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Rules or legacies? Industry and political revolving doors in regulators' careers in Portugal

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Abstract

The movement of personnel between roles in regulation, politics, and regulated industries is thought to affect the risks of politicization and industry capture of independent regulatory agencies. To test whether such movements are better explained by formal rules or by sector-specific patterns, we employ an original dataset of the 152 appointees to 11 IRAs in Portugal over the last 3 decades. We find that variations in the formal independence of agencies have been of little consequence. Instead, revolving doors abound in the financial sector, with a disproportionate share of regulators of that sector coming from, and moving back, to the industry. In turn, appointment of regulators with political links to Portuguese IRAs seems related with legacies of sectoral public control.

1 | INTRODUCTION

Independent regulatory agencies (IRAs) are a global phenomenon, having proliferated to numerous economic and social sectors (Jordana et al., 2011, 2018). Their expansion is one of the defining features of the shift from direct ownership and intervention to administrative control that characterizes the contemporary "regulatory state" (Majone, 1997). However, the large impact of IRAs decisions in allocating costs and benefits to different groups in society, and the value judgments such decisions inevitably entail, raise not only normative questions about their democratic legitimacy (Yeung, 2010) but also empirical questions about the role they end up playing in practice alongside governments and regulatees. To what extent have they truly become an autonomous "third force" in regulation (Thatcher, 2005)? Even if an "ideal" model of insulated agencies using their expertize to correct market failures was to be espoused, its fulfillment in real-world contexts varies significantly. In particular, "revolving doors," the back and forth of personnel between the regulated industries and the agencies that regulate them, may decrease the ability of IRAs to operate at arms-length from economic interests, either by populating agencies' boards with individuals that share those interests or by promoting responsiveness to them in view of future rewards (Cohen, 1986). Such "revolving doors" may also occur between political office and regulatory roles, with potentially similar consequences. To be sure, getting people with industry or political backgrounds into IRAs or having them back at such posts after they served in agencies is not a sufficient condition to undermine IRA's independence (Fernández-i-Marín et al., 2016), and may even produce several beneficial outcomes (Barbosa & Straub, 2017; Law & Long, 2012). However, there is also ample evidence that these linkages are far from irrelevant for the decisions of agencies (Cohen, 1986; Gormley, 1979; Navarro, 1982).

In this study, our focus will be in examining the prevalence of movements of personnel between roles in regulation, politics, and the regulated industries and some of its correlates. In what concerns the latter, we focus on two main factors. The first points to the agencies' level of formal or de jure independence. In the last few decades, a general trend toward the reinforcement of such independence can be observed (Gilardi, 2005). However, in an only apparent paradox, legal insulation has been argued to lead to a compensatory reaction from governments, manifested in the increased frequency with which board members with political links are appointed to agencies (Ennser-Jedenastik, 2016). An alternative explanation of "revolving doors" points, in contrast, to the irrelevance of formal rules, stressing instead the role of what has been called "sectoral path-dependency" (Maggetti, 2007, 2012): the possibility that the composition of IRAs is shaped by sector-specific patterns, particularly those to the preservation of a legacy of informal relationships and durable networks between the political arena, industries, and regulators.

In this study, we empirically examine these alternative explanations by looking at the careers of IRAs board members in the case of Portugal over the last 30 years, using an original dataset of appointments to the boards of the country's 11 agencies. Exploring variations between those agencies, we examine whether the presence of members with prior political office or prior links to the industry they ended up regulating is more consistent with explanations focusing on the importance of formal rules or of sectoral specificities. Furthermore, we extend our analysis to board members' post-regulatory careers, examining the correlates of their movement toward jobs in the industries they have regulated and/or to political office.

We believe Portugal is an interesting case to examine from these points of view. Despite having been a foremost privatizer and an early adopter of IRAs in the European context (Jordana et al., 2006), Portugal has been singled out as a particularly problematic example of both political and industry capture of IRAs, not only by domestic observers (Coroado, 2020b; Garoupa & Rossi, 2005) but also in the context of the financial crisis and the 2011 bailout.[1] It is also a valuable testing ground for the relative importance of formal rules and sector-specific patterns on board members' careers. On the one hand, Portugal shows considerable variation in levels of de jure independence of its IRAs, both across agencies and time (Coroado, 2020a). On the other hand, our data allows us to look beyond a single particular sector—the financial, as it has been more common in the aftermath of the 2007/2008 crisis (Chalmers et al., 2021; Rex, 2020)—or even at the general indiscriminate pool of regulators, allowing us instead to investigate systematic differences between sectors. The academic literature has already dedicated attention to regulatory careers not only in the United States (see, among many, Shive & Forster, 2016), the European Commission (Coen & Vannoni, 2016, 2020), and the largest EU economies (Thatcher, 2002), but also in neighboring Spain (Fernandez-i-Marin et al., 2016). How does Portugal compare from the point of view of board members' backgrounds and post-tenure careers? What may be behind similarities or differences?

Previewing our findings, we show that, in Portugal, variations in levels of de jure independence seem mostly unrelated with the suppression of both politicization and the risk of industry capture through ex-ante or ex-post mechanisms. Instead, sectoral variations seem more relevant. The politicization of appointments is comparatively high, consistent with the Southern European tradition (Sotiropoulos, 2004) and the general practice in the whole Portuguese public administration (Jalali et al., 2012). However, this is particularly the case in the utilities sector, which remained under complete state control until privatizations in the 1990s. Conversely, it is in the financial sector that we find disproportionally high levels of appointments from and returns to the regulated industry. Overall, the study paints an overall picture of regulation in Portugal where, at least in some sectors, risks of low de facto political independence and industry capture remain relevant, despite changes in rules—driven mainly by external demands—in the direction of increased de jure independence (Coroado, 2020a).

2 | REVOLVING DOORS, DE JURE INDEPENDENCE, AND SECTOR-SPECIFIC PATTERNS

2.1 | Industry capture, politicization, and revolving doors

IRAs stand in the middle of two sources of influence, political principals and market stakeholders. Both have an interest in influencing regulation for their benefit. Regulated firms have an interest in influencing regulation to reduce costs and allow rent extraction. While the classical view on capture is grounded on the reciprocity of favors, there are more subtle ways of seeking to obtain favorable outcomes from regulation, such as promoting “revolving doors” (Zingales, 2017). Board members who have an ex-ante link to the private sector are more likely to share the industry's view and concerns (Kwak, 2014, p: 79), but an ex-post link raises the prospect of a better-paid job in the private sector after leaving office (Levine & Forrence, 1990). In anticipation of promised or simply expected post-regulatory rewards, the regulator may opt for policies that benefit companies (Kopecký & Scherlis, 2008; Makkai & Braithwaite, 1992).

Governments also have an interest in influencing agencies' behavior: as executives attempt to implement the policies they present in their electoral manifestos, politicized public bodies are more likely to be responsive to those priorities (Wren-Lewis, 2011). Scholarship on party politics and regulation has analyzed de facto political independence by looking primarily at appointments and early departures, gauging the risk of “political capture” of board members before the office – by appointing party loyalists – or during office – through dismissal or turnover rates. However, ex-post linkages can also be potentially relevant: even if mandates are longer and non-renewable, top executives of IRAs may be inclined to favor political principals with the expectation of being nominated to other public or political offices once they leave the agency.

To be sure, not all evidence suggests that ex ante or ex post linkages between regulators and industries produce unequivocally negative outcomes (Barbosa & Straub, 2017; Law & Long, 2012), while politicized IRAs may contribute to increase the capacity of governments and their ability to implement their agenda (Blondel & Cotta, 2000). However, it is also clear that the presence of people with industry or political links in agencies is not irrelevant for the interests they favor in their decisions. Gormley (1979) showed that former employees of broadcasting companies tend to be more supportive of the industry in the FCC, and party allegiance was at least as important—if not more— as a correlate of voting behavior (see also Cohen, 1986; Navarro, 1982). Cohen (1986) showed that, although commissioners who took industry employment after leaving office were on average *less* supportive of it, the opposite happened in their last year of office, suggesting either explicit *quid pro quos* or an effort to increase employability at the end of the term (Dal Bó, 2006). In sum, where agencies' board members come from and where they go after their tenure of office seems to matter.

2.2 | De jure independence

One potential source of variation in movements between roles in regulation, politics, and regulated industries is related to the formal independence of IRAs. All over Europe, the formal independence of IRAs has been on the rise, following successive revisions of agencies' statutes. The literature has examined the causes of changes and variations in the degree of de jure independence (Bianculli et al., 2013; Gilardi, 2002, 2005, 2008), but there is uncertainty about its consequences. One argument is that de jure independence leads to an increase in the propensity to appoint board members with political links. Ennser-Jedenastik (2016) proposes that formal independence actually leads governments to "compensate their loss of formal powers over regulatory matters by using informal channels of influence—such as the appointment of political allies" (2016: 510). Using data from 16 Western European countries between 1996 and 2013, he shows that agencies' levels of formal independence is strongly and positively related with the probability of appointing individuals with prior political office (see also Blavoukos et al., 2013 for the case of Greece).

However, not all studies confirm this pattern. For example, Maggetti suggests that de facto independence—conceived as a multidimensional construct that includes the "weight of partisan membership on board members" nominations' and "proximity of the former or current professional activity of board members" (Maggetti, 2007, p: 287–288)—is unrelated with formal independence. Furthermore, albeit focusing more broadly on appointments of senior-level bureaucrats, others have suggested that long-standing national administrative traditions are much more consequential for the politicization of bureaucracies than any legal variations (Bach et al., 2020; Cooper, 2021). In sum, whether formal independence is related to politicization, not to mention the appointment of industry insiders or even their post-regulatory careers, remain intriguing questions.

In our case study—Portugal—that question also remains unanswered. However, as Coroado (2020a) shows, Portuguese IRAs have shown considerable variations in their level of de jure independence. Figure A1 in the Supporting Information shows the level of formal independence for each Portuguese agency in different periods in time. It shows that while there is a general convergent trend of increased formal independence for all agencies, there has also been considerable variation between them, particularly in earlier periods of their life-cycle. This allows us to explore whether these variations have been related to the presence of board members with political or industry ties, as well as the extent to which they have tended to move to jobs in the industry they regulated or to political office.

2.3 | Sectoral path-dependency

The relationship between agencies, industry stakeholders, and political principals may also be driven by what Maggetti (2007, 2012) calls "sectoral path-dependency." He called attention to the possibility that there might be "sector-specific regulatory patterns" shaped by past practices and relationships. Earlier modes of regulation are likely to continue to operate despite changes in formal rules "because of the persistence of informal linkages among the relevant actors, constituting a durable policy community" (Maggetti, 2007, p: 274). In particular, he hypothesized politicization should be higher in agencies "created in a sector that was formerly under government control," which is likely to have preserved closer links to political decision-makers (Maggetti, 2007, p: 274).

Other sector-specific patterns may reduce the de facto insulation of agencies, but this time vis-à-vis regulated industries. The financial sector is a case in point. The financial industry has a tradition of self-regulation that preceded external command and control regulation (Vogler, 2001). This prior expertize in the design and oversight of rules in the sector is compounded by another sectoral specificity: the singularly close working relationship between regulators and regulated firms in the financial sector (Levitin, 2014). As Rex (2020) shows, financial regulators have a closer relationship to the industry than regulators in most other sectors, a result of regular repeated interactions that foster durable social and professional networks. This suggests the possibility that revolving doors between regulators and regulated industries end up being particularly intense in the financial sector. For example, in the United States, as Kwak notes, "the regulators and the representatives of financial institutions are really the same people, only at different points in their careers" (Kwak, 2014, p: 83; see also; Shive & Forster, 2016).

Portugal is again potentially instructive from the point of view. The different regulated sectors have different legacies of state intervention. In Portugal, nationalizations in the 1970s of many strategic economic sectors, following the Carnations Revolution, were followed since the late 1980 and 1990s by the most intense process of privatization in the EU (Clifton et al., 2006). However, in the case of the utilities sector—comprised of electricity, gas, and telecommunications companies—the privatization process ended up being particularly protracted, prolonged up until the beginning of the 21st century, and without precluding the preservation of "golden shares" for the state. This suggests the possibility that the politicization of regulatory agencies, through the appointment of regulators with political ties, should be particularly intense in the utilities sector. Conversely, although the financial sector was also nationalized in the aftermath of the 1974 revolution, privatizations there occurred much earlier, in the late 1980s. This, together with the specificity of the financial sector discussed above, leads us to expect the financial sector to be characterized by a more intense circulation between agencies and the regulated industry.

3 | CONTEXT, DATA, AND MAIN VARIABLES

IRAs in Portugal are a creation of the 1990s and the wave of privatizations and the re-privatizations of sectors that had been nationalized during the transition to democracy in the 1970s. Despite its Napoleonic administrative tradition (Bianculli et al., 2013) and a frequently noted tendency to politicize the public administration (Jalali et al., 2012), Portugal became an early adopter of the IRA model. Table 1 shows the 11 IRAs we cover in this study and the date when they were created (or acquired the status of autonomous regulatory entities). Portuguese IRAs have three to five board members, appointed by the executive with little intervention from

TABLE 1 The Portuguese independent regulatory agencies

Acronym	Agency	Creation as an autonomous regulatory entity
AMT	Authority for mobility and transportation	2007 (as IMTT, the Institute for Mobility and Transportation)
ANAC	Civil aviation authority	1998 (when it was still called INAC, the National Institute of Civil Aviation)
ANACOM	National postal and electronic communications authority	1989
ASF	Authority for insurances and pension funds	1997
AdC	National competition authority	2003
BoP	Bank of Portugal	1990 (when its supervisory and regulatory powers over the banking sector were defined by law)
CMVM	Securities market commission	1991
ERC	Regulatory authority for the media	2005 (in its current form and competencies)
ERS	Health regulatory authority	2003
ERSAR	Water and waste services regulation authority	1997
ERSE	Energy services regulatory authority	1995

parliament, and, since 2013, to non-renewable 6 year terms.[2] The exceptions to these rules are the media's regulatory body, whose members are appointed by parliament, and the Bank of Portugal, where terms are renewable. Regulatory decisions are collegial, but each board member is responsible for managing certain domains.

From 1991 to 2019, the period covered by our dataset, 200 appointments of 152 individuals were made to the boards of the Portuguese IRAs. Two factors account for the discrepancy between the number of appointments and the number of appointees. First, while most individuals appointed to IRAs in Portugal only completed one term of office, a minority of them (35, about 23%) were either a) reappointed, sometimes for a second, a third, or even a fourth term or b) appointed for more than one IRA at different moments in time, that is, not consecutively.

A first goal of our analysis is to examine the prevalence and the correlates of the presence in agencies of board members with linkages to politics and to the regulated industries. To describe those pre-regulatory careers, we created two main variables. First, for each appointed board member, we coded whether she had ever held a *Prior Political Office* before appointment to the IRA, that is, an office (including advisory) in the executive or legislative branches of government at the national, European, regional, or local levels, or in the main political party structures. This includes members of the national cabinet (ministers and junior ministers), cabinet advisors to ministers or junior ministers, members of the national or European parliament, officials in national party structures, or posts in local government (mayors or city councilors). This variable is coded one if appointees held such an office and zero if not.

Similarly, *Prior Regulated Industry Job* captures whether the appointee, before the appointment to the agency, *had ever held a job in the industry regulated by the agency to which she was appointed*. In most cases, we considered the direct link between the industry and the regulator. For example, *Prior Regulated Industry Job* was coded 1 when an appointee to ERSE, the energy services regulatory authority, had held worked previously in an electricity company. The same approach was employed for all regulators. In the financial sector, prior experience in the banking sector was also coded as a prior job in the industry when the individual was appointed to the agency regulating insurance and pension funds, and vice-versa. The reason for this option is the nature of the industry itself, as financial groups operate and have interests in different fields within the sector. In the case of the competition authority, jobs in major law firms with expertize in competition were also coded as prior jobs in the regulated industry. The primary sources of information employed to collect these data were the appointment orders published in the Official Gazette, which contain a summary of the individual's CV.

A second goal of our analysis is to determine the extent to which board members, after leaving the IRA's to which they were appointed, move either to political office or to a job in the industry they regulated. By the end of 2019, 118 individuals had left the boards of the IRAs to which they were appointed. After each end of service, we obtained the subsequent jobs held by the former board member up until 2019. One variable capturing this is *Subsequent Political Office*, using the same coding rules as for *Prior Political Office*. The other is *Subsequent Regulated Industry Job*, capturing whether, after the end of the term, the board member obtained a job in the industry regulated by the IRA in which she had served (1) or not (0) until the end of our period of observation (2019). As primary sources of information to track the post-regulatory career of each appointee we resorted to different sources: once again, the Official Gazette, the online media, professional online networks such as LinkedIn, as well as the institutional websites of the individuals' current jobs.

In the examination of the correlates of the careers of board members, our main independent variables capture features of agencies. To examine the relationship between an agency's level of de jure independence and politicization—the extent to which members with *Prior Political Office* are present in agencies—we resort to a composite index composed of five dimensions and 20 indicators, adapted from Gilardi (2002) and applied to the Portuguese case (Coroado, 2020a). It ranges from zero (minimum de jure independence) to one (full independence), as measured at the time of each appointment to the IRA.[3]

Conversely, the argument that sector-specific patterns prevail irrespective of formal rules is tested by coding appointments to an agency on the basis of the sector regulated by that agency. *Financial* and *Utilities* are two dummy variables capturing the sector regulated by the IRA of each the board members (for the analysis of previous jobs or offices) or in which he/she had served (for the analysis of subsequent jobs or offices). *Financial* is coded one for three agencies: the Bank of Portugal, CMVM (the securities market commission), and ASF (insurances and pension funds), with zero otherwise. *Utilities* is coded one for four agencies: AMT (mobility and transportation), ANACOM (communications), ERSE (energy), and ERSAR (water and waste), and zero otherwise. The reference category will be constituted by the remaining agencies (*Others*, including health, civil aviation, the media, and the inter-sectoral competition agency).

4 | ANALYSIS

4.1 | Descriptive patterns

In Europe, higher levels of IRA politicization have been found in the continental Western countries (Fernández-i-Marín et al., 2016, p: 240) than in Nordic countries, the UK or Ireland (Ennser-Jedenastik, 2016, p: 512). Studies in the United States, on the other hand, show that American regulators attract a significant portion of individuals that work in the industry (Eckert, 1982;

Spiller, 1990), while in Brazil, that share is comparatively low (Peci et al., 2020). Finally, France (Thatcher, 2002), Spain (Fernández-i-Marín et al., 2016), and Brazil (Peci et al., 2020) show a higher propensity for the appointment of politically unaffiliated public servants, contrary to Italy (Thatcher, 2002) or Greece (Blavoukos et al., 2013). In what concerns post-regulatory careers, in contexts such as the European Commission (Coen & Vannoni, 2016, 2020) or Brazil (Peci et al., 2020), where the public sector provides, in relative terms, contracts with better benefits than in the United States, and where technical expertize trumps other assets, incentives change, leading to less sector switching between public and private sectors and to a much clearer separation of careers.

In Portugal, of the 152 individuals appointed to Portuguese IRAs between 1991 and 2019, 25% had held a political office before their first appointment, 22% had held a job in the same industry that they came to regulate, and 12% shared both features. To put it differently, 59% of appointees had held either a political office or a job in the regulated industry prior to their appointment. Post-regulatory careers are harder to track when they do not involve either political office or a job in the industry. Furthermore, about 25% of board members were already 60 years old or more when they were appointed to their last term in the agency, suggesting that their tenure in the agency may have been the last stage in their professional career before retirement. Still, of the 118 former board members that had left agencies until 2019 in Portugal, 20% obtained political office after serving in the agency, while 18% ended up securing a job in the industry regulated by the agency where they served.

These patterns suggest several preliminary assessments. First, the total share of appointees with prior political ties, 37%, places Portugal on the side of the higher levels of politicization found in the continental Western European countries, very close to the 42% in Spain (Fernández-i-Marín et al., 2016, p: 240) and contrasting starkly with the Nordic countries, the UK, and Ireland (Ennser-Jedenastik, 2016, p: 512). Second, more strikingly in comparative terms, one out of every three of appointed regulators (34%) held previous jobs *in the industry regulated by the agency to which they were appointed*. This is a rather high figure, even in comparison with the United States (Eckert, 1982; Spiller, 1990). In Brazil, only about 10% of the appointed board members had previous employment in the private sector (Peci et al., 2020).

Third, a minority, 41%, of Portuguese board members served neither in political office nor in regulated industries before their first appointment. They are a diverse lot, including jobs in the private sector (although not in the industry they came to regulate), international organizations (such as the OECD), and, in small but increasing numbers along the life cycle of agencies, technical cadres of the IRAs themselves. However, the two most frequent prior occupations among these who lacked both a previous political office or a regulated industry job were either posts in academia or jobs in public bodies, including the central administration or state-owned companies, government-appointed but without any previous political experience.

In this respect, it is especially noteworthy that the presence of career civil servants proper in IRAs—if we exclude tenured university professors, who in Portuguese public universities are also part of the civil service—is so rare (only one among 152). The contrast with France (Thatcher, 2002), Spain (Fernández-i-Marín et al., 2016), and Brazil (Peci et al., 2020), where politically unaffiliated public servants constitute a major source of recruitment of regulators, is stark. It also, however, unsurprising. Portugal—like Italy or Greece—lacks anything resembling the French "grands corps" (Thatcher, 2002) or the Spanish "special corps" of elite professional civil servants (Kickert, 2011, p: 813). A career in the Portuguese civil service is not a particularly attractive proposition for the most qualified professionals (Sotiropoulos, 2018, p: 889). Instead, the upper echelons of the Portuguese civil service, which are untenured and have been freely chosen by ministers for most of the period under examination, are disproportionally filled with party loyalists, to ensure tighter control over policy formulation and implementation (Jalali et al., 2012; Silva & Jalali, 2016). This means that, among the pool of highly qualified positions in the public administration potentially able to serve in the board of regulatory agencies, individuals without any prior political links are an extremely scarce commodity in Portugal.

Finally, although there are fewer comparative sources with which to benchmark any analysis of post-recruitment careers, a main feature seems notable in the Portuguese case: about 40% of board members who obtained a subsequent job in the industry they regulated had no prior job in companies in that industry. In other words, regulatory agencies in Portugal do not seem irrelevant as switch points away from other careers and in the direction of the regulated industry. This again contrasts with the Brazilian case, where such switches are very uncommon, as the private sector is less attractive in terms of salaries than the public sector and the private sector sees political ties as less relevant than expertize (Peci et al., 2020).

4.2 | Prior political office/industry job

Following this initial assessment, it is important to look more systematically into the correlates of the presence of board members with *Prior Political Office* and *Prior Regulated Industry Job* in Portuguese IRAs. Looking at the pool of appointed board members, in what sectors, and at what levels of formal independence, has the appointment of individuals with political and industry ties been more frequent?

It is important to note here that, like what occurs with Ennser-Jedenastik (2016) and other studies, our analysis cannot make any strong claims about what determines the appointment of different sorts of individuals to different agencies. Such an analysis would require the inclusion not only of the board members who were appointed but also the whole pool of *potential* appointees (Bach & Veit, 2018, p: 256), a pool we are unable to determine in the case of IRAs in Portugal. However, a multivariate approach that goes beyond mere descriptive patterns is still essential. For example, as per the discussion above, it is to be expected that, given previous public ownership in the utilities sector, agencies regulating that sector should be more likely to have board members with prior political experience than agencies in other sectors. However, to the extent that there might also be a tendency to endow IRA's regulating utilities with greater levels of formal independence, such a phenomenon could instead convey a propensity for greater politicization of those agencies. A multivariate approach can help us sort out whether formal rules or sectoral patterns have been more consequential in this respect.

In the subsequent analysis, besides our main independent variables—capturing formal independence and sectors—we also employ a series of controls. *Age of agency* captures the agency's maturity (Ennser-Jedenastik, 2016, p: 513) and is a continuous variable that corresponds to the number of years elapsed between the year when each IRA was created—or when regulatory authority was attributed to that agency—and the year of the appointment. *Left-wing government* is coded one if, at the time of appointment of the board member, the main party in government was the Socialist Party, and zero if the government was led by the center-right Social-Democratic party, alone or in a coalition. The variable *Chief executive* identifies whether board members served in the head position of the agency, testing whether appointees to the top position are more likely to have had a prior political office than others. Finally, *Year of appointment* is a "counter" variable that allow us to control for secular trends in appointments.

Finally, as explained above, *Prior Political Office* and *Prior Job in Regulated Industry* are not mutually exclusive in our sample: appointed board members can have held both prior industry jobs *and* political office prior to their appointment (in fact, this happens with 12% of all board members). Therefore, we employ a bivariate probit estimation, which allows us to treat *Prior Political Office* and *Prior Job in Regulated Industry* as non-exclusive alternatives. Furthermore, since board members are nested in agencies, we estimated a (two-level) hierarchical model that includes agency-level random effects.

Table 2 shows the results of the estimation of the correlates of *Prior Political Office* and *Prior Job in Regulated Industry* for the first appointment of all 152 board members.[4] The signs of the coefficients for formal independence are positive for prior political office and negative for prior regulated industry job in both models. However, both coefficients are very far from reaching statistical significance at conventional levels.

Instead, the only coefficients that meet or even approach those criteria pertain to the variables capturing the agencies' sector. Figure 1 provides a visual depiction, plotting the predicted probabilities of an appointed board member having had a prior political experience and a prior job in an industry regulated by the agency to which she was appointed, depending on whether the agency regulates the utilities, the financial, or "other" sectors (the reference category). Following Knol et al. (2011), we present 83.4% confidence intervals, so that overlaps between confidence intervals or their absence can be appropriately interpreted as signaling, respectively, non-significant or significant differences with 95% confidence.

First, board members appointed to agencies regulating utilities are more likely to have held a prior political office than to have worked in the industry they came to regulate. This occurs independently of the de jure independence of each agency, the governing party, the agency's maturity, whether the position is chief executive, or the year of appointment. Furthermore, regulators appointed to utilities agencies are also more likely to be filled with appointees who have held a prior political job than those appointed to agencies regulating sectors other than utilities or financial (*Other*). Second, appointees to financial sector agencies are much more likely to

TABLE 2 The correlates of appointments of individuals with prior political office and prior job in a regulated industry. Hierarchical two-level bivariate probit analysis

	Model 1	
	Prior political office	**Prior regulated industry job**
De jure independence	0.25 (0.86)	−0.55 (0.85)
Utilities sector agency	0.94** (39)	−0.12 (0.38)
Financial sector agency	98** (0.44)	0.83* (0.44)
Age of agency	−0.05 (0.03)	−0.02 (0.03)
Left-wing government	0.33 (0.22)	−0.20 (0.23)
Chief executive	−0.24 (0.26)	0.21 (0.25)
Year of appointment	0.04 (.03)	0.04 (.03)
Agency-level variance	0.05 (0.07)	
Individuals	118	
Agencies	11	

Note: Constant not shown.

*$p < .10$.

**$p < .05$.

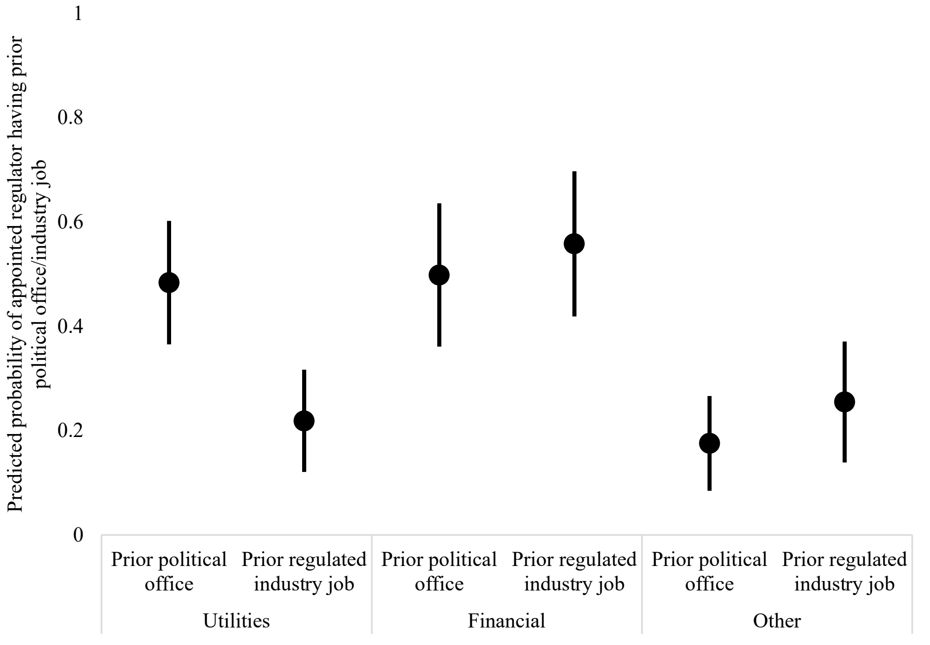

FIGURE 1 Predicted probability of appointed board members having prior political office or a prior job in a regulated industry, by sector (based on Model 1)

have had prior experience in the regulated industry than appointees to agencies regulating other sectors. Third, we obtain an unanticipated result for the IRAs regulating the financial sector: appointed board members there are more likely to have held prior political office than in *Other* sectors, and as likely as appointees to regulators of the utilities sector.

The results support the notion that the presence or absence of board members with prior political or regulated industry links has been insensitive to variations in legal agency independence, reflecting instead sectoral specificities. While regulators of sectors that experienced late privatization—transportation, communications, and energy—are filled with a disproportionately high share of board members with political links, financial sector regulators are filled with a disproportionately high share of individuals who have previously worked in financial companies.

One result we did not anticipate is the comparatively high propensity to also find board members with political links in the agencies regulating the financial sector. Contextual factors may play an important role here: in Portugal, all banks were nationalized in the aftermath of the 1974 revolution. Although privatizations in the financial sector took place in the late 1980s, before those of companies in the utilities sector, they are nonetheless relatively recent. Furthermore, Portugal preserves an important state-owned bank—*Caixa Geral de Depósitos*, still the largest Portuguese bank by assets—that has continued to serve as a hub of politicians, regulators, and regulatees (Lains, 2011: 363–443).

4.3 | Subsequent political office/industry job

Our second set of models explores the correlates of board members obtaining either a subsequent political office or a job in the industry they regulated after their departure from agencies. Again, the two possibilities are not mutually exclusive in our dataset, so we resort again to a bivariate probit analysis, again with random effects by agency. Model 2 includes again not only a measure of de jure independence of the agency and sectoral dummies, but also whether the board members had served as chief executive the year of departure from the agency. Model 3 adds dummies for whether board members had served in political offices or the regulated industry *prior* to their appointment. Table 3 shows the results.

Models 2 and 3 have similar results concerning de jure independence, year of departure, and sectoral patterns. The formal independence of agencies is, again, unrelated to board members obtaining subsequent political office or a job in the regulated industry. The sign of the coefficients for Y*ear of departure* is negative for both dependent variables and significant in what concerns subsequent political office. The interpretation of this result, however, needs care. On the one hand, it may be capturing a secular decline in the propensity of former board members to be able to secure political office after they depart from regulatory agencies. On the other hand, it can simply mean that less time has elapsed since the member's departure until the end of our period of observation (2019), meaning they had fewer opportunities to have secured such post-regulatory positions. This makes the result for this control difficult to interpret but, at the same time, crucial for our analysis.

Third, former board members who served in the financial sector regulation are particularly likely to obtain a subsequent job in that sector, that is, in banks, insurance companies, brokerage firms, or other financial companies. This is a pattern not replicated among former board members in the other sectors. Importantly, the result persists in Model 3, when we control for whether former board members held prior political office or a prior regulated industry job. In other words, although obtaining a subsequent political office or subsequent job in the regulated industry is more likely, respectively, for those who have held such offices or jobs *before* their regulatory tenure, such career segmentation is not perfect: those who served in the regulation of

TABLE 3 The correlates of subsequent political office and job in a regulated industry. Hierarchical two-level bivariate probit analysis

	Model 2		**Model 3**	
	Subsequent political office	**Subsequent regulated industry job**	**Subsequent political office**	**Subsequent regulated industry job**
De jure independence	0.97 (1.13)	−1.52 (1.21)	1.11 (1.08)	−1.34 (1.16)
Utilities sector agency	0.08 (0.40)	0.54 (0.47)	−0.16 (0.41)	0.40 (0.48)
Financial sector agency	−0.35 (0.45)	1.60*** (0.45)	−0.49 (0.49)	1.28** (0.46)
Chief executive	0.05 (0.33)	0.19 (0.34)	0.20 (0.34)	0.14 (0.36)
Year of departure	−0.05* (0.03)	−0.03 (0.03)	−0.06* (0.03)	−0.04 (0.03)
Prior political office	-	-	0.84* (0.33)	0.52 (0.31)
Prior job in regulated industry	-	-	−0.50 (0.39)	0.76* (0.32)
Agency-level variance	0.06 (0.13)		0.05 (0.12)	
Individuals	118		118	
Agencies	11		11	

Note: Constant not shown.

*$p < .05$.

**$p < .01$.

***$p < .001$.

banks, insurance companies, or brokerage companies are more likely to secure a subsequent job in that industry *independently of prior political office or regulated industry job*.

Figure 2 shows, based on Model 3, the predicted probability of board members securing political office or a job in the industry they regulated after leaving the agency, depending on the sector regulated by the agency. It shows that, in Portugal, above and beyond the relationship between prior and subsequent jobs, former board members are more likely to obtain a subsequent job in the industry they regulated if they served in an agency of the financial sector rather than in other agencies.

5 | DISCUSSION

In this study, we use the case of Portugal to investigate two main arguments about the factors thought to affect the movement of IRA board members between roles in regulation, politics, and the regulated industries. While one focuses on the role of formal rules designed to increase the insulation of agencies, the other focuses on sector-specific legacies of practices and informal relationships between the political arena, industries, and regulators.

We find that the politicization of Portuguese IRAs is comparatively high, albeit not at an uncommon level among continental European countries. However, when analysing the correlates of such politicization, we find no evidence that it has worked as a compensatory mechanism for the enhanced legal autonomy of different agencies (see also Bach et al. 2020 for a similar finding concerning the politicization of senior-level public administration in Europe). In fact, the level of politicization of Portuguese IRAs seems insensitive to variations in formal independence. This points to the possibility that changes in the direction of enhanced formal autonomy, particularly when driven mostly by "coercive isomorphism"—as it happened in the case of Portugal—

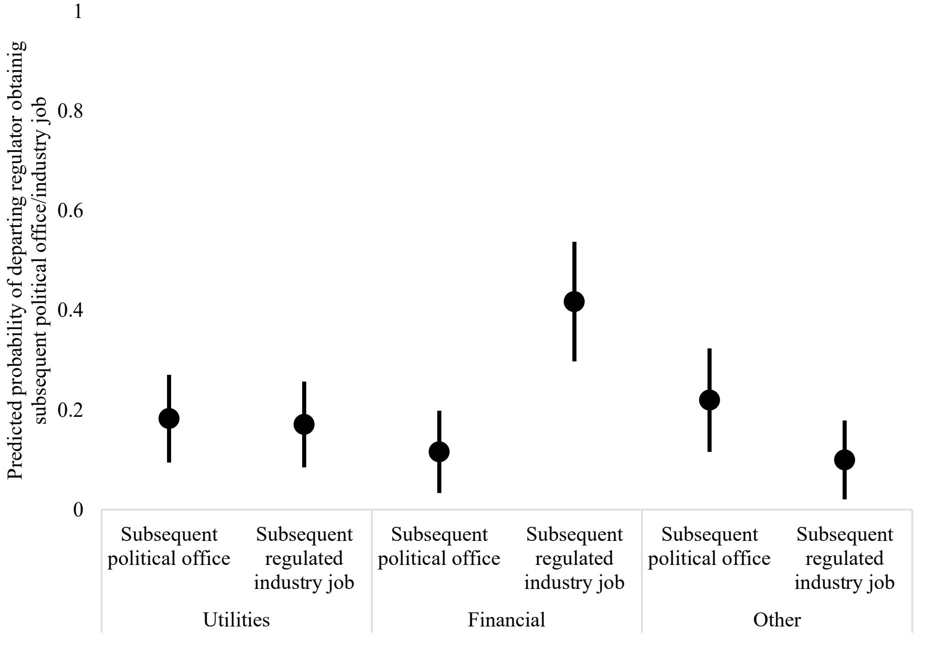

FIGURE 2 Predicted probability of board members obtaining subsequent political office or a job in the industry they regulated, by sector (based on Model 3)

can be adopted by principals while nevertheless preserving crucial appointment prerogatives (Coroado, 2020a). Instead, a sectoral logic seems more decisive, through which agencies regulating industries that were until more recently under state control (utilities) or where major public sector actors are still present (financial) are characterized by higher politicization. This makes Portugal a potentially interesting case to compare with many Eastern European countries, with which it seems to share a relatively recent state-ownership of most economic sectors, externally-driven 'agencification,' and —in most cases—a pronounced politicization of the public administration as a whole (Nemec & de Vries, 2018).

Political office after service in IRAs is best predicted by ex-ante political office, regardless of sectors and levels of formal independence. This suggests there are also 'sliding doors' (Coen & Vannoni, 2016) in Portuguese IRAs. However, those sliding doors are not being crossed by career civil servants who later return to their posts. Contrary to France or Spain, tenured bureaucrats are almost absent in the boards of Portuguese agencies, due to the extensive politicization of the upper echelons of the country's public administration (Jalali et al., 2012), which makes apolitical high ranking civil servants who might serve in IRAs an extremely scarce commodity. Instead, career civil servants seem to be crowded out by what has been called a 'luxury reserve,' a set of party loyalists—predominantly limited to two largest government parties, the PS and the PSD—who circulate between the top levels of public administration, political office, and regulatory agencies (Silva, 2013, p: 328).

Finally, the appointment of board members who served in the industry they come to regulate or move to those regulated industries after leaving the agency seems to be comparatively common in Portugal. Close to one-third of all board members of all agencies in Portugal held previously a job in the very industry they came to regulate, while about one in every five managed, until 2019, to obtain a job in the industry they regulated. We showed, however, that such a phenomenon has an important sectoral specificity. The probability of a board member in financial regulatory agencies being recruited in the financial sector is more than two times larger than that probability in other sectors. Similarly, members who served in a financial IRA in Portugal are more than twice as likely to move to the industry they previously regulated than people who have served in agencies regulating other sectors, independently of their careers prior to joining the agency. This has been insensitive, again, to variations in terms of the formal independence of agencies.

To be sure, there are important limitations in our analysis that must be acknowledged. In particular, the sectoral specificities that emerged in the analysis, although broadly consistent with existing arguments in the literature, can be instead driven by factors we were unable to include in the empirical analysis. For example, the high politicization of the utilities sector may result less from a legacy of recent public control than from the continued effort by governments effort to secure political control over regulatory outcomes with disproportionate electoral salience, such as utilities' prices (Kwoka, 2002). Similarly, the uncovered specificity of the financial sector, both within Portuguese agencies and in comparative terms, may have reasons our analysis was unable to elucidate. For example, although specialized knowledge and expertise are in high demand in the regulation of all sectors, it is possible that the availability of those assets outside the financial sector itself—in universities or the public sector, for example—may be particularly low in the case of Portugal, facilitating the comparatively large numbers of appointments of industry insiders. For the same reason, board members with regulatory expertise may become particularly valuable to financial companies, whose comparatively high salaries make them in turn, particularly enticing to those board members. In other words, the 'sector-specific patterns' we uncovered in Portugal should be seen as a starting point for deeper and more detailed examinations of regulators' career moves and their drivers (for a recent example in EU financial regulatory authorities, see Chalmers et al., 2021).

Future studies about the Portuguese case might also address issues such as the political vulnerability of regulators (Cukierman & Webb, 1995; Ennser-Jedenastik, 2014; Fernández-i-Marín et al., 2016; Hanretty & Koop, 2013; Thatcher, 2005) or the quality of regulation itself (Koop & Hanretty, 2018). Having said that, our results make it understandable why the Memorandum of Understanding (MoU) signed by the Troika and the Portuguese government dedicated extensive attention to regulatory issues—more than that devoted in the MoUs of any other bailed-out country around the same time (Coroado, 2020a, 2020b). The politicization of Portuguese IRAs has been high, particularly in the utilities and the financial sector, partially a result of—and furthering—the already prevalent politicization of the higher echelons of public administration. The movement between roles as regulators and regulatees in the financial sector also seems particularly prominent, even in comparative terms. As Alexandre et al. (2019, p: 83 and 84) argue, the set of "ambiguous relations" between regulators, regulated sectors, and politics were largely responsible for the perpetuation of an economic model built primarily on the non-tradable goods sector, ultimately leading to the public policies pursued in the first decade of the 21st century, characterized by increasing public debt to finance investments in those sectors. Our results suggest is that the recurrently adopted kind of solution—successive legislative reforms aimed at increasing the independence of agencies, which have contributed to place Portugal in a particularly high position among the OECD countries from that point of view (Casullo et al., 2019)—have nevertheless been, so far, of little relevance to change these de facto patterns.

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DATA AVAILABILITY STATEMENT

The data that support the findings of this study and the code employed for data analysis are openly available in Open Science Framework at https://osf.io/c2n5b/.

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ENDNOTES

1 Portugal. Memorandum of Understanding on Specific Economic Policy Conditionality, May 17, 2011. Available at: https://ec.europa.eu/economy_finance/eu_borrower/mou/2011-05-18-mou-portugal_en.pdf.

2 Framework Law on IRA, Law no 67/2013, August 28th.

3 Although rules regulating the de jure independence of IRAs may change during an appointee's tenure, those that apply to her at the end of the term are those that were in force at the time of appointment.

4 In the Supporting Information, we present results for all 200 appointments, using hierarchical models with appointments nested in individuals and individuals nested in agencies. The results are fundamentally similar.

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SUPPORTING INFORMATION

Additional supporting information can be found online in the Supporting Information section at the end of this article.

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