DIADSE – Dialogue for Advancing Social Europe

PORTUGAL
Country report

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Four phases – EU and Portugal agenda

- European policies determined to a great extent the succession of "packages" implemented by governments at various stages of the crisis in Portugal:
- 2008 - the government adopted the 'Initiative on Strengthening Financial Stability' (Iniciativa de Reforço da Estabilidade Financeira, IREF), aimed at consolidating financial institutions.
- 2009 - the government responded to calls from the European institutions with the 'Initiative for Investment and Employment' (Iniciativa para o Investimento e o Emprego).
- 2010 – first phase of austerity - with the 'Stability and Growth Programme' (Programa de Estabilidade e Crescimento), the so called PEC I, which was followed by PEC II (May 2010), and by the PEC III (November 2010).
- Since 2011 – by the new cycle of austerity initiated on 17 May 2011 by the 'Memorandum of Understanding' (MoU) with the Troika of EU, ECB and IMF

The reforms and measures of the PS government (2008-2011)

preceding the Troika intervention

The reforms and measures of the PS government (2008-2011) of PS preceding the Troika intervention

Private sector

Labour Code 2009 (Tripartite agreement 2008, not signed by CGTP)

- Definition of a number of areas where collective agreements (CAs) could not establish less favourable rules for employees than those defined by law;
- New working time arrangements such as group adaptability, working time accounts and concentrated timetables to be defined by CAs;
- Possibility of CAs to define overtime payment and compensatory rest time for overtime work;
- Trade unions entitled to mandate non-union workers representatives to negotiate firm level agreements, in the case of companies with at least 500 employees;
- New rules on the survival of CAs reducing the period of validity and foreseeing compulsory arbitration proceedings related with their lapsing.
- Making disciplinary procedures for dismissal faster, limiting the time for court dismissal claim, reducing the cases of mandatory reinstatement and establishing a maximum of compensation following legal disputes;
- Fixed-term contracts – limiting the grounds for fixed-term contracts and reducing their total duration from 6 to 3 years; and a maximum duration of 6 years for fixed-term contracts with an uncertain duration

The reforms and measures of the PS government (2008-2011) of PS preceding the Troika intervention

Unemployment protection

- Temporary measures extending the period during which claimants were entitled to receive unemployment insurance (UI) and unemployment assistance (UA) and increasing the coverage of UI by reducing the number of days of contributions to be eligible (Employment Initiatives 2009 and 2010) – measures withdrawn in March 2010.
- Change of the basis of calculation of UI reducing its amount and obligation of beneficiaries to accept a job offer with a lower wage (10% higher than their UI when previously it was 25% higher). (Decree_Law 72/2010)

The reforms and measures of the PS government (2008-2011) of PS preceding the Troika intervention

Public sector (Law 59/2008) – (Bilateral agreement 2007, not signed by CGTP unions)

- Introduction of individual dismissals linked to the unsuitability of the worker
- Introduction of working time adaptability
- Introduction of the right to conclude collective agreements having the same standing as private sector agreements, although limiting the range of issues they regulate. Working time limits and working time adaptability to be set by collective agreements.

Public sector – first austerity measures (State budget 2011, unilateral decision)

- Nominal cuts (between 3.5% and 10%) in public sector wages above 1500 Euros

A tripartite agreement postponed and a new political cycle under Troika

- The PS government succeeded to reach a tripartite agreement including the reduction of severance pay and decentralization of collective bargaining, signed on 22 March 2011 on the eve of the government's defeat of a fourth austerity package. Once the parliament was dissolved after the prime minister's resignation these measures were not implemented.
- A new phase of austerity was about to emerge with the financial bailout under the terms of the Memorandum of Understanding on Specific Economic Policy Conditionality (MoU). The MoU was signed on 17 May 2011 by the Troika and the interim government of the PS, with the agreement of the centre-right parties PSD and CDS.
- With the defeat of the socialists in the coming elections, it was up to the centre right coalition to implement the MoU requirements.

The labour market reforms under Troika intervention,

the centre-right political cycle

and the role of social partners

Troika intervention (2011-2014)

Objectives indicated in the MoU	Specific policies with impact on wage setting and collective bargaining
Ensure that the aggregate public sector wage bill as a share of GDP decreases	**Fiscal Measures** Freezing wages in the public sector in nominal terms and constraining promotions
	Labour Market
Contain employment fluctuations over the cycle, accommodate differences in work patterns across sectors and firms, and enhance firms' competitiveness	**Working Time** –Working time accounts by mutual agreement of employers and employees negotiated at plant level; Reduction of minimum additional pay for overtime; elimination of the compensatory time off for overtime work.
Job creation and enhanced competitiveness. Promote wage adjustments in line with productivity.	**Wage setting and competitiveness:** Limiting the increase in the minimum wage Define criteria for the extension of CAs with basis on representativeness and on the implications for the competitive position of non-affiliated firms; Shortening the survival of contracts that are expired but not renewed; Possibility for works councils to negotiate functional and geographical mobility and working time; and lowering of the firm size threshold above which works councils can conclude firm-level agreements to 250 employees Promote the inclusion in sectoral collective agreements of conditions under which works councils can conclude firm-level agreements without the delegation of unions.

Troika intervention (2011-2014)

Objectives indicated in the MoU	Specific policies with impact on unemployment benefits and employment protection
Reduce the risk of long-term unemployment while strengthening social safety nets	**Unemployment benefits** Reducing the maximum duration of unemployment insurance benefits; Reducing the amount of unemployment benefits; reducing the necessary contributory period to access unemployment insurance; Extending eligibility to clearly-defined categories of self-employed workers.
Tackle labour market segmentation, foster job creation, and ease the transition of workers across occupations, firms, and sectors.	**Employment Protection** Reduction of severance pay; Facilitating individual dismissals linked to unsuitability of the worker and linked to the extinction of work positions.

The implementation of MoU by the centre-right PSD/CDS Government

Measures	Method of decision
Decentralization of collective bargaining derogation from higher level agreements; lowering of the firm size threshold above which it is possible to conclude firm-level agreements to 150 employees	Tripartite agreement January 2012 *and included in Tripartite Agreement 2011* (both not signed by **CGTP**) (Law 23/2012)
Blockade of extension procedures and introduction of stricter criteria for the extension of collective agreements – employer associations must represent 50% of employment in the sector; Or in alternative employers associations must comprise 30% of micro, small and medium and small companies.	**Unilateral decision Resolution 90/2012** Ad-hoc consultation **Resolution 43/2014**
Shortening the survival of collective agreements that are expired but not renewed – reduced the period for termination of collective agreements, from 5 to 3 years and their period of validity after expiring, from 18 to 12 months	Ad-hoc consultation **Law 55/2014**
Possibility of individual negotiations between employers and employees in relation to 'individual bank of hours' without unions interference (208-A Law 38/2012).	Tripartite agreement 2012 (208-A Law 38/2012).

The implementation of MoU by the centre- right PSD/CDS Government

Measures	Method of decision
Freezing the minimum wage - 2012/2013/2014	**Unilateral decision**
Freezing public sector wages and career progression - 2012/2013/2014/2015	**Unilateral decision**
Reduction of employment protection, regarding collective and individual dismissals:	
Reducing severance pay. Reducing substantially severance pay.	**Tripartite agreement 2011-** (Law 53/2011) **Tripartite agreement** 2012 -(Law 23/2012) **Unilateral decision** – (Law 69/2013)
Extending the conditions for individual dismissals based on unsuitability and extinction of job positions	**Tripartite agreement 2012** (not signed by **CGTP**)
Amendment extending the criteria for job extinction.	**Unilateral decision** **Law 27/2014**
Reduction of unemployment benefit amount and duration Extending the access to specific categories of independent workers and reduction of the necessary contributory period to access unemployment benefits	**Tripartite agreement 2012** **Law 64/2012**

Government PSD/CDS policies beyond MoU

Public Sector/Unilateral decision	Private sector (Tripartite agreement 2012 - Labour Code 2012)	Private sector/ Unilateral decision
Wage nominal cuts (2011-2014-2015)	New regime reducing substantially severance pay, prevailing over collective agreements regulations.	Fixed-term employment contracts to be subject to 2 additional renovations and an additional maximum duration of 18 months (2012, 2013)
Holyday and Christmas bonus cuts equivalent to two monthly wages(2012)	Cut of vacancies by three days and cut of four public holidays, without compensation;	
Increasing the weekly working time from 35 to 40 hours without compensation (2013, 2014,2015)	New regime halving overtime payment prevailing over collective agreements regulations.	Extended the period of the new regime
Blockade of collective agreements concluded between local administration and trade unions (returning to 35 hours week) (2013, 2014,2015)	Possibility of individual negotiations between employers and employees in relation to 'individual bank of hours' without unions interference (208-A Law 38/2012).	

Social Protest (2010-2013)

	Demonstrations against austerity – Trade unions and social movements	General Strikes – Organization and issues
2010		24 November– **CGTP** and **UGT** (Austerity, first wage nominal cuts in the public sector – state budget 2011)
2011	*Geração à Rasca* - 12 March **CGTP** – 1 de October *M12M*- 15 de October *Movimento 15 de Outubro* – 24 November	24 November– **CGTP** and **UGT** (Austerity, cuts in the public sector –state budget 2012)
2012	**CGTP** - 11 February *Que se Lixe a Troika* -15 September **CGTP** – 29 September **CGTP** and *Que se Lixe a Troika* – 14 November (European Protest)	22 March- **CGTP** (Labour Code 2012) 14 November - **CGTP** and **14 unions and 4 federations of UGT** (Austerity – state budget 2013 and European Protest)
2013	*Que se Lixe a Troika* and **CGTP** – 2 March **CGTP** and *Que se Lixe a Troika* – 19 October Que se Lixe a Troika – 26 October CGTP – 1 November 2013	27 June - **CGTP** and **UGT** (Austerity) 8 November - **CGTP and UGT unions national strike in the public sector** (Austerity – state budget 2013 – further nominal wage cuts and pension cuts)

Lisbon, 29 September, 2012



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What about the role of social partners?

- CGTP-IN, the larger trade union confederation, did not sign and strongly opposed the Tripartite Agreement (TA) 2012 (and also to the TA 2011 with the PS government)
- All the measures required by the MoU and those beyond the MoU with an impact in the public sector (and some with an impact in the private sector) were not part of such agreements and were the result of government unilateral decision;
- There are substantial differences in relation to the content of the TAs of 2011 and 2012 and the conditions under which their were signed. The TA 2012 signed, under Troika intervention, represented a zero sum game favourable to the employers and government goals;
- Moreover, the social protest and general strikes rose to unprecedented levels.

The views of social partners on labour market reforms and their role

Position and role of social partners on the reforms

Trade union confederations

Severe break with the efforts and advancements of social dialogue in years before, intensification of the neoliberal offensive

- Unilateral decisions of government to deregulate labour relations
- Undemocratic rule of international institutions
- Social dialogue increasingly in favour of the employers' interests

Employer confederations

Finally possible to advance efficiently with the necessary reforms, notwithstanding restrictions or contradictions along the way

- Key role in decision-making
- Position and influence in decision-making has been preserved or even strengthened
- Asymmetry in areas of decision and agenda-setting

Agreement on a few points

National government determines the competences and spaces of intervention of social partners

The pressure of international institutions (friends or foes)

Two stages: 2008-2011 and 2011-2014

What some call decentralization is to our mind dismantlement.

[…] This entails contradictory aspects, even for employers.

CGTP-IN, trade union confederation

If governments decide that they should diminish the fluency of social dialogue as it happened in the case of the Economic and Financial Adjustment Program, there is no social dialogue. It becomes a sham. And much of the social dialogue these last years has been a sham, a way of fulfilling the calendar so that it can be said that there is social dialogue in democracy; but it has not been really fruitful nor proficient.

UGT, trade union confederation

Our response [to the new regulation], as employers, was obvious: as soon as collective bargaining implies an extra set of obligations and charges to what is established in the general law, and as soon as there are companies under such rule and others that are not… considering the impact of this asymmetry on competitive loyalty, what is the expected reaction? Companies withdraw from the association. Companies withdraw from the agreement. It is fairly obvious. Therefore this measure was clearly a source of disaggregation.

And later the implementation of the condition that small and medium companies make up at least 30% of the employers organization that signed the agreement: so now we turn around the logics of workers' representativeness? Is there any justification for this utter deviation from the original requirement? Perhaps the official explanation was decentralization, but in fact it has nothing to do with it. It was the conviction that collective bargaining was a tool used by the big companies dominating the associations to wipe out the small ones.

CIP, employer confederation

The crisis as a source of pressure

The constraints to collective bargaining go back a long time, but a new stage started with the introduction of the Labour Code in 2003 – and this trend was strongly reinforced in the period of the so-called crisis: the government interfering in order to condition an effective collective bargaining and creating very significant blockades. The period of the crisis was used to advance quite fiercely in this direction. [...] The adjustment programmes are presented as an imposition: here is your financial support for the bailout, the tradeoff is that you must do it the way we think you should. But this interpretation needs to be deconstructed, otherwise we may be transferring the governments' responsibility off to the shoulders of the Troika or someone else. There are claims of the Portuguese employers in those measures, and we find these measures negative for the workers but they were caught under a convenient umbrella: you have this programme and you must impose it.

CGTP-IN, union confederation

The crisis as a source of pressure

The pressure was key so that social dialogue actually led to the adoption of concrete measures. Because for ten years we had been trying to make changes that we eventually made in two or three months. Regardless of what this means, everything that employer confederations had said for so many years, namely the need to reduce labour costs… this was considered an important demand, but governments never went ahead with it, they would say that yes, they would do it later on; it was never done. When the Troika came in, two or three months later, like it or not… we can complain about a number of things, but somebody said "This has to be done", there was a programme and it was done. […] The unfortunate thing is that one reaches such point and has to do in three months what it did not in ten years. It was indeed a different manner of doing social dialogue. It was more due to the pressure of the circumstances.

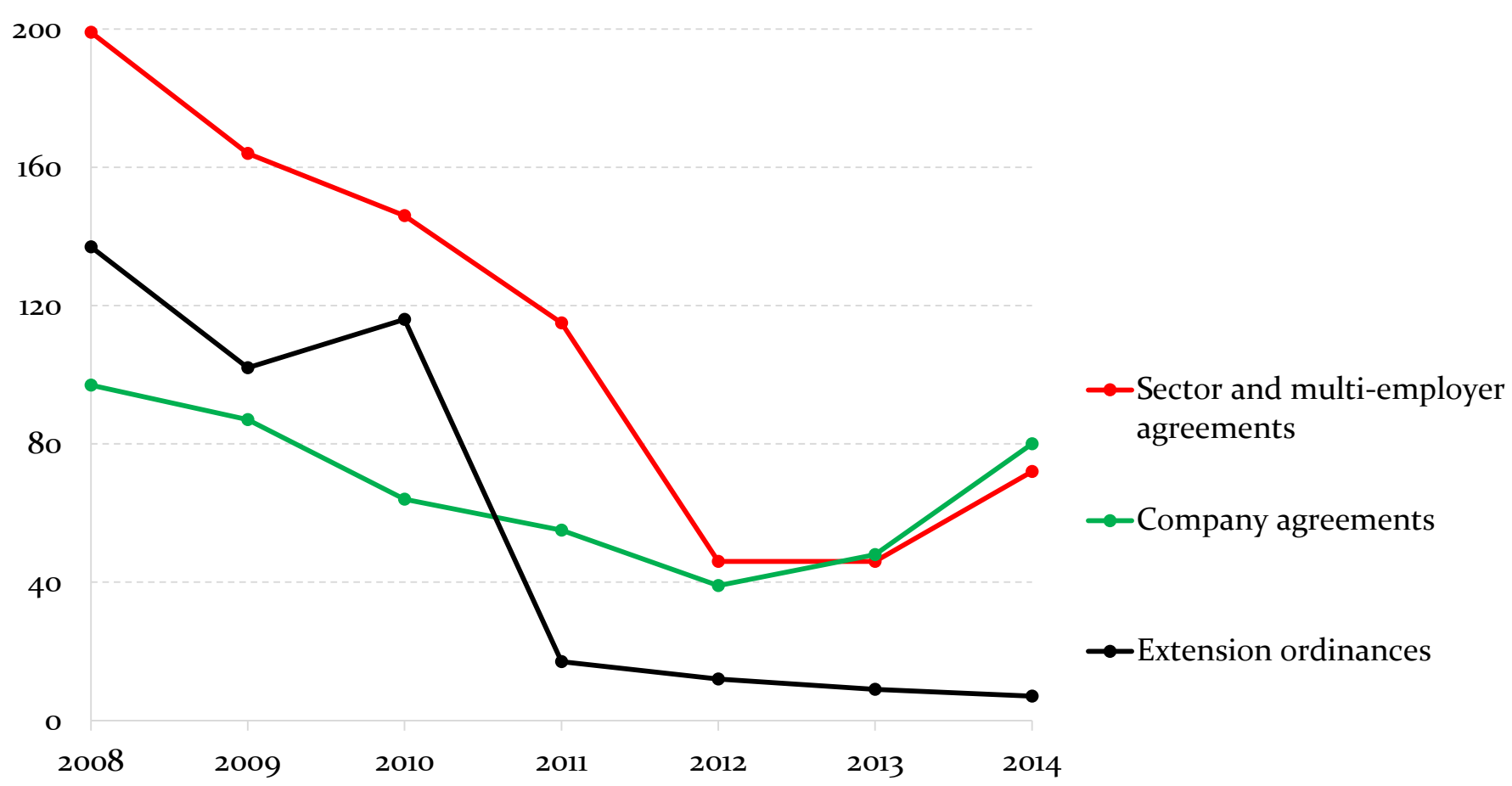
CAP, employer confederation

Labour market effects of the reforms

Evolution of number of collective agreements (renewal and new) number of extension ordinances and workers coverage (2008 - 2014)

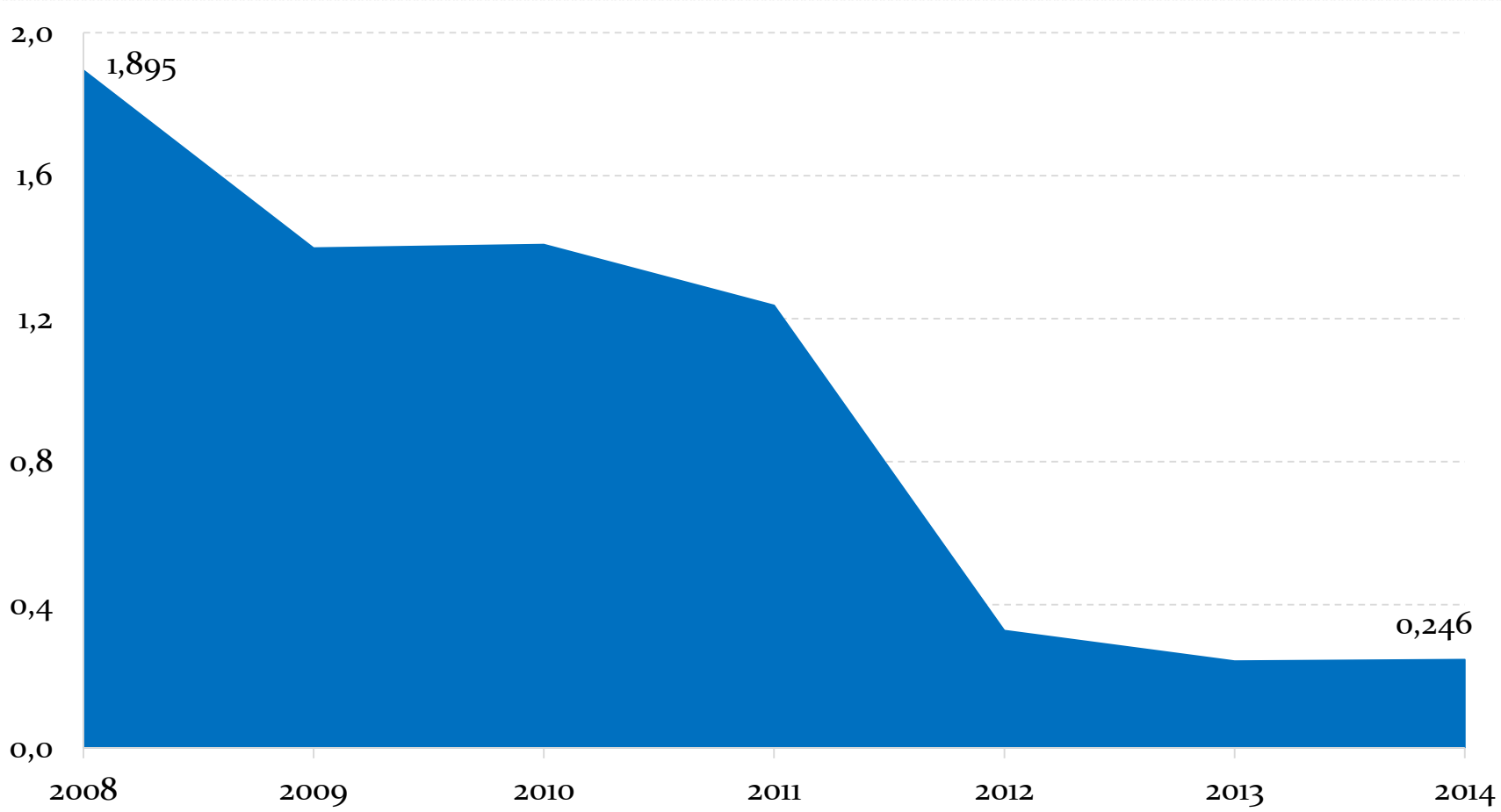
	2008	2009	2010	2011	2012	2013	2014
Multi employer/sector	**200**	164	166	115	**46**	**46**	**72**
Company	**95**	87	64	55	**39**	**48**	**80**
Total agreements	**295**	251	230	170	**85**	**94**	**152**
Extension ordinances	**137**	102	116	17	**12**	**9**	**7**
Workers covered	**1 894 788**	1 397 225	1 407 066	1 236 919	**327 662**	**242 239**	**246 388**

New collective agreements and extension ordinances, Portugal, 2008-2014 (N)



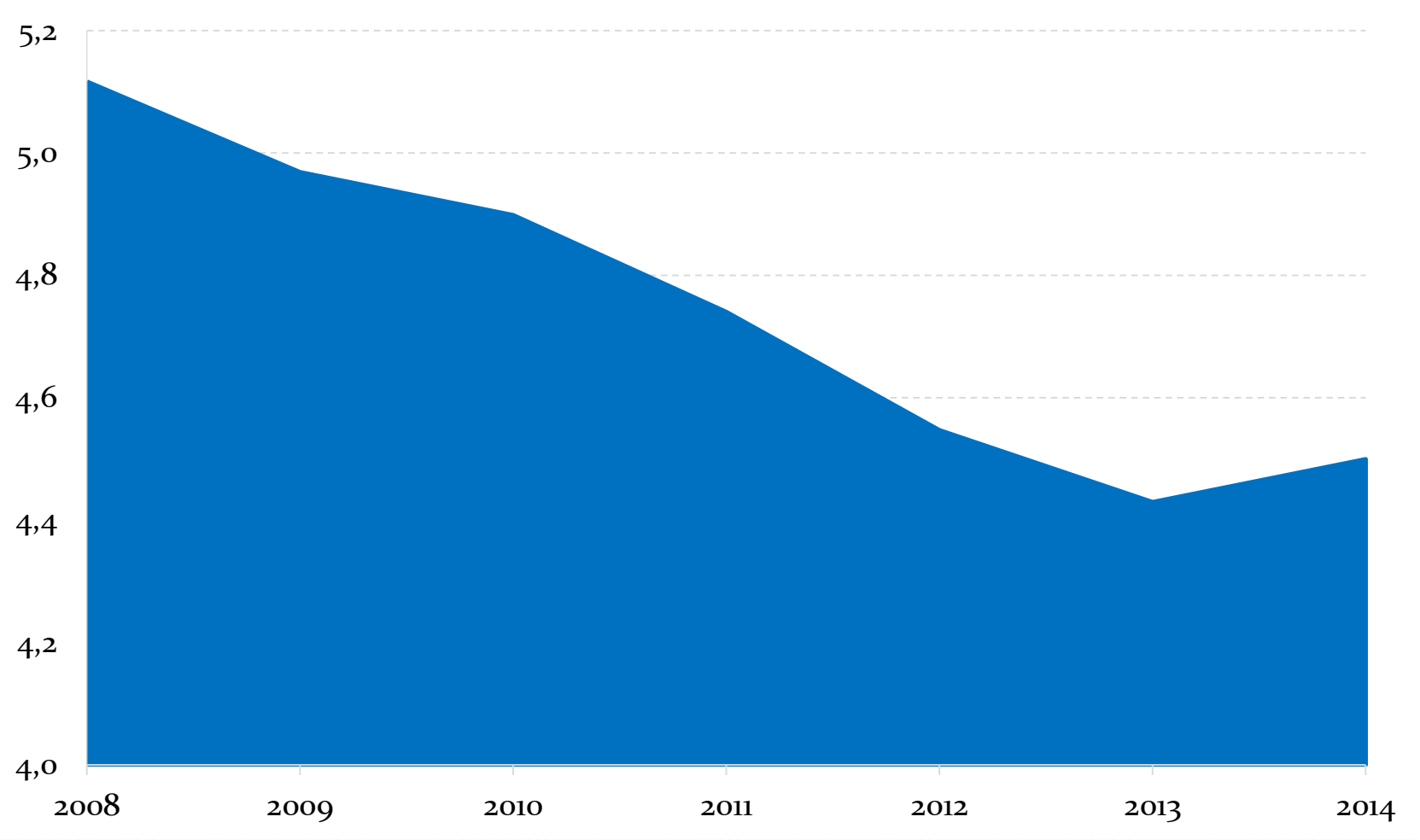
Source: Office for Strategy and Studies, Ministry of Economics

Workers covered by new collective agreements, Portugal, 2008-2014 (millions)



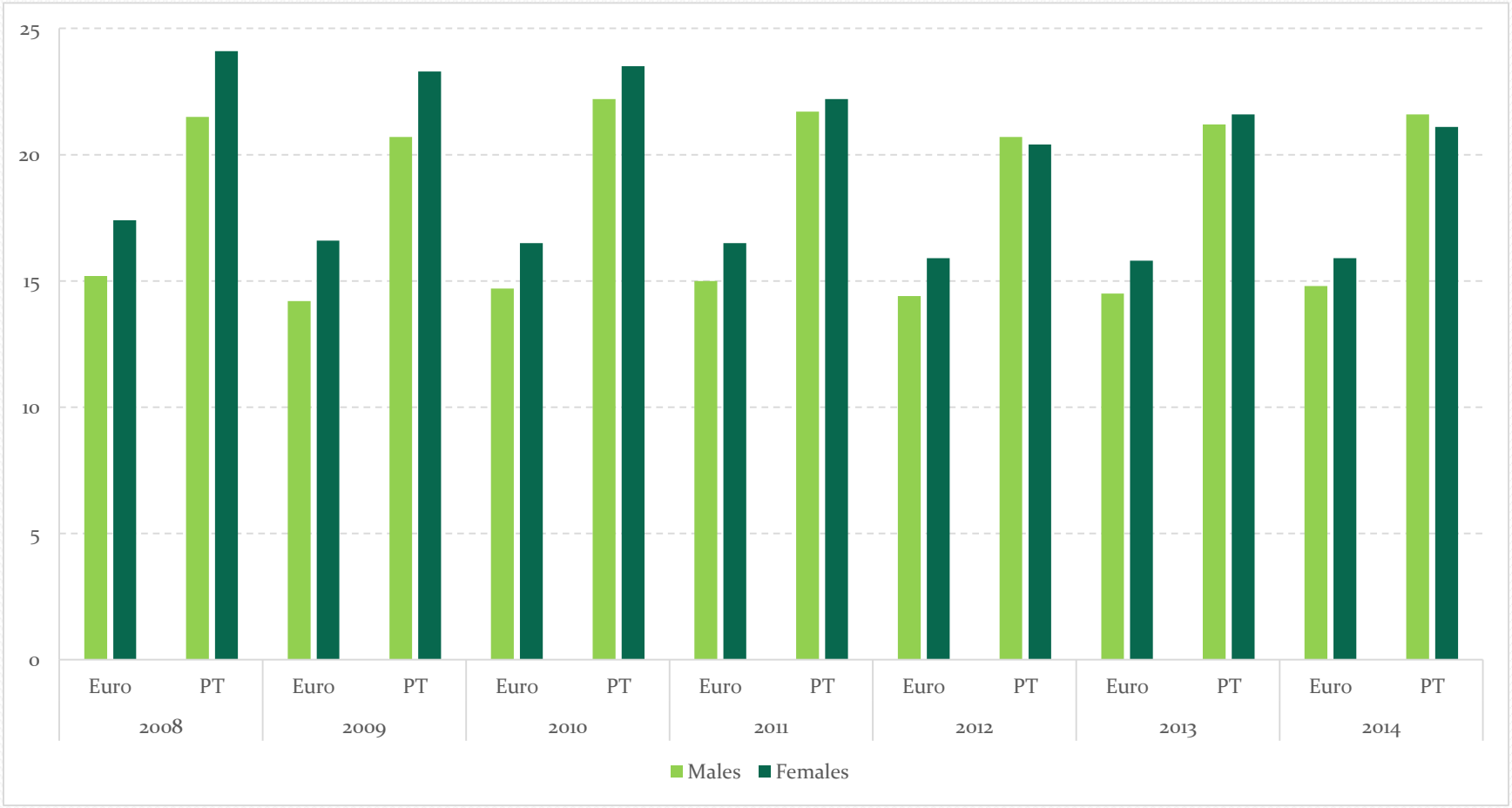
Source: Office for Strategy and Studies, Ministry of Economics

Total employment, Portugal, 2008-2014 (millions)

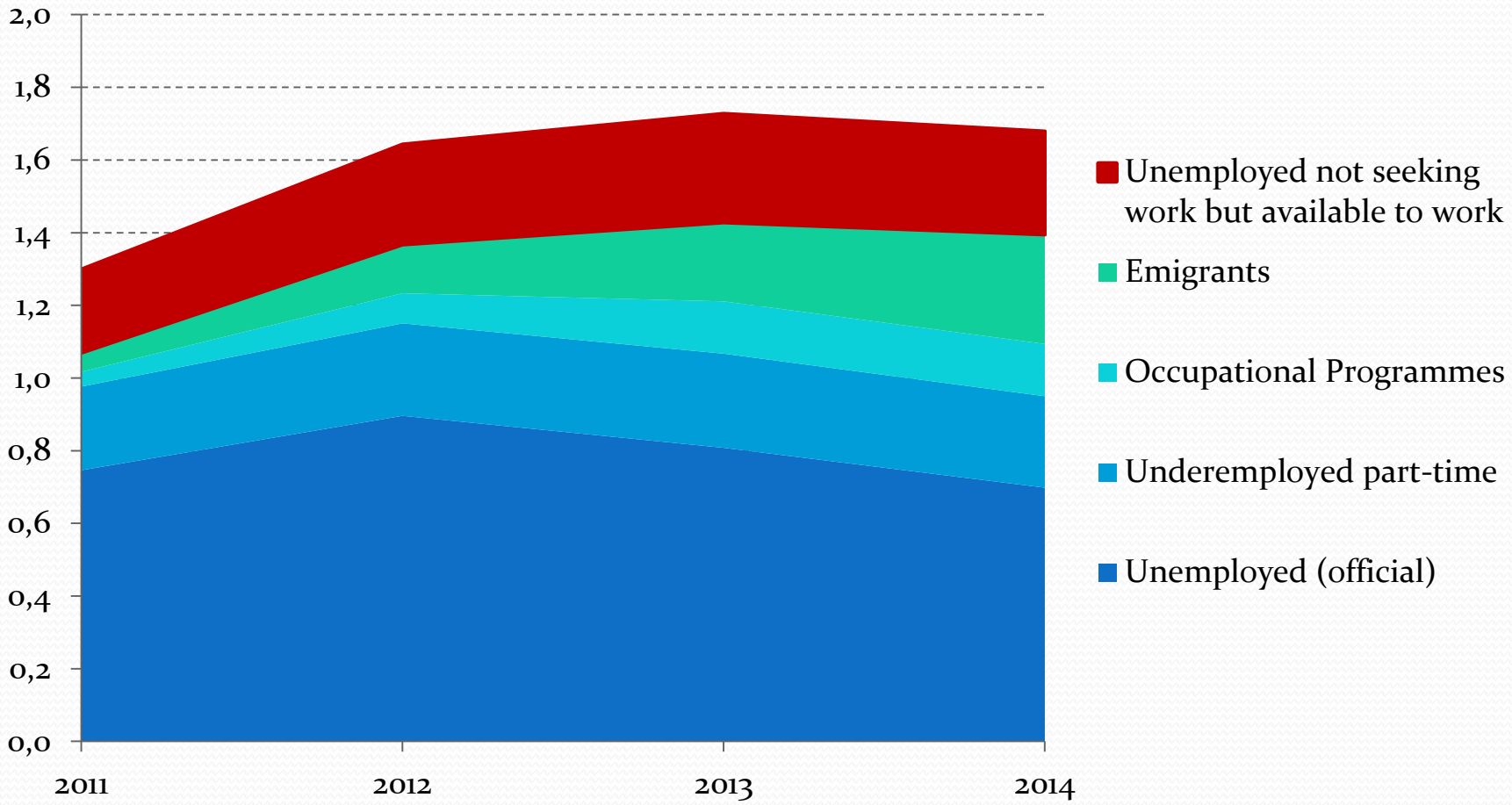


Source: Eurostat database, extracted on 28 Nov 2015

Temporary employees by sex, Portugal and Euro area (as % of total employees)

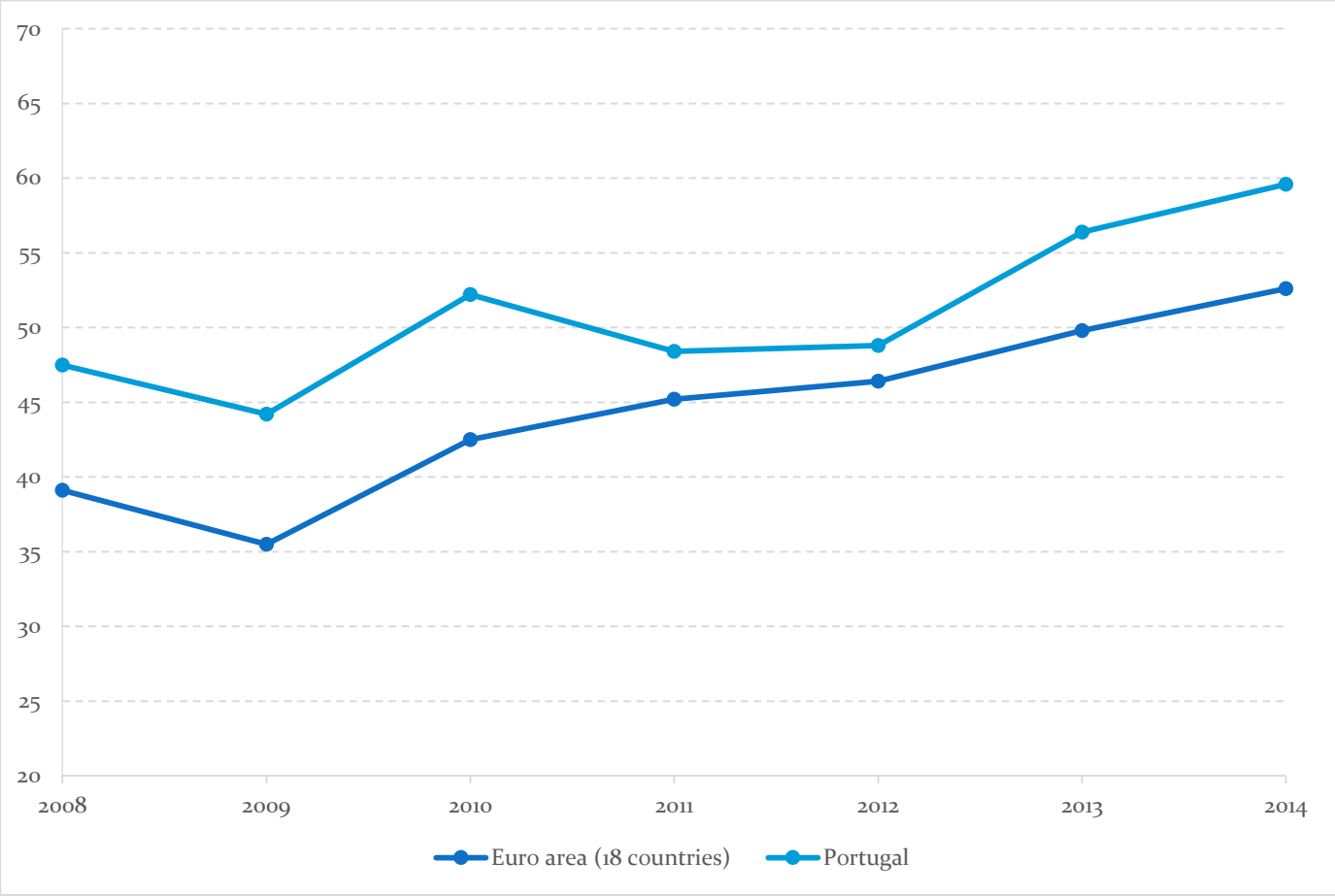


Unemployment and beyond, Portugal, 2008-2014 (millions)

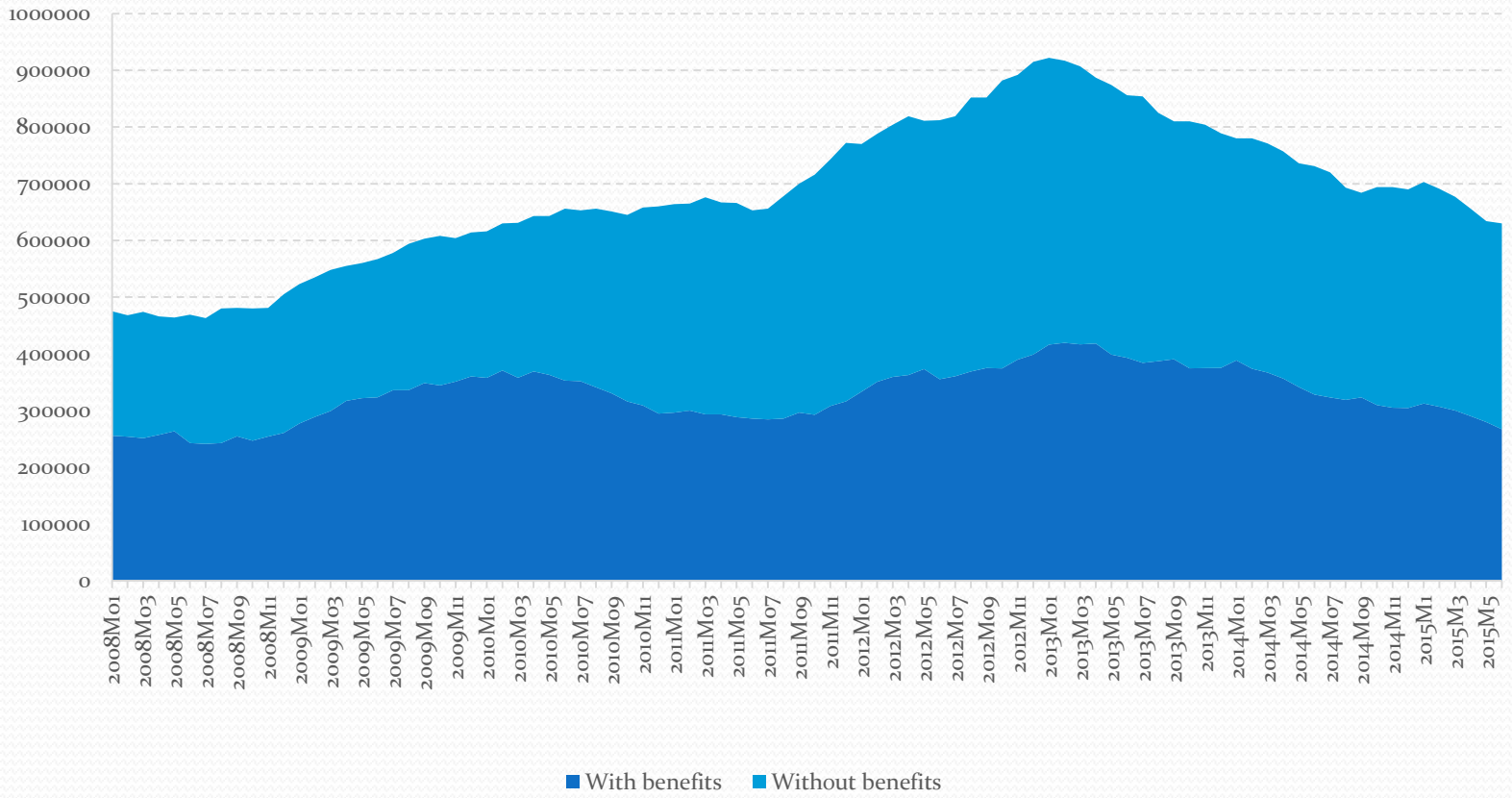


Source: adapted from Observatório sobre as Crises e as Alternativas (2014a), p. 5.

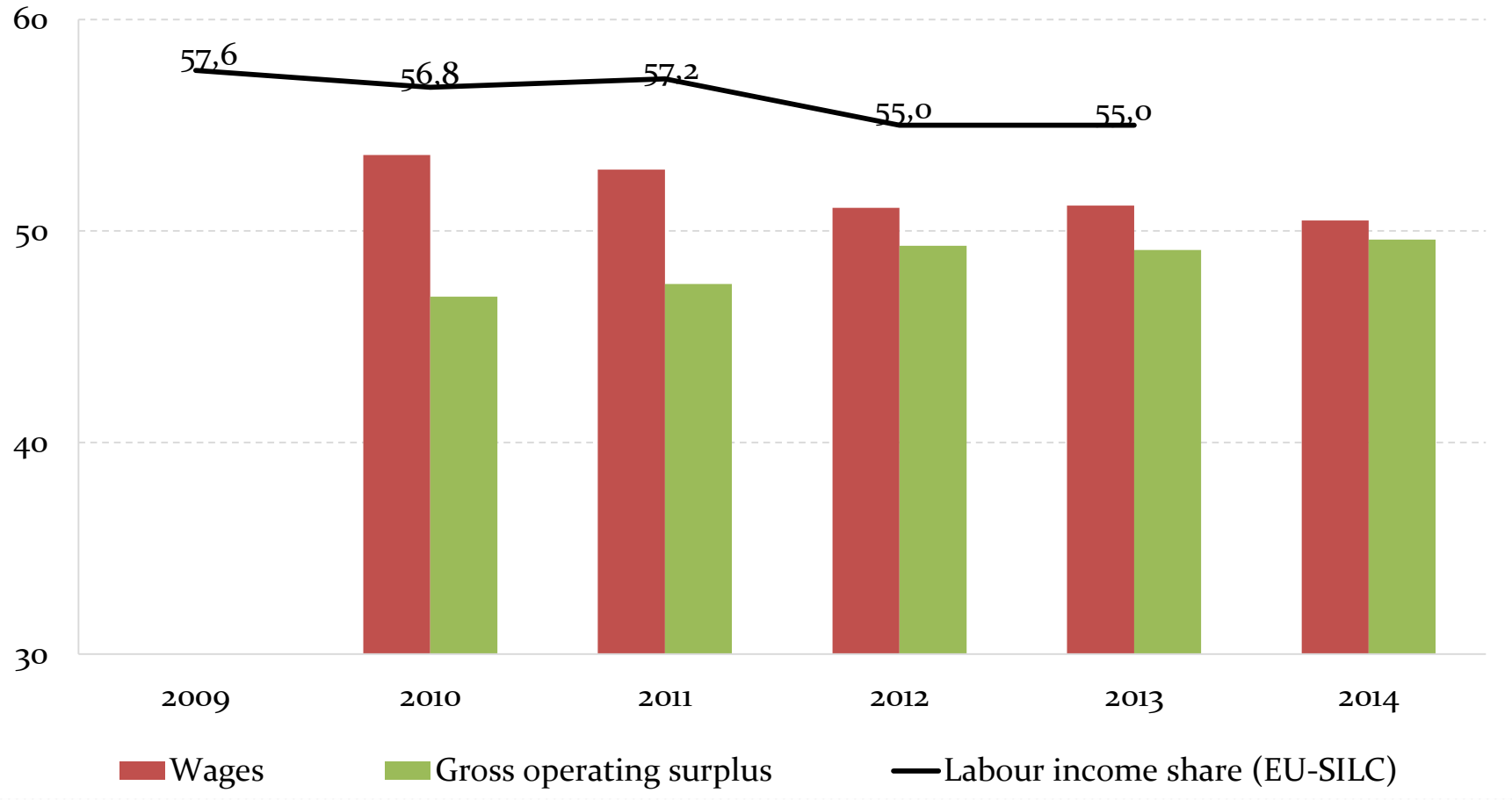
Long-term unemployment, Portugal and Euro area (as % of total unemployment)



Unemployed people with and without unemployment benefits or social benefits, Portugal (N)



Distribution of created wealth, Portugal, 2008-2014 (as % of gross value added)



Source: International Labour Organization, based on data from the EUSILC; Statistics Portugal, extracted on 16 Nov 2015

Thank you

Obrigada