

Rui Graça Feijó – A New Configuration for Portuguese Semi-Presidentialism?

This is a guest post by Rui Graça Feijó of CES/UCoimbra and IHC/UNLisboa

Recent elections (legislative in October 2015, presidential in January 2016) have changed the political landscape in Portugal. This piece aims to assess their impact upon the configuration of Portuguese semi-presidentialism.

The Portuguese government system has been basically stable since its adoption in 1976. Only once (1982) has there been a constitutional revision that addressed the distribution of powers among state organs. No significant institutional change has occurred since then. Politically, however, the story is more complex.

The 1987 elections returned the first single party majority. This gave the PM a prominent position, which has been characterised as the “presidentialism of prime minister” (Moreira 1989). Marina Costa Lobo (2005) has suggested that the “presidentialization of politics” manifested itself in the enhanced role of a PM who had been anointed with a direct mandate. After 1987, a non-written rule existed whereby the election of parliament was combined with a parallel “election” of the PM, reducing the room for decisions for president and parliament, as if being the leader of the largest party was a sufficient condition for acceding to the premiership. Only one PM failed to meet this criterion (Santana Lopes after Barroso left for Brussels in mid-term), and this was credited with weakening his legitimacy. This rule contrasted with the previous practice (the first parliament saw 4 different PMs). The rationale was that it would counteract the instability of the first years of constitutionalism and offer accrued legitimacy to the leader of the largest party in the context where a new government did not require a positive vote of investiture.

After the 2015 legislative elections President Cavaco appointed a PM who was the leader of the winning (but minority) coalition. The left majority in the House brought this government down. For the first time, the “winner” of an election was defeated in parliament at the beginning of his term. The president reluctantly appointed the leader of the second largest party to form a government with a majority of seats. This was a major novelty. Back in 1982, after PM Balsemão resigned, President Eanes refused to appoint Vitor Crespo who had the support of the majority, and dissolved the House. In 1987, when Cavaco’s minority government was defeated in the House, President Soares refused to appoint the socialist leader, even though he was supported by a majority and called early elections instead. Only in 2004 did President Sampaio accept a new PM without fresh elections – but he made a point of placing the government under special scrutiny and four months later he dissolved parliament. All these instances suggest a critical point in the configuration of Portuguese semi-presidentialism: disposing of majority support in parliament is *not* a sufficient condition for a PM to be appointed or to remain in office as the notion of “popular election” supposes. It takes the *political* will of the PR to nominate and maintain the PM in office. This embodies the principle of double responsibility of the PM vis-à-vis parliament and the president (one that is central to president-parliamentary sub-types of semi-presidentialism)

The 2015 elections were held when presidential powers were curtailed as he was serving his last six months in office. Faced with a situation he politically opposed, Cavaco considered alternatives that included keeping the defeated PM as a caretaker until fresh elections could be called, or resurrecting the “governments of presidential initiative” that had been the hallmark of President Eanes’ first term – not unlike solutions found in Italy (Monti) and Greece (Papademos). In the end, he bowed to the parliamentary majority and European pressure on budgetary matters. One of his legal advisers, António de Araujo, claimed that a new configuration of Portuguese semi-presidentialism was emerging: a “parliamentary semi-presidentialism” (2016). However, this may be a hasty conclusion.

For one, Cavaco’s term was coming to an end. If he had still been in office on the day new elections would have taken place, there is no doubt that he would have dissolved the parliament. Secondly, Cavaco imposed strict limits on the government’s programme that were not related to institutional considerations (as President Sampaio had done in 2004), but that related instead to the right-wing agenda he espoused. Finally, the new President, Marcelo Rebelo de Sousa, who was formally supported by PSD and CDS, was elected on a right of centre platform that was politically different from the one espoused by the coalition with the benediction of Cavaco in the previous legislative elections: he has made it known that he intends to exercise all the powers the constitution bestows upon the head of state, distancing himself both from “minimalist” positions that Cavaco is supposed to have upheld and from the conditions he imposed. Even if Marcelo Rebelo de Sousa is not known for the consistency of his positions over time, as far back as 1984 he wrote:

A few months after the constitutional revision the president had the opportunity to exercise three fundamental powers: the power to dismiss the government, the power to refuse the appointment of a prime minister proposed by the parliamentary majority, and the power to dissolve the Assembly of the Republic [...] against the opinion of the majority of the Council of State (1984: 57)

This is the view he most certainly still holds of his powers. It came as no surprise that he said he would “review” his support for government in the fall of 2017 when local government elections will be held. This means he has not relinquished any of his prerogatives, including those that refer to the survival of government.

A new configuration of Portuguese semi-presidentialism is thus emerging: both directly elected institutions – parliament and president – have their roles enhanced. The “election” of the PM has lost its importance. It is clear that more than depending on direct popular support, the PM responds politically both to the President of the Republic and the Assembly of the Republic, and both organs are keen to exercise their full competences. Without implying an institutional modification, these developments amount to a new model for Portuguese semi-presidentialism, where the PM is no longer the only central figure.

References

Araujo, António. 2016. “Semi-presidencialismo de assembleia”, in *Público*, 13 January

Lobo, Marina Costa. 2005. “The Presidentialization of Portuguese Democracy?” in Thomas Poguntke and Paul Webb (eds), *The Presidentialization of Politics*, Oxford, OUP

Moreira, Adriano. 1989. "O regime: presidencialismo do primeiro ministro" in Mario Batista Coelho (ed), *Portugal: o sistema politico-constitucional 1974-1987*. Lisboa, ICS

Sousa, Marcelo Rebelo. 1984. *O Sistema de Governo Português, antes e depois da revisão constitucional*. Lisboa, Cognito (3rd edition)

This entry was posted in Europe, Portugal and tagged Portugal, semi-presidentialism on July 25, 2016
[<http://presidential-power.com/?p=5190>] by Robert Elgie.

00241442