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## The Referendum in the Portuguese Constitutional Experience

Rodrigues, A.F.G.

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**Author:** Rodrigues, António Filipe Gaiao

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## Chapter 5

### The Referendum on the Administrative Regions

#### 1. The Administrative Regions in the 1976 Constitution

The democratic Constitution of 1976 enshrined the autonomy of local authorities as a fundamental principle. The territorial organisation of the State included a system of political and administrative autonomy for the island regions of The Azores and Madeira. It considered them as autonomous regions, holding self-government bodies with legislative powers. This reflected their geographic, economic, social and cultural characteristics, as well as the island populations' historical aspirations for autonomy.

In the mainland, however, where such conditions do not exist, the Constitution only foresees that local authorities can hold their own representative bodies, seeking to pursue the interests of local people, without any power to legislate (Article 237). For the mainland territory, the Constitution defined three categories of local authorities: the parishes (*freguesias*), the municipalities (*municípios*) and the administrative regions (*regiões administrativas*) (Article 238).<sup>249</sup>

Title VIII on the organisation of political power, which is dedicated to local government, has a chapter on each of the local authority categories. Therefore, chapter IV was entirely dedicated to the administrative regions, establishing that the regions have the task of coordinating and supporting the municipalities' action, and public service management, as well as take part in the making and execution of regional plans (Article 257). The representative bodies of the regions are: **a**) the regional assembly, which included members directly elected by the citizens, and a lower number of members indirectly elected by the municipal assemblies (Article 259); **b**) a regional junta, as the executive body, elected by the regional assembly through a secret ballot amongst their members (Article 260); **c**) a regional council, as an advisory body, representing the cultural, social, economic and professional organisations of the respective area (Article 261). In each region, the Government has a delegate appointed by the Council of Ministers (Article 262).

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<sup>249</sup> In the autonomous regions of The Azores and Madeira, the Constitution established only parishes and municipalities in order to avoid any overlapping between the autonomous regions and the administrative regions.

As for the regions' institutional setup, **a)** the regions shall be instituted simultaneously, and the regional statute of each one can be different from the others; **b)** the regional areas shall be the same as the 'plan-regions'; **c)** the actual institution of each region shall depend on the passing in the majority of municipal assemblies, since they represent the greatest part of the population (Article 256).<sup>250</sup>

The regionalisation process would have two different moments: the simultaneous creation of all regions by law in Parliament; and, after that, the municipal assemblies should pronounce themselves on the actual institution of their own regions. The regionalisation process would be implemented if approved by the majority of municipal assemblies, representing the majority of the population. This second phase did not demand simultaneity [Sá, 1989, p. 25; Canotilho & Moreira, 1993 (II) p. 409].

Changing the parishes and municipalities that already existed in the local authorities was easy. The revolutionary power instituted on 25 April 1974 ratified provisional structures for the election of local governments through popular meetings, which replaced the office-holders appointed by the dictatorship. That worked until the first election of democratic local government bodies, as provided by the Constitution, on 12 December 1976.

As to the administrative regions, they should be instituted as laid down in the Constitution. However, the process was more complex, since this went beyond creating new bodies based on territorial constituencies that already existed, like the municipalities or parishes. The administrative regions would be new structures, built on territorial bases that did not previously exist. They would be instituted by an unprecedented process of organic referendums in the municipal assemblies. The administrative regions would be local government structures occupying an intermediate level between the municipalities and the central public administration. However, they would be institutionally and territorially different from any previously existent intermediate structure.

The territorial division inherited from the 19<sup>th</sup> century included an intermediate territorial division known as the district. These structures had an irregular existence, local government authorities in historical times of decentralisation and mere administrative subdivisions in times of centralization (Oliveira, 1993, pp. 48-55; Sá, 1989, pp. 65-68). When the

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<sup>250</sup> All these provisions were passed unanimously in the Constituent Assembly. On the administrative regional Constitutional system in 1976, see Sá (1989, pp. 21-24).

democratic revolution broke out, the districts were mere extensions of the central State, led by civil governors with the regime's confidence, and with some functions of an administrative and security nature. The choice of the Constituent Assembly in 1976 was to provisionally keep the districts, while the administrative regions were not constituted. In each district, there would be a deliberative assembly composed by the municipalities' representatives, and the civil governor would stay as the Government's representative (Article 263).

It is important to distinguish the administrative regions from the regional structures of planning, which were geographically removed from the central administration of the State. On 20 December 1967, Law No. 2133 passed the bases of the organisation and execution of a so-called 'Foment Plan' for 1968-1973, giving the responsibility to approve a plan for regional development to the Council of Ministers for Economic Affairs. The organisational structure to execute such a plan was defined in 1969 with the creation of the plan-regions, through Executive Law No. 48.905, of 11 March. In the mainland territory, four plan-regions were created (North, Centre, Lisbon and South),<sup>251</sup> with regional advisory commissions whose presidents were appointed by the Government, with the other members being appointed by the districts. These commissions had a mere advisory role towards the governmental decisions on regional planning (Oliveira, 1996b, pp. 495-499).

The 1976 Constitution, within the Title on economic planning, retained the idea of dividing the country into plan-regions (Article 95) in order to assure the balanced development of the country. It was up to the law to determine which regions would be created, and which bodies they should have. The administrative regions foreseen in the Title of the Local Government would be something different. They should have the same territory as the plan-regions, but they should be indeed local authorities at a regional level, with bodies legitimised through democratic elections. They should also replace the districts, and they should have specific responsibilities established by law. However, there was a long way to go before these would be introduced.

## **2. The Troubled Process of Institution**

### **2.1. I Legislature: 1976-1980**

In the I Legislature, on 15 June 1977, the *PCP* took the first step for the institution of the administrative regions by introducing Bill No. 68

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<sup>251</sup> The Azores and Madeira also had plan-regions.

/I [DAR, 120, 16 June 1977, 7<sup>th</sup> Supplement, pp. 4130-(135-142)]. The PCP proposed the institution of eight administrative regions (*Alentejo, Algarve, Beira, Estremadura e Vale do Tejo, Lisboa, Minho, Douro e Trás-os-Montes, and Porto*). With 30 days of the publication of the law, the municipal assemblies should give their opinion on the proposed boundaries and the date of the regional assembly election. This election would take place on 2 April 1978 if the majority of the municipal assemblies did not oppose it. The PCP considered it fundamental to institute the administrative regions so that the political and institutional framework established in the Constitution would be complete. However, Parliament never discussed that bill.

In January 1979, Sá Carneiro (1979, p. 161) proposed in his draft amendment to the Constitution, to change the Constitutional system to introduce the administrative regions. The organic or indirect referendum of the municipal assemblies should be replaced by a popular referendum of the registered citizens of each regional area.

On 21 March 1979, the PS introduced Bill No. 226/I, [DAR (II) 43, 22 March 1979, pp. 914-920] on the plan-regions and on the regional planning organisation. It was not on the institution of administrative regions, but on the division of the country into plan-regions as laid down in Article 95 of the Constitution. According to this article, the area of the administrative regions and of the plan-regions should be the same. Therefore, the PS proposed the division of the country into seven plan regions: (*Norte Litoral, Norte Interior, Beira Litoral, Beira Interior, Estremadura e Vale do Tejo, Alentejo and Algarve*). The procedure regarding the establishment of local authorities at a regional level should be wisely considered. This bill was never discussed either. Meanwhile, the V Constitutional Government, led by Maria de Lourdes Pintasilgo and created to last a hundred days up to the elections of 2 December 1979, passed Executive Law No. 494/79, of 21 September, turning the Regional Planning Commissions into Regional Coordination Commissions.

After the elections, the AD (*PSD/CDS/PPM*) Government drew the 'Regionalisation White Book'. It was not a document that would serve as a base for the advancement of the regionalisation process, but a general reflection on the subject, with a view to the next elections, which were due in October 1980, as was Constitutionally demanded (Sá, 1989, pp. 75-76).

Still in the I Legislature, on 13 June 1980, the PS introduced its bill on plan-regions and regional planning organisation once again (Bill No. 505/I), [DAR (II) 71, 14 June 1980, pp. 1195-1201], proceeding with

Bill No. 506/I [DAR (II) 71, 14 June 1980, pp. 1202-1206] to create a pilot administrative region in the *Algarve*. They considered that this region had been defined for centuries, and had a strongly defined regional identity. For these reasons, it would provide the perfect conditions for a pilot study on regionalisation. This Bill was obviously unConstitutional because it did not respect the Constitutional rule that the administrative regions must be created simultaneously. However, it was not discussed in that legislature or the next one when it was introduced again (Bill No. 102/II), [DAR (II) 17, 9 January 1981, pp. 299-304].

## **2.2. II Legislature: 1980-1983**

In the II Legislature, which commenced after the 5 October 1980 elections with a new absolute majority for the *AD*, the Assembly of the Republic assumed Constitutional revision powers. On 25 April 1981, when the Government of Pinto Balsemão was already in office, the *AD* introduced its draft amendments to the Constitution, reviving the idea of a referendum for the institution of administrative regions as proposed by Sá Carneiro. It was the only draft that included changes regarding the administrative regions, and as to their institution it proposed the end of the organic referendum foreseen in Article 256. The actual institution of each region needed the approval of the registered citizens living in the regional area, but it did not require the audition of the municipal assemblies before the simultaneous creation of the administrative regions by law. The *AD* also proposed to remove the territorial correspondence between the plan-regions and the future administrative regions.

After a political crisis in the summer of 1981, the VIII Constitutional Government, led once again by Pinto Balsemão, promoted regionalisation of the mainland as one of its priorities. During the debate of its Programme before the Assembly of the Republic, on 14 September 1981, the Prime Minister admitted an eventual referendum on the regionalisation process. The Government would send the legislative acts needed to start the regionalisation process to the Assembly of the Republic. As for the creation of the administrative regions in the mainland, the regional elections and popular participation at that level of power (particularly through referendums), these would all be topics of a deep reform of the institutions and of Portuguese democracy in the 1980s [DAR (I) 94, 15 September 1981, pp. 3944-3945].

On 29 October 1981, the Council of Ministers passed organisational measures that had the regionalisation process in view. Resolution No. 231/81, published on 16 November, created four structures

in the governmental range: **a)** there would be a working group chaired by the Secretary of State for Regional and Local Administration that would globally supervise the regionalisation process and propose political measures to the Council of Ministers; **b)** there would be a Supreme Council for Regionalisation Affairs, chaired by the Prime Minister or by the Home Minister under his delegation, composed by 12 to 15 members appointed by the Prime Minister; **c)** there would be Technical Staff for the Regionalisation, as a support unity of coordination and planning for the regionalisation process; **d)** there would be a Commission for Administrative Devolution. These structures should be created before the end of 1981.

On 16 December 1981, the Council of Ministers passed Resolution No. 1/82 of 4 January, which defined and scheduled several phases of the regionalisation process in the mainland. What should happen from January to June 1982 included: **a)** the conclusion of the debate on the 'White Book'; **b)** the consultation of the majority and opposition parties; **c)** the Government introduction of bills on several subjects regarding the statute and functioning of local authorities; **d)** the definition of the role of the districts up to the institution of the administrative regions; **e)** the study of the transfer of powers, services, and human, material and financial resources to the regions; **f)** the study of technical and administrative services to create support for the regional bodies; **g)** the development of actions to value regionalism and to increase the consciousness of the regionalisation process; **h)** the introduction of the Bill of Framework Law on the Administrative Regions to the Assembly of the Republic.

What should happen between July and December 1982 included: **a)** the reconsideration of the regionalisation policy in light of the Constitutional revision; **b)** the schedule of transfer of powers, services and resources to the regions; **c)** the definition of the transfer of State and district property goods to the regions; **d)** the definition of the statute of civil governors as coordinators of the peripheral administration of the State; **e)** the introduction of a Government Bill including the regional division of the mainland territory.

What was scheduled to happen between January and December 1983 included: **a)** the institution of each region through votes by the municipal assemblies or, eventually through regional referendums; **b)** the appointment of installation commissions for each region; **c)** the re-examination of regionalisation policies in light of the agreement to join



the European Community; **d**) the publication of the legislation and complementary rules needed for the regionalisation.

The following developments were scheduled for between January and October 1984: **a**) the election of the representative bodies of the regions and the installation of their holders; **b**) the extinction of the Regional Coordination Commissions; **c**) the extinction of the districts.

Meanwhile, the Constitutional revision process was proceeding. The first reading of the *AD* proposals was held in a sub-committee on 16 November 1981. The referendum proposal had opposition from the *PS* and the *PCP*. The *ASDI* and the *UEDS* reserved their position for a later moment [*DAR* (II) 19, 25 November 1981, 3<sup>rd</sup> Supplement, pp. 432-(63)]. In the *CERC* meeting, the *PS* and the *PCP* explained the reasons for their disagreement. Luís Nunes de Almeida (*PS*) considered that the replacement of the organic referendum of the municipal assemblies, which demanded a double majority (the majority of the municipalities representing the majority of the population) through a direct referendum, could lead to a regionalisation process against the will of the municipalities [*DAR* (II) 50, 6 February 1982, 1062-(34)].<sup>252</sup> Amândio de Azevedo (*PSD*) recognised that the proposal seemed unviable, since it could not be sustained if other *AD* proposals regarding the referendum were not accepted [*DAR* (II) 50, 6 February 1982, 1062-(35)].

The *CERC* proposal submitted to the plenary sitting passed unanimously on 21 July 1981. It laid down that the regions should be created simultaneously, after consulting the municipal assemblies, and that the law may lay down differences between the rules applicable to each one [*DAR* (I) 124, 22 July 1982, p. 5259]. The *AD* proposal to abolish the need for contiguous boundaries between the plan-regions and the future administrative regions did not have the required two-thirds majority. It only had 100 yeay votes, from the *PSD*, the *CDS* and the *PPM* and 77 nay votes from the *PS*, the *PCP*, the *ASDI*, the *UEDS*, the *MDP/CDE* and the *UDP*. The *PS* proposal on the territorial coincidence between the administrative regions and the plan-regions passed with negatives votes only from the *PPM*. The *AD* proposal on the referendum was sent again to the Committee for appreciation, with the *PCP* being the only party that abstained [*DAR* (I) 124, 22 July 1982, p. 5259]. In the meeting of 29 July the *CERC* rejected the proposal [*DAR* (II) 134, 30 July 1982, p. 2392].

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<sup>252</sup> See also the speech by Vital Moreira on behalf of the *PCP* [*DAR* (II), 50, 6 February 1982, pp. 1062-(36-37)].

In the last plenary sitting for the detailed vote on the Constitutional revision, the *PS* proposal, introduced only a few days before, on 27 July, was considered. It had a new provision that allowed the exceptional creation of pilot regions in zones that would surely become administrative regions. That creation would depend on three cumulative conditions: **a)** the region should be a distinct territorial unit, historically speaking, **b)** its population should have its own social, cultural and economic identity, and **c)** its creation should reflect the historic and general will of the population. That proposal was defeated, with 104 yeas (*PS, PCP, PPM, UEDS, MDP/CDE* and *UDP*), 80 nays (*PSD, ASDI* and 15 *CDS*) and the abstentions from the remaining *CDS* members [*DAR* (I) 132, 13 August 1982, p. 5562]. By the end of 1982, after a long political crisis, the Prime Minister resigned and the Assembly of the Republic was dissolved, without any concrete announcement as to the process of regionalisation.

### **2.3. IV Legislature: 1985-1987**

Only on 22 April 1986, during the IV Legislature, with a minority Government in office led by Cavaco Silva, whose programme said nothing about regionalisation, the issue returned to the Assembly of the Republic with the introduction of Bill No. 187/IV by the *PCP* [*DAR* (II) 57, 26 April 1986, pp. 2022-2036]. After the introduction of the *PCP* bill, the Internal Affairs and Local Government Committee approved a schedule for the regionalisation, foreseeing the introduction of bills up to 15 January 1987, and the opinions of municipal assemblies up to 15 March.

By the end of 1986, eight other initiatives were introduced: Bill No. 320/IV (*PRD*) on 12 December [*DAR* (II) 21, 17 December 1986, pp. 886- 896]; Bill No. 330/IV (*MDP/CDE*) on 6 January 1987 [*DAR* (II) 27, 9 January 1987, pp. 1291-1309]; Bill No. 334/IV (MP Gonçalo Ribeiro Teles) on 13 January [*DAR* (II) 30, 16 January 1987, pp. 1492-1506]; Bills No. 337/IV and 338/IV (*PS*), [*DAR* (II) 31, 17 January 1987, pp. 1526-1533]; Bill No. 340/IV (*CDS*), [*DAR* (II) 31, 17 January 1987, pp. 1534-1539] and Bill No. 341/IV (*PSD*), [*DAR* (II) 31, 17 January 1987, pp. 1539-1549], all on 15 January; and finally Bill No. 399/IV (*PEV*) on 25 March 1987 [*DAR* (II) 59, 23 March 1987, pp. 2398-2411].

With its initiative, the *PCP* wanted to unblock the regionalisation process, which had been a problem since 1976 due to a lack of political will. According to the *PCP*, the difficulties that allegedly resulted from the Constitutional demand of simultaneity, the divergences on the regional division or different conceptions as to the nature and

responsibilities of the future regions were all false arguments used to as cover for the lack of will to move forward with the regionalisation process.<sup>253</sup>

The *PCP* bill assumed the districts as a starting point. Then, the municipal assemblies should give their opinions within the time limit of 90 days, taking one of the following positions: **a)** agreement with the proposed division; **b)** fusion with the contiguous regions; **c)** integration of their municipality into another region. After verifying the municipal assemblies' opinions, the Assembly of the Republic should pass the laws instituting each one of the administrative regions.

The *PRD* bill proposed nine regions (*Entre Douro e Minho, Trás-os-Montes, Beira Litoral, Beira Interior, Estremadura, Ribatejo, Alto Alentejo, Baixo Alentejo* and *Algarve*). The municipal assemblies should give their opinions within the time limit of 90 days and the Assembly of the Republic should then pass the laws instituting each one of the administrative regions.

The *MDP/CDE* bill proposed 10 regions (*Noroeste, Nordeste Transmontano, Beira Ocidental, Beira Interior, Centro Litoral, Alto Alentejo, Baixo Alentejo, Algarve, Zona Metropolitana do Porto* and *Zona Metropolitana de Lisboa*). The hearing procedure of the municipal assemblies was the same as the one proposed by the *PCP*.

The independent MP, Gonçalo Ribeiro Teles, proposed eight regions (*Entre Douro e Minho, Trás-os-Montes e Alto Douro, Litoral Atlântico, Beira Alta, Beira Interior, Lisboa e Vale do Tejo, Alentejo* and *Algarve*). The institution of each one would be dependent on the vote, with an absolute majority, by the municipal assemblies. The fusion of regions after their institution would demand a consultation of the voters in the regions that wanted it. This could be requested to the Constitutional Court by 5% of the voters of each of the municipalities in those regions. It is obvious that direct consultation was not Constitutionally allowed.

The *PS* introduced a Bill of Basic Law for Regionalisation without any territorial division, characterising only the principles of the administrative regions. It simultaneously introduced a Bill of Framework Law for Administrative Devolution.

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<sup>253</sup> See in this sense the speech by João Amaral [*DAR* (I) 34, 23 January 1987, pp. 1342-1342].

The *CDS* did not propose any regional division either, leaving it for a future law by Parliament. Following the legislative initiatives regarding the regions would depend on the express agreement of at least two thirds of the municipal assemblies of each proposed region. The actual institution of each region would depend on the will of the respective population expressed through a binding referendum. This procedure was obviously not Constitutionally permitted.

The *PSD*, in its Bill of Framework Law of Administrative Regions, did not introduce any regional division in the institution process. That bill only ruled on the decision procedure of the municipal assemblies as laid down in the Constitution.

The final bill, presented by the *PEV*, proposed 11 regions (*Minho, Porto, Trás-os-Montes, Beira Litoral, Oeste, Beira Interior, Ribatejo, Lisboa, Alto Alentejo, Baixo Alentejo* and *Algarve*). The hearing process of the municipal assemblies was similar to the one proposed by the *PCP*.

Seeing the contents of the initiative, we can see that the process would not be easy, not only because of the difference among the territorial divisions that was proposed, but essentially because of the abstention from the two main parties (the *PS* and the *PSD*) to introduce any real solution. They preferred to address it at a later and indeterminate moment. No party defined itself against the regionalisation, but having in mind the *PS*, *PSD* and *CDS* bills, it was clear that the process did not have any conditions to move forward during the IV Legislature.

In a speech given on behalf of the *PS* on 8 January 1987, Eduardo Pereira referred to the difficulties of the process, which in his opinion would last many years to build and would go through three phases: the first included discussing the bases of the regionalisation; the second was to define the specific principles for creating the several regions; and the third, to institute each region. He even admitted that the regionalisation process could include a direct consultation of the citizens, in addition to a wide-ranging institutional and autarchic consultation. He finally announced that the *PS*, in the next Constitutional revision, would propose the removal of the Constitutional obstacles for to regionalisation [*DAR* (I) 28, 9 January 1987, pp. 1178-1180].

Meanwhile, the *PS* and the *PSD* obstructed the legislative procedure. On 22 January 1987, they decided to create an Ad Hoc

Parliamentary Committee for the Regionalisation,<sup>254</sup> while several senior members of the *PS*, the *PSD* and the *CDS* declared that regionalisation was not a priority and postponed it for after the Constitutional revision, meaning after 1987.<sup>255</sup> In the end, the fall of the *PSD* minority Government and the dissolution of the Assembly of the Republic in April 1987 ended the IV Legislature.

## **2.4. V Legislature: 1987-1991**

### **2.4.1. The Bills**

After the elections of 19 July 1987, which resulted in an absolute majority for the *PSD*, the *PCP* raised the issue of the regionalisation again, presenting the Draft Deliberation No. 3/V [DAR (II-A) 10, 17 October 1987, pp. 108-109] on 15 October 1987. It proposed the creation of a new ad hoc committee for the regionalisation and the scheduling of the legislative procedure. The bills should be presented up to 15 November 1987 and the municipal assemblies should give their opinions between 1 January and 31 March 1988. On 27 October, this draft was discussed and rejected with nay votes from the *PSD*, the *PS* and the *CDS*, yea votes from the *PCP*, the *PRD*, the *ID* and the *PEV* and abstentions from three independent deputies elected by the *PS* [DAR (I) 15, 28 October 1987, pp. 320-329].

Meanwhile, all parties reintroduced their bills on the regionalisation. On 15 October, the *PS* presented Bill No. 45/V (Framework Law for Regionalisation) and Bill No. 46/V (Framework Law for Administrative Devolution). On 22 October, the *PRD* presented Bill No. 60/V (Framework Law for the Administrative Regions). On 23 October, the *CDS* presented Bill No. 69/V (Basic Law for Regionalisation). On 11 December, the *PEV* presented Bill No. 129/V (Framework Law for the Administrative Regions). On 15 December, the *PCP* presented Bill No. 130/V (Creation and Institution Process of the Administrative Regions) and Bill No. 134/V (Framework Law for the Administrative Regions). Almost five months later, on 6 May 1988, the

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<sup>254</sup> This Committee was created through the passing of Draft Resolution No. 33/IV introduced and passed with yea votes from the *PSD*, the *PS*, the *PRD*, the *CDS* and the *MDP/CDE*, but with the abstentions from the *PCP*, which remained sceptical on that process [DAR (I) 34, 23 January 1987, p. 1353].

<sup>255</sup> See Sá (1989, pp. 92-93) for those declarations with examples published by the press. Also see the speech by Eduardo Pereira and Hernâni Moutinho (*CDS*) supporting the reconsideration of regionalisation in the Constitutional revision, which was applauded by Duarte Lima (*PSD*), [DAR (I) 31, 16 January 1987, p. 1268].

*PSD* presented Bill No. 240/V (Framework Law for the Administrative Regions), (*DAR*, Off-print 5/V, 23 June 1988).

The *PS* bill proposed the creation of the regions by law, which would divide the respective territories, establish their powers and define the election system, as well as the organisation and responsibilities of their bodies. The bills would be sent to a parliamentary committee, which would prepare a hearing of the municipal assemblies, upon which the Government would organise a national public discussion. The whole process should be concluded within the time limit of 120 days. After that, the parliamentary committee would present a report, which would allow the approval of a provisional scheme for territorial division by the Assembly of the Republic. Then the assemblies of the municipalities near the frontier of each region could give their opinion on their inclusion in a neighbouring region within the time limit of 60 days. Finally, the Assembly of the Republic would pass the law to create the administrative regions.

The next step would be the actual institution of the regions. The Government, within 30 days after the publication of the law to create the regions, should appoint a delegate for each region, to initiate the process. Each delegate should solicit the deliberations of the municipal assemblies on the institution of the region within the time limit of 60 days. In case of an affirmative vote from the majority of the municipal assemblies, the delegate should send a report to the Government within the next 15 days, which, in turn should send it to the Assembly of the Republic within the next eight days. After that, the Assembly of the Republic should pass the law instituting the region. In case there is no affirmative vote, the delegate should bring a new hearing process within the next month. If the negative position remained, the process could only be opened again if requested by the majority of the municipal assemblies or after new national elections in the municipal assemblies. The refusal of a region did not jeopardise the others.

The *PRD* maintained the regional division and the institution process it had proposed in the last legislature. The *CDS* insisted on its proposal for binding referendums in each region before proceeding with implementation. The *PEV* also essentially re-submitted its previous proposal. The *PSD* bill did not include any regional division. The Framework Law of the Administrative Regions ruled only on the formal terms of the consultation in the municipal assemblies in order to institute each region after the approval of the law to create the regions by Parliament. The *PCP* presented two bills re-introducing the same

solutions as Bill No. 187/IV. Bill No. 130/V dealt with the process of instituting the administrative regions and Bill No. 134/V of Framework Law for the Administrative Regions, defined the statute of the regions, as well as the composition, form of election, powers and responsibilities of the respective bodies.

The general debate of the bills happened, with a *PS* initiative, on 17 May 1988. A request subscribed by all parliamentary groups was passed. It sent the bills to the Local Government Parliamentary Committee without being voted. The Committee, within the next month, should proceed to the hearing on the topic of the municipal assemblies. That hearing should be concluded by November 1988, and the Committee should then present a report to the plenary up to the end of the year [DAR (I) 89, 18 May 1988, pp. 3597-3630].

#### **2.4.2. The 1989 Constitutional Revision**

The Constitutional revision process elapsed simultaneously with the introduction of draft amendments between October and November 1987. From the 10 drafts introduced, eight proposed amendments to Articles 256 on the institution of regions, in the following terms:

**On the creation of the regions** – The *CDS* proposed that the law should define which municipalities should take part of each region, require the previous agreement of at least two thirds of them, and define the areas with reference to the geographic, natural, social, historical and cultural nature of the territory, taking into consideration its balanced development and the needs and interests of the population. The *PCP*, the *PS*, the independent Helena Roseta, the *ID*, the *PEV* and the *PRD* proposed the end to the legal obligation to create the regions simultaneously. The *PCP* proposed that the law defined the powers of the regions, as well as the responsibilities of their bodies and their financial regime. The *PS* proposed that the powers of the regions, as well as the composition, responsibilities and working of their bodies were defined by law. The *PRD* proposed that the creation, organisation and working system of the regions should be defined by law.

**On the actual institution of the regions** - The *CDS* proposed that the actual institution of each region be approved by a binding referendum from the citizens living in the respective regional area. The *PCP* proposed that the institution of each region could not be refused if the majority of the municipal assemblies representing the majority of the population had given their opinion in favour of the proposed regional area.

**On other subjects** – The *CDS*, the *PCP*, the *PSD* and the *PRD* proposed the end of correspondence between the administrative regions and the plan-regions. The *PCP* proposed to establish, in the Constitution, an obligation for the Assembly of the Republic to approve the general system of mainland regions within 90 days of the Constitutional revision coming into force. The *PS* proposed the same obligation, but with a time limit of one year.

The debate on these proposals took place in the first reading of the *CERC* during the session of 27 July 1988 [*DAR* (II) 54 – *RC*, 2 November 1988, pp. 1676-1688] and the second reading was on 16 February 1989 [*DAR* (II) 93 – *RC*, 28 April 1989, pp. 2704-2719]. In this session, the proposals were submitted to indicate the voting, with a *PS/PSD* joint proposal being passed in favour of Article 256. According to that Article, the administrative regions would be created simultaneously, and by law. It also defined the respective powers, composition, responsibilities and working of their bodies, being able to establish differences as to the applicability of the regime for each one (No. 1). The institution of each administrative region, which would be made by law, would depend on that law and on the affirmative vote of the majority of the municipal assemblies representing the most part of the population of the regional area (No. 2).<sup>256</sup> The removal of the territorial correspondence between the administrative regions and the plan-regions was unanimously approved.

The rest of the proposals were rejected. The *CDS* proposals, including the referendum for the institution of the regions, received nay votes from the *PSD*, the *PS* and the *PCP*. The *PCP* proposals received nay votes from the *PSD*<sup>257</sup> and abstentions from the *PS*. Helena Roseta's proposal to remove the demand of simultaneity for the creation of the regions received nay votes from the *PS* and the *PSD* and yea votes from the *PCP*. The proposals from the *PRD*, the *PEV* and the *ID* received yea votes from the *PCP* and nay votes from the *PS* and the *PSD*.

The plenary sitting of 30 May 1989 ratified the proposals passed in the *CERC*. No. 1, with yea votes from the *PS*, the *PSD* and the *CDS* and nay votes from the *PCP*, the *PRD*, the *PEV*, the *ID* and Mendes Bota (*PSD*). No. 2 only had abstentions from the *PEV* and Mendes Bota. The proposals from the *PCP*, the *PRD*, the *PEV*, the *ID* and Helena Roseta

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<sup>256</sup> In the *CERC*, only the *PCP* voted against No. 1 and abstained in No. 2.

<sup>257</sup> The *PSD* abstained in the proposal that prohibited the refusal of the institution of a region that had obtained the favourable vote of the majority of the municipal assemblies that were consulted.



were rejected by the *PS*, the *PSD* and the *CDS*, having had yea votes from the rest of the parties. The proposals to settle a time limit for the approval of the law to create the regions were also rejected, with nay votes from the *PSD*, yea votes from the rest of the parties and abstentions from four *PSD* members elected in the Madeira region. In the meanwhile, a proposal introduced by the *PS* members elected by the *Algarve* constituency was rejected. It would have allowed the Assembly of the Republic to approve the creation of pilot regions before the law was passed to create the regions in general, as long as it had a two-thirds majority and obtained the approval of the municipal assemblies in the terms provided for in the Constitution. This last proposal had nay votes from the *PSD*, yea votes from the *PS*, the *PCP*, the *PRD*, the *PEV*, the *ID* and six *PSD* members, and abstentions from the *CDS* and two *PSD* members.

The 1989 Constitutional revision did not contain any significant innovations as to the regionalisation, not even removing the demand for the simultaneous creation of the regions, which had been considered before as an obstacle to the advance of the process. It is true that the *PS* and the *PSD* dissociated themselves from the settling of a time limit for the regionalisation and the possibility of creating pilot regions. It is also true that the fundamental contents of the Constitutional revision were the result of an agreement between both parties, and the *PS* accepted it knowing that its proposals were not accepted by the *PSD*.

#### **2.4.3. The Framework Law for the Administrative Regions**

On the same day that the Constitutional revision was concluded, 30 May 1989, the general debate of Bills No. 45/V (*PS*), 60/V (*PRD*), 69/V (*CDS*), 129/V (*PEV*) and 134/V (*PCP*) on regionalisation took place, and they were approved. The *PCP* and the *PS* forced the subject onto the order of business. This occurred five months after the time limit established for the introduction of a report on the consultation of municipal assemblies in the plenary by the Committee. The announcement of a new debate on the regionalisation by the Government, and the imposition of a new time limit for the Committee at the end of 1989, gave rise to the imposition of the debate by the opposition parties. Until then, 171 municipal assemblies (out of 305), representing 80% of the country's entire population, had expressed their opinion, and only in two cases was that opinion against the creation of the administrative regions. The *PSD* decided not include its bill in the order of business, but decided to vote for the others, which were unanimously approved in general [*DAR* (I) 89, 31 May 1989, pp. 4377-4397].

After the conclusion of the 1989 Constitutional revision, and the passage of five bills on regionalisation, the *PCP* wanted to revive the process presenting, on 23 January 1990, Draft Decision No. 71/V which scheduled the parliamentary work to make the Framework Law for the Administrative Regions. The *PCP* proposed to set 30 March 1990 as the time limit for the conclusion of the works by the Parliamentary Committee and the month of April for the final overall vote in plenary [*DAR* (II-A) 15, 27 January 1990, pp. 686-687].

At the end of the time limit proposed, without any discussion on the decision of the draft, the *PCP* insisted on the introduction of Draft Decision No. 107/V, which established a new schedule for the conclusion of the approval process for the law to create the administrative regions at the beginning of the next legislative session, on 3 October 1990 [*DAR* (II-A) 68, 4 October 1990, pp. 1838-1839]. On 19 October, the *PS* introduced Draft Decision No. 111/V on the methodology and schedule for regionalisation [*DAR* (II-A) 5, 26 October 1990, p. 86].

According to the *PCP* proposal, the framework law for the regions should be passed by January 1991 and the matter regarding territorial limits by the end of April. The *PS* proposed that the detailed voting on the hanging framework law bills be finished up to 20 December 1990 in a committee, so that the respective text could be analysed and voted in a plenary sitting during January 1991. Before the end of April, the law to create the administrative regions would be passed, so that the municipal assemblies could give their opinions, allowing the process to be concluded up to the end of the V Legislature. Both drafts, which essentially converged on the time limits, were submitted to debate on 9 November 1990 [*DAR* (I) 10, 10 November 1990, pp. 275-282] and rejected on 28 November, with nay votes from the *PSD* and the approval from all the other parties [*DAR* (I) 18, 29 November 1990, p. 610].

On 3 December 1990, the *PSD* Government introduced a Government Bill of Framework Law for the Administrative Regions in order to institute the regions, but hardly anything went forward. Besides reproducing the Constitutional terms, it established the formal terms of the hearing of the municipal assemblies, just as the *PSD* had previously proposed [*DAR* (II-A) 12, 3 December 1990, pp. 223-231].

On 28 February 1991, the *PCP* introduced Draft Decision, No. 129/V. It proposed the Constitution of an ad hoc committee for the regionalisation, to prepare the voting of the Framework Law for the Regionalisation up to 15 May 1991. The time limit was 30 May for the final overall vote, so within that legislature, which would end in July

1991, they could begin the phase of the territorial division of the regions [DAR (II-A) 31, 9 Mar. 1991, p. 895].

On 11 April 1991, the Government Bill of Framework Law for the Administrative Regions was debated and passed in general, with only abstentions from the *PCP* and José Magalhães, who had become an independent MP in the meantime [DAR (I) 62, 12 April 1991, pp. 2052-2076]. The *PS* and the *PCP* introduced a motion, so that the responsible parliamentary committee would proceed, within 20 days, with the detailed discussion on the bills for the Framework Law of the Administrative Regions, which was unanimously passed. On 6 June 1991, the first phase of the procedure was concluded, with the unanimous approval of Law No. 56/91, of 13 August [DAR (I) 89, 7 June 1991, pp. 2964-2966]. The Government bill was accepted in its entirety, and became law.

According to the law of the Assembly of the Republic, the regions should be created simultaneously. It should also institute each region, with the laws of institution being dependent on the law of creation and the affirmative vote of the majority of the municipal assemblies, since they represent the majority of the population of the area included in the region. The Assembly of the Republic should promote the consultation of the municipal assemblies. The decisions regarding the municipal assemblies should be taken in extraordinary public sessions, exclusively summoned for that purpose, and with a minimum notice period of 30 days. The decisions should be communicated to the Assembly of the Republic within 30 days. If no decision was reached in the region, the Assembly of the Republic should promote a fresh consultation one year later. After that, a new consultation process could only be opened after general elections for the local authority bodies. A few days before the elections, the first phase finished, but there was still a long way to go before the regionalisation of Portugal moved from an aspiration in the Constitution to reality.

## **2.5. VI Legislature: 1991-1995**

At the very beginning of the VI Legislature, after the October 1991 elections, which gave a new absolute majority to the *PSD* of Cavaco Silva, the *PS* and the *PCP* again revived the process of creating administrative regions. On 30 January 1992, the *PS* presented Bill No. 67/VI for the creation of the administrative regions [DAR (II-A) 16 – Supplement, 1 February 1992, pp. 312-(3-14)] and Draft Decision No. 18/VI, which proposed a schedule for the process [DAR (II-A) 16 – Supplement, 1 February 1992, pp. 312-(46)]. The following month, on 25

February, the *PCP* presented Bill No. 91/VI on the process for the creation and institution of the administrative regions [*DAR* (II-A) 20, 29 February 1992, pp. 272-274] and Draft Decision No. 19/VI to define a schedule for the regionalisation [*DAR* (II-A) 20, 29 February 1992, pp. 402-403].

The *PS* bill proposed the creation of eight administrative regions: *Entre Douro e Minho*, *Trás-os-Montes e Alto Douro*, *Beira litoral*, *Beira Interior*, *Estremadura e Ribatejo*, *Alto Alentejo*, *Baixo Alentejo* and *Algarve*. The institutionalisation process would depend on the affirmative vote of the municipal assemblies. Draft Decision No. 18/VI proposed the approval of the law to have the administrative regions created by the Assembly of the Republic before March 1992, and the final overall vote before 15 June. The adjustments made following the consultations should be concluded before 15 June 1993.

The *PCP* re-introduced its proposal from the previous legislatures. It assumed the division of the districts as a starting point, and allowed the municipal assemblies to give their opinions, showing their adherence to the division proposed, proposing the fusion between contiguous regions, or proposing the integration of their municipality inside other contiguous regions within 90 days after the publication of the law. The proposed schedule foresaw the discussion of the bills to create the regions in March 1992, the final overall vote by 15 June, and the hearing process for the municipal assemblies before 31 December. The draft decisions regarding the schedule were discussed on 17 March 1992. They were inserted in a debate on several bills regarding local authorities [*DAR* (I) 41, 18 March 1992] and were rejected in 26 March with opposition from the *PSD* and abstentions from the *CDS* and the *PSN* [*DAR* (I) 44, 27 March 1992, p. 1371].

On 17 December 1992, the *UDP* deputy, Mário Tomé, elected as an independent in the *PCP* lists, introduced Draft Decision No. 42/VI [*DAR* (II-A) 14, 9 January 1993, p. 265], which called for a referendum by the President of the Republic on the administrative regionalisation. The proponent did not want to ask the Portuguese if they agreed with the regionalisation, because that was already established from the Constitutional point of view. The subject of the proposed referendum would be the schedule. Frustrated the attempts of the *PS* and the *PCP* to pass a schedule for regionalisation, the *UDP* proposed to ask the Portuguese people, through a referendum, if they agreed that the regions be created up to the end of 1994. The Assembly did not discuss that draft decision.

On 14 January 1993, the *PS* set in the order of business the general debate of its bill to create the administrative regions and Draft Decision No. 52/VI for the creation of an Ad Hoc Committee for the Administrative Devolution [*DAR* (I) 15, 16 January 1993, p. 280] introduced a few days before. The debate also included the *PCP* bills on the creation and institution of the administrative regions and on the finances and powers of the regions [*DAR* (I) 29, 15 January 1993, pp. 1028-1063]. All bills were rejected, with nay votes from the *PSD* and the *CDS*, an abstention from Freitas do Amaral<sup>258</sup> and yea votes from the rest of the parties. The draft decision was rejected with nay votes only from the *PSD*, with all of the other parties having voted yea.

On 2 March 1993 the *PSD* presented Draft Resolution No. 53/VI [*DAR* (II-A) 23, 6 March 1993, pp. 463-464] to create a Committee for the Reform of Town and Country Planning, which was discussed on 12 May [*DAR* (I) 69, 13 May 1993, pp. 2210-2222] and passed with abstentions only from the *PCP* and the *ID* [*DAR* (I) 71, 14 May 1993, p. 2256]. This resulted in the Assembly of the Republic Resolution No. 16/93, of 3 June. That Committee was entrusted to introduce a preliminary report and a proposal on the next phase of the reform preparatory works within one year.

On 9 February 1994, the *PCP* introduced Draft Resolution No. 87/VI [*DAR* (II-A) 23, 12 February 1994, pp. 361-362], proposing a new schedule for the regionalisation. The discussion of the bills to create the administrative regions should be in April 1994, with the respective final overall vote happening up to 15 June. The municipal assemblies should give their opinions during that time for the detailed discussion. The hearing for the actual institution of the regions should happen up to 31 December 1994. This bill was never discussed. On the same day, the *PCP* introduced Bill No. 379/VI [*DAR* (II-A) 23, 12 February 1994, pp. 355-356] on the process to create and institute the administrative regions, except for other initiatives on the finances and powers of the administrative regions which were not discussed. The *PCP* kept the division of the districts as a starting point.

Between July and September 1994, the draft amendments regarding the IV Constitutional Revision, failed in that legislature for lack of agreement between the *PS* and the *PSD*, including some proposals regarding the creation of the administrative regions. The Constitutional

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<sup>258</sup> Freitas do Amaral returned to the *CDS* leadership to dispute the 1991 elections, having left it before the electoral results and taking upon the parliamentary seat as an independent MP for a short period.

revision failed, but there was also no progress on the regionalisation process in that legislature. After the approval of the Framework Law for the Administrative Regions on the eve of the 1991 elections, the process ground to a halt. The *PSD*, which had an absolute majority, postponed the process in the V Legislature, saying that it was in favour of a more reflective and wise process. However, they refused to carry it through in the VI Legislature, assuming a position against the regionalisation, in accordance with the positions repeatedly advocated by the Prime Minister Cavaco Silva.

## **2.6. VII Legislature: 1995-1999**

After the 1 October 1995 elections, which gave a relative majority to the *PS*, the *PCP* introduced Draft Decision No. 2/VII [DAR (II-A) 2, 8 November 1995, p. 26], on 7 November, proposing the adoption of a new schedule for the regionalisation in order to 'break the blockade' that obstructed this crucial reform. That draft proposed the introduction of bills on the creation of the administrative regions up to 15 December 1995, and their submission to public consultation up to 30 March 1996. The debate, and vote on the law, should occur before the end of June and the municipal assemblies should give their opinions up to 30 November. In the case of an affirmative response, the law for the institution of the region should be published up to 31 December 1996.

On 15 December 1995, the *PCP* introduced Bills No. 49/VII, 50/VII and 51/VII [DAR (II-A) 11, 21 December 1995, pp. 207-213] on the powers, the finances of the regions, and the transfer of services and property from the central administration to the administrative regions. They also introduced Bill No. 94/VII [DAR (II-A) 24, 17 February 1996, pp. 374-376] on the creation and institution process of the administrative regions on 7 February 1996. In this last bill, the *PCP* re-submitted the institution building process introduced in the previous legislatures, but changed the geographical division to be based on nine regions: *Minho*; *Porto e Douro Litoral*; *Trás-os-Montes e Alto Douro*; *Beira Litoral*; *Beira Interior*; *Alta Estremadura, Oeste e Ribatejo*; *Região Metropolitana de Lisboa e da Península de Setúbal*; *Alentejo*; *Algarve*.

On 11 April 1996, the *PS* introduced its bills. Bill No. 136/VII proposed changes to the Framework Law of the Administrative Regions and Bill No. 137/VII [DAR (II-A) 34, 13 April 1996, pp. 602-613] proposed the creation of nine administrative regions: *Entre Douro e Minho*; *Trás-os-Montes e Alto Douro*; *Beira Litoral*; *Beira Interior*; *Estremadura e Ribatejo*; *Lisboa e Setúbal*; *Alto Alentejo*; *Baixo Alentejo*; *Algarve*. Both the *PS* and the *PCP* proposed the creation of nine regions

as a starting point, but with differences: while the *PCP* divided the North into two regions (*Minho*, with *Braga* and *Viana do Castelo* districts and *Porto e Douro Litoral* with the Oporto district), the *PS* proposed a single region including the three districts. As for the *Alentejo*, the *PCP* proposed a single region while the *PS* proposed two regions (*Alto Alentejo* and *Baixo Alentejo*).

The *PS* retained the hearing procedure for the municipal assemblies foreseen in the Constitution and the Framework Law, but in the preamble of Bill No. 136/VII it said that it was able to welcome the way of popular consultation if admitted in time in the Constitution. The *PS* also presented Draft Decision No. 10/VII [DAR (II-A) 34, 13 April 1996, p. 619] in order to assure the fit transparency and participation in the legislative procedure regarding the mainland regionalisation, through the hearing of the national association's representatives of local authorities.

On 23 April 1996, the *PEV* introduced Bills No. 143/VII and 144/VII [DAR (II-A) 37, 27 April 1996, pp. 650-656] on the creation and institution process of the administrative regions and their respective powers. The *PEV* also proposed the creation of nine regions, adhering to the solution of geographic division proposed by the *PCP*.

The discussion of the bills and draft decisions on the regionalisation was set for 2 May 1996 [DAR (I) 65, 3 May 1996, pp. 2077-2134]. The *PSD* tried to delay the debate and the legislative procedure, giving priority to the Constitutional revision in order to reach its goal of making the institution of the administrative regions depend on the holding of a referendum. In the *PSD* Congress, held in *Santa Maria da Feira* in the end of March 1996, Marcelo Rebelo de Sousa elected the Constitutional revision as a priority and threatened to boycott the regionalisation process if the Constitutional revision that imposed the referendum on the administrative regions was not concluded before. Given the need for an agreement between the *PS* and the *PSD* for the Constitutional revision to proceed, that speech was a true ultimatum addressed to the *PS*, making the Constitutional revision itself dependent on the *PS* acceptance of the referendum in the regions (Sousa, 1999, p. 13).

Thus, the *PSD* presented, on 26 April, Draft Decision No. 11/VII [DAR (II-A) 37, 27 April 1996, pp. 657-658] proposing the suspension of the debate on the regionalisation, and giving priority to the Constitutional revision in order to institute the national referendum as a

previous condition for the regionalisation. The debate was held on 2 May, with the general appreciation of the bills and draft decisions introduced by the *PS*, the *PCP* and the *PEV* on the administrative regions. The *PS*, as holder of the order of business, demanded the voting of the initiatives.

The *PSD* and the *CDS-PP* refused to take part in the voting as a way of protesting that their proposal, to suspend the legislative procedure until a decision on the referendum had been reached in the Constitutional revision, had been rejected. Thus, the parliamentary groups of the *PSD* and the *CDS-PP* left the room before the voting, with only the parliamentary leader of the *CDS-PP*, Jorge Ferreira staying in his place.

The bills were approved in general, with yea votes from the *PS*, the *PCP* and the *PEV*, and with only one nay vote from Jorge Ferreira. Draft Decision No. 10/VII (*PS*) on the following of the legislative procedure was also approved. The *PCP* gave up on its Draft Decision No. 2/VII, having introduced amendments to the *PS* draft. The proposal that let the Assembly of the Republic, during the time of public debate on the approved bills, promote the hearing of experts and debates on television about the subject of regionalisation was also approved. The *PS* rejected the schedule proposed by the *PCP*. The *PCP* proposed the final overall vote of the law to create the administrative regions up to 16 October 1996, the hearing of the municipal assemblies up to the end of 1996, and in the case of an affirmative result, the publication of the law to institute the regions up to 31 January 1997. The *PS* did not accept that schedule, and for that reason, the *PCP* abstained in the final vote on the decision, which was published on 9 May.

Under the terms of Decision No. 12-PL/96, the public consultation should happen within the time limit of 90 days after the general approval of the law to create the administrative regions [*DAR* (II-A) 40, 9 May 1996, p. 40]. This happened indeed, having the respective results and the opinion drawn by the Parliamentary Committee of Local Authorities being put in a report dated 11 March 1997 (*AR*, 1997).

### **3. The Referendum on the Administrative Regions**

#### **3.1. The 1997 Constitutional Revision**

The draft amendments to the Constitution were in the meanwhile introduced with several positions as to the regionalisation.<sup>259</sup> The *CDS-PP*

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<sup>259</sup> All the draft amendments to the Constitution are published in the *DAR*, Off-print No. 6/VII, 8 April 1996.



(Draft Amendment to the Constitution No. 1/VII), proposed the complete removal of the regionalisation chapter (Articles 255 to 262) retaking the proposal that the regionalisation of the mainland territory be submitted to the previous referendum held under the terms of Article 118 of the Constitution. The *PS* (Draft Amendment to the the Constitution No. 3/VII), proposed that the institution of each administrative region be submitted to the previous referendum of registered citizens in the respective area. The draft from the independent MP elected by the *PS* (Draft Amendment to the Constitution No. 8/VII) proposed to remove the demand that the administrative regions should be introduced simultaneously, and admitted that their institution could be submitted to a previous direct consultation of the registered citizens in the included areas of the regions under the terms to establish by law. The drafts introduced by *PSD* members included three different solutions: the draft from the members elected by the constituency of Madeira (Draft Amendment to the Constitution No. 6/VII) proposed a Constitutional transitory rule so that the regionalisation process in the mainland would be concluded up to the end of 1996; the draft of *JSD* members (Draft Amendment to the Constitution No. 2/VII) proposed the same solution as the *PS* draft; the official draft of the *PSD* (Draft Amendment to the Constitution No. 5/VII), proposed the end of regionalisation as a Constitutional command.

According to the *PSD* draft, the law could foresee ways for the administrative regionalisation of the mainland, starting with the municipalities and their associations or federations. The law should define the territory of each region and its powers, such as the composition, responsibilities and working of their bodies. That law should be submitted to a national referendum and should be enacted only if voted affirmatively by more than half of the registered citizens. After that, the law should decide on the actual institution of each region and each law of institution should be submitted to referendum for the registered citizens of each region, and it could only be enacted if voted affirmatively by more than half of the registered citizens. Therefore, the *PSD* proposed a double referendum: one of national scope for the law to create the regions; and one of regional scope for each one of the regions. Furthermore, they proposed a deliberative quorum that was particularly hard to please, involving not only the participation of more than half of the citizens in the referendum, but also the affirmative vote of more than half of those citizens. In practice, the abstentions would be counted as negative votes.

Given the lack of response to Marcelo Rebelo de Sousa's ultimatum, the Constitutional revision works began without the *PSD* members, who followed a successful strategy that lead the *PS* to yield to

it. In the second *CERC* session, on 13 May 1996, Jorge Lacão, on behalf of the *PS*, assumed the acceptance of the referendum on the creation of the regions and advanced with the questions that the *PS* would propose as soon the law for the creation of the regions was passed and the holding of a referendum was admitted by the Constitution.

The referendum would have two questions: ‘first – do you agree with the institution of the administrative regions? Second – do you agree with the region created in your area of electoral registration?’ Under these terms, the institution of the regions would only proceed if there were an affirmative answer to the first question, and the institution of each region would depend on the affirmative answer to the second question [*DAR* (II) 2 – *RC*, 14 May 1996, p. 17].

The *CDS-PP* welcomed the *PS* position, which had been the subject of talks between them. In spite of having decided to assume a position against the regionalisation, after an internal referendum, the *CDS-PP* supported the referendum with the obvious purpose of preventing the creation of the administrative regions. As a way of protest against what they considered an abusive manipulation of the *CERC* for a ‘press conference’, the *PCP* and *PEV* members left the room. In the next session, on 17 May, all the parliamentary groups were present, and the *PSD* obtained another goal: to begin discussing the referendum on the regionalisation.

In the 21 May session, the *PS* introduced its proposal for a referendum on the regionalisation in the following terms: **a)** the law of institution for each region would depend on the law that created the regions, and the affirmative vote of the majority of the citizens registered in the national territory, and in each regional area that took part in a direct consultation; **b)** when the majority of the participants in the referendum did not State that they were in favour of the question at a national scope, the affirmative answers to the question of a regional scope could only be effective after the holding of a new referendum; **c)** the consultations would take place under the terms and conditions laid down by organisational law, by the decision of the President of the Republic, through a proposal by the Assembly of the Republic, which would be applicable, with the due adaptations, to the regime established in Article 118 of the Constitution; **d)** The referendums would be binding when they had the participation of at least half of the registered voters, without damaging, in the case of no institution of the administrative regions, the efficacy of the affirmative answers regarding the questions at a regional

scope, that could be submitted by law to a time limit of caducity [*DAR* (II) 4 – *RC*, 22 May 1996, p. 52].

In the 4 June session, the *PSD* introduced a counterproposal in the following terms: the institution of the administrative regions, which would be done by law, would depend on the holding of a national referendum on the law that would create the regions, and on the affirmative vote of the majority of the registered citizens in each of the respective regional areas through a regional referendum. The regional referendums would depend on the affirmative result of the national referendum and would be held after them within a time limit established by law [*DAR* (II) 7 – *RC*, 5 June 1996, p. 106].

The *PSD* proposed that the law creating the regions, as well as the institution of each one, would be submitted to referendums. The *PS* proposed that only the institution be submitted to referendum. However, according to the *PS* proposal, the referendum on the institution would have two questions, being one of a national scope and the other of a regional scope. The *PSD* proposed two referendums at two different moments. However, in the session of 12 June, Marques Guedes (*PSD*) announced that, bearing in mind the receptivity of the *PS* towards the proposal of referendum, and with the holding of the referendum being the essential question, the *PSD* gave up its proposal and accepted the second *PS* proposal [*DAR* (II) 8 – *RC*, 13 June 1996, p. 120].

The second reading and vote of the proposals happened on 2 July [*DAR* (II) 13 – *RC*, 13 July 1996, pp. 234-244]. The *CDS-PP* proposal to remove the chapter on regionalisation was rejected, with affirmative votes only from the proponent party and negative votes from all the other parties. The proposal from the independent deputies of the *PS* was also rejected. Its intention was to remove the demand for the simultaneous creation of the regions, and it received nay votes from the *PSD*, the *CDS-PP*, the *PEV* and Vital Moreira. The *PS* and the *PCP* abstained believing that the question would be surpassed with the approval of the law to create the regions. Thus, Article 255 of the Constitution, on the creation of the regions, did not change.

As for Article 256, it only subsisted for voting the *PS*'s proposal, with all the rest being withdrawn or invalidated. No. 1, according to which the institution of the administrative regions, and the approval of the law of institution for each one, depended on the law of creation, and on the affirmative vote expressed by the majority of registered voters in each regional area of the national territory who took part in the direct

consultation, had yea votes from the *PS* and the *CDS-PP* and nay votes from the other parties. The *PSD* voted nay because it disagreed with the reference to the registered citizens in the national territory, arguing that emigrants should vote on the question regarding national scope. The *CDS-PP* thought the same but, in spite of that, voted in favour of the *PS* proposal.

The next items had nay votes from the *PCP* and the *PEV* and yea votes from the *PS*, the *PSD* and the *CDS-PP*. It was approved that, when the majority of the voters in the referendum did not respond affirmatively to the question of national scope on institution of the administrative regions, the answers regarding each region created by law should not produce any effect. The citizens would be consulted in the conditions and terms laid down by organisational law, through a decision by the President of the Republic, under a proposal by the Assembly of the Republic, which would be applicable, with the due adaptations, to what was established in Article 118. The last item of the *PS* proposal, on the eventual caducity of the affirmative answers to the questions of regional scope, in case the national question was refused, was also withdrawn.

On 12 October 1996, the *PS* introduced Draft Decision No. 24/VII, proposing the extension to 60 days for the term established by Decision No. 12-PL, regarding public consultation on the bills for the regionalisation. This draft was discussed on 16 October [*DAR* (I) 1, 17 October 1996, pp. 39-45] and passed on 17 October with yea votes from the *PS*, abstentions from the *PSD* and nay votes from the *CDS-PP*, the *PCP* and the *PEV* [*DAR* (I) 2, 18 October 1996, p. 89]. It was published on 19 October as No. 23-PL/1996.

The Constitutional revision proceeded up to the end of July 1997. In the 30 July plenary sitting, the proposal by *CERC* regarding Article 256 of the Constitution had yea votes from the *PS*, the *PSD* and the *CDS-PP* and nay votes from the *PCP* and the *PEV* [*DAR* (I) 104, 31 July 1997, pp. 3937-3952, and 4016]. The text that passed is as follows:

1. The institution of the administrative regions by means of the individual laws instituting each one shall depend on the law provided for in the previous article,<sup>260</sup> and on the casting of an affirmative vote by the majority of the registered voters who cast their votes in a direct national ballot covering each of the regional areas.

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<sup>260</sup> It is the law that creates the administrative regions.

2. In the event that the majority of the registered voters who cast their votes did not respond affirmatively to the question on a national scope regarding the institution of the administrative regions, the answers to such questions as may be put in relation to each region that is created by law shall not take effect.
3. The consultation of registered voters provided for in the previous paragraphs shall take place in accordance with the provisions of an organisational law and by decision of the President of the Republic, upon a proposal from the Assembly of the Republic. The system derived from Article 115 shall be applied *mutatis mutandis*.

Jorge Miranda and Rui Medeiros [2007 (III) p. 537] highlight the main aspects of the Constitutional system that was instituted: **a)** the holding of the referendum is obligatory in the sense that, without its holding, it is not possible to institute the regions; **b)** the initiative is exclusive to the Assembly of the Republic, but it can receive proposals from the Government or citizens; **c)** the President of the Republic must call the referendum because it is a Constitutional institution; **d)** the binding effect of the referendum does not depend on the votes of more than half of the registered citizens, but on the affirmative votes of the majority of voters who took part in the referendum; **e)** in the event of a negative result, Parliament cannot decide on the subject, but can only propose that a fresh referendum be called.

As for the relation between the questions at the national and regional level, the same authors referred that **a)** the popular decision at a national scope prevails the decision at a local scope; **b)** in the event of an affirmative answer of national scope, the map of regions is approved; **c)** in the event of a positive national answer and a negative answer on the question regarding the regional scope, another regional referendum will be held so that the administrative region can be created [Miranda & Medeiros, 2007 (III) p. 538].

### **3.2. The Conclusion of the Legislative Procedure**

On 9 October 1997, the text drawn up by the Local Authorities Committee (on the creation of the administrative regions in the sequence of the approval of the *PS*, *PCP* and *PEV* bills) was submitted to the plenary of the Assembly of the Republic for detailed discussion and final overall voting. The proposal that was passed divided the territory into eight administrative regions: *Entre Douro e Minho*; *Trás-os-Montes e Alto*

*Douro; Beira Litoral; Beira Interior; Estremadura e Ribatejo; Lisboa e Setúbal; Alentejo; Algarve.* It represented a compromise between the *PS* and the *PCP*. The *PS* accepted the *Alentejo* as a single region, and the *PCP* accepted the *Entre Douro e Minho*, including *Oporto, Braga and Viana do Castelo* districts, as a single region. A provision, proposed jointly by the *PS*, the *PCP* and the *PEV* was also included. It Stated that after the direct consultation in the terms of Article 256 of the Constitution, the instituted boundaries of the administrative regions could be Constitutionally changed through an organisational law by the Assembly of the Republic, which would ensure that the procedure included hearing the views of the municipal assemblies and the regional assemblies of the regions involved. Nonetheless, these changes should always respect the principle of territorial contiguity [*DAR* (I) 2, 10 October 1997, pp. 48-81]. In the final overall voting, the law creating the administrative regions was approved with yeas from the *PS*, the *PCP*, the *PEV* and Mendes Bota (*PSD*). The nay votes came from the *PSD* and the *CDS-PP*, with the abstentions from three *PSD* members elected in the *Algarve*.<sup>261</sup>

### **3.3. The Special System of the Referendum on Regionalisation**

In October 1997, the legislative procedure to change the Organisational Law of the Referendum began, including a special part regarding the referendum on the administrative regions, given its Constitutional specificity. Government Bill No. 145/VII [*DAR* (II-A) 3, 17 October 1997, pp. 30-58] introduced on 9 October 1997, included a specific chapter on that subject, since it was the only case of an obligatory referendum in Constitutional terms. The subject of that referendum would be the institution of the administrative regions, including two questions, one of a national scope and another regarding each regional area. In the autonomous regions, the referendum would only have the question of a national scope. The right to vote would be given to Portuguese citizens who resided in the national territory. They would be allowed to vote on the national scope, and in the regional area in which they were registered, according to the geographic division established in the law for the creation of the administrative regions.

In the case of a negative answer regarding the question of a national scope, the answers on the regional question would not produce any effect. If the answer regarding the national scope was affirmative and the answer on the regional question was negative in a region, this would

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<sup>261</sup> António Vairinhos, Cabrita Neto and Macário Correia.

not be instituted until a new referendum, restricted to that region, had an affirmative answer. In the case of an affirmative answer, the referendum would be binding only if the number of voters was more than half of the registered citizens.

On 15 October, the *PSD* introduced Bill No. 420/VII [*DAR* (II-A) 4, 18 October 1997, pp. 67-68] which was specifically about the referendum on regionalisation. The *PSD* proposed a two-stage referendum, with the regional referendums taking place 14 days after the national one, if the majority of voters had responded affirmatively. In this case it would have a binding effect. The referendum of a national scope should also allow Portuguese citizens living abroad to take part. In the case of affirmative answers, the law to institute each region should be approved within 60 days. The *PSD* bill included the questions all at once. The national question would be: 'do you agree with the institution of the administrative regions, as they are enshrined by law?' The question at a regional scope would be: 'do you agree with the institution of the administrative region as enshrined by law for your area of residence?'<sup>262</sup>

On 6 November, the *PCP* introduced Bill No. 428/VII [*DAR* (II-A) 11, 15 November 1997, pp. 210-211]. According to the bill, in the event of an affirmative answer in the consultations at both national and regional scopes, the laws of institution for the regions should be passed within 90 days.

The general debate on the initiatives took place on 20 November 1997 [*DAR* (I) 16, 21 November 1997, pp. 614-638] and the voting on the 27<sup>th</sup>. The Government bill passed with yea votes from the *PS*, nay votes from the *PCP* and the *PEV* and abstentions from the *PSD* and the *CDS-PP*. The *PSD* bill was rejected, with yea votes from the *PSD*, nay votes from the *PS*, the *PCP* and the *PEV* and abstentions from the *CDS-PP*. The *PCP* bill passed with yea votes from the *PCP* and the *PEV*, nay votes from the *CDS-PP* and abstentions from the *PS* and the *PSD* [*DAR* (I) 19,

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<sup>262</sup> In the dispatch of the admission of the bill, the President of the Assembly of the Republic, Almeida Santos, Stated the difficulty to join in the same legislative initiative matters which should be the subject of organisational law and matters which should be the subject of a resolution, because the respective system of Constitutional review should be different. He also raised objections as to the Constitutionality of the participation of emigrants [*DAR* (II-A) 4, 18 October 1997, p. 68]. In the report made for the Constitutional Affairs, Rights, Freedoms and Guaranties Committee on these legislative initiatives, Barbosa de Melo referred to the objections, recognising that the inclusion of matters that should be the subject of a resolution into a bill was technically less blissful and considering that the inclusion of emigrants in the electoral universe was a question of reasoning [*DAR* (II-A) 13, 24 November 1997, p. 248].

28 November 1997, p. 711]. However, the law to create the administrative regions would suffer one more setback. Both the President of the Republic and 54 *PSD* deputies requested the prior review of its Constitutionality by the Constitutional Court, which pronounced on it in Ruling No. 709/97 on 10 December 1997 [*DR* (I-A) 20 January 1998].

The Constitutional Court declared the law unConstitutional on two points. First, it laid down that the law of institution for the regions could establish different legal systems for each one of them. The Court held that such diversity could only be established by the law that created the administrative regions, since only an organisational law could be submitted to referendum. Second, it considered any change of the territorial division of the regions to be unConstitutional after the referendum. Given that the territorial division of the regions is mandatorily submitted to referendum, its subsequent change could only be made after a new referendum, which would give it legitimacy.<sup>263</sup>

Consequently, the President of the Republic vetoed the law and his decision was announced to the Assembly of the Republic on 17 December [*DAR* (II-A) 18, 19 December 1997, p. 334]. The deletion of the unConstitutional provisions took place in the plenary sittings of 26 March 1998 [*DAR* (I) 53, 27 March 1998, pp. 1798-1806 and 1808]. On 28 April 1998 Law No. 19/98, on the Creation of the Administrative Regions, was published. The referendum on their institution could finally move forward.<sup>264</sup>

Meanwhile, on 4 March there was a detailed discussion and the final overall vote for the Organisational Law of the Referendum, which had yea votes from the *PS*, the *PSD* and the *CDS-PP* and nay votes from the *PCP* and the *PEV* [*DAR* (I) 44, 5 March 1998, pp. 1470-1492]. The provisions for Law No. 15-A/98, of 3 April, regarding the referendum on the regions followed directly from the Government bill. The approved legal framework was essentially the following:

- 1) The referendum has a mandatory nature (Article 245), by Constitutional command, being the only case of an obligatory referendum in Portuguese law.<sup>265</sup>

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<sup>263</sup> The Constitutional Court decision was taken by seven votes against five.

<sup>264</sup> On 4 February, the leader of the *PSD* Marcelo Rebelo de Sousa (1999, p. 95) suggested the holding of the referendum on abortion before the summer and the referendums on the regions and Europe after the summer. This became true regarding the abortion and the regions.

<sup>265</sup> On the meaning of that obligation, see Miranda & Medeiros [2007 (III) p. 537].



- 2) The subject of the referendum is the institution of the administrative regions (Article 246) as laid down by the Framework Law for the Administrative Regions (Law No. 56/91, of 3 August) and by the Law for the Creation of the Administrative Regions (Law No. 19/98, of 28 April).
- 3) The referendary initiative belongs to the President of the Republic through a proposal by the Assembly of the Republic (Article 247).
- 4) The Constitutional Court proceeds with the prior review of the Constitutionality and legality of the referendum, including requirements on the electoral universe (Article 248).
- 5) The referendum has two questions, one of a national scope and another regarding each regional area. The questions are the same in the entire national territory and there is a single ballot paper. Outside of the regional areas in question (which was the case of the Autonomous Regions of The Azores and Madeira), the referendum only has the question of national scope (Article 249).
- 6) As for the question regarding each region, only registered citizens in each region can take part (Article 250).
- 7) The approval of laws for the institution of each region depends on the affirmative vote of the majority of citizens who take part in the referendum [Article 251(1)].
- 8) In the event of an affirmative answer, the referendum only has binding effect if the number of votes cast is more than 50% of the registered citizens [Article 251(2)].<sup>266</sup>
- 9) If the answer to the question of a national scope is affirmative and the answers to the question of a regional scope are negative in one or more regions, these cannot be instituted until new referendums restricted to this region or regions obtains an affirmative answer [article 251(3)].<sup>267</sup>

### **3.4. The Referendum Procedure**

The next step would be the approval of the resolution on the referendum. Working towards that, the *PSD* introduced Draft Resolution No. 89/VII [DAR (II-A) 55, 30 May 1998, p. 1201] on 27 May, the *PS*

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<sup>266</sup> Miranda & Medeiros consider this provision unconstitutional, given that Article 256 of the Constitution refers only that the actual institution of the administrative regions depends on the casting of an affirmative vote by the majority of the registered voters who cast their votes, without any requirement of quorum in relation to the number of registered citizens.

<sup>267</sup> See the note on this legal system in Mendes & Miguéis (1998, pp. 145-152).

introduced the Draft Resolution No. 93/VII [*DAR* (II-A) 62, 25 June, p. 1386] on 19 June 1998 and the *CDS-PP* introduced Draft Resolution No. 95/VII [*DAR* (II-A) 62, 25 June, pp. 1388-1389] on 23 June. The main difference among them was in relation to the electoral universe: the *PSD* and the *CDS-PP* proposed the participation of Portuguese emigrants in the question of a national scope.<sup>268</sup>

The consideration of the draft resolutions was held on 29 June [*DAR* (I) 86, 30 June 1998, pp. 2963-2970]. The *PSD* draft was rejected with nay votes from the *PS* and abstentions from the *CDS-PP*, the *PCP* and the *PEV*. The *PS* draft was passed. However, in the section regarding the electoral universe, the draft received nay votes from the *PSD*, the *CDS-PP* and Helena Roseta (*PS*), with abstentions from the *PCP* and the *PEV*. The section regarding the question had yea votes from the *PS* and the *CDS-PP*, with abstentions from the *PSD*, the *PCP* and the *PEV* and a nay vote from Helena Roseta [*DAR* (I) 86, 30 June 1998, pp. 3003-3004]. The *CDS-PP* draft was considered useless. The *PS* only voted in favour of its own proposal. The *PSD* voted against the electoral universe proposed by the *PS* and abstained on the question, preferring its own wording (which was not substantially different). The *CDS-PP* adhered to the question proposed by the *PS*, disagreeing, however, about the electoral universe. The *PCP* and the *PEV* decided to abstain on all proposals, disagreeing with the referendum but recognising that it was mandated by the Constitution. Helena Roseta voted against, arguing for a postponement. In her view, the weak participation in the referendum on abortion (which had been held the day before) justified further reflection on decisions about any other referendums.

Yet, the resolution was passed. All registered citizens in the national territory would be asked: 'do you agree with the institution of the administrative regions?' Registered citizens in each of the regions created by Law No. 19/98, of 28 April, would be asked: 'do you agree with the institution of the administrative region in your area of electoral registration?' The ballot papers in the autonomous regions would only include the first question (Resolution No. 36-B/98), [*DR* (148 – Supplement) 30 June 1998].

On the very same day, the *PS* introduced the bills for the institution of each of the proposed regions: Bill No. 544/VII (*Estremadura*

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<sup>268</sup> In the report drawn for the Constitutional Affairs, Rights, Freedoms and Guaranties Committee, António Filipe (*PCP*) pronounced himself for the Constitutionality and pertinence of the solution proposed by the *PS*, which did not allow the participation of emigrants in the referendum [*DAR* (II-A) 65, 1 July 1998, pp. 1491-1492].

*e Ribatejo*), 545/VII (*Beira Litoral*), 546/VII (*Alentejo*), 547/VII (*Lisboa e Setúbal*), 548/VII (*Trás-os-Montes e Alto Douro*), 549/VII (*Entre Douro e Minho*), 550/VII (*Algarve*), 551/VII (*Beira Interior*).

The Constitutional Court, in the prior review made under the Constitutional terms on the Assembly of the Republic Resolution decided, through Ruling No. 757/98 of 29 July 1998 [*DR* (I-A) 174, 30 July 1998], to declare the proposed referendum Constitutional and legal.<sup>269</sup> On 1 September, the President of the Republic set the referendum for 8 November 1998 (Decree of the President of the Republic No. 39/98), [*DR* (I-A) 201, 1 September 1998].

The intention to take part in the referendum campaign was declared by all the parliamentary parties (*PS, PSD, CDS-PP, PCP* and *PEV*), nine parties without representation in Parliament (*MPT, MUT, PCTP/MRPP, PDC, PPM, PSN, PSR, Política XXI* and *UDP*) and 20 groups of citizens (9 for 'yes' and 11 for 'no').<sup>270</sup> Five of the groups for 'yes' assumed a regional form, supporting the creation of their region, and four assumed a national scope, supporting regionalisation as a whole. From the 'no' side, six assumed a regional form, against the region proposed in their area, and five were against the regionalisation from a national perspective. Although the number of movements had been larger in the referendum on regionalisation than in the referendum on abortion, André Freire and Michael Baum (2003a, p. 16) noted that the relative influence of the parties was greater in the referendum on regionalisation, given the greater weight of the Catholic Church in the referendum on abortion.

From the side of the main parties, the *PCP* and the *CDS-PP* assumed clear positions and kept their internal cohesion: the *PCP* in favour and the *CDS-PP* against. The *PCP* had supported the creation of

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<sup>269</sup> Five of the 13 judges voted against the decision. The more controversial item was the clearness and objectivity of the questions.

<sup>270</sup> Groups for the 'yes': *Alentejo*, Yes to the Regionalisation, for Portugal; Movement for the Creation of the Region of *Algarve*; Movement for the Region of *Trás-os-Montes e Alto Douro*; Movement Yes for the Regionalisation – Yes for *Algarve*; In *Minho*, for the Regionalisation; For a Portugal with Cohesion, Yes to the Regionalisation; Portugal Plural; Solidarity Portugal – Movement for *Beira Interior*; Yes to the Regions, Better Portugal. Groups for the 'no': *Aveiro* says No to the Regionalisation; Give Strength to the Municipalism, for *Leiria* District; *Minho* for No to the Regionalisation; Unique Portugal Movement; Movement Regionalisation, Not Like This; United Nation: A Portugal; No to this Regionalisation and No to the Region of *Beira Interior*; No to this Regionalisation and No to the Region of *Estremadura e Ribatejo*; No to the Region of *Beira Litoral*; Municipalist Platform; Regionalisation? We pass! The initial number of citizen groups was 25. Five of them, however, were excluded for not fulfilling the legal requirements.

administrative regions since 1976, and the *CDS-PP* assumed a position that was clearly against the regionalisation after an internal referendum on that subject. The *PS* assumed an official position in favour, but there were some audible voices of dissent, not so much against regionalisation as a whole, but above all against the solutions proposed for specific regions. At the national level, the *PS* and its Government assumed a position in favour. However, there were dissenting voices. While all the northern leaders vocally supported the proposed new regions, some critics, like Mário Soares, did not hide their scepticism in relation to the regionalisation, and in some regions the socialist structures showed their disagreement towards the proposed regional map. Inside the *PSD*, the situation was the opposite. The party supported the 'no' campaign, disagreeing with both the procedure followed and the proposed map. Opposition to the idea of regionalisation had a decisive majority in the *PSD*, especially with Cavaco Silva against it. Nevertheless, the negative position of the *PSD* had the main purpose of weakening the *PS* government, which favoured regionalisation. The idea was to impose a fresh defeat, building pressure following the failed abortion referendum.<sup>271</sup>

The reasons given by the supporters of the regionalisation were based on the full realisation of the Constitution, which had enshrined the administrative regions since 1976; on the democratic legitimacy of the exercise of regional power, which would stop being an arm of the central administration and become a result of the popular vote; on the need to ensure national cohesion and reduce the regional asymmetries which resulted from a centralist organisation of the State; and following the example of the European Union, where the existence of intermediate levels of power between the central administrations and the municipalities is practically general.

Among the supporters of the negative answer, we can distinguish those who were simply against the existence of administrative regions and those who were against the procedure which led to the drawing of the regional map and/or the map itself. Some people, although regionalists, swelled the ranks of the 'no' campaign because they disagreed with the region that was proposed to them. The reasoning by the opponents was that Portugal was a small country, which meant there was no need for an intermediate level of power between the Government and the municipalities; the idea that the regionalisation would lead to the

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<sup>271</sup> See the detailed exposition of the *PSD* position expressed by the leader himself in the National Council of 29 July 1998, in Sousa (1999, pp. 87-116).

increase of regional rivalries which could be dangerous for national unity; the opposition to the creation of new political posts, which meant more public expenses; the idea that the regionalisation would simply create new patronage structures; or opposition to the regional map that had been proposed.<sup>272</sup>

### 3.5. Analysis of the Results

The first aspect to stress regarding the results of the referendum on the regionalisation is the high rate of abstention (see Table 11). The participation was higher than in the referendum on abortion, but not enough to guarantee the binding effect of the referendum in the event of a 'yes' victory, given that the Referendum Law laid down that in the case of an affirmative answer, the referendum only has binding effect when the number of voters is higher than 50% of the registered citizens.<sup>273</sup> Abstention was about 20% higher than in the previous parliamentary elections (Freire & Baum, 2003a, p. 10).

André Freire and Michael Baum (2003a, p. 12) point out to the poor handling of the regionalisation campaign by the *PS* as a first reason for abstention. The strong division within that party explains the high abstention rate to a great extent.

**Table 11**

#### National Results of the Referendum on the Institution of the Administrative Regions

Registered electors	Voters		Abstentions		Blank ballot papers		Null ballot papers	
	Total	%	Total	%	Total	%	Total	%
8,632,842	4,171,099	48.29	4,465,743	51.71	57,050	1.37	77,420	1.86
National question				Regional questions				
YES		NO		YES		NO		
Total	%	Total	%	Total	%	Total	%	
1,458,132	34.96	2,537,822	60.84	1,386,718	33.25	2,457,604	58.92	

As for the regional distribution of abstentions (Table 12), the salient fact is the extremely weak participation in the autonomous regions.

<sup>272</sup> On the arguments used in the campaign, see, Barreto (1998); Sá *et al* (1998); *Ministério do Equipamento, Planeamento e Administração do Território* (1998); Lacão (1998); Lourenço (1998); Sousa (1999, pp. 87-116); Nascimento *et al* (1998) among many others.

<sup>273</sup> Jorge Miranda and Rui Medeiros consider this demand to be unconstitutional with good reasons.

It is easily explained given that the subject of the referendum was only the creation of the administrative regions in the mainland. There was no question about the creation of any administrative region in the territory of the autonomous regions; consequently, the citizens registered there were called to decide on regions that were irrelevant to them, and naturally they were disinterested. The greatest problem was that the abstention of the citizens from the autonomous regions could be decisive in making the creation of the administrative regions on the mainland unviable.

**Table 12**

**Participation in the Referendum for the Institution of the Administrative Regions  
by Districts and Autonomous Regions**

	% Voters	% Abstentions		% Voters	% Abstentions
<i>Aveiro</i>	51.03	48.97	<i>Lisboa</i>	48.72	51.28
<i>Beja</i>	47.60	52.40	<i>Portalegre</i>	49.73	50.27
<i>Braga</i>	52.17	47.83	<i>Porto</i>	49.22	50.78
<i>Bragança</i>	44.72	55.28	<i>Santarém</i>	48.76	51.24
<i>C.Branco</i>	50.80	49.20	<i>Setúbal</i>	46.91	53.09
<i>Coimbra</i>	46.69	53.31	<i>V. Castelo</i>	49.32	50.68
<i>Évora</i>	50.90	49.10	<i>Vila Real</i>	45.97	54.03
<i>Faro</i>	44.46	55.54	<i>Viseu</i>	49.77	50.23
<i>Guarda</i>	55.66	44.34	<i>Açores</i>	22.15	77.85
<i>Leiria</i>	53.12	46.88	<i>Madeira</i>	36.38	63.62

Nonetheless, the negative answer won with 60.84% of the votes regarding the question on national scope and 58.92% in the total number of the questions at a regional scope. The victory of the 'no' campaign on the national question made the institution of any region impossible.

In terms of districts (Tables 13 and 14), the affirmative answer on the national scope only won in three districts (*Setúbal*, *Évora* and *Beja*). The affirmative answer for the question at a regional scope only won in the district of *Évora*. In the case of *Beja*, the difference of votes between the two questions was very significant, revealing the non-acceptance of the idea of a single *Alentejo* region.

Only in the district of *Faro* was the number of affirmative votes in the regional question higher than in the national one. In all the other districts, the rejection of the proposed region was greater than the

rejection of the idea of regionalisation in general. The number of blank votes was significantly higher on the questions of a regional scope.

**Table 13**

**Results of the Referendum on the Institution of the Administrative Regions**

**by Districts and Autonomous Regions (Question of a National Scope)**

	% YES	% NO	% Blank		% YES	% NO	% Blank
<i>Aveiro</i>	22.89	73.44	0.86	<i>Lisboa</i>	35.61	60.22	0.84
<i>Beja</i>	56.82	38.90	1.14	<i>Portalegre</i>	42.37	53.28	1.14
<i>Braga</i>	32.43	63.41	1.20	<i>Porto</i>	43.38	52.61	0.95
<i>Bragança</i>	32.47	62.98	1.17	<i>Santarém</i>	29.60	65.62	1.30
<i>C. Branco</i>	31.61	63.93	1.19	<i>Setúbal</i>	50.23	45.76	0.87
<i>Coimbra</i>	29.97	65.15	1.12	<i>V. Castelo</i>	30.20	65.40	1.05
<i>Évora</i>	54.85	40.93	1.09	<i>Vila Real</i>	30.17	65.25	1.17
<i>Faro</i>	43.28	51.72	1.47	<i>Viseu</i>	20.12	75.76	1.04
<i>Guarda</i>	17.91	78.10	1.06	<i>Açores</i>	36.72	58.81	2.09
<i>Leiria</i>	19.14	77.13	0.84	<i>Madeira</i>	27.91	67.53	2.47

**Table 14**

**Results of the Referendum on the Institution of the Administrative Regions by Districts**

**(Questions of a Regional Scope)**

	% YES	% NO	% Blank		% YES	% NO	% Blank
<i>Aveiro</i>	20.94	74.38	1.86	<i>Leiria</i>	16.73	78.41	1.97
<i>Beja</i>	47.72	46.91	2.23	<i>Lisboa</i>	35.42	59.52	1.72
<i>Braga</i>	31.66	63.14	2.24	<i>Portalegre</i>	41.42	53.20	2.16
<i>Bragança</i>	32.02	61.77	2.83	<i>Porto</i>	43.06	52.04	1.84
<i>C. Branco</i>	29.77	64.66	2.30	<i>Santarém</i>	28.47	65.61	2.44
<i>Coimbra</i>	28.47	65.45	2.31	<i>Setúbal</i>	49.81	45.50	1.55
<i>Évora</i>	54.24	40.60	2.04	<i>V. Castelo</i>	29.14	65.01	2.50
<i>Faro</i>	46.07	47.97	2.43	<i>Vila Real</i>	29.82	64.19	2.58

If we consider the voting in relation to the proposed regions (Tables 15 and 16) we can see that only in the *Alentejo* did the 'yes' campaign win, and even so, only on the question of a national scope.

**Table 15**

**Results of the Referendum on the Institution of the Administrative Regions**

**by Administrative Region (Question of a National Scope)**

	<b>% YES</b>	<b>% NO</b>	<b>% Blank</b>
<i>Entre Douro e Minho</i>	38.84	57.06	1.04
<i>Trás-os-Montes e Alto Douro</i>	29.68	65.82	1.17
<i>Beira Litoral</i>	23.37	72.51	0.97
<i>Beira Interior</i>	25.09	70.68	1.13
<i>Estremadura e Ribatejo</i>	24.29	71.49	1.06
<i>Lisboa e Setúbal</i>	39.06	56.81	0.84
<i>Alentejo</i>	51.56	44.19	1.10
<i>Algarve</i>	43.28	51.72	1.47

**Table 16**

**Referendum results on the institution of the administrative regions**

**by administrative region (question of a regional scope)**

	<b>% Yes</b>	<b>% No</b>	<b>% Blank</b>
<i>Entre Douro e Minho</i>	38.37	56.54	2.03
<i>Trás-os-Montes e Alto Douro</i>	29.28	64.79	2.61
<i>Beira Litoral</i>	21.65	73.15	2.06
<i>Beira Interior</i>	22.23	72.58	2.09
<i>Estremadura e Ribatejo</i>	22.46	72.19	2.18
<i>Lisboa e Setúbal</i>	38.89	56.15	1.67
<i>Alentejo</i>	47.98	46.76	2.10
<i>Algarve</i>	46.07	47.97	2.43

If we compare the results of the referendum on the regionalisation and the results of the parliamentary elections held immediately before and immediately after (Tables 17 and 18) we verify that the total number of votes for the parliamentary parties that supported the 'yes' campaign (*PS* and *PCP/PEV*) was largely greater than the actual



votes in favour of regionalisation. Therefore, the 'no' votes were greater in all districts than those obtained jointly by the *PSD* and the *CDS-PP*.<sup>274</sup>

**Table 17**

**Comparative Results of the Referendum on the Institution of the Administrative Regions and the Parliamentary Elections of 1995 and 1999 (Question of a National Scope)**

	% <i>PS</i> + <i>PCP/PEV</i> 1995	% YES	% <i>PS</i> + <i>PCP/PEV</i> 1999	% <i>PSD</i> + <i>CDS</i> 1995	% NO	% <i>PSD</i> + <i>CDS</i> 1999
<i>Aveiro</i>	42.98	22.89	43.71	53.83	73.4 4	51.86
<i>Beja</i>	75.00	56.82	75.05	19.30	38.90	18.38
<i>Braga</i>	47.45	32.43	49.74	38.20	63.41	45.60
<i>Bragança</i>	42.25	32.47	42.36	54.16	62.98	53.76
<i>C. Branco</i>	56.66	31.61	56.87	39.34	63.93	38.20
<i>Coimbra</i>	54.20	29.97	53.27	41.52	65.15	41.17
<i>Évora</i>	69.47	54.85	70.30	25.40	40.93	23.72
<i>Faro</i>	57.38	43.28	56.67	37.52	51.72	36.76
<i>Guarda</i>	45.94	17.91	46.52	49.86	78.10	48.99
<i>Leiria</i>	41.24	19.14	42.07	54.73	77.13	52.52
<i>Lisboa</i>	56.32	35.61	54.99	38.37	60.22	35.76
<i>Portalegre</i>	64.42	42.37	66.20	29.73	53.28	28.38
<i>Porto</i>	52.71	43.38	54.23	44.11	52.61	40.19
<i>Santarém</i>	55.31	29.60	55.63	39.73	65.62	38.29
<i>Setúbal</i>	68.65	50.23	68.49	25.62	45.76	23.65
<i>V. Castelo</i>	43.33	30.20	45.21	53.35	65.40	49.80
<i>Vila Real</i>	41.92	30.17	43.17	53.84	65.25	52.37
<i>Viseu</i>	40.15	20.12	40.34	55.74	75.76	54.77
<i>Açores</i>	39.31	36.72	55.03	57.15	58.81	41.34
<i>Madeira</i>	34.17	27.91	37.87	59.01	67.53	57.06
<b>Total</b>	52.33	34.96	53.05	43.17	60.84	40.66

In seeking to explain the results, André Freire and Michael Baum (2003a, p. 13) referred to, besides the unskilful leading of the

<sup>274</sup> In this comparison, only the votes of the parliamentary parties were counted, excluding the *BE*, because the parties that take part in it assumed divergent positions in the referendum on regionalisation (the *UDP* and the Politics XXI for the 'yes' and the *PSR* for the 'no'). For a more detailed comparison, see Freire and Baum (2003a, pp. 13-15).

process by the *PS*, the fact that the arguments of the rightist opposition against the regionalisation (fewer politicians, less public spending, less corruption) were easier for the public to grasp than the arguments promised by the ‘yes’ supporters. The consequence of the 1998 referendum was the unfeasibility of the institution of the administrative regions enshrined in the Constitution, while those who worked for that purpose held precisely that goal in mind. Actually, in spite of its enshrinement in the Constitution in 1976, the regionalisation always found obstacles that were not always assumed, but always decisive.

**Table 18**

**Comparative Results of the Referendum on the Institution of the Administrative Regions and the Parliamentary Elections of 1995 and 1999 (Questions of a Regional Scope)**

	<b>% PS + PCP/PEV 1995</b>	<b>% YES</b>	<b>% PS + PCP/PEV 1999</b>	<b>% PSD + CDS 1995</b>	<b>% NO</b>	<b>% PSD + CDS 1999</b>
<i>Aveiro</i>	42.98	20.94	43.71	53.83	74.38	51.86
<i>Beja</i>	75.00	47.72	75.05	19.30	46.91	18.38
<i>Braga</i>	47.45	31.66	49.74	38.20	63.14	45.60
<i>Bragança</i>	42.25	32.02	42.36	54.16	61.77	53.76
<i>C. Branco</i>	56.66	29.77	56.87	39.34	64.66	38.20
<i>Coimbra</i>	54.20	28.47	53.27	41.52	65.45	41.17
<i>Évora</i>	69.47	54.24	70.30	25.40	40.60	23.72
<i>Faro</i>	57.38	46.07	56.67	37.52	47.97	36.76
<i>Guarda</i>	45.94	14.08	46.52	49.86	81.13	48.99
<i>Leiria</i>	41.24	16.73	42.07	54.73	78.41	52.52
<i>Lisboa</i>	56.32	35.42	54.99	38.37	59.52	35.76
<i>Portalegre</i>	64.42	41.42	66.20	29.73	53.20	28.38
<i>Porto</i>	52.71	43.06	54.23	44.11	52.04	40.19
<i>Santarém</i>	55.31	28.47	55.63	39.73	65.61	38.29
<i>Setúbal</i>	68.65	49.81	68.49	25.62	45.50	23.65
<i>V. Castelo</i>	43.33	29.14	45.21	53.35	65.01	49.80
<i>Vila Real</i>	41.92	29.82	43.17	53.84	64.19	52.37
<i>Viseu</i>	40.15	19.26	40.34	55.74	75.54	54.77

In 1976, all parties supported the regionalisation as it was in the Constitution. In the early 1980s, the *PSD/CDS* Governments assumed the purpose of moving forward with the institution of the administrative regions, but in all truth they continuously delayed the process. At the start

of the 1990s, the rightist parties clearly assumed positions against regionalisation. The *PSD* made it unviable until 1995, while it was in Government, and only began to support the holding of a referendum with the arrival of the *PS* in 1995. At this time it created conditions that, in principle, could lead to the institution of the regions.

The Socialist Party, being in favour of the institution of the regions in principle, remained ensnared in indecisions and contradictions that never allowed the decisive advance of the process. The acceptance of the referendum, as the rightist parties claimed, and the erratic and contradictory behaviour of the *PS* during the entire referendum procedure, paved the way for the negative result, which meant a clear victory for those who saw the referendum as a way to prevent the regionalisation process in years to come. *PCP*'s parliamentary activism on the institution of the regions was not enough to surpass the opposition from the right-wing parties and the contradictions of the *PS* regarding the regionalisation.

### **3.6. The Deadlock of the Regionalisation after the Referendum**

About two month after the referendum, on 14 January 1999, the *CDS-PP* introduced Bill No. 604/VII [*DAR* (II-A) 31, 21 January 1999, p. 851] to repeal the regionalisation laws.<sup>275</sup> The general principles were discussed on 11 March 1999, and the bill was rejected with nay votes from the *PS*, the *PCP* and the *PEV*, having obtained yea votes from the *PSD* and the *CDS-PP* [*DAR* (I) 58, 12 March 1999, pp. 2157-2166 and 2174]. An identical initiative was revived in the next legislature, on 8 November 1999, through Bill No. 9/VIII [*DAR* (II-A) 3, 11 November 1999, pp. 26-27], which lapsed on 4 April 2002 without having been discussed. The regionalisation laws were kept in force, being sure that the institution of the regions depended on holding a new referendum, which would have an affirmative response in that sense.

In the VI Constitutional Revision on 14 November 2003, the Draft Amendment to the Constitution No. 2/IX, introduced jointly by the *PSD* and the *CDS-PP*, then allies in the Government, proposed the removal of Articles 256 to 265 of the Constitution regarding the administrative regions, and proposed a new wording for Article 255, providing that a) the law can provide forms of administrative

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<sup>275</sup> These laws were, obviously, the Framework Law of the Administrative Regions (Law No. 56/91, of 13 August) and the Law of the Creation of Administrative Regions (Law No. 19/98, of 28 April).

regionalisation in the mainland; **b**) that law defines the territory of each region and the respective powers, and rules the composition, the way of Constitution, the responsibilities and working of their bodies; **c**) the approval of the law depends on more than half of the registered voters pronouncing favourably in a national referendum. It returned with the *PSD* proposal removing the regionalisation as a Constitutional command, turning it instead into a mere faculty given to the legislator and making it depend on a referendum where more than 50% of the registered citizens would need to vote affirmatively. As for the abstentions, they would have the same value as negative votes. In the *CERC* session of 16 April 2004 these proposals had yea votes from the *PSD* and the *CDS-PP* and nay votes from the *PS*, the *PCP*, the *BE* and the *PEV*. In the plenary sittings of 23 April, these proposals did not obtain the qualified two-thirds majority needed for their approval. 89 Members voted nay (76 *PS*, eight *PCP*, three *BE* and two *PEV*) and 108 voted yea (93 *PSD*, 14 *CDS-PP* and one *PS*), (Magalhães, 2004).

On 19 July 2005, the *PCP* introduced a new initiative in favour of regionalisation, introducing Draft Resolution No. 54/X [*DAR* (II-A) 36, 22 July 2005, pp. 24-25] and setting a schedule for the institution of the administrative regions during 2007. The *PCP* proposed that, up to the end of 2007, two possible maps for the regions be submitted to the municipal assemblies: the map of eight regions laid down in the Law for the Creation of the Administrative Regions approved in 1998 and the map corresponding to the five plan-regions. The municipal assemblies should give their opinions up to the end of the first semester of 2006. In the second semester there would be the approval of the map of the regions to be submitted to referendum in the first quarter of 2007. This bill was never discussed.

In 2008, a civic movement named 'Regions, Yes!', formed by citizens from different political sectors who assumed themselves as supporters of a model of regionalisation based on the five plan-regions, gathered signatures with the aim of presenting a petition to the Assembly of the Republic. With a view to future Constitutional revision, it appealed to the parties to remove the excessive conditions that had created obstacles to the creation of the administrative regions. These namely involved removing the obligation of the simultaneous creation of the regions, and the demand that the number of voters in the referendum be more than 50% of the registered citizens to have binding effect.<sup>276</sup>

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<sup>276</sup> As previously Stated, Jorge Miranda and Rui Medeiros consider that the demand for 50% of participants to assure the binding effect of the referendum is not a Constitutional

Without aiming to predict the destiny of any future initiative attempting to move the institution of the administrative regions forward, it is clear that the success of such a proposal seems to be, at least, remote. The Constitutional demand of a referendum for the institution of the regions, and the experience of 1998, makes it clear that the regionalisation of the Portuguese mainland territory will not be possible without a wide consensus among the political parties, as well as on regional boundaries, and the nature and powers of the administrative regions to institute. Since that consensus is far from being achieved, the possibility of a new referendum, whose result would be any different from the previous one, is remote. The referendum of 1998, and the Constitutional framework, had the effect of delaying the institution of the administrative regions *sine die*.

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demand in relation to the referendum on the administrative regions. That demand only appears in the Referendum Law, which in that point is unConstitutional.

