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Portuguese intermunicipal organization - Basic principles

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44th European Regional Science association

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Portuguese intermunicipal organization - Basic principles.

Abstract.

Portuguese territorial organization has two levels of territorial decision support legitimated: central and local/municipal government (municipalities). The lack of an intermediate level of support decision between those levels is a central problem on territorial decision support system. Intermunicipal organization level can it play an important role as an intermediate level of decision-making process. After rejection of the regionalization process in 1998, through popular referendum, Portuguese government has approved two laws of the Public Administration Framework Reform - Metropolitan Areas Act and Intermunicipal Organization Act (13th May 2003). Metropolitan Areas Act establishes two ways to promote the intermunicipal organization among municipalities: Great Metropolitan Areas (more than 350 000 inhabitants) and Urban Communities (more than 150 000 inhabitants). Intermunicipal Organization Act also establishes two ways to promote the intermunicipal organization between at least two municipalities: Intermunicipal Communities of wide Scope and Intermunicipal Communities of Specific Scope. This paper aims to present and discuss a set of basic principles towards success of this reform, and at the same time, to present some results of the research developed by the author of the paper.

1. Introduction

The basic structure of the present model of territory administration in the continent of Portugal, created by the Constitution of 1976, is around 30 years old and characterizes itself since then by the absence of an intermediate level between the central power and the local power although the Constitutional Law consecrates the existence of three levels of planning and of decision.

Between central and local levels other administrative structures should be created to improve the territorial administration with impacts so much on the State and the municipalities. Two ways are normally followed by the States: the creation of regions (with or without regional autonomy) and/or the creation of intermunicipal structures. The first focuses its attention on the organization of the State but does not leave of have some implications in the municipalities, while the second center-itself in the local authorities but does not leave of have also interference in the organization of the State. Both the ways - are ascending or descending – implies the changes on the actual administrative structures (Fig. 1).

However, during more than 20 years the option chosen by the successive governments was creating regions of coordination and planning as a regional office of central government, improving public participation – municipalities, professional organizations, civil society – on the central public policies, and decentralizing progressively competences towards local power (municipalities).

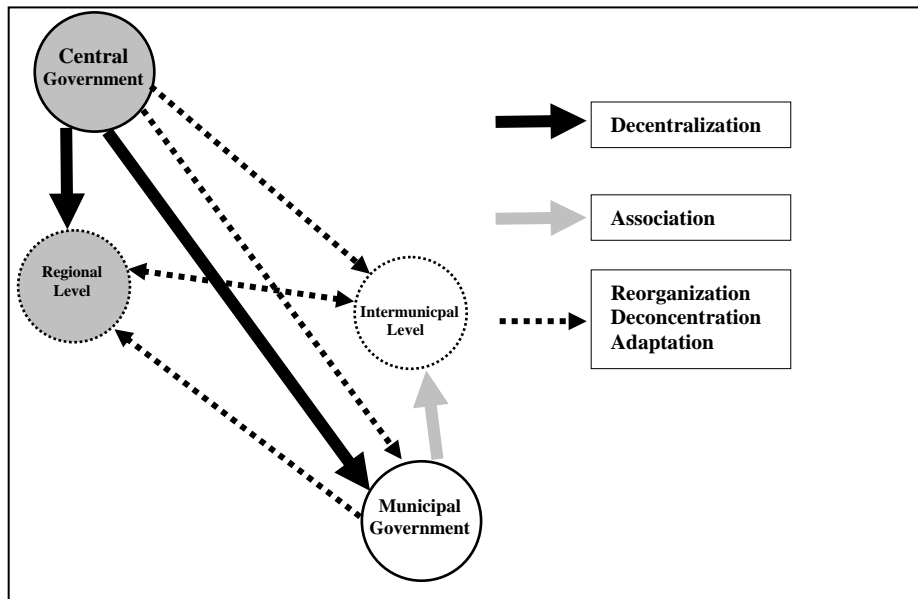


Fig 1. Possible ways to improve the territorial administration

Law of the municipalities (1979) also encouraged associations between municipalities. Associations of municipalities can be constituted as entities with legal personality of public right constituted by public title, to solve specific common problems (water supply and sewerage, waste management, etc.)

In 1998, with the socialist government, the project of administrative creation of regions was rejected by popular referendum. Finally, in 2003, the Government chose the intermunicipal organization as territorial level it privilege to operate to decentralize and reorganize the territorial administrative process.

2.Evolution of territorial structure in Portuguese continent

Since adhesion of the country to EEC, in 1986, the Portuguese continent started an accelerated process of transformation of territorial organization and of economical and social development. Many of materials and infrastructures needs were supplied.

Main impacts from territorial structure are strong (See Appendix 1 and Appendix 2):

1) Deepening of two urban regions in Atlantic coast with elevated levels and diversity of infrastructures and services (transports, communications, education and training,

health, finances and insurance, tourism, etc.) and elevated patrimonial values. These two urban regions constituting continuum urban where urban areas alternate with agricultural areas and natural areas with elevated ecological values (estuaries, beaches, forests, natural parks and reserves). First urban region has an extension of around 350 km and presents as extremes the two Metropolitan Areas: Lisbon and OPorto. This region concentrates more than 7 millions inhabitants and has a great diversity of economical activities. The second urban region corresponds to the Algarve, which has an extension of around 120 km, concentrates around 360 000 inhabitants and the activities of services related with the real estate, tourism and the leisure are by excellence the motor of regional development.

2) Population progressive emptying of the areas with weak urban structure, constituted by small towns and villages, whose economy support went always based in the primary activities;

3) Reinforcement of uni-polar urban centres of medium and small dimension with some administrative tradition;

4) Reinforcement of small urban polinucleations urban structures accompanying the main roads transport axes based essentially on small and medium size urban centres with some administrative tradition or commercial and industrial activities.

The present Portuguese model of territory administration – based on central and local levels – is not adequate to this territorial structure of development. Urban polycentric structures, multipolar cities and network cities appeal to new models of territory administration to be able to overcome the insufficiency of fragmentation policies promoted by municipal level and the generic scope of central public policies.

3. Main aspects of territory administration processes – After Constitution Law of 1976

1. In the actual model of territory administration “*distritos*” are the territorial base both State organization and majority of central public policies. And they were before the Constitution of 1976. In “*distritos*” still remain the representatives of central

government – The Civil Governor – like a “perfect” in France, especially with functions related with civil safety as well as from the partisan organization coincides with the district that is previous to the constitution of 1976. In the “distrito” still remains the representative of the government head office the Civil Governor, especially with functions related with the civil security and protection (Appendix. 3-B).

2. In 1979, the local governments (municipalities) were created. Today are 279 municipalities in Portuguese continent. Along the years the central government has decentralized competences to the municipalities in diverse scopes (Appendix. 3-A)..

3. In 1979, the “*Comissões de Coordenação Regional*” (CCR)¹ were created with functions of planning and coordination essentially on regional development, spatial planning domains and permission and authorization of territorial material transformations (tourism, industry, commercial areas, etc.). Later on they also preformed an important role in European Structural Funds management, especially in Regional Operations Development programs and some sectorial programs of the Regional Development Plan. In the dependence of the CCR, also were created more of 40 “*Gabinetes de Apoio Técnico*” (GAT)², also designated by “*Agrupamentos de Municípios*”³ They give technical support to the municipalities. Along the years some sectorial public policies have been adjusted to the territorial scope of CCR (planning, budgeting and managing) (Appendix. 3-C and D).

4. In 1981, the first municipalities associations were constituted to solve common specific problems. In 2001, 67 of municipalities associations existed with specific scope of water supply and sewerage, waste management, local development promotion, etc.). Some public intermunicipal companies in those municipalities associations also were created.

5. In 1986, by imposition from EEC in the context the harmonization of the statistical systems of the State Member’s was created the NUT⁴. NUT II coincided with five CCR in Portuguese continent (5 NUT II) and also was created 28 NUT III by the aggregation

¹ *Today Comissões de Coordenação e Desenvolvimento Regional (CCDR) - Regional Development and Coordinating Commissions*

² Technical Cabinets of Support

³ Municipalities Groups

⁴ Common Statistical Classifications of Territorial Units

of municipalities. In 1989, Portuguese government was reformed the GAT (see nº 3 above) makes territorial coincidence between NUT III and municipalities groups or groups of municipalities groups (Appendix. 3-C and E)..

6. In the first Regional Development Plan (1989/93) 22 Regional Operational Programs were created and they coincided with groups of NTU III. In the next Regional Development Plans (1994/99 and 2000/06) the five Regional Operational Programs coincided with the NUT II or CCR.

7. In 1991, the Metropolitan Areas of Lisbon and Oporto were created, as mandatory public Municipalities associations with competences on planning and sectorial coordination and management (transports, water supply and sewerage, waste management, environment and natural resources management, civil safety, etc.) and spatial planning (Appendix. 3-F)..

8. In the QCA II (1994/99) some municipalities associations participated in Regional Operational programs management. In 2002, the CCR boundaries were redefined because the Lisbon and Tagus Valley Region is out of region Objective 1 defined by regional policy of European Union and it cant to compete to European Structural Funds as up to that time (Appendix. 3-G).

9. During the decade of 90, Portuguese Government promoted national plans of water supply and sewerage and national plan of waste management. In these plans, strategies selected go up to the intermunicipal scope of the systems in order to promote a more efficient and effective management. In this context more than 30 multimunicipal systems were created.

10. The 2001 Census of population and housing identified around 30 basins of employment where the pendular movements present considerable intensity

4. The limitations of the municipalities

25 years after creation of local government (municipalities) the reality of the 278 towns of the Portuguese continent is very different in several scopes (area, population, urban structure, financial resources capacity to promote local policies, etc.) (See Appendix 4):

a) 50% of the municipalities have less than 16 356 inhabitants and population density below the 73 inhabitants/km²;

b) More than 50% of the municipalities lost population in the decade of 90;

c) In more than 50% of municipalities the percentage of population with more than 60 years old exceeds 31,1% from the total population, while the population with less than 15 years old does not exceed 14,5% from total population and the total dependency index is higher than 79,2%, on half of municipalities;

d) More from 50% of the municipalities present capital expenditures under to 5 millions of euros and total expenditures under to 11 millions of euros.

Along the last 20 years the role of municipalities on problem solving related material needs (water supply and sewerage, waste management, schools, sports and cultural equipments, etc.) were absolutely notable. While these materials and basic needs of development were supplied territory administration needed a higher level of support decision with more strategic scope that appeal to other regional and local development factors. Local/municipal level is not adequate to conceive this strategic ways. Many of the municipalities already do not know themselves where they should apply the capital expenditures because working expenses were an excessive weight on municipal budget. Many of the investments carried out by one municipality may achieve more important bigger effects on neighbour municipalities than in the municipality itself.

Some of the investments carried out by municipalities don't have neither scale nor significant impacts on the development process. On the other hand, many of cultural, education, training and sports equipments and infrastructures are, today, sub-utilized and they put operation and management problems.

Many of the municipal investments represent a territorial dispersion of financial resources and they need an upper level of articulation and coordination that allows the amplifications of its effects in order to promote the indispensable synergies and network effects and, at the same time, guarantee the economical and social feasibility of them.

Urban structure of territory of Portuguese continent seems to be clear. The capacity of main urban centres to integrate marginal territories and markets is nearly exhausted. Territorial integration from below is practically concluded and this strategy should assume a residual importance. It is indispensable to shift the strategy of integration. Integration from above will assume bigger importance as well as the economies of scales especially economies of agglomeration and economies and effects of network.

Therefore it is important to create a power structure with multiple vocations where shall be possible to integrate projects and management of complex territorial processes, because many of infrastructures and equipments will transcend municipal boundaries and scale. If that structure will not be created some municipalities will have costs and others will only have benefits.

Municipalities operations isolated or the cooperation between municipalities by voluntary association with specific scope on several domains is insufficient to face the complexity of the territorial management processes.

Conception of the solution of many problems is not adequate from local scale. It is necessary to find a platform of understanding and create a “common rationality centre” – in territories with strong territorial interdependency bigger coherence, cohesion and territorial identity - where municipalities can create a consensus building and find adequate solutions to the existing problems.

5. Intermunicipal structures versus administrative regions

The intermunicipal structures are not the same that the foreseen administrative regions in the Constitution Law. The first ones are constituted by the voluntary association of municipalities while the second ones are elected by universal suffrage.

It is illusory to think that ones substitute the others as both have proper arena of adequate intervention for the improvement of territory administration processes.

Some problems exist whose resolution is more adequate to the supra-municipal arena (water supply and sewerage, waste management, urbanism and urban planning, some equipments and infrastructures) while other problems require a more efficient way of solving them at the regional level (planning of regional development, strategic planning, sectorial planning, innovation promotion, and some equipment and infrastructures).

The integration, articulation and coordination of the public policies to the regional level are of strategic dominant while that to the intermunicipal level predominates the aspects most operational.

Therefore it is not acceptable the idea that betting in one structure in first place will exclude in a following phase the other structure. Also it is indifferent that one structure necessarily needs to be has that obligatorily to become fulfilled itself before the other one.

6.The intermunicipal organization predicted in the law

Face to pressures from the EU on Portuguese State about the absences in the intermediate level between central and local government, Portuguese government elected in 2001, that assumed the commitment to promote decentralization an territorial administrative reform of the State. Intermunicipal organization was the political option privileged.

The Portuguese government understood that way - pressure and coax the municipalities to create intermunicipal organizations with multiple vocations by volunteer association; putting an assembly of demands to this creation; and, at the same time, to assume the commitment of that would be able to decentralize some competences for those structures and finance a substantial part of those activities - would be the more adequate to promote decentralization and territorial administrative reform.

Two alternatives were offered to the municipalities to itself will associate. Law n°10/2003 establishes the Metropolitan Areas creation by means of two modalities: Great Metropolitan Areas (GAM) and Urban Communities (ComUrb). Law n° 11/2003 establishes the creation of Intermunicipal Communities of General Scope (CIMFG) and Intermunicipal Communities of Specific Scope (CIMFE); this last already was possible in the previous legislation.

As general principles for the creation of municipalities associations in the modalities of GAM, ComUrb and CIMFG, law established the following ones:

- a) Territorial contiguity;
- b) Voluntary association by means of deliberation from the member of municipal assembly;
- c) Constitution by public title;
- d) Exclusiveness, each municipality can integrate in simultaneous only one of these structures;
- e) Obligatoriness of remain in the structure at least during 5 years.

In order that a GAM can be constituted is necessary that associates at least 9 municipalities with a minimum of 350 000 inhabitants. In order that a ComUrb can be constituted is necessary associates at least 3 municipalities with a minimum of 150 000 inhabitants. In order that a CIMFG can be constituted is not established any criterion of dimension.

The three kinds of structures are able to contract with the central government but only the GAM and the ComUrb they are financed directly from the Budget of the State.

General competences for the three intermunicipal structures are similar to the municipalities competences and they will be performed those that the municipalities will understand that they should transfer for these structures. State also decides which competences will be transferred to these structures.

Until the moment 20 intermunicipal structures are created in three modalities.

7. The desirable intermunicipal organization

The theme of the intermunicipal organization is on the political agenda in several countries as a form to adjust territorial administration processes to face the challenge put by the globalization process and put by the territorial structures of the cities. However it raises peculiar problems on the different kind of States (Federal States, centralized states, decentralized Sates, etc.).

In Portuguese case the processes in course deserve a deep reflection because the way chosen cannot achieve the desirable aims. Fundamental principles below designated are not guaranteed.

BASICS PRINCIPLES OF THE INTERMUNICIPAL ORGANIZATION

A. Intermunicipal structure is not a regional structure

Political discourse is not clear regarding what its real intentions with the intermunicipal organizations. Citizen is confused and it can not perceive which they are: regionalization or intermunicipal structures. In political discourse it looks to have a lot tangy (confusion) between these two structures from the government parties and from the opposition parties. These attitudes generate distrusts from the local power because they are jealous of their power and naturally they retract them.

B. Stability and Social Legitimacy

To build intermunicipal structures can not to lay aside civil society. Laws put decision only on the municipal assembly, they have not directed election neither is guaranteed the participation of the civil society and their organizations in the decisions from the intermunicipal structure. The shared responsibility principle is not respected.

Intermunicipal structures should remain a lot of time beyond the mandates of the local municipalities elected. They do not restrain the will of the local elected and parties or to comply negotiations ad-hoc. So intermunicipal structures should rely on a sound a local agents and be founded on a wide social legitimacy.

C. Autonomy and Subsidiarity

Intermunicipal structures can make in cause a local autonomy and powers separations principles considerate on the legal Constitution. It cannot be understood as concurrent of the municipalities, or the regions or the central government. Prevalence of the subsidiarity principle obliges a clarification about what effectively should be transferred for these structures from the central government and the local governments.

D. Territorial Interdependency

Intermunicipal organization must reflect the relations of interdependency between territories to the functional, economical, social and cultural levels to guarantee and reinforce the indispensable territorial cohesion. The pendular movements of populations and the relations between agents and firms are indispensable. It's necessary to mind the "*espace vecu*" and the "*frame of life*".

E. Complexity and functionality

An administration of the territory without these two predicates is out of order, becomes itself weak and inefficient. Will have always a bad image face to the citizens and firms and other organizations. To guarantee complexity and functionality of the territorial administration dimension, scale and density of the territorial phenomena and processes are indispensable.

F. Collective learning

Intermunicipal organization should agree to the past of territorial administration process. It carry to shape of territorial bases the public policies, existing partners, associations, intermunicipal companies and multimunicipal systems. It can upon on only a consensus of circumstance.

To build an efficient and functional intermunicipal organization is not compatible with a legal framework characterized by the excess of grades of freedom. We cannot discard a model of administration with more than 25 years old.

It is fundamental to appeal the *genealogy of the public policies*, the past and the present of the territorial administration process will have.

Intermunicipal organization structures should be a collective learning process.

G. Not artificial structures

Intermunicipal organization must be genuine and should reflect the urban structure of the territory. It cannot be supported by artificial borders and designations. We should analyze the *genetic code* of the territory and we must refuse intermunicipal structures genetically modified.

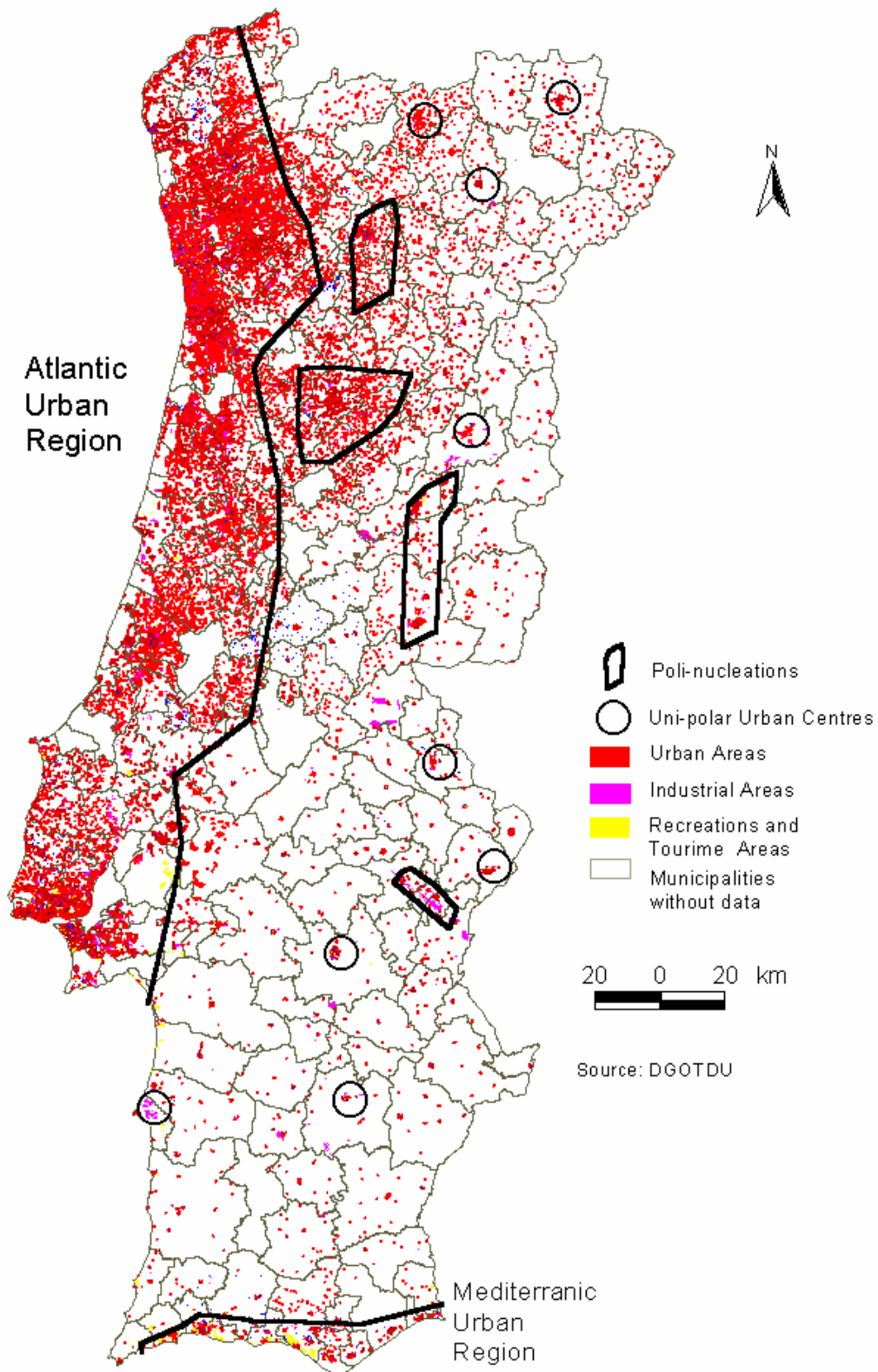
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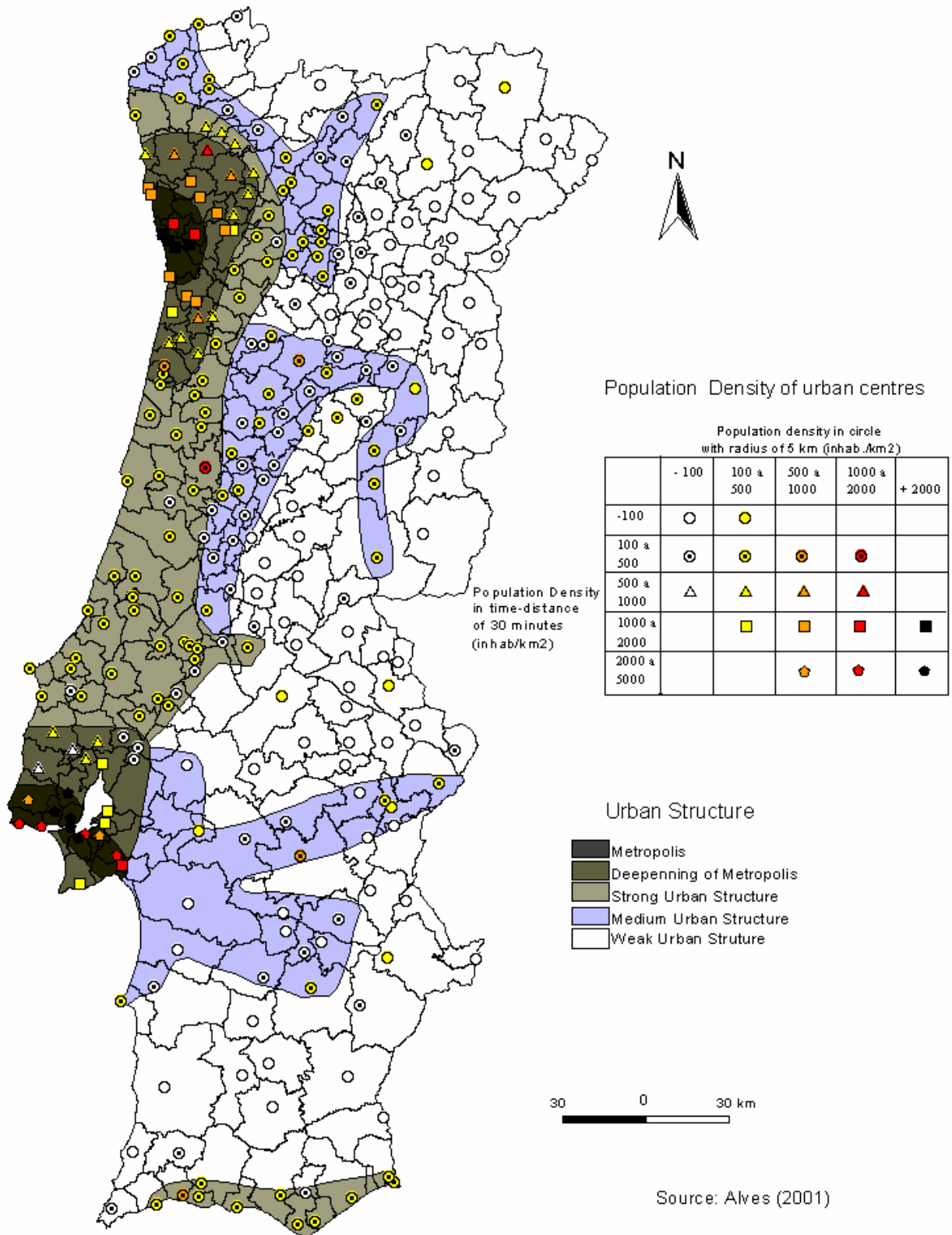
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Appendix 1- Urban Structure of Portuguese Continent - I



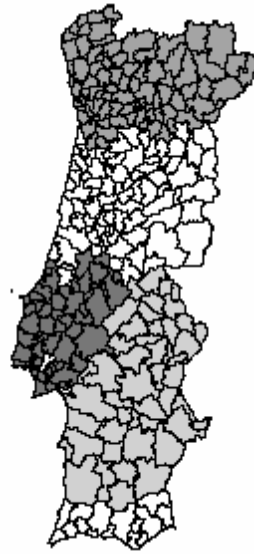
Appendix 2- Urban Structure of Portuguese Continent



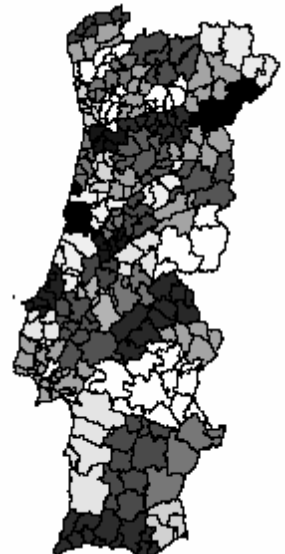
A – Municipalities (279)



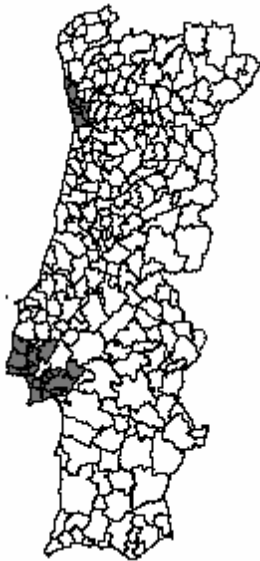
B – *Distritos* (18)



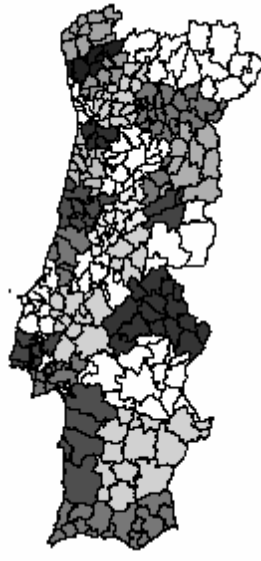
C – CCR and NUT II (5)



D – GAT (40)



E – Metropolitan Areas (2)



F – NUT III (28)



G – CCR and NUT II (5)

Appendix 3. Administrative Structures in continent of Portugal

Indicators	Area km2	Total Population Inhabitants		Population Rate of Variation (1991/2001)	Population Density - 2001 (inhab/km2)	Capital Expenditures 2001 Euros	Total Expenditures 2001 Euros	Population with less than 15 years old - 2001 (%)	Population 15-60 years old - 2001 (%)	Population with more than 60 years old- 2001 (%)	Total Dependency Index of population - 2001 (%)
		1991	2001								
Average	640	71888	74546	2,8	354	8993823	22108155	14,8	59,2	26,0	70,3
Standard Deviation	5351	572679	598594	20,3	1023	17528892	46180616	2,6	5,3	7,4	16,3
Minimum	9	2052	1924	-58,4	6	732959	3323386	7,7	43,0	11,4	43,9
1º Quartile	133	9016	8573	-7,3	31	3041754	7388818	13,0	55,8	21,0	59,4
2º Quartile (Median)	225	16850	17338	-0,3	78	4895519	10873298	14,5	59,5	25,6	68,0
3º Quartile	403	37058	40808	9,2	188	9335945	22012143	16,3	62,7	31,1	79,2
4º Quartile (Maximum)	88596	9375926	9869343	195,0	7872	255555496	672612065	22,5	69,5	47,5	132,6

Source: INE, DGAL

Appendix 4 – Somme Indicators about Portuguese municipalities