

**Joint Government of Ghana and Development Partners
Decentralisation Policy Review**

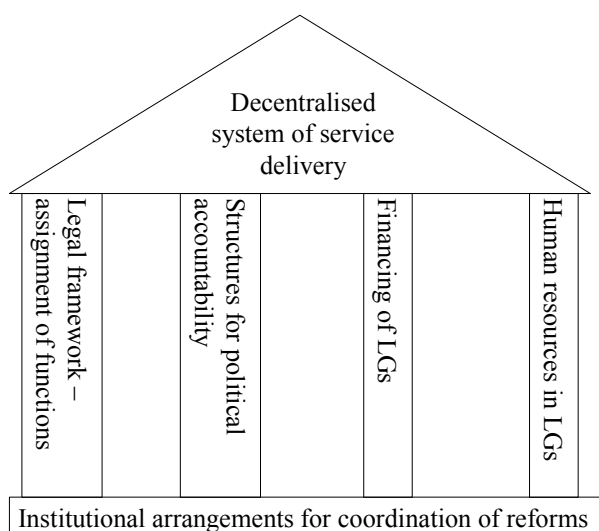
EXECUTIVE SUMMARY

1. Background and Introduction

The Government of Ghana has for several years pursued a decentralisation reform as part of wider efforts for enhancing good governance. The objectives of decentralisation reform are enshrined in the 1992 Constitution of Ghana which stipulates that “Parliament shall enact appropriate laws to ensure that functions, powers, responsibilities and resources are at all times transferred from central government to local government units in a coordinated manner”. This constitutional requirement was further articulated in local government legislation.

The Government has over the years implemented various activities and programmes in support of the decentralisation process. The latest and overall guiding programming document is the National Decentralisation Action Plan (NDAP). The NDAP has initiated a transition process towards the development of a comprehensive, well-sequenced and costed approach to decentralisation with initial emphasis on practical issues such as harmonisation of development funding and capacity building targeting the local governments (MMDAs).

However, it is acknowledged that further real progress of the decentralisation reform will require a more coherent and coordinated approach which in turn will require policy clarification to guide implementation, particularly the linkages between the local government reform in a narrow sense and the overall decentralisation linkages with the sectors. Thus the Government and its development partners have agreed to include the “formulation of a comprehensive decentralisation policy” as trigger in the MDDBS policy matrix 2006. In preparation of this policy and related strategy it was agreed as part of NDAP activities to undertake a “Decentralisation Policy Review”. This review will deliver strategic input to Government’s policy formulation process.



This Review analyses the opportunities and constraints within five key areas considered as requirements for effective decentralisation:

1. The basic legal and policy framework,
2. The political and administrative framework,
3. Local government financing,
4. Local government human resources and
5. The arrangements for reform coordination and support.

The Review Report presents the consultants’ analysis of the five key areas with related recommendations for the future refined GoG Policy and Strategy for Decentralisation. This executive summary presents a brief overview of the core issues in each of the above five areas and the related core recommendations of a policy

nature that should be addressed in the Decentralisation Policy as well as a broad outline of the related issues for inclusion in the subsequent Decentralisation Implementation Strategy. The main report provides a detailed analysis of the existing situation as well as further elaboration of recommendations.

2 Legal and Policy Framework

2.1 Main Legal and Policy Issues

There is substantial divergence between Government intentions for decentralization – including the intentions as stated in the Constitution - and the actual practices in the country. This divergence is buttressed by the variety of laws, which give legitimacy to the divergent practices, especially in the choices made by sectors that tend to define decentralisation as “deconcentration”.

The divergence may in part be explained by lack of clarity of the LG Act itself. The Local Government Act does not adequately deal with a range of issues further debated in the report, including

- The assignment of functions to different levels of government, - which may be the single most important aspect to clarify in the ongoing review of the LG Act.
- The overall local government structures and their relationships. The Act pays very limited attention to sub-district levels just as there is substantial un-clarity regarding the extent to which the region level should be considered a fully fledged local government,

While planning laws confer a strong jurisdiction to MMDAs, budgeting arrangements, funding flows and functional assignments continue to limit the authority and autonomy of the MMDAs to enforce harmonization and prioritization in line with the local realities, capabilities and needs. Sector priorities, including sector programmes and projects are defined substantially by the MDAs, with implementation targets set by the MDA HQ and resources allocated to meet these targets by the HQ. A vertical reporting and accountability system for the attainment of results still persists; between the District MDA and the central level MDA. While reporting to the local government is taking place, then this reporting is less binding in terms of accountability than the relations within MDA.

Progress is recently been made by the Local Government Service Council (LGSC) regarding the creation of a Local Government Service and related effective establishment of decentralised departments, which in turn implicate the assignment of functions under MMDAs. However, this process risks being negated by adjustments within the key sectors, such as health and education, which still hold substantial mandates for providing “services” and have the financial means, through existing budget arrangements to do so.

2.2 Main Recommendations on Overall Policy & Legal Framework

It is recommended to prepare an overarching Decentralization Policy that clearly defines the overall Government Vision for decentralisation as one based on decentralisation by devolution: the transfer of powers, functions and resources to local governments (MMDAs) and the policy choices associated with Devolution of authority, for planning, budgeting and accountability for development results at the level of MMDAs. Such a policy will overcome the current situation in which every level of Government is claiming authority in various aspects of existing legislation.

A key element of the Policy will be statements regarding the precise functions to be assigned the local governments and consequently transferred from central government institutions. The

functional assignments as stated in the recent LGS Report on Integration of Decentralised Departments into MMDAs are considered as sound points of departure. The Policy should clarify that the continued process of decentralisation by devolution and related assignment of functions to be based on the principle of subsidiarity as elaborated in the main report.

Following the policy, a Decentralization Strategic Framework, elaborating specific priorities over a given time frame will need to be prepared. This would as a core element include a process of legal harmonisation of sector legislation to ensure alignment with the Policy. The main sectors with local service delivery responsibilities need to adjust and align their policy, strategic framework, legal framework, human resource, organisation, funding system and capacity building support within the new overall strategic decentralisation framework. A sector decentralisation policy and strategy aligned with the overall strategy and guidelines for each sector needs to be clearly defined.

3. Political and Administrative Framework

3.1 Main Issues and Challenges of the Political and Administrative Framework

Considerable progress has been made in the establishment of political and administrative institutions to implement decentralization. However, this review has revealed substantial key challenges with the framework of representation, the lines of accountability and the viability and long-term sustainability of the sub-district structures.

The mixed model of representation in MMDAs (70% election and 30% appointment of members) was originally introduced in order to enhance “technical skills” of the MMDAs. However, evidence abounds of the central government appointment of 30% may have compromised democratic representation in many instances.

Currently the lines of accountability are confused at MMDA level. The Presiding Member, the District Chief Executive and the Members of Assembly are all politically representatives and all draw authority, legitimacy and their constituency from different sources. The central appointment of the DCE who effectively guides the MMDAs – not as a civil servant, but as a political appointee ultimately establishes the local government as an arm of the central government rather than a semi-autonomous layer of local government.

The local government system is supposed to operate on a non-partisan basis within a multi-party democratic arrangement for Central Government. While this is feasible under certain circumstances and jurisdictions, in Ghana, the authority of Central Government is so overwhelming that, in the exercise of its appointing prerogatives for DCEs, 30% of members of the DAs and other sub-district institutions, such as Unit Committees, Town, Urban and Zonal Councils, partisanship considerations are becoming more paramount than the claim of stakeholder participation and gender balance.

All of the above significantly limit the degree of local accountability through MMDAs and also impact on the extent to which NALAG can be termed a true representative of local authorities. Its leadership is mainly upwards accountable to the same central government that it is supposed to challenge and negotiate with.

The sub district local government structures are not viable; there are too many, they are too small, they have too many members and they are not fully elected. The functions of sub-district structures are unclear and they have virtually no personnel or financial resources to perform.

Traditional authorities are widely recognised as playing a legitimate and useful role on management of local affairs. Yet there is at present no clear framework for their involvement in MMDAs or in the interlinkages between MMDAs and traditional authorities.

The regional level is in various legislation and policies indicated to be part of the local government system. However, it does not have an elected council and since its role foremost appear to be one of coordination, oversight and support to MMDAs on behalf of central government, it appears that it may be useful to clarify its role as one of a deconcentrated layers of central government rather than proper local government.

3.2 Main Recommendations for the Political and Administrative Framework

The Decentralisation Policy should:

- Promote increased democratization of MMDAs. In the short term this may include measures to streamline the system for appointing “technical” and “stakeholder” representatives in the MMDAs to ensure that this process does not compromise the democratic principle of local representation and ownership of local government decision-making. This can be done by codifying the modalities for appointing the 30% to include clear, unambiguous and transparent guidelines – such as the precise number of traditional authorities, women, persons with disabilities and persons with special skills. Such appointments should then be made before an election for MMDAs and not after the exercise of the peoples’ franchise. In the long run, government appointments in the MMDAs should be abolished, and all members of the MMDAs and the DCE elected, in order to bring the principle of democratic representation in line with the Constitution. If “skills” and “stakeholder” representation are required, a separate mechanism should be developed to achieve this objective.
- Ensure that lines of accountability in MMDAs are clear: the primary lines of accountability should be downward to the local residents through their elected representatives.
- Reconsider the status of the regional administration – it may be proper to define it clearly as a deconcentrated central government office rather than a local government.
- Devise or recommend a process leading to a complete restructuring of the sub-district structures; their functions need to be defined, realistic systems for elections designed, their numbers reduced, the numbers of members in each level to be reduced and finally their financing need to be secured.

4. LG Finance

4.1 Main issues and Challenges of LG Finance

It is obvious that some progress has been over the past 10 years in areas such as the overall legal framework for MMDA finance, particularly concerning: i) financial management (issuing of new financial management, procurement and internal audit acts and regulations), within the treasury systems (such as the ongoing realignment of the treasury system and the move towards direct flow of funds to the agencies/authorities); ii) the transfer systems (some improvements in the DACF and the ongoing design of the new District Development Fund (DDF) with the overall aim to improve and harmonise the existing transfers to MMDAs and focus on improving the MMDA performance incentives) and iii) various capacity building initiatives, such as initiative to strengthen the budgets towards the MTEF and preparations for composite budgeting. In addition, various studies of the transfer schemes, financial management performance and revenue mobilisation practices of the MMDAs have been completed, which will provide valuable input to the coming reforms.

The study has also identified a larger number of challenges and risks in the existing system of MMDA finance, which needs to be addressed and resolved in the coming overall Fiscal Decentralisation Framework as an integrated part of the Decentralisation Policy and in the strategic implementation arrangements.

First, there is a need for a fiscal decentralisation framework (concise policy, strategy with implementation plan) and a better institutional coordination of the various pieces of the fiscal decentralisation reform work – the grant system, improvements in the IGF, financial management reforms, monitoring systems, etc.

Second, the integration of the sector departments into the MMDAs and changes in the functional assignments will require changes in the overall funding system as well as in the sectors, but the preparations of this has not yet taken off in a coordinated manner.

Third, internally generated funds (MMDA own source revenues) have not improved along with the increase in the transfers. The MMDA revenue potential is not well known, but expected to be considerable. The MMDAs capacity and incentives in most IGF areas are weak and the support from the central government scattered and insufficient. The legal framework for MMDA revenue mobilisation is outdated and non-conducive, particularly in areas such as setting of rates and MMDA borrowing. There are initiatives under way under work on the draft Local Government Finance Bill, but there is need to continue the dialogue on how to improve this area to ensure a sustainable, efficient and accountable MMDA funding system. A thorough Review of the local Government Finance Bill is recommended.

Fourth, the existing intergovernmental fiscal transfer system is fragmented in many sources (DACF, HIPC, development partners' on and off-budget funding, sector funding, statutory funding systems, etc.), characterised by multiple planning, budgeting, accounting, reporting and auditing systems, delays in announcements and transfer of funds, and lack of transparency and sufficient accountability. The DACF system is generally conducive for fiscal decentralisation and could be a vehicle for future reforms, but needs improvements in certain areas, such as the allocation criteria, transparency, accountability and transfer flows. None of the existing grant systems provides incentives for the MMDAs to improve performance.

Fifth, the planning and budgeting procedures are not linked, budgets are not integrated and prioritized across the sectors. The plans and budgets are developed in parallel and timing is not well sequenced to ensure linkages between the recurrent and development budget components and the involvement of the assemblies in real decision-making on priorities vary greatly.

Sixth, the financial management systems, procedures and practices leaves room for improvements, particularly in areas such as streamlining of the charts of accounts, accounting and reporting practices, lack of accounting manuals and needs to strengthen the internal control and internal as well external audit.

Seventh, the central government monitoring and information, data processing and analytical capacity concerning the MMDA finance needs to be strengthened.

4.2 Recommendations on LG Finance

The Policy Review has defined a number of policy as well as technical recommendations for the way forward in order to address the identified challenges in a comprehensive and sequenced manner. The recommendations are based on core *guiding principles* as stipulated in the existing

legal framework, good practices and international experiences. It is recommended to outline these in Decentralisation Policy:

- Expenditure assignments should be in accordance with the principle of subsidiarity (see chapter 2) and well defined for each tier of governance to pursue efficiency and accountability;
- Revenue assignments should be clearly defined, stipulated in the legal framework, aligned with the MMDAs' functions and commensurate with these, allowing the MMDAs sufficient room to adjust the revenues to the local needs. Significant MMDA own source revenues (assignment of revenues) are important to ensure ownership, accountability and sustainability;
- The intergovernmental fiscal transfer system should be harmonised, simple, objective, fair, transparent, timely, poverty sensitive and with an element of performance based allocation to promote MMDA efficiency and good governance;
- Measures to improve MMDA financial management should be strong, comprehensive and well coordinated, and based on the notion that certain capacity can be build as a "learning-by-doing" approach, as long as strong incentives are put in place;
- Systems of MMDA finance should promote downwards accountability, transparency and participation in the core issues, particularly concerning planning, budgeting and budget execution;
- Various reform initiatives in the field of fiscal decentralisation, particularly in the areas of IGF, the transfer systems and budgeting and financial management reforms should be well coordinated. The fiscal decentralisation reform should be carried out in a balanced and sequenced manner and should pursue a proper balance between decentralisation of functions/responsibilities (expenditure assignments) and fiscal resources (revenue assignments) and balancing the aim of ensuring sufficient local autonomy/flexibility/efficiency in resource allocation with aim to ensure achievements of national targets and objectives.

At the implementation level, one of the core areas for focus should be, based on the clarification of the expenditure assignments, to start reviewing the cost implications of the transfer of functions from the central government to MMDAs and to ensure that the revenues assignments are commensurate with the expenditure assignments.

The IGF should be improved through a number of mutually strengthening initiatives, including revisions of the legal framework with clear definition of the MMDA autonomy to defined the tax base and rates, capacity building support and guidance and improved incentives (particularly in the transfer system) for the MMDA to mobilise revenues.

The transfer system needs to be streamlined and harmonised. The coming DDF, performance based transfer scheme, with annual assessment of the MMDA's performance, is a potential strong vehicle for this, if properly linked with the existing development transfer scheme, the DACF and can link the development funding and capacity building initiatives through a strong performance incentive system. The funding systems for the sector activities will need to be elaborated, ensuring a proper balance between non-sectoral and sectoral (earmarked) grants.

The PFM reforms, targeting the MMDA level, such as the treasury reforms, composite budgeting and planning, budgeting and accounting guidelines require strong political and technical support, particularly with the coming integration of the sectors and the MMDAs. The PFM reforms should integrate the MMDA reform work at an early stage.

The planning and budget approval processes should be improved. Amongst the measures proposed are: i) to advance the announcement of the DACF transfers through indicative planning figures prior to the start of the Finance Year, ii) to adjust away from micro-control and approval to general monitoring of budget guidelines, iii) to ensure that assemblies are involved in the final budget approval process, iv) strengthen the linkage between the plan and budget and the recurrent and development budget components, moving towards the integrated MTEF principles.

The coordination of the fiscal decentralisation reforms should be strengthened by establishment of one umbrella body, with representatives from all core stakeholders (MoFEP, MLGRDE, MPRS, LGSC, DACF, NALAG, representatives from sector ministries) to coordinate the initiatives within IGF, transfers, planning, budgeting and financial management reforms. MoFEP is in a good position to chair this cooperation.

5. LG Human Resources Management

5.1 Key LG HRM Issues

The Local Government Service (LGS) Council has initiated work to operationalise the new service and presented in November 2006 its report on Integration of Departments into MMDAs. The recommended immediate establishment of the decentralised departments and integration of line departments including education and health into MMDAs awaits approval of Implementation Memorandum by Cabinet. This may establish an integrated district structure where all heads of departments are answerable to the District Chief Executive (DCE) through the District Coordinating Director (DCD).

However, the LGS is yet to develop detailed guidelines for recruitment, training, promotion, remuneration and disciplinary procedures within the service; it is unclear to what extent MMDAs will be granted autonomy in HRM issues.

The current system significantly limits LG autonomy and control over staff:

1. Recruitment and appointment procedures are centralised except for most junior staff cadres; the current system leads to limited allegiance of staff to Assemblies and is also administratively very slow; several cases were reported on where positions have remained vacant for years in districts and delays in effectuation of appointments and registration on payroll.
2. The central ministries manage staff transfers with occasional consultations with Assemblies. Transfers have in several cases led to LG frustration since they may have invested in capacity building of staff just prior to transfers.
3. Attraction and retaining of staff is problematic in several districts considered “remote” or otherwise disadvantaged. A systematic assessment of the scope of this problem has not been undertaken to date but the problem appears significant – also for core administrative posts such as District Planners.
4. The staffing of MMDAs appears uncoordinated. Some MMDAs complain of long standing vacancies. This is in part explained by lack of coordination between OHCS, which approves recruitment requests, and MFEP, which gives financial clearance for MMDAs to engage staff.
5. A problem related to the above is the absence of national data on staffing patterns in MMDAs – the information is scattered across several central and local institutions. At central level there is no overview of how many staff are locally employed.
6. LGs have, except for staff paid from IGF, no control over the size and structure of their establishments. Structures are determined centrally and staff paid centrally – the bigger the

approved number of posts the more salaries will be paid by central government. In this manner LGs have for most staff categories no incentives for staff retrenchments nor the potential to tailor staff structures to local priorities.

7. Procedures for staff discipline are very weak. While district based heads of departments may report on staff performance they cannot dismiss but most often only recommend for transfers. Local autonomy for staff discipline e.g. for teachers appears ineffectual and cases of suspension rare even in extreme cases of staff performance.
8. Promotions are largely done automatically based on years in service rather than based on performance as assessed locally. Thus the system at present gives weak incentives to staff to enhance their performance in accordance to local needs.

Capacity Building in LGs is mainly interpreted as training and is currently provided in a fragmented, duplicative and uncoordinated manner. Donor funded projects is the major source of funding. Government funded support is often deducted the DACF and administered centrally. LGs have limited autonomy to plan and manage their own capacity building. However, a system is under development through the NDAP that seek to coordinate, rationalise and decentralise capacity building in MMDAs by

- Systematically to assess MMDAs capacities through an annual assessment exercise (FOAT) that also will determine key capacity building needs of individual LGs,
- Through the proposed DDF grant modality to provide incentives for MMDAs to address those identified gaps and
- Provision of the financial means to MMDAs that will enable them to plan and implement locally identified capacity building measures. This Capacity Building Grant is a window of the overall DDF. However, the CBG still needs substantive design work before it can be effectively implemented.

Institutional arrangements for central oversight and support to HRM in LGs has changed significantly over the last 4 years with the Institute of Local Government Studies and Local Government Service Council now being the lead institutions. However, this is yet to be operationalised as both institutions at present are substantially under funded compared to their substantive mandate.

5.2 Main Recommendations on LG HRM

- 1) The envisaged Decentralisation Policy should further clarify the vision for decentralised HRM. It is recommended that the following areas of HRM and corresponding autonomy of LGs be clarified in Policy:
 - a) The degree to which LGs are to hold staff accountable and the measures that will be put in place to ensure that. This may encompass decentralisation of powers to hire, fire and discipline. Other decentralised measures for performance management should also be clarified. The Policy may establish some of these measures as a long-term vision whereas others, such as decentralised measures for performance management, should be implemented immediately.
 - b) The degree to which LGs will be given staff budget and establishment control.
 - c) Measures to ensure that also “remote or disadvantaged” districts can attract and retain staff; this could include introduction of some “hardship allowances”, other special benefits

or a policy regarding enhanced training and career development benefits for staff in such areas.

Issues of a more operational character that need to be addressed in a Decentralisation Implementation Strategy include:

- 1) Immediate support for the LGS Action Plan for establishment of the decentralised departments and integration of line departments including.
 - Education and sensitisation of stakeholders on the changes in the public administration system,
 - Implementation arrangements, including monitoring systems,
 - Development of scheme of service; prescribing terms and conditions of service and remuneration;
 - Passage of LI to effect the transfer of staff and functions to LGs,
 - Filling of MMDA staffing gaps through transfers and recruitments,
 - Improvements for faster and more effective payroll management.
 - Capacity building of staff and assembly members on the new roles and functions;
 - Arrangements of asset transfer,
 - Effecting implementation of integrated district budgets
- 2) Through LGS:
 - Development of performance standards for District Assemblies and Regional Coordinating Councils (possible as continuous updating of FOAT),
 - Monitor and evaluate performance standards
 - Develop and coordinate personnel plans and assess personnel needs of LGs,
 - Develop and coordinate training plans of LGs,
 - Develop professional standards and guidelines for the various categories of staff of the LG service,
- 3) Establishment of LG capacity building modalities, including financing modalities – building upon the proposed FOAT and capacity building grant within the DDF,
- 4) Implement studies, research and routine monitoring of HRM practices and issues within LGs.

6. Decentralisation Reform Coordination

6.1 Decentralisation Reform Coordination - Key Issues

In Ghana the Ministry responsible for Local Government has over the years been the lead actor for decentralisation reforms, but at the same time it has for long also been widely recognised that the Ministry on its own cannot progress decentralisation reforms when this is defined as wider decentralisation by devolution of central government functions to local governments including the transfer of significant functions, staff and resources from sector ministries to MMDAs.

Various institutional arrangements for coordination of decentralisation have therefore been put in place to ensure wider reform coordination for the implementation of the National Decentralisation Action Plans (NDAP) since 2003. However these have to date not been effective for cross-sectoral reform coordination. Recently the Government created a Ministry of Public Sector Reform, which has a broad mandate of reform coordination. However, the capacity of the MPSR is very limited and its coordination role is related to no less than 22 key reforms of which decentralisation is one.

The established decentralisation-working group under the MPSR is yet to be operational and the MPSR is in reality mainly concerned with core central government reform issues; in particular organisational restructuring of the civil service, pay and pension reforms as well as reforms of subvented agencies.

6.2 Decentralisation Reform Coordination – Recommendations

The form of decentralisation the team recommend for elaboration in the Decentralisation Policy is decentralisation by devolution. This will require a substantive reorganisation of the public sector: not only the effective creation of the decentralised departments at MMDAs but also a reorganisation of the central government ministries from where functions and corresponding financial and human resources are to be transferred to local governments. This crucial phase of the reforms will require strong policy direction and oversight.

While policy direction will be provided by the expected Decentralisation Policy, then it will also be necessary to establish clear institutional arrangements for monitoring and guiding the key ministries and central institutions efforts for implementation of the policy. The capacities and mandates of both the MPSR and MLGRDE are too limited for that purpose. It will instead require a form of higher-level political direction and “neutral brokerage” that only can be mobilised from the Presidents Office. This may possibly best take the form of a “Commission on Decentralisation by Devolution”.

It is important that the Commission focuses on core legal and policy aspects and is not overburdened with a range of technical and lower level policy issues that can be dealt with in specialised institutions. Effective coordinating arrangements will therefore include both high level policy oversight as well as coordination of more technical aspects of reform in specialised institutions dealing with LG Finance and LG Human Resource Management respectively.

Finally it should be noted that several of the core ministries, in particular the ministries responsible for local government and finance are in need of having their capacities enhanced in order effectively be able to facilitate decentralisation reforms and manage the new types of CG-LG inter relationships. The future role and relevance of the existing Decentralisation Secretariat will have to be assessed as part of such overall capacity building arrangements.

7. Way Forward

It is recommended that the process for completing the decentralisation Policy include at least the following two steps (in addition to the technical work by Government staff in drafting the policy paper):

- Step 1: Review and Endorsement by Inter-Ministerial Steering Committee for Decentralization Policy Review
The inter-Ministerial Steering Committee comprises the Ministers responsible for Local Government, Finance and Public Sector Reforms.
The Committee will need to endorse the recommendations presented by the Review process to guide further direction of work.
- Step 2: Wider Stakeholder Dialogue on Decentralization Policy to Obtain National Buy-in
The process of completing a national Policy on Decentralisation should include a wide range of stakeholders from both Government as well as from political parties and civil society to ensure buy in and commitment to reforms. The Main report provides recommendations for the composition of the stakeholder forum.