforms.

- **The first reform** should address local government finance, specifically transfers from the central government to the local governments and local government's own revenues. For the transfers, the main constraint on local governments is predictability. The lack of predictability creates awkward situations where citizens are consulted on projects that meet their needs only to hear from the central government about the fact that the projects cannot be done because of budget constraints. Reflections should begin with an overhaul of the transfers from the central government to the local governments, with the aim of determining both the annual amount or annual share of government resources to be transferred to local governments and transparent, predictable mechanisms to execute and distribute the transfers among local governments.

Discussions on own revenues should aim to provide local governments with more latitude to determine their own range of revenues with the least possible amount of intervention by the central administration. The issue of linking resource transfers and efficiency in the mobilization of own revenues, particularly for the district urban councils, should also be raised.

- **The second suggested reform** concerns the establishment of a local government performance assessment system for administrative and financial

management and the provision of services to the people. Laws and regulations must be established to create such a national assessment system, which is necessary for local governments in Botswana to significantly improve the efficiency of their actions in exercising their mandates.

- **The third reform** should address the elaboration and implementation of an urban strategy for Botswana. In the space of 10 years, the country doubled the share of its population living in urban areas, from less than 10 per cent in 1971 to 18 per cent in 1981. During the following decade, between 1981 and 1991, the urban share of the total population more than doubled, rising from 18 per cent to 45 per cent. After the 1970s and 1980s with urban growth rates of more than 10 per cent, the 2000s have seen a significant drop in urban growth, which is now around 3 per cent per year. According to UN estimates, Botswana is 70.9 per cent urbanized in 2020 and this is expected to rise to 83.9 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*).

The urban structure is becoming denser. In 1971, there were only two cities, Lobatse and Francistown, in addition to the capital, Gaborone. Then, two new cities grew up on mining sites, Palapye and Tlokweng. Since 1991, many traditional villages have been declared planning regions. Given the fact that most of Botswana's population now lives in cities, the issue of managing urbanization has become a major challenge for the country's development, particularly as more than half of the population lives within a 62-mile (100 km) radius around Gaborone. A national urban strategy should build on better knowledge and forecasts of the urbanization dynamic, and propose legal, institutional, organizational and financial modalities for implementation.

- **The fourth reform** focuses on the promotion of gender equality in elections. Botswana and the Democratic Republic of Congo currently have the lowest representation of women in parliament in the Southern African region at a mere 10 per cent, and there is a danger of a further backslide after the 2018 elections. Currently the Cabinet is only 14 per cent women, with local government a bit higher at 19 per cent. The reform should propose a quota to foster gender equity in local government structures.

- **The last reform** will focus on the territorialization of the National Determined Contribution. Districts and urban councils must be eligible for climate funds, and they must be empowered to develop and implement concrete, measurable action programmes that meet the criteria of the MRV policies (Measurement, Reporting and Verification) as specified in the Paris Agreement (2015). ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Subnational and executive assemblies are elected throughout the country.....	4
4	Amount of resource transfers to subnational governments or allocation among subnational governments predictable according to a transparent formula.....	2
5	Resources decided and collected by the central level.....	1
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Existence of legal and regulatory provisions concerning transparency in the operations of subnational governments and requiring regular and independent audits of the said subnational governments according to a specific timetable and deadlines applied, but not systematically implemented.....	3
8	Existence of national legislation on citizen participation, which is however not implemented.....	3
9	No evaluation of subnational governments performance.....	1
10	Existence of a clear urban strategy at national level, but not supplemented by adequate technical and financial means.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Burkina Faso embarked on decentralization with the Constitution of 2 June 1991, which enshrines it in Article 143, which stipulates that Burkina Faso is structured into subnational governments. This new dynamic of decentralization driven by the Constitution is gradually taking shape with the adoption of the first five decentralization laws in 1993 and, initially, municipal elections in 33 fully-fledged communes in 1995, then, in 49 urban municipalities in a second phase in 2000.

With the adoption of law No. 055/2004 / AN of 21 December 2004 on the general code of subnational governments (CGCT) and the holding of municipal elections of 23 April 2006, the effective establishment of deliberative bodies in 13 regions and subnational governments, and in 351 communes, comprised of 49 urban communes and 302 rural communes, constitutes a major achievement in the decentralization process in Burkina Faso. This achievement was confirmed by the holding of the latest local elections in 2016.

The CGCT identifies 11 blocks of competences to be transferred to local subnational governments. As part of the enforcement of the rule of progressiveness, the transfer of competences to the local governments was achieved in three phases corresponding to three periods: 2006–2009, 2009–2014 and from 2014. As of 2014, all 11 blocks of competences were transferred to regions and communes, each in very specific areas. Five decrees, around 40 orders and four operating protocols have been issued or drawn up within the framework of the transfer and implementation of the competence's skills. The implementing decrees are comprehensive and diverse in terms of the aspects of the CGCT that they regulate. All of these implementing decrees have been adopted, but their application is not effective.

Law No. 14-2006/AN of 9 May 2006, on the determination of the financial resources and expenses of subnational governments gives local governments the main guidelines for drawing up and voting on their budgets, and also determines their financial resources and expenses. Financial resources are transferred annually to subnational governments to enable them to deliver on transferred powers.

These financial transfers in support of the devolved competences became effective in 2009. They are carried out through interministerial orders or joint orders between the ministries involved in the devolved powers and the ministries in charge of finance and decentralization. On the other hand, a National Support Agency for the Development of Local Authorities (ANDCT) was created to replace the Permanent Fund for the Development of Local Assemblies (FPDC).

Local governments own revenues consist mainly of tax and non-tax revenues. The collection of those tax resources is the exclusive domain of the State services.

In terms of capacity building, a national strategy for capacity building of decentralization actors was developed in 2012, and no less than 18 implementing decrees were adopted in 2013, including on standard organizational charts for regional councils and communes. Training institutes have been strengthened (creation of a local government course at ENAM) or created (creation of 13 regional administration institutes) in the 13 regional capitals, of which six are functional (Bobo-Dioulasso, Fada N'gourma, Ouahigouya, Dedougou, Gaoua and Ziniaré), while respecting the rule of progressiveness adopted by the government.

Accountability is the obligation of the local government council to render accounts to the population for the management of the community. In this regard, the General Code of Local Authorities (CGCT) provides in its Article 11 the obligation of subnational governments to report to citizens. However, the planned audits are only carried out occasionally.

The democratic participation of the populations in the free administration of subnational governments is enshrined in the Constitution of June 1991. Indeed, Law No.145 of the CGCT organizes the functioning of citizen participation and calls for the commitment of populations to play a major role in the development of their communes as actors and beneficiaries of development, but also as judges of actions of policy makers.

Burkina Faso, a West African country with an area of approximately 104,324 mi<sup>2</sup> (274,200 km<sup>2</sup>), had, according to INSD projections, approximately 17.88 million inhabitants in 2014 (INSD).



Despite having one of the lowest urbanization rates in Africa – 30.60 per cent in 2020 and 50.2 per cent projected for 2050 (*World Urbanization Prospects: The 2018 Revision*) – recent history indicates a continuing urban growth dynamic. Currently with 49 cities, the country had only two cities when it gained independence in 1960. An urban strategy was developed in 2015, during the country's participation in Habitat III. This new agenda truly takes into account government policies as well as the priorities and recommendations of citizens and the Habitat III programme partners, and thus allows the strengthening of partnerships between the State and non-state actors at local and national levels for a synergy of action and an effective contribution to the implementation of urban policies.

The parliament of Burkina Faso adopted in April 2009 a law on quotas for better representation of women on the lists of local and legislative elections: each gender must have at least 30 per cent of representatives on the electoral lists. Burkina Faso's parliament adopted a quota law in April 2009 to improve women's representation on local and legislative electoral rolls: each gender must have at least 30 percent representation on electoral rolls.

Finally, the country has not taken subnational governments into account in the mechanisms for combating the consequences of climate change.

## Proposed reforms

With a rating of 28 out of 48 points, Burkina is one of the countries whose progress towards an enabling environment to cities and subnational governments still requires reform efforts, and even challenges in view of the recent disbanding of local executive bodies. On this point, the main reform proposals that can be considered are six.

- **The first reform** proposal should address the issue of financing decentralization. The evaluation of the costs of competences devolved to local governments discloses that, to exercise their competences in priority areas, the communes and regions of Burkina receive only 20 per cent of the resources which should go to such competences. This means that 80 per cent of the resources for the competences devolved to the communes and regions continue to be implemented by the sectoral ministries. However, the central government has undertaken to transfer 20 per cent of its budget by 2020 to local governments. All measures must be taken to fulfil this commitment, in particular with the adoption, on 7 March 2018, of new benchmarks allowing the country to start cycle III of decentralization.
- **The second proposed reform** would be to start thinking about a comprehensive reform of local taxation that could involve the transfer of certain state taxes to local governments. To this end, a "Working group on community financing and local tax reform" was set up and placed under the supervision of the State Secretary for Regional Planning (MINEFID), the State Secretary in charge of Decentralization (MATD) under the chairmanship of a Technical Advisor from the Ministry of Economy, Finance and Development (MINEFID) and a Technical Advisor from the Ministry of Territorial Administration and Decentralization (MATD).
- **The third proposed reform** could be citizen participation. Specific legislation should strengthen the participation of the populations in local management. The participatory budget – of which the process of preparation,

implementation and assessment is an important part of public participation – should receive special attention from national authorities for its promotion, which would strengthen citizen participation.

- **The fourth reform** concerns the establishment of mechanisms to measure the effectiveness of local government management and the delivery of local public services. According to Article 54 of the general code of subnational governments, "administrative supervision and financial supervision are provided respectively by the minister in charge of local governments and the minister in charge of finance who delegate, by order, part of this power to representatives of the State in the administrative districts". The joint order which was to specify the outlines of this supervision has not yet been issued. As a result, the evaluation of local government performance in the delivery of local public services has never been implemented.

Burkina Faso's legislator should improve the framework for women's participation in public affairs in order to strengthen women's representation in national and local public institutions.

- **Finally, the last reform** should apply to the institutional framework for combating the effects of climate change. The last five decades have been characterized in Burkina Faso by extreme climatic phenomena (droughts due to insufficient rainfall and its uneven distribution, floods resulting from exceptional heavy rains, heat waves and intense dust layers) which have become more frequent, and more intense. The droughts of the 1970s and 1980s, in addition to accelerating deforestation and desertification, caused water scarcity and famine which resulted in significant loss of life, and the decimation of livestock and wildlife. This situation worsened the poverty of the rural populations of the severely affected areas who then migrated internally to the localities best watered by the rains to carry out their agricultural activities, or to the large cities of the country such as Ouagadougou or Bobo-Dioulasso. This trend of internal displacement was accentuated at the end of the 1990s not only because of the effects of climate change but also of strong demographic growth, the growing scarcity of resources (water, land, pastures, etc.) and of their degradation. Agricultural areas are becoming increasingly insufficient for an ever-growing number of the population. On the other hand, the last thirty years have seen a new phenomenon, the floods, which severely affected certain localities.

The reform should territorialize the National Climate Change Adaptation Plan with the development of a territorial climate plan, reports on the implementation of the territorial climate plan, and access of local authorities to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local assemblies elected, but executive bodies appointed.....	2
4	Amount of resource transfers to subnational governments or allocation among subnational governments predictable according to a transparent formula.....	2
5	Subnational governments have latitude for defining the base and rate of existing taxes, but central government is responsible for setting new taxes and accessing loans and the financial market.....	3
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	Existence and effective implementation of national legislation on citizen participation.....	4
9	Legislation on subnational governments performance measurement; but performance assessed by subnational government supervisory authorities.....	3
10	Reflection on urbanization at national level, but urban strategy not yet defined.....	2
11	The country has two mechanisms for promoting gender equality.....	2
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The Republic of Burundi has embarked on the decentralization process with real reforms both in the legal and institutional frameworks. Since December 2016, the country has ratified the African Charter on the Values and Principles of Decentralization, Local Governance and Local Development, although its popularization is not yet effective.

Decentralization is of particular interest through the Constitution promulgated by Law No. 1/010 of 7 June 2018 which addresses decentralization in Chapter XI "Local Authorities". Article 270 confirms the commune as a decentralized subnational entity while leaving it to the law to determine the fundamental principles of its status, its organization, competencies, resources, as well as the conditions under which these local governments are administered.

In Burundi, the subnational administration is organized as follows: 18 provinces whose head of the executive is a senior executive appointed by the President of the Republic; 119 communes headed by an administrator under the supervision and control of the communal council comprised of representatives of the *collines* that make up the commune.

Article 5 of the Communal Law and Law No. 1/16 of 25 May 2015 define the content and modalities of devolution of competences from the State to the communes. For its implementation, Decree No. 100/242 of 14 December 2017 on the creation, organization and operation of the Joint Arbitration Commission provided for in Article 40 of the said law is in place, and the said commission has already proposed all the decrees of devolution of powers necessary for the implementation of the law on the devolution of competences.

The commune is subdivided into zones and *collines* in rural areas and neighbourhoods in urban areas. These subdivisions of communes also have elected councils. The *colline* or neighbourhood council is composed of five members elected by direct universal suffrage for a five-year term. Members of the *colline* or neighbourhood councils are elected in an independent capacity.

The communal council elects from among its members the chairperson and vice-chair of the communal council, as well as the communal administrator who acts as secretary of

the communal council. The municipal administrator is first elected and then appointed by decree. She/he is the elected mayor. The latest communal elections were held in 2020.

Financial transfers from the State to local governments are limited to budgetary support pursuant to Article 83 of Law No. 1/04 of 19 February 2020, amending certain provisions of Law No. 1/33 of 28 November 2014, on the organization of communal governments. The state transfers 570 million Burundian francs per commune annually, representing about \$250,000, which is nearly 5 per cent of the national budget. The government's commitment through the decree establishing the National Communal Investment Fund (FONIC) was to transfer at least 15 per cent of the national budget.

Law No. 1/02 of 3 March 2016 on communal tax reform, determines the commune's own revenues that cover operating expenses and costs. Article 3 of the law stipulates that "the communes shall establish, collect, administer and account for the taxes and duties devolved to them with the same obligations and prerogatives as the tax administrations of the central government". As for Article 5, it lists the taxes and duties instituted for the communes.

Burundi has a framework of reference for local government professions defined by Law No. 1/06 of 20 April 2005 on the organization of communal administration. It is supplemented by Decree No. 100/067 of 21 April 1990 on the status of communal and municipal personnel. There was a National Training Centre for Local Actors (CNFAL) now transformed into a Directorate within the Ministry of Communal Development in charge of decentralization.

The legislation provides for regular audits of local government financial accounts. The Court of Auditors examines and certifies the administrative accounts and the management accounts of communes. The performance of these audits is irregular.

The communal law of Burundi (Articles 46 and 20) set up a specific legal and regulatory framework on the participation of the populations in the management of their commune, the planning and the implementation of the communal plans. The municipal law provides for accountability sessions at the communal level every six months and at the *colline* or neighbourhood level every three months. The Citizen Participation Guide and the National Communal Planning Guide are reinforcing this framework for public participation. There is also a National Accountability Guide.



The Ministry in charge of decentralization has been organizing an annual performance evaluation of communes since 2011.

With one of the lowest levels of urbanization – 13.7 per cent in 2020, and 27.9 per cent projected by 2050 (*World Urbanization Prospects: The 2018 Revision*) – Burundi does not have a national urban strategy; it has a “Bujumbura 2045” master plan for the city of Bujumbura, the economic capital of the country, and discussions are underway for a national strategy.

The quota of women for the eligibility of electoral rolls is 30 per cent for the senatorial election, the election of MPs and the communal election. Article 185 of the Constitution stipulates a minimum of 30 per cent for central government, while Article 169 of the Constitution and Articles 108, 127, Paragraphs 4 and 128, of the electoral code mentions a minimum of 30 per cent for the National Assembly. For every three candidates on the electoral roll, at least one must be a woman. Article 182 of the electoral code provides for a minimum of 30 per cent for the municipal council. For every three candidates on a list, at least one must be a woman. For communal leadership, the communal council elects the communal administrator (who does not have a deputy) and gender consideration at this level is not clear.

The law does not provide for the adaptation of local governments to climate change. Nevertheless, the Government has developed a “Guide to integrating gender-sensitive climate change adaptation into communal planning”.

## Areas of improvement

With an overall rating of 30 out of 48, and following the efforts made in setting up the legal and institutional framework of subnational governments, Burundi is one of the countries whose environment is rather favourable to the action of cities and subnational governments, but some elements of which must be improved through the four reforms proposed below.

- **The first improvement** should be the completion of the legal framework for decentralization. The legal framework remains inadequate on several essential points. The law gives a general competence to the communes; the commune is responsible for managing the local interests of the population within its jurisdiction. It provides public services which meet the needs of its population and which, by their nature, importance or by determination of the law, do not come under the direct responsibility of the State. The specific areas of local competence which remain the responsibility of the central government are not well known, which opens the way to conflicts of competence, in particular between subnational governments and the decentralized services of central government. The point is to accelerate the process of promulgating the devolution decrees proposed by the Joint Arbitration Commission, which will enable the implementation of the law on the modalities of transfer of competences from the State to the communes. The popularization of the African Charter on Decentralization could also serve as a good framework for local development in Burundi.

- **The second improvement** concerns local government financing in general. In the decree creating the National Communal Investment Fund (FONIC), the State plans to transfer 15 per cent of the national budget, but it only transfers 5 per cent. Article 83 of Law No. 1/04 of 19 February 2020 amending certain provisions of Law No. 1/33 of 28 November 2014 on the organization of the communal administration stipulates that “...the State grants the commune an amount of at least five hundred million Burundian francs (500,000,000 FBU), as budgetary support, in addition to its

own resources...”. With the advocacy by the Association of Communes of Burundi (ACO-Burundi<sup>2</sup>), communes directly collect the communal tax on cash crops; the government created the National Communal Investment Fund (FONIC), revised by Decree No. 100/270 of 22 November 2013 on the reorganization of the National Communal Investment Fund, a new mechanism for financing communal investments. The reform should focus on clarifying the roles of these different instruments and strengthening their complementarity.

- **The third improvement** concerns land-use planning and urbanization. With a high overgrowth – Bujumbura, the capital, is 17.5 times larger in size than the country's second largest urban area, and is home to nearly three-quarters of the urban population (“Africapolis”) – the ongoing transfer of the capital to Gitega is part of the reforms initiated by the government, mainly to draw up a legal text on urban planning and urban guiding instruments, to give a legal basis to the concept of urban agglomeration, to envisage that the communal authorities may have broader prerogatives over the surrounding rural environment, to make long-term projections in terms of urban planning from the legal, technical, social, economic and environmental perspectives.

- **The fourth improvement** concerns the consideration of climate change at different levels, especially at the level of subnational governments. It will focus on the effective achievement of the NDCs; which implies that local governments are empowered to develop and implement concrete and measurable action programmes that meet the MRV (Measurement, Reporting and Verification) criteria as specified in the Paris Agreement (2015), and are eligible for climate funds. ■

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<sup>2</sup> ACO-Burundi: <https://www.knowledge-uclga.org/association-burundaise-des-elus-locaux-abelo.html>.

### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Subnational and executive assemblies are elected throughout the country.....	4
4	The amount of transfers to subnational governments and their distribution among subnational governments is clear and predictable, based on a transparent formula and unrestricted use.....	4
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is neither a national framework of reference for the professions of subnational governments, nor a national strategy for training and promoting human resources in subnational governments.....	1
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	Existence and effective implementation of national legislation on citizen participation.....	4
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Since independence in 1975, the Cabo Verde authorities have gradually endowed the country with local power in order to deepen democracy and improve the living conditions of the population. From 1989 to 1990, the first laws concerning local power were approved, notably, to name the most important, the Law on Local Governments and the Law on Municipal Elections. In December 1991, with the holding of the first democratic municipal elections, the process of real decentralization and real local power began. In 1992, the adoption of the Constitution marks the political, institutional consecration of decentralization. In 1995, the government adopted Law No. 134/IV/95 on the status of municipalities, by which the State transfers certain prerogatives and competencies to municipalities, particularly in the areas of sanitation, planning, rural development, health, housing, land transport, education, social promotion, culture, sports, tourism, environment, internal trade, civil protection, employment and vocational training, police and municipal investments. This decentralization of powers and responsibilities, the development of which is in line with the country's democratization process, was reinforced by a constitutional law of 23 November 1999.

Cabo Verde is an archipelago composed of a group of 10 main islands and 13 islets off West Africa.

Title VI of the Constitution of Cabo Verde grants a special place to local governments, which are recognized as having their own existence and administrative autonomy.

Cabo Verde has implemented a policy of transferring powers from the State to the communes. Thus, 18 blocks of competences in areas directly related to public services, such as education, health, local public services and others, have been transferred to municipalities. But some enforcement texts are delaying the implementation of those powers to local governments.

Local elections are held at specific times in accordance with legislative and regulatory provisions. The latest local elections, organized within the framework of the 22 municipalities – the only level of decentralization in the country – took place on 25 October 2020.

The Fiscal Balance Fund is paid out of the State budget to the benefit of the municipal budget. The total amount of transfers may not, however, exceed 7 per cent of the revenue generated by direct and indirect taxes collected in the previous year. This fund is redistributed to local governments according to a transparent formula.

Taxation is composed of two types of taxes; municipal taxes, including the IUP (tax on wealth), the traffic tax, the tax on informal trade, and the *derrama*; and taxes collected by central government are subsequently transferred to municipalities, including the ecological tax, the tax on the consumption of alcoholic beverages, and the tourism tax.

Cabo Verde has a reference framework on local government professions (Decree-Law No. 86/92 of 16 July 1992), but there is no national training strategy.

Legislative and regulatory mechanisms exist for transparency in the management and administration of local resources. The Court of Auditors is responsible for auditing the accounts of municipalities.

The law recognizes the right of citizens to participate in the budget vote and accountability process; however, it does not provide a formal framework for public consultation.

Cabo Verde does not have a mechanism for local government performance evaluation. Cabo Verde does not have a national urban strategy; however, some islands have an urban development plan.

Though the State did not consider it useful to legislate on the quota of women for the various electoral lists, political parties have set themselves the rules in the matter. However, it is regrettable that the number of women elected or in a position of responsibility remains low.

Finally, despite the commitment of the Cabo Verde State, no provision for the inclusion of local authorities in the institutional framework for combating the effects of global warming has been made to date, and even less so with regard to the access of those authorities to climate funds. However, the State is implementing various programmes to combat the factors of global warming in local governments.

## Proposed reforms

With an overall score of 27 out of 48, Cabo Verde is one of the countries whose progress towards an enabling environment for cities and subnational governments requires significant reform.

- **The first reform** concerns the distribution of competencies and resources between the different spheres of governance. This reform is all the more necessary as the transfers of powers do not cover all the areas in which local governments are increasingly called upon to intervene. In the area of sectoral policies, local competences are very often poorly defined or not defined at all, and a good part of the competences on the improvement of the living conditions of the populations are not effective.

- **The second reform** concerns the capacities of local governments. The latter generally lack qualified personnel. Truly qualified human resources represent only 2 per cent of the total municipal staff. This limitation represents a major constraint for the functioning of the local administration, crippling the technical, administrative and financial management of the communes. The lack of framework mainly affects the so-called peripheral municipalities. It is difficult to attract qualified personnel to those municipalities. The law on performance bonuses (DL 101-D / 90), which was intended to make the assignments of technical staff in municipalities more attractive and to confer stability and efficiency on municipal bodies, has never been implemented. The reform should focus on the development of a reference system for municipal professions and the implementation of a real training programme for municipal employees and managers capable of meeting the new requirements of municipal jobs.

- **The third reform** concerns financial transfers to subnational governments. The allocations made through the Financial Equilibrium Fund are governed by two main categories of criteria: the first is linked to the demographic and geographic characteristics of the communes (in this case, the link is direct and proportional, with the amount allocated being greater as data are more basic); the second is linked to the collection capacity of the municipalities (in this case, the link is the reverse, with the amount allocated decreasing with the capacity to collect taxes). The current criteria must be reviewed to encourage the efforts to collect taxes and levies by municipalities. Indeed, the allocation criterion which relates to the local government's poverty level prompts some communes not to mobilize the proceeds of their taxes in order to increase the poverty level and thus benefit from the allocation of higher subsidies. The adoption of more objective and incentive-based criteria for the collection of taxes would thus contribute to strengthening the financial autonomy of local governments.

- **The fourth reform** should aim to put in place mechanisms to evaluate the performance of communes. No legislative or regulatory provision provides for the evaluation of local government performance in the delivery of local public services. The reform should propose a mechanism for evaluating the performance of local governments.

- **The fifth reform** should aim at the development of a national urban strategy. After Independence in 1975, intense migratory processes, generalized to the whole archipelago, took place with different intensities and destinations. Internal migration flows, which occurred directly from the countryside to the outskirts of the cities, had an immediate impact, intensifying precarious urbanization and informal self-construction, the only solution found by immigrants to solve the housing problem. Emigration has played an important role in urban growth because Cabo Verdean emigrants invest their income in the construction of houses for their families who have remained in

Cabo Verde or in the construction of a secondary residence for vacations and in anticipation of their retirement.

The specificity of urban development in Cabo Verde is its very heterogeneous aspect, insofar as each city has its own rhythm of growth, in the way the population uses space and, in the way, the planning and urban management systems operate. Thus, an analysis of population growth in Cabo Verde shows three main trends in urban growth.

- Cities experiencing a reduction in their demography: this is the case of the cities of Ribeira Grande (formerly known as Povoação in the Municipality of Ribeira Grande, Santo Antão Island), Pombas (Paúl, Santo Antão Island), São Filipe (in the Municipality of the same name, Fogo Island) and Ribeira Brava (São Nicolau Island). These dynamics are due to their location in deep rural areas.
- Cities with slow or insignificant demographic growth: these are, for example, the cities of Porto Novo (in the Municipality of the same name, Santo Antão Island) and Santiago (in the Municipality of Ribeira Grande, Santiago Island).
- Cities with very rapid population growth: this is the case of the cities of Praia (capital of the country, Santiago Island), Sal-Rei (Municipality of Boavista, island of the same name), Espargos (Municipality of Sal, island of the same name) and Mindelo.
- In cities with slow or insignificant urban growth, access to basic urban services is more balanced. In cities with accelerated population growth, the responsiveness of management and planning systems is insufficient to meet the basic needs of those who choose to settle there. Praia and Mindelo are cities that have always attracted people from the rest of the country and abroad, especially from rural areas.
- With an urbanization rate of 66.7 percent in 2020 and an expected level of 77.5 percent in 2050 (World Urbanization Prospects: the 2018 Revision), Cabo Verde is suffering from an imbalance in its population. The urban strategy should take into account the internal migration and emigration that strongly determine urban growth and development. It should take into account the problems of access to drinking water and electricity, as well as the problems of mobility and accessibility which cause other imbalances in the urban environment with social and spatial consequences.
- **The sixth reform** aims at formalizing women's participation in public life. The de facto arrangements made by political parties should be taken into consideration by the legislator and enshrined in the country's legislative corpus.
- **Finally, the seventh reform** aims to take into account the appropriate measures to strengthen subnational governments' control over the implementation of programmes and projects to combat climate change. The reform should also facilitate local governments' access to climate finance. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	Clear definition of competences in connection with the Constitution; however, some decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	The amounts of transfers to subnational governments and their distribution among subnational governments is clear and predictable, based on a transparent formula and unrestricted use.....	4
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	No national legislation, but locally organized consultation frameworks exist.....	2
9	No systematic evaluation of subnational government performance.....	2
10	Reflection on urbanization at national level, but urban strategy not yet defined.....	2
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not have any or just one of the following measures to promote the fight against climate change.....	1

## Justification of the rating

The decentralization process in Cameroon has been given a significant boost since the adoption of Law No. 96/06 of 18 January 1996 revising the Constitution of 2 June 1972. According to the provisions of Article 55 of the Constitution of 18 January 1996, “the decentralized subnational governments of the Republic are the Regions and the Communes. Any other type of decentralized subnational government shall be created by law”. This law stipulates that “the decentralized subnational governments (communes and region) are legal persons governed by public law. They enjoy administrative and financial autonomy in the management of regional and local interests. They are administered freely by elected councils and under the conditions set by law”. Particular progress was made through Law No. 2019/024 of 24 December 2019 on the General Code of Decentralized Territorial Collectivities (CTD) which sets the new framework for decentralization in Cameroon that reinforces the free administration and autonomy of the CTDs.

Cameroon has 10 regions and 374 subnational governments divided into 14 urban communities, 45 district municipalities, and 315 communes. This arrangement is completed by some unions of communes, pursuant to Article 105 of the aforementioned Law No. 2019/024 of 24 December 2019, which defines the “Syndicate of Communes” as an inter-municipal public establishment, with legal personality and administrative and financial autonomy. So far only the communes are in place, but the regions are not yet operational. The first regional elections took place on 6 December 2020 while the latest municipal elections took place on 9 February 2020. Since then, even urban communities of which the executive bodies were led by government delegates appointed by the President of the Republic have been represented by elected mayors and deputy mayors.

The law recognizes the general competence of local governments in areas relating to economic, health, social, educational, sporting and cultural development. To date, 63 competences concerning 20 sectoral ministries with the exception of a few derogations are well framed by Article 18 of Law No. 2019/024 of 24 December 2019, which states “decentralized territorial authorities exercise, on an exclusive basis, the powers transferred by the State”.

In the texts, Cameroon has one of the most successful systems of financial transfers from central government to

subnational governments in Africa, combining predictability and transparency. Transfers are attached to state taxes in the form of communal additional cent (CAC), applied to state taxes, such as IRPP (10 per cent), corporate tax (10 per cent), VAT (10 per cent), property tax (25 per cent), gambling tax (10 per cent), *patente* (10 per cent), and licence (25 per cent). These resources are transferred to the Fonds d'équipement et d'intervention des communes (FEICOM), which is responsible for returning them to the communes according to transparent criteria. The local governments through their umbrella association United Councils and Cities of Cameroon (UCCC) deplore in a “Plea for the increase of the resources of Cameroonian councils” addressed to the government in 2016 that “in 2010, the resources transferred to the councils represented 1.15 per cent of government revenue”. This situation has improved substantially since 2019 with the allocation to each of the 374 communes of an appropriation of 100 million CFA francs, replacing the delegation of credits previously in practice. In addition, the fraction of State revenue allocated to the General Appropriation for Decentralization (DGD) intended for the partial financing of decentralization is set at a minimum of 15 per cent (see Article 25 of Law No. 2019/024 of 24 December 2019 on the General Code of Decentralized Local Authorities). However, it should be noted that its enforcement is not yet effective because the DGD for the 2020 fiscal year has been set at 49 million 900 thousand CFA francs, or less than 1 per cent of government revenue. This amount is arbitrary because no rate was set in the 2020 Budget Act to help determine this figure.

While in principle the system of transfers is remarkable, it is different for the own resources of subnational governments. Their own fiscal scope is determined by the National Assembly, which sets the scope, base and rate of local taxes. As for the tax chain, it is under the exclusive control of the State services. In the same way, the State frequently intervenes in the local governments own tax field.

Cameroon has a national reference framework for local government professions and a national strategy for capacity building of local governments implemented by the Training Centre for Municipal Administration (CEFAM). CEFAM, created in 1977 and placed under the supervision of the Minister of Local Government, operates with subsidies from the State, contributions from the communes and the Fonds spécial d'équipement et d'intervention intercommunale (FEICOM).



With the support from the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the Ministry of Territorial Administration and Decentralization (MINATD) has adopted a framework of reference for the professions of subnational governments, adapted to the Cameroonian context. A National Training Programme for Urban Professions (PNFMV) has been operational since 2015 as a result of a partnership between MINATD, MINHDU, FEICOM and CVUCs.

There is considerable room for improvement in the quality of local public spending through audits. Indeed, audits of local government accounts are only occasionally carried out, particularly in the context of projects and programmes financed by international donors.

Article 40 of Law No. 2019/024 of 24 December 2019 on the General Code of Decentralized Local Authorities provides a framework for citizen participation in communal and regional action. This provision thus offers associations and civil society organizations, as well as neighbourhood and village committees, the possibility of contributing to the achievement of the objectives of the CTDs. In addition to decentralized cooperation governed by Decree No. 2011/1116/PM of 26 April 2011 fixing the modalities of decentralized cooperation, and which is particularly monitored by the Interministerial Commission for Decentralized Cooperation (CICOD) created by Law No. 2019/024 of 24 December 2019, a mechanism for monitoring the physical and financial execution of public investment is operational.

There is no legal or regulatory mechanism to measure local government performance.

Finally, a sectoral strategy for infrastructure development was developed three years ago. This strategy includes the urban sector.

The adoption of Law No. 2012/001 of 19 April 2012 on the Electoral Code of Cameroon, amended and supplemented by Law No. 2012/017 of 21 December 2012, made the consideration of gender a legal requirement in the constitution of all candidate lists for municipal, legislative, regional and senatorial elections.

Cameroon does not have an institutional environment that takes into account local governments in the fight against climate change.

## Proposed reforms

With an overall rating of 29 out of 48, Cameroon is one of the countries where improving the environment for action by cities and subnational governments requires significant institutional reforms.

- **The first reform**, aimed at improving the yield of local government taxation, is essential in order to enable those entities to benefit from the economic and cultural potential of their territories, as well as from the spin-offs linked to the exploitation of natural resources (forestry, mining, water, energy, etc.). Indeed, the main taxes, which are business licences, property tax, and withholding tax, revenues from the use of the services and estate, which currently constitute the main revenues of the communes, must be the subject of optimal mobilization. This reform should also target the return on property tax, hence the need to recognize local governments as being responsible for land and land management at the local level.
- **The second reform** is about strengthening accountability. The advent of Law No. 2018/011 of 11 July

2018 on the Code of Transparency and Good Governance and of Law No. 2018/012 of 11 July 2018 on the financial regime of the State and other public entities, strengthens the accountability of local governments to the population and the State. It is now a matter of implementing them by putting in place mechanisms to encourage communes to keep their financial statements up to date, and even to have them audited by independent bodies of the State. The encouraged access of local governments to the financial market is in favour of such a development. It would also be appropriate to set up a system for benchmarking subnational governments in relation to their performance in the management and delivery of services to the populations. Incentives could be devised to encourage the best performing communities. The systematic linking of subnational governments to the programme's budget therefore appears to be a commitment to performance through results-based management.

- **The third reform** concerns the urban strategy. Urban planning tools are gradually being put in place in several cities in Cameroon, with the support of the Ministry of Housing and Urban Development (MINHDU), as part of the current urban subsector strategy. It is worth recalling that urbanization management concerns are well understood by national policy makers. In 2020, more than one in two (57.6 per cent) of the country's inhabitants already lived in urban areas (*World Urbanization Prospects: The 2018 Revision*); United Nations projections indicate an urbanization level of 73 per cent in 2050. In addition to Cameroon's two major metropolises – Douala and Yaoundé – which have more than 3 million inhabitants each, several urban centres are developing rapidly, particularly Bafoussam, Bamenda, Loum and Mbouda. The network of medium-sized cities and small towns is also growing. A sectoral strategy for infrastructure development, including the urban sector, was developed three years ago.
- **Finally**, Cameroon must undertake a profound reform of the modalities for implementing the commitments made by the country in the fight against climate change. The local governments must have the technical and financial resources necessary for developing projects to be submitted to donors who are very keen on factors related to sustainable development. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	The legislation is changing and not consistent.....	1
3	Local and executive assemblies are appointed by an external authority.....	1
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	Neither a national legislation on citizen participation, nor local frameworks for dialogue and consultation.....	1
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The first references to decentralization in the Central African Republic date back to the colonial period. The first municipalities were created in 1957 under the status of rural assemblies. Succeeding the colonial administration, the new authorities of the country continued the movement by intensifying it to cover the whole national territory. Thus, the beginning of post-colonial decentralization is the work of the Constitution of 16 February 1959, which enshrines in its Article 36 the legal existence of subnational governments. The law of 8 June 1959 laid down the rules for their operation. It was followed by multiparty elections which enshrined the legitimacy of subnational governments. Two new organic laws promulgated in 1964 put an end to the democratic experience of local management and replaced elected mayors by appointed officials. It is the constitutional referendum of 1986 that unearthed subnational governments. Two ordinances implemented under the Constitution created and organized subnational entities with elected bodies from a single party list. From 1995, with the advent of the multiparty system, the Constitution of 14 January 1995 which founded the Fifth Republic created four levels of local government: regions, prefectures, sub-prefectures and communes. The Constitution adopted following the referendum of 5 December 2004 definitively establishes the place and legitimacy of local governments in the national institutional landscape. After the serious socio-political crisis and war that the Central African Republic experienced, the new Constitution adopted by referendum on 13 December 2015 was promulgated on 30 March 2016. In Title IX, Article 129 establishes two types of territorial authorities: regions and communes, which are administered freely by elected bodies. The Central African Republic has not held local elections in 30 years.

There is a lack of legislation specifying the areas of competence of subnational governments, institutional arrangements for supervision, financial resources, etc., as well as the regulatory texts needed to complete and operationalize the decentralization process. The whole territory is divided into 175 communes and seven regions. All communes are run by special delegations whose members are appointed by the central government and who act as a deliberative body with a president acting as mayor.

Financial transfers to local governments are very uncertain and are granted to only a few local governments. As a result, it is impossible for local governments to carry out budgetary planning that takes into account the predictability and stability of transfers.

Tax proceeds (duties, taxes and fees) and tax refunds (shares of allocated revenues) constitute the bulk of the resources of communes. These resources are all decided and implemented at the central level. The collection of the proceeds of local taxes and/or their retrocession to local governments is the sole responsibility of the decentralized services of the State.

In the Central African Republic, there is neither a national reference framework for local government professions, nor a national strategy for the capacity building of local governments. But some training initiatives have been developed here and there, as part of international cooperation programmes and projects and twinning initiatives with local governments in the north.

The legislation on decentralization in the Central African Republic provides for the financial supervision of local governments. In accordance with Article 90 of the Constitution, the financial accounts of subnational governments are audited by the Court of Auditors, which is competent to judge the accounts of public accountants, of subnational governments, as well as public enterprises. But the performance of these audits is occasional.

The Central African Republic does not have specific legislation on public participation in local management. One of the constraints to the establishment of local consultation frameworks is the absence of communal development plans in almost all communes in the Central African Republic. It is difficult to put in place instruments and mechanisms to encourage public engagement.

In the Central African Republic, there is no legislation on local government performance evaluation.

The Central African Republic has not yet developed a national urban strategy.

In November 2016, a law called the Parity Law was adopted by the National Assembly which provides for a minimum percentage of 35 per cent of women in decision-making bodies. However, the application remains weak.



The Central African Republic's local governments are not involved in the development and implementation of nationally determined planned contributions (NDPC).

## Proposed reforms

With an overall rating of 15 out of 48, the Central African Republic is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. To remedy this situation, seven main reforms are suggested.

- **The first reform** concerns the application of the provisions of the Constitution which prescribes the election of assemblies and elected executive bodies for local governments. The appointment of mayors instead of their democratic election greatly diminishes the legitimacy of subnational governments. It is important to restore the link between decentralization and local democracy.
- **The second reform** concerns the definition of the competences of the territorial authorities. The lack of clarification and delineation of the areas of competence between the various subnational authorities, within and between them, and the State, is not likely to empower the various actors. The content of the concept of local affairs is too vague. The military-political crises that shook the country in the 1990s have put the issue of transfers of competences on the back burner. The law gives city council general authority to establish public services that require the proper management of local affairs. However, there are no areas of competence clearly recognized to subnational governments. The communes intervene in the field of social assistance, burial, firefighting, the issuance of building permits. The reform should clarify the division of powers between communes and regions, in particular with regard to sectoral policies. It should also propose legislative and regulatory instruments to operationalize the devolution of powers.
- **The third reform** should focus on the financial transfers necessary for exercising the powers transferred to local governments. The Central African Republic's legislation is not very specific on the financial aspect of decentralization; implementing decrees on transfers do not exist. The subsidies granted to the communes are very low: the State grants only 300 million CFA francs to be distributed among 174 communes, i.e., an arithmetic average of 1,724,000 CFA francs per commune. These amounts are very low compared to the cost of the transferred competences. In reality, the amount of subsidies varies between 600,000 CFA francs and 5 million CFA francs depending on the number of inhabitants of the communes. Subsidies represent 4 to 30 per cent of local budget revenues. For some communes, subsidies reach 30 per cent of the budget. There is a virtual absence of own resources. The reform should address the resizing of State transfers to make them compatible with the competencies transferred, and define the modalities for distributing these transfers to local governments, taking into account equalization (the overwhelming majority of municipalities are rural and poor) and incentives to mobilize own resources.
- **The fourth reform** should concern the own resources of local governments. The specific taxation field of subnational governments is almost non-existent. Most communes live only on the meagre resources resulting from the quotas collected on taxes and duties of central government. Some municipalities are experiencing

enormous difficulties in obtaining their quotas which are collected by State services. In the hinterland, remittance of cheques to local governments are confronted with the non-existence of the banking network so that, due to frequent cash flow problems, the State uses the cash of local governments. Consequently, the retrocession of quotas becomes dependent on the State's cash position, which makes any budgetary planning at the level of local governments uncertain. The reform should strengthen the territorial governments' own tax scope, define the terms for better sharing resources from taxation shared with the State and find solutions to the cash flow constraints faced by subnational governments.

- **The fifth reform** should address the institutional capacity building of local governments. A plan to this effect was submitted to the government in 2001. The document assessed the needs of future local governments in terms of human resources and proposed solutions to meet them. A plan for the redeployment of State personnel to local authorities was proposed, supported by a training and retraining programme for agents. Nothing has yet been done in this direction, and the plan drawn up in 2001 is now considerably obsolete. Municipal officials are few in number and poorly qualified. The reform should propose a national capacity-building plan based on a framework of reference for local government professions.
- **The sixth reform** will focus on developing an urban strategy. With an urbanization rate of 42.5 per cent in 2020 and projected at 60.2 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), the country is characterized by urban overgrowth, accentuated by the absence of real secondary towns. Bangui is 10 times more populated than the second largest city, Berberati, which in turn is 2.5 times more populated than the third largest city, Carnot. The urban strategy should focus on evaluating the means to create and strengthen poles of equilibrium in order to have a more balanced urban framework.
- **The last reform** should focus on the effectiveness of climate change control. Indeed, climate change is accentuating in the Central African Republic, where the impacts are felt by the populations in rural and urban areas. While floods are frequent in urban areas, in rural areas we are witnessing the consequences linked to the destructive action of man on the environment and on hydrographic and forest resources. More than ever, the national institutional framework must provide for engaging local governments in the implementation of effective programmes to combat climate change. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local assemblies and executive bodies elected, but not necessarily throughout the whole of the national territory.....	3
4	Amount of resource transfers to subnational governments or allocation among local governments predictable according to a transparent formula.	2
5	Resources decided and collected by the central level of government.....	1
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far been concerned with only a few subnational governments.....	3
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	No national legislation on citizen participation, but locally organized dialogue and consultation frameworks exist.....	2
9	No evaluation of subnational governments performance.....	1
10	Reflection on urbanization at the national level, but an urban strategy not yet defined.....	2
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The decentralization policy pursued in Chad is the result of the resolutions of the Sovereign National Conference of 1993. The participants in the meetings recommended a highly decentralized form of unitary State for Chad. The recommendations were approved by the population on 31 March 1996 with the adoption of the 1996 Constitution, revised in 2005.

The Chadian Constitution of 2018, in its Title XIII "Autonomous collectivities" and in its Article 198, establishes two types of territorial communities: the communes, and the provinces.

So far, the country is divided into 23 regions, 65 departments and more than 280 communes. The new Constitution stipulates that an organic law shall determine the number, the names and the territorial boundaries of those autonomous entities.

In addition to their legal personality, the Constitution guarantees their administrative, financial, patrimonial and economic autonomy. The following Articles specify that the councils are elected for a term of six years, but the executive bodies are elected within the assemblies for a term of three years, renewable once.

On the basis of the principle of subsidiarity, the autonomous communities have exclusive powers and competences shared with the State, under the conditions set by an organic law. The autonomous communities have, in their respective fields of competence and in their territorial jurisdiction, a regulatory power for exercising their attributions. The distribution of powers between the State and the autonomous communities is carried out in accordance with the provisions of the Constitution and by the law relating to local and national interests.

The municipal elections were postponed five times before finally being organized in January 2012. Only 42 communes were involved by those local elections. These are the 23 regional capitals, adding to the 10 districts of the city of Ndjamen and the commune of Ndjamen itself, as well as nine other towns and capitals of departments with at least 20,000 inhabitants. The remaining 58 assemblies and executive bodies are appointed by the central power. Given the national socio-political situation, the communal

elections have been regularly postponed; the councils and the executive bodies resulting from the elections of 2012 still remain in office.

Since 2014, the subsidy intended for municipalities as operating allocations has been paid. Municipalities also receive resources from the following:

- i. Road maintenance fund (FER), which finances the maintenance of primary urban priority roads.
- ii. Special Environmental Fund (ESF), which finances communes' projects related to environmental protection.
- iii. Local development fund (FODELOC), which finances projects under the section "Social and Solidarity Economy". A study on the establishment of a financing fund for decentralized subnational governments is underway.

Local taxation is embedded in the Constitution; the scope, basis and rates are defined by the National Assembly and their revenues are collected by the decentralized services of the State. Local authorities have no latitude in this regard.

Chadian decentralization is severely hampered by the low institutional level of local governments. There is a job reference framework adopted in 2015 and a national strategy for strengthening decentralization actors developed in 2013.

The various texts on decentralization provide for the exercise of the financial supervision of the communes. One of the elements of this supervision is oversight and audit. The financial accounts of communes must in principle be audited every year; in practice, the audits are carried out on an occasional basis.

Chad does not have specific legislation on public participation in the management of local affairs. However, at the municipal level, initiatives exist within the framework of international cooperation.

The performance evaluation of subnational governments is not provided for in the texts on decentralization in Chad.

Chad is a special country: 57 per cent of its territory is occupied by the Sahara Desert in the north, where less than 1 per cent of the population live. The country is poorly

urbanized, with 23.5 per cent of the population living in cities in 2020; projections by the United Nations Department of Economic and Social Affairs give an urbanization level of 39.3 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). A national policy on land-use planning, urban development and housing for the period from 2017 to 2035 is being finalized. With the low rate of urbanization, the decentralized position of an increasingly important capital, the second-tier agglomerations are largely neglected by the public authorities, the challenge of land-use planning remains important. The Urban Policy should therefore emphasize the establishment of a policy of balance poles and land-use planning.

In Chad, under penalty of inadmissibility, the lists of candidates for legislative and local elections are made up of at least 30 per cent of women (Ordinance No. 12/PR/2018).

In Chad, there are no provisions that include local governments in the fight against climate change.

## Proposed reforms

With an overall score of 24 out of 48, Chad is one of the countries where the enabling environment for cities and subnational governments requires substantial reforms. Six major reforms are proposed in order to make the institutional environment more favourable to cities and subnational governments.

- **The first reform** concerns the autonomous collectivities. It must deal with the division of communes and provinces and their competences, the rules relating to the legal status, organization, functioning and powers of the autonomous collectivities, and the relationship with the central government, their exclusive competences and those shared with the State. To avoid conflicts between the autonomous collectivities and the State, the reform should define the precise limits of the competences of governors of provinces and of the delegated administrators placed in provinces and communes who "on behalf of the government, ensure the enforcement of laws, implement government regulations and decisions, and exercise administrative oversight in accordance with the principle of autonomy" (Law No. 002/Pr/2000 of 16 February 2000).
- **The second reform** is on financial transfers from the State to subnational governments. They are provided for by Article 209 of the 2018 Constitution: "Any transfer of powers between the State and the autonomous communities is accompanied by the allocation of resources equivalent to those which were devoted to their exercise"; any creation or extension of powers resulting in an increase in the expenditure of the autonomous communities shall come along with resources determined by law. The law provides for equalization mechanisms intended to promote equality between the autonomous collectivities. The reform must first of all update the study to assess the cost of transferred skills in order to better proportion financial transfers. Also, the reform should then draw up the decrees and implementing orders necessary for the operationalization of these transfers.
- **The third reform** should focus on strengthening the institutional capacities of local administrations. The lack of qualified personnel in the communes is a major constraint to the implementation of decentralization focusing on the delivery of basic public services. No attention was paid to this concern, and the transfer of human resources was

not carried out by the State. Very few communal officials are well trained, and the few in place quickly leave the municipalities for better working conditions. In order to address the problem of training some officials who hold strategic positions, the Chadian authorities have decided to take part in international capacity-building initiatives within the framework of organizations (such as the AIME, the MDP and others) and to strengthen the National School of Administration (ENA). This reform could thus take stock of training needs and propose a strategy combining continuous training and initial training.

- **The fourth reform** regarding local governments' own resources. Chadian legislation provides for a scope of own resources determined by the National Assembly; in particular, it specifies the taxes that the communities must collect directly. They are numerous, not less than a dozen, including among others, the property tax, the licence and patent fees. While the taxation of communes and rural communities is more or less well known, the law is not very precise on the revenues of regions and departments. It is very difficult to determine the capacity and effort to mobilize local resources, if communities have no control over the tax base and even less over the issuance and collection of the taxes decided by the General Tax Directorate and collected by the agents of the Public Treasury. The communes are therefore totally excluded from the tax chain, which is a constraint on the mobilization of resources. The reform would therefore seek to broaden the tax field specific to local governments and to strengthen their involvement in the management of local taxes.
- **The last reform** concerns the contribution of local governments to the fight against climate change. The reform should consider technical support for the creation of territorial climate plans as well as facilitate access by autonomous collectivities to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is neither a national framework of reference for the professions of subnational governments, nor a national strategy for training and promoting human resources in local governments.....	1
7	No mechanism for transparency in the functioning of subnational governments provided for by laws and regulations.....	1
8	No national legislation on citizen participation, but existence of locally organized dialogue and consultation frameworks.....	2
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country has two mechanisms for promoting gender equality.....	2
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Comoros is an archipelago composed of four islands: Grande-Comore (Ngazidja), Anjouan (Ndzuani), Moheli (Mwali) and Mayotte (Maore). Since the country gained independence on 6 July 1975, France has taken the fourth island (Mayotte) under its administration. Since 1976, the Comorian territory has been structured into different levels of subnational governments: *wilaya* (administrative district corresponding to the island) placed under the authority of a *Muhafidh* (governor), assisted by a secretary general. The *wilaya* was divided into a *bavu* (a sub-governorate or region whose territorial limits coincide with those of the Prefecture), administered by a *liwali* (deputy governor), also assisted by a Secretary General. The *bavu* was divided into *mudirias* (districts, region whose territorial limits coincide with those of the Municipality) run by *mudirs*. The latter used to supervise the activities of the *hakim wamuji* (chiefs of villages and neighbourhoods). In total, there were 55 *mudrias*. Then those different local governments were abolished, the basic living framework of the Comorians again becoming the village, under the direction of the village chief, a member of the traditional notability (cf. constitutional revision of 1982, 1992 and 1996).

The adoption of a new Constitution by referendum in 2018 marked a new dynamic in the establishment of decentralized local governments within the framework of the new unitary state. Each island enjoys a very broad autonomy with its own President and Council. The territory of the Union of the Comoros is divided into autonomous islands, which in turn are divided into communes (Law No. 11-006/AU of 2 May 2011, promulgated on 21 July 2011). In accordance with the Union's Constitution, each island is autonomous and is governed by a Governor and a Council that are elected. Article 99 of the new Constitution states that "the islands have legal personality. They enjoy free administration and management autonomy. They are each managed by a Governor and an Advisory council". Article 109 stipulates that "the commune, like any other territorial collectivity, is created by law". Article 103 of the new Constitution stipulates that "in consultation with the Union, the Island shall act in the matters mentioned below: the administration of local governments leaves it to the councils and executive bodies of the three Islands to ensure the supervision of the Communes." The Constitution (2018) of the Union of the Comoros, Title IV, Chapter I in Articles 102 and 103, refers to governors.

The latest elections for communal councillors were held on 23 January 2020.

Law No. 11-005/AU sets out the competencies of the communes in its Article 9; nothing has yet been implemented. Sector ministries continue to implement the competencies transferred to the communes.

Financial transfers from the state to local governments in the Comoros are *ad hoc*, unpredictable and unstable. Article 74 of the law on the transfer of competences specifies that any transfer of competences goes with the transfer of the corresponding resources. Two financial instruments are provided. The global operating allocation must cover each year the additional expenses of local governments resulting from the transfer of powers according to the texts. The State's overall equipment grant is paid each year by the State to the communes. It finances capital expenditure within the framework of the powers transferred by the State and insofar as this equipment responds to a local or public interest. The law fixes the calculation rules, the methods of distribution of the allocation, as well as the conditions of its progression. The law also includes provisions allowing small communes to guarantee their investment capacity. In practice, these instruments have not been materialized for lack of implementing regulations; transfers remain *ad hoc* and unpredictable. For now, the amount of support to the communes is distributed among the three islands according to Article 9 of Decree No. 16-275/PR on the promulgation of Law No. 16-003/AU of 26 December 2016 on the Finance Law for the 2017 financial year.

As for local taxation, the base of each of the local taxes and their collection methods are set by law. The Union's public treasury alone is empowered to collect local tax through its agencies throughout the national territory.

In Comoros, there is neither a national strategy for building the capacity of local administrations, nor a framework of reference for local government professions.

The Comorian legislation provides for an oversight mechanism for the financial management of local governments. However, since the implementing decree which must specify the various legal means available to the tutelary authorities, Island and Union, has not yet been promulgated, the oversight is not effective.

Law No. 11-005/AU, relating to decentralization in the Union of the Comoros in its Title III mentions local democracy (article



43) and Chapter 2 insists on the participation of inhabitants in local life (Article 49).

Comoros has no experience of evaluating the performance of local governments.

Comoros do not have a national urban strategy either. However, Law No. 11-026 / AU of 9 December 2001 deals with Town Planning and Construction in the Union of the Comoros.

According to Law N°. 17/AU of 22 June 2017, Articles 1 and 2, appointments to the executive of the Union, like to those of the autonomous islands, adheres to the gender proportion of at least 30 per cent. The same goes for the parties presenting their candidatures for the elections of representatives. However, women suffer from low participation in political life (United Nations, Economic Commission for Africa, 2017). Seats earmarked for women in local governance bodies and the presence of at least one woman in local leadership are not enforced and women's representation in such bodies is low.

In March 2006, the Union of the Comoros published its national climate change adaptation programme, but did not mention local governments as key partners in its implementation strategy. No institutional framework involving local governments was included in the climate change actions.

## Proposed reforms

With an overall rating of 22 out of 48, Comoros is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. Improving this unfavourable environment requires a series of reforms to be implemented as soon as possible.

- **The first reform** should relate to the clarification of the architecture of decentralization. While some passages suggest that local government legislation is a matter for the Union, Article 103 of the new constitution states that "in consultation with the Union, the island shall act in the following matters: the administration of local government...". The legislation does not give any details as to the concrete scope of the relationship between the central state, the autonomous islands and the communes. The municipalities thus have a double supervision (islands and Union), and the modes of articulation between these three levels of governance is yet to be determined. The reform should propose a common corpus for the action of local governments at Union level and clarify the relations between the communes, the islands and the Union. The reform would thus define the exact scope of the supervision that can be exercised by the central state or the autonomous islands over local governments. Finally, the reform would place particular emphasis on clarifying the financial management oversight for the missions of communes in order to improve the quality of local public spending.

- **The second reform** should focus on communal boundaries. There are many communes whose territory is not known, and conflicts linked to territorial divisions are legion. No one is unaware of the border conflict between the commune of Moroni and the town of Itsandra in the north and the town of Ikoni in the South, just to give one example. Despite the efforts made by the government with support from the decentralized cooperation program (PCD) funded by the European Union through a study conducted by the University of the Comoros, the mapping of the island of Ngazidja has never been finalized, and 11 of the 28 communes of Ngazidja have no delineated territory. The purpose of the reform will be to define the municipal boundaries in order to avoid the multiplication of inter-village conflicts caused by border disputes.

- **The third reform** should concern the definition of transferred competences. Currently, the texts are silent on the powers transferred to the communes by the Union or by the islands. This transfer of competences should be organized by law for the competences previously exercised by the Union; and by deliberation of the island councils for the dependent competences of the islands. So far, no text has been adopted. In practice, competences are intermingled between the different levels of governance, and between decentralized entities and deconcentrated administrations. In matters of civil status or the management/organization of procurements, the prerogatives of the mayor are often exercised in competition with those of the prefect. A study carried out with the island councils and the Assembly shows more generally that the majority of elected officials are politically inexperienced and lack political and legal competence. Few actors know the texts and their different prerogatives. The reform will have to propose a structure of competences between the three spheres of power (Union, islands and communes) and develop a training strategy for the various actors.

- **The fourth reform** should be dedicated to financing local governments. The law on decentralization has provided for various avenues of resources, ranging from local taxes (property taxes, housing taxes, licences) to State subsidies. The planned taxes are totally out of synch with the economic and social reality of Comoros. For many specialists, it is difficult to imagine that a town hall could ask its inhabitants to pay taxes on their arid plots or on their shelters made of brick, corrugated iron or straw. The reform will define on the one hand a field of resources specific to the communes, and on the other hand a system of financial transfers not only from the Union, but also from the islands. These should be proportional to the transferred competences and take into account issues of equity and equalization in a country where disparities are politically sensitive.

- **The fifth reform** concerns the urban strategy. While it is true that the urbanization rate is low (29.4 per cent in 2020, two-thirds of the population live in rural areas), urban growth is nevertheless progressing at a rate of 6.5 per cent per year. The population is young, 56 per cent of the inhabitants are under 20, with a population growth rate of 2.80 per cent, one of the highest in Africa. All projections are showing that urbanization will accelerate, with an urbanization rate of 41 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*) and that it is necessary to anticipate it by providing the country with an urban strategy and by defining the technical, human and financial resources for its implementation.

- **The sixth reform** concerns the establishment of a national agenda on the fight against climate change, the creation of an institutional framework which provides for the inclusion of local governments in its implementation, as well as their access to climate finance. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local assemblies and executive bodies elected, but not necessarily throughout the national territory.....	3
4	Amount of resource transfers to subnational governments or allocation among local governments predictable according to a transparent formula.	2
5	Resources decided and collected by the central level.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	Neither a national legislation on citizen participation, nor local frameworks for dialogue and consultation.....	1
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The history of decentralization in the Congo has been experienced through four periods (1976–1977, 1989–1990, 1992–1997 and 2003 to the present) with inconclusive results. The lack of implementing texts for decentralization laws, conflicts of competences between different authorities and the lack of political will are the main causes. Decentralization also suffered from political instability, followed by the civil war in the 1990s. A new impetus to the decentralization process was given by the 2002 Constitution which, in its Articles 174 to 177, recognizes, among other things, that “local governments are freely administered by elected councils and under the conditions provided for by the law”. The Constitution refers the precision of the competences of the local governments to the legislation. The 2003 laws completed the decentralization process with the establishment of two levels of subnational governments: the departments (12 in number) and the communes (6 in number). The last local elections organized to renew municipal and departmental councils in the Congo were held in July 2017. It should be remembered that decentralization does not concern rural areas which are directly administered by central government; grassroots local assemblies are therefore not present throughout the national territory.

Despite these advances, difficulties remain in defining the competencies transferred to the communes. Several implementing decrees are still not in place.

Transfers from the State to local governments are essentially represented by the global decentralization grant, the financial assistance from the State being intended to offset the additional charges linked to devolved competences. According to the texts, the overall decentralization grant must ensure full compensation of costs by financing the balances not covered by the transfer of state taxes. Thus, according to the terms of the State-Department contract signed between the State and the presidents of the departmental councils, each department or municipality should receive the sum of one billion CFA francs each year for the realization of its projects of community interest decided by the departmental or municipal councillors. In actual fact, the disbursement of this amount by the Treasury is often problematic.

Local taxation consists of the main taxes which are, among others, the property tax, patents and licences, and is the sole preserve of the State which determines the base, basis

and rate. The collection of the proceeds of these taxes is the responsibility of decentralized services of the State.

However, the subnational governments benefit from the proceeds of the additional cents on the VAT (5 per cent). This income from local taxes and levies represents up to 50 per cent of the resources of local governments.

In terms of capacity building for subnational governments, there is neither a reference framework for professions, nor a national training strategy for local actors.

The legislation provides for audits to be carried out to ensure sound financial management by local governments, but in practice these audits are not carried out.

Nor are there any requirements for citizen participation in the management of local governments, let alone any practices of consultation with civil society at the level of the various subnational governments.

The Congo does not have an urban strategy to manage the urbanization process, although the country has one of the highest urbanization rates in Central Africa.

The new electoral law in force in the Congo requires, in its Article 61, political parties and associations to reserve 30 per cent for women.

Congolese local governments are not involved in the development and implementation of nationally determined contributions (NDCs).

Neither the legislation nor the regulations prescribe the measurement of local government performance. No exercise to assess the performance of local governments in the delivery of local public services is carried out.

## Proposed reforms

With an overall rating of 20 out of 48, the Congo is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. The following reforms are necessary to make the environment more favourable for cities and subnational governments.

- **The first reform** should concern compliance with the provisions of the Constitution establishing the local governments. Indeed, no provision of the Constitution limits the creation of local governments to urban areas only.



According to the Constitution, the principle of equality of citizens and their rights to enjoy the same freedoms is in favour of the establishment of communes in both urban and rural areas. The reform should consist in establishing full decentralization, as well as elected assemblies and executive bodies throughout the national territory.

- **The second reform** concerns the sharing and clarification of competences between central government and the different levels of subnational governments. There are risks of conflicting competences between communes and departments (whereas communal territories are included in departmental territories). The reform should help define a systematic transfer, and not the case-by-case procedure recommended by Law No. 10-2003 of 6 February 2003. Indeed, according to that law, “the modalities for the exercise of transferred competences by subnational governments are – as required – by regulation, after the technical committee for the evaluation of decentralization has reviewed the report of the local government concerned, of the local representative of the State, or of the ministry whose competence is transferred”. This *ad hoc* and individual procedure, which involves multiple negotiations with each central administration or ministry for each of the competencies to be transferred, is not realistic. It is not likely to strengthen the process of devolution of competences. The aim of this reform would be to remove imprecision in the devolution of powers to the various levels of local government and to make the signing of transfer agreements between the central State and local governments effective, by instituting structured dialogue through the national associations of local governments.

- **The third reform** should focus on financial transfers from central government to local governments. The legal and regulatory texts are specifying that the basis for evaluating the transfer is premised on the one hand on the financial capacity of the local government assessed according to the tax potential and, on the other hand, on the financing need assessed on the basis of the amount of expenditure resulting from the transfer of jurisdiction. The evaluation of costs is devolved to the technical committee for the evaluation of decentralization. In any event, the resources transferred must be equivalent to those implemented by the central government before the transfer for exercising the competences. In addition, any new burden incumbent on subnational governments, due to changes in the rules relating to the exercise of powers by the State, must be offset by the allocation of resources for an equivalent value. Finally, the law specifies that the resources to be transferred in compensation for charges are made up of tax transfers and the overall decentralization grant. The latter must ensure full compensation of charges by financing balances not covered by tax transfers. In practice, this legislation is not enforced. Not only are transfers slow to come, but overall, they are *ad hoc*, irregular and unstable. The cost of the transferred competences has not yet been evaluated; consequently, the sizing of the national amount of the overall decentralization grant does not take any objective criteria into account. The vertical imbalance to the detriment of local governments is one of the points that the reform should endeavour to reduce in order to ensure the financing of decentralization.

- **The fourth reform** concerns the establishment of mechanisms promoting transparency in local financial management and better performance of local governments in the delivery of local public services. According to the guidelines for decentralization, the oversight of the budgets of local governments, the accounts of authorizing officers and accountants, is provided for in the texts. This concern is reiterated by Article 34 of Law No. 8-2003 of 6 February 2003 on the organic law relating to the exercise of supervision over subnational governments. It is organized by Order No. 11/479

MEFB/CAB on the attribution and organization of the services of the General Directorate of Financial Control. The reform should complete the system by requiring financial audits and the performance of local governments in the delivery of local public services.

- **The fifth reform** pertains to the urban strategy. Between 1954 and 1955, Brazzaville, Pointe-Noire and Dolisie, all three located in the southern part of the country along the Congo-Ocean Railway, had 135,000 inhabitants, or 16 to 17 per cent of the total population. Adding the inhabitants of small towns and bush agglomerations known as “extra-customary centres” could not take that level to 20 per cent. Today, the three cities have a total of nearly 3 million inhabitants, Brazzaville with approximately 1,888,000 inhabitants, Pointe-Noire 969,000 inhabitants and Dolisie 100,000 inhabitants. Congo has one of the highest urbanization rates, with slightly over 67.8 per cent in 2020 and a projected rate of 80 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). This very high concentration of the population in the cities accentuates the impression of a demographic vacuum in the rest of the country’s very sparsely populated territory. The average density barely reached 12 inhabitants per mi<sup>2</sup> in 2010. This impression of emptiness is accentuated by the fact that four-fifths of the urban population is actually concentrated along a single axis, confined to the extreme south of the country, which connects the country’s two major metropolises, Brazzaville, the political capital and river port on the Congo River, and Pointe-Noire, the sea port. These figures show the urgent need to anticipate the transformations of the settlement and to reflect on a better planning of the national territory. The reform should pay particular attention to the establishment of a balanced national urban framework in order to unleash the economic potential of all urban centres and the territories they polarize.

- **The last reform** concerns the place of local governments in the fight against climate change. Programmes and projects to combat climate change must be more under the control of subnational governments, while ensuring that the latter must have access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Amount of resource transfers to subnational governments or allocation among subnational governments predictable according to a transparent formula.	2
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	No national legislation on citizen participation, but existence of locally organized dialogue and consultation frameworks.....	2
9	No evaluation of subnational governments performance.....	1
10	Existence of a clear urban strategy at national level, but not supplemented by adequate technical and financial means.....	3
11	The country does not provide any or just one of the mechanisms for gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Côte d'Ivoire has an old decentralization policy governed by French Law No. 55-1489 of 18 November 1955. This policy was gradually confirmed by various laws from 1985 to 2003. A number of implementing decrees were then adopted from 2005 to operationalize the transfer of powers to local governments. The region and the commune are now the two types of subnational governments responsible for ensuring the full involvement of the populations in the management of their affairs. Under deconcentration, the national territory is divided into two autonomous districts, 31 regions, 107 departments, 507 sub-prefectures and 8,000 villages. On the other hand, under decentralization, the country has 31 regions and 201 communes. The new Constitution of 2016, in its Title XIII on subnational governments, while specifying that the law determines the fundamental principles of the free administration of local governments, their competences and resources, stipulates that "any transfer of competences between State and subnational governments shall be accompanied by the allocation of resources equivalent to those dedicated to their exercise" (Article 174).

Forty decrees are yet to be enacted to operationalize Law No. 2003-208 of 7 July 2003 on the transfer and distribution of powers from the State to local governments. The provisions of the 2016 constitution on the concomitance of the transfer of competences and related financial resources are not effective.

The country has 201 communes that do not cover the entire national territory, and 31 regions that cover the entire national territory. The latest local and regional elections were held in October 2018. However, the recent establishment in June 2021 of 12 new districts, in addition to the two existing ones, headed by personalities appointed by the President of the Republic, introduces complexity into a decentralized institutional landscape where mayors, presidents of regional councils and district governors will have to coexist in the same territories.

Local authorities are obtaining retroceded taxes, the proceeds of which are collected by the State, and local levies and taxes on businesses with less than 10 million turnover, the proceeds of which are collected by the communes themselves.

Article 107 of the financial regime of local governments stipulates that "the council of the local government may not

institute any tax or levy which has not previously been created by law". The recent decision to centralize the proceeds of local taxes in a common fund and distribute them among municipalities and regions has weakened the financial autonomy of local governments.

The distribution of the national amount of financial transfers to local governments is done according to formulas, their payment is however not always effective.

In terms of capacity building for local administrations, there is no legislation or institute for the training of communal staff. However, there are initiatives within the framework of international cooperation projects/programmes. It should also be noted that a study has been conducted and a draft decree for the creation of an institute for capacity building of local governments has been prepared. The decree creating this institute has been pending for several years.

Audits of subnational governments are prescribed by law and carried out by the supervisory authority. These audits are occasional, despite the recent adoption of the law on the transparency code in public finances.

In addition, the law does not provide for the evaluation of the performance of subnational governments in the delivery of local public services.

There is no national legislation on the public participation in the management of subnational governments, but experiences of participatory budget exist in a large part of the communities.

With 51.7 per cent urbanization level in 2020, Côte d'Ivoire is experiencing a structural urbanization process that will bring the country to approximately 67.4 per cent urbanization level by 2050 (*World Urbanization Prospects: The 2018 Revision*). However, the financial and human resources necessary for the proper implementation of the urban strategy are lacking.

A law of October 14, 2019 in favour of women's representation in elected assemblies, requires parties and political groupings to earmark a minimum of 30 per cent of the total number of candidates presented in the elections for deputies, senators, regional councillors, district councillors and municipal councillors for women. The implementing decree for this law was adopted by the Council of Ministers on 25 November 2020. Today, of the 201 mayors, 11 are women and 60 are female deputy mayors; and of the 31 presidents of the regional councils, only one is a woman.

In the fight against climate change, the Government initiated in February 2020, the revision of Nationally Determined Contributions (CDN), with the particular objective of promoting the engagement of local governments. It is thus planned to break down the NDCs into regional objectives and communal objectives.

## Proposed reforms

With a score of 25 out of 48, Côte d'Ivoire is one of the countries where progress towards an enabling environment for cities and subnational governments requires major reform efforts.

- **The first reform** should relate to the communalization of the territory. The total communalization of the territory, announced many times, is slow to materialize. In 2012, the 1,160 new communes created between 2000 and 2010 and which were even not functional, were abolished. Only four new communes have been created since then. More than 30 per cent of the national territory is yet to be communalized. While all the populations live in the regional communities, this is not the case for the communes. As a result, local populations are excluded from the beneficial effects of the decentralization policy

- **The second reform** should be on financing local governments. It is in this regard that the Union of Cities and Communes of Côte d'Ivoire (UVICOCI) and the Association of Regions and Districts of Côte d'Ivoire (ARDCI), with the support of UCLG Africa, launched the assessment to cost transferred competences. In total, from 2011 to 2015, the sectoral ministries executed 83 per cent of the resources dedicated to the competences transferred by the State to the subnational governments and to the autonomous districts.

These transferable resources, implemented from 2011 to 2015, relate mainly to the areas of health, security in view of ending the post-electoral crisis, education through infrastructure rehabilitation projects of the education system co-financed by the TFs and the State of Côte d'Ivoire and sanitation. The current reform is centred around the development of a roadmap for the gradual decentralization of resources to subnational governments.

- **The third reform** should relate to local taxation. The Ivorian local taxation system can be greatly improved. The country is one of the few where local authorities do not have their own tax field. Each year, the finance law sets the rules for distributing taxes between the State and local governments on the one hand, and between local authorities on the other. No local tax is therefore exclusively intended for local governments; all taxes are shared between central government and subnational governments. It very often happens that central government changes the rules for sharing the proceeds of the main local taxes without consulting with subnational governments. The latter then discover that they are deprived of significant parts of their resources after the adoption of the finance laws. The reform should make it possible not only to give latitude to subnational governments for taxation, but also to define the conditions for an incentive to mobilize resources at the local level.

- **The fourth reform** should be strengthening local administrations. Local civil servants are recruited in accordance with the terms set by the law on the status of the staff of subnational governments. On the other hand, within the framework of the decentralization of sectoral policies, the State has transferred certain sections

in the implementation of national sectoral policies to local governments. And on this basis, the personnel corresponding to the sections to be transferred to the subnational governments have been systematically assigned to them. The arrangements are then multiple; the staff is either paid directly by the central government; or the staff is paid by the local governments on funds received from the central government. This solution, although it has helped cover local public service delivery by the local governments, has two drawbacks. In practice, the personnel are more accountable to the State than to local governments. Examples where these officials refuse to take into account the indications of the subnational governments in favour of their structures of origin are legion. The second drawback is the issue of building the capacity of local government staff, which becomes more complex because officials assigned to the local level are not sure of continuing their careers at this level. The development of a real training strategy, as well as a reference guide for the professions of local governments, should lay the foundations for a sustainable strategy for strengthening the human resources of local administrations.

The Institute for the Capacities Strengthening of Territorial Communities (IRRCT) for which a feasibility study and funding have been available since 2015 must be quickly set up. The decree creating the IRRCT has been awaited on for several years already.

- **The fifth reform** should concern transparency in public management. Audits of the accounts of subnational governments are carried out irregularly and no evaluation of the performance of subnational governments in the provision of local public services is carried out. On the other hand, the staff of the General Treasury Inspectorate needs to be reinforced. While financial control is in the process of being established, the fact remains that reforms are necessary, particularly on the conditions for improving the quality of local public expenditure in general, by operationalizing audits and performance evaluation.

The electronic municipality tax payment system has given convincing results in the communes where it has been tested. On the basis of those results, it could be generalized to all communes.

Since 2019, Côte d'Ivoire has adopted the principle of programme-based budgeting in a results-based management perspective. This principle can be adapted at the decentralized level and take the form of performance contracts between the State and local governments, in particular for the implementation of the Sustainable Development Goals (SDGs) and Nationally Determined Contributions (CDN) of the Paris Climate Agreement. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	There are non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	Neither a national legislation on citizen participation, nor local frameworks for dialogue and consultation exist.....	1
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Since its independence on 30 June 1960, the Democratic Republic of the Congo has been in civil war from 1996 to 2003. The Comprehensive and Inclusive Agreement signed in Pretoria, South Africa, on 17 December 2002 at the end of the inter-Congolese dialogue, contributes to this desire of national actors to open a new era of open, pluralist and democratic governance in the country. The Democratic Republic of Congo adopted a new Constitution promulgated on 18 February 2006 after its adoption by referendum. This Constitution marks the advent of the third Republic. It clearly establishes decentralization as a new mode of organization and management of public affairs in general and of local public affairs in particular, replacing an excessively centralized management system instituted during independence. According to Article 3 of the Constitution, “the provinces and decentralized territorial entities of the Democratic Republic of the Congo have legal personality and are managed by local bodies. Those decentralized territorial entities (DTE) are the city, the commune, the sector and the chiefdom. They enjoy free administration and autonomy in the management of their economic, human, financial and technical resources”.

The Constitution of 18 February 2006 establishes three levels of governance: the State, the province and the Decentralized Territorial Entity (DTE). The latter includes the city, the commune, the sector and the chiefdom. The texts divide the country into 25 provinces and the city of Kinshasa, which enjoys a special status assimilated to the province, while in reality the country is effectually divided into 11 provinces. It was not until 2015 that a law legalized the division of the 26 provinces of Bas-Uele, Équateur, Haut-Lomami, Haut-Katanga, Haut-Uele, Ituri, Kasai, Kasai-Oriental, Kongo central, Kwango, Kwilu, Lomami, Lualaba, Kasai central, Mai-Ndombe, Maniema, Mongala, Nord-Kivu, Nord-Ubangi, Sankuru, Sud-Kivu, Sud-Ubangi, Tanganyika, Tshopo, Tshuapa and the city of Kinshasa.

In addition to the provinces, the other levels of subnational governments were to be set up within 36 months of the promulgation of the fundamental law on 18 February 2006, after demarcation of the territories of the various DTEs. However, to this day this demarcation is still not effective so that the DTEs provided for by the fundamental law are still not effective. The city is a provincial capital or any agglomeration of at least 100,000 inhabitants which has collective facilities, and economic and social infrastructure and to which a decree

of the Prime Minister confers the status of city on it. The chief executive is a mayor. The commune is the capital of the territory, any subdivision of the city or any agglomeration with a population of at least 20,000 inhabitants, a decree of the Prime Minister conferring the status of commune on it. The head of the executive body is a *bourgmestre*. The sector is a generally heterogeneous gathering of independent traditional communities organized on the basis of custom. It is headed by a chief elected and authorized by the State to exercise authority in a specific sector. The chiefdom is a generally homogeneous set of traditional communities organized on the basis of custom and headed by a chief appointed by custom, recognized and authorized by the public authorities.

The transfer of powers to local governments is yet to be finalized. Legislative and regulatory texts clarifying the competences of DTEs are yet to be developed.

Provinces have elected assemblies and executive bodies throughout the national territory. So far, the boards as well as the executive bodies of the DTEs have been appointed; municipal, urban and local elections have never been held. The elections for the governors and vice-governors of provinces were held for the most part on 10 April 2019. However, the country has since experienced a wave of dismissals of governors by the provincial assemblies.

DTEs are entitled to 40 per cent of the national revenue allocated to the provinces. The provinces themselves are entitled to 40 per cent of national resources, the 60 per cent being for the central government. Decentralized entities would therefore be entitled to 40 per cent of the 40 per cent of national resources.

The own resources of a DTE include the minimum personal tax, income from participation, local taxes and duties. They also include taxes of common interest; the key to the distribution of the revenue from the taxes of common interest between the DTEs and provinces, which has not yet been set by legislation. The resources are decided and collected by the central and provincial levels without any involvement of the DTEs.

Strengthening the institutional capacities of local governments is a task that remains to be undertaken, as there is neither a reference framework for local professions nor a national strategy for strengthening local capacities.



Article 180 of the Constitution provides that “the Court of Accounts oversees, under the conditions set by law, the management of State finances, public property, as well as the accounts of the provinces, decentralized territorial entities and public bodies”. It publishes, each year, a report submitted to the President of the Republic, the Parliament and the government. But the performance of these audits is only occasionally revealed.

The Democratic Republic of the Congo has no specific legislation on public participation, and there are no local consultation frameworks at the commune level.

The performance evaluation of subnational governments in the delivery of local public services is not provided for by law, and no evaluation exercise is carried out.

The Democratic Republic of the Congo has no urban policy despite the significant challenges posed by urbanization and land-use planning in the country, one of the largest in Africa.

With regard to elective functions, the law provides that each political party, in the preparation of their lists for elections, at all levels, should have a representation of at least 30 per cent of women.

Local authorities are not involved in national programmes and projects to combat climate change.

## Proposed reforms

With a rating of 20 out of 48, the Democratic Republic of Congo is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. The following reforms can be suggested to make the environment of cities and subnational governments more favourable.

- **The first reform** should be the taxation field specific to local governments. Several indices lead to question the financial autonomy of DTEs. The texts stipulate that the budgets of DTEs are integrated, in expenditure and in revenue, in the budget of the province in accordance with the provisions of the finance law. On the other hand, the tax is established in accordance with provincial tax legislation. The key to the distribution of the proceeds of taxes of common interest between the provinces and between the DTEs should be set by the legislation which institutes such taxes, after consulting the conference of provincial governors; This is not yet the case. These provisions are keeping the DTEs broadly dependent on the provinces, which is not in keeping with the spirit and letter of the 2006 Constitution and may also pose problems of resource sharing even though the provinces have not agreed with the State on their own resources. The legislation establishes that the financial resources of a decentralized territorial entity include its own resources, resources from national revenues allocated to the provinces, resources from the national equalization fund, as well as exceptional resources. The text points out that the taxes specific to each decentralized territorial entity are taxes levied on local matters not imposed by the central power. Finally, the texts specify that the DTEs established their own mechanisms for collecting their revenue without specifying how. All these questions could be dealt with within the framework of a reform on local taxation.
- **The second reform** could concern financial transfers to provinces and DTEs. First, the withholding of tax stipulated by the Constitution for the transfer of 40 per cent of the proceeds of national taxes to provinces has been replaced by a retrocession which is not effective. Secondly, the distribution of resources from the provinces among the DTEs depends on

the criteria of production capacities, area and population. The texts are rather imprecise on the resources to be shared between the provinces and the State. On the other hand, Article 181 of the Constitution provides for the establishment of a national equalization fund, with legal personality. The mission of the national equalization fund is to finance public investment projects and programmes, with a view to ensuring national solidarity and correcting the development imbalance between the provinces and between the DTEs. It has a budget supplied by the Public Treasury up to 10 per cent of the total national revenue accruing to the State each year. An organic law sets its organization and its functioning. For this fund to really play its role of equalization, precise regulations should define the mechanisms and procedures for implementing financial transfers from the State to provinces and from provinces to the DTEs. The development of these texts should be the main focus of the reform in the transfer system.

- **The third reform** should be the urban strategy. The Democratic Republic of the Congo is the largest and most populous country in Africa with a population of just over 60 million. The level of urbanization is 45.6 per cent in 2020, and all projections suggest a level of urbanization of 63.8 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The distribution of the population is uneven, with a low proportion of the urban population in Maniema against a high proportion in Kinshasa, which concentrates one-tenth of the entire population. The growth rate of the urban population remains one of the highest on the continent (between 7 to 8 per cent), which suggests a doubling of the current urban population in 10 years or less. The vastness of the country and the rapid pace of urbanization calls for the development of a national urban strategy as well as a national land-use strategy. The fact that the country is in the grip of recurrent political convulsions with persisting rebellions in several regions, urges to design a particular strategy for fragile cities, in particular those which have been exposed to political, military crises, where the reconstruction of common life in a post-conflict situation calls in particular for the intervention and genius of subnational governments to upholding the “living together” within local governments.
- **The last reform** relates to combating climate change. A pivotal country for biodiversity, the Democratic Republic of the Congo does not involve local governments in the many programmes and projects in combating climate change. The reform should empower subnational governments to access the various climate funds for their various projects. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions local governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments...	2
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	No national legislation on citizen participation, but existence of locally organized dialogue and consultation frameworks.....	2
9	No evaluation of subnational governments performance.....	1
10	Reflection on urbanization at national level, but urban strategy not yet defined.....	2
11	The country has three mechanisms for promoting gender equality.....	3
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Djibouti has adopted Law No. 174/AN/02/4ème L of 7 July 2002 on decentralization and the status of regions. For national decision makers, the objective of decentralization is to establish concerted and participatory local governance, to make the actions of the State more efficient by bringing the administration closer to the public, to promote the participation of economic operators in community development, and, to allow the participation of civil society in the management of public affairs. In 2010, the National Assembly, by the constitutional Law No. 92/AN/10/6<sup>th</sup> L of 21 April 2010 relating to the revision of the Constitution, definitively anchors decentralization in the national institutional landscape. Title X reserved for local governments stipulates that subnational governments are legal persons governed by public law that enjoy administrative and financial autonomy. Local authorities are regions, municipalities and any other local government with special status. They are administered freely by elected councils. Article 87 of the Constitution specifies that the missions, organization, operation and financial regime of local governments are determined by an organic law. The administrative and territorial organization of the Republic of Djibouti is based on the deconcentration of State services. The administrative division includes the district and the "post". The districts are headed by the commissioners of the Republic called "prefects" and the "posts" by the heads of posts. In terms of decentralization, the country has five regions and three municipalities that make up the capital. In January 2012, the second local and regional elections were held, setting up new councils and executive bodies throughout the national territory, followed by those of 24 February 2017, in accordance with Decree No. 2017-039/PR/MI setting the modalities for the organization of regional and communal elections.

The monitoring of the conditions and modalities of transfer of financial resources for the exercise of the transferred powers did not achieve the expected outcomes. For the moment, financial transfers from central government to subnational governments are limited to an ordinary operating budget, known and according to the law. This budget remains very limited and covers salaries and operating costs such as office supplies, fuel, water, electricity and others bills.

As part of the tax reform reflected in the 2017 finance law, an initial tax transfer was made by central government to benefit the regions only. Certain licence fees and local taxes are

transferred to the regions, but the latter are just beginning to put in place a mechanism to collect these transferred taxes and licence fees. Thus, the collection of licence fees and local taxes are starting in the regions only. These are classes 9 and 10 of the general tax codes, namely licence fees relating to certain activities, the licence fees and property taxes on buildings and non-buildings properties. The transferred licence fees are collected in the regions by tax centres set up by the Ministry of Budget.

Djiboutian local governments suffer from an insufficient institutional capacity to implement programmes. While there is a national capacity-building strategy, there is not, however, a national framework of reference which defines the qualifications and responsibilities of subnational governments.

In practice, transparency mechanisms exist, but are not systematically enforced. This situation does not meet the provisions of Decree No. 2001-0222/PM relating to the creation of a general State inspectorate, stipulating that the services of the State and subnational governments are subject to the regular oversight by the State.

There is no legal framework for consultation in local authorities to strengthen the participation of populations in the management of local affairs, but there are neighbourhood councils. The latter are appointed by the populations and are consulted by the municipal council on some issues relating to their neighbourhood. The new general code of local governments includes provisions relating to citizen participation. The General Code of Local Governments was adopted by the Council of Ministers in December 2020 but has still not been adopted by the National Assembly.

The performance evaluation of subnational governments is not provided for by the Djibouti texts.

The country does not yet have a national urban strategy but there is an urban development master plan for the city of Djibouti (capital) and an urban development master plan for each of the five regional capitals, but not yet applied.

There are quotas for women to be respected for the eligibility of the lists in local elections, and the requirement for the presence of at least one woman in the local leadership, although this quota remains below 30 per cent.

On 15 October 2019, a bill was tabled to the Council of Ministers establishing gender parity and representation

in decision-making powers, in all fully or partially elective institutions as well as within the public administration.

The institutional framework only provides for the inclusion of local governments in the implementation of the national climate change agenda

## Proposed reforms

With an overall score of 25 out of 48, Djibouti is one of the countries where progress towards an enabling environment for cities and subnational governments requires major reform efforts. Five reforms are proposed to improve the institutional environment of subnational governments:

- **The first reform** concerns the strategic steering of the decentralization process. Beyond the adoption phase of legislative and regulatory provisions, the implementation of the decentralization policy should be subject to planning, setting the objectives, means, stages of implementation, and a monitoring and evaluation system for the institutions put in place. In practice, the decentralization process follows the rhythm of joint government and donor initiatives, and is very often driven by the general policy discourse of the Head of State in the run-up to elections and/or the end-of-term speeches of local elected officials. When the authorities act in particular by means of normative texts, there are significant delays between the passing of laws and their concrete enforcement by decrees. With regard to the transfer of competencies, the government's promise to implement an effective tax system provided for in Article 5, Paragraph 2 of the decree has not been fulfilled. Encouraging the strategic steering of the process supposes the revitalization of the ministerial committee for decentralization (CMD), supported by a technical committee – the national committee for decentralization (CND). These bodies were created by decree but have not yet been established. These two committees should be in charge of the coordination and monitoring needed for the decentralization process. The reform should propose a strategic management of the process by identifying the role of the institutions involved and by proposing ways of strengthening their capacities. It is necessary to revise and validate the preliminary draft code of local governments, a comprehensive bill that is not a simple aggregation of existing texts but a mechanism covering all aspects of decentralization, the content of which has taken into account the shortcomings of the existing legal framework, in particular by establishing the rules of the financial regime of the subnational governments (budgetary principles, resources and expenses, rules of budgetary execution and accounting rules).

- **The second reform** concerns the process of transferring powers to local governments. The administrative and regional system in Djibouti is highly centralized, despite the election of assemblies and executive bodies elected at the head of regions and communes. The five regions of the country are administered by regional prefects who are also responsible for the coordination of decentralized services. In practice, decentralization remains largely ineffective due to the lack of devolution of powers to the regions and the decentralization of financial resources. Relaunching the process of transferring competencies involves revitalizing the committee for monitoring the conditions and modalities for transferring competencies between the State and subnational governments created by Order No. 2007-0432/PR/MID.

- **The third reform** concerns fiscal and financial decentralization. The latter is at the heart of the process

of strengthening decentralized entities. All other aspects of decentralization depend on how the financial side is implemented. For example, the effectiveness of services depends on the proportionate and timely allocation of resources to local governments, as well as the transparent and efficient management of those resources. The process of determining and disbursing funds, the management and allocation of those funds to planned activities, local income generation initiatives, and the commitment of national actors to ensure the transfer of resources to decentralized entities, contribute to the financial empowerment of local governments. The national amounts to be transferred to local governments should be based on an "equalization formula" which takes into account the population, the poverty line, remoteness, the potential for resource development – among other factors. The transparency and predictability of transfers will depend on the capacity of local governments to plan their actions.

- **The fourth reform** relates to the urban strategy. With approximately 78.1 per cent urbanization level in 2020 and a projected rate of 84.7 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Djibouti is experiencing anarchic urban development. Indeed, despite the efforts of the government and its development partners in recent years, poverty and extreme urban poverty have increased. Thus, in the city of Djibouti, the slums are growing rapidly, against all the rules of planning. Access to basic infrastructure, such as drinking water, sewage system, housing and transportation, is very poor; unemployment and marginalization are increasing dramatically. A degradation of public facilities as well as of the urban environment is to be deplored. The implementation of the master plan for the city of Djibouti and the five regional capitals is urgently needed. The reform should develop a national urban strategy and define in a coordinated manner the engagement of the various national and local actors. We must welcome the national slum upgrading programme ("Zero Slum Programme") currently being implemented with the support of the World Bank.

- **The fifth reform** would be to establish an institutional framework that requires local governments to develop a territorial climate plan, to report on the implementation of the territorial climate plan, and provide for local government access to climate funds. ■

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- Law No. 139/AN/06/5th L, relating to the modification of Law No. 174/ AN/02/4th L of 7 July 2002, on decentralization and the status of regions of 4 February 2006.
- Law No. 149/AN/11/6th L, relating to the modification of Law No. 174/ AN/02/4th L, on decentralization and the status of regions and Article 6 of Law No. 122/AN/05/5th L, on the status of the city of Djibouti.
- Law No. 174/AN/02/4th L, on decentralization and the status of regions of 7 July 2002.
- Order N° 2007-0432/PR/MID, relating to the creation of a committee to monitor the conditions and modalities for the transfer of powers between the State and local governments.

### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.	3
3	Local assemblies and executive bodies are appointed.....	1
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	The central government defines and collects subnational government revenues.....	1
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments; but they concern only a few subnational governments....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed.....	2
8	There is no national legislation on citizen participation, and no locally organized spaces for dialogue and consultation.....	1
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Decentralization in Egypt has been a long process. Initial progress was made in 1960, when a law created the governorates and delegated many functions to local authorities. The second stage was the Constitution of 11 September 1971 that provided for local governments with legal status and a certain degree of autonomy (Article 161 of the Egyptian Constitution). That same year, Law No. 57/1971 promulgated the new constitutional principles and attempted to improve local government efficiency. The third stage in the solidification of decentralization came in 1975 with the creation of two additional local governments: the borough (hai) and the rural district (markaz). Subsequently, a Supreme Council of Local Administration was created in 1981, composed of governors and local council chairs at the governorate level under the direction of the Prime Minister. The fourth stage was the new Constitution of 2014, which emerged from the Arab Spring and devoted an entire section (Section 3) to local administration. However, all the laws and regulations necessary to make the provisions in the Constitution operational remain to be drafted.

The territorial division contains three levels. The first two are: (a) 29 governorates; and (b) 433 districts, the major administrative units under the governorates. These districts do not exist in the governorates of large cities. There are four large cities: Cairo, Alexandria, Port Said and Suez. Alexandria is the exception and contains a district. The urban and provincial governorates and the large cities and districts correspond to the second tier. The last tier (c) consists of the 220 boroughs, provincial cities, cities and village units. All the provincial cities are governorate capitals, except Shubra El-Kheima in the Qalyubia Governorate. The capital of Qalyubia is the city of Banha. The provincial cities are divided into boroughs like the large cities. Village units contain a parent village and surrounding villages. The governor is appointed directly by presidential decree. The head of the district executive body is the district chief (ra'is al-markaz), appointed by the Prime Minister. The head of the executive body for cities is the mayor (ra'is al-madina), appointed by gubernatorial decree, as are the village and borough chiefs. Local government councils are elected. When the January 2011 revolution broke out, all local councils across the republic were dissolved. Since then, no new local councils have been elected.

Financial transfers from the central government to the other spheres of governance (governorates, districts and boroughs) are unpredictable, not very stable, and do not allow the efficient provision of local public services.

In Egypt, there are also own revenues and revenues shared between the central government and local governments. The shared field consists of: half the revenues from export and import duties; half the revenues from taxes on securities; half the revenues from taxes on commercial and industrial profits; and one quarter of the revenues from taxes on farmland. Own revenues come from taxes on vehicles and other means of transportation, and taxes on entertainment and leisure activities. In all cases, though, local governments cannot alter the local tax base or rates.

Egypt has a national capacity-building strategy for local administrations, and Decrees Nos. 705/2014 and 707/2014 establish national bodies in charge of the human resources of local administrations. However, the country does not have a national framework of reference for local government staff qualifications and responsibilities. There are few qualified staff in local governments and few local experiments in capacity building.

Many institutions exist and are, in principle, in charge of verifying financial management by local governments. They are the Supreme Council of Local Administration and some central institutions, such as the Central Authority for Organization and Administration and the Central Agency for Audits. However, audits are conducted only occasionally.

In Egypt, there are no specific laws on participation and no local spaces for consultation and participation.

There are no laws on local government performance assessment, and such performance is not assessed.

Egypt has a high level of urbanization: 42.8 per cent in 2020 and an estimated 55.6 per cent by 2050 (World Urban Prospects: The 2018 Revision). The major city of Cairo has a population of more than 12 million (2018). Given this urbanization, several initiatives have been developed to support the urban sector, and many programmes have been implemented. There has, however, been no reflection on an urban strategy.

The law governing local council elections and any decision on quotas are still in discussion in parliamentary committees.

A law to increase women's participation in local council elections through a quota system has been drafted but still in discussion in parliamentary committees.

Local governments are not involved in the national climate change programmes and projects.

## Proposed Reforms

With an overall score of 18 points out of 48, Egypt is one of the countries where the environment is generally unfavourable to cities and subnational governments action. Improving the enabling environment for cities and subnational authorities calls for a certain number of reforms.

- **The first reform** is to strengthen local autonomy. Because of the existing appointment practices, heads of local government in Egypt face challenges in adapting public spending to local preferences. While some governors are able to improve territorial application of public policies, the system of vertical organization of powers as a whole weigh against local preferences. The governors hold financial and administrative power over deconcentrated central government services, but their authority cannot influence changes made by ministers in the implementation of sectoral policies.

In addition, the heads of deconcentrated central government services are members of the Governorate Executive Council and report to their central ministries. This means that the deconcentrated central government services have few obligations towards governor's initiatives. The line ministries have the power to hire, fire and promote local executives, which strengthens their accountability to the central government. In addition, most governors are appointed from outside the local government sphere (nearly 70 per cent of governors are former members of the armed forces or former police officers). Finally, Egypt is undoubtedly one of the few African countries where a people's assembly oversees approving local government budgets and plans.

The reform should clarify the content of Article 179 of the new Egyptian Constitution, which stipulates that the law shall regulate the manner in which governors and heads of other local administrative units are appointed or elected and shall determine their competences. The reform should then tackle the link between decentralization and deconcentration in such a way as to strengthen local autonomy.

- **The second reform** should emphasize clarifying the distribution of responsibilities among the various spheres of government. In principle, laws divide up responsibilities, but the regulatory texts to detail the different links of responsibility are missing, and the texts themselves often introduce some uncertainty. For example, according to the law, a service assigned to a sphere of local governance does not mean that the service will necessary be provided by the local level. Services are often provided by several spheres of governance. There are many similar examples of competing responsibility: health, where supply is regional or central and distribution is local; social well-being (central pensions, etc.); transportation (national and local roads); the environment, where local governments may act as agents for the central government; sanitation, with regional sewerage processing but local waste collection; and primary education, where educator certification and some aspects of curricula are set at the central level, educator service standards and pay scales are set by the governorates, and school books are chosen by schools.

The reform should focus on the division of responsibilities between the central government and the various levels of local governance, and across the different levels. It should pay particular attention to drafting the laws and regulations necessary to make the transfer of responsibilities to local governments operational.

- **The third reform** concerns the financial transfers from the central government to local governments. Two transfer methods exist. The first is shared taxation. While 50 per cent of the revenue from these taxes are paid to the local governments based on the collection site, the remaining 50 per cent are transferred to common funds to be distributed to all governorates, except Cairo and Alexandria, according to a specific formula. The tax rate is not stable and changes over time. This source of revenue contributes greatly to local fiscal revenues: nearly 40 per cent. The second transfer is the "Common Fund" administered by the Ministry of Finance. However, how fund resources are distributed among eligible governorates is decided after consulting the Ministry of Local Development. The criteria for allocating funds to governorates take into consideration population size, geographic sector and need. These resources provide nearly 30 per cent of governorate budgets, particularly in Upper and Lower Egypt.

Finally, transfers of the Suez Canal Authority's profits are distributed by the Ministry of Finance to five governorates. These revenues are distributed as follows: 50 per cent to Ismailia, 30 per cent to Port Said and Suez, 10 per cent to North Sinai and 10 per cent to South Sinai. The reform should adjust the scale of financial transfers from the central government to the other spheres of government (governorates, districts and boroughs) so that they are in line with the cost of the responsibilities transferred. It should make the transfers predictable and stable to allow for the efficient provision of local public services and avoid territorial disparities from worsening (import-export duties, the Suez Canal, etc.).

- **The fourth reform** deals with gender equity, particularly the central role of women in local governance processes. The current situation, characterized by the weak representation of women in the councils and in the leadership of local governments, must be resolved. The reform should propose measures to ensure the presence of women in local governing bodies.

- **The last reform** focuses on the fight against climate change. Local governments must be part of national programmes and projects and have access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	No mechanism for transparency in the functioning of subnational governments provided for by laws and regulations.....	1
8	Neither a national legislation on citizen participation, nor local frameworks for dialogue and consultation.....	1
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Equatorial Guinea is made up of the continental zone called Rio Muni, the islands of Bioko, Annobón, Corisco, Elobey Grande, Elobey, Chico and adjacent islets. Decentralization in Equatorial Guinea is the result of the 1995 Constitution which enshrines political pluralism.

The Constitution, in Title VI, stipulates that local governments have their own legal status. Under the responsibility of the government and the administration of the regions, subnational governments are in charge of promoting economic and social development plans and programmes. They contribute to the realization of the development plans of the State. The Constitution stipulates in its Article 102 that the law determines their competences, functioning and legal framework. To date, this legislation determining the operating conditions of local governments, as well as the implementing texts, have still not been adopted. It should also be noted that the Constitution does not affirm the principles of local autonomy and local election.

The Ministry of the Interior and Regional Planning, as well as the sectoral ministries active at the provincial and district levels, are in charge of local governments. The territorial division includes two large regions – one continental, and the other insular – divided in turn into seven provinces: two provinces on the island of Bioko, one province on the island of Annobón, and four provinces in the mainland region of Rio Muni. These provinces have 30 municipalities and a number of traditional chiefdoms and villages. The provinces are run by governors appointed by the central government for a period of five years. The municipal level is governed by elected councils. The latest local elections were held in 2017.

The main constraint on the environment of cities and subnational governments is the absence of texts operationalizing the transfer of competences. The legislation of local governments still remains to be developed and the implementing texts are non-existent, which hinders the implementation of transfers of powers.

Financial transfers from the State to subnational governments is not part of the national financial landscape. The legislation does not provide for systematic financial transfers to local governments. When they occur, this is in the context of specific events such as the African Cup of Nations. No subnational

government is in a position to predict such transfers in its budgetary planning.

Local taxation provides few financial resources for local governments in Equatorial Guinea. In addition, it is governed by national provisions, and subnational governments have no latitude to change the rate or base of local taxes.

Local communities have very little capacity and rarely hire officials. The local staff is generally made up of operational staff. The country has neither a national benchmark for local government jobs, nor a national strategy for building the capacity of local governments.

Equatorial Guinean legislation does not provide for any oversight of the financial management of subnational governments. In addition, the ministry in charge of local governments does not provide any modalities for auditing local financial accounts.

Despite the local elections, the participation of local populations in local public management remains low in Equatorial Guinea. No specific legislation exists on this subject, and the populations are only rarely consulted; local development plans are rare. There is no consultation framework for the populations at the local level.

As local authorities have practically no competences in implementing sectoral policies, no evaluation is carried out on their performance in this area. There is no national legislation dealing with the evaluation of the performance of local governments in service delivery.

Equatorial Guinea does not have an urban strategy, even though a little over two-thirds of its national population is living in urban areas.

Equatorial Guinea does not have any quotas for women's participation in local governance.

Local communities are not engaged in national climate change programmes.

## Proposed reforms

With an overall score of 19 out of 48, Equatorial Guinea is one of the countries whose environment is generally unfavourable to the action of cities and subnational



governments. Several important reforms must be undertaken for Equatorial Guinea to make real progress towards a more conducive national environment.

- **The first reform** concerns the competences of subnational governments. Despite the inclusion of local governments in the Constitution, in practice, they have no separate legal personality so far. The municipalities are operating on the ground as decentralized agents of the State and, as such, have only a marginal influence on the development of public policies, including those that affect them. Equatorial Guinea would now like to engage in a more advanced decentralization process towards greater local democracy. The involvement of the local level in the development process, the granting of legal personality and financial autonomy to municipalities, need to be considered and implemented as well as the appointment of local assemblies and local executive bodies through democratic vote. The democratic choice of local leaders places them in the position of being accountable to their constituents, which contributes to the quality of local governance. The reform should also enshrine the principles of free administration of subnational governments, subsidiarity, respect for differences and diversity, as well as shared and complementary responsibility with the State.

- **The second reform** to follow on from the first should be the transfer of competences. The reform should develop specific legislation which extends and clarifies the provisions of the Constitution. Indeed, subnational governments have few powers and position themselves as relays of sectoral ministries. The reform should define the powers specific to local governments, taking into account the geographical and socio-political particularities, as well as the different territorial scales of the country. It should determine the criteria to be retained in terms of the transfer of powers, the general competence clause or the transfer by blocks of competence, and the schedule for the implementation of the transfers. The reform would thus define these options in relation to the action of the sectoral ministries in the field and in complementarity with the decentralized and deconcentrated administrations. Finally, the reform should draw lessons from the experience of other countries, particularly with regard to the contribution of decentralized State services to strengthening the contracting authority of subnational governments.

- **The third reform** concerns financial transfers to subnational governments. It must go hand in hand with the definition of the transfer of powers. Local authorities are supporting and facilitating the action of sectoral ministries in the field; they do not undertake any action. The first challenge of the reform would therefore be to assess the costs of the competences implemented by the central government, and to proportion the financial transfers accordingly. This exercise should take into account the three levels of local governments which are the regions, the provinces and the grassroots assemblies. Several principles should be retained, including national solidarity, territorial equity, and incentives, in order to meet the conditions for decentralized delivery of local services.

- **The fourth reform** should focus on improving the governance of local governments, by legislating mechanisms for citizen participation in the management of local affairs and the evaluation of local policies. Today, the State is exclusively responsible for the implementation of public policies, including at the local level. This situation unfortunately reinforces the unilateralism of national decisions to the detriment of territorial particularities.

Beyond the architecture of central and local public taxation, participation should help improve the mobilization of resources for local development. The reform should also specify the modalities for measuring the performance of local governments in the delivery of local public services. The methods of coaching local authorities by decentralized State services could gradually improve their performance in the implementation of sectoral policies. Specific legislation on the participation of the populations, the oversight of local financial management, as well as the methods of evaluating the performance of local governments could thus be proposed.

- **The fifth reform** concerns urbanization. In 2020, the level of urbanization was estimated at around 73.1 per cent; it will reach 82.8 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The urban framework is balanced and consists of a little less than 10 cities. The towns of Bata (173,046) and Malabo (155,963) are close to 200,000 inhabitants, while the other towns are much smaller with Ebebiyín (25,000), Aconibe (11,192), then come Añisoc, Luba, Evinayong and Mongomo with around 10,000 inhabitants each. The urban strategy would strive to strengthen the balance of the urban framework by developing other regional poles. It would also define the conditions for sustainable financing of urban infrastructure to support national development and offer other alternatives to oil.

- **The last reform** relates to combating climate change. The conservation of biodiversity, the management of protected areas and the use of natural resources are priority elements for the country. In this sense, it can be noted that national strategies have been developed in different sectors, aimed at environmental conservation and sustainable growth. These objectives are consistent with those of the Convention, such as the preservation of natural ecosystems for adaptation to climate change, food security and sustainable development. Many activities and programs have thus been carried out for the benefit of the climate, carbon sequestration and the protection of ecosystems and populations vis-à-vis climate variability. These include, among others, the establishment of a National System of Protected Areas (NSPA), the forestry action plan, within the framework of the project «Conservation and rational use of forest ecosystems in Equatorial Guinea» (CUREF), developed and implemented with the support of the European Union. The reform should empower local governments for the development of bankable projects for the implementation of the nationally determined contributions (NDCs). It should also allow local governments access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.	3
3	Local assemblies and executive bodies are appointed.....	1
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	3
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed..	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or only one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or only one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Since obtaining its independence in 1991, Eritrea set up a process to elect assemblies and executive bodies to administer its villages, districts and provinces. The 1997 Constitution establishes, and in some instances provides for, the setting up of local governance structures whose leadership is supposed to be based on democratic principles. However, to date this Constitution has yet to be implemented. Between 1993 and 1997, the central government and local governments underwent a series of reorganizations. In 1996, the territorial divisions in Eritrea were restructured, and the country replaced 10 provinces with six *zobas* or semi-autonomous regions, each composed of several sub-regions. The *zobas* are administered by governors and have their own local assemblies. At the central level, the Ministry of Local Government has an oversight role over the local public governance structures and focuses on formulating policy, regulations and staff identification and capacity building. The responsibility for activity, programme and policy implementation is left to regional and local governments.

The local government law of 1996, amended in 2004, contains provisions aimed at improving the opportunity for women to participate in local government affairs.

In Paragraph 5 of Article 1 'The State of Eritrea and its Territory', the Constitution stipulates that Eritrea is a unitary government divided into local government units, and that the powers and duties of these local governments shall be determined by law. Such laws are not yet in place, and this is a constraint on the proper fulfilment of the duties, functions and responsibilities of local governments as transferred by the central government.

The 56 sub-regions (*subzobas*) are placed under the authority of regional assemblies elected for five-year terms of office. No local elections have been held.

The central government has set up various financial transfers to local governments, but the national amount of these transfers and the modalities for distribution among the local governments are not known in advance. This is a major limitation on local autonomy and planning.

Local governments have considerable authority to set policy and issue regulations, raise taxes, and appoint executive staff at their respective levels. The local authorities have

discretionary power to raise taxes and rates as "locally determined in the local government" as long as these taxes "are not prohibited by central government financial policy".

Eritrea does not have a national strategy to build the capacities of local administrations or a national framework of reference defining the qualifications and responsibilities of local government staff. However, a few local capacity-building initiatives can be noted in the context of specific international cooperation interventions.

Eritrean legislation does not contain specific laws on auditing the financial management of local governments. The Ministry of Local Government approves budgets and audits; but while budget approval follows a specific schedule, audits are conducted only occasionally.

The Constitution of Eritrea gives a large role to the people's participation in central and local government administration, and many of its articles refer to the issue. However, Eritrea has no laws on the public's participation in the management of local affairs. Numerous arenas for consultation exist, which is an offshoot of the current government's outlook. These arenas for consultation are active in the local planning process.

Eritrea has no specific legislation on assessing the performance of local governments when it comes to the provision of local public services, and no experience assessing local government performance.

There is no national urban strategy in Eritrea.

In Eritrea's local elections, quotas have been put in place to facilitate the representation of women; at least 30 per cent of seats are reserved for women in local governance bodies.

The institutional framework does not provide for the inclusion of local and regional authorities in the implementation of the national agenda on climate change.

## Proposed reforms

With an overall score of 20 points out of 48, Eritrea is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. The progress towards an enabling environment would require significant reforms. Six main reforms are suggested to improve the environment for cities and subnational government action.

- **The first reform** should address the transfer of responsibilities to local governments. The administrative and functional organization of Eritrea's central government illustrates the lack of local autonomy and the preponderance of the central government in implementing public policies. Local managerial staff are accountable to the central government for the implementation of programmes and policies. The administrators appointed to the provinces are accountable to the central government, while the deconcentrated services located in the local governments are accountable to their respective line ministries. With this configuration, the central government has the leverage to directly apply most sectoral policies at the local level without the knowledge or consent of local governments.

The transfer of responsibilities is slowed down by the absence of laws and regulations required for their effective implementation. Thus, the model is more one of deconcentration than decentralization; overall, the central administrations have kept the initiative, and local populations are mobilized only to give their opinion and suggestions.

The reform should help in clarifying the definition of the responsibilities assigned to the various levels of local government and determine the exact role of the deconcentrated administration, which should itself be better organized with greater technical capacities. The reform should also propose transfer modalities and the necessary laws and regulations on the one hand and the modalities of local elections on the other hand.

- **The second reform** should address the financial transfers from the central government to local governments. From the perspective of increasing the weight of local governments in public spending, the financial transfers must be proportionated to the level of the responsibilities transferred to offset the vertical imbalance. Ideally, these transfers would be unconditional, predictable and stable in order to improve the financial autonomy of local governments. The reform should also increase transparency in local public management and emphasize modalities for conducting financial audits of local governments to improve the quality of local public spending.

- **The third reform** should address urban strategy. After three decades of war, Eritrea has a dismantled urban structure, with urban growth fuelled by many refugees and a fragile economic foundation. The war from 1998 to 2000 had adverse effects on the economy at large and on cities in particular. According to a report by the Ministry of Local Government's Urban and Council Affairs division, there were 118,483 households – approximately 596,537 people – living in urban areas (November 1995). This represented approximately 17 per cent of the total population. In 2020, Eritrea is 41.3 per cent urbanized, and it is projected to reach 60.1 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*).

Less than the pace and intensity of urbanization which needs to be managed, it is the local economy of cities that needs to be strengthened. Eritrea contains 20 urban centres: Asmara, Massawa, Assab, Keren, Mendefera, AdiKeih, Akordat, Barentu, Nakfa, Tessenei, Ghindae, Dekemhare, Senafe, Segheneity, Adiquala, Afabet, Hagaz, Debarwa, Ghirmaika and Tsorena. A survey by the Ministry of Trade and Industry counted 223 major industrial units in the country, with most located in the capital city of Asmara. Other urban industrial centres are Massawa (salt, cement, seafood), Assab (salt, seafood), Ghindae (tanneries), Dekemhare (batteries, biscuits, aluminium, marble, glue, woven bags), and Debarwa (pasta, biscuits, plastic, aluminium).

Eritrea's cities have an important economic role, especially in industrial processing, and as such they attract considerable investments. The urban strategy should emphasize the functional specialization of cities and their contribution to national development. It should also find suitable solutions to the problem of zoning in Eritrean cities. Most Eritrean cities are mountain cities located between 1,000 and 2,500 metres above sea level, often within difficult terrain. The fact that urbanization is generally linear – whether along the main roads or the coastline – calls for greater attention to the shape of cities and their densification.

- **The fourth reform** deals with local government administration capacity building. The current local personnel system is not consistent with decentralization principles. The various local government levels have very few qualified staff and are not called upon to implement public policy directly at the local level. The few executives are seconded to central government staff. The country does not have a national strategy on local administration capacity building.

A framework of reference defining local government staff qualifications and responsibilities needs to be elaborated along with the corresponding staff training plan. Finally, there should be some innovation in the role of deconcentrated central government services, which should shift from the role of central government policy and programme practitioners to the role of contracting authority support for local governments.

- **The fifth reform** should focus on strengthening policies and legislation to promote gender equality through the inclusion of women in local governance.

- **The sixth reform** should focus on the effective contribution of local governments to the Paris Agreement, which implies that NDCs are territorialized and local governments are empowered to develop and implement concrete, measurable action programmes.

Eritrea is particularly vulnerable to climate change. Current adaptive capacity is low and the country has Africa's highest level of food insecurity, accompanied by high levels of malnutrition. Projected climate change impacts are significant and include a temperature increase above the mean global value, increasing variability in rainfall, more frequent dry spells and more severe droughts. The effects of these impacts on water resources and agriculture will exacerbate food insecurity.

Therefore, there is a need to promote a sustainable climate change adaptation strategy, improvement of the dissemination of climate risk information among community, local government, civil society and government stakeholders through a community-based early warning system; and capture and disseminate lessons learned through programme activities, and to influence policy through advocacy activities.

There is also a need of establishing a climate change bill, which will provide institutional roles and power on subject matter, this can be done through citizens consultations, local government recommendations and inputs from international organizations, such UN agencies and other relevant organizations. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution contains provisions that implicitly or explicitly restrict the actions of cities and subnational governments.....	1
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.	3
3	Local assemblies and executive bodies are elected, but not necessarily throughout the country.....	3
4	The transfer of resources to subnational governments or their distribution among subnational governments is predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine existing tax base and rates, but the central government is responsible for setting new taxes and accessing loans and financial markets.....	3
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments; but they concern only a few subnational governments....	2
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist but are not systematically followed.....	3
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is assessed irregularly.....	2
10	A clear national urban strategy exists, along with the financial and technical arrangements and capacities necessary to implement it.....	4
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

The Kingdom of Eswatini is a constitutional monarchy with two recognized spheres of power: the central government and the local governments. The history of decentralization is relatively recent in Eswatini. In all, the country has had three local elections, in 1994, 2008 and 2012, respectively. But it was the ratification of the new Constitution in 2005 that gave decentralization its second wind. This new Constitution does not establish a lasting system; instead, it specifies a transition rather than a definitive situation. Articles 218 to 226 of the Constitution explicitly acknowledge local governments and set a deadline for a reform of the system. In Article 226, it explicitly assigns Parliament the job of defining responsibilities, control and supervision and elections.

Eswatini is nevertheless a unique case. The two categories of local government – urban (12) and rural (55) – do not have the same institutional existence. There are three types of urban municipalities: two municipal councils, five town councils, and five town boards. While these urban municipalities have the right to administer themselves freely, the rural local governments, called *tinkhundla*, have very little autonomy. The legislation setting the operations of urban municipalities is the Urban Government Act No. 8 of 1969.

On the legislative framework side, the Urban Government Act and Regulations need to be amended to incorporate the new laws, policies and regulations, such as the National Procurement Act, the Public Finance Management Bill, Tinkhundla & Administration Bill, among others.

Another unique aspect to Eswatini is the exclusion of political parties from local elections, although this has been heavily criticized by a growing number of national stakeholders. The new Constitution of 2005 legitimizes this retreat from the principle of local autonomy by specifying that local governments may be run by elected, appointed, or partially elected and appointed officials (Article 220). This provision also goes against the principle of free administration by local governments. The latest local elections were held in October 2017 and the next are scheduled for 2022.

Transfers to local governments are both conditional and unconditional; they are stipulated in Article 86 of the Local

Government Act. The national amount is allocated using a night-time population and is disbursed on a quarterly basis.

Local governments are authorized to set taxes and levies within their borders and collect the corresponding revenues.

For key personnel the qualifications are defined in the Urban Government Act. However, there is no Human Resources Development Framework; each municipality develops its own.

Chapter XI of the Urban Government Act is largely devoted to audits, but they are not systematic.

The Urban Government Act does not contain any provisions on participation. Budgeting is now participatory, and regular ward meetings are held.

Local government performance assessment does not appear in the law. However, the Eswatini Local Government Project (SLGP) has introduced a performance appraisal system.

Eswatini is a mainly rural country; 24.2 per cent of the population lives in urban areas in 2020; the urbanization rate will reach 33.8 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), but a process of urbanization is underway. While the Ministry of Economic Planning and Development's National Development Strategy (NDS) does not contain the word 'urban', Eswatini has emphasized territorial development with the implementation of the Local Government Project. The aim of this project is to help the Kingdom of Eswatini institutionally strengthen rural local governments (*tinkhundla*) and urban local governments. It has three components. The first is infrastructures in the *tinkhundlas* and capacity-building support. The second component has two sub-components: it provides (a) incentive grants for small-scale infrastructures in local governments, and (b) capacity-building support.

There is no gender quota at the local level.

Local governments are not involved in national programmes and projects on climate change.

## Proposed reforms

With an overall score of 27 points out of 48, Eswatini is one of the countries whose progress towards an enabling



environment for cities and subnational governments would require significant reforms. Several reforms are envisaged.

- **The first reform** should support the new reform of local government written into the 2005 Constitution which stipulated that the Parliament must, within five years, establish a single local government system (based on the *tinkhundla* system) that is hierarchically organized based on the scope or complexity of the service to be provided. The territorial division could, according to the Constitution:

1. Consider the territories of traditional chiefs;
2. Take into account *tinkhundla* borders;
3. Integrate urban and rural zones if needed; and
4. Take into account: (i) population, physical size, geographic features, economic resources and existing or planned infrastructures in each sector; and (ii) the possibility of facilitating the most reasonable management and use of resources and sector infrastructures with the aim of ensuring that local governments have interesting opportunities to become economically sustainable.

This reform would have the advantage of being directly integrated in the national institutional and constitutional system.

- **The second reform** concerns fiscal transfers to local governments. Four factors argue for a total overhaul of the local government transfer system. The first is the lack of clarity in the current system. The various overall and specific grants allocated to local governments cannot be known in advance. The statistics on the night-time population the government uses to determine grants are outdated, as the census is not done frequently. The national amount of these transfers is generally determined in an *ad hoc* manner, and distribution formulas, when they exist, are elaborated by the Minister of Local Government's cabinet without any consultation of the local governments.

The second factor arguing in favour of an overhaul of the transfer system is the prospect of the overhaul of the local government system ordered by the 2005 Constitution. The shift from 12 urban municipalities to 77 municipalities (adding the 55 rural municipalities) will probably require a complete overhaul of the system to take into account new issues dealing, for instance, with the financial situation of the *tinkhundla*, the level of institutional development, and development delays, to cite only a few areas of concern.

The third factor is the growing tension opposing local governments and the central government because of regional integration. Local governments are directly affected by the challenges facing the national treasury because of the drop in revenues from regional customs duties (the Southern Africa Customs Union – SACU), which make up to 60 per cent of the national budget. Because of the crisis, grants to local governments have been cut by 10 per cent or more.

The fourth factor is the local governments' shift from a yearly to a five-year planning schedule, which raises other constraints, notably in regard to the predictability and stability of local government revenues. All these factors argue for a complete overhaul of the system and the consideration of certain concerns such as incentive and equalization. This will be the main objective of the reform.

- **The third reform** concerns managing public spending on the local level. All local governments are supposed

to submit their books for annual audits. According to the Urban Local Government Act, at the end of each budget year, each local government must designate an outside independent auditor with the approval of the Ministry of Local Government. If a local government does not do so, the Ministry may designate an outside auditor at the local government's expense; but this disposition of the Urban Local Government Act is not applied.

In practice, the audits are done through the conditional grant of the Eswatini Local Government Project. One of the requirements to qualify for the grant is the annual audit, and it should be conducted on time and presented to the Ministry of Housing and Urban Development within six months of the end of the fiscal year.

The system to assess local government performance in the provision of local public services must be improved. At this time, it is based on the provision of local public services, which includes participatory budgeting as well as annual reporting. There is no specific legislation on citizen participation in local administration, even though there is a participatory budgeting process and regular ward meetings. These three dimensions could be the subjects of a reform that would aim to strengthen and improve the quality of local public spending.

- **The fourth reform** should emphasize capacity building. High urbanization rates and the emergence of new urban centres and inhabited zones raises huge challenges for municipal institutions. Questions of safety, access to services, and planning require high levels of capability that go beyond the current institutional capacities of the municipalities.

For rural local governments, the question is even more acute. Rural government structures are still in their infancy and will need time to develop. They do not have a framework of reference defining staff qualifications and responsibilities, and this compromises the proper fulfilment of their future responsibilities. In conjunction with the Ministry of Local Government, elaborating a sound capacity-building strategy for both urban and rural municipalities and implementing it will be the main concern of this reform.

- **The fifth reform** aims to increase the participation of women in local governance. The reform will focus on gender quotas to reinforce women's presence in the governing bodies of local governments.

- **The last reform** should focus on the contribution of local governments to the climate agenda. Local governments should be capacitated to elaborate bankable projects and have access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	The legislation is unstable and inconsistent.....	1
3	Local assemblies and executive bodies are elected, but not necessarily throughout the country.....	3
4	Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments; but they concern only a few subnational governments....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed..	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is assessed irregularly.....	2
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide any or only one mechanism for the promotion of gender equality.....	1
12	The country does not provide any or only one mechanism in the fight against climate change.....	1

## Explanation of the rating

During the highly centralized Derg regime (1975–1991), Ethiopian municipalities were pushed aside and did not operate as independent local authorities. Given the high degree of centralization under the previous regime, the regional reform processes have understandably taken time and effort, especially in light of the capacity constraints and socio-political considerations. By 2000, it had become increasingly clear to a number of regional administrations that the establishment of sub-regional structures was critical in order to adequately to serve the needs of the rapidly growing urban centres and the rural hinterlands. As such, subsequent regimes have adopted decentralization as the cornerstone for local service delivery in the midst of a democratic and ethnically diverse nation.

Ethiopia is a federal state, with nine regional states, 928 local governments, and two cities (Addis Ababa and Dire Dawa) that have a special status similar to that of the regional states. There are 117 urban local governments (ULGs) in Ethiopia with populations of more than 20,000. Since 2000, the strong socio-political demand to establish local governments triggered sweeping institutional reform leading to the adoption of institutional and legal frameworks favouring decentralization.

The 1995 Constitution provides for the establishment of two types of sub-regional government. It neither explicitly provides for local government nor their specific functional competences. Instead, Article 39(3) implicitly provides for the establishment of autonomous sub-regional territorial units which are meant to accommodate intra-regional ethnic minorities. Relatedly, Article 50(4), entrusts regional states with the power and liberty to establish and empower lower administrative units. As such, the regional constitutions provide for the establishment of local governments (*woredas* and *kebeles*), whose powers, functions and responsibilities vary among the regions. Overall, however, local governments in Ethiopia have responsibilities in the areas of education, health, justice and safety, and they take care of urban roads, drainage, solid waste collection and hygiene.

Local assemblies and executive bodies are elected throughout the country, while some executive bodies

in cities and *woredas* are appointed by the ruling party. Each *wereda* is composed of a unicameral deliberative body and an executive committee. The *wereda* council is a directly elected deliberative body headed by a *wereda* chairperson, who is elected by the council from among its members. The last local elections in Ethiopia were held in 2015 and the next elections which had been scheduled for August 2020 were postponed until 2021 because of the COVID-19 pandemic.

*Woreda* governments hardly have any internal sources of revenue. Although several state constitutions empower *woredas* to collect their own revenues, the states have retained almost all revenues sources which the Federal Constitution authorizes them to collect, including taxes on private properties, which are usually collected by local governments. *Woredas* collect land-use fees and agriculture income tax but the proceeds are, nonetheless, transferred to the state treasury. The *woredas* neither have any significant source of revenue nor are they allowed to access to the financial markets. They are, therefore, almost totally dependent on the inter-governmental grant from the State's governments.

About 314 special *woredas* and zones in SNNPR and Nationality Councils in the Amhara region have the power to prepare and approve their own budget. They, nevertheless, are also significantly dependent on the inter-governmental grants since they literally enjoy no power to raise their own revenue. The variables used in determining the grant are: population size (55 per cent), level of poverty (10 per cent), expenditure needs (20 per cent), revenue raising capacity and execution efficiency (15 per cent). Although the inter-governmental grants are unconditional, their insufficiency necessitates supplementation from internal local revenue. More so, *woredas* do not have control over the amount of revenue transferred to them.

There is no national framework that defines the qualifications and responsibilities of local government staff. But regional and local governments (rural and urban) do have detailed frameworks that defines the qualifications and responsibilities of local government staff in accordance to the local context. With the National Capacity-Building Programme (NCBP), the government has also set up the District Level Decentralization Programme in rural areas and the Urban Management

Components initiative in urban areas to build capacities. In addition, the Capacity Building for Decentralized Service Delivery (CBDSD) project has been set up with the support of the World Bank.

The Constitution of Ethiopia does not provide for the auditing of local government accounts; Article 101 on the Auditor-General limits the office's field of action to ministries and other agencies of the federal government. The *woreda*'s however, do have their own internal auditors.

There is no legally entrenched mechanism to assess local government performance. Local government performance is assessed by regional governments. But sometimes their performance is also assessed by the federal government. The assessment varies according to the context of regional governments.

While the Constitution of the FDRE (Proclamation No. 1/1995) promotes citizen participation, the country does not have a specific law to enforce the provision.

Considering their roles and levels of vulnerability, women are often crucially important in public participation processes. It is therefore notable that Ethiopia does have a law that provides for affirmation action for women in political representation.

Ethiopia has an urban policy, the Resilient, Green and Accessible Urban Development Policy, 2013, under which it is implementing the Urban Local Government Development Project. Ethiopia is one of the least urbanized countries in East Africa, but its urban population is growing by 4 per cent a year, twice the growth rate of the rural population. The urbanization rate is 21.7 per cent; a 39.1 per cent urbanization rate is expected by 2050 (*World Urbanization Prospects: The 2018 Revision*).

The policy framework for climate change provides for local government participation and incorporates them into the national climate change institutional structure. The National Adaptation Policy (NAP-ETH) requires local governments to be responsible for prioritization and implementation of the strategic adaptation options of their respective *woreda* officials; monitoring and evaluating office level performances during implementation of NAP-ETH; designing mechanism and mobilizing climate finance in their respective jurisdictions; and preparing and submitting monitoring reports to their respective coordinating Bureaus.

## Proposed reforms

With the current rating of 24 points out of 48, Ethiopia remains among the countries whose environment for decentralized governance is relatively unfavourable for an effective local government system. Well as the Federal Constitution disperses power, most of it is retained at the State/regional level. An enhancement of Ethiopia's local government system, therefore, calls not only for the operationalization of the already existing and inactive legal/policy provisions, but also significant reforms in the decentralization framework.

- **The first reform** is the countrywide harmonization of legislation on local governments. While the Constitution of Ethiopia details the prerogatives of the regional states within the federation, it does not explicitly provide for local government, among the systems of government. Since the role to establish local governments and define their powers and responsibilities is left to the federated regional states, this does not provide safeguards for coherence in regard to the cardinal principles of local governance, across all states. In practice, therefore, local government legislation significantly varies across states.

- **The second reform** concerns the strengthening of fiscal decentralization. Local governments in Ethiopia generally have weak tax bases, particularly in rural areas. Since inter-governmental transfers are significantly insufficient, lack of own revenues greatly impacts on the capacity of the local government to ably service the responsibility assigned to them.

To finance this imbalance at the regional level, the federal government transfers a proportional share of resources to the regional level, and the regions should in turn transfer resources to the local governments. While the national amount of transfers from the central government to the regional governments is known (40 per cent of national revenues), the amounts transferred from the regional governments to the local governments is less well known. The amount that each region allocates to its local governments and how this sum is divided among the local governments are not known, which makes predictability impossible in local government budgeting.

There is a strong need for reforms in the fiscal decentralization policy, with the aim of widening the local revenue base to address the problem of insufficient and unpredictable transfers from regional states to the local governments as well. Also, local governments ought to be allowed reasonable powers to manage their own budgets as well as access to the financial market, albeit with control measures.

- **The third reform** will pay more attention on improving capacity building and performance assessment of the local governments. While many initiatives and programmes exist, the national capacity-building programme suffers from a lack of a framework of reference that defines the qualifications and responsibilities of local personnel. More so several of the capacity-building initiatives are steered at national and sectoral levels. However, ensuring a greater impact on the institutional development of local governments, requires integration of the various training courses and their alignment to the local capacity needs, some of which are unique. The local government ought to be more involved in the development and management of their capacity needs.

In addition to standardization of the qualifications and responsibilities of local personnel, as well as building their capacity, local government performance can be enhanced through routine assessments. Existing legislation does not, however, ably provide for mechanisms to assess the efficiency and effectiveness of local government performance. It is therefore critically important for routine local government performance assessment to be provided for as a statutory obligation. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	Certain provisions of the law are conflicting with the Constitution or some provisions of the Constitution are not implemented.....	2
3	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	4
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	Existence of national legislation on citizen participation, which is however not implemented.....	3
9	No evaluation of subnational governments performance.....	1
10	Existence of a clear urban strategy at the national level, but not supplemented by adequate technical and financial means.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The origins of decentralization in Gabon date back to the colonial period. Indeed, the French law of 1955 relating to municipal reorganization in French West Africa, French Equatorial Africa, Togo, Cameroon and Madagascar establishes Libreville and Port-Gentil as fully-fledged municipalities. Law No. 26/59 of 22 June 1959 creates rural communes and determines their operating rules. Local self-government was subsequently introduced at the end of the 1990s in the wake of democratization and the creation of the Interministerial Consultative Commission on Administrative Reform (CIRA) in 1997, which laid the foundations for current decentralization. Article 112 of the Constitution explicitly mentions local governments, while referring the definition of responsibilities to the legislation.

Article 112 of the Constitution stipulates that the subnational governments are administered freely by the elected councils under the conditions provided for by law, in particular with regard to their competences and their resources. The country has a two-level decentralization system: the commune (50), which includes the urban commune and the rural commune (but the latter has not been set up), and the department (47) which is at the same time a decentralized administrative district and decentralized local government. The province is a deconcentrated entity; it is subdivided into departments which are both administrative districts and second level of subnational governments. The latest communal and departmental elections were held in December 2018.

Local authorities are managed by two elected bodies: the council and the council office, and this, over the entire territory. The Gabonese Constitution provides for the development of specific legislation for decentralization which enshrines the principle of subsidiarity. Admittedly, a process of transfer of powers was initiated from 2009, that is to say almost 15 years after the launch of decentralization, but in practice, many powers remain with the technical ministries despite the law; the only competences effectively transferred are civil status registry management and sanitation. On the other hand, despite the vote by both houses of Parliament (the National Assembly and Senate), and the promulgation by the President of the Republic, no implementing decree has been issued to ensure that the Organic Law No. 1/2014 of 15 June 2015 on decentralization is applied.

The whole country is under decentralization and the local councils are made up of members elected by universal suffrage. They elect the members of the office, including the mayor, indirectly.

In Gabon, despite the law, the State does not transfer the shares of national taxes – the tax on industrial and commercial profits, the tax on income from securities, the tax on the profits of the liberal professions, the value added tax (VAT) – to local governments. There are no implementing instruments authorizing such transfers.

The decentralization guidelines set out a fiscal field specific to the communes. This includes property taxes on built and non-built properties, contributions on patents and licences, housing tax and local tax. But the base and the rate of those taxes are determined by the National Assembly.

The level of institutional development of local governments remains low, and even very low, for a good part of them. Indeed, local public services reflect significant deficits in technical and administrative staff. To remedy this insufficiency, the law provides for secondments of State personnel to local governments, but the seconded personnel remain financially dependent on the beneficiary subnational government, which is not always possible. Law No. 1/2005 of 4 February 2005 on the general statute of the civil service, provides for the establishment of local civil service, even if the latter is understood in an extensive manner. According to that law, this includes "...civilian agents, police agents of subnational governments, firefighters of subnational governments, civil servants or contractors of subnational governments".

It should be noted that the Gabonese Constitution is one of the few in Africa to anticipate the management of conflicts of jurisdictions between subnational governments on the one hand, or between a local government and the State on the other. These are "brought before administrative courts, at the behest of the authorities involved or representative of the State".

The Constitution provides for the procedures for carrying out audits of local accounts, even if their implementation is occasional. Indeed, Article 76 of the Constitution stipulates that the Court of Auditors punishes any mismanagement committed with regard to the State, subnational governments and bodies subject to its oversight.

The Constitution provides that “local consultations on specific problems not falling within the scope of the law may be organized on the initiative of either elected councils or interested citizens, under the conditions established by law”. The elected councils can thus organize municipal referendums during which the population is called upon to vote directly on municipal policy. But this provision has never been implemented.

With an urbanization rate of 90.1 per cent in 2020 and projected at 95 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Gabon has developed an urban strategy, implemented with the support of the World Bank. It concerns the six main provincial capitals (Libreville, Franceville, Port-Gentil, Oyem, Lambaréné and Mouila).

In Gabon, gender equality is being addressed in two ways: the adoption of a constitution that recognizes the equality of citizens regardless of their gender, and the law on 30 per cent quotas for women on candidates lists for local and legislative elections.

Local governments are not involved in the development or implementation of nationally determined contributions (NDCs).

## Proposed reforms

Gabon, with an overall score of 25 out of 48, is one of the countries where progress towards an enabling environment for cities and subnational governments requires significant reform efforts.

- **The first reform** should focus on a better definition of the transfer of competences. It should undoubtedly be recalled that in 1996 the logic of the organic law was first of all to set up a new framework for the organization and functioning of subnational governments taking into account the new context of a multiparty system. The transfer of competences was not a priority at that time. With this political culture in place, the issue of the transfer of powers should be addressed while respecting the principle of subsidiarity. All the more so since blockages on the ground are multiplying with central ministries fearing that the transfer of competences will result in cuts to their budgets, which are already insufficient to accomplish their own missions. Great attention should be paid to the sharing of competences between the different levels of local governments in order to avoid conflicting competences. In Gabon, where the territorial base of a department can be the same as that of a commune, such risks of conflicts in matters of jurisdiction are significantly increased.

- **The second reform** should concern the system of transfers to local governments. The case of personal income tax (IRPP) in Gabon, where the national percentage is set on an *ad hoc* basis (with differentiated percentages according to the subnational governments) with rebates granted to the local governments according to the place of collection, is illustrative of the need to reform the system. Indeed, the Ordinance No. 005/81/PR of 3 March 1981 fixes the amount of the quotas determined on the personal income tax. On the territory of the communes, the income from the IRPP is distributed as follows: 25 per cent for the municipalities, 7 per cent for the equalization fund, 68 per cent for the State; on the territory of the departments; 65 per cent for the municipalities, 7 per cent for the equalization fund and 28 per cent for the State. This ordinance is unclear and not well understood by national actors. The tax on industrial and commercial profits, the levy on income from securities,

the levy on the profits of liberal professions, the levy on the value added tax (VAT) await implementing texts to benefit local authorities. The equipment grant is divided equally between local governments, without any criteria. The assessment of the financial implications of the transfer of powers by the technical committee for decentralization chaired by the secretary general of the ministry in charge of financial supervision is awaited. The reform should take stock of these transfers and focus on bringing them up to the challenges, and making them transparent and predictable.

- **The third reform** could be on the modalities of strengthening transparency in local management and the performance of local governments. In practice, audits and performance reviews are occasional. However, Law No. 15/96 of 6 June 1996 provides for all oversights exercised by the financial supervision of the Ministry of Finance, the General Inspectorate of Finance, the General State Control, and the audit courts. The reform should focus on the modalities of strengthening the quality of local spending.

- **The fourth reform** should focus on local taxation. In Gabon, local taxation is the responsibility of the National Assembly which defines the scope, the base, the basis and the rate of local taxes. In addition, the collection of the proceeds of local taxes is the responsibility of the State services. The reform should help to strengthen the scope of own resources and to give a better latitude for the mobilization of local resources.

- **The fifth reform** concerns the place of local governments in the fight against climate change. Gabon is the first country to adopt on September 13, 2021 a law in favor of the fight against climate change. This law aims to promote a safe and healthy climate for the planet in general and in particular for the present and future Gabonese populations and contributes to resilience within the sub-region, in the face of this scourge of change. climate and which poses a threat to humanity. The said law will apply to the entire Gabonese territory and will cover sectors having an impact on climate change. The climate policy referred to in the law and its development provides for the implementation of a national system of greenhouse gas emissions quotas, the emissions of which can be measured, declared and verified with precision, as well as the establishment a carbon offset system. The framework for the Gabonese carbon credit market is defined there and the validation of a National Climate Change Adaptation Plan on a regular basis is provided for. However, this law does not mention the place and role of local communities in the fight against climate change. A major effort must be made so that the local governments become the contracting authority of programs and projects to fight against climate change. Local authorities must also have access to climate finance. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place.	4
3	Local assemblies are elected, but executive bodies are appointed.....	2
4	Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national reference framework of professions within subnational governments and a national strategy for training and promoting subnational government human resources that is applied to all subnational governments in the country.....	4
7	Only partial rules and legal provisions on transparency in the running of subnational governments, do exist, but they are not systematically followed.	2
8	National legislation on citizen participation exists and is applied.....	4
9	There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide for any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Since independence, the successive governments in Ghana considered decentralization to be a necessary condition, not only for socio-economic development, but also to achieve the political goals of improving the legitimacy of government powers. And so, in Ghana's history, from independence to today, more than 10 parliamentary commissions have been established to analyse decentralization reforms.

Ghana is a parliamentary democracy. In Articles 240 to 256 of its Constitution, it explicitly mentions local governments, while deferring the definition of their responsibilities to the legislative level. The last local assemblies' elections were held in 2019, but the process of confirmation of the President Chief Executive nominees is ongoing.

There are several types of local governments. In 2012, 216 governments were surveyed, and 38 new ones were added in 2017 while six were added in 2018. The country now has six metropolises, 87 municipalities and 167 districts. A total of 30 per cent of municipal council members are appointed by the central government following consultation with local primary actors. Legislation stipulates that half of these appointed members must be women, and 30 per cent of the representatives of traditional authorities must be women as well. The local assemblies include managers of decentralized services, traditional leaders and deputies, who sit on the assemblies in an advisory capacity. These adaptations of the principle of direct universal suffrage are intended to rally all the other pre-existing legitimacies around decentralization. In terms of the local executive, the district chief executive is appointed by the head of the central government, but this appointment must be ratified by two-thirds of the members of the District Assembly. However, in a major advance for local governance, the Ghanaian government that took office in January 2017 has announced its intention to introduce direct universal suffrage for the election of local executives for the next local elections. It should be noted that political parties are excluded from local elections in Ghana. Unfortunately, this was abandoned and the referendum that seeks to change the Constitution to allow local executives to be elected could not be materialized. It is imperative to note that this is still high on the government's agenda.

In Ghana, decentralized services of the central government are under the authority of the district assemblies, but they maintain strong ties with their parent administrations. The assimilation of sectoral ministry staff by the district assemblies is a modest advance towards greater decentralization in the implementation of national sectoral policies. In addition, since 2010, each local government has created its own budget for six areas of decentralized services: agriculture, social security, city and countrywide planning, urban roads and primary roads. The local government develops proposals within an estimated budget provided by the sectoral ministries. After approval by the sectoral ministry of the amount to be allocated, the Ministry of Finance transfers funds directly to the local government concerned. However, the central government still retains a certain weight in the definition of local government budgets, even if the transfers are made directly from the Ministry of Finance to the local governments, without going through the sectoral ministries.

Ghana has five transfer systems: the District Assemblies Common Fund (DACF), which is conditional; the District Development Fund (DDF) made up of funds from development partners and from the DACF, allocated based on results; the salaries of government employees (at national and local levels) managed by the sole authority of the controller and Accountant General Department; an 'Urban Grant' for metropolises (defined as more than 250,000 inhabitants) and municipalities (more than 95,000 inhabitants); Grant-in-Aid, which is the support from development partners allocated by project; the 'Ceded Revenue', which involves the tax revenue formerly belonging to the central government and now transferred to local governments, such as revenues derived from casinos.

Article 252 of the Constitution of the Republic of Ghana of 1992 establishes and operationalizes, through Law No. 455 of the National Assembly, the District Assemblies Common Fund with a percentage that cannot be lower than 5 per cent of the total national revenue which comes from clearly identified national taxes. These funds are distributed according to a formula based on four important criteria: pressure for demand of services (based on the population size), equality factor (a minimum portion of funds ensured for each local government), needs (health, education, access to water and roads), and the



responsibility factor (how the District Assembly achieves its resource mobilization goal). The DACF today represents 60 per cent of local government resources. In 2009, the District Development Fund was created and is funded by the DACF in the amount of USD 20 million and by the Canadian Department of Foreign Affairs Trade and Development (DFATD), Agence Française de Développement (AFD), Danish International Development Assistance (DANIDA) and the Kreditanstalt für Wiederaufbau (KfW).

Local taxation comprises both property taxes and other taxes that are set at the central level; the central government is often involved in this area of local taxation. Loans must be approved by Parliament.

The framework of reference defining qualifications and responsibilities is established by part three sections 82–89 of the Local Governance Act of 2016 (Act 936). The District Planning Coordinating Unit (DPCU) includes 10 managers from the central administration and sectoral departments. It is broken down by type of local government (metropolises, municipalities and districts). Furthermore, the municipal administration training centre, the Institute of Local Government Studies, (ILGS) was established with the support of the Government of the Netherlands to strengthen human resource capacities in local governments, particularly planning managers, financial service heads, general secretaries (town clerk), etc. The ILGS also trains central ministry agents at the national and regional level who work in collaboration with local governments.

According to the provisions of Law No. 1589, the infra-municipal structures were established to encourage participatory democracy and the engagement of citizens in the decision-making process for their towns. There is a longstanding practice of action by civil society organizations in the work of local governments, specifically regarding the use of public resources and providing local public services.

An audit mechanism exists in Ghana, but it is not systematically applied. Often the local governments themselves are reluctant to submit their accounts to auditors.

The District Development Fund provides the funding for the performance assessment of local governments.

With the level of urbanization at 57.3 per cent in 2020, Ghana is projected to reach a level of 73.2 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). Ghana has an urban strategy (The National Urban Policy Framework) supported by the World Bank's Urban Development Grant, Cities Alliance, GIZ, and the AFD-funded Ghana Urban Management Pilot Project (GUMPP).

Ghanaian legislation provides for 40 per cent of women in elections and nominations, but in practice only 16 per cent of mayors are women. In addition, according to legislation, half of the members appointed to municipal councils, i.e., 15 per cent of councils, should be women.

Ghana's INDC does not have strong mechanisms for involving cities and subnational governments in the fight against climate change. However, cities have the responsibility to include climate change actions in their mid-term development plans.

## Areas of improvement

With an overall rating of 31 out of 48, Ghana is in the group of countries with a somewhat favourable environment for the action of cities and subnational authorities, but with significant areas for improvement. Attention to four specific issues is

suggested in order to reinforce the environment for cities and local authorities.

- **The first improvement** involves implementing elected councils and executives. This reform was slated for implementation in the 2019 deliberations but could not be achieved but it is a continuing commitment which was reiterated by the Head of State. Installing elected executives will improve the quality of local governance and strengthen local democracy and accountability.

- **The second improvement** addresses the financial transfers from the central government to the local governments. Elected officials regularly complain about the lack of certainty affecting the allocation of financial transfers from central to local governments. In many cases, promised transfers never arrive, or arrived with a significant delay affecting 25 per cent of the planned amount and about 20 per cent of the total revenue from local Ghanaian finances. On average, a third of the DACF amount is actually paid to local governments.

The improvement of transfer mechanisms from the central government to the local governments needs to be placed on a stable and predictable footing. The DACF is made up of three parts. The Parliament, made up of local elected officials (one or two representatives per collective), votes each year on the allocation criteria for the first part of the DACF. The second part is automatically allocated (base), and a third part is reserved for central government investments in local governments (e.g., sanitation, youth employment). Finally, the payment to local governments is irregular and invariably impacts local plans and budgets, in particular when inflation is high.

- **The third improvement** could address the assessment of local governments' performance in terms of providing local public services. Legislation indicates that the President of Ghana has the power to call for the performance assessment of local government services, and if this is not done, he can transfer the management power of the local government to a person or a body of his choice. The Regional Coordinating Council (RCC) is theoretically in charge of this mission, but seems to be largely inactive on this issue, and no assessment has been launched.

The reform could analyse the reasons for this inaction by the RCC and suggest ways to revitalize the institution as well as the conditions and methods for regularly carrying out the performance assessment for local governments. It should be noted that the primary reason for this inaction is the lack of financial resources provided for the allocated responsibilities.

- **Finally**, an institutional reform should be formulated around better involvement of local governments in implementing policies and reporting to fight against climate change. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Non-existent or erratic and irregular transfers of resources.....	1
5	Resources decided and collected by the central level.....	1
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments....	2
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	Neither a national legislation on citizen participation, nor local frameworks for dialogue and consultation.....	1
9	No evaluation of subnational governments performance.....	1
10	Reflection on urbanization at national level, but urban strategy not yet defined.....	2
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The origin of Guinean decentralization is the Second Republic which, from 1986, institutionalized the decentralized communities and generalized them on the scale of the whole national territory. The Constitution of the Second Republic of 23 December 1990 enshrines in its Article 88 the existence of local governments which are the communes and rural development communities (CRD), and in its Article 89 the free administration of local governments by elected councils. Article 90 institutes the transfer of competences, resources and means to subnational governments.

Subsequently, the National Assembly adopted, on 15 May 2006, the subnational government code which brings together the texts governing decentralization in a single document. As part of the development of the code, the texts governing decentralization and deconcentration were revised to address gaps, omissions and contradictions. Likewise, the legal limbo which existed on the fundamental principles of the free administration of subnational governments has been addressed.

Local communities are of three types: the rural community (CR), the urban commune (CU), and the capital city of Conakry comprised of five urban communes.

The Constitution of March 2020 stipulates that the Republic of Guinea is made up of administrative districts and local governments. Administrative districts are regions, prefectures and sub-prefectures. Local authorities are regions, urban communes and rural communes. They have legal and moral personality. The country now has eight governorates, 38 urban communes and 304 rural communes. The latest communal elections were held on 4 February 2018. Regional elections did not take place.

Despite Order No. 2009 – 107 / PRES / PM / MATD / MAHRH / MEF / MFPRE on the transfer of powers and resources from the State to the communes, in the field of drinking water supply and sanitation of 3 March 2009, sectoral policies (health, water, education, etc.) continue to be implemented by central administrations.

In Guinea, the specific tax scope of local governments is practically non-existent, the proceeds of the main local taxes are shared between the State and the local governments; these are mainly the single professional tax, the licence

fees, and the single property contribution. The collection of local taxes is mixed. Title V 'Tax and financial regime' of the subnational government code on subnational government revenue collection procedures, Section 5, stipulates that the collection of shared revenue, the proceeds of which are allocated to the local authority at a rate of 50 per cent or more, is supported by the collector of the local authority. The collection of shared revenue, the proceeds of which are allocated to the subnational government at a rate of less than 50 per cent, is supported by the competent decentralized services of the State.

In Guinea, there is no national framework of reference for subnational government professions. However, a national strategy for building the capacity of local governments was drawn up and validated by MATD in 2015.

Guinean legislation provides for transparency in the financial management of subnational governments. According to Article 76 of the subnational government code, the State exercises control over the accounts of local governments; it also has the right to oversee the financial management capacity of subnational governments. However, this oversight is only occasional. The Chamber of Accounts rules on the financial management of the local authority for the previous year.

Guinea does not have national legislation either on the participation of populations in the management of local governments, or on the evaluation of subnational governments in terms of the delivery of local public services.

With an urbanization level of about 36.9 per cent in 2020 and a projected 53.6 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Guinea has been the focus of several projects and programmes related to urban management, and a national urban strategy is being developed to meet the many expectations of the growing urban population. Various support programmes financed by international aid are implemented in the main centres of Guinea.

The Guinean legislation provides for a quota of 30 per cent of women on electoral lists, but there is no sanction mechanism for parties in the event of non-compliance.

Guinea does not provide any mechanism for taking into account cities and subnational governments in the fight against climate change.

## Proposed reforms

With an overall score of 22 out of 48, the Republic of Guinea is one of the countries where the environment is generally unfavourable to the action of cities and subnational governments. Five main reforms are necessary to create the momentum for improving this environment.

- **The first reform** should concern the transfer of powers to local governments. According to the code, the mission of local governments is to: 1) to provide a framework for collective life so as to promote and guarantee the exercise by their citizens of the rights and duties conferred on them by law; 2) to promote and strengthen the harmony of relations between citizens in the sustainable and peaceful enjoyment of their territory and its resources ; 3) to promote and foster the economic, social and cultural development of their communities; and 4) to provide services to their citizens to meet their needs and demands, within their capabilities and means. The implementing decrees defining concretely the mechanisms concerning the transfer of powers to local governments have still not been adopted. Certain competences to be transferred to the local level, which relate to primary healthcare, education, roads and feeder tracks, have not yet been accompanied by the transfer of the corresponding resources; these competences are still implemented by the sector ministries. Most of the competences transferred to local governments according to legal texts are minimally exercised, if at all by their beneficiaries. Sectoral ministries are blaming a lack of knowledge of the texts or the lack of local capacities for not proceeding with the planned transfers. The reform should identify the segments of sectoral policies to be transferred to local governments, their costs and the terms of their transfers. The local elections held in 2018 and the newly elected teams could promote or even accelerate the process of transferring powers and resources to subnational governments.

- **The second reform** concerns the transfer of financial resources from the State to local governments. According to the subnational government code, any transfer of powers implies a concomitant transfer of resources which must ensure full compensation for the charges transferred. Article 377 of the Code specifies that the costs corresponding to the exercise of transferred powers are subject to an evaluation prior to the transfer of the said powers, and that any new costs incurred by local authorities as a result of the modification by the State, by regulation, of the rules relating to the exercise of transferred powers must be compensated for under the conditions set by law. An advisory committee chaired by a magistrate of the *Chambre des Comptes* and including representatives of each category of local governments concerned estimates the expenses resulting from the increases and decreases in charges. Then this estimate is recorded by a joint order of the minister in charge of local authorities and the minister in charge of finance. The advisory commission produces an assessment of the progression of charges transferred to local governments for the National Assembly, on the occasion of the review of the finance bill for the year; the methods of compensation shall be through the transfer of taxes from the State, or through an increase in the amount of the operating grant, or through a combination of both. None of these principles of the code of local governments – concurrence and fair compensation – is applied; transfers are *ad hoc* and unpredictable. On the other hand, Article 374 of the code introduces a level of complexity by stipulating that the initial amount of the operating subsidy is determined for each subnational government, to be included in the finance bill, after the opinion of the National Assembly, which receives the evaluation information provided by the minister of finance. In practice, therefore, an assessment should be made local authority by local authority. The code also stipulates that

the operating allocation is indexed annually to the nominal gross domestic product. It is readjusted during each new transfer of competences. Finally, the code establishes an exceptional equipment grant to subnational governments. This grant is an unconditional State subsidy and is granted on an *ad hoc* basis. The reform should clarify and simplify the mechanisms concerning financial transfers from the State to local governments and issue the corresponding implementing texts.

- **The third reform** should relate to the scope of local taxation. The *Contribution pour le développement local* (Local Development Contribution (CDL)), which alone was the fiscal scope specific to local governments, was abolished in 2011 and offset by larger transfers. The ‘shared revenues’ which come from the central State – single tax on vehicles, tax on motor boats, tax for the management of bus stations, slaughterhouses or market management, single professional tax, licence fees, single property contribution, mining and quarrying royalties, forestry royalties – are not systematically paid to local governments. The reform would thus seek to broaden the tax scope specific to local governments and to define the methods of sharing the proceeds of shared taxation and of linking up with the decentralized services of the State for a better mobilization of local resources.

The Guinean legislator should also improve the framework for women’s participation in local public life in order to strengthen the representativeness of women in a country, where they represent more than half of the population.

- **The fourth reform** is that ongoing urbanization should take into account the composition of the urban population, which is predominantly young and female. With a strong annual growth rate, which hovers around 3.7% and a doubling time of around 20 years, the urban population is juvenile: in fact, young people aged 15 to 49 are now around 52 % of the total urban population and risk reaching 57%, within 10 years (2030): which implies another major challenge; that is, to provide quality local public services, training and activities that generate decent, stable and sufficient income for more than half of the urban population. Urban women aged 15 to 49 also represent nearly 52% of the total urban population in 2019 and will probably approach 54% within 10 years (2030). Finally, the urban strategy should integrate the main characteristics of the population. Urban population is dominated by (i) youth, (ii) women, (iii) households of five (5) people and (iv) independent heads of households, with these main problems: unemployment, low income reinforced by high inflation, poverty and low level of empowerment of women.

- **Finally**, attention must be paid to climate change and the involvement of local governments in the implementation of the national agenda to combat its effects, as well as their access to the various funding mechanisms provided for this purpose. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution with provisions which present implicit or explicit constraints for the action of cities and subnational governments.....	1
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are appointed.....	1
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	Resources decided and collected by the central level.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed..	2
8	There is no national legislation on citizen participation, and no locally organised spaces for dialogue and consultation.....	1
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Decentralization in Guinea-Bissau was established with the multiparty system and the legalization by the Supreme Court of several opposition parties. The pluralist presidential and legislative elections, held in July 1994, allowed the return to normal constitutional life in Guinea-Bissau.

The decentralization process started in December 1994 as a complement to the liberalization process initiated in 1986, but does not clearly appear in the constitution of the country, as is the case in many African countries. None of the regulatory texts relating to decentralization has ever been adopted; they remain at the draft or pre-draft stage. The recognition of opposition parties and the introduction of a multiparty system were decided by the central government with the objective of helping to restructure the economy while trying to respond to growing political pressure for greater democratization of the country's institutions.

From a politico-administrative point of view, the country is divided into eight regions and subdivided into 39 sectors or communes, and an autonomous sector – Bissau, the capital city.

The 2001 constitutional amendment project was unsuccessful; the planned reforms were therefore not carried out.

The various articles of Chapter V of the 1996 Constitution organize the framework for the development of subnational governments. Legislative and regulatory texts were to specify the modalities of implementation. But unfortunately, these implementing texts were never adopted, which limits the scope of the various articles of the Constitution. However, in the 'Guinea-Bissau 2025' development strategy, two programmes were selected in order to initiate participatory local development, to deliver better local public service, to promote citizen participation and to restore citizen confidence: (i) the reform of the Territorial Administration and the reinforcement of the financial, institutional, technical and human capacities of the territorial communities and (ii) decentralization and the promotion of participatory development.

Guinea-Bissau has never organized local elections to date. Local authorities are appointed by central government, and more explicitly by the Minister of Territorial Administration.

Financial transfers from the State to subnational governments are practically non-existent; they happen erratically and occasionally. Resources from local taxation are very low; the latter is set by the State and the collection of its proceeds is the responsibility of decentralized State services.

In Guinea-Bissau, there is no national strategy for building the capacity of local administrations.

Bissau-Guinean legislation provides for audits of the financial accounts of subnational governments (Article 82 of the Constitution), but these audits are occasional.

Guinea-Bissau has no specific legislation on public participation in the management of subnational governments; there are no local consultation frameworks for the populations.

The laws and regulations of Guinea-Bissau do not provide for the evaluation of subnational government's performance.

Guinea-Bissau does not have a national urban strategy. The country has no provision for women's participation in public affairs.

Guinea-Bissau does not have a strategy to promote gender equality. However, a quota law is currently under discussion.

Finally, Guinea-Bissau has not taken any appropriate measures to take subnational governments into account in national programmes and projects to combat climate change.

## Proposed reforms

With an overall score of 15 out of 48, Guinea-Bissau is one of the countries where the environment is generally unfavourable to the action of cities and subnational governments. The country is in a pre-decentralization stage, and five main areas of reforms are necessary for the country to evolve towards a more enabling environment for cities and subnational governments.

- **The first reform** concerns a clarification of the institutional aspects of decentralization. A first clarification is necessary to facilitate the cohabitation of the council with the committee of state on the same local territory. If the first is composed, in principle, of elected members of the territory, the second represents the central government in the territory and its membership is determined by law. This duality



depends on the scale of the division of the national territory. Article 79 of the Constitution stipulates that in each political-administrative district, the local organ which has the highest power is the council; its executive function will be higher than that of the committee of state of the district. As for Article 86 of the Constitution, it specifies that the regional committee of state is the executive body of the region. It therefore seems that at the regional level, the elected assemblies and executive bodies are supplanted by appointed committees which hold regional executive power, even if it is specified that the latter are responsible for implementing the decisions of the former. While in this respect the elected assemblies and executive bodies of the local governments seem to retain the initiative for development actions, Article 90 gives a different indication; the districts' committees of the State below the region will have the task of carrying out the activities related to the regional and national programmes in their respective constituencies and must subordinate themselves hierarchically to the committees of the State at the next higher level, which are responsible for guiding and directing their activities. This Article assumes that the state committees of local governments are responsible for implementing national and regional actions. The role of the elected assemblies of the subnational governments needs to be clarified if the development actions are implemented by an appointed committee. Article 79 of the Constitution indicates that in each political, administrative district, the decentralized services of the State are subordinated to the local council, to the State council, and to all other hierarchically superior bodies in the corresponding administrative branch. In practice, the decentralized State services are more accountable to their line administration than to the local governments in their area of competence. The reform should endeavour to remove the ambiguities contained in the texts in order to make the national institutional environment more understandable with regard to the initiatives and actions of subnational governments.

- **The second reform** should be the definition of the decentralization strategy to be applied. The draft law on decentralization gives regions and sectors new decision-making, execution and oversight functions, leaving the responsibility for managing development financing to central government. But, in general, those functions are not precise, for example, "raising the political and civic awareness of citizens", "acting to strengthen the country's defence capacity", "assessing local resources for the economic development of the region", etc. Decentralization is theoretical insofar as neither the intermediate nor the local level has received new resources to enable them to cope with the new competencies entailed by decentralization. The country is in fact at a stage where the stated constitutional principles have not yet been enforced. The various political crises are undoubtedly the reason behind this situation. The revision of the decentralization architecture should be based on a redefinition of the territorial levels of management of the national territory and the modalities of their governance for the State to become more efficient, more effective and more legitimate in the eyes of the people. It is therefore necessary to design a new form of public governance that facilitates the participation of the population in the management of affairs that affect them, that roots the democratic process at the local level, and that arranges a harmonious articulation between the central and local levels.

- **The third reform** is the urban strategy. It is true that urbanization is lower in Guinea-Bissau in comparison with the regional trend. The country has experienced a very strong catch-up effect. While the total population has multiplied by three over the period from 1960 to 2010, the urban population has multiplied by 15 and the rural population by two. Even

today, the only city with more than 100,000 inhabitants is the capital city, Bissau, with 300,000 inhabitants. According to data from the United Nations Department of Economic and Social Affairs (*World Urbanization Prospects: The 2018 Revision*), the level of urbanization was 44.2 per cent in 2020; nearly one in two Guineans already lives in the city. The projections made by the United Nations suggest an urbanization level of 57.2 per cent by 2050, or nearly two out of three inhabitants. Everything shows that the current pace of urban growth will increase and many small and large cities will face massive urbanization, which argues for anticipating the phenomenon in order to better manage this process. The reform should help define the main areas of a strategy for anticipating urbanization, as well as the modalities of rebalancing the national territory, in particular through a policy of regional poles of balance. The reform should also define the technical and financial means for implementing that strategy.

- **The fourth reform** concerns the financing of cities and local governments. At present, transfers from the State to subnational governments are more a process of deconcentration than a political will to decentralize, taking into account the powers transferred to local governments. Local taxation is embryonic. The resources from local taxes are very low and are very complex. They are determined at the national level, depriving subnational governments of any latitude in setting the tax base and rates. In a country where public finances in general are undergoing an unprecedented crisis, the reform of the financing of local governments should be based on a realistic analysis of the concrete possibilities of sharing public resources between the central and local levels, and should assess, with due respect for the principle of subsidiarity, the competences and resources to be implemented at the local level. In a situation where everything needs to be done in this area, it would be appropriate to provide mechanisms that ensure the effective participation of the population in the definition of local public spending priorities and in their ability to hold subnational governments accountable for their financial management as well as for the effectiveness of their local policies. Finally, the reform should define more clearly a field of resources specific to subnational governments and, possibly, a field of shared resources as well as a transparent and predictable system of financial transfers from the State to subnational governments.

- **The fifth reform** aims to involve subnational governments in the fight against the effects of climate change. The implementation of the appropriate measures should allow the involvement of subnational governments with a view to achieving the SDGs and the Paris Agreement. Thus, the Bissau-Guinean State should define a national strategy on climate change with appropriate measures for the involvement of subnational governments and their access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognized roles and responsibilities.....	4
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Subnational assemblies and executive bodies are elected throughout the country.....	4
4	The transfer of resources to subnational governments and their distribution among subnational governments are clear and predictable, with utilization increasingly being determined at the national level (conditional transfers).....	3
5	Subnational governments have some latitude to determine existing tax base and rates, but the central government is responsible for setting new taxes and accessing loans and financial markets.....	3
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments.....	2
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits be conducted within specified time frames exist and are applied.....	4
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	There is legislation on measuring local government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country provides three of the mechanisms in the fight against climate change.....	3

## Explanation of the rating

Since her independence in 1963, Kenya has experimented with several forms of decentralization. The country ascended to independence with a semi-federal form of government. In the early 1980s, the government again introduced a decentralized reform programme (deconcentration) called the District Focus for Rural Development. The need for constitutional reforms increased in the 1990s and, after more than 10 years of a national dialogue, Kenya adopted a new Constitution, in August 2010, which established the current devolved system of government.

Article 1 of the Constitution establishes two levels of government: the national government and 47 county governments. Both levels of government are defined as distinct and interdependent, and they are required to conduct their mutual relations based on consultation and cooperation. The devolution system is further grounded by several Articles including Article 174 (states the objects), Article 175 (outlines the principles), Article 176 (establishes the two arms: the executive and the Assembly), Article 183 (specifies the functions of the county executives) Article 185 (defines roles of the County Assemblies), Article 187 (on transfer of powers). Article 189 further emphasizes the need for government at either level to perform its functions, and exercise powers, in a manner that respects the functional and institutional integrity of government at the other level. Kenya's system of devolved government is therefore based on interdependence and cooperation. This combination is referred to as a cooperative system of devolved government.

The County Executive Committee – which is composed of the governor, deputy governor, and County Executive Committee Members and County Assemblies are all elected, every five years. The last elections at the county level were held in 2017 and the next are due in 2021. City and municipal councils are to be led by a chairperson appointed by the county governor and approved by the County Assembly.

On the part of financing, Article 202 of the Constitution requires revenue raised nationally to be shared equitably

among the national and county governments. This is further clarified in Article 203, which states that for every financial year, the equitable share of the revenue raised nationally that is allocated to county governments shall be not less than 15 per cent of all revenue collected by the national government. The Public Finance Management Act 2012 guides both levels of government on the management of all funds entrusted to them.

The county governments can borrow both locally and abroad, but only subject to the guarantee of the national government. The law prescribes the conditions county governments must meet before their requests for borrowing may be considered. County governments can only impose two taxes: property rates and entertainment taxes. They may impose any other tax only with the authority of an Act of Parliament. They can impose charges for the services they provide and business permits.

County governments are required to prepare and submit consolidated financial statements annually to the auditor general for auditing. The auditor general consistently audits all accounts of county governments annually. Other various legal provisions on accountability of public resources exist, but their implementation is weak.

The County Government Act does provide for citizen participation, public communication and access to information and civic education. Significant challenges, however, remain in ensuring all these legal provisions are implemented. The Ministry of Devolution, in collaboration with the Council of Governors developed the Public Participation Guidelines. The government is, however, yet to finalize the country's Public Participation Policy, and that notwithstanding though, the Public Participation Bill has already been laid before the senate.

The National Capacity-Building Framework 2013 provides a systematic approach in strengthening the capacity of both the national and county governments to achieve their mandates. While there is no national framework of reference defining staff qualifications and responsibilities, county governments are required to individually develop job descriptions for their staff and some have already done so. All county governments have county public service

boards which develop schemes of service and define qualification and responsibilities of county government staff.

The Performance Management Framework 2017 is being implemented by all counties in guiding planning, project/programme implementation, performance contracting and performance appraisal. Section 47(1) of the County Governments Act 2012 provides for the designation of county performance management plans to evaluate public service performance implementation of county policies. Section 3 of the County Governments Act further provides for the submission of annual performance reports of the County Executive Committee and public service to the County Assembly and Section 4 declares the performance management plan and reports to be public documents.

The urbanization rate in 2020 was 28 per cent; it will reach 46.3 per cent by 2050 (*World Urbanization prospects: The 2018 Revision*). The county's National Urban Development Policy (NUDP) creates a framework for sustainable urbanization in the country.

On gender representation, Article 177 of the Constitution states that for elective and nominative functions, either men or women may not be represented by more than two thirds. Adherence to the constitutional provision, however, remains low, as it has been argued that it does not specify whether the one third representation for either gender is also mandatory. The 2010 Constitution required Parliament to enact a new law to give effect to this gender provision within five years of its promulgation. Several unsuccessful attempts have been made to pass the women's quota legislation. Despite six court orders directing it to do so, Parliament has yet to enact the law.

Kenya has an elaborate climate change legal/policy framework at whose apex is the Climate Change Act 2016. The Climate Change Act 2016 recognizes the important role county governments play in mitigation, adaptation and resilience of climate change. The climate change institutional framework as presented in the Climate Change Act 2016 creates a National Climate Change Council Chaired by H.E The President and includes the chairman of the Council of Governors as a member. The County Climate Change Units are part of the structure. The national policy on climate change provides for the access of county governments to the Climate Change Fund.

## Areas of improvement

With a score of 35 points out of 48, Kenya has improved over the past three years. This is thus an indication that the country's enabling environment for devolution has improved in assessed areas. That notwithstanding, further improvements are required in the following areas of assessment.

- **The first improvement** is related to capacity building. Considering that county governments have been assigned substantial powers, responsibilities and resources, there is need to revise and consolidate the capacity-building framework in order to continuously enhance capacity at both institutional and individual level. Part of the capacity building should entail development of a common scheme of service for all personnel serving in county governments. This will ensure adherence of norms and standards across the counties in the management of human resources and facilitate mobility of staff across counties and national government.

- **The second improvement** will help to organize structured consultations and representation of county governments in the Senate. In the Kenyan Constitution, the Senate is mandated to protect the interests of county governments. There is a need for greater interaction between the Senate and county governments to be more structured, so as to fill the existing gaps, and thus enable both bodies to effectively fulfil their constitutional roles.

- **The third improvement** is regarding performance assessment. There is need to adopt a national performance assessment framework, through which counties can be assessed using a common set of indicators and by an independent entity. The current framework does not provide for monitoring, evaluation and ranking of county governments or cities, municipalities and towns. Ranking would not only inform citizens about the performance of their county government in relation to others, but also inspire the counties and their leadership to address the identified performance gaps.

- **The fourth improvement** is regarding budget allocation and timely disbursement of funds. Although there has, over the years, been a nominal increase in the funds transferred to county governments, the national government still has a lot of discretion in determining the equitable share of revenues between the two levels of government, above the constitutionally fortified 15 per cent minimum. Since the National Treasury submitted the Division of Revenue Bill directly to Parliament for approval, county governments remain with no assurance as to whether their views in the budget consultative process would be reasonably considered in the Bill. The Inter-governmental Budget and Economic Council (IBEC), through which county governments are expected to express their views need to have executive powers and thereby, directly advises Parliament on the division of revenue, among others.

The potential of individual counties to raise their own funds locally, and the cost of providing services should be considered in determining the county's share of revenue. The current proxy formula only considers population, poverty, surface area, equal share and fiscal responsibility – making it substantially weak, as some counties inevitably end up being underfunded. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.	3
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.....	2
5	The central government defines and collects subnational government revenues.....	1
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed..	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Just after its independence in 1966, Lesotho faced considerable political upheaval resulting in a military regime seizing power which it retained from 1986 to 1993. The first general elections were held in 1998 and did not allow a return to normal constitutional order. In 2002, elections were held that were recognized as transparent and fair, which put an end to the socio-political instability. The first local elections were held in 2005, and the most recent local elections in September 2017 – the next local elections will be held in 2022.

Lesotho is a constitutional monarchy with two spheres of government: central and local. Article 106 of the Constitution stipulates that Parliament shall establish local authorities to enable urban and rural communities to govern themselves and elaborate and implement development actions. The primary laws are the Local Government Act of 1997 and the Local Government Elections Act of 1998 as amended in 2004.

The system of decentralization recognizes two levels of local government, with district councils as the upper tier, and community councils and urban councils as the lower tier. The capital, Maseru, has special status as a city council. There are 10 district councils, 11 urban councils, and one city council. The number of community councils has been reduced from 128 to 64 to correspond to the parliamentary electoral constituencies. Assemblies and executive bodies are elected throughout the entire country; the last local elections were held in 2017 in 77 councils countrywide (11 urban councils, 65 community councils, and one municipality).

According to the legislation, local governments are responsible for implementing sectoral policies and the line ministries are responsible for regulation, support and advice, and assessment of these policies. The implementing regulations are lacking, however.

Most revenue is channelled through central government. The ministry specifies how the funds are to be used when it approves the budget. Ministerial approval of the budget and its implementation means it has oversight in respect of local taxes, such as rates.

Currently the law does not provide for councils to collect and spend their own revenue. Although the Local Government Act 1997 permits councils to explore various sources of collected revenue, the current Public Financial Management

and Accountability Act 2010 still dictates that all revenues collected must be remitted to central government, as councils are 100 per cent financed by central government.

The Ministry of Local Government established the Local Government Service Commission in compliance with the provisions of the Local Government Act of 1997. This Commission is responsible for hiring human resources for local government job openings. Each local government must have a council secretary (or secretary-general in the case of the Maseru City Council). The personnel structure consists of the secretary-general supported by sector managers for health, public works, finance, administration, human resources, legal affairs, etc.

Article 74 of the Local Government Act establishes a local civil service. Lesotho does not, however, have a national capacity-building strategy. Local government staff come from two initiatives. First, after local governments were established in the first local elections in 2005, the central government transferred nearly 3,300 executives from the deconcentrated central government services to the local government administrations. In 2006, more than 1,100 executives were hired to fill job openings in local administrations. The recruitment was facilitated by the fact that at equivalent rank and education level, local administration executives earn salaries 40 per cent higher.

Chapter XII of the Constitution of Lesotho provides for the auditing of local governments. These audits are done only occasionally and do not concern all local governments.

Lesotho does not have any specific laws on the people's participation in managing local governments. However, council members in every local government are obliged to consult the community to elaborate and execute development programmes. A District Development Coordinating Committee exists in each local government. This Committee considers proposed development programmes prepared by the council and coordinates the decision and implementation process.

Lesotho has no laws on assessing local government performance.

Lesotho does not have a strategy to manage urbanization.

In 2005, Lesotho adopted a system whereby 30 per cent of all constituencies were reserved for women, and only women

could contest in these constituencies. Women and men could both compete on a winner-takes-all basis in the remaining 70 per cent of seats. The Electoral Act made a provision for this system to rotate to different constituencies for at least three elections, at which time it would be evaluated and assessed. In 2011, a new electoral legislation introduced 30 per cent of seats solely reserved for women.

Local governments are not fully involved in the implementation of the country's NDCs.

## Proposed Reforms

With an overall score of 23 points out of 48, Lesotho is one of the countries whose environment is generally unfavourable to the action of cities and subnational governments. Progress towards an enabling environment for cities and subnational governments would require significant reforms. Analysis of the national situation suggests the following reforms.

- **The first reform** concerns the assignment of functions and duties. The Decentralization Implementation Programme plans a three-phase transfer process: a two-year transitional phase (2004–2005) leading to the election of local leaders and the decentralization of a few functions; a five-year development phase (2006–2011) during which additional functions would be decentralized; and a five-year consolidation phase (2012–2016) during which local government operations, efficiency and effectiveness would be developed.

However, this programme is not at all on schedule. The line ministries still have difficulty in identifying and transferring the budgets for the responsibilities that are now the purview of the local governments. Among other things, the unpredictable and unstable nature of the transfers to local governments is harmful to planning and the provision of local public services. The reform should help clarify the chains of sectoral responsibility to transfer, and how local governments will cover them.

- **The second reform** concerns the financial transfers from the central government to the local governments. Legislation on local government provides for local governments' own revenues, but the option taken is to finance local governments through massive transfers. Thus, in 2006, under the impetus of a joint working group between the Ministries of Finances and of Local Government, a budget line labelled the 'Development Fund for Councils' was planned in the national budget. A total of 75 per cent of this amount is distributed to the local governments according to population, and 25 per cent according to surface area.

However, these transfers are unpredictable because the national amount is set on an *ad hoc* basis. Given the weakness of local taxation, these transfers make up a large part of local budgets. The case of Maseru, the capital, is indicative of the situation: transfers from the central government make up 90 per cent of the local government's budget. This situation shows a worrisome dependency of local governments on the central government, which transforms them into local executing agencies, particularly as these transfers are conditional.

And yet, for all that, the transfers are far from enough to cover the local government revenue gap. The reform should help ensure the stability and predictability of transfers and determine their proper proportions, notably by helping the line ministries identify the cost of

the chains of responsibility from the ministries that must be transferred to the local governments to comply with decentralization laws. It should also define the necessary equalization mechanisms and incentives to ensure territorial solidarity on the national level and healthy competition between territories. The reform could, in this way, emphasize correcting the vertical deficit that obliges local governments to manage permanent shortfalls.

- **The third reform** should address local taxation. Local taxation levels should be a concern, as revenues from local taxation make up less than 10 per cent of local government budget resources. Local government decisions regarding the base and rates for local taxes are subject to approval by the Ministry of Local Government. However, the structural problem with local taxation is tied to the tax base itself; the only local tax collected is the property tax. Local taxes on economic activity are missing and not offset by various fees and levies collected locally. The reform could address redefining a broader range of own revenues for local governments and defining a range of resources shared between the central government and the local governments.

- **The fourth reform** is urban strategy. With a population of 2.2 million, Lesotho has known considerable urbanization, going from an urbanization rate of 3.5 per cent in 1960 to 29 per cent in 2020. The urbanization rate will reach 46.4 per cent by 2050. The urban population is growing at a rate of 3.5 per cent a year, while the total population is growing at a rate of 0.33 per cent (*World Urbanization Prospects: The 2018 Revision*). Lesotho does not have very large cities; the urban network consists primarily of small cities in addition to the capital, Maseru (pop. 267,559). The other cities are: Hlotse (pop. 47,894), Mafeteng (pop. 43,200), Teyateyaneng (pop. 28,142), Mphahle's Hoek (pop. 23,481) and Maputsoa (pop. 23,029). An embryonic urban network is beginning to emerge from the dynamic growth in these cities, and its proactive structuring calls for the definition of a national urban strategy for Lesotho.

- **A fifth reform** should focus on the empowerment of local governments for an efficient contribution to the fight against climate change. Exposed to natural disasters, drought and desertification, and presenting a fragile mountainous ecosystem, Lesotho is particularly vulnerable to the effects of climate change. The country is forecasting a warmer climate and a change in rainfall patterns, so beneficial summer rains may shift into late fall. The delay or even shortening of the plant growing season is likely to have serious consequences for agri-environmental conditions in the country. Increased winter precipitation could lead to heavier snowfall and strong winds. In the immediate future, the country is already paying a heavy price for global warming. These meteorological episodes, which endanger human lives, crops and livestock, thus compromising food security, pose a formidable threat to a large number of people. Faced with this situation, aggravated by the fragility of the soil, the country must resolutely adopt measures and policies that take climate change into account. Local governments must be empowered and fully funded to develop actions at the ground level for climate change mitigation. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution is neutral on the question of subnational governments.....	2
2	All constitutional responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local assemblies and executive bodies are appointed.....	1
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	The central government defines and collects subnational government revenues.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Rules and legal provisions on transparency in the running of subnational governments that require regular, independent audits be conducted within specified time frames exist, but are not systematically followed.....	3
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is assessed irregularly.....	2
10	National reflection on urbanization is underway, but an urban strategy has not yet been defined.....	2
11	The country does not provide for any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## 2. Explanation of the rating

Liberia has a long tradition of centralization beginning from its establishment in 1847. This has not encouraged institutional progress to establish a local government system with a legal status and financial autonomy—with the exception of Monrovia City Corporation (MCC) and Paynesville City Corporation (PCC), which obtained their financial autonomy in the 1970s and 2014, respectively.

The strongly centralized government system has prevented citizen participation and local initiative, particularly for providing local public services, and the accountability of the people in terms of transparency in the management of public affairs. This situation undoubtedly has had a negative impact on economic growth and development, equal access to social and economic opportunities, and human well-being of the urban population. These spatial disparities are, among other issues, one of the factors that caused the civil war that ravaged the country for years. A draft law for local governments is currently before Parliament, as well as a draft law on local empowerment and transparency.

Still feeling the impact of more than one year of civil war, Liberia is struggling to create an environment favourable to cities and local governments. The civil war, which caused thousands of deaths, almost engulfed all of West Africa, to the point where the Economic Community of West African States (ECOWAS) had to send in a stabilization force, which was supplemented by a UN force.

After the 2003 peace agreements and the installation of authorities from the first democratic elections held in 2005, the central government's immediate priority was to focus its efforts on consolidating peace and national unity in order to preserve the integrity of the national territory of Liberia.

In implementing priority programmes, the government thought that decentralization would be a way to revitalize economic production, reduce poverty and achieve the Millennium Development Goals. Then, the government encouraged a variety of discussions to pave the way for institutional reforms before facilitating the adoption of a decentralization strategy as part of a roadmap for the Liberia Decentralization Support Programme (LDSP) and the programme for re-drawing city borders. Liberia's Constitution does not include a separate section for the local governments,

but they are mentioned across various sections. This borders on the definition of local government in the Liberian case. The reference of the Constitution is to the extensions of central government. This neutrality in the Constitution could be interpreted as a lack of will on the part of the national decision makers. However, the adoption of the Liberia National Policy on Decentralization and Local Governance in 2012 reassured national actors by showing the national leaders' political will to establish a sustainable local government system.

The territorial divisions in Liberia include 15 counties, 129 districts and 35 statutory districts. The districts are local governments and are present throughout the national territory.

Decentralization legislation in Liberia is incomplete. Much of the implementing legislation prevents local governments from properly taking charge of their responsibilities.

Both local governments assemblies and mayors are appointed by the President of the Republic. The Constitution of Liberia provides for their election but in the opinion of the supreme court, the President is allowed to appoint.

Currently, there is no clear, reliable, transparent system for financial transfers to the local governments. This is provided for in a draft law on local governments so that they can collect local taxes. Liberia has not defined a taxation area to be allocated to the local governments. The local resources are set and collected by the central government. The revenue law provides that central government collects and expends real estate, income and goods and services taxes. However, local governments collect and expend municipal, solid waste and advertisement taxes. Central government also provides budgetary support to the Paynesville City Corporation and the Monrovia City Corporation. All other cities are supported through the Ministry of Internal Affairs.

In Liberia, the local governments have a very weak institutional capacity. Few local managers are well trained, and the local administration is poorly structured and in many cases in the nascent stage.

All public accounts and expenditures are audited by the General Auditing Commission (GAC) and the Internal Audit Agency (IAA) and local governments hold public accounts and expend public monies. However, due to a weak capacity of these institutions, local governments' financial accounts



are rarely audited except in specific cases. Over the years, the Government of Liberia has provided spaces for citizen participation and dialogue for governance. There was a national referendum in 2011 and there have been several roundtable and citizen engagements for different policies and programmes both at the national and local levels.

Local governments are assessed through a reporting framework designed by the Ministry of Finance and development planning under the Government's Development Agenda – the Pro-Poor Agenda for Prosperity and Development (PAPD).

Liberia does not have an advanced planning strategy for managing urbanization, but a National Urban Policy is being developed.

Women and men have equal rights to participate in elections and hold appointed position in the governance of the State. Many local government officials such as mayors, superintendents, township and district commissioners are women.

In the area of climate change, the national framework does not yet provide local governments with access to climate financing.

## Proposed reforms

With an overall rating of 20 out of 48, Liberia is in the group of countries with an environment that is globally unfavourable to the action of cities and subnational governments. Several reforms should be undertaken.

- **The first area of reform** should define the decentralization policy. The national decentralization strategy (Liberia National Policy on Decentralization and Local Governance) was approved in 2012, but it lacks the legislative and regulatory text to operationalize it. The reform should review the territorial borders, redefine the levels of decentralization, and define the local governments' areas of responsibility, and the responsibilities shared with the central government, as well as the responsibilities shared between the local governments and the central government's services.

From this perspective, local governments might be established within the geopolitical borders of the 15 political subdivisions of Liberia, and these new territorial borders could be accompanied by a political, tax and administration decentralization through new legislation and perhaps also constitutional amendments.

The reform should also give specific attention to institutional reinforcement of the local governments to give them the capacity to take charge of the transferred responsibilities. The goal of this reform would be to entrust the local governments with responsibilities for which they have a relative advantage in order to facilitate the participation of Liberians in all levels of managing local affairs to facilitate everyone's access to services.

- **The second reform** area to focus on should address decentralization of taxation. The central government should adopt the appropriate laws to ensure that the financial resources are transferred from the central government to the districts, thereby ensuring greater citizen participation in accordance with Article 7, Chapter 2 of the Constitution. This reform should also aim to define a healthy financial foundation for the local governments, with identifiable revenue sources, that are proportionate and reliable for each county and district. Special attention should be paid to the distribution of

taxes between the counties and districts.

As part of this reform, all of the functions that the counties and districts are responsible for should receive the funds that were formerly used by the central government. These funds will be allocated according to a clear and transparent formula, taking into account local governments' respect of good local government practices and standards.

- **The third reform** could focus on transparency and effectiveness of local governments. The framework and execution of the decentralization policy should be regularly monitored and evaluated to determine the results and impact in order to, if necessary, take new steps to reinforce the process and ensure its effectiveness. In addition to audits and performance assessments, participatory assessments could be handled by the people themselves, and all of the local socio-professional groups could participate in these assessments. The reform should also consolidate the methods for local citizen participation in managing local governments and monitoring the quality of public spending in order to significantly improve the provision of basic social services.

- **The fourth reform** should address the management of urbanization in order to revitalize the cities destroyed during the civil war (and largely neglected thereafter) and encourage the return of normal constitutional life. Liberia has conducted few general population censuses because of the war, and one of the challenges of this urban strategy would be to establish an information system in order to better understand population statistics. According to UN statistics, 52.1 per cent lived in cities in 2020, and that number will be almost 68.2 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*).

Even more interesting is the urban structure, which has increased in density. Over 10 villages have more than 20,000 inhabitants, including the capital of Monrovia, which counted for more than a million inhabitants in 2010. Ganta (43,000 inhabitants), Gbarnga and Kakata (35,000 inhabitants each) are the largest; the rest of the cities have between 20,000 and 30,000 inhabitants. The urban strategy should help to establish ways to remedy the chronic under-investment in cities over the last 20 years and implement conditions for advanced planning of urban management. The urban strategy should also aim to implement a territorial development strategy that addresses the very specific needs of the regional centres.

Liberia should commit to reinforcing women's participation in public governance in general, and specifically at the local level. Women should be increasingly involved in the management of local affairs. This reform should reinforce women's participation in implementing public policies.

- **The last reform** addresses the involvement of local governments in fighting climate change. The local governments should be at the heart of the programme management for the fight against climate change and should have access to climate financing. ■

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## Enabling environment rating for cities and subnational governments

1	The constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognised roles and responsibilities.	4
2	All responsibilities and powers are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable according to a transparent formula.....	2
5	Resources decided and collected by the central level.....	1
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	No rules or legal provisions on transparency in the running of subnational governments exist.....	1
8	No national legislation on citizen participation, but locally organized dialogue and consultation frameworks exist.....	2
9	Subnational government performance is assessed irregularly.....	2
10	Existence of a clear urban strategy at the national level, but not supplemented by adequate technical and financial means.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The first steps in decentralization were initiated in the 1990s when several constitutional adjustments aimed at facilitating the empowerment of subnational governments were introduced in Madagascar. The decentralization of public administration was implemented, defined by the Policy Letter on Decentralization and Deconcentration (November 2004), then by the National Decentralization and Deconcentration Programme (PN2D) (2007–2012). The Malagasy Constitution affirms this in its Title V ‘Of the territorial organization of the State’, the principle of financial autonomy and the legal personality of decentralized subnational governments. It stipulates that the State is organized into communes, regions and provinces. The communes (urban or rural) constitute the basic decentralized subnational government. The executive and deliberative functions are exercised by separate bodies elected by direct universal suffrage. The executive function of the region is exercised by a body headed by the head of the region elected by universal suffrage. The head of the region is primarily responsible for the strategy and the implementation of all actions for the economic and social development of their region. The deliberative function is exercised by the regional council whose members are elected by universal suffrage. The MPs and senators from the various constituencies of the region are ex officio members of the regional council, with a deliberative voice. The executive function of the province is exercised by a body headed by the province chief elected by universal suffrage. The head of the province is primarily responsible for the strategy and implementation of all economic and social development actions in their province. The deliberative function is exercised by the provincial council whose members are elected by universal suffrage. The MPs and senators from the various constituencies of the province are ex officio members of the provincial council, with voting rights. According to Article 1 of Decree No. 2019-1866 relating to the governor: “Pursuant to the provisions of Article 325 of the aforementioned Law No. 2014-020 of 27 September 2014, the executive function of the Region is exercised by a Head of Region bearing the title of ‘Governor’; that the terms “title” mean that it is a simple name; that consequently, the change of name of the Head of Region in ‘Governor’ does not contravene the constitutional provisions”. Decree No. 2019-1866 relating to

the governor mentions the powers of the head of the region provided for by the Constitution, by organic Law No. 2014-018 and organic Law No. 2014-020.

The territorial division has also undergone changes over time. Currently, in Madagascar there are 23 regions headed by governors of which 18 governors are already appointed, 119 districts headed by prefects, 1,695 communes including 76 urban and 1,619 rural, and 19,169 Fokontany headed by the chiefs of the Fokontany appointed by the prefects. The latest municipal elections were held on 27 November 2019.

It is the Ministry of Finance and Budget (MFB) that decides on the annual allocation which is subsequently entered in the budget of the Ministry of Decentralization. Each of the 23 regions receives the same amount of operating subsidy, i.e., 210 million Malagasy Ariary (MGA) annually (2012) and this amount is set by Law 22. However, in addition to this subsidy, some regions benefit from exceptional subsidies without any criteria on the allocation modality being defined. The main resources for the financing of local governments come from a tax system, the modalities and operationalization of which are implemented by the central administrations of the Ministry of Finance. In application of the provisions of Article 88-14 of the Constitution, a mechanism called the ‘National Equalization Fund’ is established, intended to reduce the inequalities between the Decentralized Territorial Collectivities.

The financial control of local governments is practically non-existent in Madagascar and audits of the financial accounts of local governments are not carried out.

Frameworks of references for professions, training and certification of municipal agents have been drawn up through the National Institute for Decentralization and Local Development (INDDL); there is also a national centre for research, training and support for elected officials and CTD agents at the Ministry of the Interior and Decentralization (MID).

In Madagascar, at the level of each community, there is a Local Consultative Structure of CTDs (SLC) (Decree No. 2015-957), which states “The operating principle of the SLC is to promote freedom of expression, participation, engagement and responsibility of citizens.” But the operation of those SLCs can be improved.

Since 2014, the Ministry of the Interior and Decentralization, through the Local Development Fund (FDL) has developed an assessment tool called IGL (Local Governance Index) intended to assess the governance score at the level of a commune. The index is the aggregation of several scores from the performance measurement with respect to each principle of good governance, namely participation, equity, transparency and social accountability, transversally, efficiency, and compliance with the rule of law. The Local Governance Index is currently in the process of becoming the national benchmark for measuring CTD performance.

With an urbanization rate of 38.5 per cent in 2020 which will reach 57.9 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Madagascar is ranked as a “high alert in the formation of slums”. There is the National Urban Development Policy (PNDU, 2015) and the Programme d’Appui et de Développement des Villas d’Equilibre (PADEVE), which is a project to update the Urban Master Plan (PUDi) of the six cities of Madagascar in the next 15 years.

The participation of women in decision-making bodies in Madagascar is low and there is no clear framework to promote their participation in the various bodies, both nationally and subnationally.

In the national policy to fight against climate change, Area 3, it is mentioned that the decentralized territorial communities are among the main actors in the fight against climate change, without giving further details.

## Proposed reforms

With an overall score of 27 out of 48, Madagascar is one of the countries whose progress towards an enabling environment for cities and subnational governments requires significant reform efforts.

- **The first reform** concerns the distribution of powers between the four spheres of governance which are the State, commune, regions and provinces. For the moment, the Constitution establishes general powers. Thus, according to Article 149, “The communes contribute to the economic, social, cultural and environmental development of their territorial jurisdiction. Their competences mainly take into account constitutional and legal principles as well as the principle of proximity, promoting and upholding the interests of the inhabitants”. Article 153 states that “The regions have an essentially economic and social mission. In collaboration with public and private organizations, they direct, energize, coordinate and harmonize the economic and social development of all of their territorial jurisdictions and ensure the planning, development of the territory and the implementation of all development actions”. As for Article 157, it establishes the powers of the provinces: the provinces ensure the coordination and harmonization of development actions of provincial interest and ensure the equitable and harmonious development of decentralized territorial communities in the province. The provinces implement the development policy of provincial interest defined and decreed by the provincial council. In collaboration with public and private organizations, they direct, stimulate, coordinate and harmonize the economic and social development of the entire province and, as such, ensure the planning, development of the territory and the implementation of all development actions. The reform should focus on clarifying these general statements and establishing the competences required at the various levels of subnational governments, in accordance with Article 146 of the Constitution. The reform should focus on clarifying competences on the one

hand, between the State and decentralized subnational governments, and on the other hand, between communes, regions and provinces.

- **The second reform** concerns the financing of decentralized local governments. According to Article 147 of the Constitution, the resources of a decentralized subnational government include in particular: (a) the proceeds of taxes and levies voted by its council and collected directly for the budget of the decentralized local government; (b) the share that it is entitled to from the proceeds of taxes and levies collected for the State budget; (c) the proceeds of earmarked or non-earmarked subsidies granted from the State budget; (d) the proceeds of non-reimbursable external aid and the proceeds of donations to the decentralized subnational government; (e) the income from their assets; and (f) loans for which the conditions for subscription are set by law. All those provisions await legislative and regulatory texts to be applicable in accordance with Article 146 of the Constitution. The reform should also involve the financial oversight mechanisms of local governments and encourage the participation of the populations in this oversight, by adopting innovative tools such as participatory budgets already adopted by several Malagasy municipalities.

- **The third reform** will focus on building the capacities of local administrations, in particular with a view to a greater transfer of powers. The communes suffer from a lack of competence and the projects on the ground suffer from low capacities.

- **The fourth reform** should aim to increase the percentage of women in all decision-making bodies, including subnational governments. The reform should focus on determining a quota to strengthen the contribution and participation of women in local governance.

- **Finally**, it is not enough to consider local governments as actors in the fight against climate change; they must also be engaged to play a leading role in the planning, implementation and documentation of actions to combat climate change on the one hand, and on the other hand, for them to have access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	3
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed.....	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide any or only one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Malawi's 1994 Constitution adopted a multi-party system and formalized the decentralization policy in Articles 146 to 151. The constitutional provisions were clarified and completed by the Local Government Act of 1998, and there is a bill to amend the Local Government Act to give more powers to councils. Malawi has only one level of local government units, classified as urban (seven) and rural districts (28). The LGA provides for the participation of traditional chiefs and others in the work of the municipal councils as non-voting members. Mayors are non-executive and are indirectly elected by and from among the elected councillors during the council's first meeting. Mayors serve a term of two-and-a-half years with the possibility of re-election, once.

In 2000, the heads of the district councils were elected for five-year terms. Since the end of this term of office in 2005, however, the local elections scheduled for 2005 have regularly been pushed back. The local government councils and executive bodies that had been elected were replaced by appointed civil servants until May 2014, when tripartite elections were held to elect heads of councils. Progress towards decentralization seems very slow and limited. The local government elections were successfully held in 2019 during the tripartite elections. However, the implementation of decentralization remains slow.

Although decentralization legislation recommends transferring five per cent of net national revenues in the form of unconditional grants, the central government has transferred at best two per cent of net national revenues. Two thirds of this grant are distributed to urban local governments based on a known formula, and one third goes to rural local governments according to a formula that takes into account four factors: population, surface area, illiteracy, and infant mortality. There are also several other transfer mechanisms (the Agricultural Fund, Health and Education Fund and transfers from line ministries), whose national amounts and distribution among local governments are determined on an *ad hoc* basis.

Local taxation is composed of property and commercial taxes as well as other local taxes, but these revenues provide less than a third of local budgets. Local taxes

are determined by the central government, but local governments have latitude as to tax rates.

In Malawi, there is no national framework of reference defining the qualifications and responsibilities of local government staff and no national strategy to build the capacities of local administrations.

The Constitution provides for the establishment of the National Local Government Finance Committee (NLGFC), whose mission is to supervise financial control over local governments and audit local books in the framework of parliamentary decisions. Though audits have not been systematic in the past, however, there has been an improvement.

Malawi does not have any specific laws on public participation in local governance processes, but the Local Government Act has some provisions on citizen participation. In addition, in 2017 the country enacted the Access to Information Act and was operationalized in 2020. The Access to Information Act is expected to improve citizen participation in local governance through effective access to local governance information though this will not be a magic wand in respect to citizen participation. Furthermore, the primary structures for citizens' participation namely; Area Development Committees (ADCs) and Ward Development Committees (WDCs) for rural and urban councils respectively, remain weak and under-utilized in development planning as most of the development and cooperation agreements and implementation does not consider the principles of a subsidiarity and territorial approach which disfranchise citizens.

Malawi has legislation on performance assessment for local government. This is done through the Local Authority Performance Assessment (LAPA), a joint operation of the Ministry of Local Government (MoLG) and the National Local Government Finance Committee. However, this exercise is predominantly reliant on financial support from development partners.

With 32 per cent of the population living in urban areas in 2020, Malawi is undergoing strong urbanization, and the urban population is growing by more than 5 per



cent a year. According to the United Nations, Malawi's urbanization level will be around 32 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). To manage this urbanization, Malawi produced, since 2012, with support from Cities Alliance and UN Habitat, a national urban policy. However, it lacks adequate technical and financial means for implementation.

There is a persistent low level of women's representation at the local level in Malawi. However, there is a ray of hope for improvement of women's representation at the local level with the enactment of the Gender Equality Act (2016), which calls for a minimum of 40 per cent of either gender representation in decision-making positions.

Though Malawi has made strides in enacting legislation and policies on climate change, the same is yet to be localized and local governments remain excluded from national programmes and projects on climate change, as programmes and projects on the same are centralized where local governments remain recipients and often spectators and not actors on the fight against climate change.

## Areas of improvement

With 27 of 48, Malawi still does not sufficiently provide an enabling environment for cities and subnational governments action.

- **The first line of reform** should clarify local government responsibilities. Article 22 of the Local Government Act assigns classic responsibilities to local governments, such as roads, parks, libraries and other cultural facilities, drinking water, wastewater, public health (such as food inspection and slaughterhouses), markets, and emergency services (such as ambulances and fire brigades). But the line between central government and local government responsibilities is not clear. During the elected mayors' first term of office, this grey zone in the division of responsibilities led to duplicated functions. For instance, health services, environmental and forest management, road maintenance, and agriculture and irrigation services were provided by both deconcentrated central government offices and by local governments. Business permits are issued simultaneously to private entrepreneurs by the Ministry of Trade and Industry and by local governments. The assignment of responsibilities (and the corresponding financial transfers) requires review. The Local Government Act is currently under review for a prospective amendment and this provides a window of opportunity to push for a reform in this area.

- **The second line of reform** should address the financial transfers from the central government to local governments. The financial transfers from the central government account for more than two-thirds of local government resources in particular for rural councils (district councils). Conditional transfers make up 85 per cent of total transfers from the central government to the local governments, and they account for 95 per cent of rural local government resources. These transfers, however are still unable to cover the cost of the responsibilities transferred. The funds transferred to the local governments represent a minor share of the budgets of the various line ministries, and these ministries largely predetermine their use. Except for the Ministry of Health, which transfers nearly all its budget to local governments, the other ministries lag far behind. Even though some

progress has been made, transfers from the Ministry of Education, the Ministry of Agriculture, and the other ministries' transfers remain weak. Furthermore, though 18 sectors have been devolved to the local governments, there has not been corresponding devolution of finances to the local governments. As such, though the local governments have responsibilities, the resources remain with the central government. As such, the central government has to match the responsibilities assigned to the local governments with the financial resources. There is a window opportunity to make a reform on this through the amendment of the Third Schedule of the Local Government Act during the ongoing review of the Act.

Since the end of the elected mayors' term in office, the increased level of funds from sectoral policies transferred to the local level is not necessarily an indication of an advanced decentralization. The reform should work towards greater autonomy for local governments in local public spending decisions, and it is more important than ever to re-scale the financial transfers so that local governments can cover the cost of the responsibilities transferred. For this reason, the reform should first assess the cost of the responsibilities transferred when they were fulfilled by the central government, align the transfers with the transferred responsibilities, and then define clear, transparent transfer mechanisms that will allow greater stability and predictability.

- **The third line of reform** should address the local tax system. The excessive dependence of local government budgets on transfers from the central government does not foster full autonomy in local government, especially in determining the base for local governments' own revenues. Local governments could, for example, extend the property tax to rural municipalities, notably those that are near cities; there is very likely a growing number of large housing units and commercial buildings (such as stores, offices, and factories) that could be taxed. Surcharges on a few national taxes could be envisaged. Moreover, taxes on tourism, automobiles, and even petroleum or beer could be considered. The base for these taxes is local by nature. The reform should expand the range of taxes belonging to local governments and the range of taxes shared with the central government. ■

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### Enabling environment rating for cities and subnational governments

1	The constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in relation to the Constitution, and relevant laws and decrees are implemented.....	4
3	Local assemblies and executive bodies are elected, but not necessarily throughout the national territory.....	3
4	Amount of resource transfers to subnational governments or allocation among subnational governments predictable according to a transparent formula.....	2
5	Resources decided and collected by the central level.....	1
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed.	2
8	Existence of national legislation on citizen participation, which is however not implemented.....	3
9	No evaluation of subnational governments performance.....	1
10	Existence of a clear urban strategy at national level, but not supplemented by adequate technical and financial means.....	3
11	The country has two mechanisms for promoting gender equality.....	2
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

Mali has been subject to recurring political and security crises since independence. The most recent dates back to 18 August 2020 marked by the popular uprising claiming the resignation of the President of the Republic and which ended with a military coup followed by the dissolution of the Parliament, the government and the resignation of the President of the Republic. A transition regime has been installed in accordance with the transition charter adopted during the national consultations held from 10 September to 12 September 2020. As a reminder, the agreement for peace and reconciliation in Mali signed in 2012 is based on enhanced regionalization. It stipulates that the president of the regional assembly is elected by direct universal suffrage. She/He shall serve as both chief executive and chief administrator of the region. The administrative divisions *cercles* and communes shall have legislative bodies (*Cercle Councils* and *Commune Councils*) that shall be elected by direct universal suffrage and presided over by executive offices headed by a council president and a mayor, all duly elected.

The decentralization process has entered its operational phase through the transfer of three decrees in 2002 regarding the powers on basic social services (education, health, rural hydraulics) from the State to the subnational governments. This transfer process continued from 2012 to 2018 with the adoption of around 20 sector transfer decrees. In addition, we noted the adoption already in 2005 of a national decentralization policy framework document (DCPND 2005-2014), a new 2017–2021 version of which was approved by the Council of Ministers on 6 September 2017. The DCPND 2017–2021 action plan was also adopted.

Mali now has three levels of local governments throughout the territory, i.e., a total of 761 local governments: 703 municipalities (37 urban and 666 rural), 49 *cercles*, 10 regions, and the district of Bamako, the capital, with special status. But it seems the regional division needs to evolve because new regions created by Law No. 2012-017 of 31 January 2012 are still waiting to become operational; these are the regions of Nioro, Kita, Nara, Dioila, Bougouni, Koutiala, San, Bandiagara and Douentza.

On the other hand, for security reasons, the 2017 local elections did not involve all of the country's communes, especially those in the north; and the regional elections were postponed. In fact, the northern regions are managed by appointed interim authorities.

Since 2007, the National Investment Agency for Local Authorities (ANICT) has been responsible for the financial and accounting management of the National Support Fund for Local Authorities (FNACT). It is made up of five grants which are determined by a formula, and dedicated respectively to investments, loan guarantees, technical support, operations and inter-community management.

Local taxation is entirely determined by the National Assembly and the collection of the proceeds of those local taxes is mainly done by the decentralized services of the State. It is governed by Law No. 2011-36 of 15 July 2011 on to the fiscal resources of communes, *cercles* and regions.

Mali has begun to deepen decentralization, marked by the operationalization of the civil service of subnational governments, notably by the establishment of statutory bodies, the definition of key personnel profiles, the organization of professional competitions and examinations, the creation of the National Directorate of the Civil Service of Local Authorities, the establishment in each region of a Regional Development Agency responsible for intermediation and assistance/consultancy for the territorial development of the region<sup>3</sup>, and the operationalization of the training centre for subnational governments.

The accounts of subnational governments are now subject to periodic evaluation.

The law provides, through the code of subnational governments, for the participation of the populations who have the right to oversee the adoption of the budget and accountability. However, the law lists a number of matters on which communal councils are required to consult with village or fractional councils, or neighbourhood chiefs, before taking any action within their jurisdiction.

Mali does not have legislation on the performance evaluation of subnational governments.

Mali is ranked among the countries experiencing sustained urbanization with 43.9 per cent of people living in urban areas

3 Ordinance No. 2015-017 / P-RM 2015 of 2 April 2015, establishing Regional Development Agencies (RDA); and Decree No. 2015-0246 / P-RM of 9 April 2015 fixing the organization and operating procedures of the Regional Development Agencies (RDA).

in 2020; projections suggest an urbanization level of 63.2 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The country has a Strategy for the Development of Mali's Cities (SDVM) developed in 2009 by the Ministry in charge of Urban Planning, a Strategy for the Development of Cities (SDV) focused on 'secondary cities' and also 'border cities' since their creation in the wake of cross-border cooperation. This strategy is now regulated by a National Urban Policy (PONAV) adopted in 2014.

In Mali, women enjoy from a 30 per cent quota in elections in accordance with the provisions of Law No. 2015-052 of 18 December 2015 instituting measures to promote gender in access to appointed and elective positions. This law also determines the elective categories, including the conditions under which the admissibility of a list of candidates is subject to the maximum proportion of 70 per cent of women or men, respectively.

Mali is one of the countries that are slow to put in place all the mechanisms for the participation of local governments to facilitate their engagement in the fight against climate change and their access to the climate fund.

## Proposed reforms

With an overall score of 27 out of 48, Mali is among the countries that still require significant reform efforts to improve the enabling environment for cities and subnational governments.

- **The first reform** concerns the actual distribution of competencies and resources between the different spheres of governance. This reform is felt to be even more necessary in view of the secessionist demands observed in the north of Mali. Several voices are echoing that the incomplete implementation of decentralization has contributed to the emergence of such demands. Hence the importance of genuinely strengthening the distribution of competences between the four spheres of public governance (national, regional, circle, communal). In practice, 22 powers have been completely transferred, including: civil registry management, archives and documentation, administrative police and sanitation; however, not all of them are operational. As for specific powers, the transfer process turned out to be slower than expected. In fact, following the force of the legal system in Mali, in particular Law No. 93-008 of 11 February 1993 as amended, and Law No. 95-034 of 12 April 1995 as amended, provision is made for a gradual and modulated transfer of competences and resources to local governments in targeted areas such as education, health, water supply and natural resource management. The law on the free administration of local governments lays down the principle of the concomitance of transfers of powers and transfers of resources. Despite the establishment of Decentralization and Deconcentration Support Units (CADD) and the identification of the powers to be transferred to the communes by the 10 or so ministerial departments, few competences and resources are managed by the subnational governments. In this regard, the regionalization process initiated by the State should be oriented towards the transfer of extended powers to regional authorities. On the other hand, the agreement for peace and reconciliation in Mali transferred to subnational governments the decentralized services falling within their areas of competence by Decree No. 2019-0258 / P-RM. An inter-governmental plan for the transfer of decentralized services from the State to communes, cercles and regions has been drawn up; its application should take place shortly. Better still, operational modalities for the implementation of the decree transferring services were defined following a related study.

- **The second reform** concerns the issue of financing decentralization and the financial autonomy of local

governments. Within the framework of the Algiers Peace Accords, strengthening the capacity of local governments to deliver local public services was retained as a means of consolidating national unity. The reform should therefore first focus on adjusting the implementation of Article 8 of the Agreement for Peace and Reconciliation, which provides for setting the rates of taxes, local fees and levies, with each region having the latitude to create taxes adapted to its economic structure and its development objectives within the confines of the law. On the other hand, the reform should help operationalize a mechanism for transferring 30 per cent of budget revenue from the State to local governments, on the basis of an equalization system, with particular attention to the northern regions, according to criteria to be determined. It is through this logic that the European Union is supporting the restructuring of ANICT. The organizational audit proposed three directions for restructuring: the first is about streamlining the general management staff in order to strengthen the regional representations; the second is the decentralization of FNACT; and the third is the orientation of the agency towards innovative financing. In addition, the low level of collection of subnational governments' own fiscal resources is mainly due to a deficit in the information system on local economic activities and a lack of dialogue with the populations.

- **The third reform** concerns the financial oversight of the financial management of subnational governments. Oversight is exercised over the management of the authorizing officer and that of the collector or payer, in accordance with the laws and regulations in force. The management oversight of the authorizing officer is ensured by the ministers responsible for subnational governments and finance, the general control of State and the accounts section of the Supreme Court. The payer's accounting oversight is performed on site and is carried out by the competent State control bodies. But, in general, those oversights are occasional.

- **Finally, a final reform** should strengthen the consideration of subnational governments in the fight against climate change. With two-thirds of its surface area being arid and semi-arid, dominated by problems of desertification, Mali has seen natural risks increase with the intensification of climate change: repeated droughts, floods, strong winds, bush fires, destabilization of the rainfall regime, etc. Local authorities have their part to play in the fight against climate change and they should be supported in this process. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Amount of resource transfers to subnational governments or allocation among subnational governments are predictable according to a transparent formula.....	2
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	No national legislation on citizen participation, but existence of locally organized dialogue and consultation frameworks are in place.....	2
9	No evaluation of subnational governments performance.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

In Mauritania, it was the first Ordinance No. 87-289 of 20 October 1987, as part of the democratic process, which organized municipal decentralization by giving the communes legal personality and financial autonomy. However, it was not until 1991 that central authorities opted for the recommendations of international organizations, which saw decentralization as a suitable response to declining budgetary resources and a way to continue the restructuring of the economy initiated with the privatization process set in motion the same year.

The 1991 Constitution, in its Article 98, stipulates that subnational governments are the communes as well as the entities to which the law confers this quality; they are administered by elected councils under the conditions provided for by law. Legislation is responsible for determining the functions, resources and autonomy of decentralized entities. The territory of Mauritania comprises of two types of administration: a central administration which subdivides the national territory into 12 *wilayas* (regions) and Nouakchott (considered as a region), 55 *moughataas* (department), and a communal administration with 218 subnational governments. The latest local elections took place in September 2018; they involved regions and communes.

In accordance with the Constitution, extensive legislation has been drawn up, as well as legislative and regulatory texts. However, many inaccuracies exist, and subnational governments have difficulty exercising their powers because of the parallel activity of sectoral ministries and the powers of governors (*wali*) and prefects (*hakem*), hence the need for additional regulatory instruments.

The transfer system is made up of two funds; the Regional Development Fund (FRD) and the Inter-Municipal Solidarity Fund (FIS). The national amount of the FRD is set according to the following distribution keys: 30 per cent for operations, representing a fixed share at 10 per cent and a share distributed for the poor population at 20 to 68 per cent for equipment / investment (50 per cent communal population share and 18 per cent for equipment delay) – 2 per cent for FRD monitoring and evaluation. As for the FIS, it is allocated on an *ad hoc* basis to local governments. The amounts to be received from these two funds are therefore unpredictable for the subnational governments and are characterized by a certain instability.

The financial resources of Mauritanian communes include the proceeds of poorly based taxes (property tax, housing tax, licence fees) due to the fact that the State retains most of the powers to identify, register and collect those local taxes. However, adjustments have been made by the General Tax Code (CGI), allowing a greater degree of autonomy in terms of tax work, especially in the absence of tax services in rural communes or at the mayor's request. Local authorities have some latitude for some tax rates.

In Mauritania, there is a framework of reference for subnational government professions, as well as a national strategy to strengthen the capacities of decentralization actors.

The trusteeship of subnational governments includes, among other things, the oversight of the financial management of subnational governments by the Ministry of Finance. However, the auditing of the financial accounts of subnational governments is occasional.

Mauritanian law does not provide for a mechanism for public participation in the management of local affairs, but there are local consultation frameworks 'Citizen Consultation Committees (CCCs)' that are operational in the context of the preparation of local development plans (PDCs) (see MIDECE Order 680 of 17 April 2011 defining the modalities for the preparation and implementation of communal development plans).

The performance evaluation of subnational governments in the provision of local public services is not provided for in the texts. However, a performance evaluation framework is being put in place.

Mauritania does not have an urban strategy, even though the country has one of the highest levels of urbanization in the region.

Organic Law No. 2012-034 of 11 April 2012 on the promotion of women's access to electoral mandates and elective offices provides that, under penalty of inadmissibility, candidate lists for municipal elections must be drawn up in such a way as to place female candidates in eligible positions, depending on the number of councillors provided for. Thus, these lists must include at least two candidates for councils of nine and 11 councillors, three candidates for councils of 15 and 17 councillors and four candidates for councils of 19 and 21 councillors or more.

In Mauritania, programmes and projects to fight against climate change are not implemented under the contracting authority of subnational governments. Yet the Nationally Determined Contribution (NDC) for Mauritania highlights the need for adaptation in urban areas and investment needs of \$5 billion in housing, urban planning and space planning.

## Proposed reforms

With an overall score of 25 out of 48, Mauritania is among the countries whose progress towards an enabling environment for cities and subnational governments requires major reform efforts. Improving the enabling environment for cities and subnational governments suggests several reforms.

- **The first reform** concerns the system of financial transfers from the State to subnational governments. Two funds exist: the first is the Regional Development Fund (FRD) and the second is the Intercommunal Solidarity Fund (FIS). The Regional Development Fund (FRD) is distributed among the municipalities according to a formula that combines the following criteria: demographic factors, poverty rate, infrastructure gap, resource mobilization effort, monitoring-evaluation and capacity building of decentralized administration. The FRD envelope is distributed as follows: 30 per cent for the operating allocation, 68 per cent for the equipment allocation, 2 per cent for monitoring-evaluation and capacity building of the administration. The operating allocation (DF) is made up of two parts: a fixed part of an amount equivalent to 15 per cent of the FRD. It is distributed on an equal basis between the communes. A share equivalent to 15 per cent of the fund's amount is distributed proportionally on the basis of the demography of each municipality and the poverty rate of the *wilaya* (region). The equipment allocation (DE) is also made up of two parts: 50 per cent of the credits are distributed in proportion to the communal population and part of 18 per cent on the basis of the delay in equipment of the commune. After calculations, the FRD credits are paid directly to the budgets of the communes. The second fund is the Intercommunal Solidarity Fund (FIS). The contribution rate is determined according to the volumes of the communes' budgets: 1 per cent of ordinary revenue for budgets less than or equal to 5 million MRU. A total of 2 per cent of ordinary income for budgets over 5 million MRU and below 20 million MRU, 3 per cent of ordinary income for budgets over 20 million MRU. As can be seen, for the FRD the determination of the national amount is *ad hoc* while for the FIS, it is the distribution between the municipalities that is so. Moreover, these funds are not supporting the reduction of the vertical imbalance because, on the one hand, the FRD does not take into account the cost of the competences transferred by the State, and, on the other hand, it does not provide additional resources, but rather contributions from the communes on their own budgets. The reform should help to proportion these transfers to take into account the cost of transferred competences to territorial solidarity in a country where spatial disparities are significant, and to ensure predictability and provide latitude for local public spending choices.

- **The second reform** related to the sharing of powers between the State and the subnational governments. In Mauritania, subnational governments have general competences and specific competences. While the laws and regulations enshrining the sharing of responsibilities exist, sector ministries continue to carry out state investment programmes at the local level, reinforced in

that by international aid modalities. Indeed, through these – budget support and sectoral programmes – the action of ministries promotes the recentralization of sectoral policies – such as education, health, water and sanitation – by concentrating financial resources in the ministries, without taking into account the new responsibilities of the subnational governments. Thus, in Mauritania for example, only 4 per cent of the investments made on the territories of the communes and within the framework of the competences devolved to the latter, go through the communal circuits and are taken into account by their budgets. The central administrations directly execute more than 90 per cent of local public spending, which is a violation of the principle of the free administration of the communes. The reform should propose a framework for sharing competences and corresponding resources to local governments and draw up the regulatory texts indicated.

- **The third reform** should focus on anticipating the phenomenon of settlement. Mauritania is undoubtedly one of the African countries with the strongest urban dynamics. It went from a 7 per cent urbanization rate in 1960 to over 40 per cent in 2000, multiplying its urban population by 13 per cent and that of its capital by 18 per cent. The urban population has multiplied by 2.5 per cent, with cities accounting for more than 70 per cent of the population growth. In 2020, the urban population was estimated at 56 per cent of the total population; according to projections this rate will be 72.9 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). These data show the need for a national urban strategy, urban planning, and planning for the urban future, including the establishment of respective capacities and relevant institutions.

- **The final reform** concerns the place of local governments in the fight against climate change. Mauritania should work to strengthen the capacities of subnational governments in climate change adaptation, in particular, building climate resilience capacities in the capital and cities of the Sahel. To facilitate this approach, securing climate finance for cities and subnational governments is essential. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution is neutral on the question of subnational governments.....	2
2	All responsibilities and powers are clearly defined in accordance with the relevant statutory laws and regulations are in place.....	4
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	The transfer of resources to subnational governments or their distribution among subnational governments is predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of local government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments.....	2
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	National legislation on citizen participation exists but is not applied.....	3
9	There is legislation on measuring local government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	National reflection on urbanization is underway, but an urban strategy has not yet been defined.....	2
11	The country provides two of the mechanisms for the promotion of gender equality.....	2
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

The Republic of Mauritius consists of rural and urban areas plus the island of Rodrigues. It has five municipal councils, seven district councils and 130 village councils. The country has made remarkable progress in the economic and social sectors, and it has reached the level of high income countries according to the World Bank (Mauritius Country Report of 2020).

Decentralization started as a strategy to overcome the legacy of armed struggle and to manage the conflicts arising from the heterogeneous composition of Mauritius' population. General elections were held on 10 December 2014 and resulted in a victory for the Alliance Lepep coalition, followed by further elections in October 2019 which saw the victory of the Alliance Morisien coalition. The next elections are due to be held at the end of 2024. It is notable that the 2015 Mo Ibrahim Index of African Governance ranked Mauritius first regarding good governance practices.

While Mauritius has embarked on a process of decentralization, the Constitution does not make any mention of 'local government'. The responsibilities and powers of local governments are not governed by the Constitution, but they are clearly set out in the Local Government Act of 2011. In the fiscal years (2016–2017), amendments were made to the Local Government Act through the Finance (Miscellaneous Provisions) Act of 2016 and the Business Facilitation (Miscellaneous Provisions) Act of 2017. These amendments aimed to simplify the application process for obtaining an Outline Planning Permission (OPP) and a Building and Land-Use Permit (BLUP) in the context of "ease of doing business", and to consolidate local democracy and promote better participation of councillors in the management of community affairs.

The rural population elect village councils that, in turn, indirectly elect the district councils and chairpersons. Local assemblies are democratically elected. The next local elections are planned for 2021.

The 'grant in aid' formula that determines financial transfers from the national government to local authorities is not adequately representative. The annual grant in aid is voted in as part of the budget of the Ministry of Local Government, Rodrigues and Outer Islands at the beginning of the financial year, and it is distributed in monthly instalments to each local authority (CLGF, 2013). The recurrent expenditure grant accounts for 70 per cent of the budget, while the grant for capital projects is mostly for minor schemes implemented by local authorities (Commonwealth Secretariat, Financing Local Government, 2008). The system does not sufficiently consider tax cuts imposed by national policies or the realities of local government finances; local government budgets are weak as they largely depend on the central government.

Apart from taxes on property and transfers from the central government, other sources of revenue for councils consist of charges on property income, building and land-use permits, trade, markets, cemeteries, traffic fees, advertisements, and sales of goods and services, among others. It is important to mention that local governments and Rodrigues Island may borrow based on their financial capability, with the approval and the guarantee of the central government.

The Local Government Service Commission, an independent body, devises the qualifications and responsibilities of local governments. Training is provided by the Civil Service College (CSC) and the Mauritius Institute of Training and Development. Therefore, there are national strategies for training and promoting human resources at different levels of governance, including the local government.

Financial statements of local authorities are audited by the National Audit Office. The approved accounts must be submitted to the Director of Audits within four months of the end of every financial year. According to the Finance and Audit (Amendment) Act of 2015, every local authority shall, not later than 31 October in every year, submit to the government a report on its performance in respect to the previous financial year and on its strategic direction for the next three financial years.



There is no specific national legislation on citizen participation in decision-making by local government, though council meetings are open to the public.

For urban planning, there are Planning Policy Guidelines (PPGs) which set out strategic plans, but there is no national urban strategy yet.

Regarding quotas for candidates to elected office, the Local Government Act 2011, Article 11.6 stipulates that any group presenting more than two candidates at a village council election must ensure that not more than two-thirds of the group's candidates are of the same sex. Under a gender quota law introduced in 2012, at least one-third of the candidates in local elections must be women.

The National Environmental Policy of 2007 states that the government will "prepare an integrated action plan to better respond and adapt to impacts of climate change, sea level rise, tsunamis and other disasters" (Government of Mauritius, 2007).

The institutional framework does not require local authorities to draw up or report on the implementation of a territorial climate plan, and it does not specifically give them access to climate finance. The climate change bill is currently being debated /voted in Parliament. This bill will provide for a legal framework on climate change adaptation, safeguarding of environment and division of roles and power to different institutions. As ministers of local governments will be part of the interministerial council for climate change, whose objectives are to set national objectives, goals and targets with a view to decision-making. Mauritius is a climate change-resilient and low emission country. This will assure the contribution of local governments in the climate change adaption process.

## Areas of improvement

With an overall rating of 31 points out of 48, Mauritius is one of the countries where the environment is fairly favourable to cities and subnational governments' action, but where some areas could be improved by the following reforms.

- **The first improvement** is concerned with the revision of the constitutional framework to recognize and clearly frame the role of local government. It is important for local governments to be embedded in the Constitution with the principle of local autonomy that implies the protection of the local governments against the national government. In the same vein, the Constitution should guarantee that the national government does not violate the rights of local public entities and expressly delegate powers to local governments. This would enable local governments to better manage and administer their own affairs to ensure social welfare in their communities, maintain public order, and acquire financial and executive powers.
- **The second area of improvement** is to secure a reliable share of general revenue for local governments, who depend on a grant-in-aid formula provided by the central government. This situation will enhance the control of the national government over finance and perpetuate the low level of funding for local government. Reforms must be undertaken that take into account the deficiencies in local government, the relationship between national and local governments, and the current state of the local government in Mauritius. The transfer formula should consider the specificities of each local government, which should also have greater leeway in terms of tax collection.

Because a lack of financial freedom hinders decentralization, more autonomy should be provided in terms of access to financial resources and taxable income. The lack of revenue for local governments may be solved by changing the ratio of tax revenues distributed between the national government and local governments, and by seeking new sources of revenue for local governments. The argument is that local governments should have the right and capacity to manage their own taxation and litigation. Central government grants aid to local authorities who should be allocated wholly or primarily through an objective formula based on the assessment of relative need to spend, relating to factors such as population, deprivation and scarcity.

- **The third area of improvement** concerns capacity development. It must be treated as a priority, and career paths should be designed for local government employees. Urgent measures are needed to raise the executive-capacity profile of local governments if they are to fulfil their mandate. Staff development and training should be accelerated, as this will form a base for strengthening the local governments' human capacity.

With the introduction of a climate change bill. There is a need of capacity development, especially at local government level, and at ministerial level. For example, since the minister of local government seats at the climate change council, which will have power to make climate change policy and set a direction on how the country pursue the subject matter, it is very important that a minister has to be informed with access to research papers and recommendations from experts within the local governments structures.

- **The fourth area of improvement** should consider the development of a national urban strategy. With an urbanization rate of 40.8 per cent in 2020 and an expected one of 49.5 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), such a strategy would provide an essential policy framework for the Government of Mauritius to establish a connection between the dynamics of urbanization, demographic changes, and the overall process of national development. It would also align sectorial policies that affect urban areas and aim to create increased cohesiveness among existing and planned infrastructure projects. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, and relevant laws and decrees are implemented.....	4
3	Local and executive assemblies are elected throughout the country.....	4
4	Amounts of transfers to subnational governments and distribution between the subnational governments are clear and predictable, according to a transparent formula, and without restrictions on how they may be utilised.....	4
5	Subnational governments have the latitude to set the base and rate of existing taxes, but the State is responsible for setting new taxes and accessing loans and the financial market.....	3
6	There is a national reference framework of professions within subnational governments and a national strategy for the training and promotion of subnational government human resources, but implementation has so far only covered a few subnational governments .....	3
7	Rules and legal provisions on transparency in the running of subnational governments that require regular, independent audits be conducted within specified timeframes exist but are not systematically followed.....	3
8	National legislation on citizen participation exists and is applied.....	4
9	There is legislation on measuring the performance of subnational governments, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	Existence of a clear urban strategy at the national level with a definition of the modalities of technical and financial capacities for implementation.....	4
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country provides two of the measures in combating climate change.....	2

## Justification of the rating

Following independence in 1956, the Kingdom of Morocco, a unitary State and constitutional monarchy, opted for progressive decentralization in several stages: the start of the decentralization process (1959–1963) through the adoption of a series of founding texts; the consolidation of the process (1976–1996) for enabling a political and economic context; Renaissance I of decentralization (2002–2010) through the adoption of a new legal framework governing local governments; Renaissance II of decentralization within the framework of the implementation of the 2011 Constitution and enhanced regionalization.

The division of powers between the State and the territorial collectivities (TC) has been gradually specified. The three categories of territorial collectivities (regions, prefectures and provinces, communes) have their own powers exercised on the basis of the principle of free administration, shared powers and powers transferred based on the principle of subsidiarity. The local governments also have, in their respective fields of competence and in their territorial jurisdiction, a regulatory power for the exercise of their attributions.

The territorial map is made up of 12 regions, 13 prefectures, 62 provinces and 1,503 municipalities, knowing that there is no longer any distinction between urban and rural communes. The prefectures and the provinces are subject to the same legal status. Six large cities of more than 500,000 inhabitants are subject to the regime of cities subdivided into district councils (Casablanca, Fez, Marrakech, Rabat, Sale and Tangier), i.e., a total of 41 district councils elected but which are not designated local governments.

Local assemblies and executive bodies are elected and cover the entire national territory; the latest elections were held in September 2021.

Local taxation, the basis of assessment of which is provided by the State on behalf of the local governments and consists of business tax, housing tax and communal service tax (i.e., about 17 per cent of the local governments' resources), as well as taxes, levies and fees for which the establishment, basis of assessment, collection procedures, and the setting of rates for certain taxes are provided by the local governments

themselves (i.e., 27 per cent of their overall resources). However, the State must give its approval for the basis of certain taxes allocated to the local governments, as well as for borrowing and resorting to the financial market.

State transfers consist essentially of the equivalent of at least 30 per cent of the proceeds of the value added tax (VAT) for subnational governments since 1986. As for the councils of the regions and pursuant to the provisions of the first paragraph of Article 141 of the Constitution, the State allocates to regions under the Finance Acts in a progressive manner, rates set at 5 per cent of the proceeds of corporate income tax (CIT), 5 per cent of the proceeds of income tax (IR), and 20 per cent of the proceeds of the tax on insurance contracts, to which should be added the credits of the general budget of the State with a view to reaching a ceiling of 10 billion dirhams by 2021. Such transfers are distributed according to transparent formulas and through objective criteria. The local governments have the right to borrow from the Communal Equipment Fund (FEC) created in 1959 and restructured in 1992.

A reference framework for professions as well as a national training and skills development strategy have been drawn up and implemented by the Directorate of Training of Administrative and Technical Managers (DFCAT) under the General Directorate of Territorial Collectivities (DGCT).

There are several institutions and oversight mechanisms exercised over local governments, in particular the Court of Accounts, the regional courts of accounts, the Ministry of Economy and Finance (General Inspectorate of Finance and General Treasury of the Kingdom). These different oversight methods are not often coordinated and carried out in an integrated manner; some of them meet a specific time frame.

As part of the implementation of the constitutional principle of participatory governance, several participation mechanisms are provided: opening of the TC sessions to the public, creation of permanent consultative bodies at the TC level, exercise of the right of petition at the regional, prefectural / provincial and communal levels, the right to present motions in legislative matters.

The evaluation of public policies has been established as a constitutional principle since 2011. Since 2019, a support programme for improving the performance of communes in Morocco has been carried out in partnership between the

DGCT, the World Bank and the French Development Agency (AFD). Scheduled for a period of five years (2019–2023), this programme aims to strengthen the good governance of municipalities in order to improve services to citizens and businesses. It targets 103 municipalities representing more than 85 per cent of the country's urban population and nearly 55 per cent of the country's total population.

Morocco has several national strategies on national land-use planning, urban planning, and urban development, including: the National Human Development Initiative (INDH) since 2005, which includes a major urban upgrading programme and programmes to reduce social disparities; the National Urban Development Strategy (SNDU), which has been underway since the first meeting of subnational governments held in December 2006, on a contractual or partnership basis with subnational governments. These different strategies are also granted substantial human, financial and technical resources for their implementation. In accordance with the Hautes Orientations Royales (Royal Guidelines) and constitutional provisions, the organic laws relating to the three categories of local governments, adopted in 2015, reserved quotas of 27 per cent of seats for women at the communal level and 30 per cent at the regional level. Several local governments councils are headed by women, including two regional councils, a prefecture council and 23 communal councils.

Since 2010, Morocco has implemented the national climate resilience plan at the regional level and the establishment of a territorial policy to fight against climate change with a climate audit at both the regional and local level, as well as the mainstreaming of climate change in the various sectoral projects at both the regional and local levels. On the other hand, the Subnational Climate Finance Expertise Programme (PEFCI) at the Direction Générale des Collectivités Territoriales aims to support Moroccan local governments in setting up climate change adaptation and mitigation projects in line with the country's Nationally Determined Voluntary Contributions (NDCs), and in accessing climate finance (domestic and international, public and private) to enable their implementation in the country.

## Areas of improvement

With an overall score of 38 out of 48, Morocco is one of the countries with an enabling environment for cities and subnational governments even if a number of improvements still are needed.

- **The first improvement** is to improve the effectiveness and compliance with the legal framework. Since the adoption of the 2011 Constitution, a whole body of law has been adopted to support and implement the new phase of decentralization and advanced regionalization. It remains to guarantee and ensure the effectiveness of this legal framework which recognizes the important attributions, responsibilities and competences specific to the local governments.
- **The second improvement** should relate to the compliance with and implementation of the constitutional principle of subsidiarity within the public sphere. Indeed, not only is the bulk of spending, particularly on public investment (infrastructure, education, health, housing, solid and liquid sanitation, etc.) still carried out by the State, but local governments are unable to use all of their resources, which is due to management rather than political will, and are unable to tap into all of their fiscal potential.
- **The third improvement** relates to the State and local government relations, which must be reconsidered in-depth in the spirit of the principles of the 2011 Constitution (free administration, subsidiarity, elimination of trusteeship,

accompaniment) in order to move from the vertical relations of authority implied by the notion of trusteeship, to relations based on legality, dialogue, consultation, convergence, integration, cooperation, accompaniment and partnership. This implies, among other things, the promotion of real local autonomy, a change of mentality, the implementation of a real strategy of support, training and capacity building for all central administrations to bring them up to speed and enable them to lead the change, and the design of the new role of State representatives at the level of deconcentrated services.

It is also proposed to generalize the good practice of the Fez-Meknes State-Region planning contract introduced in 2020, as a tool for co-responsibility between the different actors of public governance at the territorial level, for consistency and integration of public policies, inclusion and participation of citizens, support and guidance.

- **The fourth improvement** concerns the design and implementation of a new roadmap for training, development and capacity building for locally elected officials and human resources (leaders, managers, agents), with a view to enhancing their value, qualification and professionalization. Motivating statutes in terms of attractiveness, lifelong training, career prospects and working conditions are nowadays an inescapable necessity to support the promising project of advanced regionalization.
- **The fifth improvement** concerns the equalization and solidarity mechanisms to reduce geographic imbalances and reduce financial disparities and inequalities between local governments. To date, the system in force in Morocco has been based exclusively on vertical solidarity mechanisms through transfers from the State to the local governments which have shown their limitations, giving rise to (unhealthy) lobbying circuits between the central administration and the local governments, poor governance at local level (see the Court of Auditors' reports at [www.courdescomptes.ma](http://www.courdescomptes.ma), as well as the inertia of locally elected officials. This system would benefit from being reinforced by a horizontal solidarity mechanism, in particular within the framework of the Social Upgrade Fund and the Interregional Solidarity Fund.
- **The sixth improvement** concerns the change of mindsets, the support and accompaniment of locally elected women, in particular through training and capacity-building programmes on leadership and local governance. It is also necessary to activate the Network of Locally Elected Women of Africa (REFELA) – National Chapter of Morocco to achieve this improvement.
- **The final improvement** relates to the access of TCs to climate finance. While many territorial climate plans exist in Morocco, it is necessary to support the local governments to be able to access climate funds to implement them. Likewise, these entities should be supported to mainstream the climate dimension into their strategic development plans through real political will and concrete climate change projects on the ground. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution contains provisions that implicitly or explicitly restrict the actions of cities and subnational governments.....	1
2	A number of legislative provisions are in conflict with the constitution, or some provisions in the constitution are not implemented.....	2
3	Local assemblies and executive bodies are elected, but not necessarily throughout the country.....	3
4	Amounts of the transfers to subnational governments and their distribution among subnational governments are clear and predictable, according to a transparent formula and without restrictions on how they may be utilized.....	4
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist and they are not systematically followed.....	2
8	National legislation on citizen participation exists, but is not applied.....	3
9	Subnational government performance is not assessed.....	1
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Mozambique is one of the few countries where its Constitution covers deconcentrated State services on an equal footing with local authorities. Chapter IV of the Constitution and Articles 262–264 establish the definition, organizational principles, and functions of deconcentrated State services. Article 263 states that deconcentrated State services must participate in the work of the local authorities' deliberating assemblies. However, the fact that deconcentrated central government services are explicitly mentioned in the Constitution, along with a description of the missions and operating modalities generally recognized as belonging to subnational governments, creates a degree of ambiguity regarding decentralization. In such a context, it is likely that sector-specific deconcentration could be assimilated with political decentralization. Thus, the Mozambican Constitution contains the seeds of *de facto* conflict between deconcentrated central government services and subnational governments.

Ultimately, the central administration has delayed the process of transferring responsibility, arguing that local authorities have a poor institutional capacity. In another contradiction to the spirit of the Constitution, local elected assemblies do not yet extend throughout the national territory; according to estimates, less than 40 per cent (37 per cent exactly) of the national population lives in Mozambique's 53 urban centres. The municipality laws establish municipalities in all 33 cities and 20 of the country's 154 towns. Local government therefore only covers a proportion of the population, and is predominantly urban.

In February 2018, a constitutional reform was announced with an impact on the municipal election process, including election lists based on political party and representatives of civil society. The last provincial elections (10) were organized in October 2019, and the last local elections in November 2018.

Under Law No. 1/2008 the national government transfers funds through the Municipal Compensation Fund, which in 2006 represented 3.5 per cent of all tax revenue raised at the national level. The Municipal Compensation Fund provides a general grant distributed between the

municipalities under a formula published in the annual budget, and based on the following criteria: surface area, population, level of development and success in collecting taxes.

In Mozambique, several taxes and fees are allocated to subnational governments, which have some latitude in determining the rates of some of them.

There is no framework of reference or national strategy for capacity building. Local elaboration and implementation of development strategies are constrained by poor qualifications among local staff and inadequate transfer of staff from the central government to the local authorities.

Article 271 of the Mozambican Constitution states that the objective of local administration shall be to organize the participation of citizens. Municipalities are theoretically supposed to hold regular meetings with local associations and NGOs to determine their preferences for municipal infrastructures and services and to obtain their suggestions and participation in local development tasks. In reality, these meetings are few and they depend on whether or not the municipal councils see the people's participation as a positive or negative element. Clearly, this constitutional recommendation lacks the implementing legislation needed for a systematic, codified application.

Mozambique does not have a local performance assessment system.

With an urbanization rate of 37.1 per cent in 2020 and an expected urbanization rate of 55.3 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Mozambique's urbanization is not driven by a demand for labour in industry and services, but rather largely by the effects of the civil war, which displaced people from rural areas to the cities. Only a small proportion of the people displaced by war have returned to their rural places of origin. Some cities that had been growing rapidly before the civil war do not seem to be recovering their prior population levels. This is actually the case with the Palma District, in Cabo Delgado Province where 43,600 people (out of 110,000) who had sought shelter in the Palma District after being displaced from other parts of Cabo Delgado Province. The Government of Mozambique with the support of UN-Habitat has developed a national urban



policy. But the country's technical and financial means regarding the urban strategy is weak.

Mozambique does not have legislative provisions on gender equality in local governance.

Subnational governments are not involved in climate change programmes and projects.

## Proposed Reforms

With a score of 24 points out of 48, Mozambique is one of the countries where the environment is generally unfavourable to cities and subnational governments' action. To advance in the establishment of a more enabling environment for cities and subnational governments, Mozambique should rapidly initiate and implement a series of major reforms.

- **The first of these reforms** should be to comply with the provisions of the Constitution by establishing local authorities throughout the entire country. In addition to municipalities, settlements should be set up and their operating conditions defined.
- **The second reform** should clarify the division of responsibilities between the central government and the local authorities. Despite the Municipal Finance Law of 1997 (revised in 2008), which clarifies the areas of responsibility for local authorities, the central government has been slow to transfer the responsibilities. Several deadlines have been set for line ministries to turn over responsibilities, but as yet there have been no discussions on which responsibilities to transfer. The central administration argues that local authorities are too weak institutionally to fulfil their current responsibilities and warns of the risk of deteriorating service quality if the local authorities are assigned additional duties.

The responsibility transfer request procedure local authorities have proposed is problematic as well. It stipulates that the transfer of responsibilities can be instigated on the initiative of the local authority council. The chairman of the municipal council, with the approval of the municipal assembly, must submit a substantiated request to assume responsibilities to the provincial governor (except for the municipality of the city of Maputo), indicating the human, financial and material resources available locally and those expected from the national government to implement the requested responsibilities. The provincial governor then submits the final proposal to the line ministers for decision. This procedure contradicts the spirit and the letter of the Constitution by placing the central administration in control of the process of transferring responsibilities to the local authorities. Structured dialogue on responsibility transfer needs to be organized between the central government and the local authorities to address this pressing issue.

- **The third reform** should address local administration capacity building. On average, the vast majority of municipal staff have barely more than a primary education. The latitude afforded to local authorities to improve their human resources is hindered by the small amounts of funding allocated for this purpose. Even today, there is no national framework of reference or national capacity-building strategy, and local authorities have little possibility to define frameworks of reference detailing staff qualifications and responsibilities in an autonomous manner or to elaborate staff capacity-building programmes.

- **The fifth reform** should address fiscal decentralization. There are four transfer funds in Mozambique. The Municipal Compensation Fund (*Fundo de Compensação Autárquica*, or FCA), which is unconditional, and its national amount and distribution among local authorities are known. The other three are the Road Fund (*Fundo de Estradas*); the Local Initiative Development Fund (*Fundo de Investimento de Iniciativas Locais*, or FIIL); and the Extraordinary Transfer (*Transferência Extraordinária*, or TE). The last two transfer instruments are unpredictable and should be overhauled entirely, not only to reflect the real cost of fulfilling the responsibilities transferred, but also to ensure the predictability and transparency necessary for territorial equity and budgetary planning by the local authorities. The reform could also promote greater latitude for local authorities in respect to local taxation.

- **The sixth reform** should address the issue of gender equality. The reform should push Mozambique to have a legislative provision on women's representation in local governance.

- **The last reform** must focus on the contribution of subnational governments in the fight against climate change. Cyclones, tropical storms, droughts and floods have regularly hit Mozambique over the past two decades. The effects of climate change have become disastrous for the country, which ranks among the top five countries most affected by natural disasters between 2000 and 2019, according to the Germanwatch Global Climate Risk Index (GCRI). The latter measures «the level of exposure and vulnerability to extreme weather events. According to the same index, Mozambique is the territory that has suffered the most from these violent climatic episodes in 2019. Again in 2021, the country faced the consequences of yet another disaster. Tropical cyclone Eloise struck «on January 23, 2021, near the coastal city of Beira (central Mozambique), with winds of 140 km/h and gusts reaching 160 km/h, according to the National Institute of Meteorology of Mozambique (INAM).» The report published on January 24, 2021 by the National Institute for Disaster Management and Risk Reduction (INGD) stated that more than 176,000 people were affected and more than 8,300 displaced. This toll increased in the following days: more than 300,000 people are now affected. Climate change programmes and projects ignore subnational governments and are run by governmental agencies. Subnational governments should be able to elaborate bankable projects and have access to climate funds. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution makes explicitly mentions subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place.....	4
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	Subnational governments have some latitude to determine the existing tax base and rates, but the central government is responsible for setting new taxes and accessing loans and financial markets.....	3
6	There is no national framework of reference defining the qualifications and responsibilities of subnational governments staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational governments performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country provides two of the mechanisms for the promotion of gender equality.....	2
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Independent since 1990, Namibia is a unitary State that has included decentralization as one of its public governance priorities. Decentralization is mentioned in the Constitution, which leaves it up to legislation to define local government responsibilities. It arises from a lengthy historical process that started with the hyper-centralization of the colonial authorities, the enforcement of apartheid policies when under South African rule, the emergence of the new Namibian State after a lengthy liberation struggle, and the necessary consolidation period for the new nation-State during the first years following the country's independence. The decentralization process itself started with deconcentration, then moved to delegation and then devolution. In 1996, the central government approved a decentralization programme that was ratified by the National Assembly in 1997.

Decentralization is one of the priorities in the second national development programme. Articles 102 to 111 of the Constitution explicitly mention local governments but leave defining their responsibilities up to the legislative body. A series of laws and regulations deriving from the Constitution have been passed to turn the political will for decentralization a reality. These are: the Local Authorities Act of 1992 (amended in 2000), the Regional Councils Act of 1992 (amended in 2000), the Decentralization Enabling Act of 2000, and the Trust Fund for Regional Development and Equity Provisions Act of 2000.

Namibia hurried to abolish the ethnic borders corresponding to the principles behind the "separate development" policy of the colonial period. The territorial division consists of two levels of local government: the regions (of which there are 13), and the local councils composed of municipalities (16), towns (17) and village councils (19). Local government assemblies and executive bodies are elected throughout the country; the last local and regional elections were held in November 2020.

The decentralization policy has developed municipal responsibilities without increasing their budgets to such an extent that many municipalities increasingly resort to delegating services to the private sector as an alternative

to providing essential services to the population. For instance, local governments count on implementing partnerships to deliver local public services as an alternative form of service supply. From this standpoint, local governments would seem to be facilitators and/or regulators of service delivery rather than providers of services.

In Namibia, local governments have their own revenues with classic local taxes on developed property, economic activities, etc. They have latitude to set local tax rates under the control of the Ministry of Local Government (Article 73 of the Local Authorities Act).

Namibia has neither a national framework of reference defining the qualifications and responsibilities of local government staff nor a national strategy to build the capacities of local administrations. However, local authorities are able to define frameworks of reference detailing staff qualifications and responsibilities in an autonomous manner and to undertake staff capacity-building programmes. Local governments have the right to hire and fire their own staff.

Namibian law sets forth a system to verify financial management by local governments with the establishment of several public and/or independent institutions responsible for this. These audits are performed annually.

Namibia does not have specific laws on citizen participation at the local level, although the Decentralization Enabling Act of 2000 encourages stakeholder consultation prior to any major local government decisions. In compliance with these provisions, local governments have set up local spaces for consultation in the field.

Namibia has no legislation on assessing local governments' performance in the provision of local services, and no such assessments have been performed to date.

Namibia has not elaborated on a national urban strategy, even though one out of every two Namibians live in a city.

Thanks to the 50 per cent prescribed in Namibia's Gender Policy and Plan of Action, the country made some unprecedented gains, and 42 per cent of parliamentarians are female. But regional and local elections together

elected 199 women out of the 499 available seats (40 per cent), which is less than the 50 per cent prescribed.

Namibia's implementation plan to fight climate change does not involve local and regional governments.

## Proposed reforms

With an overall score of 27 points out of 48, Namibia is one of the countries whose progress towards an enabling environment for cities and subnational governments would require significant reforms.

- **The first reform** should address the financial transfers from the central government to the local governments. While local governments have their own revenue sources and the ability to determine the base and rates of local taxes, the transfer system is less relevant, with *ad hoc*, unpredictable and irregular amounts. The main source of transfers is the Trust Fund for Regional Development and Equity Provision set up by law in 2000. The aim of this fund is to fight institutional capacity disparities between regional and local authorities. Population density and overall social and economic demands determine the size of the transfers.

The Local Authority Act of 1992 stipulates that the regional authorities must transfer 5 per cent of their revenue to the local governments. The central government provides grants to newly established village councils, regional councils and city councils that do not yet have a sufficient income base. The central government also allocates a few infrastructure grants at the request of the local governments; these grants are conditional and may be allocated for equipment and operational spending.

The reform should focus on clarifying these various transfers and ensuring their complementarity to make them more effective. A prerequisite to this reform is, however, estimating the cost of the responsibilities that must be transferred to the local level in order to offset the vertical imbalance between spheres of government.

- **The second line of reform** concerns a clarification of the assignment and transfer of functions and duties. First, the responsibilities that the line ministries must transfer to local government should be defined, and then territorial divisions reviewed with an eye to sectoral logic and political-administrative logic. The decentralization policy must first focus on how to better divide up the duties and functions that the line ministries have already identified into regional responsibilities and budgets.

The second challenge is to move from the division in operational regions to decentralized regions that do not necessarily match the first, notably in the areas of health and education. The issue of local government capacity building must be envisaged as part of this movement. Consequently, the line ministries must be invited to enumerate the staff allocated to implementing the responsibilities to be transferred, envisage transferring allocated staff to accompany the transfer of responsibilities, and set a schedule for staff transfers. The plan must concentrate not only on the possibility of transferring additional human resources that exist in the various ministries to the local governments, but also hiring new staff when personnel cannot be obtained from the line ministries.

The reform should promote cooperative governance between local governments and codify implementation

modalities by proclaiming the principle of non-subordination at one level of local government to another. The reform should also take an interest in defining a progressive plan for the transfer of responsibilities to local governments in conjunction with local administration capacity building. Finally, the reform should study the possibility of introducing a degree of imbalance in the process of progressive transfer of responsibilities to local governments.

- **The third line of reform** should focus on improving the quality of local public spending. To do so, the audit system must be reinforced to improve financial management by local governments. According to the various laws and regulations, three institutions are responsible for auditing the books of local governments: The Office of the Ombudsman, the Office of the Auditor-General, and the Namibian Financial Institutions Supervisory Authority. If the laws and regulations make audits both systematic and mandatory, they should also increase transparency and accountability to the public. The reform should prioritize these concerns and prescribe assessment of local government performance in the execution of its mandate to serve the people.

- **The fourth reform is urban strategy.** Namibia does not have an urban strategy, although its Vision 2030 devotes considerable attention to the issues of migration, urbanization, and population distribution. In 2020, Namibia was 52 per cent urbanized, and experts predict that it will be 71.8 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The main factor encouraging rapid urbanization in the country is rural-to-urban migration, mainly among young men and women seeking better social and economic opportunities.

Efforts should be made to structure the country's emerging urban network, which is currently composed of the capital, Windhoek (pop. 296,000 in 2008, just over half the country's urban population), and the cities of Walvis Bay (pop. 52,000), Swakopmund (pop. 42,000), Ondangwa (pop. 44,413), Lüderitz (pop. 30,000) and Otjiwarongo (pop. 19,000). These cities should play a driving role in national development and should receive special attention in terms of capital investment and financing. The urban strategy will make the urban structure a true tool for territorial planning and the balanced development of the country.

- **The last reform** focuses on the effective contribution of local and regional governments in the implementation of NDCs. This implies access to climate funds, and the capacity building of local and regional governments to develop and implement concrete and measurable action programmes. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but relevant implementing decrees are lacking.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Amount of resource transfers to subnational governments or allocation among subnational governments are predictable according to a transparent formula.....	2
5	Subnational governments have latitude in setting the rate of existing taxes, but should refer to central government for the base of existing taxes, new taxes and for resorting to borrowing and the financial market.....	2
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.....	2
8	No national legislation on citizen participation, but locally organized dialogue and consultation frameworks exist.....	2
9	No evaluation of subnational governments performance.....	1
10	Existence of a clear urban strategy at national level, but not supplemented by adequate technical and financial means.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

In Niger, decentralization is a relatively old process. It was already provided for in the Constitutions of 12 March 1959 (Title IX, Article 57) and of 8 November 1960 (Title X, Article 68) before experiencing a long eclipse. It was not until 1994 that a special commission was set up to reflect on administrative rezoning. In 1996, the Parliament adopted a law on the fundamental principles of the free administration of regions, departments and municipalities, which defines their respective powers and resources. The implementation of decentralization has been postponed several times, and the municipal elections held in 1999 were cancelled due to a strong dispute over the results by a large part of the political class. The change of regime that then occurred has led the country to new general elections in 2004 to install the leaders of 265 municipalities, including 213 rural communes. Law No. 2008-42 of 31 July 2008 establishes that "local governments are human groups geographically located on a portion of the national territory to which the State has conferred legal personality and the power to freely administer themselves by elected authorities". After a new interruption of the democratic process, the Constitution of the seventh Republic provides in Title IX "Territorial communities" for the creation of territorial communities which are administered freely. After the government directive, the draft decrees were prepared by the relevant ministries and subnational governments; however, they are still not signed.

The current administrative map of the country presents eight regions including seven regions which are both administrative districts and local governments, 63 departments as levels of deconcentration of State services, 255 communes, including four with special status (towns) and with a total of 15 communal districts. The elections held in 2020 initiated the second term of elected regional representatives and the third term of communal elected representatives throughout the national territory. Since 2014, the National Agency for Financing Investments in Local Authorities (ANFICT) has been managing financial transfers from the State to subnational governments. It thus makes available to subnational governments the resources of equalization and the Decentralization Support Fund

(FAD). Allocation keys are used to determine the amounts by subnational government.

The bases, assessments and rates of local taxes (licence fees, property tax and civic tax) are determined by the National Assembly; the proceeds of those local taxes are collected by the decentralized services of the State.

Niger has a national training strategy for decentralization actors. Its main purpose is to serve as a framework for guiding, organizing, harmonizing, monitoring, and controlling the interventions of the State and its partners in capacity building of decentralization actors. In addition, the government has created within the École nationale d'administration et de magistrature (ENAM), a training centre for the management of subnational governments (CFGCT) to take care of training of decentralization actors. But not all local governments have benefited from this training yet. A statute on the territorial civil service has just been adopted but the implementing decrees are in the process of being drawn up.

Niger's legislation provides for regular audits of the financial accounts of local governments. However, in practice, these audits have been rare and the financial supervision of subnational governments, namely the Ministry of Finance, suffers from a lack of human and financial resources.

Niger's legislation does not provide for public participation in the management of local affairs. However, some consultation frameworks have been set up within the framework of international or decentralized cooperation interventions, as well as mechanisms for participation in decision-making, in particular public meetings and the organization of communal questioning days.

Niger has no legislation regarding the evaluation of the performance of local governments in the delivery of basic social services; no evaluation is carried out.

With an urbanization level of 16.8 per cent in 2020 (*World Urbanization Prospects: The 2018 Revision*), Niger is in the initial phase of the reconfiguration of its population. An urbanization level of around 28.4 per cent of the total population is expected by 2050. Projections suggest that Niger's cities will host over the next 20 years twice as much population as they have hosted over the past 60 years. In

other words, the need to anticipate the creation of new urbanites is much more than a necessity. Urbanization is a priority in the Poverty Reduction Strategy Paper (PRSP) and is also addressed in Law No. 2001-032 of 31 December 2001 on the orientation of regional planning policy, which emphasizes the importance of restructuring the urban fabric in order to ensure harmonious and balanced development of the national territory. An urban development strategy was drawn up in 2004.

In Niger, Law No. 2000-008 of 7 June 2000, amended and supplemented by Law No. 2019-69 of 24 December 2019 sets the quota for women for the electoral process. Thus, Article 3 of the said law stipulates that “during legislative or local elections, the lists presented by political parties, groups of political parties, or groups of independent candidates must include candidates of one or the other sex, so as to obtain at the time of the proclamation of the final results, a proportion higher than or equal to 25 per cent of the elected candidates of one or the other gender”.

Finally, the consideration of subnational governments in the fight against climate change is limited. Niger's Nationally Determined Contributions (NDCs) do not include local governments.

## Proposed reforms

With an overall score of 27 out of 48, Niger is one of the countries whose progress towards an enabling environment for cities and subnational governments requires significant reforms.

- **The first reform** should focus on the competences of local governments. Niger initially opted for the transfer of powers from the State to local governments on the basis of the clause relating to general powers based on the principle of subsidiarity. Secondly, they opted for the transfer by blocks of competence. It is in this sense that the Council of Ministers of January 26, 2016 adopted two important decrees on the transfer of competencies to the territorial authorities of Niger: (1) Decree No. 2016-076 MISPD/ACR/MEP/A/PLN/EC/MH/A/MESU/DD/MSP/MEF/MEPT/MFP/RA of 26 January 2016 on the transfer of competences and resources to the regions and territorial communities in the areas of education, public health, hydraulics, as well as sanitation and the environment; (2) Decree No. 2016-075 MISPD/ACR/MEP/A/PLN/EC/MH/A/MESU/DD/MSP/MEF/MEPT/MFP/RA of 26 January 2016 on the transfer of competencies and resources to the communes in the areas of education, public health, hydraulics, as well as sanitation and the environment. Since then, a four-year plan (2018–2021) for the transfer of powers and resources from the State to municipalities and regions in the fields of education, health, water and the environment has been adopted by Decree No. 2018-008/PRN/MI/SP/D/ACR of 5 January 2018. The reform should now focus on the practical modalities of compliance with this four-year plan for the transfer of those powers to subnational governments by sectoral administrations.

- **The second reform** should concern the financing of decentralization both through transfers and local taxation. There is a Decentralization Support Fund and an Equalization Fund implemented from 2014. Strictly speaking, there is no budgetary planning for transfers in Niger because the theoretical entry known as “support for decentralization” in the State budget is very uncertain and the amounts rarely respected. This situation is linked to the

financial difficulties that the Nigerien State has been facing in recent years. On the other hand, the criteria currently used are transitory. The Council of Ministers of 5 January 2018 adopted a four-year plan (2018–2021) for the transfer of competencies and resources from the State to communes and regions in the fields of education, health, water supply and the environment. The reform should also pay particular attention to the strengthening of the territorial authorities' own tax field with greater autonomy for the latter in this area.

- **The third reform** will focus on transparency in local public management. For the moment, there is no specific legislation or regulations for the accountability of subnational governments to the populations, but rather mechanisms for informing the populations about the work and decisions of the municipal council through public meetings and communal questioning days. In most cases, council deliberations are not publicized and there are no public consultations, with mayors and councillors contenting themselves with *ad hoc* meetings in villages and neighbourhoods. As for the financial management of subnational governments, it should be audited every year; but in practice, these audits are only occasional. The reform should set the conditions for sound, participatory and transparent local management.

- **The fourth reform** should aim to improve the framework for women's participation in public affairs. The current framework does not guarantee the full participation of women and should be improved and strengthened. The quota currently in force could be significantly improved to allow better representation of women in local governance.

- **Finally, the last reform** relates to the involvement of subnational governments in the fight against climate change effects. Niger being a Sahelian country is blighted by frequent droughts and floods, it is indeed necessary to consider, among other things, concrete measures to develop territorial climate plans and facilitate access of subnational governments to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognized roles and responsibilities.....	4
2	The legislation is unstable and inconsistent.....	1
3	Local assemblies and executive bodies are elected, but not necessarily throughout the country.....	3
4	The transfer of resources to subnational governments or their distribution among subnational governments is predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national reference framework of professions within subnational governments and a national strategy for the training and promotion of subnational governments' human resources, but their implementation has so far only covered a few subnational governments.....	3
7	Only partial rules and legal provisions on transparency in the running of subnational governments, do exist, but they are not systematically followed.....	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement these are lacking...	3
11	The country does not provide for any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country provides two of the mechanisms in the fight against climate change.....	2

## Explanation of the rating

The Constitution of 1999 is the foundation of decentralization in Nigeria; it explicitly mentions local governments and specifies their roles and responsibilities. However, the Constitution leaves it to the discretion of the federated states to implement legislation for the local governments in their jurisdiction. Each state defines the regime for its local governments and the operating rules for these governments, and it oversees its local governments. This situation, where the local governments' legislation changes depending on the states, creates a certain amount of instability and inconsistency in the decentralization legislation. For example, local elections are organized on different dates in each of the federated states, and the terms for elected officials are different from one state to another. Supervision as well as additional responsibilities given to the local governments vary depending on the federated state in question.

In Nigeria, the Constitution recognizes three levels of government: the central government, the federated states, and the local governments. The 774 local governments are led by elected assemblies and executives; mayors (local government chairpersons) are elected by universal suffrage. Local elections timings vary from state to state.

Distributing national revenue between the three levels of government is clearly established in the Constitution. The Constitution sets the portion of national revenue allocated to (i) the federal government; (ii) the federated states; (iii) the local governments. The rules are also set at the State level to organize the financial relationships between the federated states and the local governments. Each year, the National Revenue Mobilization Allocation and Fiscal Commission (NRMAFC) sets the distribution of national revenue between the federal government, the federated states and the local governments, in accordance with the provisions of Section 164 (1) of the Constitution of 1999. In accordance with the provisions of Section 162 (3) and Section 162 (7) of the Constitution, 20.6 per cent of federal government revenue and 10 per cent of federated state revenue are transferred to the local governments each year.

Another source of revenue for the local governments is the tax revenue from the value added tax (VAT), of which 35

per cent goes to the local governments. This VAT amount is distributed to the local governments according to transparent criteria. Nigeria has also adopted the principle of derivation, and accordingly 13 per cent of oil revenue is returned to the manufacturing states. A total of 30 per cent of this initial 13 per cent of oil production is then distributed among the local governments according to well-established criteria. However, these transfers – which pass through a federated state account – are irregularly paid to the local governments.

In Nigeria, the local governments have their own resources, which are set either by the federal government or by the federated states. The local governments collect their taxes, even if the determination of these taxes is handled by the federal government or the federated states.

Local governments have a framework of reference defining qualifications and responsibilities for the local governments and a clear national strategy for capacity building implemented by the Local Government Service Commission, even though it does not involve all of the local governments.

The decentralization legislation provides for regular audits of the local governments' financial accounts. In practice, these audits are not systematically carried out.

Nigerian legislation does not provide for citizen participation, but there are local spaces for dialogue and consultation.

In Nigeria, there are no provisions for performance assessments for the local governments.

With its huge population and big cities, Nigeria has an urban strategy that has been reviewed and updated. With almost 52 per cent of the total population living in cities in 2020, the level of urbanization is expected to reach 69.9 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). Considering the size of Nigeria's urban population, the urban future of West Africa largely depends on Nigeria's strategy to manage its urbanization process. The first National Urban Development Policy (NUDP) was adopted in 1992 and a revised NUDP was introduced in 2012. The NUDP acknowledged the multiple problems caused by unplanned urbanization, including slum housing, squalor, unemployment, insecurity, crime, environmental degradation, sprawl, congestion and inadequate public services. It also explicitly recognized the

positive arguments for an NUDP in terms of accelerating national economic growth and development.

In terms of gender equality, Nigeria has provisions for taking gender into account in local elections, even if the quotas are less than recommended.

The National Adaptation Strategy and Plan of Action on Climate Change for Nigeria emphasizes the importance of local governments' role on a range of initiatives from community-based adaptation plans to strategic programmes and infrastructure programmes. Several local governments including Lagos, have their own climate plans and strategies.

## Proposed reforms

With an overall rating of 26 out of 48, Nigeria is in the group of countries whose progress towards an enabling environment for cities and subnational governments would require major reform efforts.

- **The first reform** area concerns legislation for cities and local governments. The system of local governments led by democratically elected councils is guaranteed by the Constitution; therefore, the government for each federated state, according to Section 8 of this Constitution, must ensure the existence of local councils through a law providing for their establishment, structure, composition, finances and functions. The federal government has defined the allocations for the local governments, but it leaves the federated states the latitude to define the conditions for exercising their responsibilities. Therefore, the local governments have become more dependent on the federated states while they are primarily governed by the Constitution. The result of this duality complicates the relationships between the levels of governance; the federated governments are often seen to restrict the autonomy of the local governments and the federal government is left powerless to address the differences observed at the federated state level in terms of strict respect of constitutional provisions.

The reform should aim to clarify the relationships between the different levels of governance, working, of course, to introduce greater harmonization and stability in the legislation of local governments at the federated state level, including creating guidelines for the federated states and local governments. A structured dialogue between the Governors' Forum and the Association of Local Governments of Nigeria (ALGON) should be instituted by legislation to review the organization of peaceful inter-governmental relations.

- **The second reform** addresses the institutional capacities of local governments. While the federated states have total autonomy, the training staff for the local governments are recruited, trained and deployed by a central government agency known as the Local Government Service Commission (LGSC). The LGSC was originally conceived as part of the 1976 reform (Local Government Reform 1976) and is an autonomous agency, acting on behalf of all local governments within each federated state to support development and deployment of qualified staff.

While the LGSC continues to play a primary role in professional skills development and training at the local level, it has also become a tool for the federated states to recruit management staff from local governments. In practice, the management staff are more accountable to the federated state than to the local governments. The reform should review the recruitment and deployment methods for local government staff and strengthen the accountability of the recruited staff to the local governments.

- **The third reform** concerns certain tax decentralization mechanisms introduced by the Constitution. Section 162 (5) of the Constitution of 1999 provides a perfect pretext for management by the federated states of financial transfers from the federal government to the local governments. This section stipulates that the financial transfers from the federal government to the local governments should naturally go through the federated states through the State Joint Local Government Account (SJLGA), whose administrative council is led by a state commissioner to the local governments (appointed by the state governor); it meets monthly to decide on the distribution of federal transfers to the local governments.

However, in practice, this account has enabled the federated states to retain substantial revenues that are intended for local governments. This withholding by the federated states of the federal financial transfers intended for the local governments impacts the salaries and pensions of teachers and human resources for the local governments, and the funds intended for traditional authorities as well as those for training local government staff. The reform should specifically focus on the SJLGA's operations and clarifying the effective methods for transferring these funds to the local governments.

- **The fourth reform** concerns the transparency of executing local public policies. The financial responsibility for local governments is subject to external audit by the independent Auditor-General. However, these auditors located in every federated state encounter difficulty in carrying out their important mission: lack of available expertise, lack of budget allocations, lack of official support from the federated state and lack of updated annual accounts from the local governments. Other constraints are connected to local governments' internal capacity to ensure proper execution of local public spending and to prepare and publish adequate accounts to allow for satisfactory audits to take place within the established time periods. Finally, certain local governments systematically refuse to submit their accounts for audit.

- **The fifth reform** concerns women's participation in local governance. Following the 2015 elections, 9.8 per cent of local councillors and 3.6 per cent of mayors were women; these percentages were 12.9 per cent and 3.9 per cent in 2011 and 10.2 per cent and 9.9 per cent in 2007, respectively. If we add to this data that the percentage of women in Parliament was 5.7 per cent, it becomes essential that the country establishes representation quotas for women in the public sphere, especially in the context of their eligibility for national and local elective functions.

- **The final reform** focuses on the fight against climate change, and aims to make better use of both State and local capacities. Additionally, the federal government could assist subnational governments to access climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place.....	4
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	The transfer of resources to subnational governments or their distribution among subnational governments is predictable according to a transparent formula.....	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist, and they are not systematically followed.....	2
8	National legislation on citizen participation exists but is not applied.....	3
9	There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country provides three of the mechanisms for the promotion of gender equality.....	3
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Decentralization in Rwanda is first codified by provisions in the Constitution of 2003 as revised in 2015 which stipulates that “public powers are decentralized at local administrative entities in accordance with provisions of law” (Article 6). The decentralization laws and regulations and the national overarching and sectoral policies set the framework for the implementation of these provisions of the Constitution. The National Decentralization Policy as revised in 2012 provides that “The Government shall ensure that the decentralized functions are clarified, even as they are progressively devolved, and the roles and responsibilities assigned to each level are clear, and that all actors have a common understanding of what is expected to be performed by each level”. As provided by the Organic Law No. 29/2005 of 31 December 2005, Rwanda is divided into four provinces and the city of Kigali, which are further divided into 30 districts, 416 sectors, 2,148 cells and 14,837 villages. The local governments or “decentralized administrative entities” comprise, according to Law No. 87/2013 (Article 2), the city of Kigali, districts, sectors, cells and villages. The last local elections were held in 2016. Due to the COVID-19 pandemic, the elections that were scheduled for February 2021 were postponed.

The link between sectoral policies and decentralization has been reasonably established, and the transfer of responsibilities is a reality today. The education sector is a good example of the devolution of responsibilities to the local governments. The Ministry of Local Government retains an oversight role over the local governments and oversees national policy formulation and capacity building. The local governments implement a range of the decentralized functions and autonomously hire and manage their staff. The sectors with decentralized services include education, health, water and sanitation, agriculture, community development, and road infrastructure. The central government’s deconcentrated ministerial offices operating within the districts are integrated into the district administrations, which prevents jurisdictional disputes between the central government and local governments.

The sectors with decentralized services listed above (education, health, etc.) are integrated into the district administration system.

Resources are largely transferred through the Local Administrative Entities Development Agency (LAEDA), and the annual amount is a percentage of national revenues whose formula has continuously evolved to adapt to a changing context. Central government transfers constitute about 72 per cent of the local government revenue. Since 2005, this formula has changed from being based on the principle of equality (total amount to distribute divided by the total number of districts plus the city of Kigali), to consider the districts’ specific characteristics including population, size, level of equipment, the provision of water and electricity services, and the level of well-being among the population. The 2006 reform reconfigured the districts, bringing their number down from 104 to 30. Local governments in Rwanda have the power to determine the rates of local fees and charges within a range set by the central government. They do not, however, have any influence regarding the local tax base and tax rate, which is the responsibility of the central government.

Rwanda has elaborated a new policy on local human resources that empowers local authorities to oversee their staff. Local governments have the autonomy to hire staff, from the executive secretary, who heads the management and technical units of the district and assumes the overall supervision of the staff. The Ministry of Public Service and Labour, in close conjunction with the Ministry of Local Government developed an organizational structure model that provides for staffing for the city of Kigali, rural and urban districts. A five-year local government capacity development strategy (2019–2024) was developed but is still a final draft pending approval by the Cabinet. This is a reference document for the implementation of the National Capacity Development Policy to build capable local governments for accelerating social transformational and efficient service delivery in Rwanda.

The process of participation through election of local leaders is more transparent and independent of political

influence at the lower (sector, village and cell) than higher level (vice-mayor and mayor). Communities are empowered to directly participate in day-to-day governance processes, mainly through community assemblies (*Inteko zAbaturage*), community work (*Umuganda*), and meetings organized by local leaders and parents (*Umugoroba w'Ababyeyi*). Recently, another framework for promoting citizen's participation called *Isibo* was introduced.

In Rwanda, transparency and accountability are exhibited and enforced through a number of ways, including auditing mechanisms, community platforms, and oversight by several State agencies. It is one of the few African countries where performance contracts are signed between the central government and local governments, thus setting benchmarks for evaluation of the local governments. During the annual planning and reporting meetings, local leaders are required to commit themselves to achieving a certain set of targets, and the central government commits to providing funding as budgeted. The district mayors sign performance contracts (*imihigo*) with the President of the Republic on behalf of their citizens. These contracts are currently assessed annually by the Institute for Policy Research (IPR).

As of 2020, Rwanda's urban population was 17 per cent of the total population and this number is expected to rise to 29.6 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). These percentages place Rwanda among the least urbanized countries on the continent, but also among those with a high urbanization rate. Rwanda's ambitious National Urbanization Policy was adopted in 2015 and is already being implemented; however, it has not yet received a definite and adequate financial and technical resource allocation.

The law in Rwanda variously provides for affirmative active participation for women in the election process. Article 155 of Law No. 27/2010 on elections requires a 50/50 representation between men and women at the sector level. Article 156 of the same law provides for a minimum of 30 per cent representation of women in the district councils. The Law on Political Organizations and Politicians was amended in 2007 to require that party lists for all elective offices must contain at least 30 per cent of women candidates. However, the law does not contain any provisions regarding the rank order of women candidates.

Effective involvement of the local communities and governments in the national framework for climate change is, however, limited, and they are mostly engaged as policy implementers and beneficiaries rather than participants in the decision-making processes.

## Areas of improvement

With an overall rating of 32 out of 48, Rwanda is one of the countries where the environment is somewhat favourable to cities and subnational governments' action; however, some elements still can be improved.

- **The first area of improvement** can be used to fiscal decentralization. Although they are predictable, conditional grants still constitute, by far, are the greatest part of central government transfers to the local governments. The Local Administrative Entities Development Agency (LAEDA) transfers capital development funds to finance the districts' economic projects. It is financed annually with the equivalent of 10 per cent of all national revenues (domestic central government revenues) of the previous

fiscal year, plus contributions from bilateral and multilateral cooperation partners. Also transferred to the districts is the operating grant, whose total national figure is equivalent to 5 per cent of the national domestic revenues. Operating grants are distributed among districts based on various factors including population and poverty level.

However, stakeholders have expressed concern that the operating grants are wholly insufficient in financing the districts' recurrent needs, particularly as the revenues from the mobilization of own local resources are still inadequate. There is also a need to operationalize a fair equalization grant system to address spatial disparities among districts.

- **The second area of improvement** considers making better use of the Citizen Report Card (CRC) and Community Score Card (CSC) helping both cards to become more systematic and widespread, so that they become monitoring-and-assessment and performance assessment tools for government provision of local public services. Created in 2005, these two instruments allow citizens to regularly assess the performance of local authorities by giving their opinions on the quality and accessibility of services provided by the local administration and/or its partners. The opinions collected are used as the basis for adjustments, if appropriate.

- **The third area of improvement** is to improve the issue of local government debt, which is not taken into consideration by either transfers or local taxation. A special case compared to their African counterparts, local governments in Rwanda are heavily indebted (without having actually borrowed) with debts inherited from the former districts. Nearly one-quarter of this debt comes from arrears in the payment of social security contributions for municipal employees. If this situation is not fully dealt with and rectified, this situation could threaten the financial viability of Rwandan local governments. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognized roles and responsibilities.....	4
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Resources are not transferred, or are transferred erratically and irregularly.....	1
5	The central government defines and collects subnational government revenues.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Only partial rules and legal provisions on transparency in the running of subnational governments, do exist, but they are not systematically followed.....	2
8	There is no national legislation on citizen participation, and no locally organized spaces for dialogue and consultation.....	1
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide for any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

The Democratic Republic of São Tomé and Príncipe is an archipelago located 186 miles (300 km) off the Gulf of Guinea. It is made up of two islands, the largest being São Tomé. Through its Constitution of August 1990, the Democratic Republic of São Tomé and Príncipe was established as a semi-presidential pluralist republic. The Constitution divides the national territory into two provinces and seven districts. The larger island of São Tomé is divided into six districts (Água Grande, Cantagalo, Caué, Lembá, Lobata and Mé-Zóchi); Água Grande is the capital of the territory. The island of Príncipe is both one of the two provinces and one of the districts, which has had autonomous status since 1995.

Decentralization was not established in the national institutional landscape until the 2003 Constitution. In Section XI, on organization of the regional and local powers (Órgãos do Poder Regional e Local), the Constitution establishes the principle of local autonomy and elected assemblies and executives. In Article 143, it specifies the local and regional governments' responsibilities, respectively:

- meeting basic community needs;
- executing development plans;
- encouraging any activities that may increase productivity and economic, social and cultural progress of the people; and
- proposing any suggestions or initiatives to the national authorities that could lead to harmonious development of the territories. Article 143 also specifies that the particular responsibilities and operating methods for the local governments are set by law. However, the legislative and regulatory texts necessary for operationalizing this provision are lacking.

Article 143 sets forth the same responsibilities for both the districts and the provinces, even though they are different levels of local government. Allocating the same responsibilities to the provincial and local levels creates problems operationalizing the responsibilities, particularly in the situation where the limits of provinces and districts overlap. This is the case for the island of Príncipe, which is both a province and a district. Law No. 4 of 2010 updates the political/administrative status of the autonomous region of Príncipe (RAP).

The first local elections in São Tomé and Príncipe were held in 1980. The district assemblies are elected by universal suffrage for five-year terms, and the most recent regional and local elections were organized in October 2018.

The decision-making power for the districts is limited. Decisions on public policies are made at the ministerial level. These sectoral policies are implemented at the central level and the decentralized central government services guide their execution at the local level. Many laws and regulatory texts lack specifics regarding the responsibilities transferred to the subnational governments.

Financial transfers from the central government to subnational governments are not addressed in the Constitution. In practice, the financial transfers are unpredictable and unstable and present huge problems for local government planning.

Local taxation is controlled by the central government and does not leave the subnational governments with a large margin to manoeuvre. In addition, the local tax revenue is limited and does not ensure local financial autonomy.

São Tomé and Príncipe lacks capacity at the local level. Central administrations continue to carry out the central government programmes. There is no national strategy for capacity building in local administrations, or national frameworks of reference defining qualifications and responsibilities for subnational governments. Few subnational governments can provide capacity-building programmes to their staff, particularly in the context of projects or programmes with international cooperation.

National legislation provides for audits of local financial accounts; but in practice, this national legislation is not applied because local financial accounts are only audited sporadically.

São Tomé does not have specific legislation for citizen participation in managing local affairs. However, as part of certain international support programmes, local spaces for dialogue and consultation have been set up.

Performance assessments of subnational governments in terms of providing local public services is not addressed in any decentralization guidance legislation. No performance assessments are carried out.

São Tomé has no national urban strategy.

There are no quotas to facilitate the participation of women in local government.

Districts are not involved in national programmes and projects to fight against climate change.

## Proposed reforms

With an overall rating of 21 out of 48, São Tomé and Príncipe is in the group of countries with an environment that is globally unfavourable to the action of cities and subnational governments. To improve the institutional environment for action and initiatives for cities and subnational governments, several reforms are necessary.

- **The first area of reform** should clarify the responsibilities of local and regional governments. In addition, this effort to determine the local and regional governments' responsibilities should be supplemented by the progressive decentralization of the national territory in order to guide the local and regional governments in their role as development agents. The reform should address the identification of responsibilities by the level of local government and will propose legislative and regulatory texts specifying the transfer methods. It should propose a decentralization strategy for central administrations for the national territory and for intelligent cooperation between the local governments and the decentralized central government.

- **The second reform** should address the financial transfers from the central to local and regional governments. This reform should focus on fair compensation for transferred responsibilities and be carried out in three steps. The first step is to clearly define the responsibilities to be transferred to each level of local government. The second step is to assess the cost of the transferred responsibilities based on their current execution costs to the central government, which may eventually be adjusted for inflation and other economic/financial considerations. The last step is to establish a fund for transferring responsibilities that would hold the funds allocated for the responsibilities that are scheduled for transfer, but that are currently executed by the central government.

The reform should propose a schedule for transferring responsibilities by the sectoral ministry, in collaboration with the central administrations. As part of this process, the reform should identify the sectoral ministry staff that could be transferred to the local and regional governments in order to facilitate the assumption of their responsibilities. The reform should also propose the mechanisms and methods for transferring financial resources to the local and regional governments by considering certain imperatives like incentives and territorial development.

Districts and provinces that are far from the capital, São Tomé, complain of their isolation in terms of economic and social infrastructure, transportation, urbanization, job creation activities, and consequently there is a need for stronger decentralization of central government decisions in these critical areas, better identification of resources and the evaluation of each location's potential, as well as the best economic and social infrastructure.

For all national actors, fulfilling these aspirations would create greater inclusion and coordination of activities in each location as part of the process of integrated national development. The reform should propose a specific mechanism to encourage the territory's voluntary development.

- **The third reform** should focus on urban strategy. As a small island nation of 386 miles (1,000 km<sup>2</sup>), it is even more important for São Tomé and Príncipe to have an advanced management plan for its population in order to minimize ecological and environmental problems often caused by urbanization. This country is particularly implicated by the effects of climate change, specifically the rising sea levels. For all of these reasons, the country should anticipate these structural changes.

According to Africapolis, São Tomé and Príncipe only had one conurbation of 62,000 inhabitants in 2010 in the northeast of the island, the capital city, São Tomé. According to national statistics, São Tomé grows by an average of 11,000 inhabitants each decade, which results in a slow change in the urbanization rate. The island of Príncipe (6,450 inhabitants in 2010) does not have any urban conurbations. Its capital had 1,100 inhabitants in 2010, which corresponds to the average annual population growth of the capital. According to United Nations data, the urbanization level was 74.4 per cent in 2020; projections suggest an urbanization level of 85.3 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The urban strategy should focus on forward-looking management of urbanization and increased investments at the urban level. The urban strategy should also pay close attention to all of the country's districts, taking into account the districts' potential and the regional asymmetry. The reform in this area should also promote balanced development of territories by stimulating production capacity in the various territories.

- **The fourth reform** should concentrate on improving the quality of local public spending. With a view to transferring greater responsibilities and resources to the local and regional governments, the conditions for verifying transparency of financial operations of local and regional governments should be organized and codified. Therefore, the reform should propose a regular audit system for local and regional governments' financial accounts, a procedure for performance assessments in the area of local service provision, and ways of increasing citizen participation.

- **The fifth reform** addresses the local government's involvement in the fight against climate change. São Tomé and Príncipe is one of the smallest African countries, with 130 miles (209 km) of coastline. This small nation is an archipelago in the Gulf of Guinea on the Atlantic Ocean. It is particularly vulnerable to climate risks, such as floods in coastal areas, at the mouths of rivers, and storms. In addition, the country has seen wide variability in normal meteorological conditions. Taking into account the country's physical configuration, it is clear that the climate change programmes would be more effective if the districts were at the heart of the implementation process. The reform should focus on districts managing the fight against climate change. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing.....	3
3	Local and executive assemblies are elected throughout the country.....	4
4	Amounts of transferred resources to subnational governments or allocation among subnational governments are predictable according to a transparent formula.....	2
5	Subnational governments have latitude in setting the rate of existing taxes, but the central government is responsible for establishing the tax base for existing taxes, creating new taxes, and accessing loans and the financial market.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments....	2
7	Only part of the mechanisms in relation to transparency in the functioning of subnational governments exist, but they are not systematically applied.	2
8	Existence of national legislation on citizen participation, which is however not implemented.....	3
9	Subnational government performance is assessed irregularly.....	2
10	Existence of a clear urban strategy at the national level with a definition of the modalities of technical and financial capacities for implementation.	4
11	The country has two mechanisms for promoting gender equality.....	2
12	The country provides three of the measures in combating climate change.....	3

## Justification of the rating

Since 1872, when the commune of Gorée was created, Senegal has been engaged in an irreversible process of consolidating local democracy and continuously strengthening decentralization. A century after the creation of the first communes, in 1972, Senegal drafted Act 3 as a precursor to greater local freedoms, with the creation of rural communities, the promotion of deconcentration and the regionalization of planning. In 1996, in order to take the State and responsibilities of local governments closer to the population, the legislators created the regions and proceeded to transfer competences in nine areas. More than 140 years after the launch of this historic process of decentralization, and after an effective practice of this irreversible policy, the evaluation initiated by Act 3 has exposed the limits of State action at the central and deconcentrated levels, as well as those of local governments. In the rural world, in addition to the development of agricultural and pastoral activities, there is an urgent need for infrastructure, access to drinking water, electricity and basic social services. In urban and peri-urban centres, the same urgency is needed, particularly in the suburbs, to fight against unemployment, floods, insecurity, and precariousness in all its forms. After reviewing the factors undermining territorial development initiatives in Senegal, the reform of Act 3 of decentralization announced during the first delocalized Council of Ministers, held in Saint-Louis on 7 June 2012, embodies the major overhaul of the State's territorial action and has four fundamental objectives:

- The anchoring of territorial coherence for a simplified administrative architecture;
- The clarification of competences between the State and the subnational governments;
- The development of 'contractualization' between the two decision-making levels; and
- The modernization of territorial public management, with a resolute reform of local finances and the sustained promotion of quality human resources.

After abolishing the designation of 'region', the reform structured the national territory into five cities, 42 departments and 557 communes. The latest local elections

were held in June 2014; the local and departmental elections scheduled for 2019 have still not taken place.

Senegal has several mechanisms for financial transfers from the State to subnational governments: State resources transferred to subnational governments consist of the Decentralization Subsidy Fund (FDD); the Territorial Collectivities Equipment Fund (FECL); internal resources of the Decentralized, Consolidated Investment Budget (BCI). The transfers are supposed to represent a known percentage of national taxes but this percentage is not determined in advance. The FDD and FECL make transfers based on value added tax (VAT). Furthermore, the distribution of the amounts transferred to subnational governments is not transparent. In other words, the transfers are not predictable for subnational governments despite the existence of clear mechanisms, which poses planning problems at the local level.

Senegalese local governments have their own tax system. This taxation is determined by the State. However, subnational governments have latitude for the rate of some local taxes. But the collection of local tax revenues is carried out exclusively by the decentralized services of the State.

Senegal has a framework of reference for decentralization-related professions and a national training and communication strategy developed by the ministry in charge of local governments.

The supervision exercised over local governments by the Ministry of Finance is exercised, among other things, in the form of audits of the accounts of said authorities. However, the performance of audits is not systematic.

Senegal has national legislation (General Code of Territorial Collectivities); the functioning and organization of the consultation frameworks are set by decree.

In Senegal, a guide for measuring the performance of local governments was adopted in October 2016 and tested in some regions by development partners. A National Report on Performance Measurement of Local Authorities of the Ministry of Local Government was published in October 2021; it assesses the performance of local governments on the basis of a harmonized grid that includes three observation areas, seven criteria and 50 indicators.

With an urbanization level of 48.1 per cent in 2020 and projected to be 64.5 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Senegal has an urban strategy, the implementation of which is supported by the World Bank. The implementation of this strategy is notably supported by the Program d'Appui aux Communes (PAC), a joint initiative between the Senegalese government, the World Bank, IDA, and the French Development Agency.

The law instituting absolute male-female parity in all fully or partially elective institutions was voted on 13 November 2010 by the National Assembly, then a constitutional revision was voted on 26 November 2010 in the Senate to include a specific clause on male-female parity "in electoral mandates and in elective functions".

In Senegal, there are plans for disaster risk prevention/relief organization, and provisions are made to ensure access by local governments to climate funds with decentralized methods.

## Areas of improvement

With a score of 32 out of 48, Senegal is one of the countries where the environment is rather enabling to the action of cities and subnational governments, but some elements of which need to be improved.

- **The first area of improvement** is regarding financial transfers to local governments. In Senegal, decentralization has transferred nine powers to local governments in the following areas: environment and management of natural resources, health, population and social welfare, youth, sports and leisure, culture, education, planning, land-use development, as well as town planning and habitat. But, to date, no more than two competences have received financial transfers. The Decentralization Subsidy Fund (Fonds de Dotation de la Décentralisation (FDD)) was supposed to provide, each year, a certain percentage of the value added tax (VAT) fixed on an *ad hoc* basis from the central State. In addition, the changing nature of the FDD distribution criteria does not allow any stability or predictability. The reform should ensure that financial transfers from the State to local governments are significantly increased. To this end, and in order to make the transfer mechanisms fairer, more transparent and more stable, it would be necessary to strengthen the size of the transfers by taking into account the competences transferred and the method of determining the national amount. A commission to assess the charges transferred to subnational governments should be created and the national local finance committee consolidated. In addition to the reform of local taxation, in relation to local elected officials, the reform should broadly generalize the decentralization of the Consolidated Investment Budget (BCI) which currently only covers the areas of health and education. The reform should explore, in addition to the traditional modes of financing – the Decentralization Subsidy Fund (FDD), the Local Government Equipment Fund (FECL), the Consolidated Investment Budget (BCI), and decentralized cooperation – as other avenues for innovative financing.

- **The second area of improvement** is concerned with the tax system shared between the State and the subnational governments. A total of 50 per cent of the revenue from the value added tax (VAT); 50 per cent of the proceeds of the tax on capital gains on real estate (TPVI); 60 per cent of the single global contribution (CGU); 60 per cent of the proceeds of criminal fines imposed by the courts on the territory of the communes and rural assemblies should be returned

depending on the place where they were collected from. Shared taxation is collected by the State, which must return the subnational governments' share. One of the problems of this tax system is the delays, or even the refusal of payment by the central government. Examples abound in this area for other elements of this shared taxation. The reform should find more transparent methods of estimating and returning this shared tax to the subnational governments.

- **The third area of improvement** looks at improving the quality of local public spending: it involves carrying out audits and evaluating the performance of subnational governments. With regard to audits, Article 246 of the Local Authorities Code stipulates that the Prime Minister may at any time order external audits or investigations into the transparency and regularity of procedures for the preparation, award and execution of State contracts by public institutions and local governments. This formulation emphasizes the evaluation monitoring approach, and not its pedagogical dimension or advisory support, which should be emphasized and contribute to establishing a culture of accountability in the normal practice of local government management. In practice, most audits are occasional, and there is no performance evaluation of local governments. The reform could focus on these two dimensions of the institutional environment.

- **The fourth area of improvement** should promote available human resources in the most effective way, in particular, the general status of civil servants in local governments in order to substantially improve the professional situation of local authority employees and better uphold their rights. In any case, good local governance will be accelerated by strengthening citizen oversight of public action, along with territorialization of public services.

The government of Senegal has made progress in promoting an environment of gender equality through the adoption of the parity law and the validation of the new national strategy for equality and equity between men and women. However, implementation at the subnational level should be strengthened.

In 2015, Senegal prepared its climate action plan. The role of local and regional governments in implementation and reporting should be strengthened. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution is neutral on the question of subnational governments.....	2
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local assemblies and executive bodies are appointed .....	1
4	The transfer of resources to subnational governments or their distribution among subnational governments is predictable according to a transparent formula .....	2
5	The central government defines and collects subnational government revenues .....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	A clear national urban strategy exists, along with the financial and technical arrangements and capacities necessary to implement it.....	4
11	The country does not provide any or only one mechanism promoting gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

The Seychelles are comprised of 115 islands and islets and has a total land area of 450 sq. km. These islands fall into two categories: the inner islands (Mahé, Praslin and La Digue) and the outer islands, located 400 to 1,200 km from the inner islands. The outer islands are very sparsely populated and not included in any of the administrative subdivisions of the Seychelles. The history of decentralization in the Seychelles dates back to the 1950s, while the country was under British colonial rule. It is then that the district of Victoria, the capital, was created with the aim of providing basic local public services to the people.

Currently, there are no specific or explicit constitutional provisions or protection directly for local governance. However, there is a provision for local administration, thus, Article 167 (Clause 1–2) provides that “A law may, for the purpose of facilitating the administrative functions of the State in respect of its social and economic undertakings contained in Chapter III, provide for the division of Seychelles into such number of units, which shall bear such name as the law may specify. (2) A law referred to in clause (1) may provide for the composition and the functions of the units and for all other matters necessary to give effect to the provisions of that clause”.

After attaining her independence in 1976, Seychelles adopted a multi-party system in 1991, at a time when the country was also opening up for economic liberalization, premised on privatization of a number of production and service sectors. The first post-independence law on local government was passed in 1991, but repealed in 1993 following the promulgation of the Constitution of the third Republic. This saw the dissolution of district councils and thus a shift back to a local administration arrangement, whose practices largely remain in force to-date as the country prepares to fully implement its new decentralization trajectory as outlined by the new Local Government Act, enacted in 2015. For instance, while Members of the National Assembly are voted in office by universal adult suffrage, every five years, the mayors and local government officers are still being appointed and not elected. The first district elections under the new arrangement are expected to be held in January 2021.

As part of the reform programme, regional councils were established and launched in July 2018, but are not yet functional.

On the part of fiscal decentralization, for instance, the local governments are still being directly funded by the government and have no revenue of their own. As of 2020, approximately 1.6 per cent of the total national budget goes to the Ministry of Local Government which then allocates it to the 25 districts based on their planned operational expenses and capital investment for local projects. The funds are disbursed on a quarterly basis from the Ministry of Finance to Local Government. For accountability and monitoring purposes the districts are required to hold a public meeting every year as well as establish district council committees. They are also audited annually by the Office of the Auditor-General, which submits its report to the National Assembly for action. Additionally, the internal auditor of the Ministry of Local Government and the auditor of the Ministry of Finance examine the books of each local government. The Ombudsman may intervene and launch inquiries if there are complaints about specific transactions.

While annual evaluation is conducted to assess sectoral performance across the board, The Seychelles do not have a law that specifically provides for local government performance assessment in local public service delivery.

There is neither a national framework of reference defining the qualifications and responsibilities of local government staff nor a national strategy to build the capacities of local administrations. For instance, the yet to be fully implemented Ministry of Local Government Strategic Plan (2018–2022) provided for training purposes.

The Seychelles do not have any specific laws on citizen participation in local governance processes. However, arenas for consultation are organized under the principle of democratic consultation and participation. Annual public meetings are held in all local governments to respond to the concerns of the local population.

The Seychelles adopted the urban strategy, the Strategic and Land-Use Plan 2040, which provides the long-term planning framework for future spatial developments. The strategy stipulates policy interventions across a

range of topics to guide development, inform lower-tier policy including land-use plans, and inform decision-making processes. Early on, it became clear that green and blue infrastructures play an essential role in the culture, economy and resilience of this island nation, so environmental concerns were given particular attention. Approved in September 2015, the plan comprises of an integrated national strategic plan, a framework for the most populous island (Mahé), and a detailed masterplan for the capital city, Victoria.

While there is no specific legal or policy provision on women quotas in leadership positions, there is a significant representation of women among district councils and administrations. For instance, more than 50 per cent of the 25 district administrators in the Seychelles are women.

On climate change, the institutional framework provides for the inclusion of local and regional authorities in the implementation of the national agenda. However, much remains to be done to take local governments into account in the fight against climate change.

## Proposed reforms

The Seychelles' score of 23 points out of 48, implies that the country is a relatively unfavourable environment for decentralization, but this has changed over the past three years but not enough; the following additional reforms are proposed to enable these further changes to be made.

- **The first reform** is the fortification of the local government system in the national Constitution. Since the Constitution provides for local administration, such a provision poses challenges that are likely to continue undermining the country's decentralization efforts. The foremost recommended action is to, therefore, enshrine the principle of local government in the national Constitution. As is the case in many other countries the constitutional provision is expected to provide better fortification for the existence of local government as part of the country's governance system. Lack of a such a provision is probably among the reasons the Local Government Act 2015 remains largely unimplemented, despite having been enacted over five years ago.

- **The second reform** is the implementation and review of the Local Government Act 2015. The Local Government Act 2015 provides for various basic principles of decentralization and thus promotes good governance at the local level. The Act's fully implementation is thus expected to address a number of shortfalls, identified in this assessment. The Act provides for the election of local leaders at the district council level; functions of the district councils; employment of staff by the district councils; collection of local revenue; auditing of the district councils; and transfer of resources to the district councils.

There is, however, a need to review the Act for purposes of strengthening some of its current provisions, as well as including key omissions. The responsibilities of the district council need to be elaborated on in more specific terms to avoid overlaps with central government ministries. It is noted that some of the provision such as those that relate to financing tend to leave reasonable control of central government ministries over the district councils. Well as the district councils are expected to draw their plans in alignment to national guidance and priorities, they need to also be allowed reasonable leverage in the exercise of their duties. The financial transfers need to be reviewed

to be commensurate to the transferred responsibilities, as well as in consideration with territorial equity, which can be enforced through equalization grants.

Among the key omissions that need to be considered for inclusion in the Local Government Act 2015 include:

- Provision of minimum quotas for women representation in leadership positions, since their current good representation in the district councils offers no assurance that it will be maintained over the years to come.
- Mandatory capacity building of local staff and assessment of the district councils.
- A framework for citizen participation in local governance.

It is also important for these omissions to be streamlined in other relevant laws and policies as well.

Well as there is in place some mechanisms for citizen participation, such efforts continue to be prone to challenges due to the lack of legitimacy among local leaders, who depend more on the Ministry of Local Government than on the people themselves. Electing local assemblies and executive bodies will help build the needed legitimacy and will foster citizen participation, which in addition requires specific legislation and practical modalities for citizen consultation to happen on a regular basis.

- **The third reform** is the strengthening the climate change institutional structure from the local level.

The country must ensure that local governments and communities are effectively involved in the implementation of the country's climate change agenda. It is, for instance, of paramount interest for the local governments to be equitably represented on the National Climate Change Committee, which should as well have empowered chapters at the local level. Indeed, the Climate Change Policy 2020, notes that "Climate Justice requires effective action on a local, regional and global scale which in turn requires a pooling of resources and a sharing of skills across the world. This must also involve local and global partnerships between governments, NGOs, Civil society and the private sector with those most affected by Climate Change and least able adequately to deal with it – the poor and under-resourced". Such measures are, however, yet to be put in place at a reasonable scale. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution is neutral on the question of subnational governments.....	2
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place .....	4
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	The transfer of resources to subnational governments or their distribution among subnational governments is predictable according to a transparent formula ...	2
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments, but they concern only a few subnational governments.....	2
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	National legislation on citizen participation exists but is not applied.....	3
9	There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Decentralization was confirmed as a priority programme for Sierra Leone during the post-war consultations. Thus, in 2002 a consultative group meeting agreed that the exclusion and deprivation suffered by the rural masses were root causes of the civil war, and that decentralization was the right response for local autonomy and to increase citizen participation. The Constitution of 1991 does not contain any chapters or articles on decentralization. The main legal document on decentralization is the Local Government Act of 2004. The Constitutional Review Committee recommended in 2016 to include a chapter on decentralization and local government in the Constitution.

It is important to note that the 2010 Decentralization Policy has been revised and will soon be presented in Parliament as the revised Decentralization Policy of 2020. The Policy, after being adopted by the Cabinet will inform a review of the 2004 Local Government Act. There is provision in the policy for local government and decentralization to be an entrenched clause in the Constitution and the Constitution is currently being reviewed to incorporate such clauses. The revised policy provides a roadmap for national and international partners to complement the efforts of the government in delivering on its commitment to the decentralization process.

Sierra Leone has 22 local governments, called local councils: six city councils and one municipal council in urban areas, and 15 district councils in rural areas except the Western Area Rural District Council that is partly urban and rural. The latest local elections were held in April 2018, the next local elections will take place in 2024.

Funds transfers to local councils are of two kinds: vertical and horizontal. The vertical transfer from national government includes recurrent and development components. The recurrent component covers non-salary transfers for devolved functions and the operational (administrative) running costs of councils including the Unconditional Block Grant. The development component (Local Government Development Grant, or LGDG) is used to finance local council development projects and is funded by donors and the national government. The vertical allocation is not based on any formula; however, the law (the LGA 2004) guarantees that upon devolution of a function, the allocation for that function is at a minimum equal to the pre-devolution amount, to ensure that service provision does not deteriorate as a result of devolution.

The law (the LGA 2004) in Section 45 (Subsection 1) stipulates the revenue sources of the councils shall comprise a precept from local taxes, property rates, fees and charges, licences, share of mining licences, interest and dividends, etc. Section 58 further states that revenue raised from local taxes and from mining revenues, other than those collected by the government, shall be shared between the local councils and the chiefdom councils. Section 59 (Subsection 1b) states local councils shall determine the percentage of the local tax to be paid to it, to be called the precept, as it may, by resolution determine as it requires as revenue. The law further states in Subsection 3 that the chiefdom councils shall, where applicable, collect the local taxes and pay the precept to the local council.

The revised Decentralization Policy, the amended LGA 2004 and the strengthened role of the Interministerial Committee (IMC)<sup>4</sup> for the past two years have created a platform for all stakeholders to strictly abide by their roles and responsibilities in the decentralization process.

In Sierra Leone, councils must establish departments for administration, planning and development, finance and internal audit. They may also establish “thematic functional departments” after consulting the Local Government Service Commission (LGSC). After the first phase of implementation of decentralization (2008), a system to support local government contracting authority was set up as part of the Decentralized Service Delivery Project, Phases I and II. The Project consists of financing the support-advice that the line ministries provide to local governments for the implementation of their responsibilities in the fields of water, health, sanitation, etc.

Sierra Leone legislation (the LGA 2004) indicates that six months after the end of the fiscal year, local governments must submit their books to the Auditor-General who undertakes an annual audit of each local council’s accounts and financial statements and reports both to the councils and to the ministers. The audit reports are public documents.

The Local Government Act of 2004 provides for citizen consultation on the elaboration and revision of the local development plan. In addition, spaces for consultation have been set up on the infra-

<sup>4</sup> The IMC is the highest body on decentralization in Sierra Leone chaired by the Vice President of the Republic of Sierra Leone. The members of the IMC are ministers of all key functions devolved to local councils.

municipal (ward) level. At present, each ward has an office space in a specific ward – a project financed by IFAD and other NGOs. There has been some semblance of ward committee meetings held in most of the wards within local councils.

In Sierra Leone, a local government performance assessment system was set up in 2006, the Comprehensive Local Government Performance Assessment System (CLOGPAS). It measures local government performance in the provision of local services. A subsidy is even linked to local government performance. This mechanism was revised in 2010. There was also a Performance Management Contract Assessment coordinated by the Office of the President that commenced in 2010 that assessed the performance of all Ministries, Departments and Agencies (MDAs) and local councils. The assessment was based on performance contracts signed between the Office of the President and MDAs and local councils. Results of the assessments for local councils during the periods from 2010 to 2016 were different from the CLOGPAS assessment.

Sierra Leone has not drafted an urban strategy. The country was 42.9 per cent urbanized in 2020, and projections indicate an urbanization rate of 59.6 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The country has not adopted any provision on the participation and representation of women in local government or governance. However, Section 95 (Subsection 2) states that a ward committee shall consist of not more than 10 other persons, at least five of whom shall be women, resident in that ward and elected by the ward residents in a public meeting. Finally, Sierra Leone is slow to put in place the necessary mechanisms to involve local communities in combating the effects of climate change and their access to climate finance.

## Proposed reforms

With an overall score of 29 points out of 48, Sierra Leone is one of the countries whose progress towards an enabling environment for cities and subnational governments would require significant reforms, and major reforms must be undertaken.

- **The first reform** concerns inter-governmental financial transfers. In Sierra Leone, transfers to local governments are vertical and horizontal. There are three major types of vertical transfers: administrative transfers, responsibility offsets, and the LGDGs. The first two types are stipulated in the Local Government Act of 2004 and are financed exclusively by the central government. The LGDGs, from 2004 to 2008 were co-financed by the central government and its development partners. These partners help local governments undertake development projects in their area to meet their citizens' priority needs. After 2008, the central government solely financed development projects in local councils, though a selection of projects that attracted financing was arbitrary. All these transfers are conditional, except for the LGDGs. However, since 2014, the unconditional Block Grant Window was introduced that comprise of services deemed as exclusive competencies to local councils. They include, waste management, youth and sport, marine services, fire prevention services, etc. For these services, local governments use their discretion on how much of the UBG will finance those services.

From the offset, the vertical transfers from the central government includes ordinary spending and local development spending. The recurrent component covers the non-wage costs of the responsibilities transferred, and the operating (administrative) cost of local government. The local development component serves to fund local governments' local development projects. Since 2008, development projects were mostly financed by the central government, though decision to finance certain projects were done arbitrarily. The vertical allocation is not formula-based. Though there was the understanding determination that the vertical pool should be based on the cost of the function when

it was performed by the central government to ensure that the transfer of responsibility does not result in a decline in quality; this was actually done on an *ad hoc* basis specifically on the indicative budget ceilings of MDAs that devolved functions to local councils. The law indicates, among other things, that the transfers are indexed to the increase in the central government operating budget. Without a formula to determine the national amount of the financial transfers, *ad hoc* methods and negotiations will be used. This practice of negotiating with the line ministries will continue until the exact cost of the responsibilities transferred has been estimated. However, the revised 2010 Decentralization Policy proposes the following: 15 per cent of the government development project should be expensed on local government development projects; and 5 per cent of the government non-salary, non-interest recurrent budget should be expended on functions devolved to local councils as per the Statutory Instrument of November 2004.

- **The second type of transfer** is horizontal; these transfers consist of a range of conditional transfers based on different formulas and criteria depending on the purpose of the transfer. For instance, the criteria or formula to distribute primary education transfers are different than those used to distribute transfers for agriculture services or primary health. The vertical and horizontal transfers are paid out quarterly or half yearly depending on the liquidity of the government, and the funds are paid directly into the bank accounts of local councils. The local councils must submit monthly or quarterly technical financial reports to the Ministry of Finance.

The reform should emphasize the cost of the responsibilities transferred to better scale the transfers, and it should also emphasize ways to give local governments greater latitude to make public spending decisions. The lessons from the implementation of the Unconditional Block Grant system could be adopted.

- **The second reform** should address local governments' own revenues. The local taxation system in Sierra Leone consists of a *per capita* tax (the local tax), the property tax, licences, market dues, mining royalties, and other taxes. Some of the revenues from local taxes are shared with the traditional chieftaincies; the Ministry of Local Government and Community Development sets the distribution rules. There are three tax collection methods: taxes shared with the traditional authorities (local tax, market dues, mining royalties) are collected by the latter; taxes are collected by the local governments; and taxes are collected by central government services. This shared local tax system creates tension, particularly with the traditional chieftaincy, which poses a constraint on the mobilization of local revenues especially local tax, market dues and some fees and charges for which a sharing formula is determined through guidelines issued by the ministry responsible for local government. The reform should pay special attention to increasing the financial autonomy of local governments, particularly through land, property tax and mining and better mobilization of local revenues.

- **Finally, the last reform** aims to set up an institutional framework and a policy in favour of the involvement of local governments in the fight against the effects of climate change. The reform should propose appropriate measures to enable local governments to access climate finance. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	The legislation is unstable and inconsistent.....	1
3	Local assemblies and executive bodies are appointed.....	1
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	The central government defines and collects subnational government revenues.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	No rules or legal provisions on transparency in the running of subnational governments exist.....	1
8	There is no national legislation on citizen participation, and no locally organized spaces for dialogue and consultation.....	1
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Somalia's history has been turbulent since its independence, with a revolutionary regime at its head that governed the country for roughly 30 years. In July 1977, the Ogaden War created major institutional dysfunctions and ended in a crushing defeat. In 1979, the new Constitution was promulgated and elections for a people's assembly were held. With the regime's isolation and totalitarianism in the 1980s, resistance movements – encouraged by Ethiopia among others – were born throughout the country and later led to a civil war. In 1991, the war ended with the fall of the regime and the installation of a coalition. Very rapidly, however, this diverse coalition began to splinter and plunged the country into chronic instability that encouraged separatist movements in Puntland and Somaliland. For two decades, fleeting governments followed one after the other, and the country was left to armed gangs vying for control. In 2010, a consensus supported by the international community made it possible to set up a government of national union and draft a new Constitution.

Somalia has always been a heavily centralized country. In 1960, the country was composed of 12 districts. In 1968, it contained eight provinces. Then, in 1982, Somalia adopted two levels of division: the regions and the districts. Until 1982, Somalia had 16 regions, and gained two more regions, in 1984. Today, the country has 18 regions and 146 districts. However, until now, local autonomy has not been recognized and local governments do not have financial autonomy or a distinct legal status.

Article 48 of the new Constitution drafted in 2012 proposed a two-tier structure of government: the federal government, and the federal member states and their local governments. This proposal of a federation was a political answer to the pro-independence tendencies in Somaliland and Puntland. The Constitution does not create any federal member states; their creation and borders are legislated by the National Assembly. Each federal member state is composed of several regions, and no single region can become a federal member state on its own. The Constitution emphasizes the importance of collaboration between the various levels of governance and sets up a framework for consultation between the federal government and the federal member states, notably in regard to sectoral policy implementation.

Article 54 of the Constitution stipulates that the division of responsibilities shall be established jointly by the federal government and the federal member states. However, it sets the responsibilities that are the exclusive purview of the central

government: foreign affairs, national defence, citizenship and immigration and monetary policy.

Two points should be further emphasized, however. Firstly, Article 54 of the Constitution only stipulates the division of responsibilities between the federal government and the federal member states. This implies that there will be a later division of responsibility between the federal member states and their local governments. Secondly, according to Article 48 of the Constitution, local governments are not recognized as spheres of national governance, because they are assimilated with the federal member states. This means that the legislation on local governments will be the responsibility of each federal member state. This situation could generate instability and countrywide inconsistency in the legislation regarding local government.

Given Somalia's unique situation, all local assemblies and executive bodies are appointed.

The financial transfers from the federal government to the regions and districts are not only uncertain, but also unpredictable and unstable. There is a minimum level of transfers of funds, this is only to districts and regions which have been recovered by the Somali government.

The fiscal field belonging to local governments in Somalia is composed of the property tax and a multitude of other generally small taxes. Local taxation policy is set at the national level, and local governments consequently have very little latitude in this area. The federalism framework that guides taxation powers is not yet clear on revenue assignment and clarification of taxation powers. The provisional Constitution provides general guidance that revenue-raising responsibility should be assigned to the level of government that can handle it most effectively. It also provides for the laws existing before the provisional Constitution was adopted to remain in force until they are brought in line with the new federal Constitution. Federal member states and Somaliland have their own constitutions, tax laws and decrees.

Local administration capacities in Somalia are still in their infancy; there are few qualified staff in the local government. The country has neither a national strategy to build the capacities of local administrations nor a national framework of reference defining the qualifications and responsibilities of local government staff. There is little local experience with capacity building. There is no clear structure to enhance the capacity of local government leaders and staff. Most initiatives, however limited, come from the United Nations mission in Somalia and other development partners.

In Somalia, the legislation on local government does not provide for an oversight of financial management by local governments; local government books are not audited.

There were local arenas for consultation during the revolutionary period, but these arenas are no longer functional. Somalia does not have any specific laws on citizen participation in managing local affairs. Somalia does not have an urban strategy.

There has been no gender policy or gender-specific legislation in Somalia to date. Despite advocacy for a quota of 30 per cent of women's representation in all political institutions, and its inclusion in the Garowe II Principles, this was not included in the Provisional Federal Constitution adopted on 1 August 2012. There are no programmes on climate change implemented by local governments.

## Proposed reforms

With an overall score of 14 points out of 48, Somalia is one of the countries where the environment is generally unfavourable to city and subnational authority action. Improving the national institutional environment so that it is more favourable to cities and subnational authorities suggests the following reforms.

- **The first reform** deals with the transfer of responsibilities. According to the Somali Constitution, the country has two spheres of government: the federal government, and the federal member states and their local governments. Except for a few basic government functions ascribed to the federal government (notably diplomacy and national defence), the federal government and federal member states should jointly review all sectoral policies, and there is every indication that the federal member states will have extensive autonomy. While the principle of a division of responsibilities between the federal government and the federal member states is written into the Constitution, it is silent on the division of responsibilities between the federal member states and their respective local governments.

The reform should tackle this institutional process to offer a few safeguards governing the vertical allocation of responsibilities between the federal government, the federal member states and the local governments. The first safeguard concerns comparative advantage. Depending on the scale of governance and the public service to be provided, one level of governance will offer a better comparative advantage than another. The second safeguard is a consideration of economies of scale (advantages linked to producing specific goods in large quantities) and the externalities (advantages or disadvantages associated with the production of certain goods that affect people who are not directly involved in that process) linked to the production of certain goods. The larger the economies of scale and the greater the externalities, the higher the appropriate scale of governance will be.

Finally, the third safeguard is regarding technical implementation capacity at each level of the government, which should be taken into account to avoid any interruption of local public service provision. The reform will endeavour to bring objectivity to the division of responsibilities among the various spheres of local government; in addition, it will propose common threads for the laws on local government in the various federal member states to avoid huge discrepancies.

- **The second reform** deals with financial transfers. Among the principles of federalism set forth in Article 49 of the Constitution, the principle of equitable distribution of national resources among the various spheres of governance is stated. The first prerequisite is hence to establish an initial distribution of responsibilities across the various scales of power and then agree on inter-governmental fiscal relations. Based on the allocation of different responsibilities, the reform should examine restoring a vertical balance between

the federal government and the federal member states, and between the federal member states and the local governments. The reform should also address horizontal imbalances between the federal member states and the local governments.

- **The third reform** should promote transparency in local public administration. After more than 20 years of war, government structures and institutions have almost disappeared, particularly those that supervise the use of public resources. Yet, a greater decentralized provision of local public services is inseparable from the establishment of an ongoing oversight over the financial management of public institutions.

For this reason, the reform should examine the modalities for financial audits by the Anti-Corruption Commission, the Ombudsman, and the Ministry of Finance. The reform should contain a component on citizen oversight over the action of these public spheres. Finally, it should give the final push in the definition of a taxation system unique to each level of government and a system of shared taxation between the federal government and the federal member states, between the federal member states and the local governments, and between the federal government, the federal member states and the local governments.

- **The fourth reform** should address local government administration capacity building. Local governments have low institutional development levels, which may hinder efforts to fulfil their responsibilities. The reform should design a national framework of reference defining the qualifications and responsibilities of local government staff and a national strategy to build the capacities of local administrations.

- **The fifth reform** deals with the urban strategy. In 2020, urbanization was 46.1 per cent; it is predicted to be 63.8 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The capital, Mogadishu, had a population of just over 2 million in 2020, and will have a population of 5 million by 2050. The urban strategy should propose a strategy to manage settlement patterns and the associated technical, human and financial resources.

- **The sixth reform** should advocate and encourage the inclusion of the 30 per cent quota for women into the Constitution as well as development of a gender policy.

- **The last reform** should help Somalia to be less vulnerable to the current and future impacts of climate change. This vulnerability is further compounded by the fact that the country is coastal, low-lying, poor and disrupted by war. These effects of climatic change are likely to increase in both frequency and severity. Somalia's environmental problems include deforestation, overgrazing, soil erosion and desertification. The reform should formulate law and policy, which will guide climate change issues by proposing a strategy, which in turn, would be implemented by local governments. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognized roles and responsibilities.....	4
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place.....	4
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	The transfer of resources to subnational governments and their distribution among subnational governments are clear and predictable, with utilization determined at the national level (conditional transfers).....	3
5	Subnational governments have total autonomy to determine tax base, rates and fees, and to collect the corresponding revenues; access to financial markets is allowed.....	4
6	There is a national framework of reference within subnational governments, and a national strategy for training and promoting human resources in subnational governments.....	4
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	National legislation on citizen participation exists and is applied.....	4
9	There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide any or just one of the mechanisms promoting gender equality.....	1
12	The country provides two of the mechanisms in the fight against climate change.....	2

## Explanation of the rating

The Constitution of South Africa provides for three spheres of governance: the central government, the provinces (nine in total), and local governments (of which there are 278). There are three types of local governments: eight metropolitan municipalities (Category A), 226 local municipalities (Category B) and 44 district municipalities (Category C). The powers of the local governments are set out in Articles 151 to 164 of the Constitution. Moreover, the Constitution states that local governments may acquire additional powers as they build greater institutional capacity. Indeed, Section 156.4 of the Constitution specifies that the central government and the provinces delegate some of their functions to the municipalities, provided that they have the capacity to carry out these functions. Powers are devolved gradually, as the municipalities progressively strengthen their capacities and become financially viable. South African metropolises and large cities take advantage of this provision to increase their range of powers, to the point where some cities have larger budgets than their surrounding provinces.

There are local governments throughout the country, and these are led by elected executive bodies and councils; the most recent elections took place in November 2021. However, each province chooses one of three types for the administration of its local governments: the collective executive system (executive authority is exercised by a mayor and executive committee appointed by the council); the individual executive system (executive authority is exercised by an executive mayor assisted by the executive committee the mayor appoints); and the plenary system (executive authority is exercised by a municipal council).

Local government legislation provides for community participation in local governance. The legislation outlines obligations for municipalities to ensure participation of communities in governance and provides for mechanisms and structures for communities, especially in areas such as planning, budgeting, implementation, monitoring and evaluation.

The framework of reference for local administration staff identifies five departments: strategic integrated planning, urban planning and economic development; budgeting, revenue collection and financial management; corporate services (information technology, Internet, communications, evaluation and follow-up); community services that deals with services to citizens: public safety, social development, libraries, sports and recreation; infrastructure and services that include the provision of water, sanitation, electricity, and roads and storm water.

South Africa is currently trying to recover some of the significant ground that was lost in the past few years through the systematic weakening of public institutions at all levels, through a process popularly known as 'State Capture'. Auditor-General's (AG) 2018/19 MFMA Audit Outcomes General Report released on Wednesday, 1 July 2020, showed that only 20 municipalities achieved clean audits for the period 2018/2019. The audits of 28 municipalities were not finalized by 31 January 2020.

Performance evaluation of local governments is provided for by a provision in Article 155 of the Constitution, although the two requirements for transparency and efficient performance are not regularly observed. However, the National Treasury imposes rigorous budgetary discipline and control over all public policies.

In South Africa, 67.9 per cent of the population lived in urban areas in 2020 —one of the highest levels of urbanization in Africa — the urbanization rate will reach 79.8 per cent by 2050. (*World Urbanization Prospects: The 2018 Revision*). The six major urban hubs play a large role in the pan-African urban settlement layout, and their economic potential has a huge impact on national and regional growth. The central government is currently developing a comprehensive Integrated Urban Development Framework (IUDF) from consultations with key stakeholders.

Although the South African Constitution does not provide for quotas to ensure adequate representation of women in elected public bodies, nor are there any legal quotas established for national or provincial elections, the ruling

African National Congress (ANC) is the only political party in South Africa that has 50/50 representation in its policy frameworks.

About the Intended Nationally Determined Contribution (INDC) to the UN Framework Convention for Climate Change (UNFCCC), all policy instruments articulate in South Africa the role of subnational actors (regional and local governments), and highlight support interventions to be directed to local governments.

## Areas of improvement

With a rating of 40 out of 48, South Africa provides one of the most enabling environments for city and local government action according to the criteria chosen. However, certain areas could be improved, the most pressing of which would be compliance with existing legislation and policies, and concerted action on corruption at the local government level.

- **Additionally, the first improvement** would be to see how long-term planning and regional/district governance will support greater inter-governmental planning and cooperation towards improved urban development. The current Integrated Development Planning (IDP) requirement is the basis for greater cohesion between inter-governmental planning, the activities of ministries and provinces, and the programmes of the local governments, but is focused only on five-year planning horizons.

IDPs should be intrinsically linked to the Spatial Development Framework (SDF) where the latter is a long-term strategy (10, 20, or even 30 years) and the IDP is a vehicle for implementation, with clear performance targets set for every five years. This will ensure that long-term plans are not affected or changed when new councils assume office.

The country has had a number of urban strategies in the past, with the most recent one being the Integrated Development Strategy (IUDF). That being said, key to the challenges facing the country with respect to implementation is the institutionalization of such plans. While there has been a concerted effort to use inter-governmental structures as vehicles for implementation, progress has nonetheless been slow. Overall, the biggest challenge is ensuring that all these plans and strategies are localized at a municipal level.

- **Secondly, the National Treasury** and stakeholders continuously review the fiscal frameworks for municipalities to encompass all their revenue sources and expenditure responsibilities. Currently three unconditional grants, 10 conditional grants and seven capacity-building grants are available, and a new integrated urban development grant and a municipal restructuring grant are being developed. The local government equitable share is also being reviewed. It has three components in the current formula, namely a basic service, community services and institutional components. The basic services component funds the cost of providing free basic services to poor households. In relation to the criteria used to assess financial transfers, these transfers are transparent, predictable and clear but have restrictions in the majority of grants in order to improve efficiency and accountability.

- **The third area for improvement** is local government human capacity as inadequate capacity has negative repercussions on their execution of the functions assigned to municipalities. The national government has issued

significant new directives on minimum requirements for key positions and capacity-building efforts to bring the capacities of municipalities up to the required standards. This applies, in particular, to the small and rural municipalities. Since municipalities lack expertise in developing projects and implementing investments, some of the funds available at the central government level are not transferred due to a lack of satisfactory projects. This situation strengthens the positions of those municipalities that have a high level of institutional development and weakens those with a low level of expertise. Efforts to harmonize staff salaries have been undertaken, yet disparities still arise where salaries are determined on an individual basis.

- **The fourth item for consideration** is the improvement of the financial situation of small towns and rural municipalities. Most local government revenues are raised by municipalities themselves, however the proportion of revenue from transfers and own revenue varies dramatically across municipalities. Poor rural municipalities receive most of their revenue from transfers, while urban municipalities raise the majority of their own resources. Better systems of financial realignment must be set up for small local governments in rural areas.

- **The fifth item for consideration** is regarding the performance management system for municipalities. The performance management in local government is governed by various legislative and regulatory frameworks. However, given the complexities surrounding performance management in local government, there is a need to deploy mechanisms and instruments/tools to support the functionality and effectiveness of performance management in municipalities and for improved service delivery and audit outcomes. Amongst other interventions, the deployment of technology and systems is critical in order to realize a much greater impact in the performance management domain of municipalities, which will ultimately transform the municipal PMS landscape.

The reform must consider the achievement of gender representation by the amendments to the Electoral Act (1998), the Local Government: Municipal Structures Act (1998), and the Local Government Municipal Electoral Act (2000).

- **The last item for consideration** is that municipalities experience significant number of impediments to accessing finances for implementing climate change responses in a sustainable manner. Added to this, provisions made in the fiscus often prove insufficient to meet the growing needs of municipalities to resource the implementation of innovative and scalable climate solutions. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	A number of legislative provisions are in conflict with the Constitution, or some provisions in the Constitution are not implemented.....	2
3	Local assemblies and executive bodies are appointed.....	1
4	Resources are not transferred, or are transferred erratically and irregularly.....	1
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments; but they concern only a few subnational governments....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist, but they are not systematically followed.....	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms promoting gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the ratings

South Sudan is the newest country in Africa. Its creation arose from the 2011 referendum that reaffirmed the overwhelming desire for the southern part of Sudan to secede. Conducting the referendum was among the core tenets of the Comprehensive Peace Agreement (CPA), signed by the Government of Sudan and the Sudanese Peoples' Liberation Movement/Army, which had put an end to a prolonged civil war. It also marked the climax of the six-year power-sharing interim period under the CPA.

Although South Sudan does not currently have big cities and a large urban population, this is expected to change fast as the newly independent country develops, save for the drawbacks accruing from the political tension, and ongoing conflict. Its urban population stands at 2.5 million people, which is about 20.2 per cent of the total population in 2020. By 2050 the urban population is expected to rise to about 8.4 million people, which would be about 36 per cent of the population (*World Urbanization Prospects: The 2018 Revision*). The country does not have a dedicated national urban strategy.

The roots of South Sudan's decentralization can be traced to the CPA, whose Sub-Paragraph 1.5.1.1 entrenched a multi-level decentralized system of government and thereby required the Government of National Unity to respect it and ensure significant devolution of powers. The decentralization spirit was taken on and entrenched deeper by the Interim Constitution of Southern Sudan 2011, whose Article 36.1 requires the Government of South Sudan to be guided by the principles of decentralization and devolution of power to the people at various levels of government. Proper implementation of the decentralized system of government has, however, been adversely affected by the prolonged and intermittent civil disturbances arising from internal political and ethnic conflicts.

Article 162.1 of the 2011 Constitution declares a decentralized system of government that establishes local government tiers, and Article 166.5 specifies them as county, *payam* and *boma* in the rural areas and city, as well as in the municipal and town councils in the urban areas. South Sudan is currently divided into 32 states, 183 counties, 540 *payams* and 2,500 *bomas*.

Local government is, however, a matter of the states, whose constitutions are required (Article 166.1 pursuant to Article 47c), to further legislate on the structures, composition, finances, functions, roles and powers of the local authorities, including the traditional authorities, which are institutions at the local government level on matters affecting local communities (Article 168.1).

The 2009 Local Government Act clearly spells out the structures, roles, functions and powers of various local governments. The Act's implementation and that of other laws that concern local governance is, however, limited, uneven, and at times negotiated due to the prevailing conflict, which has impacted communication means and service delivery in general.

The planned 2015 general elections were to be the first general elections for South Sudan since the country attained independence from Sudan in 2011. These elections were, however, not held due to political instability and for the same reason, no elections have been held to date.

Article 169 of the Constitution requires the equitable sharing and allocation of resources among states and local governments. Further to that, Section 77 of the Local Government Act entitles local governments to Grant-in-Aid transfers from the national and state governments, including conditional, block, equalization and support grants. The transfer of resources is, however, erratic and irregular as the central and state governments continue to re-assert their presence and authority in the collection and management of local resources.

Section 74 of the Local Government Act specifies the sources from which local governments may generate revenue, and these are largely taxes and rates arising from council services and properties. The local governments do not, however, have powers to determine new taxes and any access to loans and financial markets.

Section 68 of the Act mandates the Local Government Councils to hire, maintain and retire local staff. The local governments board is also tasked with the responsibility of setting the national standards for recruitment, training, development and appraisal of local government staff (Subsection 124.2.c). However, the national framework and standards set by the Local Government Board remain

largely unimplemented because of the lack of resources and local capacity and also the prevailing poor security condition.

Although the Local Government Act provides well for the principle of citizen participation (Section 13.c), the country does not have a specifically dedicated legal/policy framework for its implementation. Nonetheless, there are other avenues through which citizens can participate, such as the traditional cultural authorities and sector-specific programmes. Such interventions are however, at times inconsistent, not representative and narrow in scope.

With an urbanization rate of 20.2 per cent in 2020 and a projected one of 36 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), South Sudan still does not have an urban policy in place.

Local government performance assessment is supposed to be undertaken by the Ministry of Local Government, the Local Government Board and State governments. This is, however, not done.

The institutional framework for climate change and environmental management is still in the nascent stage. Climate change has been found to be among the factors that have exacerbated the protracted conflict in South Sudan and, this has given rise to several recommendations that tend to consider measures expected to significantly address the non-involvement of local communities and plans in climate change mitigation and adaptation. (Nhial Tiitmamer et al., 2018). Climate change remains one of the areas that is being handled in an *ad hoc* and defragmented manner by local governments, despite the existence of legal and policy provisions that require the systematic participation of all levels of government.

Article 163.7 of the transitional Constitution requires at least 25 per cent of women's participation in the legislative and executive branches of government at the national and State levels. There are no local level quotas or reservations for women in South Sudan (Quota Project, 2014). Although South Sudan has laws and policies that are cognisant of the place and role of women in local governance, the customary laws and authorities, which still wield significant influence among local communities, remain highly patriarchal.

## Proposed reforms

With an overall score of 19 out of 48 points, South Sudan is a country whose environment is generally unfavourable to the action of cities and subnational governments. Although the country's transitional Constitution and Local Government Act tend to lay a reasonably strong foundation for decentralization, actualization of that spirit has not been possible largely for two reasons: a lack of the implementing instruments, and the prolonged and protracted political tension the country has faced since its independence. Therefore, undertaking policy and legal re-alignment or reform may not yield much without addressing the bigger picture of political tension and instability in the country. There are many good provisions that are intended to foster the enabling environment for decentralization, but which remain unimplemented because of the political situation that has seen the country fail to harness the required financial, human and infrastructural resources for regular elections and a secure socio-political environment. That notwithstanding, the following areas require re-alignment or reform.

- **The first reform** is fiscal decentralization. Foremost, there is a need to re-decentralize the financial powers and responsibilities that had initially been devolved. Fiscal decentralization is, however, more prominently seen at the State level. Considering that South Sudan is a vast country with geographically very large states, it is genuinely necessary for more fiscal decentralization powers and responsibilities to be further decentralized. Prominent among them is the power for local governments to play a significant role in determining and managing their tax base.

- **The second reform** is concerned with the need to enforce and institute reforms on the part of accountability structures and systems, many of which are either non-existent or dysfunctional. Central to the effectiveness of such reforms is also the aspect of holding regular, free and fair elections and reinforcing the justice system right from the local level. The reforms need to look further than State structures and provide for enforceable measures whose processes involve the civil society and communities. Although the widely distributed and respected traditional authorities partially offer the platform for citizen participation, it is observed that these entities enjoy a narrow scope.

- **The third reform** is regarding gender equality. There is room for improvement in the integration of gender considerations into local governance. As has been the case at the central and State government level, the allocation of quotas should also be extended to the local government councils. Women remain vulnerable, and they rank high among those that have continuously been affected by civil wars and political strife.

- **The last reform** is concerned with climate change. South Sudan is experiencing substantially warmer and drier weather, and the combination of these effects leads to increasing evapotranspiration and more droughts. Climate change will aggravate South Sudan's fragile situation and may contribute to existing tensions and conflict. It is therefore proposed that this suggested reform will help fight against climate change. The national climate change policy should give more room to local governments by capacitating them to run programmes and projects on climate change. The reform should focus on the elaboration of bankable projects by local governments and their access to climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	The legislation is unstable and inconsistent.....	1
3	Local assemblies and executive bodies are appointed.....	1
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	The central government defines and collects subnational government revenues.....	1
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	No rules or legal provisions on transparency in the running of subnational governments exist.....	1
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational governments' performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms promoting gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Sudan knew only war from its independence in January 1956 to the peace agreement in 1972, and then war again in 1983. In this context, Sudan faced institutional instability in which 'people's revolutions' were followed by military regimes and where ideology ran the gamut of capitalism to communism to religious fundamentalism. Sudan is one of the largest countries in Africa. It is multi-racial, multi-lingual and multi-religious; its people, resources and natural conditions are all extremely diverse.

To preserve the country's unitary nature, the solution to the problems of the country's size and diversity was found in the principle of administrative decentralization to the provinces and, later, in the creation of regions to which responsibilities were transferred. This led to the establishment of the people's local government in 1971. Regional autonomy was granted to the southern region in 1972, following the Addis Ababa Accord. The Law of 1980 created regions outside the northern provinces, and responsibilities were transferred to the regional councils. The unrelenting trend since independence has therefore been to grant greater responsibilities to local governments out of administrative necessity and in response to the legitimate aspirations of ethnically and culturally diverse populations.

The most distinctive feature of Sudan is the different treatment granted to southern provinces in the Constitution, which offers them expanded responsibilities — quite the opposite of the northern regions. Indeed, identity-based claims were strongest in these southern regions, and the civil war did the most damage there. This different treatment of various parts of the territory is strongly reaffirmed in the interim Constitution of 2005. The Constitution reaffirms the federal structure of the nation by institutionalizing these regional, ethnic, cultural and linguistic differences.

The local government system has also shifted over time. First, the Local Government Act of 1961 introduced the regional and local governments, which were subsequently abolished in 1969 by community structures. In 1991, a large change was made with the introduction of a federal structure. The federal decree divided the country into nine states. The states were subdivided into 66 provinces and 218 local government sectors or zones. Then, the constitutional decree of 2 February 1994 created 26 states, subdivided into 66 provinces and 218 zones.

After the independence of South Sudan (composed of 10 states) in 2011, the country was subdivided into 18 states.

The interim Constitution acknowledges each state's right to define its own legislation for its local governments, which makes decentralization law highly changeable and unstable over time and space.

The central authorities appoint local assemblies and executive bodies.

Sudan's states and local governments have a very limited capacity for revenue generation and tax collection and are consequently highly dependent on fiscal transfers from the central government. Yet fiscal transfers to states and local governments continue to be plagued by limited transparency and a lack of predictability. This creates a perception of patronage and a politicization of relations between central government and state authorities.

In Sudan, local administration capacities are still in their infancy; there are few qualified staff in local government. The country has neither a national strategy to build the capacities of local administrations nor a national framework of reference defining the qualifications and responsibilities of local government staff. There is little local experience with capacity building.

The legislation on local government does not provide for oversight of financial management by local governments, and local government books are not audited.

Sudan does not have any specific laws on citizen participation in managing local affairs, but the federal government system assigns important roles to people's initiatives and communal participation in local urban development.

Sudan was 35.3 per cent urbanized in 2020 and is projected to reach 52.6 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The country does not have an urban strategy.

Sudan does not have a quota for local elections. However, Sudanese electoral law states at least 25 per cent of seats in Parliament are reserved for women through a proportionate representation system. A list of women candidates can only be prepared by political parties, and there is a party list in each state.

Local governments are not involved in national programmes and projects on climate change.

## Proposed reforms

With a score of 15 points out of 48, Sudan is one of the countries where the environment is generally unfavourable to city and subnational authority action. Improving the national institutional environment so that it is more favourable to cities and subnational governments suggests the following structural reforms.

- **The first reform** should deal with the responsibilities already transferred from the central government. Sudan is a federal country in which the federated states have extensive autonomy, including legislative autonomy. In addition to these two spheres of power, there are the local governments, which stand out for their geographic and ethnic diversity and the diversity in laws and regulations governing them. According to the decentralization framework laws, spending responsibility for basic services (primary health, basic education and water) has been transferred to the states and the local level in theory. In practice, the application of these sectoral policies is done by the line ministries and, to a lesser extent, by the states. Overall, the division of responsibilities between the federal government and the states and, more importantly, between the federal and local levels is not very clear. In all cases, local governments are confined to basic tasks, such as public health, because of a lack of financial resources.

More worrisome is the fact that the Constitution gives states the latitude to draft their own legislation on local government. Most states have not drafted new laws governing local government powers and responsibilities. This gap is one of the constraints on the national institutional framework; it complicates real assumption of responsibilities.

The reform should attempt to overcome this institutional gap and clarify responsibilities by determining the vertical allocation of responsibilities between the federal government, states and local governments. It should also clarify and coordinate a very complex institutional framework for the division of responsibilities across the various spheres of local government.

- **The second reform** deals with financial transfers. Sudan is characterized by a significant mismatch between the role that the Constitution attempts to assign to the local governments and the national revenue allocated to these local governments. This vertical imbalance also exists between the federal government and the states. It is caused by the gap between the large number of responsibilities transferred to the local governments and the associated compensation transferred. This imbalance can also be explained by the difference between the states' own revenues (they have small revenue streams) and the revenues of the federal government (which has major revenue streams, e.g., oil and income tax).

The reform should also address horizontal imbalances between states and local governments. These horizontal imbalances are caused by differing abilities to collect own revenues (differences in people's needs because of different levels of development, population, etc.) and the different costs involved in providing local public services due to a multitude of local conditions. The reform should make the line ministries' actions more compatible with fiscal decentralization and emphasize making inter-governmental financial transfers more transparent, predictable, efficient and equitable.

Greater fiscal decentralization is inseparable from the establishment of modalities to ensure oversight over local governments' financial management. For this reason, the

reform should also tackle how the central government can audit local books and how citizens may exercise oversight over local government action to improve the quality of local public spending. Finally, given the need to increase the financial autonomy of local governments, the reform will develop a component on local governments' mobilization of own revenues.

- **The third reform** addresses local government administration and capacity building. Defining the specific responsibilities of local governments, and then elaborating a framework of reference defining staff qualifications and responsibilities and a national strategy to build local administration capacities, will help develop local institutional capacities.

In addition to traditional interventions to establish the administrative and managerial capacities of local authorities, fostering local accountability and transparency implies improving other key areas, including the level, quality, availability and relevance of information for local decision-making, improving the intervention framework to allow citizens to be proactive in identifying community concerns and developing local governments' own revenues. The reform should examine local capacity building with a focus on bookkeeping and reporting.

- **The fourth reform** deals with the urban strategy. Urbanization has been very dynamic but little documented in Sudan since independence in 1956. One of the main objectives of the urban strategy should be to monitor, understand and project urbanization trends for evidence-based urbanization strategies. A second objective would be to encourage urban centres to elaborate differentiated development strategies and propose a plan to manage settlement patterns and the associated technical, human and financial resources.

- **The fifth reform** should deal with gender equity. The determination of quotas for gender representation in local elections will help to increase the role of women in local governance.

- **The sixth reform** concerns the involvement of local authorities in the fight against climate change. By 2060, projections estimate a temperature increase in Sudan of 1.1° C to 3.1° C., a process that has already started, making the territory unsuitable for agriculture as well as the establishment of villages. Faced with episodes of droughts that have ruined crops, the country also have to cope with severe flooding that occurs when the rain finally arrives. Far too dry, the soil cannot absorb the water, which runs off and devastates crops. Since 2013, more than 600,000 people have had to be displaced, according to the Internal Displacement Monitoring Center (IDMC). It is estimated that nearly two million people will be affected by the reduction in agricultural production and livestock. Sudan is among top 15 food insecure countries, according to Global Hunger Index. Local governments must be included in national programmes and projects to combat climate change and be enabled to access climate funds. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	The legislation is unstable and inconsistent.....	1
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	The transfer of resources to subnational governments and their distribution among subnational governments are clear and predictable, with utilization determined at the national level (conditional transfers).....	3
5	Subnational governments have some latitude to determine existing tax base and rates, but the central government is responsible for setting new taxes and accessing loans and financial markets.....	3
6	There is a national framework of reference that applies to all subnational governments in the country defining the qualifications and responsibilities of subnational government staff, and a national strategy for training and promoting human resources in subnational governments.....	4
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	National legislation on citizen participation exists and is applied.....	4
9	There is legislation on measuring subnational government performance, but performance is assessed by the authority responsible for supervising subnational governments.....	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country provides for three of the mechanisms promoting gender equality.....	3
12	The country does not provide any or only one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Tanzania is a unitary republic with two governments: The Government of the United Republic of Tanzania and the Government of Zanzibar. In Tanzania, the decentralization policy was developed in the 1990s and is part of a broader reform of the civil service and the country's economic liberalization. The local government reform policy was approved in 1998 and has been supported since the 2000s by the Local Government Reform Programme (LGRP).

Articles 145 to 146 (Chapter 8) of the Constitution of Tanzania officially establish decentralization. As a bipartite Confederation, each of the two governments has its own local government ministry and laws, since decentralization is a non-union matter. The principal local government laws in mainland Tanzania are: The Local Government (District Authorities) Act of 1982 and Local Government (Urban Authorities) Act of 1982, both of which were significantly amended by the Local Government Laws (Miscellaneous Amendments) Act (No. 9) of 1999. The Zanzibar Local Government Authority Act of 2014 (Bill 45.2d) was put forward to the Assembly in October 2014 to replace the Zanzibar Municipal Councils Act of 1995 and the District and Town Councils Act of 1995. The duality in decentralization legislation is among the challenges of the institutional framework for local government in the country.

In mainland Tanzania there are 37 urban councils (19 municipalities, 15 town councils and three cities) and 133 rural district councils. Within Zanzibar, there are four urban authorities: three town councils on the island of Pemba and one municipality on the island of Unguja. The councils and executive bodies of all the local authorities in Tanzania are routinely elected, the last local elections were held in 2019.

Tanzania is one of the few African countries where local governments have significant autonomy to create taxes and levies, despite the requirement of prior approval by the supervisory ministry. This autonomy may, however, be put to the test by the apparent indications that may lead to the recentralization of some of the locally collected taxes.

Local governments are audited annually and reports are submitted to the Parliament of the United Republic of Tanzania.

Capacity building of the local authorities is undertaken by various interventions implemented within different national policy frameworks, including the Local Government Reform Programme, whose third phase is expected to commence in 2019. The capacity building is also guided by the Local Government Staff Regulations of 2000 and the Public Service Staff Regulations of 2003. This undertaking was reinforced by the creation of a capacity-building unit in the Ministry of Local Government in 2015.

Amendments to the Local Government (District Authorities) Act of 1982 provides for councils to organize public hearings for people to question political leaders and staff. Councils are also empowered to establish service boards, open to all citizens in the area, providing an opportunity to influence local service provision.

Tanzania is one of the few countries that assesses local government performance in the provision of local public services. Routine assessment has, however, been affected by transition of the LGRP into the third phase. The government assessment is complemented by UCLG Africa's Mayors Award Scheme initiative, which has been held in Tanzania since 2015.

The national urban strategy was prepared by the Planning Commission to guide social and economic development to 2025. Tanzania has articulated its near-term development goals and a proposed pathway in the Five-Year Development Plan II titled "Nurturing industrialization for economic transformation and human development". It is also a signatory to a range of global agreements, including the 2030 Agenda for Sustainable Development, the Paris Climate Agreement, and the New Urban Agenda.

In Tanzania, at least 30 per cent of seats are reserved for women in local governance bodies.

The institutional framework through the office of vice-president and the Ministry of Local Governments provides for the inclusion of local and regional authorities in the implementation of the national agenda on climate change.

## Areas of improvement

With a rating of 36 points out of 48, Tanzania is one of the countries whose environment is rather favourable to the

action of cities and subnational authorities, but where some improvements are needed.

- **First, it is proposed** that the legislation on local government be harmonized with other laws that relate to the needs and operations of the local governments. It is similarly important for the legal framework to clearly and more specifically outline the responsibilities and functions of the key stakeholders in local service delivery. These include the regional administration, local authorities and national ministries, agencies and departments.

In Tanzania, the major lines of the decentralization reform derive from the Local Government Reform Policy Paper (1998). This policy blueprint presents a clear vision that is yet to be fully translated through institutional reforms that have the force of law. The Local Government Reform Programme has attempted for more than 10 years to consolidate scattered local government legislation in a single, comprehensive document and harmonize the legislation, without much success. In the absence of legal provisions embedded in the Constitution, it remains difficult to implement the 1998 policy blueprint. The reforms should focus on laws and regulations on local government as well as other laws that have an impact on the decentralization process.

- **The second suggested improvement** is to harmonize the local and national tax regimes. While Tanzanian local governments have extensive powers in local taxation matters, they face several constraints. Foremost, the number of local taxes and levies varies between 25 and 60 depending on the district. Similarly, the applied rates also vary among the local councils. In addition to these distortions between districts, some activities are faced with double taxation, which is a hindrance to economic efficiency. The law stipulates that economic entities must pay taxes to the central government and to local governments. There does not seem to be any optimum coordination, however, between the central government and the local governments on taxation regimes.

The situation is compounded by some inconsistencies between national and local policy objectives, for instance, on export. It is further proposed for such a reform to also address the constrained local tax base and rationalize local taxes with the aim of improving tax revenues, which currently make up no more than 10 per cent of local budgets. Local governments' control over the tax chain makes it very costly to collect local taxes. Local tax collection costs can reach 80 per cent of the sums collected, or even 100 per cent in certain districts, which makes this a highly unviable way of collecting taxes.

- **The third proposed improvement** is to the local government personnel system. It is recognized that Tanzania has a largely unified staffing policy, in which the heads of the local government civil service and other senior and middle level cadres are recruited, appointed and managed by the central government. While the district councils have a role to play in that process, especially in respect of disciplinary action, good decentralization entails the devolution of administrative functions. Civil servants are among the central components in the local service delivery systems, and therefore ought to be under the control of the local councils that they serve.

There are two problems concerning the transfers. Firstly, they are determined on an *ad hoc* basis and do not correspond to the cost of the transferred responsibilities. Secondly, the formulas that are supposed to guide in the determination and distribution of the transfers are at times not followed to specifications, and some are not equitably fair. The reforms in this respect should ensure the aspects of predictability, stability and equality in the determination and allocation of the transfers.

- **The fourth improvement** is regarding financial transfers from central to local governments. In Tanzania, there are four types of grants from central to local governments: three are recurrent and the other is for capital development. The recurrent grants are sub-categorized as personal emoluments, other charges and subventions. A small part (20 per cent) of these transfers is unconditional, and the larger part (80 per cent) consists of conditional grants that are ring-fenced to implement various sector-specific policies and programmes.

- **The fifth proposed** area of improvement concerns urban development. In 2020, the urban population made up 35.2 per cent of the total population of the country; according to UN estimates, 55.4 per cent of the population will live in urban areas by 2050 (*World Urbanization Prospects: The 2018 Revision*). Tanzania is facing both significant population growth, and rapid urbanization. The 2018 population of Dar-es-Salaam was estimated to be 6 million in 2015, and it is projected to reach 10.7 million by 2030. This urban growth comes with the spread of slum housing for an increasingly larger proportion of the urban population, not only in Dar-es-Salaam, but also in Tanzania's secondary cities. If proactive action is not taken to better plan for the country's rapid urbanization, then living conditions in cities run the risk of serious deterioration, which diminishes the role that Tanzanian cities should play in driving development during the country's current phase of economic, social and cultural development. The reform must find ways to fund the development of an increasingly urban economy.

- **The sixth improvement** is the localization of the climate agenda of the Sustainable Development Goals (SDGs) and the Nationally Determined Contributions (NDCs) of the Paris Agreement (2015) on climate change, in order to ensure effective delivery on the ground, at the level of local governments. In that regard, local and regional governments should be seen as "essential partners" of central government. This calls for a "mainstreaming" of local authorities' participation in sector policies and programmes. Government also has to take advantage of the decentralized system, to collect and submit data, information capacity enhancement and build new systems for mitigation of climate change. ■

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## Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local councils and executive bodies are elected throughout the country.....	4
4	Resources are not transferred or are transferred erratically and irregularly.....	1
5	Subnational governments have some latitude to determine rates for existing taxes, but the central government is responsible for setting the tax base for existing taxes, creating new taxes, and accessing loans and financial markets.....	2
6	There is a national framework of reference defining the qualifications and responsibilities of subnational government staff, or a national strategy for training and promoting human resources in subnational governments.....	2
7	Only partial rules and legal provisions on transparency in the running of subnational governments exist, and they are not systematically followed.....	2
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational government performance is not assessed.....	1
10	No national urban strategy exists.....	1
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

The Constitution of the Gambia stipulates in Article 193 that local government administration shall be based on a system of democratically elected councils with a high degree of local autonomy. It also stipulates that the National Assembly shall pass an Act establishing city councils, municipalities and area councils, all designated as local governments. This Act shall also define the territorial borders within which each local government has jurisdiction.

The National Development Plan both domesticates and serves as an instrument of realizing the Sustainable Development Goals (SDGs) and the First Ten Year Implementation Plan of the African Agenda 2063. The National Development Plan in short aims at, among others, institutionalizing decentralization and participatory government's processes and systems at local community level in adherence to EC 2013 Communication which notes "the quality of local governance is primarily linked to the political willingness of Central governments to create a conducive environment at local level, through legal instruments, allowing local authorities to benefit from sufficient level of autonomy in exercising power and acquire specific capabilities".

A National Policy for Decentralization and Local Development (2015–2024) has been formulated. The primary aim of the policy is for the government to respond to its constitutional obligation to create the enabling environment for promoting democratic governance that is participatory.

The policy will be implemented over a period of 10 years from the date of its adoption through a decentralization implementation plan of action. It will be implemented in two phases: Phase one: 2015–2019; Phase two: 2020–2024.

There are three types of basic local government units: six area councils (Brikama, Mansa Konko, Kuntaur, Janjangbureg, Basse, Kerewan), one municipality (Kanifing Municipal Council) and one city council (Banjul City Council).

The Local Government Act specifies the functions, powers and duties of local governments in the Gambia, particularly

in regard to the relationships between local governments and the central government, as the latter is in charge of implementing decentralization through the intermediary of the Ministry of Local Government and Lands.

Under the law, the sector-specific departments may, after consulting the Ministry of Local Government, transfer functions, services and duties to local governments. For this to happen, however, the central government and the council of the local government in question must agree to this, and the appropriate human, financial and material resources must be made available for the fulfilment of the transferred responsibilities.

Local government council members are elected for a four-year term of office. Mayors are elected by direct universal suffrage as stipulated in Article 194 of the Constitution. The most recent local elections were held in April 2018.

The law provides for the transfer of financial resources to local governments, but these transfers are not yet predictable or stable.

Article 20 of the Local Government Finance and Audit Act of 2004 indicates that each local government has the right to raise revenues from taxes and levies within its territory in order to finance the responsibilities transferred to it. However, this latitude is bound by the General Rates Act of 1992.

There is an urgent need for progress with respect to the building of local capacity. There is a framework of reference detailing staff qualifications and responsibilities, but no strategy on capacity building for local administrations. Several experiments should be noted, however. The Poverty Alleviation and Capacity-Building Programme financed by the World Bank, which recently ended, helped the councils build their own resources and the capacities of their financial management staff. Another training programme, the Support to Decentralization and Local Government (SDLD) programme, has been formulated and aims to build the capacities of local councils so that they can play their role in the decentralization process. The Gambia has also established service rules for local government service staff to help structure professions and guide the hiring of local administration personnel.

Article 40 of the Local Government Finance and Audit Act of 2004 stipulates that the auditor general shall audit the books of each local government every year and report any discrepancies found. The report shall be brought to the attention of the council. The books of each council shall be audited by the auditor general or by an auditor designated by the auditor general. In practice, however, these audits are only occasional.

The Gambia does not have any specific laws on the people's participation in managing local affairs, but several mechanisms exist to involve the population.

Gambian law does not provide for mechanisms to assess local government performance.

The Gambia does not have an explicit national urban strategy, but some priorities have been defined by the national report elaborated for Habitat III.

The country has no provision for the participation and representation of women in public life.

There is no provision on the participation of local authorities in combating the effects of climate change.

## Proposed reforms

With a rating of 23 points out of 48, the Gambia is one of the countries whose environment is generally unfavourable to the action of cities and subnational authorities. Six reforms are necessary for the Gambia to advance in creating an enabling environment for cities and subnational governments.

- **The first reform** concerns the transfer of resources from the central government to the local governments.

The law provides for central government grants as follows: a general subsidy not to exceed 10 per cent of local government investment budgets; a grant to finance programmes decided jointly by the central government and the local council in an agreed-upon amount; and an equalization subsidy to finance local government spending where local public service provision standards are below the national average.

In addition, the law allows the President of the Republic to establish an *ad hoc* consultative committee comprised of local elected officials, line ministries and other parties. This committee should meet annually before the adoption of the finance bill to issue an opinion on the national revenue distribution between the central government and local governments and the division of responsibilities transferred by the central government to the local governments. However, all these mechanisms stipulated in the law are not being implemented. The reform should make these various instruments operational and define transparent ways of distributing grants among local governments.

- **The second reform** deals with local government administration capacity building. Despite the existence of an adequate legal framework, practical implementation of decentralization is struggling to advance because the responsible staff are insufficiently qualified and trained. There are also difficulties with efficient collaboration and cooperation among the various levels of government. The training project set out in the Local Government Act, which is currently being executed by the Gambia Association of Local Government Authorities (GALGA), plays a vital role in building the capacities of local governments. Special

mention should be made of an accomplishment on which to build: the Schemes of Services for the Local Government Service elaborated by the Ministry of Local Government which aim to guide local governments for staff hiring, training and capacity-building purposes.

The reform should also emphasize the elaboration of a national training strategy based on profiles elaborated within the Schemes of Services for the Local Government Service.

- **The third reform** concerns urban strategy. Nearly 62.5 per cent of the population of the Gambia lives in urban areas in 2020 (*World Urbanization Prospects: The 2018 Revision*), and UN projections show 77.2 per cent urbanization by 2050. This urbanization raises considerable challenges for territorial planning. The population of the Gambia is greatly concentrated in the Greater Banjul Area, which comprises of the morphologically distinct agglomerations of Banjul and the Kanifing Municipal Council, a tiny zone that takes up 1 per cent of the country's total surface area but is occupied by more than one-third of the total population. Hindered by Banjul's configuration, the population spread to Kanifing, which became the largest city in the Gambia between 1970 and 1980. The expansion of Kanifing increased the territorial imbalance, and projections show that this trend will intensify in the future. For its part, the population of Banjul began to decline in 1983 and was barely 40,000 in 2015. Even today, the Gambia still has fewer than 10 cities with populations in excess of 10,000, while the cities of Banjul and Kanifing have populations of 35,000 and 400,000, respectively. The urban strategy, which the government anticipated in its national report prepared for Habitat III in December 2015, addressed the issues of national territorial planning and the economic aspects of this urban structure.

- **The fourth reform** deals with local government performance assessment and improving local financial management based on the mechanisms set forth in the Local Government Finance and Audit Act of 2004. This includes the elaboration of a local financial accounting manual and the establishment of an accounting commission within each local council to define ways to improve transparency, especially with regard to treatment of reports by the auditor general and internal auditor as well as all other reports on local government finances. The reform should also focus on modalities for establishing performance-based contracts on the provision of local public services.■

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### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to the legislation.....	3
2	Clear definition of powers in connection with the Constitution; however, some decrees are missing.....	3
3	Local and executive assemblies are elected throughout the territory.....	4
4	Non-existent or erratic and irregular transfers.....	1
5	Subnational governments have latitude theoretically for setting the rate of existing taxes; the scope and the base of existing and new taxes fall within the domain of the State, resorting to borrowing and access to the financial market, remains theoretical.....	2
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Existence of legal and regulatory provisions concerning transparency in the operations of subnational governments and requiring regular and independent audits of the said subnational governments according to a specific timetable and deadlines are applied, but not systematically implemented.....	3
8	Existence of national legislation on citizen participation, which is however not implemented.....	3
9	Subnational government performance is not assessed.....	1
10	Existence of a clear urban strategy at national level, but not supplemented by adequate technical and financial means.....	3
11	The country does not provide any or just one of the mechanisms for the promotion of gender equality.....	1
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The text which enshrines the anchoring of decentralization in Togo is the Constitution of the fourth Republic, adopted on 14 October 1992. The Constitution adopts the principle of decentralized management of the national territory. In Title XII relating to local governments and traditional chiefdom, the Constitution provides for the organization of the country into subnational governments on the basis of decentralization while respecting national unity. The latest Constitution amendment in 2019, reduced the number of subnational governments to two levels. These are the commune and the region. The prefecture has been abolished. Only the communes are operational.

The law on decentralization and local liberties, adopted on 13 March 2007, enshrines the free administration of subnational governments and defined two types of communes: the urban commune housing the head town of the prefecture and the rural commune with the canton as its territorial base. An amendment has since been made, following the adoption of Law No. 2017-008 of 29 June 2017 on the creation of new communes in Togo. This law removes the distinction made between communes. There are no longer urban and rural communes. The 2007 Decentralization Law was amended in 2018 and 2019.

The desire to revive the decentralization process was materialized by the adoption of the decentralization roadmap in 2016. However, the major issue has been the materialization of this political will by holding local elections, the latest of which date back more than 30 years, precisely in 1987. They were finally held on 30 June 2019, as the socio-political crisis that started in August 2017, did not allow their organization in June 2018. A total of 117 communes currently have elected communal councils.

The transfer of powers to local governments is partial. The law indicates that the municipal council regulates the affairs of the municipality through its deliberations. A list of areas is mentioned indicating the areas where the municipal council shall give its opinion. The 2019 law on decentralization determines three types of competences for local governments. These are the specific competences of the local governments, the competences shared between the State and the local governments and the competences transferred by the State to

the subnational governments. The procedures for exercising shared competences and transferred competences are not yet set by decrees as provided for by law.

In Togo, a financial transfer mechanism has been put in place in favour of subnational governments since 2020 by the Support Fund for Territorial Collectivities (FACT), the organization and operation of which were set by a new decree in 2019. In 2020, the communes received operating allocations, basic allocations and equalization allocations.

Local taxation in Togo includes a multitude of taxes: taxes on built and unbuilt properties, the business tax, the *patente*, the supplementary tax on salaries, the tax on water and electricity distribution, the tax on shows, games and entertainment, the tax on the operation of local communication companies, etc. However, the financial resources remain low in relation to the mission assigned to them.

Most of the communes have low-skilled staff. Although a national strategy for building the capacity of local administrations is not clearly defined, it should be noted that a course dedicated to the management of local governments opened in 2019 at the National School of Administration (ENA). The first cohort has not yet completed their training.

Audits of the financial accounts of subnational governments are not generalized. However, the law on decentralization provides for oversight by specialized State institutions. The management account of local governments is sent each year for review to the Court of Auditors. Specifically, for FACT, the decree relating to it stipulates that the use of allocations by local governments is subject to verification by the State's control bodies. In addition, external audits are planned on the use of FACT funds by local governments.

In Togo, the participation of citizens in the management of local government affairs is a principle clearly stated in the decentralization law. To this end, it institutes the citizen's office for the oversight of local public action by citizens. It should be implemented in each of the 117 communes. But none are operational to date, for lack of a decree specifying the terms of its organization and operation.

From 2008, with support from French cooperation, the Union of Municipalities of Togo (UCT) had supported the establishment of local consultation frameworks at the level of some Togolese

communes. Since 2020, UCT has been called Faïtière des Communes du Togo (FCT).

The decree relating to FACT provides for a performance grant for the benefit of local governments. However, there is no mechanism for evaluating the performance of local collectivities.

Togo has adopted the National Housing Strategy, the National Housing and Urban Development Policy and the Land and State Property Code. But their implementation remains timid.

In terms of gender equality, Togo voted a law on parity in 2013. The electoral code, revised in 2019 also took this parity into account.

Some achievements relating to the advancement of women: the current Prime Minister; Speaker of the National Assembly; Chairperson of the umbrella organization of the communes of Togo are all women. There are also 198 locally elected women and 12 female mayors.

Togo does not provide for any mechanism to engage local governments in the fight against climate change. However, it should be noted the launch in October 2017 of the national campaign to strengthen the capacity of local governments in the implementation of Nationally Determined Planned Contributions (NDPC).

## Proposed reforms

With a score of 26 out of 48, Togo is one of the countries where improving the institutional environment is favourable to cities and subnational governments requiring structural reforms.

- **The first line of reform** is the development of additional texts on the distribution of powers between the communes, regions and the State. The commune and the region share several areas of competence with a certain form of distinction between the communal and regional scales. A clarification is necessary in order to avoid possible conflicts of competence. The texts relating to the procedures for exercising shared and transferred powers have not yet been adopted. The exercise of specific powers by local governments also requires clarification in order to harmonize the understanding of the attributions of each actor. In a context of several levels of local governments, it is important to define subsidiarity and its financing; this will be the objective of this first reform. The forthcoming regional elections is a major issue in the institutional environment of local governments. The regions have never been operational as subnational government.
- **The second line of reform** relates to the transfer of financial resources from the State to local governments. The decentralization law transferred powers to subnational governments. However, the State's effort to transfer resources to the communes is not up to the needs and expectations of the communes. Financial transfers granted to communes remain low in relation to the desired levels of investment. Faced with a small budget, many municipalities rely solely on the FACT investment grants to fund their capital projects.
- **The third line of reform** relates generally to improving the quality of local public spending. In fact, the procedures for exercising the financial oversight of subnational governments are not anchored in the annual practice of the institutions responsible for enforcing them. Audits are carried out only exceptionally and generally on the occasion of suspicion of mismanagement. The methods for evaluating the performance of subnational governments in the delivery of local public services have not yet been put in place. The principle of

accountability of local officials to their population is not fully popularized or materialized.

- **The fourth line of reform** concerns the management of urbanization. Over the period from 1960 to 2010, the dynamics of urbanization has been significant: while the total population has multiplied by four, the urban population has multiplied by 12, and the rural population by three. With an urbanization rate of 42.8 per cent in 2020, the projections of the United Nations Department of Economic and Social Affairs (*World Urbanization Prospects: The 2018 Revision*) suggest an urbanization rate of nearly 60.6 per cent by 2050. These data show the need for a positive and proactive approach to urbanization. The implementation of the national urban strategy developed under the aegis of the Ministry of Urban Planning should contribute to achieving this reform.
- **The fifth reform** concerns gender equality. Women's participation is also an area of reform in which the country still needs to make concerted efforts, although women's associations are very active on this issue. The application of provisions relating to women's participation remains an important challenge that must be addressed by the institutions in charge of organizing elections.
- **Finally, a last reform** should aim at a better involvement of subnational governments in the implementation of measures to fight against the effects of climate change. The effective realization of the Nationally Determined Contributions (NDCs) implies that subnational governments are empowered to develop and implement concrete and measurable action programmes that meet the criteria of the MRV policies (Measurement, Reporting and Verification), as specified in the Paris Agreement (2015); which is not yet the case in Togo. ■

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- Decree No. 2020-070/PR of 22 September 2020, amending Decree No. 2017-144/PR of 22 December 2017, fixing the territorial jurisdiction and chief town of the communes of the Maritime and Savannah regions.
- Decree No. 2020-071/PR of 22 September 2020, approving the criteria for the distribution of allocations from the Local Government Support Fund (FACT).
- Law No. 2017-008 of 29 June 2017, creating communes, amended by Law No. 2019-001 of 9 January 2019.
- Law No. 2019-006 of 26 June 2019, amended by Law No. 2007-011 of 13 March 2007, on decentralization and local liberties, as amended by Law No. 2018-003 of 31 January 2018.
- Law No. 2019-018 of 15 November 2019, on the powers and operation of the autonomous district of Grand Lomé.

### Enabling environment rating for cities and subnational governments

1	The Constitution explicitly mentions subnational governments, but refers the definition of responsibilities to legislation.....	3
2	All powers and responsibilities are clearly defined in relation to the Constitution, but some relevant statutory laws and decrees are missing....	3
3	Local and executive assemblies are elected throughout the territory.....	4
4	Amounts of resource transfers to subnational governments or distribution between subnational governments are predictable according to a transparent formula.....	2
5	Resources decided upon and collected by the central level.....	1
6	There is a national framework of reference for subnational government professions and a national strategy for training and promoting human resources of subnational governments, but their implementation has so far concerned only a few subnational governments.....	3
7	Only part of the mechanisms concerning transparency in the functioning of subnational governments exist and they are not systematically applied.	2
8	There is no national legislation on citizen participation, but locally organized dialogue and consultation frameworks exist.....	2
9	Subnational government performance is not assessed .....	1
10	There is reflection on urbanization at the national level, but the urban strategy is not yet defined.....	2
11	The country has three mechanisms for promoting gender equality.....	3
12	The country does not provide any or just one of the measures in combating climate change.....	1

## Justification of the rating

The new Constitution indicates in Article 131 of Chapter 7 that "local power is based on decentralization, embodied by Local Governments (LG) comprising [of] municipalities, regions and districts covering the entire territory of the Republic".

Voted unanimously, Chapter 7 of the Constitution of 27 January 2014 establishes decentralization. In accordance with Article 66 of the Code of Local Governments (CCL). A plan for the decentralization support programme is developed in an orientation law setting the objectives and the resources allocated.

The government prepared an annual evaluation report on the status of the implementation of and support for decentralization. The said report shall be submitted to the Assembly of People's Representatives before 15 February of the following year.

Successive decrees in 2015 and 2016 instituted the full communalization of the national territory with the creation of 86 new communes as well as the extension of 191 of the 264 existing communes. Finally, a High Council of Local Authorities is instituted and a Local Authorities Code is promulgated by Organic Law No. 2018-29 of 9 May 2018.

The administrative division of the territory is today structured according to a double logic of deconcentration and decentralization. At the decentralized level, the territory has 24 governorates subdivided into 264 delegations covering the whole of the national territory, themselves subdivided into 2,073 sectors or imadats. The regional councils (perimeters of the governorates) are partially decentralized LGs and are chaired by the governor, a direct representative of the Head of State. They are composed of "indirect" elected officials, mayors of the region's municipalities, elected deputies of the constituency corresponding to the governorate and regional directors under the ministries and representatives of the largest national organizations (UGTT, UTICA). This situation should change with the next regional elections. Only 350 communes are legally decentralized, but remain financially dependent on the central government.

According to the CCL, the communes have their own competences, competences shared with the central authority

or transferred by it. The shared powers are exercised in consultation and cooperation with the latter on the basis of good management of public funds and better delivery of services. A law adopted after being endorsed by the High Council of Local Authorities determines the conditions and procedures for the execution of shared powers. Any transfer of jurisdiction or its extension to the benefit of the LGs is determined by law.

Any transfer of competence or its extension is accompanied by a transfer of appropriations and adequate resources with the resulting charges for the LGs. The CCL provides for several mechanisms for open governance and citizen participation: citizen participation manuals in municipal investment plans; municipal commissions must be participatory, according to Article 78 of the CCL. Decree 401 of 6 May 2019 setting the procedures and conditions for the implementation of local democracy in application of Article 30 of the CCL sets the model regime for participatory democracy procedures. Government Decree No. 2018-1060 of 17 December 2018, fixing the terms and procedures for the publication of acts and documents relating thereto in the official journal of subnational governments and on the electronic websites of local governments and their posting. The local elections held in May 2018 has replaced the special delegations appointed by the elected officials in the 350 municipalities of the country. Local governments do not have extensive taxing power; they generally cannot change the base, but they are empowered to set the tariff/rate of several taxes, given either a minimum tariff (or rate), a ceiling tariff, or a range set by Decree 805 of 13 June 2016. These are (special parking tax, tax on the removal of garbage assimilated to households according to established conventions). The collection of the proceeds of local taxes is the exclusive responsibility of the decentralized services of the State. The financial system of the LGs includes an important component of transfer from the central state, through the annual financial support which replaces the Common Fund for Local Authorities (FCCL). Order No. 29 of 29 March 2019 of the Ministers of Finance and Local Affairs and the Environment modifies the Order (no number) of 22 June 2018 relating to the setting of criteria for the distribution of the amount of annual financial support from the State budget, between LGs. Investment grants are also managed by the Local Government Loans and Support Fund (CpsCL), and are awarded subject to compliance with the minimum conditions required and an evaluation of the performance of the LGs

according to predetermined criteria. Decree No. 2014-3505 of 30 September 2014, sets the conditions for granting loans and subsidies from the subnational government loan and support fund. The Local Authority Loans and Support Fund (CpsCL) and the Decentralization Training and Support Centre (CFAD), under the supervision of the Ministry of Local Affairs and the Environment, are responsible for financing municipal investments and training of municipal officials and elected officials. The CFAD has set up a framework of reference of LGs' professions and new well-equipped premises, and works closely with the CpsCL and the National Federation of Tunisian Communes (FNCT) to prepare the communes to take on their new responsibilities and competences.

The Court of Auditors is responsible, together with the relevant departments of the Ministries of Finance, Local Affairs and the Environment, for the financial audits of subnational governments. On the other hand, 12 subsidiary chambers of first instance of the administrative court have been created in the regions and are already open. However, audits of subnational governments' accounts are not systematic. The Constitution refers to the mechanisms of participatory democracy and the principles of good governance, which have been translated into the annual investment plans drawn up since 2016, and are necessarily participatory. Citizen participation is one of the conditions for the awarding of State grants, and any violation of this condition is subject to an appeal for excess of power. With an urbanization rate of 69.6 per cent in 2020 and trends that suggest an urbanization rate of 80.2 per cent by 2050 (World Urbanization Prospects: The 2018 Revision), Tunisia needs to renew its former urban strategy. The Tunisian government has established parity lists between women and men for the latest local election, including for the heads of the lists of each party or coalition. About a 100 lists were discarded for non-compliance with the parity requirement.

Local communities are not engaged in any national climate change programmes.

## Proposed reforms

With an overall score of 27 out of 48, Tunisia is among the countries where progress towards an enabling environment for cities and subnational governments requires major reform efforts. Improving the environment for cities and subnational governments requires the implementation of the following reforms.

- **The first reform** is concerned with the operationalization of the provisions of the Constitution. Despite the Constitution that is generally favourable to decentralization, a global vision is still lacking in Tunisia. Understood primarily in its political and administrative dimensions, it is not yet associated with a development strategy and an analysis of territorial, economic and human dynamics. In addition, certain concepts introduced by the Constitution need to be clarified, particularly with regard to territorial division (districts), free administration, transfer of competences, as well as mechanisms and procedures for citizen participation. The construction of a global vision calls for the promulgation of a policy law setting out a programme of support for decentralization and its development, its objectives and the resources allocated to it, as well as the designation of an institution dedicated to decentralization, positioned at the top of the government body, and for a specific parliamentary committee within the Assembly of People's Representatives (ARP). The national consultation on the decentralization process launched in July 2020 aims to make an assessment,

and propose specific adjustments in order to find solutions to the dysfunctions inherent in the realization of such a structural reform which will be spread over a long period of time.

- **The second reform** is a complete overhaul of the mode of governance and the institutional framework. In addition to the possible revision by the CCL of the local tax code and the land-use and urban-planning code (CATu), it will involve defining the new prerogatives and statutes of governors (prefects), which will have to be articulated with those of the presidents of the regions, and promulgating the law governing the High Council of Local Authorities (Haut Conseil des CL), as well as the other laws and decrees provided for in the CCL. The issue of coordinating the deconcentrated structures of the State and inter-communal action is another major challenge for the LGs, as is the coordination of economic and social development and in regional policies to promote employment, education, health, culture and the environment. Other issues will need to be addressed with due attention and consultation, in particular, the transfer of competencies, regional elections, the relationship of the regional council with the governor and the role it should play, the development of proactive communications to popularize the concept of decentralization, develop advocacy and facilitate decision-making and debate.

- **The last reform** relates to the engagement of subnational governments in the fight against climate change. According to experts, Tunisia will be strongly impacted by global warming which will be perceptible through the rising sea waters and the depletion of groundwater tables. But it is agriculture, a strategic sector in Tunisia, that will pay the most expensive bill if nothing is done to adapt to climate change and mitigate its impact through short, medium and long term actions. Concretely, if nothing is done, the global impacts of global warming will be perceptible through a 28% decrease in water resources in 2030, a 50% decrease in surface water, a decrease in agricultural GDP of 22.5 %, a reduction in agricultural production of 52%, due to the intensity and the succession of years of drought. According to studies, the impacts of climate change will be felt through increased soil salinity, overexploitation of land and pastures, decline in soil fertility, which would pose risks to exports and would lead to an "economic forcing on agriculture". Global warming is also likely to strongly impact two vital activities for Tunisia: fishing and tourism. National programs and projects to combat climate change must give a central place to local project management, in order to ensure better effectiveness of actions. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognized roles and responsibilities	4
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place	4
3	Local assemblies and executive bodies are elected throughout the country	4
4	The transfer of resources to subnational governments and their distribution among subnational governments are clear and predictable with utilization determined at the national level	3
5	Subnational governments have some latitude to determine existing tax base and rates, but the central government is responsible for setting new taxes and accessing loans and the financial markets	3
6	There is a national reference framework of professions within subnational governments and a national strategy for training and promoting subnational government human resources that is applied to all subnational governments in the country	4
7	Rules and legal provisions on transparency in the running of subnational governments, that require regular independent audits to be conducted within specified time frames exist	4
8	National legislation on citizen participation exists, and is applied	4
9	There is legislation on measuring subnational governments' performance, but performance is assessed by the authority responsible for supervising subnational governments	3
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking	3
11	The country does not provide for any or just one of the mechanisms for the promotion of gender equality	1
12	The country does not provide for any or just one of the mechanisms in the fight against climate change	1

## Explanation of the rating

The Ugandan Constitution (1995), as variously amended, explicitly provides for local government as a complementary system of governance. The Constitution specifies the principles that guide the local government system in Uganda, and Articles 176 to 207 of the Constitution clearly define the powers of the local governments. In line with the Constitution, a Local Governments Act was enacted on 24 March 1997 to streamline and enact the decentralization policy. The Act specifies the functions, powers and services of the local governments. These provisions are innovative in a number of ways and allows for the smooth, flexible operation of the principle of subsidiarity, taking into account the national and local socio-political, economic and historical contexts of the country. Although they exist, operational conflicts between local and central governments are minimal, the tendency of recentralization is more evident in practice than the law. The recentralization tendency therefore calls for more political and administrative interventions than legal/policy reforms.

As provided for by the Local Governments Act (Chap. 243), all local council political leaders are elected, under a multi-party-political dispensation that also allows for independent candidature, through regular elections held every five years. While most of the local leaders including chairpersons and mayors are elected through adult suffrage, leaders representing special interest groups such as the youth, elderly, women and persons with a disability are elected through electoral colleges. There are 176 local government councils as follows: district councils 135; city councils 10; municipal councils 31. In early 2021, Uganda held elections at the local council level. Article 193(1) of the Constitution of Uganda requires the central government to set up a system of financial transfers every fiscal year. Three systems of financial transfers to local governments are in operation. The national amounts of unconditional grants are calculated annually using a formula that considers the total subsidy of the previous year adjusted for inflation, the residual cost to implement powers already transferred and the cost of the new powers devolved to the local governments. The national total grant is shared among the local governments as follows: each local government receives a fixed sum regardless of its characteristics. The rest of the total grant is then distributed to the local governments using a formula that accounts for population (85 per cent) and surface area (15 per cent). Conditional grants are allocated for specific projects agreed between the central government and the local

governments. The distribution formula for this grant accounts for population, the number of school-age children, the length of the road network and household spending as an indicator of the tax base.

Equalization grants are utilized in support of the poorest local governments. They are determined by the standards of below-average local public services provided by the local governments. For this reason, the grant is distributed to only half of all local governments.

In Uganda, local governments have their own local tax system. They have powers to identify a tax and collect it with approval of the minister (LGA Third Schedule).

In Uganda, there is established a Local Government Capacity-Building Unit in the Ministry of Local Government; a Capacity-Building Technical Working Groups; Human Resource Management Units were revamped in local governments; central government and districts and municipal councils resource pools established; also, standardized training manuals were developed; pre-qualification of training providers is routinely undertaken; and districts and municipal councils are provided with guidelines for the development of their Capacity-Building Plans.

Article 163 of the Constitution of Uganda, 1995, established the Office of the Auditor-General that among others audits local government on an annual basis and also as need arises. The audit reports are scrutinized and actioned on by the respective local government as well as the Parliament. Implementation of the Constitution's provision is reinforced by the National Audit Act which among others establishes the Office of the Internal Auditor-General; the Public Finance Act, 2015, that provides for auditing requirements and procedure; and the Local Governments Act that establishes and provides for the powers and functions of internal audit units (Section 90) and Public Accounts Committees (Section 88), in each local government. Different forms of sanctions for non-compliance, at both institutional and individual levels, are applied.

In line with Article 176 (b) of the Constitution of Uganda, 1995, Section 35(3) of the Local Governments Act (Chap. 243) provides for citizen participation in the management of local public affairs, and these provisions are fully implemented through community Barazas coordinated by the Office of the Prime Minister (OPM), and radio engagements and talk shows.

In addition to internal mechanisms often spearheaded by the respective local planning units, local government performance is assessed by conducting audits of the various central government entities, including the Office of the Prime Minister, Ministry of Local Government and Ministry of Finance and Economic Development. They derive their mandate right from the Constitution as well as the Public Finance Act and Local Governments Act. The new Local Government Performance Assessment which lumps equalization grants into a Discretionary Development Equalization Grant (DDEG) is, however, not consistently operational. Under that system, districts are to receive 50 per cent up front, and the remaining 50 per cent is to be distributed on a formula of rewards and sanctions based on performance in the annual assessments.

With an urbanization rate of 25 per cent in 2020 and an expected rate of 44.1 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*), Uganda has an urban strategy, the National Urban Policy and Strategic Urban Development Plan for Uganda, 2017. The Policy is, on the other hand, not fully implemented due to insufficient technical and financial resources.

Uganda is among the African countries that are ranked highly in fostering gender equality. On the part of political leadership, The Constitution (Article 180) and the Local Governments Act (Part III) requires that women fill one-third of the leadership positions in local governments, and the provisions are mandatory and always honoured. In that regard some positions are particularly ring-fenced for women, including the slots from among special interest representatives.

In 2015, Uganda adopted a climate change policy under the theme 'Transformation through Climate Change Mitigation and Adaptation'. The Climate Change Bill, 2018 that has already been tabled before Parliament do not adequately provide for local government financing and involvement in the climate change management institutional setup.

## Areas of improvement

With an overall rating of 38 out of 48, Uganda is among the highly ranked countries that provide the most favourable environments for decentralization, in view of both the respective legal and policy framework, as well as in practice. The country however has a low score in two of the assessed areas that call for significant reforms. These are local revenue generation and the involvement of local governments in climate change mitigation and adaptation.

- **The first area of improvement** is regarding local revenue. The constitution and the LG Act allow the LG to collect revenue from a number of specified sources, formulate plans and budgets, allocate expenditure and make investments in a wide range of services. These powers and financial provisions are detailed in Part VIII of the LG Act (Chap. 243). The fifth schedule of the LG Act further elaborates the revenue and financial and accounting regulations, for example, powers to levy taxes.

It is, however, noted that all local governments dependent of central government transfers, which on average account for over 90 per cent of their budgets. Such a dependence is more pronounced among the rural districts, where the contribution of own revenue to their budget is in most cases less than 5 per cent. More so because most of the central government transfers are conditional, thus leaving the local government with little or no discretion in their use. On the other hand, over 80 per cent of the transferred resources are for recurrent costs and thus, 20 per cent or less is left for development expenditure. In the 2019/2020 budget, LGs were allocated UGX 3.6 trillion (11 per cent) of the national budget inclusive of domestic arrears and appropriation-in-aid to LG programmes, where, 86 per cent of the allocation was for recurrent costs and less than 14 per cent development expenditure.

All that notwithstanding, central government transfers, as a percentage of the national budget, have been declining over the years. That is from a peak of 21.8 per cent in 2007/2008 to 12.7 per cent in 2017/2018 and to 11 per cent in 2019/2020, which is far below the target of 30 per cent, as recommended by the National Development Plan. Instead, central government ministries, departments and agencies have continued to retain funds in order to directly implement activities and projects that would ordinarily fall within the functions devolved to LGs.

While local revenue is associated with greater discretion and flexibility, districts persistently perform poorly on its collection. The most important sources of local revenue for districts tend to be property-related charges, user charges, business licences and Local Service Tax (LST), all of which not only constitute a small percentage of the potential local revenue base but are also difficult to collect due to incommensurately high administrative costs, and in some cases, because of socio-political interests.

It is, therefore, recommended for the country's fiscal decentralization system to be reviewed with a purpose of broadening the local revenue base of the local governments as well as increasing their share of the national budget and discretionary powers over central government transfers.

- **The second area that calls for improvements** concerns the level of involvement of local governments in the climate change agenda. Local governments are not only nearest to the communities whose actions or inactions can impact on natural resources, but they also represent sections of the population that are vulnerable to climate change effects. The local governments are, therefore, expected to be central in climate change mitigation and adaption. This is, however, not the case as there is only a handful of provisions in the current legal/policy framework that provide for meaningful involvement of the local governments in climate change matters, especially on the part of decision-making. More so, many of the available provisions are only partially or not implemented at all, due to a number of factors including, lack of resources, conflicting interests, low commitment, inadequate information and lack of clarity on the powers and roles of the local governments.

As the country waits for the enactment of the Climate Change Bill, its climate change mitigation and adaptation measures are nonetheless being addressed through several sector policies and laws. While the existing laws and policies reasonably address a number of climate change challenges, the upcoming climate change law is expected to consolidate and streamline the institutional framework for climate change management in the country as well as providing for several other gaps in the current framework.

In cognizance of their interest and potential role in the climate change agenda, it is recommended for the new law to reasonably provide for meaningful involvement of local governments in the institutional structure for climate change management in the country. It is equally recommended for the local governments to be adequately considered in climate change financing, assessments and reporting. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments, but their responsibilities are defined by legislation.....	3
2	All responsibilities and powers are clearly defined in accordance with the Constitution, and the relevant statutory laws and regulations are in place.....	4
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Amounts of the transfer of resources to subnational governments or their distribution among subnational governments are predictable, according to a transparent formula.....	2
5	Subnational governments have total autonomy to determine tax base, rates and fees, and to collect the corresponding revenues; access to financial markets is allowed.....	4
6	There is a national reference framework of professions within subnational governments and a national strategy for the training and promotion of subnational government human resources, but implementation has so far only covered a few subnational governments.....	3
7	Rules and legal provisions on transparency in the running of subnational governments that require regular, independent audits to be conducted within specified time frames exist, but are not systematically followed.....	3
8	There is no national legislation on citizen participation, but there are locally organized spaces for dialogue and consultation.....	2
9	Subnational governments' performance is not assessed.....	1
10	National reflection on urbanization is underway, but an urban strategy has not been defined.....	2
11	The country does not provide any or just one of the mechanisms promoting gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change .....	1

## Explanation of the rating

In 2013, Zambia embarked on a process of reviewing its 1996 amended Constitution and this culminated in the enactment of the Constitution of Zambia (Amendment) Act No. 2 of 2016. The Constitution devotes a specific part on decentralization and local government. Article 147 (2) provides details of the exclusive functions of local authorities. These functions are in addition to the functions stipulated in the Local Government Act No. 2 of 2019. However, there is a proposal in the Constitution of Zambia (Amendment) Bill No. 10 (Bill 10) to have these functions defined in legislation.

The Government has now approved the Inter-governmental Architecture (IFA) to achieve more equitable, efficient and accountable governance and service delivery to support social and economic development. The first phase of the IFA process (2015–2017) focused on the immediate steps needed to provide a minimum level of stability, predictability and transparency, to be followed by strategically phasing in other IFA reforms. Ostensibly, this stability has been provided through the Local Government Equalization Fund (LGEF), which was established by the Local Government Act of 2014 and became effective in January 2015. The Act stipulated that each year, Parliament shall appropriate not less than five per cent of the total amount projected to be collected as income taxes for the Republic for that financial year. However, the Local Government Act No. 2 of 2019 repealed this Act and removed the 5 per cent threshold, leaving the LGEF allocations to the whims of central government officials. In addition, to date, no clear horizontal formula for distribution of allocations to local authorities has been developed. In terms of own source revenue, the Constitution provides for local authorities to, levy, impose, recover and retain local taxes. In this regard, some local authorities get their revenue from property taxes. As for levies relating to regulation of businesses, these are subject to approval by the Business Regulatory Review Agency.

In 2014, the Cabinet issued Cabinet Circular No. 10 aimed at implementing the revised National Decentralization Policy. Since the Circular took effect on 1 January 2015,

no functions, except the HIV and AIDS coordination and management has been devolved to local authorities without matching resources. However, staff from the sector ministries earmarked for devolution in some districts have begun reporting to local authorities. Resources for their local programmes continue to be determined by their mother ministries.

The national territory is composed of 116 local governments (districts) of which five are cities, 15 municipal councils and 96 are town councils. The last local elections were held in August 2021.

In some cases, local governments have total autonomy to determine tax base, rates and fees, and to collect the corresponding revenues; access to financial markets is allowed. However, in some other cases they have to seek approval from central authorities first.

In accordance with the Article 250 of the Constitution (Amendment) Act No. 2 of 2016 the Office of the Auditor-General is empowered to audit accounts of State organs, State institutions, provincial administration and local authorities. Currently reports are about two years behind schedule.

In terms of participation, the Local Government Act No. 2 of 2019 provides for the establishment of Ward Development Committees in every local authority to facilitate participation of residents in decision-making. Furthermore, the Act stipulates that the public can attend council meetings, although they have no opportunity to participate in debates. All council financial reports are subject to public scrutiny. Finally, the Ministry of Local Government has issued a policy directive compelling all councils to open their doors to public scrutiny of council operations (including financial reports, land alienation, etc.); this is done during the Local Government Week that precedes the Africa Day for Decentralization, Local Governance and Local Development, every year.

Assessment of local government performance in the provision of local public services is absent from Zambian law, and no such assessments are conducted. The government has, however, developed a process for local government assessments through the Local Government Service Commission Institute.

Zambia is in the process of formulating a national urban strategy.

In Zambia, there are no mandatory quotas to increase the representation of women in the National Assembly and local councils.

Although, local governments are not directly involved in the national programmes and projects pertaining to the fight against climate change, the government is currently promoting the Climate Change Bill; it is hoped that the Act will include the role(s) local authorities will play in the fight against climate change, as suggested by the Local Government Association Zambia during the process of consultations.

## Areas of improvement

With a total rating of 30 points out of 48, Zambia is part of the list of countries whose environment is rather favourable to the action of cities and subnational authorities, but where some elements need to be improved.

- **The first improvement** that could be brought into action is to deepen fiscal decentralization. This could happen by the replacement of the provision relating to the LGEF threshold which was in Section 45(3) of the Local Government (Amendment) Act No. 12 of 2014, but omitted in the Local Government Act No. 2 of 2019. Under this section, the Parliament appropriated each year 5 per cent of the total amount of projected income taxes at the national level and distributed the funds to local government.

The Association reiterates its earlier position that while welcoming introduction of the LGEF, the Fund should be treated as an addition to the grant system that existed under Section 45(3) of the Local Government (Amendment) Act No. 12 of 2014, and not a substitution for it.

- **The second point of improvement** is local government performance assessment. GIZ in collaboration with the Local Government Association of Zambia (LGAZ) and the Ministry of Local Government, have designed instruments to measure the efficiency of local government actions in the execution of their responsibilities although no assessment has been carried out since the instrument was designed. It is recommended that the Ministry of Local Government takes steps effecting the assessment process. This will motivate local authorities in improving on the effectiveness and efficiency in the delivery of public services, management of resources and optimizing the use of natural, human and financial resources and consequently, build the trust of the financial administrations as well as citizens, with an eye to increasing the financial resources allocated to the local level.

- **The third area of improvement** should address urban strategy. According to the United Nations Department of Economic and Social Affairs, Zambia had an urbanization rate of over 44.6 per cent in 2020 and projections suggest an urbanization rate of 62.4 per cent by 2050 (*World Urbanization Prospects: The 2014 Review*). Zambia's urban structure is characterized by the national capital, Lusaka with a population of 2,600,000, accounting for half of the urban population as of 2019. Cities with populations of less than 1,000,000 mark the national structure; they made up the other half of the urban population in 2019. Zambia cannot therefore do without an urban strategy, both to improve the living conditions for its population and to harness the potential from the macroeconomic impact of urban growth.

The Ministry of Local Government in liaison with UN-Habitat and in collaboration with other stakeholders including the Local Government Association of Zambia, is however, in the process of finalizing the National Urbanization Policy which will address the issue of an urban strategy for the country.

There is a need today to take affirmative measures to promote the active participation and representation of women in the spheres of both local and national leadership.

- **The last improvement** focuses on the fight against climate change. In Zambia, the slightest climate change can lead to disaster. Because the majority of Zambians depend on agriculture for their survival, even the slightest variation in temperature that can impact crops such as maize inevitably has catastrophic consequences for people's livelihoods. Climate change has started to negatively impact the national tourism industry. If extreme climate change persists, 50 years from now all that will remain of Victoria Falls, considered the "7th Wonder of the World", could end up turning into a barren ravine. Since the tourism industry in Zambia relies heavily on the country's natural resources, the degradation of this sector is expected to have devastating effects on the country's economy. Extreme weather conditions also affect flora and fauna. Due to rain shortages in the Luangwa region of southern Zambia in the eastern part of the country, animals are finding it increasingly difficult to find food. Hippos succumb in large numbers. Vegetation is equally affected, with landscapes turning into plantations of petrified trees in arid regions. The government has responded with national strategies and policies, but there is a disconnect between national frameworks and local realities. The reform must recognize the critical role local governments will need to play in scaling up the adaptation of communities to climate change. The Association made proposals on the role of local authorities in the fight against climate change. Government has been lobbied to ensure inclusion of this important matter when drafting the final bill for presentation to Parliament. ■

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### Enabling environment rating for cities and subnational governments

1	The Constitution makes explicit mention of subnational governments as spheres of governance, detailing their recognized roles and responsibilities.....	4
2	All responsibilities and powers are clearly defined in accordance with the Constitution, but some relevant statutory laws and regulations are missing.....	3
3	Local assemblies and executive bodies are elected throughout the country.....	4
4	Resources are not transferred, or are transferred erratically and irregularly.....	1
5	Subnational governments have total autonomy to determine tax base, rates and fees, and to collect the corresponding revenues; access to financial markets is allowed.....	4
6	There is no national framework of reference defining the qualifications and responsibilities of subnational government staff and no national strategy for training and promoting human resources in subnational governments.....	1
7	Rules and legal provisions on transparency in the running of subnational governments requiring regular, independent audits to be conducted within specified time frames exist and are applied.....	4
8	National legislation on citizen participation exists, but it is not applied.....	3
9	Subnational government performance is assessed.....	4
10	A clear national urban strategy exists, but the financial and technical arrangements and capacities necessary to implement it are lacking.....	3
11	The country does not provide any or just one of the mechanisms promoting gender equality.....	1
12	The country does not provide any or just one of the mechanisms in the fight against climate change.....	1

## Explanation of the rating

Since its independence in 1980, Zimbabwe has made decentralization a priority and undertaken a series of institutional innovations. The main objective of the National Decentralization Policy (NDP) is to complete the legislated transfer of responsibilities from the central government to the local governments and redefine the central government's role in the provision of services and infrastructures. The NDP is piloted by the Ministries of Local Government, Public Works, and National Housing, and consists of six pillars: (i) modify the role of the central government, which should shift from execution to facilitation by strengthening its capacity to elaborate guidelines; (ii) strengthen local governments at the appropriate level for planning and service provision after consulting citizens and other sectors; (iii) strengthen whole communities, including disadvantaged groups and the weakest, to participate in their own development; (iv) build institutional capacities to deliver services by meeting community demands; (v) ensure the accountability and transparency to the central government and citizens; and (vi) provide national guidance and coordination by ensuring that national priorities (such as poverty and AIDS) are tackled in an adequate policy context.

In 2013, new competencies were enshrined in the new National Constitution, which captures local government under Chapter 14. Its preamble reads, "Whereas it is desirable to ensure: the Preservation of national unity in Zimbabwe and the prevention of all forms of disunity and secessionism; the democratic participation in government by all citizens and communities in Zimbabwe; the equitable allocation of national resources and the participation of local communities in the determination of development priorities within their areas; there must be devolution of power and responsibilities to lower tiers of government in Zimbabwe." The introduction of this new Constitution in Zimbabwe has strengthened the legislative framework of local governments; however, a lot still needs to be done in terms of realigning the statutes to the new Constitution.

In Zimbabwe, all responsibilities and powers are clearly defined in accordance with the Constitution, but some

relevant statutory laws and regulations are missing.

There are 92 local governments in Zimbabwe: 32 urban councils comprised of nine municipal councils, 13 town councils, seven city councils, three local boards, and 60 rural district councils.

Local assemblies and executive bodies are elected throughout the country; the most recent local elections were held in July 2018.

The Constitution also introduced fiscal transfers to local and provincial governments at a minimum of 5 per cent of the national revenue. These transfers have yet to be realized since the policy governing the transfer process is still being finalized by the Ministry of Finance and Economic Development in conjunction with the Ministry of Local Government, Public Works and National Housing.

Zimbabwean local governments are among the most well off in Africa when it comes to fiscal powers; they have complete autonomy to set and collect their own revenues. Unfortunately, despite having the legislative authority to be a tax authority, government departments continue to usurp previously devolved responsibilities which are hampering the financial performance and viability of local governments in Zimbabwe. In addition, the extremely parlous state of the Zimbabwean economy has significantly depleted the ability to generate tax at all levels of government.

Regarding local administration capacity building, there is no national framework of reference detailing local government staff qualifications and responsibilities, and no national capacity-building strategy for local administrations. Local governments may, however, define frameworks of reference detailing staff qualifications and responsibilities in an autonomous manner and elaborate capacity-building programmes for their personnel. Furthermore, local governments are not empowered to employ senior officials; they are only allowed to employ lower-level employees. Heads of department and chief executives are employed by the Ministry.

Zimbabwean legislation contains a component on financial oversight of local governments. The Ministry of Local Government, Public Works and National Housing and the

Auditor-General regularly undertake systems audits in all local governments. Previously, Zimbabwe did not have specific decentralization legislation. However, Section 264 of the Constitution titled “Devolution of Governmental Power and Responsibilities” alludes that the government will endeavour, whenever appropriate, to devolve its powers to provincial councils, metropolitan councils and local authorities which are competent to carry out those responsibilities efficiently and effectively.

Zimbabwe has specific participation legislation as part of the 13 principles of decentralization adopted by the government, but this has not, as yet, been applied.

Previously, Zimbabwe did not have laws on local government performance assessment. Recently, the Government of Zimbabwe introduced the Integrated Results Based Management (IRBM) Framework in all public entities. The IRBM framework requires that chief executives of local governments write up annual performance agreements that are signed by the mayors/chairpersons and submitted to the Ministry of Local Government, Public Works and National Housing. The government also introduced the Corporate Governance Policy framework, which governs the terms of offices and remuneration of public sector leadership.

Zimbabwe had an urbanization rate of nearly 32 per cent in 2020; this urbanization rate is predicted to rise to 45.9 per cent by 2050 (*World Urbanization Prospects: The 2018 Revision*). The Government of Zimbabwe through the Ministry of Local Government Public Works and National Housing has validated in August 2019 the Zimbabwe National Human Settlement Policy. The Policy should be in line with the Zimbabwe Constitution, promoting a society where the people of Zimbabwe enjoy prosperous, happy and fulfilling lives: “Zimbabwe’s settlements are expected to be hubs of innovation, commerce, equitable socio-economic development and expressions of the diverse cultural heritage at local as well as [the] national level”.

Zimbabwe has no provision on gender equality in local elections despite the inclusion of a clause in the Constitution which provides for the equal representation of women in Parliament.

Local governments are not involved in national programmes and projects on climate change.

## Areas of improvement

With an overall score of 33 points out of 48, Zimbabwe is one of the countries whose environment is rather favourable to the action of cities and subnational authorities, but where some improvements are needed.

- **The first possible improvement** concerns the operationalization of provisions contained in the new Constitution. Indeed, the numerous provisions introduced by the new Constitution of Zimbabwe would significantly improve the status and role of cities and local governments, if implemented. Notwithstanding the fact that local governments are now recognized in the Constitution, national line ministries continue to centrally direct most operations. The failure by line ministries to comprehend the concept of devolution of power has generated tensions and conflict with local governments.

Overall, the decentralization process has largely stalled in Zimbabwe. The extreme reluctance, if not outright refusal of central administrations to transfer responsibilities is

intensified by the constant political crisis at the highest level of the government. Where funds have been transferred to support the process, efforts have been fragmentary. Most citizens have only benefited slightly – local public services have not improved – and are not motivated to participate in local public management. The reform should help clarify responsibilities and, in particular, coordination with deconcentrated central government services.

- **The second possible improvement** concerns fiscal decentralization. The Constitution has provided for the transfer of not less than 5 per cent of the national revenue to the provincial and local governments. Unfortunately, the provincial councils have yet to be established, and the central government is using this as an excuse not to effect fiscal transfers to local authorities. The government needs to develop a framework that allows local authorities to receive their share of the fiscal transfer while they finalize the formation of the provincial councils. The Ministry of Local Government, Public Works and National Housing is currently working with the Ministry of Finance and Economic Development to develop a fiscal disbursement framework to operationalize the aforementioned provision of the Constitution.

The improvement should help define the individual responsibilities to transfer, identify the cost of implementing these individual responsibilities, and finally clarify transfer modalities so that they are predictable and stable. The reform could also examine the local fiscal component. Conversely, local governments’ control over the tax chain makes it very costly to collect local taxes. Therefore, negotiations are underway to reach an agreement with the central government to facilitate local tax collection. A transitional period should be set among the various stakeholders to evaluate the progress made before any final decision is reached. The reform could support the definition of modalities for such contracting over the long term.

- **The third improvement** should focus on gender representation in local governance. A quota could be introduced to balance the weak representation of women in the governance bodies of local governments.

- **The last improvement** must spatialize the implementation of the National Determined Contribution (NDC), so that local governments can be part of the fight against climate change. A support programme must be built to enhance the capacity of local governments to elaborate projects and access climate funds. ■

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**A**FRICA is the region of the world where the rate of urban growth is the most significant today. With growth rates ranging from 4 to 6 per cent on average, African cities double their population every 10 to 15 years. Experts estimate that 50 per cent of Africans will be living in cities by 2030. These cities are already contributing 60 per cent of the GDP of the African continent.

This means that good governance of cities is vitally important for the attractiveness and competitiveness of African economies, and that the conditions set to improve the action of the authorities that have the mandate to administer and manage those cities and territories is crucial for improving the living conditions and environment of the populations, as well as their attractiveness for economic and cultural activities and the creation of corresponding jobs.

For this reason, in collaboration with Cities Alliance, UCLG Africa has undertaken to publish every three years, since 2012, a report on the institutional environment created by the State for the initiatives and actions of subnational governments in the exercise of their mandate (CEE Rating).

It is an essential tool for benchmarking the implementation of decentralization policies in each country and the region of Africa as a whole, and to identify the reforms that need to be implemented to ensure that the latitude given by the institutional framework to cities and territories enables them to meet the challenges posed by the rapid urbanization of the African continent and the issues of climate change, and allows them to be key players in the implementation of the United Nations' Agenda 2030 and the African Union's Agenda 2063.

This 2021 edition of the CEE Rating updates the data from the 2018 edition, and provides elements of comparison and analysis of the changes observed over every three-year period since 2012.



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