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Judicial Independence and Party Politics in the Kelsenian Constitutional Courts: The Case of Portugal

Sofia AmaralGarcia* Nuno Garoupa† Veronica Grembi‡

*samaralgarcia@yahoo.com

†University of Illinois College of Law, ngaroupa@illinois.edu

‡Faculty of Economics, Catholic University; Institute of Economics and Finance, University of Rome La Sapienza, veronica.grembi@unaroma1.it

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Abstract

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JUDICIAL INDEPENDENCE AND PARTY POLITICS IN THE KELSENIAN CONSTITUTIONAL COURTS: THE CASE OF PORTUGAL

Sofia Amaral Garcia, Nuno Garoupa and Veronica Grembi[°]

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ABSTRACT

In this paper we test to what extent the Kelsenian-type of constitutional judges are independent from political parties by studying of the Portuguese Constitutional Court. The results yield three main conclusions. First, constitutional judges in Portugal are quite sensitive to their political affiliations and their political party's presence in government when voting. Second, peer pressure is very relevant. Third, the 1997 reform that was enacted to increase judicial independence has had no robust statistically significant effect.

KEYWORDS: *Constitutional court, Portugal, judicial independence, party politics*.

[°] Address correspondence to Nuno Garoupa, UIUC College of Law, 504 E Pennsylvania Avenue, Champaign, IL 61820, USA, ngaroupa@law.uiuc,edu. Sofia Amaral Garcia, EDLE Candidate, Università di Bologna; Nuno Garoupa UIUC College of Law, IMDEA (Madrid) and CEPR (London); Veronica Grembi, Università Cattolica del Sacro Cuore (Rome). We are grateful to one anonymous referee, the editor, Ted Eisenberg, and to Tom Ginsburg, José Maria Labeaga, Pedro Magalhães, António Morgado, Pedro Pita Barros, Stefan Voigt, and the participants at ISNIE 2007 and SIDE 2007 meetings and seminars in Vigo and Central European University for useful comments and suggestions. Sofia Amaral Garcia acknowledges financial support by FCT, POCTI/ECO/44146/2002, and Nuno Garoupa acknowledges financial support by FCT, PPCDT/JUR/55752/2006. We are also grateful to Yeny C. Estrada for reviewing the paper. The usual disclaimers apply.

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I. INTRODUCTION

The economic analysis of constitutional courts is getting increasing attention due to the recognition that the appropriate design of judicial review plays an important role in assessing constitutional frameworks.[1] Conformity with the constitution is a central issue in assessing the various dimensions of political and legal reform, in particular because constitutional adjudication should respond to long-run interests and prevent politicians from maximizing short-run opportunities.

Politicians who have drafted a constitution determine the role of the constitutional court. Therefore, it is likely that the design aims to protect their interests. Hence, the choice of centralization, standing, size of the court, the appointment mechanism employed, and the authority to engage in abstract versus concrete review must respond to the potential or expected problems faced by future drafters. We cannot understand the role of a given constitutional court without paying attention to the political process underlying the production of the constitution.[2]

In general, courts can be seen either as pure gatekeepers of the law or as innovative lawmakers who engage in what is sometimes called judicial activism. Constitutional courts are no exception. In the American model, constitutional courts provide constitutional interpretations that effectively develop new law in order to adjust to changes in the community. Judicial boldness might create serious conflicts with politicians but little pressure exists for substantive constitutional reform from society in general. In the Continental model, constitutional courts are suppose to be more conservative in the interpretation of constitutions and are restrained from embracing active

[1] A good introduction is provided by Ginsburg (2002).
[2] See, among others, Lutz (1994), Cooter (1992) and Ramos (2006).

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lawmaking.[3] Even though there are minor conflicts with politicians, there might be serious pressure for frequent substantive constitutional reform. In both models, the politics of judicial review plays a very important role.[4]

Judicial decision-making in a constitutional court is in part the result of personal attributes,[5] attitudes (including policy preferences), peer pressure, and intra-court interaction (a natural pressure for consensus and court reputation; a common objective to achieve supremacy of the constitutional court), and party politics (loyalty to the appointer) within a given constitutional and doctrinal environment.[6] Hence, for example, the observation that conflicts between constitutional courts and the parliament, or the government, occasionally exist might be explained by two factors. On one hand, conflict may exist because constitutional judges are appointed, and therefore heavily influenced by political parties (judicial independence becomes an issue); on the other hand, conflict may be reduced as a natural consequence of the more passive role that a gatekeeper approach imposes (for example, judges are interested in maintaining a certain *status quo* that does not damage the prestige of the court). Furthermore, conformity between constitutional judges and party interests can be explained by two different reasons. First, given the political choice of constitutional judges, they exhibit the same preferences as the party that selects them. Second, when the constitutional judges do not have lifetime appointments, they might want to maintain good relations with the party that selected in the hope of securing future appointments to the court or elsewhere (regardless of whether the terms are renewable or not). Both reasons suggest that judges have a political bias incentive and are not fully independent.

[3] For a discussion of judicial activism by a Continental constitutional court, see Kommers (1994) on the German case. There is also evidence of judicial activism by the French constitutional court since the early 1980s. See, for example, Davis (1986) and Bell (1988).
[4] For a general discussion see Friedman (2005) and McCubbins and Rodriguez (2006).
[5] For judicial preferences, see Easterbrook (1990), Posner (1993 & 2005), Baum (1994), Schauer (2000), and Guthrie, Rachlinski and Wistrich (2008).
[6] For example, see the models developed by George and Epstein (1992) or Lax and Cameron (2007).

Therefore, the process of recruitment and appointment of judges is a major variable in the design of constitutional courts. Overly party-oriented mechanisms are especially bad for independent judicial review,[7] but are quite likely to smooth conflicts with other bodies of governance. Cooperative mechanisms that require a supermajority deliver consensual constitutional courts that are more deliberative than active lawmakers.[8]

These issues are amenable to empirical analysis. The proper response to the many identified trade-offs cannot be convincingly provided without an adequate empirical assessment.[9] Although the U.S. Supreme Court has been the focus of much attention by legal scholars,[10] empirical debate about other constitutional courts is almost non-existent, with notable exceptions.[11] This paper extends the empirics of testing the determinants of judicial independence by analyzing Portuguese constitutional cases.

II. THE CASE OF PORTUGAL

This paper uses the Portuguese judiciary as an example to test the extent to which Kelsenian-type constitutional judges are dependent on their political parties in a supermajority appointment system.[12] As in other countries (Germany and Spain for example), a *de facto* quota system exists

[7] Theories of judicial independence include Landes and Posner (1975), Epstein (1990), and Ramseyer (1994).
[8] See Ginsburg (2003) and references therein.
[9] For example, while the political science literature finds significant ideological influence in judicial decisions (see Friedman, 2005), other authors do not find that characteristics of judges offer a good prediction of outcomes in most cases. See Ashenfelter, Eisenberg and Schwab (1995).
[10] See, for example, Harvey and Friedman (2006) and references therein.
[11] On Japan and the Japanese Supreme Court, see Ramseyer and Rasmusen (2003 & 2006). On Italy, see Fiorino, Padovano and Sgarra (2007).
[12] See Kelsen (1942). The Kelsenian model proposes a constitutional court to be a "negative legislator" since it stops legislation from entering the legal system, hence sharing legislative power with the legislator. However, most constitutional courts go beyond the original Kelsenian model by exercising more power than a mere "negative legislator."

that allocates judicial appointments to the four major parties.[13] Therefore, the Portuguese constitutional court broadly reflects parliamentary preferences without major bias against either of the two main blocks (left or right). Obviously, the stability of the Portuguese constitutional court very much relies on the stability of party politics. Unsurprisingly, deadlock occurs when there is a temporal discrepancy between the majority of the parliament and the majority of the court.

Portugal has a very long and detailed Constitution (currently 296 articles), and thus empowers the constitutional court to intervene frequently in policy-making. However, serious conflicts between the constitutional court and the Parliament, or the Government, leading to a political deadlock are not very frequent and are mainly caused by the court adhering to a literal interpretation of the Constitution. The Portuguese Constitution dates from 1976 and has been reformed seven times since then. The constitutional court was created in 1982, after the first constitutional reform.[14] Given the original profound leftist ideological bias of the Constitution, serious conflicts are more likely to occur when a right-wing majority dominates the Parliament.[15] Constitutional judicial review is centralized (concentrated in the constitutional court) and decentralized (diffused across the judicial courts). It is a hybrid system that some authors have described as being more similar to the American than the Continental model.[16]

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[13] There are five main parties nowadays, PS (Partido Socialista, socialists), PSD (Partido Social Democrata, conservative), PCP (Partido Comunista Português, communists), CDS (Centro Democrático Social, Christian-democrats), and BE (Bloco de Esquerda, extreme-left). The socialists were in power from 1983 to 1985 (grand-coalition with PSD), 1995 to 2002 (minority government), and since 2005 (with an overall majority); the conservatives were in power from 1983 up to 1985 with the socialists and then from 1985 to 1995 (alone with overall majority); a coalition between conservatives and Christian-democrats has governed from 2002 to 2005. For background information, see Goldey (1983); for updated reviews, see Magone (2005) and Costa Lobo (2006).

[14] Between 1976 and 1982 there was a constitutional standing committee within the Council of Revolution (the guardians of the military coup that abolished the conservative dictatorship in 1974). This council was abolished in 1982 marking the definitive consolidation of democracy. Only the communists (PCP) and their allies were against this change.

[15] Only the Christian-democrats voted against the Constitution in 1976, although most of the votes of article by article were unanimous. There was no constitutional referendum.

[16] See Amaral (2005), in Portuguese. The explanation seems to rely on the influence of the Brazilian Constitution (this one heavily influenced by the American model) on the 1911 Portuguese Constitution. Decentralized constitutional review is exercised by regular courts in concrete and specific cases. Decisions concerning the concrete unconstitutionality of laws in the context of a specific case are subject to appeal to the constitutional court. Those are the majority of the cases heard by the constitutional court.

Portugal has a semi-presidential system that resembles that of France. It has a directly elected President who can only be elected twice consecutively for a fixed term of five years. The Prime-Minister is appointed by the President and must have the confidence of the Parliament. The members of Parliament are elected for a fixed term of four years. The President can dismiss the Government and dissolve the Parliament, and thereby call for an early election, under certain circumstances. Neither the President nor the Government as a whole has appointing power with regards to the constitutional court; only the Parliament and, to a more limited extent the elected judges of the court, have that power.[17]

Legislation can be enacted by the Parliament, or by the Government, depending on a complex balance between executive and legislative powers. In any case, legislation must be approved by the President who can veto it or require judicial review by the constitutional court. In practice, the review of legislation, requested by the President, is more likely when the Government and the majority in the Parliament are from a different political party than that of the President. The Presidency was dominated by the left from 1983 to 2006, whereas right-wing parliamentary majorities were in office from 1985 to 1995 and from 2002 to 2005.

There are thirteen constitutional judges. Ten of the judges are elected by the Parliament, which requires a 2/3 majority (we will refer to them as elected judges), and the remaining three are chosen by the elected judges (we will refer to them as appointed judges). Six of them are necessarily career magistrates.[18] The elected judges tend to reflect the political composition of the Parliament at the time of the election, and in practice, the elected judges are extracted from a unique list of names negotiated by the parliamentary leadership of the main parties. Judges are

[17] The exclusion of the President from the appointment procedure for the constitutional judges (but not from the high judicial council, for example) has been a matter of controversy and is explained by the political situation in 1982 when the then President lacked the confidence of the three main parties, conservatives (PSD), socialists (PS) and Christian-democrats (CDS).

[18] Every member of the court must hold a law degree unlike, for example, the French constitutional court.

elected for non-renewable terms of nine years (the mandate was for six years and renewable for a second period in office before 1997) and they enjoy all the standard privileges of career magistrates. There have been five courts[19], although we only look at four (1983-1989, 1989-1998[20], 1998 -2003[21], 2003 - 2007[22]) since the new one was recently inaugurated.

The Portuguese constitutional court exercises preventive, concrete, and abstract methods of constitutional review.[23] In this paper we concentrate on the method of preventive review because this method is more related to party politics, and usually receives a lot of media attention.[24] Preventive review occurs before legislation is enacted and upon request or referral by the President; in the case of supermajority laws, the Prime-Minister or one-fifth of the Parliament can also request preventive review.[25] Given the political importance of preventive constitutional review, these decisions are the ones in which we anticipate a higher degree of party politics. We do not expect party alignment to occur all the time, since judges want to maintain a reasonable reputation for independence. We should note that the vast majority of the work by the constitutional court is on concrete judicial review.[26] The constitutional court has very little control

[19] The duration of each court is defined by the parliamentary election of the majority of the judges, and a new President and Vice-President of the court. In theory, the terms should have been 1983-1989, 1989-1995, 1998-2007, and 2003-2012 respectively, but resignations, early retirements and sudden deaths have precipitated new elections for the court.
[20] Political deadlock made the third court to be inaugurated three years later than it should have been.
[21] The first court to which the 1997 change of rules concerning duration and renewal of mandate apply.
[22] The inauguration of the fourth court was precipitated by the resignation or retirement of five judges from the third court in 2002 and early 2003.
[23] There is another peculiar form: unconstitutional by omission. The President can ask the constitutional court to signal omission in certain legislative areas necessary to implement constitutional rights. They do not bind other branches of government. Obviously they are very rare.
[24] Our interpretation is consistent with Vanberg (1998) and de Araújo and Magalhães (2000), in Portuguese.
[25] In our dataset, we only have preventive review requested by the President.
[26] More than 85% of the cases heard by the constitutional court in the period 1983-2007. Concrete judicial review is exercised by judicial courts while hearing specific cases, and then appealed to the constitutional court.

over its docket but the right of rejecting a plea for lack of merit in the context of concrete judicial review has been exercised on several occasions.[27]

The constitutional court has the power to declare laws unconstitutional and immediately void. In the case of preventive review, the President must then veto and send legislation back to the Government or the Parliament to be eventually modified or purged. There is the alternative of a constitutional amendment later in time, or the approval of the same law by a qualified majority (both require a two-thirds majority). However, parties have been quite compliant, and usually acknowledge the court decisions without engaging in an open conflict. Hence, with respect to many important legislative decisions, the court imposes its influence via new legislation.

Constitutional judges are overwhelmingly law professors, professional politicians with a law degree, or high-ranked career magistrates. At least six career judges are present in the court per term. At least ten constitutional judges, the elected judges, are easily identified with a political party for each term in office. However, an agreement apparently exists between the main parties that establishes six judges for each block. Within each ideological block, the main party negotiates the distribution with minor parties, leaving the last judge to be neutral (to party affiliation).[28]

Previous results[29] show that:

[27] See discussion by Magalhães (2003). The lack of docket control avoids the limited ability to observe judicial policy preferences in assessing the decisions of a court with substantial discretionary jurisdiction, see Kastellec and Lax (2008).

[28] As a consequence of this deal, we expect the average court to have six left-wing judges (zero to two communists, four to six socialists) and six right-wing judges (zero to two Christian-democrats, four to six conservatives). Details of this informal agreement are explained by de Araújo (1997) in Portuguese.

[29] Magalhães and de Araújo (1998), de Araújo and Magalhães (2000), both in Portuguese, and Magalhães (1998 & 2003).

(i) The higher the proportion of judges within the court that are affiliated with the party or parties that support a piece of legislation, the lower the probability that the court will declare the legislation unconstitutional;

(ii) Declarations of unconstitutionality are more likely when the legislation is supported by a large majority in the Parliament, the proposed explanation being that a declaration of unconstitutionality will be more easily solved by the Parliament;

(iii) There is a high correlation between party affiliation and voting, with respect to preventive review;

(iv) The court is substantially and increasingly polarized;

(v) Judges appointed by the same party or belonging to the same block (left-right) exhibit above-average inter-agreement scores;

(vi) Being a career magistrate does not seem to increase independence in the manner constitutional judges vote;

(vii) Election or appointment seem to be irrelevant for predicting voting.

III. THE DATA AND RESULTS

Our paper adds to previous work by testing party conformity and by making use of new data recorded in 2007. We also test the effect of the 1997 reform on the behavior of constitutional judges (the change of tenure regime in the court from two renewable terms of six years to one non-renewable term of nine years). We have coded the entire dataset of abstract constitutional cases from 1983 to 2007 initiated by the President. This dataset was obtained by inspection of the court decisions publicly available.

Table 1 describes the characteristics of the judges and additional detail is presented in Table 2 Most of the constitutional court decisions are from 1985 to 1995 and 2002 to 2005, when there was a conservative majority in the Parliament and a socialist President. Of a total of 270 decisions: six are from before 1985, 193 for the period 1985 to 1995, 25 for the period 1995 to 2002, 24 for 2002 to 2005, and 22 for 2005 to 2007. We considered the number and nature of individual votes taken over each decision with regard to preventive constitutional review. Therefore, our methodology differs from the previous literature since the unit of analysis is each individual vote on each constitutional issue, and not each decision taken by court in general. Each decision can include several votes with respect to different legal issues and questions, including willingness to review.[30] Peer pressure in the court is evidenced by unanimous votes constituting 84 of 270 decisions. Unanimous decisions are disproportionably higher in the period 1985-1995.[31]

[insert Table 1&2 about here]

To begin describing the relation between party ideology and judicial votes on constitutional issues, consider Tables 3 and 4. Table 3 shows, as expected, that judges from right-wing parties are much more likely to vote in favor of constitutionality than are judges from left-wing parties. Almost 80% of right-wing votes were in favor of constitutionality, as compared to well under 50% of left-wing votes. These results are even more striking in Table 4, when unanimous decisions are excluded. More than 85% of right-wing votes were in favor of constitutionality as compared to 35% of left-wing votes. Therefore we have evidence that (i) peer pressure within the court is important and restrains ideological bias; (ii) ideological bias plays an important role, as evidenced by the fact that judges appointed by right-wing parties are much more prone to vote for

[30] Decisions concerning admission are also considered. We take the view that a vote against admission is a vote in favor of constitutionality of the law since it will not be subject to preventive judicial review.
[31] The political explanation is that one of the explicit goals of the conservative majority in the Parliament in the period 1985-1995 was to undo constitutional rights.

constitutionality than judges appointed by left-wing parties; the neutral judges are somewhere in the middle.[32]

[insert Tables 3&4 about here]

However, these results do not allow us to distinguish conformity due to judicial preferences (ideological bias) and straight political pressure (not necessarily active pressure). First, we propose a test of decomposing judicial behavior when the major party, the conservatives (center-right), is in government (from 1982 to 1995 and 2002 to 2005), and then in opposition (from 1995 to 2002 and since 2005). The results in Table 5 indicate that the vote by right-wing judges does not materially change, but the vote by left-wing judges seems to be sensitive to the party in power within government. While the judges appointed by the parties in the right (conservatives and Christian-democrats) do not seem to be significantly affected by the fact that their party or ideological block is in power, the opposite holds true for the judges appointed by the parties in the left (socialists and communists). Therefore, our results suggest that judges appointed by the right exhibit ideologically bias due to their preferences (to undo the 1976 constitutional arrangement), while judges appointed by the left seem to be more sensitive to party politics (in or out of government).[33]

[insert Table 5 about here]

An initial sense of the impact of the 1997 reform (change of tenure regime) on judicial behavior emerges in Table 6. Unfortunately, the results are not promising. The apparent changes in behavior by left-wing judges are easily explained by the fact that the third and fourth courts

[32] Friedman (2005) discusses a similar balance between judicial ideology and intracourt interaction in the American Supreme Court.

[33] The explanation that legislation approved by a left-wing parliamentary majority is of a different nature of legislation approved by a right-wing parliamentary majority does not seem plausible because the legislation reviewed by the court is filtered by the President, who was center-left from 1982 to 2006. In fact, if one takes a public choice perspective that a center-left President is more likely to favor center-left legislation, then the legislation reviewed by the court when a left-wing majority prevails should be clearly more unconstitutional than when a right-wing majority prevails.

(1998-2007) largely overlapped with a left-wing majority in the legislature. Regression analysis reported later in the paper confirms that the changes in 1997 had no substantial impact on the independence of the court. That might be due to (i) path-dependence (that is, it is too early to test the far-reaching consequences of the 1997 reform), (ii) adverse selection problems (it is unclear if the 1997 reform altered the type of individuals who are willing to serve for nine years in the court with no possibility of reappointment), or (iii) reinforcement of post-term in office prospects (judges' concern about what happens after they leave the court).

[insert Table 6 about here]

Finally, we assess the voting pattern based on whether a judge is selected by appointment, rather than by parliamentary election, and if being a previous career as magistrate is associated with difference among judges. Table 7 shows the results. The neutral judge (the thirteenth judge in each of the four courts) is an appointed magistrate. No significant difference exists between the behavior of appointed and elected judges on one hand, or between magistrates and non-magistrates on the other hand.

[insert Table 7 about here]

Consequently, the results obtained thus far from decomposing and analyzing the dataset are:

(i) There seems to be an association between being affiliated with a right-wing party (conservatives and Christian-democrats) and voting for constitutionality; conversely, there seems to be a correlation between being affiliated to a left-wing party (socialists and communists) and voting for unconstitutionality;

(ii) When the left is in power (the right in opposition), the judges affiliated with the left-wing parties (socialists and communists) are more likely to vote for constitutionality; however, such an effect does not take place on the right;

(iii) The 1997 reform had no apparent strong effect on voting patterns;

(iv) Appointment versus election, and being a career magistrate, are not associated with a significant impact on voting patterns.

IV. REGRESSION ANALYSIS

We developed a set of regressions to confirm the above preliminary results, and to further investigate the determinants of judicial behavior in the Portuguese constitutional court. We start by constructing two dependent variables:

(i) A *vote for the constitutionality of the law*: the dependent variable takes the value of one if the judge's vote is for the constitutionality of a law, and zero otherwise.

(ii) *A vote according to party interests*: the dependent variable takes the value of one if the judge's vote given by a judge mimics the vote of the party in the legislature, and zero if otherwise.

The explanatory variables include:

(i) Political variables (used to assess the extent to which they influence judicial behavior in the constitutional court):

a. Political affiliation: constitutional judges are grouped by left (socialists and communists) and right (conservatives and Christian-democrats) to avoid limitations due to the fact that the two smallest parties have lost their judges;[34]

b. Party in government: has a value equal to one if the judge was affiliated with the ideological block in government, and zero otherwise;

c. Appointment versus election: has a value equal to one if the judge has been appointed, and zero otherwise;

d. Magistrate: has a value equal to one if the judge is a career magistrate, and zero otherwise;

e. 1997 reform: has a value equal to one if the individual vote occurred in the first or second courts, and zero otherwise;[35]

f. Peer pressure: has a value equal to one if the judges voted by unanimity against constitutionality, and zero otherwise;

g. Media proxy variables: has a value equal to two if a case received a lot of attention (that is, press cover well before and well after the court decision) from the main national newspapers; has a value equal to one if a case received some attention (that is, some press cover the day or days before the vote); and has a value equal to zero if a case was not reported in the media before the vote had taken place.

(ii) Personal attributes:

a. Gender: has a value equal to one if the judge is male, and zero if the judge is a female;

b. Age: the age of the judge at the time of appointment.

(iii) Specific laws:

[34] See discussion *supra* 28 and characterization of dataset on Tables 1&2. The fourth court, for example, had no judges from the smaller parties.

[35] Recall that enhancing independence was one of the publicized reasons for the reform.

a. Labor laws: has a value equal to one if the law is related to the regulation of labor (broadly defined to include laws that deregulate labor relations), and zero otherwise;[36]

b. Social policy laws: has a value equal to one if the law is related to significant changes in social policy (for example, health and education), and zero otherwise.[37]

(iv) Economic context:

a. The GDP per capita of the year the decision took place;

b. The Unemployment rate in the year the vote took place;

c. The Inflation rate in the year the vote took place.

Given the inclusion of a constant, we use the neutral judge as the reference category in the regression analysis using *voting for constitutionality* as the dependent variable. Therefore, the coefficients of party affiliation should be interpreted with respect to the neutral judge. Finally, several fixed effects were considered per judge and per court. Usually with these types of regressions, we should consider the signal and not place too much emphasis on the magnitude of the estimated coefficients. In other words, we do not assess quantitatively the marginal impact of each explanatory variable on the probability of a judge voting for constitutionality, or according to party interests, but rather it is assessed qualitatively.

Tables 8 and 9 present the main results. We present the estimated logit models using Stata [version 10] with and without fixed effects per court and per judge. Due to the non-independence of the votes within cases and within decisions (recall that each case might have more than one decision), we further estimated the logit models correcting for the non-independence, in

[36] Given the ideological bias of the Portuguese Constitution, the regulation of labor and employment is very rigid and has been the object of legislative reforms by several governments. These legislative reforms usually have serious constitutional problems.

[37] The Portuguese Constitution prescribes public health and education systems with free access. Serious budgetary problems and lack of efficiency have led different governments to introduce important changes in these systems that usually end up under judicial review by the constitutional court.

particular, using as primary sampling unit (PSU), cases initially and then decisions. This was also done with clustering on case initially, and then on decision.

[insert Table 8 about here]

With respect to *voting for constitutionality,* the regression analysis largely confirms the preliminary analysis of the dataset. First, the influence of political variables matter. Being a left-wing judge decreases the probability of voting for constitutionality, whereas the coefficient for right-wing judges is statistically significant in fewer models and is unstable in direction across the models (recall that a baseline is provided by the neutral judge and note that the coefficient for the right-wing judges is always smaller than that for the left-wing judges). The judge being associated with the party in government increases the probability of voting for constitutionality. Second, specific laws seem to affect the way judges vote (labor laws have a consistent, statistically significant negative marginal impact, whereas social policy laws seem to have a positive marginal impact[38]). Third, economic context variables, as well as age, gender, magistrate, election versus appointment, and the media, do not have a robust pattern of statistical significance. Finally, the 1997 reform has no statistically significant impact on patterns of voting for constitutionality.

With respect to *voting according to party interests,* the regression analysis in Table 8 further confirms the importance of peer-pressure and party politics in the court. First, being a left-wing judge increases the probability of voting according to party interests (the opposite is true for a right-wing judge since neutral judges were excluded). The judge being associated with the party in government increases the probability of judges voting according to party interests. Second, specific laws affect the way judges vote (labor laws have a consistent statistically significant positive marginal impact, whereas social policy laws seem to have a negative marginal impact,

[38] See *supra* 36 and 37 for details.

although, not statistically significant). Third, as stated earlier, economic context variables, as well as age, gender, magistrate, elected, and the media, are not consistently statistically significant. The 1997 reform has no robust statistically significant impact on patterns of voting according to party interests (although the coefficient is always positive as expected). However, unanimity, as expected, significantly reduces the likelihood of voting according to party interests.

[insert Table 9 about here]

The influence of political variables in Tables 8 and 9 is now examined in more detail. They confirm that constitutional judges are politicized when voting. However, the patterns are dissimilar when comparing the left-wing to the right-wing. For example, constitutional judges affiliated with the left (socialists and communists), have a marginal effect that is consistently negative (i.e. more likely to vote against constitutionality), whereas, the right (conservatives and Christian-democrats), once the non-independence of the votes is corrected, or fixed effects are taken into consideration, has a marginal effect that is not statistically significant. This is further confirmed by the fact that the left is more likely to vote according to party interests than is the right.

The party in power is statistically significant, and has an expected positive marginal effect (the interests of the judges seem to be more aligned with party affiliation when the party or ideological blocks are in power). Both career magistrate and appointed judge have no statistical marginal effect on voting, which confirms our preliminary results. The marginal effect of the 1997 reform does not seem to be a very significant variable since nothing major has changed since then, which also confirms our preliminary results (although the sign of the coefficient concurs with more independence).

The effects of peer pressure are important, evidenced by the fact that around 30% of the decisions of the constitutional court have been unanimous (84 out of 270). This is confirmed by the impact of voting according to party interests.

From our study, the econometric results suggest that politics, as well as peer pressure, matter in the Portuguese constitutional court. Furthermore, these results suggest that politics matter at two different levels. Constitutional judges have their preferences aligned with the parties that appoint them, and naturally they vote frequently in the same manner (the result seems to be stronger for the left than for the right). However, the robustness of the marginal effect of the party in power indicates some opportunistic behavior by political parties (party alignment is stronger when the interests of the party are more significant).

V. CONCLUSIONS

This paper presents an empirical study about the Portuguese constitutional court with respect to judicial independence and judicial preventive constitutional review. We analyzed individual votes by constitutional judges from 1983 to 2007.

Our results indicate that party politics plays an important role in the Portuguese constitutional court. However, other variables also matter. The empirical evidence also suggests that peer pressure is very relevant for unanimous voting, with around 30% of the decisions concerning preventive review being unanimous.

We have shown that there is a strong association between being affiliated with a left-wing party (socialists and communists) and voting for unconstitutionality, whereas the association between the right-wing parties (conservatives and Christian-democrats) and voting for constitutionality is

weak. These results are confirmed when we look at voting according to party interests, legislation that has also been endorsed by the party with which the constitutional judge is suppose to be affiliated.

The power in the government, of the constitutional judge's party, seems to play an important role in both a judge's decision to vote for constitutionality, and in his or her vote according to party interests. Our interpretation is that, not only does party affiliation matter in terms of aligned preferences, but some opportunism takes place. That is, party politics is more important when the stakes are higher. Therefore, we conclude that party conformity takes place frequently due to judicial preferences (albeit, ideologically biased), and occasionally due to direct political pressure (not necessarily active pressure).

We have also discovered that some other controlled variables are relevant in predicting judicial behavior. Therefore, party politics and peer pressure are not the only relevant dimensions in the Portuguese Constitutional Court. For example, specific laws on labor regulation, or on social policy, seem to have a marginal impact on judicial behavior (albeit with different levels of robustness). It is also clear from the empirical results that the 1997 reform had no statistically significant effect on the voting behavior of judges. Nevertheless, data from more years to have enough data to settle this question in more satisfactory way.

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TABLE 1

CHARACTERISTICS OF PORTUGUESE CONSTITUTIONAL COURT JUDGES, 1985-2007

JUDGES / ATTRIBUTE	Conservatives [RIGHT]	Socialists [LEFT]	Communists [LEFT]	Christian-Democrats [RIGHT]	Neutral
	13	**13**	**3**	**3**	**3**
APPOINTED	3	2	2	1	3
ELECTED	10	12	2	3	0
CAREER MAGISTRATE	7	3	2	2	3
NON-MAGISTRATE	6	10	1	1	0
PRE-1997 REFORM	8	8	3	3	2
POST-1997 REFORM	8	8	1	1	2
FEMALE	2	3	0	0	0
MALE	11	10	3	3	3

Note: Some judges are counted more than once because they switched from elected to appointed (three judges) or were in court before and after the 1997 reform (nine judges).

Source: Portuguese Constitutional Court, 1985-2007.

TABLE 2

CHARACTERIZATION OF INDIVIDUAL VOTES

NAME	PARTY	TOTAL VOTES	TOTAL VOTES EXCLUDING UNANIMOUS DECISIONS	VOTES FOR CONSTITUTIONALITY EXCLUDING UNANIMOUS DECISIONS	% OF VOTES FOR CONSTITUTIONALITY EXCLUDING UNANIMOUS DECISIONS
Joaquim Costa Aroso	CDS	2	2	2	100.00
Jorge Campinos	PS	6	6	6	100.00
Maria João Madeira Antunes	PS	22	14	14	100.00
Fernando Alves Correia	PSD	100	87	83	95.40
Maria dos Prazeres Beleza	PSD	52	36	34	94.44
Vítor Nunes de Almeida	PSD	141	100	94	94.00
José Bravo Serra	PSD	164	126	118	93.65
Carlos Pamplona de Oliveira	PSD	44	30	28	93.33
Messias Bento	PSD	188	139	127	91.37
Maria da Assunção Esteves	PSD	141	101	89	88.12
José Cardoso da Costa	CDS	228	157	135	85.99
Vítor Gonçalves Gomes	IND	28	19	16	84.21
Benjamim Silva Rodrigues	PSD	44	30	24	80.00
Artur Maurício	PS	53	36	25	69.44
Paulo da Mota Pinto	PSD	53	36	25	69.44
Gil Galvão	PS	45	30	19	63.33
Armando Marques Guedes	PSD	75	49	31	63.27
Mário Afonso	PSD	43	17	10	58.82
Raul Mateus da Silva	PSD	67	41	23	56.10
Maria Helena de Brito	PS	53	36	20	55.56
Guilherme da Fonseca	PCP	47	43	23	53.49
José de Sousa e Brito	PS	120	96	48	50.00
José Martins da Fonseca	IND	67	41	18	43.90
José Magalhães Godinho	PS	74	48	20	41.67
Rui Moura Ramos (VP4)	PSD	42	29	12	41.38
António Vitorino	PS	85	60	24	40.00
Alberto Tavares da Costa	IND	167	118	45	38.14
Luís Nunes de Almeida	PS	192	140	47	33.57
Maria Fernanda Palma Pereira	PS	89	71	23	32.39
Antero Monteiro Diniz	PS	180	126	34	26.98
Armindo Ribeiro Mendes	PS	141	101	20	19.80
Mário de Brito	PCP	131	89	11	12.36
Vital Moreira	PCP	67	41	4	9.76
Mário Torres	PS	45	30	2	6.67
António Costa Mesquita	CDS	2	1	0	0.00
	TOTAL	**2 998**	**2 126**	**1 254**	**58.98**

Source: Portuguese Constitutional Court, 1985-2007.

TABLE 3

PARTY IDEOLOGY AND JUDICIAL VOTES ON CONSTITUTIONALITY

PARTY—N (%)	JUDGE VOTES FOR CONSTITUTIONALITY	JUDGE VOTES AGAINST CONSTITUTIONALITY	TOTAL	NUMBER OF JUDGES
Right-wing parties	1096 (79.1%)	290 (20.9%)	1386	16
Left-wing parties	579 (42.9%)	771 (57.1%)	1350	16
Neutral	134 (51.2%)	128 (48.8%)	262	3
Total	1809	1189	2998	

Note: Right-wing parties are conservatives and Christian-democrats; left-wing parties are socialists and communists

Source: Individual judges' votes in 270 pre-legislation review decisions, 2998 total observations (entire dataset), Portuguese Constitutional Court, 1985-2007.

TABLE 4

PARTY IDEOLOGY AND JUDICIAL VOTES ON CONSTITUTIONALITY EXCLUDING UNANIMOUS DECISIONS

PARTY—N (%)	JUDGE VOTES FOR CONSTITUTIONALITY	JUDGE VOTES AGAINST CONSTITUTIONALITY	TOTAL	NUMBER OF JUDGES
Right-wing parties	835 (85.1%)	146 (14.9%)	981	16
Left-wing parties	340 (35.2%)	627 (64.8%)	967	16
Neutral	79 (44.4%)	99 (55.6%)	178	3
Total	1254	872	2126	

Note: Right-wing parties are conservatives and Christian-democrats; left-wing parties are socialists and communists

Source: Individual judges' votes in 186 pre-legislation review decisions, 2126 observations (entire dataset excluding unanimous decisions), Portuguese Constitutional Court, 1985-2007.

TABLE 5
PARTY IN POWER AND JUDICIAL VOTES ON CONSTITUTIONALITY

PARTY—N (%)	JUDGE VOTES FOR CONSTITUTIONALITY	JUDGE VOTES AGAINST CONSTITUTIONALITY	TOTAL
A. RIGHT-WING PARTIES	**1096**	**290**	**1386**
Conservatives in government	883 (78.8%)	237 (21.2%)	1120
Conservatives in opposition	213 (80.1%)	53 (19.9%)	266
B. LEFT-WING PARTIES	**579**	**771**	**1350**
Conservatives in government	369 (34.4%)	704 (65.6%)	1073
Conservatives in opposition	210 (75.8%)	67 (24.2%)	277

Note: Right-wing parties are conservatives and Christian-democrats; left-wing parties are socialists and communists

Source: Individual judges' votes in 270 pre-legislation review decisions, 2736 observations (entire dataset excluding votes by neutral judges), Portuguese Constitutional Court, 1985-2007.

TABLE 6

PARTY IDEOLOGY AND JUDICIAL VOTES ON CONSTITUTIONALITY BEFORE AND AFTER THE 1997 REFORM

PARTY—N (%)	JUDGE VOTES FOR CONSTITUTIONALITY	JUDGE VOTES AGAINST CONSTITUTIONALITY	TOTAL
A. RIGHT-WING PARTIES	**1096**	**290**	**1386**
First and Second Courts (1983-March 1998)	865 (79.6%)	221 (20.4%)	1086
Third and Fourth Courts (March 1998-2007)	231 (77.0%)	69 (23.0%)	300
B. LEFT-WING PARTIES	**579**	**771**	**1350**
First and Second Courts (1983-March 1998)	392 (37.9%)	641 (62.1%)	1033
Third and Fourth Courts (March 1998-2007)	187 (59.0%)	130 (41.0%)	317
C. NEUTRAL	**134**	**128**	**262**
First and Second Courts (1983-March 1998)	97 (46.4%)	112 (53.6%)	209
Third and Fourth Courts (March 1998-2007)	37 (69.8%)	16 (30.2%)	53

Note: Right-wing parties are conservatives and Christian-democrats; left-wing parties are socialists and communists

Source: Individual judges' votes in 270 pre-legislation review decisions, 2998 observations (entire dataset), Portuguese Constitutional Court, 1985-2007.

TABLE 7
JUDICIAL BACKGROUND JUDICIAL VOTES ON CONSTITUTIONALITY

PARTY—N (%)	NUMBER OF JUDGES	JUDGE VOTES FOR CONSTITUTIONALITY	JUDGE VOTES AGAINST CONSTITUTIONALITY	TOTAL
A. RIGHT-WING PARTIES		**1096**	**290**	**1386**
Appointed Judges	4	151 (77.1%)	45 (22.9%)	196
Elected Judges	13	945 (79.4%)	245 (20.6%)	1190
Magistrates	9	556 (80.0%)	139 (20.0%)	695
Non-Magistrates	7	540 (78.1%)	151 (21.9%)	691
B. LEFT-WING PARTIES		**579**	**771**	**1350**
Appointed Judges	4	94 (42.2%)	129 (57.8%)	223
Elected Judges	14	485 (43.0%)	642 (57.0%)	1127
Magistrates	5	176 (38.6%)	280 (61.4%)	456
Non-Magistrates	11	403 (45.1%)	491 (54.9%)	894
C. NEUTRAL		**134**	**128**	**262**
Appointed Judges	3	134 (51.2%)	128 (48.8%)	262
Elected Judges	0	0 (-)	0 (-)	0
Magistrates	3	134 (51.2%)	128 (48.8%)	262
Non-Magistrates	0	0 (-)	0 (-)	0

Note: Right-wing parties are conservative and Christian-democrats; left-wing parties are socialists and communists

Source: Individual judges' votes in 270 pre-legislation review decisions, 2998 observations (entire dataset), Portuguese Constitutional Court, 1985-2007.

TABLE 8

REGRESSIONS CC Portugal: LOGITs vs PSU=CASE vs. CLUSTER=CASE

VOTE FOR CONSTITUTIONALITY INCLUDING UNANIMOUS DECISIONS

COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. (1.1)	REG. (1.2)	REG. (1.3)	REG. (1.4)
TOTAL OBSERVATIONS	2998	2998	2998	2998
TOTAL REGRESSORS	16	18	30	32
MCFADDEN R^2	0.149	0.159	0.170	0.183
AKAIKE INFORMATION C	3460.1478	3421.9334	3401.3676	3355.7446
SCHWARZ C	3556.239	3530.036	3581.5386	3547.927
LOG LIKELIHOOD	-1714.0739	-1692.9667	-1670.6838	-1645.8723
LR STATISTIC (DEGREES OF FREEDOM)	598.81 (15)	641.03 (17)	685.59 (29)	735.22 (31)
VARIABLES				
CONSTANT (z-statistic)	1.294 (3.69)***	2.192 (3.65)***	2.010 (3.69)***	2.737 (3.73)***
RIGHT (PSD+CDS)	0.445 (2.21)**	0.451 (2.18)**	-0.606 (1.90)*	-0.487 (1.48)
LEFT (PS+PCP)	-0.642 (3.54)***	-0.613 (3.35)***	-0.994 (3.14)***	-0.773 (2.38)**
PARTY IN GOVERNMENT	0.952 (8.43)***	0.930 (7.80)***	0.911 (7.45)***	0.926 (7.19)***
AGE	-0.003 (0.63)	-0.007 (1.28)	0.004 (0.58)	0.004 (0.52)
GENDER	0.040 (0.26)	0.076 (0.48)	-0.658 (2.38)**	-0.742 (2.58)***
MAGISTRATE	-0.047 (0.46)	-0.034 (0.33)	-0.101 (0.58)	-0.042 (0.24)
ELECTED	0.056 (0.45)	0.030 (0.24)	0.063 (0.34)	0.014 (0.07)
INFLATION	-2.584 (2.35)**	-3.679 (3.08)***	-2.392 (2.06)**	-4.031 (3.20)***
UNEMPLOYMENT	-13.077 (3.76)***	-15.175 (3.31)***	-11.168 (2.96)***	-13.836 (2.91)***
GDPpc	1.537 (0.79)	-5.370 (2.23)**	1.246 (0.60)	-6.648 (2.66)***
MEDIA	-0.173 (1.07)	0.094 (1.46)	0.249 (4.13)***	0.102 (1.55)
SOCIAL POLICY	1.937 (3.63)***	1.502 (2.80)***	1.933 (3.60)***	1.461 (2.71)***
LABOR	-0.786 (5.83)***	-0.408 (2.78)***	-0.775 (5.69)***	-0.362 (2.44)**
REFORM 1997	-0.173 (1.07)		-0.245 (1.24)	
UNANIMITY	0.181 (1.93)*	0.132 (1.38)	0.216 (2.26)**	0.166 (1.71)*

TABLE 8 (CONT.)

REGRESSIONS CC Portugal: LOGITs vs PSU=CASE vs. CLUSTER=CASE

VOTE FOR CONSTITUTIONALITY INCLUDING UNANIMOUS DECISIONS

COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. (1.1)	REG. (1.2)	REG. (1.3)	REG. (1.4)
FIXED EFFECTS COURT				
C2		-0.485 (2.70)***		-0.749 (3.69)***
C3		-1.055 (3.51)***		-1.138 (3.64)***
C4		0.393 (1.26)		0.423 (1.30)
FIXED EFFECTS JUDGE				
Antero Monteiro Dinis			-0.081 (0.32)	0.062 (0.25)
José Cardoso da Costa			0.561 (2.34)**	0.842 (3.42)***
Luís Nunes de Almeida			-0.056 (0.22)	0.170 (0.66)
Mário de Brito			-0.515 (1.66)*	-0.416 (1.33)
Messias Bento			0.910 (3.57)***	1.116 (4.31)***
Alberto Tavares da Costa			-0.782 (2.74)***	-0.348 (1.16)
António Vitorino			0.130 (0.39)	0.497 (1.46)
Armindo Ribeiro Mendes			-0.569 (2.13)**	-0.290 (1.04)
Fernando Alves Correia			1.840 (4.04)***	2.184 (4.71)***
José Bravo Serra			1.091 (3.89)***	1.358 (4.73)***
José de Sousa e Brito			0.115 (0.46)	0.462 (1.75)*
Maria da Assunção Esteves			0.026 (0.07)	0.314 (0.82)
Vítor Nunes de Almeida			1.007 (3.43)***	1.328 (4.40)***
Maria Fernanda Pereira			-1.431 (4.08)***	-1.440 (3.86)***

TABLE 8 (CONT.)

REGRESSIONS CC Portugal: LOGITs vs PSU=CASE vs. CLUSTER=CASE

VOTE FOR CONSTITUTIONALITY INCLUDING UNANIMOUS DECISIONS

COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	ELIMINATE	REG. 2.1 PSU= CASE	REG. 2.2 PSU= CASE	REG. 2.3 PSU= CASE	REG. 2.4 PSU= CASE	REG. 3.1 CLUSTER= CASE	REG. 3.2 CLUSTER= CASE	REG. 3.3 CLUSTER= CASE	REG. 3.4 CLUSTER= CASE
TOTAL OBSERVATIONS		2998	2998	2998	2998	2998	2998	2998	2998
TOTAL REGRESSORS		16	18	30	32	16	18	30	32
MCFADDEN R^2						0.181	0.159	0.170	0.183
AKAIKE INFORMATION C						3460.1478	3421.9334	3401.3676	3355.7446
SCHWARZ C						3556.239	3530.036	3581.5386	3547.927
LOG LIKELIHOOD						-1714.074	-1692.967	-1670.684	-1645.872
LR STATISTIC (DEGREES OF FREEDOM)						598.814 (15)	641.028 (17)	685.594 (29)	735.217 (31)
# STRATA		1	1	1	1				
# PSU		63	63	63	63				
F test		22.12 (15, 48)	57.66 (17, 46)	60.40 (29, 34)	242.75 (31, 32)				
VARIABLES									
CONSTANT (z-statistic/t-statistic)		1.968 (1.91)*	2.178 (1.51)	2.370 (1.84)*	2.562 (1.37)	1.294 (1.25)	2.192 (1.46)	2.010 (1.83)*	2.737 (1.64)
RIGHT (PSD+CDS)		0.582 (0.98)	0.597 (0.98)	-0.756 (1.28)	-0.685 (1.16)	0.445 (1.00)	0.451 (0.96)	-0.606 (1.29)	-0.487 (0.98)
LEFT (PS+PCP)		-0.693 (1.99)*	-0.671 (1.91)*	-1.041 (1.37)	-0.930 (1.23)	-0.642 (2.32)**	-0.613 (2.25)**	-0.994 (1.85)*	-0.773 (1.45)
PARTY IN GOVERNMENT		0.960 (2.15)**	0.946 (2.07)**	0.820 (3.59)***	0.809 (3.34)***	0.952 (3.37)***	0.930 (3.07)***	0.911 (3.95)***	0.926 (3.70)***
AGE		-0.009 (0.73)	-0.010 (0.86)	0.004 (0.49)	0.004 (0.45)	-0.003 (0.43)	-0.007 (1.14)	0.004 (0.59)	0.004 (0.53)
GENDER		-0.307 (0.71)	-0.301 (0.69)	-1.053 (1.43)	-1.089 (1.48)	0.040 (0.16)	0.076 (0.31)	-0.658 (1.70)*	-0.742 (1.82)*
MAGISTRATE		0.087 (0.70)	0.094 (0.79)	0.026 (0.17)	0.059 (0.37)	-0.047 (0.40)	-0.034 (0.33)	-0.101 (0.55)	-0.042 (0.23)
ELECTED		0.163 (0.72)	0.149 (0.64)	0.267 (0.70)	0.237 (0.62)	0.056 (0.31)	0.030 (0.17)	0.063 (0.23)	0.014 (0.05)
INFLATION		-5.704 (1.47)	-4.476 (1.29)	-5.782 (1.23)	-4.688 (1.11)	-2.584 (0.74)	-3.679 (0.84)	2.392 (0.63)	-4.031 (0.84)
UNEMPLOYMENT		-13.815 (1.23)	-10.237 (0.80)	-8.925 (0.75)	-6.915 (0.48)	-13.077 (1.04)	-15.175 (1.28)	-11.168 (0.86)	-13.836 (1.06)
GDPpc		4.713 (0.89)	-3.480 (0.46)	5.709 (1.01)	-5.774 (0.74)	1.537 (0.26)	-5.370 (0.69)	1.246 (0.20)	-6.648 (0.80)
MEDIA		0.169 (0.80)	0.021 (0.17)	0.243 (1.26)	0.028 (0.22)	0.226 (1.27)	0.094 (0.58)	0.249 (1.42)	0.102 (0.61)
SOCIAL POLICY		2.468 (2.40)**	1.684 (1.68)*	2.658 (2.56)**	1.598 (1.57)	1.937 (1.88)*	1.502 (1.45)	1.933 (1.87)*	1.461 (1.41)
LABOR		-0.973 (3.32)***	-0.585 (1.25)	-1.002 (3.05)***	-0.535 (1.10)	-0.786 (3.09)***	-0.408 (1.13)	-0.775 (2.90)***	-0.362 (0.97)
REFORM 1997		-0.142 (0.47)		-0.497 (1.03)		-0.173 (0.46)		-0.245 (0.52)	

UNANIMITY		0.678 (1.03)	0.635 (0.91)	0.714 (1.11)	0.653 (0.97)	0.181 (0.34)	0.132 (0.24)	0.216 (0.39)	0.166 (0.30)

TABLE 8 (CONT.)

REGRESSIONS CC Portugal: LOGITs vs PSU=CASE vs. CLUSTER=CASE

VOTE FOR CONSTITUTIONALITY INCLUDING UNANIMOUS DECISIONS

COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. 2.1 PSU= CASE	**REG. 2.2 PSU= CASE**	**REG. 2.3 PSU= CASE**	**REG. 2.4 PSU= CASE**	**REG. 3.1 CLUSTER= CASE**	**REG. 3.2 CLUSTER= CASE**	**REG. 3.3 CLUSTER= CASE**	**REG. 3.4 CLUSTER= CASE**
FIXED EFFECTS COURT								
C2		-0.323 (0.48)		-0.646 (0.94)		-0.485 (0.70)		-0.749 (1.05)
C3		-0.768 (0.78)		-0.784 (0.73)		-1.055 (1.02)		-1.138 (1.04)
C4		0.232 (0.29)		0.439 (0.45)		0.393 (0.44)		0.423 (0.43)
FIXED EFFECTS JUDGE								
Antero Monteiro Dinis			-0.002 (0.01)	0.078 (0.30)			-0.081 (0.27)	0.062 (0.22)
José Cardoso da Costa			0.985 (2.34)**	1.135 (2.84)***			0.561 (1.33)	0.842 (2.20)**
Luís Nunes de Almeida			0.103 (0.39)	0.232 (0.98)			-0.056 (0.18)	0.170 (0.58)
Mário de Brito			-0.332 (0.48)	-0.287 (0.42)			-0.515 (0.97)	-0.416 (0.81)
Messias Bento			1.344 (2.21)**	1.469 (2.51)**			0.910 (1.92)*	1.116 (2.61)***
Alberto Tavares da Costa			-0.673 (1.83)*	-0.464 (1.56)			-0.782 (1.85)*	-0.348 (1.07)
António Vitorino			0.021 (0.06)	0.220 (0.60)			0.130 (0.29)	0.497 (1.16)
Armindo Ribeiro Mendes			-0.500 (1.39)	-0.358 (1.07)			-0.569 (1.51)	-0.290 (0.83)
Fernando Alves Correia			3.957 (4.29)***	4.145 (4.60)***			1.840 (2.83)***	2.184 (3.35)***
José Bravo Serra			1.867 (2.36)**	2.022 (2.69)***			1.091 (2.02)**	1.358 (2.72)***
José de Sousa e Brito			0.237 (0.63)	0.430 (1.22)			0.115 (0.27)	0.462 (1.39)
Maria da Assunção Esteves			0.752 (0.73)	0.913 (0.95)			0.026 (0.04)	0.314 (0.59)
Vítor Nunes de Almeida			2.033 (2.32)**	2.200 (2.80)***			1.007 (1.75)*	1.328 (2.80)***
Maria Fernanda Pereira			-1.623 (3.81)***	-1.600 (3.94)***			-1.431 (4.13)***	-1.440 (3.95)***

TABLE 8 (CONT.)

REGRESSIONS CC Portugal: LOGITs vs PSU=CASE vs. CLUSTER=CASE

VOTE FOR CONSTITUTIONALITY INCLUDING UNANIMOUS DECISIONS

COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

		REG. 4.1 PSU= DECISION	REG. 4.2 PSU= DECISION	REG.4.3 PSU= DECISION	REG. 4.4 PSU= DECISION	REG. 5.1 CLUSTER= DECISION	REG. 5.2 CLUSTER= DECISION	REG. 5.3 CLUSTER= DECISION	REG. 5.4 CLUSTER= DECISION
TOTAL OBSERVATIONS		2998	2998	2998	2998	2998	2998	2998	2998
TOTAL REGRESSORS		16	18	30	32	16	18	30	32
MCFADDEN R^2	**# STRATA**	1	1	1	1	0.149	0.159	0.170	0.183
AKAIKE INFORMATION C	**# PSU**	269	269	269	269	1.154	1.141	1.135	1.119
SCHWARZ C	**F test**	15.34 (15, 254)	15.73 (17, 252)	12.13 (29, 240)	13.35 (31, 238)				
LOG PSEUDOLIKELIHOOD						-1714.07	-1692.97	-1670.68	-1645.87
WALD CHI2						256.15 (15)	302.69 (17)	371.62 (29)	450.41 (31)
LR STATISTIC (DEGREES OF FREEDOM)						598.814 (15)	641.028 (17)	685.594 (29)	735.217 (31)
VARIABLES									
CONSTANT (z-statistic)	**(t-statistic)**	1.365 (2.30)**	2.361 (2.54)**	2.204 (3.67)***	2.972 (2.95)***	1.294 (2.22)**	2.192 (2.39)**	2.010 (3.40)***	2.737 (2.74)***
RIGHT (PSD+CDS)		0.445 (2.30)**	0.440 (2.16)**	-0.748 (2.82)***	-0.628 (2.24)**	0.445 (2.31)**	0.451 (2.22)**	-0.606 (2.39)**	-0.487 (1.81)*
LEFT (PS+PCP)		-0.669 (4.95)***	-0.645 (4.71)***	-1.158 (3.99)***	-0.932 (3.17)***	-0.642 (4.77)***	-0.613 (4.51)***	-0.994 (3.61)***	-0.773 (2.78)***
PARTY IN GOVERNMENT		1.008 (8.12)***	0.985 (7.32)***	0.956 (7.37)***	0.968 (6.99)***	0.952 (7.78)***	0.930 (6.99)***	0.911 (7.19)***	0.926 (6.80)***
AGE		-0.004 (0.86)	-0.008 (2.35)**	0.004 (0.75)	0.003 (0.57)	-0.003 (0.83)	-0.007 (2.20)**	0.004 (0.87)	0.004 (0.78)
GENDER		0.025 (0.20)	0.065 (0.52)	-0.644 (3.52)***	-0.723 (3.73)***	0.040 (0.33)	0.076 (0.63)	-0.658 (3.65)***	-0.742 (3.88)***
MAGISTRATE		-0.031 (0.47)	-0.015 (0.23)	-0.099 (0.76)	-0.033 (0.26)	-0.047 (0.73)	-0.034 (0.54)	-0.101 (0.79)	-0.042 (0.33)
ELECTED		0.060 (0.71)	0.037 (0.42)	0.115 (0.82)	0.074 (0.51)	0.056 (0.64)	0.030 (0.34)	0.063 (0.46)	0.014 (0.10)
INFLATION		-2.055 (0.98)	-3.337 (1.35)	-1.875 (0.83)	-3.713 (1.38)	-2.584 (1.20)	-3.679 (1.53)	-2.392 (1.04)	-4.031 (1.55)
UNEMPLOYMENT		-14.014 (1.90)*	-16.149 (2.20)**	-12.439 (1.64)	-14.819 (1.89)*	-13.077 (1.74)*	-15.175 (1.98)**	-11.168 (1.45)	-13.836 (1.69)*
GDPpc		2.291 (0.53)	-5.790 (1.16)	1.963 (0.44)	-7.049 (1.33)	1.537 (0.37)	-5.370 (1.06)	1.246 (0.29)	-6.648 (1.23)
MEDIA		0.237 (1.66)*	0.097 (0.65)	0.256 (1.75)*	0.104 (0.68)	0.226 (1.65)*	0.094 (0.66)	0.249 (1.78)*	0.102 (0.69)
SOCIAL POLICY		1.934 (2.17)**	1.420 (1.55)	1.933 (2.14)**	1.384 (1.51)	1.937 (2.30)**	1.502 (1.71)*	1.933 (2.27)**	1.461 (1.67)*
LABOR		-0.823 (2.80)***	-0.418 (1.24)	-0.814 (2.73)***	-0.377 (1.09)	-0.786 (2.82)***	-0.408 (1.29)	-0.775 (2.73)***	-0.362 (1.12)
REFORM 1997		-0.217 (0.60)		-0.285 (0.74)		-0.173 (0.49)		-0.245 (0.64)	
UNANIMITY		0.070 (0.23)	0.022 (0.07)	0.098 (0.31)	0.051 (0.16)	0.181 (0.62)	0.132 (0.44)	0.216 (0.72)	0.166 (0.55)

TABLE 8 (CONT.)

REGRESSIONS CC Portugal: LOGITs vs PSU=CASE vs. CLUSTER=CASE

VOTE FOR CONSTITUTIONALITY INCLUDING UNANIMOUS DECISIONS

COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. 4.1 PSU= DECISION	REG. 4.2 PSU= DECISION	REG.4.3 PSU= DECISION	REG. 4.4 PSU= DECISION	REG. 5.1 CLUSTER= DECISION	REG. 5.2 CLUSTER= DECISION	REG. 5.3 CLUSTER= DECISION	REG. 5.4 CLUSTER= DECISION
FIXED EFFECTS COURT								
C2		-0.531 (1.43)		-0.780 (1.99)**		-0.485 (1.34)		-0.749 (1.96)**
C3		-1.130 (1.64)		-1.193 (1.68)*		-1.055 (1.57)		-1.138 (1.64)
C4		0.319 (0.57)		0.360 (0.61)		0.393 (0.72)		0.423 (0.74)
FIXED EFFECTS JUDGE								
Antero Monteiro Dinis			-0.114 (0.62)	0.039 (0.21)			-0.081 (0.44)	0.062 (0.34)
José Cardoso da Costa			0.487 (2.10)**	0.788 (3.57)***			0.561 (2.46)**	0.842 (3.90)***
Luís Nunes de Almeida			-0.056 (0.29)	0.186 (0.97)			-0.056 (0.30)	0.170 (0.92)
Mário de Brito			-0.483 (1.71)*	-0.352 (1.24)			-0.515 (1.95)*	-0.416 (1.56)
Messias Bento			0.878 (3.94)***	1.101 (4.90)***			0.910 (4.10)***	1.116 (5.07)***
Alberto Tavares da Costa			-0.918 (3.59)***	-0.461 (2.08)**			-0.782 (3.21)***	-0.348 (1.67)*
António Vitorino			0.095 (0.38)	0.463 (1.88)*			0.130 (0.51)	0.497 (2.02)**
Armindo Ribeiro Mendes			-0.700 (3.18)***	-0.409 (1.93)*			-0.569 (2.65)***	-0.290 (1.41)
Fernando Alves Correia			1.892 (4.45)***	2.245 (5.26)***			1.840 (4.45)***	2.184 (5.25)***
José Bravo Serra			1.081 (4.12)***	1.342 (5.24)***			1.091 (4.20)***	1.358 (5.45)***
José de Sousa e Brito			0.132 (0.58)	0.484 (2.56)**			0.115 (0.49)	0.462 (2.42)**
Maria da Assunção Esteves			0.043 (0.14)	0.343 (1.16)			0.026 (0.09)	0.314 (1.11)
Vítor Nunes de Almeida			1.054 (3.55)***	1.384 (5.15)***			1.007 (3.53)***	1.328 (5.14)***
Maria Fernanda Pereira			-1.428 (6.84)***	-1.440 (6.23)***			-1.431 (6.88)***	-1.440 (6.17)***

* significant at 10%; ** significant at 5%; *** significant at 1%

TABLE 9
REGRESSIONS CC PORTUGAL: LOGITs vs PSU=CASE vs. CLUSTER=CASE
VOTE ACCORDING TO THE PARTY INCLUDING UNANIMOUS DECISIONS
COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. (1.1)	REG. (1.2)	REG. (1.3)	REG. (1.4)
TOTAL OBSERVATIONS	2998	2998	2998	2998
TOTAL REGRESSORS	15	17	28	30
MCFADDEN R^2	0.132	0.144	0.152	0.162
AKAIKE INFORMATION C	3345.252	3306.8884	3297.2486	3262.1264
SCHWARZ C	3435.3375	3408.9853	3465.4082	3442.2974
LOG LIKELIHOOD	-1657.626	-1636.4442	-1620.6243	-1601.0632
LR STATISTIC (DEGREES OF FREEDOM)	506.35 (14)	548.71 (16)	580.35 (27)	619.48 (29)
		VARIABLES		
CONSTANT (z-statistic)	0.086 (0.25)	-2.460 (3.97)***	0.420 (0.83)	-2.130 (2.91)***
RIGHT (PSD+CDS)	-0.904 (7.48)***	-0.829 (6.90)***	-1.450 (8.54)***	-1.366 (8.09)***
PARTY IN GOVERNMENT	1.779 (14.52)***	1.751 (14.47)***	1.784 (13.90)***	1.779 (14.00)***
AGE	-0.010 (1.70)*	-0.002 (0.31)	-0.010 (1.19)	-0.006 (0.72)
GENDER	-0.404 (2.49)**	-0.413 (2.51)**	-0.706 (2.42)**	-0.594 (2.02)**
MAGISTRATE	0.015 (0.15)	-0.035 (0.35)	-0.367 (2.12)**	-0.479 (2.76)***
ELECTED	-0.217 (1.96)*	-0.200 (1.78)*	-0.206 (1.30)	-0.121 (0.76)
INFLATION	3.124 (2.40)**	5.884 (4.39)***	3.519 (2.64)***	6.125 (4.46)***
UNEMPLOYMENT	7.608 (2.10)**	26.128 (5.38)***	12.152 (3.12)***	28.747 (5.82)***
GDPpc	0.134 (0.06)	9.555 (3.77)***	0.760 (0.35)	9.496 (3.65)***
MEDIA	0.165 (2.70)***	0.344 (4.96)***	0.194 (3.07)***	0.355 (5.03)***
SOCIAL POLICY	-0.987 (2.36)**	-0.533 (1.27)	-0.996 (2.34)**	-0.588 (1.37)
LABOR	0.940 (6.19)***	0.878 (5.27)***	0.946 (6.15)***	0.886 (5.27)***
REFORM 1997	0.708 (4.19)***		0.336 (1.69)*	
UNANIMITY	-0.924 (10.04)***	-0.860 (9.25)***	-0.929 (9.89)***	-0.873 (9.21)***

TABLE 9 (CONT.)
REGRESSIONS CC PORTUGAL: LOGITs vs PSU=CASE vs. CLUSTER=CASE
VOTE ACCORDING TO THE PARTY INCLUDING UNANIMOUS DECISIONS
COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. (1.1)	REG. (1.2)	REG. (1.3)	REG. (1.4)
FIXED EFFECTS COURT				
C2		1.240 (6.42)***		1.276 (6.19)***
C3		0.900 (2.87)***		1.134 (3.52)***
C4		0.691 (2.25)**		0.943 (2.93)***
FIXED EFFECTS JUDGE				
Antero Monteiro Dinis			0.371 (1.56)	0.251 (1.05)
José Cardoso da Costa			0.497 (2.03)**	0.265 (1.07)
Luís Nunes de Almeida			-0.096 (0.36)	-0.271 (1.02)
Mário de Brito			0.909 (3.71)***	0.872 (3.55)***
Messias Bento			1.524 (5.57)***	1.399 (5.10)***
António Vitorino			-0.227 (0.66)	-0.607 (1.75)*
Armindo Ribeiro Mendes			0.139 (0.52)	-0.226 (0.82)
Fernando Alves Correia			1.229 (3.03)***	1.008 (2.41)**
José Bravo Serra			0.755 (2.88)***	0.509 (1.89)*
José de Sousa e Brito			-0.371 (1.44)	-0.779 (2.95)***
Maria da Assunção Esteves			0.024 (0.06)	-0.206 (0.54)
Vítor Nunes de Almeida			1.445 (5.00)***	1.159 (3.89)***
Maria Fernanda Pereira			-0.711 (1.88)*	-0.787 (2.09)**

TABLE 9 (CONT.)
REGRESSIONS CC PORTUGAL: LOGITs vs PSU=CASE vs. CLUSTER=CASE
VOTE ACCORDING TO THE PARTY INCLUDING UNANIMOUS DECISIONS
COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

		REG. 2.1 PSU=CASE	REG. 2.2 PSU=CASE	REG. 2.3 PSU=CASE	REG. 2.4 PSU=CASE	REG. 3.1 CLUSTER= CASE	REG. 3.2 CLUSTER= CASE	REG.3.3 CLUSTER= CASE	REG. 3. 4 CLUSTER= CASE
TOTAL OBSERVATIONS		2998	2998	2998	2998	2998	2998	2998	2998
TOTAL REGRESSORS		15	17	28	30	15	17	28	30
MCFADDEN R^2	**# STRATA**	1	1	1	1	0.132	0.144	0.1519	0.162
AKAIKE INFORMATION C	**# PSU**	63	63	63	63	3345.252	3306.8884	3297.2486	3262.1264
SCHWARZ C	**F test**	58.21 (14, 49)	46.14 (16, 47)	110.74 (27,36)	198.74 (29,34)	3435.3375	3408.9853	3465.4082	3442.2974
LOG LIKELIHOOD						-1657.626	-1636.4442	-1620.6243	-1601.0632
LR STATISTIC (DEGREES OF FREEDOM)						506.350 (14)	548.713 (16)	580.353 (27)	619.476 (29)
CONSTANT (z-statistic)	**(t-statistic)**	-0.970 (4.28)***	-4.835 (2.25)**	0.691 (0.64)	-4.436 (2.25)**	0.086 (0.11)	-2.460 (1.31)	0.420 (0.61)	-2.130 (1.27)
RIGHT (PSD+CDS)		-0.970 (4.28)***	-0.841 (3.75)***	-1.178 (4.09)***	-1.068 (3.91)***	-0.904 (2.79)***	-0.829 (2.55)**	-1.450 (3.27)***	-1.366 (3.14)***
PARTY IN GOVERNMENT		2.399 (8.16)***	2.349 (8.35)***	2.483 (6.26)***	2.439 (6.72)***	1.779 (4.83)***	1.751 (4.85)***	1.784 (4.87)***	1.779 (4.93)***
AGE		-0.013 (1.58)	-0.005 (0.64)	-0.016 (1.79)*	-0.012 (1.22)	-0.010 (1.29)	-0.002 (0.26)	-0.010 (1.11)	-0.006 (0.66)
GENDER		-0.515 (1.57)	-0.522 (1.54)	-0.461 (0.67)	-0.325 (0.51)	-0.404 (1.59)	-0.413 (1.60)	-0.706 (1.73)*	-0.594 (1.46)
MAGISTRATE		-0.067 (0.21)	-0.118 (0.36)	-0.727 (0.93)	-0.826 (1.10)	0.015 (0.07)	-0.035 (0.18)	-0.367 (0.74)	-0.479 (0.97)
ELECTED		-0.426 (1.64)	-0.426 (1.57)	-0.695 (1.21)	-0.591 (1.13)	-0.217 (1.43)	-0.200 (1.29)	-0.206 (0.62)	-0.121 (0.38)
INFLATION		12.894 (1.26)	14.483 (2.40)**	12.793 (1.28)	14.567 (2.53)**	3.124 (0.70)	5.884 (1.44)	3.519 (0.85)	6.125 (1.60)
UNEMPLOYMENT		11.728 (0.68)	43.569 (2.67)***	14.100 (0.77)	45.498 (2.75)***	7.608 (0.77)	26.128 (2.11)**	12.152 (1.17)	28.747 (2.33)**
GDPpc		-8.066 (1.49)	11.202 (2.21)**	-7.874 (1.50)	10.687 (2.03)**	0.134 (0.04)	9.555 (1.86)*	0.760 (0.23)	9.496 (1.85)*
MEDIA		0.006 (0.03)	0.476 (2.23)**	0.023 (0.11)	0.477 (2.20)**	0.165 (1.11)	0.344 (2.04)**	0.194 (1.26)	0.355 (2.08)**
SOCIAL POLICY		-1.175 (0.92)	-0.219 (0.20)	-1.233 (0.93)	-0.329 (0.28)	-0.987 (0.96)	-0.533 (0.56)	-0.996 (0.99)	-0.588 (0.62)
LABOR		0.705 (1.82)*	1.096 (3.05)***	0.709 (1.78)*	1.105 (3.01)***	0.940 (5.45)***	0.878 (3.23)***	0.946 (5.27)***	0.886 (3.25)***
REFORM 1997		0.276 (0.29)		0.015 (0.02)		0.708 (1.42)		0.336 (0.65)	
UNANIMITY		-1.203 (4.88)***	-1.030 (5.47)***	-1.216 (4.98)***	-1.051 (5.47)***	-0.924 (4.66)***	-0.860 (5.30)***	-0.929 (4.84)***	-0.873 (5.48)***

TABLE 9 (CONT.)
REGRESSIONS CC PORTUGAL: LOGITs vs PSU=CASE vs. CLUSTER=CASE
VOTE ACCORDING TO THE PARTY INCLUDING UNANIMOUS DECISIONS
COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

	REG. 2.1 PSU=CASE	REG. 2.2 PSU=CASE	REG. 2.3 PSU=CASE	REG. 2.4 PSU=CASE	REG. 3.1 CLUSTER= CASE	REG. 3.2 CLUSTER= CASE	REG.3.3 CLUSTER= CASE	REG. 3. 4 CLUSTER= CASE
FIXED EFFECTS COURT								
C2		2.078 (3.70)***		2.165 (3.48)***		1.240 (2.37)**		1.276 (2.22)**
C3		1.674 (1.94)*		1.874 (2.17)**		0.900 (0.99)		1.134 (1.30)
C4		2.090 (1.95)*		2.313 (2.20)**		0.691 (0.78)		0.943 (1.12)
FIXED EFFECTS JUDGE								
Antero Monteiro Dinis			0.731 (1.12)	0.582 (0.98)			0.371 (0.94)	0.251 (0.65)
José Cardoso da Costa			-0.126 (0.20)	-0.315 (0.51)			0.497 (0.97)	0.265 (0.51)
Luís Nunes de Almeida			-0.227 (0.62)	-0.485 (1.35)			-0.096 (0.24)	-0.271 (0.70)
Mário de Brito			0.851 (1.70)*	0.821 (1.70)*			0.909 (2.05)**	0.872 (2.05)**
Messias Bento			1.465 (2.06)**	1.397 (2.07)**			1.524 (2.40)**	1.399 (2.28)**
António Vitorino			-0.183 (0.47)	-0.555 (1.45)			-0.227 (0.47)	-0.607 (1.30)
Armindo Ribeiro Mendes			0.208 (0.58)	-0.177 (0.44)			0.139 (0.39)	-0.226 (0.56)
Fernando Alves Correia			0.243 (0.21)	0.175 (0.16)			1.229 (1.48)	1.008 (1.15)
José Bravo Serra			0.601 (0.94)	0.315 (0.49)			0.755 (1.35)	0.509 (0.89)
José de Sousa e Brito			-0.350 (1.18)	-0.785 (2.23)**			-0.371 (0.95)	-0.779 (1.94)*
Maria da Assunção Esteves			-0.343 (0.59)	-0.517 (0.81)			0.024 (0.04)	-0.206 (0.34)
Vítor Nunes de Almeida			1.364 (1.80)*	1.129 (1.41)			1.445 (2.15)**	1.159 (1.66)*
Maria Fernanda Pereira			0.037 (0.05)	-0.101 (0.13)			-0.711 (1.17)	-0.787 (1.34)

TABLE 9 (CONT.)
REGRESSIONS CC PORTUGAL: LOGITs vs PSU=CASE vs. CLUSTER=CASE
VOTE ACCORDING TO THE PARTY INCLUDING UNANIMOUS DECISIONS
COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

		REG. 4.1 PSU= DECISION	REG. 4.2 PSU= DECISION	REG. 4.3 PSU= DECISION	REG. 4.4 PSU= DECISION	REG. 5.1 CLUSTER= DECISION	REG. 5.2 CLUSTER= DECISION	REG. 5.3 CLUSTER= DECISION	REG. 5.4 CLUSTER= DECISION
TOTAL OBSERVATIONS		2998	2998	2998	2998	2998	2998	2998	2998
TOTAL REGRESSORS		15	17	28	30	15	17	28	30
MCFADDEN R^2	**# STRATA**	1	1	1	1	0.132	0.144	0.152	0.162
AKAIKE INFORMATION C	**# PSU**	269	269	269	269	1.116	1.103	1.100	1.088
SCHWARZ C	**F test**	13.52 (14, 255)	14.34 (16, 253)	12.95 (27, 242)	13.73 (29, 240)				
LOG PSEUDOLIKELIHOOD						-1657.626	-1636.444	-1620.624	-1601.063
WALD CHI2						214.61 (14)	252.34 (16)	386.25 (27)	434.80 (29)
LOG LIKELIHOOD									
LR STATISTIC (DEGREES OF FREEDOM)						506.350 (14)	548.713 (16)	580.353 (27)	619.476 (29)
				VARIABLES					
CONSTANT (z-statistic)	**(t-statistic)**	0.121 (0.36)	-2.617 (3.19)***	0.309 (0.78)	-2.443 (3.00)***	0.086 (0.25)	-2.460 (3.09)***	0.420 (1.06)	-2.130 (2.72)***
RIGHT (PSD+CDS)		-0.897 (3.53)***	-0.809 (3.26)***	-1.421 (5.09)***	-1.324 (4.79)***	-0.904 (3.63)***	-0.829 (3.40)***	-1.450 (5.12)***	-1.366 (4.86)***
PARTY IN GOVERNMENT		1.775 (6.68)***	1.743 (6.75)***	1.761 (6.34)***	1.753 (6.51)***	1.779 (6.85)***	1.751 (6.91)***	1.784 (6.65)***	1.779 (6.79)***
AGE		-0.009 (2.16)**	-0.000 (0.01)	-0.008 (1.18)	-0.003 (0.41)	-0.010 (2.44)**	-0.002 (0.50)	-0.010 (1.58)	-0.006 (0.98)
GENDER		-0.447 (3.14)***	-0.463 (3.18)***	-0.698 (3.20)***	-0.578 (2.65)***	-0.404 (2.91)***	-0.413 (2.90)***	-0.706 (3.34)***	-0.594 (2.80)***
MAGISTRATE		0.020 (0.22)	-0.036 (0.40)	-0.374 (1.76)*	-0.505 (2.38)**	0.015 (0.18)	-0.035 (0.43)	-0.367 (1.78)*	-0.479 (2.33)**
ELECTED		-0.235 (2.89)***	-0.218 (2.63)***	-0.186 (1.17)	-0.098 (0.64)	-0.217 (2.79)***	-0.200 (2.51)**	-0.206 (1.32)	-0.121 (0.80)
INFLATION		2.299 (0.98)	5.542 (2.60)***	2.733 (1.20)	5.800 (2.74)***	3.124 (1.32)	5.884 (2.74)***	3.519 (1.54)	6.125 (2.91)***
UNEMPLOYMENT		7.787 (1.65)*	26.610 (4.31)***	12.399 (2.49)**	29.282 (4.69)***	7.608 (1.68)*	26.128 (4.38)***	12.152 (2.56)**	28.747 (4.80)***
GDPpc		0.317 (0.12)	10.863 (3.31)***	0.979 (0.37)	10.787 (3.21)***	0.134 (0.06)	9.555 (3.19)***	0.760 (0.32)	9.496 (3.08)***
MEDIA		0.154 (1.73)*	0.336 (3.03)***	0.182 (1.95)*	0.347 (3.05)***	0.165 (1.95)*	0.344 (3.23)***	0.194 (2.18)**	0.355 (3.24)***
SOCIAL POLICY		-1.034 (1.29)	-0.501 (0.68)	-1.038 (1.32)	-0.557 (0.75)	-0.987 (1.17)	-0.533 (0.68)	-0.996 (1.20)	-0.588 (0.75)
LABOR		0.942 (4.56)***	0.865 (3.53)***	0.941 (4.49)***	0.864 (3.50)***	0.940 (4.63)***	0.878 (3.66)***	0.946 (4.58)***	0.886 (3.66)***
REFORM 1997		0.775 (2.87)***		0.391 (1.31)		0.708 (2.80)***		0.336 (1.21)	
UNANIMITY		-0.902 (7.90)***	-0.819 (7.36)***	-0.908 (7.84)***	-0.833 (7.34)***	-0.924 (8.50)***	-0.860 (8.16)***	-0.929 (8.51)***	-0.873 (8.17)***

TABLE 9 (CONT.)
REGRESSIONS CC PORTUGAL: LOGITs vs PSU=CASE vs. CLUSTER=CASE
VOTE ACCORDING TO THE PARTY INCLUDING UNANIMOUS DECISIONS
COEFFICIENTS, Z (LOGIT AND CLUSTER) AND T-STATISTICS (SVY)

		REG. 4.1 PSU= DECISION	REG. 4.2 PSU= DECISION	REG. 4.3 PSU= DECISION	REG. 4.4 PSU= DECISION	REG. 5.1 CLUSTER= DECISION	REG. 5.2 CLUSTER= DECISION	REG. 5.3 CLUSTER= DECISION	REG. 5.4 CLUSTER= DECISION
FIXED EFFECTS COURT									
C2			1.333 (4.92)***		1.375 (4.76)***		1.240 (4.78)***		1.276 (4.61)***
C3			1.026 (2.15)**		1.263 (2.61)***		0.900 (2.04)**		1.134 (2.54)**
C4			0.770 (1.80)*		1.018 (2.39)**		0.691 (1.73)*		0.943 (2.38)**
FIXED EFFECTS JUDGE									
Antero Monteiro Dinis				0.369 (1.74)*	0.240 (1.15)			0.371 (1.80)*	0.251 (1.23)
José Cardoso da Costa				0.393 (1.29)	0.132 (0.42)			0.497 (1.72)*	0.265 (0.90)
Luís Nunes de Almeida				-0.092 (0.40)	-0.293 (1.27)			-0.096 (0.42)	-0.271 (1.19)
Mário de Brito				0.939 (4.07)***	0.882 (3.79)***			0.909 (4.07)***	0.872 (3.87)***
Messias Bento				1.548 (5.32)***	1.411 (4.97)***			1.524 (5.35)***	1.399 (5.02)***
António Vitorino				-0.188 (0.68)	-0.574 (2.12)**			-0.227 (0.80)	-0.607 (2.20)**
Armindo Ribeiro Mendes				0.218 (0.93)	-0.179 (0.76)			0.139 (0.61)	-0.226 (0.99)
Fernando Alves Correia				1.346 (2.87)***	1.121 (2.31)**			1.229 (2.72)***	1.008 (2.15)**
José Bravo Serra				0.787 (3.21)***	0.544 (2.19)**			0.755 (3.01)***	0.509 (1.98)**
José de Sousa e Brito				-0.429 (1.99)**	-0.863 (4.19)***			-0.371 (1.66)*	-0.779 (3.66)***
Maria da Assunção Esteves				0.018 (0.05)	-0.230 (0.62)			0.024 (0.07)	-0.206 (0.57)
Vítor Nunes de Almeida				1.435 (4.52)***	1.129 (3.43)***			1.445 (4.44)***	1.159 (3.43)***
Maria Fernanda Pereira				-0.562 (1.93)*	-0.635 (2.27)**			-0.711 (2.37)**	-0.787 (2.74)***

* significant at 10%; ** significant at 5%; *** significant at 1%

APPENDIX A
DESCRIPTIVE DATA

LEGEND:
TV – Total Votes
TVC – Total Votes for Constitutionality
TVEUD – Total Votes Excluding Unanimous Decisions
TVCEUD – Total Votes for Constitutionality Excluding Unanimous Decisions

TABLE A1
GRAND COALITION PS-PSD
1983- NOV 1985

	COURT	PARTY	APPOINTED?	MAG.?	TV	TVC	TVEUD	TVCEUD
TOTAL VOTES / JUDGES	-	-	-	-	**6**	**6**	**6**	**6**
Armando Marques Guedes (P1)	1	PSD	No	No	6	5	6	5
José Magalhães Godinho (VP1)	1	PS	No	No	6	6	6	6
Antero Monteiro Diniz	1&2	PS	No	Yes	6	4	6	4
Joaquim Costa Aroso	1	CDS	No	Yes	2	2	2	2
Jorge Campinos	1	PS	No	No	6	6	6	6
José Martins da Fonseca	1	NEUTRAL	Yes	Yes	5	5	5	5
José Cardoso da Costa	1, 2&3	CDS	No in 1 & 2; Yes in 3	No	6	5	6	5
Luís Nunes de Almeida	1, 2, 3 & 4	PS	No in 1 & 2; Yes in 3 & 4	No	5	5	5	5
Mário Afonso	1	PSD	Yes	Yes	5	3	5	3
Mário de Brito	1&2	PCP	Yes	Yes	5	1	5	1
Messias Bento	1, 2 &3	PSD	No	Yes	6	4	6	4
Raul Mateus da Silva	1	PSD	No	Yes	6	4	6	4
Vital Moreira	1	PCP	No	No	6	1	6	1
António Costa Mesquita	1	CDS	No	Yes	0	0	0	0

(Votes against Admission are counted as votes for constitutionality; P1 is President of the First Court; VP1 is Vice-President of the First Court)
Source for parties: António de Araújo e Pedro Magalhães, *supra* 23.

TABLE A2
PSD MINORITY AND MAJORITY GOVERNMENTS
NOV 1985- 27 OCT 1995

	COURT	PARTY	APPOINTED?	MAG.?	TV	TVC	TVEUD	TVCEUD
TOTAL VOTES / JUDGES	-	-	-	-	**193**	**104**	**128**	**56**
Armando Marques Guedes (P1)	1	PSD	No	No	69	44	43	26
José Magalhães Godinho (VP1)	1	PS	No	No	68	32	42	14
Antero Monteiro Diniz	1&2	PS	No	Yes	171	61	118	30
José Martins da Fonseca	1	NEUTRAL	Yes	Yes	62	31	36	13
José Cardoso da Costa (P2)	1, 2 &3	CDS	No in 1 & 2; Yes in 3	No	193	151	128	110
Luís Nunes de Almeida (VP2)	1, 2, 3 & 4	PS	No in 1& 2; Yes in 3 & 4	No	150	56	109	32
Mário Afonso	1	PSD	Yes	Yes	38	25	12	7
Mário de Brito	1&2	PCP	Yes	Yes	126	33	84	10
Messias Bento	1, 2 &3	PSD	No	Yes	163	141	117	115
Raul Mateus da Silva	1	PSD	No	Yes	61	37	35	19
Vital Moreira	1	PCP	No	No	61	21	35	3
António Costa Mesquita	1	CDS	No	Yes	2	0	1	0
Alberto Tavares da Costa	2, 3 & 4	NEUTRAL	Yes	Yes	124	54	85	31
António Vitorino	2	PS	No	No	85	36	60	24
Armindo Ribeiro Mendes	2	PS	No	No	123	37	85	14
Fernando Alves Correia	2	PSD	Yes	No	82	79	71	71
José Bravo Serra	2, 3 & 4	PSD	No	Yes	94	82	74	74
José de Sousa e Brito	2 & 3	PS	No	No	94	43	74	35
Maria da Assunção Esteves	2	PSD	No	No	123	100	85	77
Vítor Nunes de Almeida	2 & 3	PSD	No	Yes	122	104	84	81
Guilherme da Fonseca	2 & 3	PCP	Yes in 2; No in 3	Yes	21	7	21	7
Maria Fernanda Palma Pereira	2, 3 & 4	PS	No	No	19	1	19	1

(Votes against Admission are counted as votes for constitutionality; P1 is President of the First Court; VP1 is Vice-President of the First Court; P2 is President of the Second Court; VP2 is Vice-President of the Second Court)
Source for parties: António de Araújo e Pedro Magalhães, *supra* 23.

TABLE A3
PS MINORITY
27 OCT 1995- 5 APR 2002

	COURT	PARTY	APPOINTED?	MAG.?	TV	TVC	TVEUD	TVCEUD
TOTAL VOTES / JUDGES	-	-	-	-	**25**	**19**	**21**	**16**
José Cardoso da Costa (P2&3)	1, 2 &3	CDS	No in 1 & 2; Yes in 3	No	25	21	21	18
Luís Nunes de Almeida (VP2&3)	1, 2, 3 & 4	PS	No in 1 & 2; Yes in 3 & 4	No	13	8	9	5
Alberto Tavares da Costa	2, 3 & 4	NEUTRAL	Yes	Yes	25	13	21	10
Antero Monteiro Diniz	1 & 2	PS	No	Yes	3	0	2	0
Armindo Ribeiro Mendes	2	PS	No	No	18	7	16	6
Fernando Alves Correia	2	PSD	Yes	No	18	13	16	12
José Manuel Bravo Serra	2, 3 & 4	PSD	No	Yes	24	20	21	18
José de Sousa e Brito	2&3	PS	No	No	25	16	21	13
Maria da Assunção Esteves	2	PSD	No	No	18	13	16	12
Messias Bento	1, 2 &3	PSD	No	Yes	19	10	16	8
Vítor Nunes de Almeida	2&3	PSD	No	Yes	19	15	16	13
Guilherme da Fonseca	2 & 3	PCP	Yes in 2; No in 3	Yes	25	19	21	16
Maria Fernanda Palma Pereira	2, 3 & 4	PS	No	No	25	9	21	6
Artur Joaquim de Faria Maurício	3 & 4	PS	No	Yes	7	6	5	4
Maria Helena Barros de Brito	3 & 4	PS	No	No	7	7	5	5
Maria dos Prazeres Beleza	3 & 4	PSD	No	No	7	6	5	4
Paulo da Mota Pinto	3 & 4	PSD	No	No	7	6	5	4

(Votes against Admission are counted as votes for constitutionality; P2&3 is President of the Second and Third Courts; VP2&3 is Vice-President of the Second and Third Courts)
Source for parties: António de Araújo e Pedro Magalhães, *supra* 23; for Artur Maurício, O Público, 5th February 2005; for Maria Helena de Brito, Maria dos Prazeres Beleza and Paulo da Mota Pinto, Pedro Magalhães, *supra* 25.

TABLE A4
PSD-CDS COALITION
5 APR 2002- 3 MARCH 2005

	COURT	PARTY	APPOINTED?	MAG.?	TV	TVC	TVEUD	TVCEUD
TOTAL VOTES / JUDGES	-	-	-	-	**24**	**12**	**17**	**9**
José Cardoso da Costa (P3)	1, 2 &3	CDS	No in 1 & 2; Yes in 3	No	4	3	2	2
Luís Nunes de Almeida (VP3/P4.1)	1, 2, 3 & 4	PS	No in 1 & 2; Yes in 3 & 4	No	24	8	17	5
Alberto Tavares da Costa	2, 3 & 4	NEUTRAL	Yes	Yes	18	7	12	4
Artur Joaquim de Faria Maurício (P4.2)	3&4	PS	No	Yes	24	10	17	7
Guilherme da Fonseca	2 & 3	PCP	Yes in 2; No in 3	Yes	1	0	1	0
José Manuel Bravo Serra	2, 3 & 4	PSD	No	Yes	24	15	17	12
José de Sousa e Brito	2 & 3	PS	No	No	1	0	1	0
Maria Fernanda Palma Pereira	2, 3 & 4	PS	No	No	24	5	17	2
Maria Helena Barros de Brito	3&4	PS	No	No	24	4	17	1
Maria dos Prazeres Beleza	3&4	PSD	No	No	24	19	17	16
Paulo da Mota Pinto	3&4	PSD	No	No	24	13	17	10
Gil Gomes Galvão	3&4	PS	No	No	23	8	16	5
Mário Araújo Torres	3&4	PS	No	Yes	23	5	16	2
Carlos Pamplona de Oliveira	3&4	PSD	No	Yes	23	17	16	14
Benjamim Silva Rodrigues	3&4	PSD	No	Yes	23	18	16	15
Rui Manuel Gens de Moura Ramos (VP4)	4	PSD	Yes	No	20	12	15	10
Vítor Gonçalves Gomes	4	NEUTRAL	Yes	Yes	6	4	5	4

(P4.1 is the first President of the Fourth Court (deceased); P4.2 is the second President of the Fourth Court; VP4 is the Vice-President of the Fourth Court)
Source for parties: António de Araújo e Pedro Magalhães, *supra* 23; for Artur Maurício, O Público, 5th February 2005; for Maria Helena de Brito, Maria dos Prazeres Beleza and Paulo da Mota Pinto, Pedro Magalhães, *supra* 25; for Gil Galvão, Mário Torres, Pamplona de Oliveira and Benjamim Silva Rodrigues, PSD Magazine Povo Livre, nº 1302, 4th December 2002; for Rui Moura Ramos, O Independente, 4th April 2003.

TABLE A5
PS MAJORITY
SINCE 3 MARCH 2005

JUDGES \ TOTAL VOTES	COURT	PARTY	APPOINTED?	MAG. ?	TV	TVC	TVEUD	TVEUD
	-	-	-	-	**22**	**22**	**14**	**14**
Artur Joaquim de Faria Maurício (P4)	3 & 4	PS	No	Yes	22	22	14	14
Rui Manuel Gens de Moura Ramos (VP4)	4	PSD	Yes	No	22	10	14	2
Benjamim Silva Rodrigues	3&4	PSD	No	Yes	21	16	14	9
Carlos Pamplona de Oliveira	3&4	PSD	No	Yes	21	21	14	14
Gil Gomes Galvão	3&4	PS	No	No	22	22	14	14
José Manuel Bravo Serra	2, 3 & 4	PSD	No	Yes	22	22	14	14
Maria Fernanda Palma Pereira	2, 3 & 4	PS	No	No	21	21	14	14
Maria Helena Barros de Brito	3 & 4	PS	No	No	22	22	14	14
Maria João Madeira Antunes	4	PS	Yes	No	22	22	14	14
Maria dos Prazeres Beleza	3 & 4	PSD	No	No	21	21	14	14
Mário Araújo Torres	3&4	PS	No	Yes	22	8	14	0
Paulo Mota Pinto	3 & 4	PSD	No	No	22	19	14	11
Vítor Gonçalves Gomes	4	NEUTRAL	Yes	Yes	22	20	14	12

(P4 is President of the Fourth Court; VP4 is the Vice-President of the Fourth Court)
Source for party: António de Araújo e Pedro Magalhães, *supra* 23; for Artur Maurício, O Público, 5th February 2005; for Maria Helena de Brito, Maria dos Prazeres Beleza and Paulo da Mota Pinto, Pedro Magalhães, *supra* 25; for Gil Galvão, Mário Torres, Pamplona de Oliveira and Benjamim Silva Rodrigues, PSD Magazine Povo Livre, nº 1302, 4th December 2002; for Rui Moura Ramos, O Independente, 4th April 2003; for Maria João Antunes, O Independente, 22nd October 2004.