

# DIADSE – DIALOGUE FOR ADVANCING SOCIAL EUROPE

## Country report: Portugal

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# 1. Introduction

This report presents the findings from research carried out between February and December 2015 according to the objectives of the international project ‘DIADSE – Dialogue for Advancing Social Europe’. We examine developments in Portugal with regard to social dialogue and labour law reforms in the period of 2008-2015, with an emphasis on the effects of the socio-economic adjustments undertaken in this period and the greater or lesser involvement of social partners in designing and implementing the reforms.

In line with a mixed-method approach, our analysis is based on various sources of evidence. For the purposes of extensive analysis, we draw on available literature, legislation, reports published by national authorities or independent bodies, and the most reliable and up-to-date quantitative data. First-hand data has been collected through interviews with representatives from social partners. Face-to-face interviews were requested to the six workers’ and employers’ organizations with a seat at the major national body for social dialogue, the Standing Council of Social Concertation. Between April and June 2015, we conducted interviews with a total of eight high-level officials from four of these organizations: the General Confederation of Portuguese Workers – Inter-Union National (CGTP-IN), the General Union of Workers (UGT), the Confederation of Portuguese Industry (CIP) and the Portuguese Confederation of Farmers (CAP). Interviews were recorded and partially transcribed to facilitate analysis. The two remaining organizations, the Portuguese Trade and Services Confederation (CCP) and the Portuguese Tourism Confederation (CTP), expressed their availability to answer our questionnaire in writing only. As far as the analysis of evidence is concerned, we have taken face-to-face and written answers as equivalent sources of information on the organization’s viewpoints and actions.

The report proceeds as follows. In section 2, we outline and explain the main reforms. The singularities of the national context are underscored, including the change of government in 2011 and the ‘Memorandum of Understanding’ (MoU) signed in that same year with the Troika institutions – the European Commission (EC), the European Central Bank (ECB) and the International Monetary Fund (IMF). We pay particular attention to the measures implemented in the realms of fiscal policy, wage setting and collective bargaining, pinpointing relevant differences between developments in the public and private sectors and the changing balance between employment security and flexible labour markets.

In section 3, our attention turns to the role of social partners throughout the period under study. A distinction is made between policy measures supported by social dialogue and those adopted by unilateral governmental decision. Another important distinction emerging from our analysis is the one between measures envisaged in the MoU and those in which the action of the government has gone beyond the MoU guidelines. We present the viewpoints of social partners on their degree and forms of participation, especially concerning changes in employment legislation and collective bargaining. We examine trends in social conflict and the main ideas of the social partners for reviving or reinforcing social dialogue in the near future.

The section 4 is dedicated to an evaluation of the labour market effects of the reforms undertaken. We bring in a variety of quantitative evidence to discuss trends and impacts on productivity, public finances, employment and unemployment, temporary work, collective bargaining, labour costs and wages, inequality and poverty. Whenever relevant, we point out differences according to the age and gender of the workers under analysis. In section 5, we summarize the results of our research and the main conclusions regarding social dialogue over the last seven years in Portugal.

## 2. Main domestic labour and social law reforms

Since 2008, the European response to the global financial and economic crisis revealed three distinct stages: the ‘financial stage’ (from March to December 2008), focusing on the stability of the financial system; the ‘economic stage’ (from December 2008 to February 2010), focusing on avoiding recession through (temporary) expansionary fiscal policy; and the ‘fiscal stage’ (from February 2010 to the present), focusing on the stability of the euro, the recovery of ‘market confidence’, and coordinated fiscal consolidation throughout the EU (Caldas, 2012).

The ‘fiscal stage’ constituted a response to the European sovereign debt crisis, with distinct impacts on member states, primarily as a result from the public funding of bank recapitalizations and transference of private debts arising from property bubbles to sovereign debt, which sharply deteriorated debt-to-GDP ratios. In this stage, the New European governance, in line with the European Semester, the Euro-Plus Pact, the Six Pack and the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, introduced further pressure on member states towards the structural stability of the monetary union and the consolidation of public finances, while demanding structural changes such as labour market, welfare and collective bargaining reforms in order to foster competitiveness. According to some authors, the European social model became the variable of adjustment of the Economic and Monetary Union through competitive wage depreciation and competitive deregulation of social legislation (Degryse, 2012; Pochet and Degryse, 2013). Furthermore, the intensification of economic policy coordination (European Semester and Euro-Plus Pact) and the implementation of procedures for imposing financial sanctions (Six Pack) reduced the decision-making autonomy of member states, raising concerns about a new European interventionism (Callan et al., 2011; Schulten and Müller, 2013).

The European policies determined to a great extent the successive ‘packages’ implemented by governments at various stages of the crisis in Portugal. In the last quarter of 2008, the Portuguese government adopted the ‘Initiative to Strengthen Financial Stability’ (Iniciativa de Reforço da Estabilidade Financeira – IREF) with the aim of consolidating financial institutions. In January 2009, in the economic stage of the crisis, the government responded to calls from European institutions with the ‘Initiative for Investment and Employment’ (Iniciativa para o Investimento e o Emprego). The fiscal stage was initiated in Portugal in March 2010 with the ‘Stability and Growth Programme’ (Programa de Estabilidade e Crescimento), the so-called PEC I, which was followed by the PEC II (May 2010), the PEC III which defined the national budget for 2011, and eventually the new cycle of austerity initiated on 17 May 2011 by the MoU with the Troika institutions – EC, ECB and IMF (Caldas, 2012; Pedroso, 2014).

Following the rejection by the national parliament, on 23 March 2011, of the proposal of a fourth austerity package (PEC IV) presented by the government of the Socialist Party, the prime minister Sócrates resigned. A turbulent period of extreme international pressure ended up with the financial bailout under the terms of the

[Memorandum of Understanding on Specific Economic Policy Conditionality](#). The MoU was signed on 17 May 2011 by the Troika and the interim government of the Socialist Party (PS), with the agreement of the centre-right parties Social-Democratic Party (PSD) and Democratic and Social Centre (CDS). However, it was the government which resulted from the following legislative elections, the centre right coalition PSD-CDS (coming into power on 21 June 2011), that was to implement the policy requirements of the MoU. Therefore, the new cycle of austerity coincided with a new political cycle.

## 2.1. The reforms under the socialist governments (2008-2011)

When the global financial crisis broke in, a number of labour market reforms were already underway, which entered into force in 2009: the new Labour Code ruling employment relations in the private sector; and the reforms redefining employment relations in the public sector, in view to align these with those governing the private sector.

The new Labour Code (LC) set by [Law 7/2009](#) was prepared on the basis of the tripartite agreement<sup>1</sup> signed in July 2008 by all social partners with the exception of CGTP-IN, the most representative trade union confederation. It followed an in-depth debate prepared by the Portuguese Green Paper on Labour Relations (Dornelas, coord., 2006) and by the Portuguese White Paper on Labour Relations (Comissão do Livro Branco das Relações Laborais, 2007). The LC introduced major changes, among other referring to:

- Relations between sources of regulation – defining a number of areas where collective agreements cannot establish less favourable rules for the employees than those defined by law<sup>2</sup>;
- Vocational training – defining standardised rights to employees in permanent and fixed-term employment contracts, with the right to minimum of hours per year of certified training;
- 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;
- Working time adaptability and new working time arrangements – including individual and group adaptability; introducing the schemes of bank of hours and concentrated timetables. The rules of the bank of hours, allowing working hours to be increased by four hours of paid work per day or up to 60

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<sup>1</sup> Tripartite Agreement for a New System of Regulation of Labour Relations, Employment Policies and Social Protection in Portugal (Acordo Tripartido para um Novo Sistema de Regulação das Relações Laborais, das Políticas de Emprego e da Protecção social em Portugal), available online: <http://www.ces.pt/download/205/SistRegRelLab2008.pdf>.

<sup>2</sup> Collective agreements, when they are more favourable, prevail over legal regulations only when they rule on the following issues: personality rights, equality and non-discrimination; protection of parenthood; minimum age to work; workers with reduced working capacities, disabilities or chronic illnesses; working students; rights to information; limits to the duration of the normal daily and weekly working time; minimum duration of rest periods, including the minimum duration of the annual holiday period; maximum hours for night work; form and guarantees of retribution; prevention and repair for work accidents and occupational diseases; transfer of undertaking or business; rights of the elected representatives of the workers.

hours a week (up to a maximum of 200 hours a year), was to be defined by means of collective agreements. The scheme of concentrated timetables concentrating the working week into a maximum of four days was to be implemented by collective agreement or by agreement between employee and employer. Furthermore, the LC defined the possibility of collective agreements to define overtime payment and compensatory rest time for overtime work;

- Dismissal disciplinary procedures – 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;
- Principle of more favourable treatment – when the employment contract establishes more favourable conditions to the employee it prevails over provisions of collective agreements;
- Delegation on workers' representative structures at the workplace – while previously only trade unions could negotiate company-level collective agreements, the LC made it possible for trade unions to mandate representative structures of workers, giving them the power to negotiate company collective agreements, in the case of companies with at least 500 employees;
- Validity and survival of collective agreements – creating a transitory specific regime for agreements with a survival clause that were negotiated prior to the introduction of LC; revising the general regime through a reduction of the survival period and the creation of a special regime for future cases of agreements with survival clause; and foreseeing compulsory arbitration proceedings related with lapsing of collective agreements.

This reform was construed as the result of a compromise to promote negotiated forms of flexicurity with a clear preference for internal forms (Dornelas, 2011), changing the relative level of employment protection among the various labour market segments by slightly reducing protection against individual and collective dismissals and significantly reinforce the protection of temporary contracts (Pedroso, 2014). For the CGTP-IN, this trade off was not seen as a good deal considering that some of the positive measures were not enough to compensate for the increasing flexibility of dismissals and working time (Campos Lima and Naumann, 2011). The reforms in the public sector established two types of employment relationship in the public sector – by appointment (limited to the core functions) and by employment contract ([Law 12-A/2008](#)). The system governing employment contracts should follow the provisions of the LC, albeit adjusted to ensure public interests. [Law 59/2008](#) defined the regime of employment contract in the public sector. Among the changes were the introduction of individual dismissals linked to the unsuitability of the worker, the introduction of working time adaptability, and the right to conclude collective agreements (Campos Lima, 2008). This law introduced, for the first time in Portugal, the possibility of collective agreements in the public sector having the same standing as private sector agreements, although it limited the range of issues to be regulated by collective agreements. From then onwards, working time limits and working time adaptability were issues to be set by collective agreements.

In line with the Employment Initiatives of 2009 and 2010, the government launched temporary measures to address raising unemployment and social crisis, among which amendments to the unemployment protection system 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 a claimant must have worked to be eligible.

However, with the austerity policy turn, those exceptional measures were withdrawn in March 2010. Additional changes in relation to the unemployment benefit regime were launched by the [Decree-Law 72/2010](#) published in June 2010: the change of the basis of calculation of UI, limiting it to no more than 75% of the net amount earned during the claimant's previous job (instead of the previous maximum of 65% of gross earnings) and to no more than three times the value of the social support index (IAS), which in 2010 was set at €419.22 per month; and the obligation of beneficiaries to accept a job offer even if the wage was only 10% higher than their UI (when previously the wage had to be 25% higher). The turn to austerity policies targeted the public sector with the aim of reducing public expenses. The austerity package PEC III that defined the national budget for 2011 included for the first time nominal cuts (between 3.5% and 10%) in public sector wages above 1500 Euros.

On 23 March 2011, the government presented a new austerity package, the PEC IV, which was rejected by the parliament. The remaining labour market reforms to reduce severance pay and decentralize collective bargaining which were part of the 'Tripartite Agreement for Competitiveness and Employment', signed on the eve of the government's defeat, were suspended once the parliament was dissolved after the prime minister's resignation.

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.

## 2.2. Reforms in 2011-2015: under Troika and beyond

During the three years of Troika intervention (May 2011- May 2014) and until the end of its mandate in October 2015, the centre-right government implemented the measures required by the MoU as well as measures not foreseen by the MoU but endorsed by the Troika, which represented a significant change in the labour and social legal framework and in labour and social policy. The political strategy implemented was based on two main assumptions: first, that the economic crisis was the result of uncontrolled public finances and therefore budgetary restrictive policies were needed; and second, that economic recovery demanded the promotion of competitiveness by lowering labour costs. This was clearly stated in the MoU when defining the goals and measures of fiscal policy: to reduce public deficit in 2011, 2012 and 2013 and to bring the

government debt-to-GDP ratio to a downward path as of 2013; maintain fiscal consolidation over the medium term up to a balanced budgetary position, notably by containing expenditure growth; and support competitiveness lowering labour costs by means of a budget-neutral adjustment of the tax structure.

The objectives and measures on labour market and social policy included in the MoU refer to two distinct areas: the area of fiscal policy and fiscal structural measures (section 1 and 3 of the MoU) with a focus on public sector employment and labour conditions and on social policy (table 2.1 below); and the area of labour market policy (section 4 of the MoU) with a focus on wage setting and collective bargaining (table 2.2) and on employment protection and social policy regarding unemployment (table 2.3.).

### *2.2.1. Fiscal policy and changes in employment relations in the public sector*

The centre-right government aligned the policies with a focus on the public sector employment and labour conditions and on social policy with the objectives identified by the MoU (table 2.1), implementing the measures required with some adjustments.

**Table 2.1. MoU objectives and fiscal measures focusing on labour market and social policy**

Objectives indicated in the MoU	Specific policies
Reduce public expenditure  Increase the efficiency and cost effectiveness of the public administration  Ensure that the aggregate public sector wage bill as a share of GDP decreases	Limiting staff admissions and achieve staff decreases in central and local administration in order to achieve annual decreases in 2012-2014 of 1% per year in the staff of central administration and 2% in local and regional administrations.
	Promoting flexibility, adaptability and mobility of human resources across the administration.
	Freezing wages in the government sector in nominal terms and constraining promotions.
	Reducing the overall budgetary cost of health benefits schemes for government employees' schemes by lowering the employer's contribution <sup>3</sup> .
Reduce public expenditure	Reducing pensions above EUR 1,500 according to the progressive rates applied to the wages of the public sector as of January 2011.
	Suspending the application of pension indexation rules and freeze pensions, except for the lowest pensions.
	Reforming unemployment insurance on the basis of detailed measures yielding medium-term savings.

However, the centre-right coalition took a number of austerity measures in addition to the MoU requirements with a focus on the public sector. During 2011, 2012, 2013 and 2014, nominal wages above 1500 euros were successively cut down between 3.5% and 10%. In 2014, the government extended these cuts to wages above

<sup>3</sup> This measure was replaced by another one increasing instead the employee's contributions.



675 Euros, a measure which the Constitutional Court overturned declaring it unconstitutional (Judgment 413/2014). In 2011, Christmas bonuses were cut by 50%; and in 2012 Christmas and holiday bonuses (adding the equivalent of two months' salary to the annual income of workers) were suspended, a measure of which implementation in 2013 was overturned by the Constitutional Court (Judgment 353/2012). In 2013, the government increased the weekly working hours for the public sector from 35 to 40 hours with no equivalent wage increase, therefore reducing in practice the sector hourly wage (Law 68/2013). These measures were not explicitly part of the MoU, but were 'justified' as a form of complying with the MoU public deficit targets. None of these measures resulted from negotiations or social dialogue with the unions, all resulting instead from unilateral state authoritarian action, blocking simultaneously collective bargaining (Stoleroff, 2013). These cuts were among the main reasons for the launching of 5 general strikes in this period (see our section 3, in particular 3.1.).

In the public sector, collective bargaining was paralysed. Wage freeze and wage nominal cuts were not negotiated. In addition, the government blocked, in 2014 and 2015, the collective agreements signed in local administration for the return of the weekly working time of 35 hours, following the entry in force of [Law 68/2013](#) and [Law 35/2014](#). Claiming the right to interfere on collective bargaining in local administration, the government blockaded around 500 collective local agreements in this period. Eventually, in October 2015, the Constitutional Court considered unconstitutional the government's interference in collective bargaining in local administration ([Judgment 494/2015](#)).

Furthermore, [Law 35/2014](#) redefined employment relations in the public sector aligning them mostly with the changes to the LC of 2009 resulting from the [Law 23/2012](#) (see 2.2.2 and 2.2.3 below).

### *2.2.2. Wage setting and collective bargaining in the private sector*

The centre-right government not only aligned the policies with a focus on wages and collective bargaining with the MoU objectives and measures (table 2.2), but also introduced additional measures limiting workers' income and collective bargaining. The [Decree-Law 143/2010](#) of 31 December 2010 determined that a national minimum wage of EUR 485 per month would be applicable from 1 January 2011 onwards. During the bailout programme (2011-2014) the national minimum wage was frozen, a decision that faced strong opposition from trade union confederations.

However, it was not only through minimum wage policy that the government interfered directly on wages. In addition, the [Law 23/2012](#) amending the LC 2009 introduced *de facto* unpaid working time through the reduction of the vacation period by three days and the cut of four public holidays (both without income compensation) and the reduction by half on overtime payments. These measures were included as well in the regulations regarding public sector employees ([Law 35/2014](#)).

Other changes in wage policy resulted from the structural reforms of collective bargaining. Basically, the centre-right coalition implemented the MoU requirements on collective bargaining with one exception, which was to keep in force the principle of trade-union delegation for the negotiations at company-level negotiations.

In line with decentralization, the [Law 23/2012](#) (article 482) introduced the possibility of sector collective agreements to define that regulations in domains such as functional and geographical mobility, working time and wages could be set up by collective agreements at another level, including company agreements (principle of open clause); and reduced to 150 employees the threshold firm size above which workers' representatives can conclude collective agreements<sup>4</sup>.

**Table 2.2. MoU objectives and labour market measures focusing on wage setting and collective bargaining**

Objectives indicated in the MoU	Specific policies
Contain employment fluctuations over the cycle, accommodate differences in work patterns across sectors and firms, and enhance firms' competitiveness	Working time arrangements: <ul style="list-style-type: none"> <li>• permission to adopt 'banks of hours' working arrangements by mutual agreement of employers and employees negotiated at plant level;</li> <li>• reduction of minimum additional pay for overtime;</li> <li>• elimination of the compensatory time off for overtime work.</li> </ul>
Job creation and enhanced competitiveness.  Promote wage adjustments in line with productivity.	Wage setting and competitiveness: <ul style="list-style-type: none"> <li>• limiting the increase in the minimum wage (only when justified by economic and labour market developments);</li> <li>• define clear criteria to be followed for the extension of collective agreements, including the representativeness of the negotiating organisations and the implications of the extension for the competitive position of non-affiliated firms;</li> <li>• desirability of shortening the survival of contracts that are expired but not renewed;</li> <li>• implement the possibility for works councils to negotiate functional and geographical mobility conditions and working time arrangements; and lowering of the firm size threshold above which works councils can conclude firm-level agreements to 250 employees;</li> <li>• promote the inclusion in sectoral collective agreements of conditions under which works councils can conclude firm-level agreements without the delegation of unions.</li> </ul>

At the same time, the government blocked extension ordinances and imposed the revision of regulations on the extension of collective agreements ([Resolution 90/2012](#)) introducing stricter conditions whereby collective agreements could only be extended if the signatory employers' organisations employ more than 50% of all employees in the industry concerned, adding to the fact that they should take into account the implications of extension for the competitiveness of the industry. This measure was not discussed with the social partners and

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<sup>4</sup> It is relevant to mention that the possibility of non-union representatives to negotiate company agreements in companies above 500 workers was launched by the Labour Code of 2009, but they had to have the mandate of the unions to do so. Prior to the Labour Code of 2009, only trade unions could negotiate company agreements.

faced a strong opposition not only from the side of trade union confederations but also from the side of employers' confederations<sup>5</sup>.

To understand the importance of sector-level bargaining in Portugal and the crucial importance of extension procedures, we have to bear in mind the extreme low level of trade union density which is around 20% and the consequent weak presence of unions at the workplaces. Furthermore, according to the European Company Survey of 2013 carried out by the Eurofound (European Foundation for the Improvement of Living and Working Conditions), Portugal was the European Union member state with the lowest percentage of establishments – around 8% – having an official structure of employee representation (European Commission, 2015). The quasi-automatic extension of collective agreements and the legal arrangements that allowed agreements to remain valid after their term played a very important role securing the influence of Portuguese trade unions in wage determination, despite their low membership rate (Távora and González, 2014).

Additionally, during this period the government went further than the MoU introducing other restrictions on collective bargaining and including the possibility of individual agreement between employers and employees in relation to the bank of hours, which before was only regulated by collective agreements. The Law 23/2012, article 7, governing 'relations between regulatory sources' stipulated the nullity, the reduction or suspension of the provisions of collective agreements, as follows:

- Nullity of the provisions of collective agreements providing for amounts higher than those resulting from the Labour Code in relation to severance pay (Article 7, paragraph 1);
- Nullity of the provisions of collective agreements providing compensatory rest for overtime work (article 7, paragraph 2);
- The reduction in collective agreements provisions providing for increases in annual holidays, reducing them by an amount equivalent to three days (article 7, paragraph 3);
- The suspension for two years of the provisions of collective agreements providing for overtime payment increases higher than those established in the Labour Code (article 7, paragraph 4);
- The reduction by half of the amounts referred above of the provisions of collective agreements after the expiration of the period of two years, provided they are not lower than those established by the LC (article 7, paragraph 5).

One year after the entry into force of the [Law 23/2012](#), on 20 September 2013, the Constitutional Court considered it unconstitutional on several issues ([Judgment 602/2013](#)) including paragraphs 2, 3 and 5 of article 7 on the grounds that they violated the right to collective bargaining (article 18, paragraph 2, and article 56, paragraph 3 and 4 of the Portuguese Constitution). However, limits to collective agreements in relation to severance pay and overtime payment were accepted by the Constitutional Court.

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<sup>5</sup> Besides its strictness, the requirement of representativeness of employers' organizations posed a problem: the lack of updated information regarding the universe of employment covered by the non-affiliated companies, which undermined its implementation.

After the Troika intervention came to an end on 26 May 2014, the Portuguese government submitted a Letter of Intent to the International Monetary Fund stating the immediate priorities in this area:

- ‘(i) adjust the current criteria for the extension of collective agreements – taking into account the representativeness of micro, small and medium-sized enterprises in the various sectors and maintaining the aim of the previous reform under the program;
- (ii) shorten the survival periods of collective agreements;
- (iii) introduce mutually agreed temporary suspension of clauses for enterprises facing economic difficulties; and
- (iv) extend the suspension of the previous collective agreements with payments of extra hours above the code, in line with the rules of the state budget law for 2014’.

These measures were all implemented in the second half of 2014: measure (i) was implemented by the [Resolution 43/2014](#); measures (ii) and (iii) were implemented by the [Law 55/2014](#) amending the LC; and measure (iv) was implemented by the [Law 48-A/2014](#). In line with the MoU requirements, the government imposed the reduction of the period of caducity of collective agreements from 5 to 3 years, as well as the reduction of their period of validity after expiring from 18 to 12 months, and established the possibility of suspending temporarily collective agreements in companies in crisis when indispensable to the company survival or the maintenance of jobs ([Law 55/2014](#)). At the same time, under the pressure of trade unions and employer confederations, the government added new alternative criteria for the extension of collective agreements considering the proportion of small and medium companies that employer’s associations represent, i.e. that the number of members of the employers' association, consists at least of 30% of micro, small and medium enterprises ([Resolution 43/2014](#)).

It was only in September 2014 that the government agreed to increase the national minimum wage ([Decree-Law 144/2014](#)) determining a minimum wage of EUR 505 per month to be applicable from 1 October 2014 until 31 December 2015. In connection with this measure, employers’ contributions to social security per employee were reduced by 0.75% between November 2014 and January 2016 ([Decree-Law 154/2014](#)).

### 2.2.3. Increasing flexibility and reducing security

While the proclaimed objectives of the MoU related with unemployment benefits and employment protection policies sounded positive (Table 2.3), the measures required and their consequences (see our section 4) did not match such objectives. In fact, in times of high unemployment, the combination of reducing employment protection by facilitating individual and collective dismissals and the reduction of unemployment benefits (duration and amount) corresponded instead to generalizing insecurity.

**Table 2.3. MoU objectives and labour market measures focusing on unemployment benefits and employment protection**

Objectives indicated in the MoU	Specific measures
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Reduce the risk of long-term unemployment while strengthening social safety nets.	Unemployment benefits: <ul style="list-style-type: none"> <li>• reducing the maximum duration of unemployment insurance benefits;</li> <li>• reducing amount of unemployment benefits;</li> <li>• reducing the necessary contributory period to access unemployment insurance;</li> <li>• extending eligibility to clearly-defined categories of self-employed workers.</li> </ul>
Tackle labour market segmentation, foster job creation, and ease the transition of workers across occupations, firms, and sectors.	Employment protection legislation: <ul style="list-style-type: none"> <li>• reduction of severance pay;</li> <li>• facilitating individual dismissals linked to unsuitability of the worker and linked to the extinction of work positions.</li> </ul>

The changes in the Portuguese legal framework in this respect were largely the result of the transposition of the requirements of the MoU. With regard to the facilitation of redundancies, the reform introduced radical changes in two issues: the reduction of severance pay amount affecting individual and collective dismissals; and the facilitation of individual dismissals based on unsuitability and job extinction.

Severance pay was reduced by successive amendments to the LC of 2009 ([Law 53/2011](#), [Law 23/2012](#) and eventually [Law 69/2013](#)). In a first phase, severance pay for new hires was reduced from 30 days to 20 days per year of tenure, it was established a cap of 12 months and of 240 minimum wages, and the payment of 3 months irrespective of tenure was eliminated. Current employees hired before 2011 were included in a mixed regime, preserving the old system for their previous working period but included in the new regime for the period after 2011. In a second phase, the regime changed again defining a reduction from 20 to 18 days (in the first three years) and to 12 days (in the following years).

As regards the facilitation of individual dismissals, the legislative changes introduced by the [Law 23/2012](#) followed the detailed MoU requirements. They defined that individual dismissals linked to unsuitability of the worker should become possible even without the introduction of new technologies or other changes in the workplace; that individual dismissals linked to the extinction of job positions should not necessarily follow a pre-defined set of criteria in relation to the workers to fire (previously this decision had to follow a seniority criterion); and that in both cases individual dismissals should not be subject to the obligation to attempt a transfer for a possible suitable position. One year after the entry into force of [Law 23/2012](#), the Constitutional Court ([Judgment 602/2013](#)) determined that some of the regulations were unconstitutional for breaking the principle of job security (article 53 of the Portuguese Constitution): the elimination of the obligation for employers to follow specific criteria when selecting the workers to dismiss in the case of job extinction; and the removal of the principle that the dismissals can only be accepted when another job available and compatible with the qualification of the worker does not exist in the company. Nevertheless, the Constitutional Court accepted that individual dismissals linked to unsuitability of the worker could be possible regardless of the introduction of new technologies or other changes to the workplace.

Following the judgment of the Constitutional Court, the government pushed through new legislation ([Law 27/2014](#)) introducing criteria for the selection of the workers to fire in the case of extinction of work positions. The criteria in order of importance are the following: worse performance evaluation; lower educational and professional qualifications; higher costs for the employer for maintaining the employment relationship; less experience in the job; and less seniority in the company.

While the argument for these reforms was to tackle labour market segmentation by reducing the so-called strictness of employment protection regarding dismissals, the government facilitated also the spread of temporary work by introducing a special regime allowing fixed-term employment contracts to be subject to 2 additional renovations and an additional maximum duration of 18 months (set up by [Law 3/2012](#) and again by [Law 76/2013](#)).

At the same time, and following MoU demands as well, the government reduced unemployment protection ([Law 64/2012](#)). The maximum amount of the unemployment benefit decreased from 1.258 euros to 1.048 euros, and after a period of six months the daily benefit is reduced by 10%. The duration of the unemployment benefit was also reduced in line with the MoU that required a maximum duration of 18 months. The new law required a period of two years of contributions to be entitled to such duration. Previously the allocation period varied between a minimum of nine months and a maximum of 38 months (depending on the worker's age and period of contributions), while with the new law its duration varies from 5 months up to 26 months. With the new system, the maximum duration of unemployment benefit which applies only to those with a minimum period of two years of contributions varies: 11 months for workers aged under 30 years; 14 months for those aged between 30 and 40 years; and 18 months for those aged over 40 years. The additional extension of these durations depends of the length of previous working period, and the maximum envisaged – 26 months – applies only to workers aged over 50 years with a minimum of 20 years of contributions.

Although the law included a positive measure to extend the coverage of unemployment benefit by reducing the necessary contributory period to access unemployment benefits from 450 days to 360 days, the reduction of their duration combined with the increase of unemployment and long-term unemployment aggravated in practice the exclusion a large number of people unemployed from unemployment benefits (see our section 4).

## 3. Position and role of the social partners on the social reforms

### 3.1. Government decision making, social pacts and general strikes: an overview

From 2008 until 2014, and in particular since 2010, the governments in Portugal put forward a mixed strategy combining social dialogue and concertation with unilateral decision. Formally, having in mind that the MoU signed on 17 May 2011 included proposals from the tripartite agreement signed on 22 March 2011 with the PS government and that subsequent changes to national legislation relied on proposals from the tripartite agreement signed on 18 January 2012 with the centre right coalition, one would conclude that social partners have played an important role and that tripartite agreements provided the basis for the major changes introduced in labour law and industrial relations (Ramalho, 2014).

However, in our view such conclusion must be discussed and questioned for three main reasons: first, because the most representative trade union confederation, CGTP-IN, did not sign and strongly opposed these two agreements; second, the majority of 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; and third, there are substantial differences in relation to the content of the tripartite agreements of 2011 and 2012, and in particular in relation to the conditions under which they were negotiated (see tables 3.1. and 3.2 below). Moreover, it is crucial to ask how the social partners themselves understood such tripartite agreements and the role they played, a question that guided our first-hand interviews conducted with high-level officials from national social partners (see 3.2). Do they think these tripartite agreements reflect a real negotiation? What kind of trade-off did they think was achieved, if any? When the tripartite agreement of 2011 was signed, on the eve of the defeat of the fourth austerity plan in the parliament, the Portuguese government had not yet required external financial assistance. Although there was already external pressure, this was not comparable to the extreme pressure on the occasion of the financial bailout.

The tripartite agreement of 2012 included not only MoU measures which had not been previously discussed with the social partners but also measures beyond the MoU, both of which were presented like an ultimatum to the social partners. The UGT signed the 2012 agreement under the government's threat to increase the daily working time by half an hour in the private sector (with a draft bill already in the pipeline) if they did not sign and with the government's promise that any future labour changes would be discussed in social concertation (Campos Lima, 2012).

In addition, the social pacts did not reduce social conflict. In four years five general strikes were launched, an extraordinary record compared with the precedent 35 years (1974-2009) when the total number of general strikes amounted to five. The CGTP-IN and UGT launched together general strikes on 24 November 2010 and 24 November 2011; the general strike of 22 March 2012 was only convened by the CGTP-IN; the general

strike of 14 November 2012, in the context of the ETUC European protest, was convened by the CGTP-IN and followed by 14 unions and 4 federations affiliated of UGT; the general strike of 27 June 2013 was convened by the CGTP-IN and UGT; and finally the public sector national strike on 8 November 2013 was convened by all unions of the public sector. Therefore, the strategies of trade union confederations in this period were clearly different from the past, showing a new trend, announced already in 2010 (Campos Lima and Martín Artiles, 2011): in the case of CGTP-IN the move towards the intensification of conflict; and in the case of UGT a strategy combining ‘dancing’ by signing the tripartite agreements of 2011 and 2012 and ‘boxing’ by participating in three general strikes (Campos Lima, 2015) (see table 3.3).

**Table 3.1. Measures envisaged in the MoU and social dialogue**

Measures envisaged in the MoU	Method of decision
Freezing the minimum wage – 2012/2013/2014	Government unilateral decision
Freezing wages and career progression in the public sector	Government unilateral decision
<i>Collective Bargaining</i>	
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 negotiated by non-union workers’ representative structures.	Tripartite Agreement March 2011 and Tripartite agreement January 2012 (both not signed by the <b>CGTP-IN</b> ) - <b>Labour Code</b> (Law 23/2012)
Introduction of stricter criteria for the extension of collective agreements:	
2012 – Employer associations must represent 50% of employment in the sector.	Government Unilateral decision – <b>Resolution 90/2012</b>
Amendment – Or in alternative employers’ associations must include 30% of medium and small companies.	Ad-hoc tripartite consultation – <b>Resolution 43/2014</b>
Shortening the survival of collective agreements that are expired but not renewed – reduced the period of caducity of collective agreements from 5 to 3 years, and their period of validity after expiring from 18 to 12 months.	Ad-hoc tripartite consultation – <b>Labour Code</b> (Law 55/2014)
<i>Working time adjustments</i>	
Individual bank of hours – negotiated between employee and employer.	Tripartite agreement January 2012 – <b>Labour Code</b> (Law 23/2012)
Overtime Payment reduction.	Tripartite agreement January 2012 – <b>Labour Code</b> (Law 23/2012)
<i>Reduction of employment protection</i>	
Reducing severance pay.	Tripartite agreement March 2011- <b>Labour Code</b> (Law 53/2011)
Reducing substantially severance pay.	Tripartite agreement January 2012 - <b>Labour Code</b> (Law 23/2012) Unilateral decision – <b>Labour Code</b> (Law 69/2013)
Extending the conditions for individual dismissals based on	Tripartite agreement January 2012 - <b>Labour</b>



unsuitability and extinction of job positions.	<b>Code</b> (Law 23/2012)
Amendment on criteria for selection of workers in the case of extinction of job positions.	Unilateral decision - <b>Labour Code</b> (Law 27/2014)
Unemployment benefit reform	Tripartite agreement January 2012 – Decree-Law 64/2012 and Decree-Law 65/2012.

**Table 3.2. Measures beyond MoU and social dialogue**

Measures not envisaged in MoU	Method of decision
Wage nominal cuts in the public sector (2011-2015)	Government unilateral decision
Suspension of Holyday and Christmas bonus equivalent to two monthly wages in the public sector (2012)	Government unilateral decision
Increasing the weekly working time from 35 to 40 hours without compensation, in the public sector (2013, 2014, 2015)	Government unilateral decision (Law 68/2013 and Law 35/2014).
Cut of vacancies by three days and cut of four public holidays, without compensation:	
Private sector	Tripartite agreement January 2012 - <b>Labour Code</b> (Law 23/2012)
Public sector	Unilateral decision (Law 35/2014)
Regime of dismissals public sector	Government Unilateral decision (Law 35/2014).
Extraordinary renewal of fixed-term employment contracts and extraordinary maximum duration of fixed-term employment contracts	Unilateral decision - Law 3/2012 and Law 76/2013
Limitation of collective bargaining autonomy in local administration	Unilateral decision (Law 35/2014)
Measures imposing labour law over collective agreements and individual contracts, by stipulating the nullity, the reduction or suspension of the provisions of collective agreements and of labour contracts (severance pay, overtime payment; compensatory rest for overtime and increase of holiday days) – private sector.	Tripartite agreement January 2012 - <b>Labour Code</b> (Law 23/2012)
Shortening the survival of collective agreements that are expired but not renewed – reduced the period of caducity of collective agreements, from 5 to 3 years and their period of validity after expiring, from 18 to 12 months – private sector.	Ad-hoc consultation - <b>Law 55/2014</b>

**Table 3.3. Social pacts and general strikes (2008-2015)**

	Social pacts	General strikes	Government
2008	<b>June 2008<sup>1</sup></b> (preceding Labour Code 2009) – Government, Employer Confederations and UGT	<b>30 November</b> - <b>CGTP-IN</b> and <b>UGT</b> unions - public sector only (limited wage increase– state budget 2009).	PS
2010		<b>4 March</b> - <b>CGTP-IN</b> and <b>UGT</b> unions - public sector only (wage freeze and pension cuts). <b>24 November</b> – <b>CGTP-IN</b> and <b>UGT</b> (Austerity, cuts in the public sector – state budget 2011)	

2011	<b>March 2011</b> <sup>1</sup> – Government, Employer Confederations and UGT	<b>24 November</b> – <b>CGTP-IN</b> and <b>UGT</b> (Austerity, cuts in the public sector –state budget 2012)	PSD/CDS
2012	<b>January 2012</b> <sup>1</sup> (preceding 2012 revision of Labour Code) – Government, Employer Confederations and UGT	<b>22 March</b> - <b>CGTP-IN</b> (against LC revision 2012) <b>14 November</b> - <b>CGTP-IN</b> and 14 unions and 4 federations of <b>UGT</b> (Austerity – state budget 2013 and European Protest)	
2013		<b>27 June</b> - <b>CGTP-IN</b> and <b>UGT</b> (Austerity cuts) <b>8 November</b> - <b>CGTP-IN</b> and <b>UGT</b> unions - <b>national strike in the public sector</b> (Austerity – state budget 2014 – further nominal wage cuts and pension cuts)	
2014	<b>September 2014</b> <sup>1</sup> (for the update of minimum wage)		
2015		<b>13 March</b> - <b>CGTP-IN</b> and <b>UGT</b> unions - <b>national strike in the public sector</b> (nominal wage cuts, working time, collective bargaining)	

Source: Campos Lima, 2015.

### 3.2. Participation in social dialogue: the distinct viewpoints of social partners

When asked to make a global appraisal of social dialogue initiatives in Portugal between 2008 and 2014, social partners officials provide us with two clearly distinct viewpoints. On the one hand, the respondents from both of the trade union confederations express the view that social dialogue in the period under analysis was very weak, at best limited to well circumscribed moments and subjects. Although these two confederations reacted differently to such scenario (as we shall see below), their interpretation of the existing scenario is remarkably consonant. They share a critical stance on the unilateral decisions of the government to deregulate labour relations, the undemocratic rule of the international institutions involved in the elaboration of the MoU, and the increasing tendency of social concertation to operate in favour of employers as their claims are satisfied at the expense of the workers' well-being and rights. The following excerpts from the interviews illustrate the consonance of their discourses.

Labour law has been subverted, and this social dialogue is a farce: it seeks to give an idea to the outside that everybody is on an equal footing while, from the government's standpoint, the major goal is that social dialogue legitimates policies that the government itself has previously planned, in some cases agreed at a minimal level with some social partners. [...] We think that from 2008 onwards there has been a dialogue... let's say that formally the dialogue was done... not in the sense of changing and improving policies based on social dialogue, but in the sense of providing a legitimation to policies that in our view are wrong policies.

CGTP-IN

Practice has proven that in recent years, especially since the beginning of the crisis in 2008, social concertation in Portugal is still, even if in mitigated manners, the fulfilment of a mere ritual. To a large extent, the role of the social partners has been emptied with respect to both offering recommendations and finding solutions. [...] We would like our participation to be more active. Social partners are part, so

to speak, of the bonfire of the vanities; we do not enjoy participating in the bonfire of the vanities, we want to be active partners. [...] The dialogue in itself is not difficult; it is its content that has been emptied. Our proposals go in one ear and out the other. This is the problem of social dialogue, the emptying of concertation and of certain prerogatives and competences that underlie social concertation: enabling partners to intervene, to dialogue, so that employers and workers find solutions together with the government.

UGT

On the other hand, the employer confederations officials state that social partners had an active involvement and a key role in decision-making during this period. Some of them concede that this has not been equally felt in all areas of decision-making. In particular, the CIP and the CCP officials argue that social partners were not granted due attention and participation in a number of important subjects, such as the elaboration of the MoU, the conception and implementation of policies oriented to economic and employment growth, the reform of the social security system, and the revision of conditions for the extension of collective agreements. Notwithstanding their stark criticism of how the national governments handled these specific issues and their acknowledgment of the limits to political freedom – the limited ‘room of manoeuvre’, in the words of the CTP officials – under the Economic Adjustment Programme, social dialogue has kept a prominent role in the definition of a response to the crisis according to their mind. The respondent from the CAP goes as far as to venture that the participation of social partners was reinforced since 2011 precisely as a result of the urgent need to react collectively against the damages of the crisis.

Both in the revision of the Labour Code in 2009 and in what would later result in its new revision in 2012, we were true partners in the sense of co-decision-makers in orientations and solutions, and we were called to intervene. At first sight, from what I am saying, there has not been any gap. But in fact there were gaps. Some subjects were taken to social concertation after they had been decided in the Council of Ministries; we would get there and be confronted with decisions already taken [...], meetings that were mainly for showing off, to provide the social media with the idea that we were in tune or that at least partners had been informed in advance about the measures. Therefore, we do have reasons to complain considering how we see ourselves as partners in social concertation. In this timespan, we had periods during which social dialogue, in our view, operated reasonably, and periods in which it was, if you like, less coherent, less logical, even less expected.

CIP

The set of measures agreed between the government and the Troika, in which social partners had no intervention, led to the definition of a specific agenda and a demanding schedule, marking out the intervention of social partners in several domains. In global terms, it is important to mention that unlike others the CCP did not welcome the policies defined, which contained positive and necessary measures but downplayed – as experience came to demonstrate – the role of the growth of our economy and the conditions to finance it. [...] With regard to responding to the crisis, the intervention of social partners was centred on the measures included in the Tripartite Agreement signed in 2012. A very significant number of measures were left out: the global analysis of the problems of financing the economy, justice, public-private partnership, among many others and – obviously – all of the measures that would determine a massive increase of taxes. [...] As for the degree of involvement in the implementation of the MoU, this was very heterogeneous. Some measures of the MoU were to a certain extent incorporated in the Tripartite Agreement, especially the changes in labour legislation, and the involvement of the partners in those measures was very small or even none.

CCP

I do not feel that social dialogue has been affected in its dimension. To the contrary, during these last years it has been necessary to have much more social dialogue than in the years before 2008. We felt it especially from 2011 onwards. In fact, the intervention by the Troika brought us to feel the need for a constant social dialogue, because from 2011 until 2014 there were regular meetings, a tripartite Commitment for Growth, Competitiveness and Employment covering a wide range of matters, and it was then necessary to implement that agreement, it was necessary to make periodic meetings on the evaluations by the Troika... And therefore I would not say that social dialogue has been exactly affected; what happened is that social dialogue was made in a different manner.

CAP

The mismatch between the two discourses, and especially the serious divide between union and employer confederations despite their internal differences in ideology and strategy, suggests that social dialogue since 2008 may not have incorporated all social partners to equal extent or in a comparable manner. In other words, it is plausible that some social partners have been successful in strengthening their position and their claims (in particular, the employer confederations) while others saw their position and claims being threatened and weakened (the union confederations).

The statements above highlight new features of social dialogue since the beginning of the crisis and the signing of the MoU. However, some aspects of social dialogue which existed before 2008 would remain in place during the period under examination. One of them, underscored by all respondents, is the key role of the national government in determining the competences and spaces of intervention accessible to social partners. In this regard too, distinct interpretations as to the meanings and effects of the government's action coexist.

Respondents from the employer confederations tend to consider that the two governments in office in this period made a correct management of social dialogue, even though they may have failed in a number of respects as mentioned above. Respondents from the union confederations, especially the CGTP-IN, argue that governmental efforts to control or overlook social dialogue initiatives in Portugal are far from a novel phenomenon but they gained momentum under the crisis. According to this view, the MoU and the overall pressures exerted by the international institutions have rendered social dialogue useless, less than accessory – a 'make-believe social dialogue', in the words of a CGTP-IN official. The same organization remarks that neither the government nor the Troika institutions gave any convincing sign of listening to their multiple alerts concerning troublesome trends in the country such as the rise of inequality, the rise of unemployment and precariousness, the reduction of the funds available to secure major obligations of the welfare state (social security, health and education) or the growing number of families and children in situation of poverty and famine. In contrast, respondents from the CAP and the CCP emphasize that the social partners were consulted and their observations taken into consideration not only by the Troika institutions within their periodic evaluations of the assistance program, but also by the National Parliament in Hearing Commission sessions and by the government throughout all of these occasions.

Also important to understand the governmental role since 2008 is the perception shared by the social partners that there were various phases or stages, that is, the interest of the government in the involvement of social partners was not uniform from 2008 until 2014. The main change takes place in 2011-2012, in the transition

period triggered by the signing of the MoU and the entry of a new government into office. Until then, the four successive Stability and Growth Programmes and the initiatives to stimulate employment growth prevailed in the response of the government to the financial and economic crisis. Assessments of social dialogue in that first phase (2008-2011) are mixed across both workers' and employers' organizations. Some social partners praise the ability of the government of the Socialist Party to take in their opinions and concerns (UGT, CIP), while others are quite critical of the same government's performance for being too compliant with the demands of employers (CGTP-IN) or incapable of actually proceeding with the necessary reforms to the extent that employers pushed for (CAP).

The pertinence of acknowledging two phases of social dialogue during the period under study is reflected in the following excerpts from interviews with union and employer officials.

There are two clearly different periods. We have a period right after the crisis of 2008, when the European Union called on Member States to adopt anti-cyclical policies, which makes it easier for social partners to get involved, and a number of important subjects were indeed discussed in the national Standing Council of Social Concertation; we were still heading toward commitments and consensus. In 2009 we had the revision of the Labour Code, the last one before the Troika, in a collective attempt by the government and the social partners to find responses to an economic crisis which was intensified in 2008 with the financial crisis although we all knew that the country was not doing so good even before, namely with regard to unemployment and economic growth. Things changed radically in the moment that the Troika came in. [...] Since then, the concertation became a merely formal process, with a schedule that despite our demands is almost exclusively decided by the government... except perhaps concerning the agreement on the minimum wage, for which we strove badly until we reached a positive outcome.

UGT

No reforms were made in 2008. It was only from 2011 onwards that reforms were made; and because we were under pressure. Until then we only discussed reforms. We discussed them a lot, but we would not make reforms. We gave baby steps, we saw that the economic situation was bad, we worried, we adopted a sporadic measure... Then in 2011 came the real changes. Were they effective? I think so. This cannot be fully observed in one year, or two, or three, or four. I believe they were effective. However, we also did some things with opposite effects. For instance, the implementation of the Labour Compensation Guarantee Fund: we decrease labour costs, but then we create an extra 1 per cent of social security contribution rate paid by employers for new hires since the 1<sup>st</sup> of October 2013. Also, bureaucracy on a number of things increased. [...] There are advances and retreats. Such a large number of legislative changes... often the impression is that we advance without knowing exactly where to.

CAP

The respondents from both of the union confederations remain doubtful of the notion that the country ceased to be under the conditions of the MoU and the Troika institutions since the official closing date of the assistance programme. They warn that this change of political configuration did not translate into any significant change in the conception of policies or the involvement of social partners. International institutions keep on imposing measures for the further reduction of labour costs and the gates of the government are shut to the discussion of policies outside the austerity agenda. On the other hand, respondents from the employer confederations stress some new trends since the assistance programme was over – suggesting that 2014 may have brought about the beginning of a 'third stage' in social dialogue in the period we are studying. Examples

given are the tripartite agreement for the national minimum wage raise signed in September 2014 and a revival – albeit gradual – of certain mechanisms of collective bargaining such as the issuing of collective agreements and the upgrading of sectoral pay scales.

So far we have been sketching out the context in which the reforms of employment legislation and collective bargaining between 2008 and 2014 took place. The following two sub-sections look into these two policy areas in more detail. Certainly they do not exhaust the reforms that were carried out in the period under examination. Beyond employment legislation and collective bargaining strictly speaking, several social partner officials interviewed for our study point out the public investment in active labour market policies, although their assessment of the orientation and actual implementation of these policies may be positive (CIP, CAP), negative (CGTP-IN) or average (UGT). Regarding other policy areas included in our interview script, the information collected from respondents suggests that the number or scope of the initiatives taken since 2008 was rather limited; this is the case of the quality of work, the differences between regular and temporary workers, or the transition to a low-carbon economy.

### 3.2.1. Reforms of employment legislation

Among the reforms of employment legislation undertaken in 2008-2014, the social partners' officials highlight a number of measures for their great impact in both the short term – effects already felt – and the near future. These include the revision of dismissal regulation, the reduction of unemployment benefits, the increase of the working time in the public sector, the freezing and reduction of public sector wages, and the freezing of the national minimum wage.

In a few particular matters, union and employer confederations have agreed with each other. This happened, first, in their opposition to the change of the social security contribution rates (increasing the rate for workers, decreasing it for employers) which was proposed and then withdrawn by the government in 2012. This is perhaps the most striking instance of success in the attempts of social partners to stop an intention of the government. A second point in which social partners converge against the government is their conviction that the tripartite agreement signed in January 2012 by all social partners except the CGTP-IN has not materialized into actual measures in a uniform manner. In other words, the government was proficient in implementing certain measures written in the agreement (precisely those most related with labour law and collective negotiation) while other measures were very much left on the paper such as the ones promoting economic growth and domestic markets.

Disagreement between social partners prevails when it comes to other matters. The revision of dismissal regulation is described by all of them as an initiative taken by the national government under the pressure of the Economic Adjustment Programme. However, the contents of the revision are understood in a favourable light by the employer confederations whereas union confederations express an extremely critical position. The distance separating the two parties is illustrated in the following quotations.

As to the requirements for job extinction, the CCP considered that it was fundamental to end the injustice that came from the fact of privileging workers that have been in the company for a longer period of time in detriment of younger and sometimes more qualified workers. In this sense, the new law, although it does not correspond exactly to the proposition we made, is a positive change. [...] Concerning unemployment benefits, we have defended over the last years the reinforcement of control mechanisms (because there is the notion that many fraudulent cases exist), as well as the need to ensure the reinforcement of qualifications through the participation of the unemployed persons in compulsory training, with special attention to the long-term unemployed and the young persons. The CCP has always alerted to the fact that high unemployment subsidies discourage an active job search. Still, the CCP has always manifested also its concern with the high number of unemployed (almost half of them) without access to unemployment benefits.

CCP

With regard to the changes in the unemployment benefits, we saw them as necessary because unemployment increased a lot and there were not enough means to pay the levels that were paid up till then. We did not support those measures in the sense of wanting benefits to be reduced; besides, it was done through a reduction in the percentages of the unemployment subsidies. We were not against it, but we did not support it either. We did not want workers to receive a smaller amount of unemployment subsidy that they used to, but we understood that there were cuts everywhere and it was necessary to cut there too, like in retirement pensioners or in public sector employees. [...] Our opinion is that the duration of the unemployment subsidy is in some cases too long; it is not so much the amount, but the fact that it can last for two years or three years. This is a protection for people themselves: if they stay three years away from the labour market, they will hardly go back to work. This is very worrying from the social point of view.

CAP

Changing the criteria for individual dismissals was on the table at the beginning, and the UGT said that is was absolutely unthinkable. The unemployment subsidy itself was strongly modified due to the intervention of the Troika, but nevertheless we managed to preserve some guarantees for particular cases, especially those of more vulnerable populations, for example older workers, by ensuring that their past social security contributions are counted in a different manner. For the purpose of the Troika was to reduce amounts and reduce durations. If the problem of unprotected unemployment is as severe as it currently is, just imagine what would happen if the initial ideas of the adjustment programme had gone forward.

UGT

With regard to the working time increase in the public sector from 35 to 40 hours per week, the officials of both union confederations underscore that the goal of this measure was not only to reduce costs and harmonize the working time of public and private sector employees, but also to countervail and weaken the mechanisms of collective bargaining which entitle workers and employers organizations to negotiate more favourable conditions through their representative organizations. In fact, the collective agreements concluded between unions and local public administration bodies to maintain the weekly work schedule at 35 hours were suspended by the government ([Law 35/2014](#) of 20 June) until this suspension was deemed unconstitutional by the Constitutional Court ([Judgment 494/2015 of 7 October](#)). The governmental opposition to the recognition of these particular collective agreements was a clear demonstration of the tension at stake, according to our respondents from the union confederations. One of them finds some resonance between this type of

intervention by the state and the ‘previous censorship’ – the so-called blue pencil – practiced before the introduction of the democratic regime in 1974. He considers that this was an attempt especially advocated by the IMF to destroy the possibility of understanding between unions and municipalities as employers.

### 3.2.2. Reforms of collective bargaining

With regard to collective bargaining, respondents highlight measures such as the redefinition of the conditions for the extension of collective agreements, the revision of their expiry regime and validity periods, and the facilitation of company-level agreements. Here too, our interviews uncover elements of convergence and divergence between the social partners.

The main point in which respondents express their agreement is the detrimental impact of the redefinition of the conditions under which extension ordinances are to be issued. Officials of union and employer confederations both point out that the goal of this measure – contrary to what was implied in official discourse – was not to foster organized decentralization and the heterogeneous adaptation of sectors and companies to the challenges of the crisis; instead, the rationale has been to weaken collective bargaining and reinforce the decision-making power of the government, thus combining greater centralization (of basic regulations) at the top and a greater room for individualized action by employers and employees down below. Particular concern is manifested with regard to the abrupt fall in the number of workers covered by collective bargaining after this intervention by the state in 2012 and the fertile ground it offers for various types of unfair competition.

What some call decentralization is to our mind dismantlement. [...] This entails contradictory aspects, even for employers. Because an agreement is a commitment between the parties; power is shared and a commitment must be achieved. If power is not shared, one of the parties imposes on the other, of course. In many sectors employers themselves have an interest in this commitment in order to regulate the market in which companies operate. On the other hand, the representative organizations do not want to lose power to the companies in their activity sector. Employer confederations know this, they feel the need to tackle it; at the same time, they know that certain changes in the regulation bring workers to be further unprotected. Thus they go on accepting this situation.

CGTP-IN

Are there a higher number of agreements published? No. At this moment, they are at a minimum. [...] We must demand and push for more collective bargaining, push for the publication of more agreements, and bring extension ordinances back to the way they were before the tripartite agreement. [...] The struggle for the regulation of the labour market, the struggle against unfair competition: this is what extension ordinances exist for! To promote the equality of circumstances among actors working in the same economic branch. The government gave heed to the IMF and now it is time to undo what was done. This is our opinion and also the opinion of the employers.

UGT

For good or for evil, our collective bargaining coverage is closely connected with the extension ordinances. [...] 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

In addition, the CAP official observes that collective bargaining was also affected by the freezing of the national minimum wage. In the agricultural sector, this was arguably more relevant than extension ordinances. Still, the other respondents too acknowledge the centrality of pay for collective bargaining in many sectors. Given that the national minimum wage did not increase, employers were able to keep it as the reference and bottom scale amount in their particular activity.

Concerning the revision of the expiry regime and validity periods of collective agreements, a major disagreement remains in place between union and employer confederations. The former see this measure as a mechanism to weaken the workers' power and collective bargaining at large, with a substantial impact on both top-level social dialogue and workplace dynamics. Employers understand it as a crucial condition to unblock many instances of negotiation at the sectoral and company levels, as they had been claiming for some time. A CIP official remarks that the revision of collective bargaining regulation was influenced and even ignited by the decision of the Constitutional Court as to the unconstitutionality of the measures established in the tripartite agreement of 2012 concerning pay for extraordinary working time, vacations and compensatory rest periods.

All interviews indicate that the measures taken in the 2008-2014 period, although presented as part of the response to the economic crisis, have not been designed in this period – neither did the problems they were expected to tackle appear with the crisis. Both problems and solutions were to a large extent on the table before the first effects of the crisis were felt. The context of the crisis and the very influence exerted by international institutions through the MoU signed in 2011 should thus be understood as decisive sources of pressure to introduce such reforms. The reforms reflected and integrated claims presented by employer confederations before 2008; at the same time, they entailed a weakening of the workers' representation at national and sectoral levels. The following excerpts from our interviews with officials of union and employer confederations are eloquent in this respect.

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 trade-off 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

In 2008, some substantial problems remained to be solved, especially with regard to collective bargaining. This brought us to adopt more open frameworks in the tripartite social dialogue so that reality could develop in a more fluid manner, thus in a more favourable manner, at the level of the bipartite dialogue. [...] In 2003 we were in a somewhat difficult situation. The heyday of collective bargaining, some say; but we must separate the wheat from the chaff. The numbers of collective bargaining were very high, but let us look at the contents of it. At that time, collective agreements were under the clause of successive renewal, that is, the eternal validity – agreements would stay in place until they were replaced. This led to a problem of multiplication of agreements. [...] We had a Social and Economic Agreement in 1990 that reduced the working weekly schedule from 45 to 44 hours, and it further established that a limit of 40 hours would be gradually reached through collective bargaining together with the introduction of the adaptability regime, that is, the assessment of the average normal period of working time. The fact is that unions had their demands – and we were not able to introduce any working time adaptability. Meanwhile, given the uncompromising position of some unions and the principle that kept their agreement in effect, we signed collective agreements with other unions, and this is how the problem of the multiplication of agreements came about. An historical mistake; but one adjusts to the existing conditions, and at that time we had a structure which did not evolve a thing and we were almost compelled to multiply agreements.

CIP

From the viewpoint of the CAP, I can tell you that 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. It was already necessary ten years earlier; it should have been done then. 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. But it was a very rich period and a very demanding one... both for employer confederations and for trade union confederations.

CAP

### 3.2.3. The tripartite agreement of January 2012

Both of the union confederations express a strong rejection of what they consider to be an agenda mostly boosted by unilateral governmental decisions to hinder collective bargaining. However, this does not mean that they have reacted the same way or subscribed to the same strategies. The clearest sign of their difference was given probably when the ‘Commitment for Growth, Competitiveness and Employment’ was reached in the Standing Council of Social Concertation in January 2012 under the title. The final version of this agreement was signed by the government, the four employer confederations and one of the union confederations (UGT), but not by the other one (CGTP-IN). The interviews with officials from these organizations allow us to identify the main arguments supporting each of the positions: to the UGT, a

preference toward negotiation, even under very adverse conditions, to lessen the government's and employers' intentions and prevent the adoption of measures that would have been even more burdensome to workers; to the CGTP-IN, the unwillingness to accept a so-called agreement which was based on imposing pre-determined policies and destroying workers' rights.

The agreement of 2012 brought enormous difficulties to workers. Many of the measures included in the agreement were implemented and this was negative. [...] The agreement meant that the entire program designed by the Troika was sanctioned. It legitimated and sanctioned the policies of the government and the Troika.

CGTP-IN

Over the last years we witnessed a truly social regression in workers' rights in Portugal which had taken decades to conquer. We hadn't had any regression of this dimension since the 25<sup>th</sup> of April. And you might ask: was this related with the social concertation agreement of 2012? [...] You had a loan, you needed a bailout of 78 billion euros and financial institutions would only give it to you under particular conditions. [...] We were severely criticized and punished for having acted as we did, but it was necessary to give a step that could mitigate the harmful effects of the Memorandum. [...] We condescended in favour of the national minimum wage. We condescended with regard to the expiry regime and validity period of collective conventions; but employers and the IMF wanted more. The IMF wanted everything. Employers wanted the validity period of collective conventions reduced from 18 to 6 months, and we were against it; so it was reduced to 12 months. And they wanted the expiry regime reduced from 5 to 2 years, and we said: no, we will accept only something in between – 3 years. With two conditions brought in by the UGT and incorporated in the Labour Code. The first was the creation of a commission gathering social partners to streamline and measure the true impact of these policy changes on the dynamics of collective bargaining. Is there more or less workers covered? More or less collective agreements issued? Secondly, even if the number of agreements increased, there would be no further reduction of validity periods without the agreement of the at least 50% of each side of the social partners. [...] We let go of vacation days, we let go of the earlier calculation method to pay for extraordinary working time, four national holidays... Still, in our view this agreement should be limited in time to the very duration of the economic and financial adjustment program. [...] We acted in good faith because there was no alternative. At the time, there was no alternative.

UGT

These positions concerning the tripartite agreement of 2012 reflect a wider divergence in the strategies of the two union confederations *vis-à-vis* the overall landscape – acknowledged by both – of workers' rights under threat. In the 2008-14 period, a significant number of sectoral and general strikes were convened by both confederations. In consonance with previous studies, we observe that the CGTP-IN went on putting its greatest efforts into preserving workers' rights and social struggle, while the UGT resorts to negotiation and flexibility. During our interviews, officials of the former emphasize the need to articulate various scales and spaces of resistance and promote a break with the paradigm of labour relations underlying the recent reforms. Officials of the latter claim that it is necessary to strategically give in regarding some issues in order to safeguard others. In both cases, the international dimension of the problem is underscored.

It is clear to us that we must be in permanent connection with the workers and struggle for their claims, instead of waiting for the political framework to change before we act. No, it is precisely the other way

around. The everyday struggle of workers for their working conditions will create the conditions to expand that struggle and eventually attain change and a new paradigm for our society.

CGTP-IN

With regard to collective bargaining, only the intervention of the UGT has prevented reforms from going further as desired by others. Limits were imposed on the extension of collective agreements; but at the beginning the IMF proposed the very elimination of extension ordinances which they considered to be a tool compromising the competition between companies, big and small. So, even the intermediate solution was thanks to the intervention of social partners. Of course it is far from what we would want. [...] I remember that, in a first stage, one of the goals of the Troika was to push for the exclusion of social partners from some negotiation processes, namely paving the way to the negotiation by works councils – which are almost non-existent in Portugal. There has been a permanent and continuous effort from the UGT to limit some of those measures. [...] Unemployment benefits were also reformed in a very substantial manner by the Troika, but even then we were able to ensure some protective mechanisms to more vulnerable populations such as older workers by guaranteeing that different methods would be used to calculate social security contributions over the life course.

UGT

Quite different is the viewpoint of employer confederations on the same tripartite agreement of January 2012. The interviewed officials of the CIP and the CAP underscore the broadness of the final document and their organizations' general approval of the measures included. Still, the CIP denounces the non-materialization of some parts of the agreement and regrets the setback later imposed by the Constitutional Court, as can be read in the interview excerpts below. The CCP acknowledges that the agreement gave substance to the response of social partners to the crisis, suggesting that it was an instrument of great importance but also a source of constraint insofar as it was circumscribed to some matters. In particular, the CCP observes that the agreement left aside a number of measures defined in the MoU which had been already, or were about to be, implemented by the government, as well as other measures deemed necessary by the CCP such as those related with a coordinated approach to the lack of liquidity in the national economy, the tax burden, the justice system, or the public-private partnerships.

The Commitment for Growth, Competitiveness and Employment goes much beyond employment issues, much beyond social protection; it is also very much concerned with growth, business finance, economic policy... Today, we do complain about one thing: while a great amount of effort was expended in implementing the parts of this agreement related with employment and social protection strictly speaking, there was much less concern about being that exhaustive, rigorous or determined in the execution of the economic part. Thus we have a deficit in the execution of the Commitment for Growth, Competitiveness and Employment. [...] Also, a substantial part of this agreement was defrauded by decisions of the Constitutional Court; this affected the balance of the agreement, so we had to put some balance back into the agreement by giving time and space for the parties to sort it out. We were caught by surprise in regard to things that we had negotiated and were then taken away from us, in particular the extraordinary working time pay, the vacation days and the compensatory resting periods. When these three ingredients were subtracted from us due to a decision of the Constitutional Court, the agreement became unbalanced, and the measures of reducing the expiry regime and validity periods of collective agreements aimed at restoring the balance of what we had agreed upon.

CIP

The Portuguese social partners did not have a concrete participation in the elaboration of the Troika's Memorandum, which was signed in very particular political conditions, as a result of a hasty negotiation between the Portuguese government and the organizations involved. As to the degree of involvement of social partners in the implementation of the MoU, it was very heterogeneous. Some measures of the MoU were somehow incorporated in the tripartite agreement 'Commitment for Growth, Competitiveness and Employment' – especially regarding labour legislation – and these measures were monitored. However, many areas of the MoU were left out of the tripartite agreement and the involvement of social partners in those measures was very low or even none.

CCP

### 3.2.4. Internal reorganization, social conflict, and the future of social dialogue

There was a rise of social conflict in the 2008-2014 period according to the opinion of all our respondents. The CGTP-IN is the organization that claims a leading role in this respect in the strongest manner, highlighting the importance of raising awareness among workers in the broader landscape of resistance to the fierce attack that they are suffering. The same point is credited by the UGT officials, who additionally underscore the joint action of the two union confederations in the successful struggle against change in social security contribution rates in September 2012 and the five general strikes organized since 2008. The respondents of the UGT nevertheless point out the risks of an inefficient organization of collective protest and, thus, the strategic imperative of commanding social conflict in a manner so that workers reap concrete benefits from it.

We have a double responsibility as unions. First, to create the appropriate conditions to convey hope and trust regarding the need to keep indignation and contestation in place and having them increasingly organized toward the attainment of our goals and claims. Second, we must have an additional strength to fight the viewpoint and the theses of inevitability and apathy. Unions that are incapable of taking workers out of inevitability and apathy are failing in the fulfilment of their obligations, in the dissemination of their message, in their catalyst and mobilizing functions.

CGTP-IN

In 2013 it was necessary to struggle against the austerity measures! And the general strike... thanks to the UGT, because a truly general strike would not have existed otherwise... made the government retreat or hold back in some issues; a number of more detrimental measures to the workers were attenuated. If you ask me about particular measures that were prevented through social protest, well, they were not that many. There was more dialogue, more meetings, with the government always putting the emphasis on the need to comply with our international commitments. [...] Sometimes, social unrest can be used as a form of pressure, but particular forms of struggle can also wear out and bring the other party to rejection. Public opinion itself will then cease to support the workers at stake. A strike must have always a goal. [...] The path we want is not that of social unrest and struggle for the sake of it, that of spurious protest; that will lead us nowhere. We do not create false expectations among workers. When we lead them into a struggle or a strike, practical consequences must come out of it.

UGT

The latest years also witnessed changes in some of the internal dynamics of social partners. Both union and employer confederations suffered the negative effects exerted by the financial and economic crisis on their

members (workers and companies), in particular due to the loss of disposable income and the rise of insecurity and precariousness. These conditions brought organizations to reconsider strategies with regard to the ways in which they are organized and the adoption of measures to increase resources and overcome difficulties. Two examples are the merge of some bottom-level associations and the launch of specific initiatives to promote affiliation. Our interviews suggest that the impact was greater on unions than on employer organizations, namely through a decrease in the number of members and the amount drawn from membership fees – and even the decrease of the latter without any change in the former, as a result of the substantial drop of workers' income levels.

Contrastingly, the respondents from the employer confederations do not signal any relevant transformation concerning the structure or the sources of funding in their organization as a consequence of the economic crisis. An exceptional case is that of the CIP, as the current configuration of this organization is the result of a merge between three distinct top-level organizations: the Confederation of the Portuguese Industry (CIP – Confederação da Indústria Portuguesa), the Corporate Association of Portugal (AEP – Associação Empresarial de Portugal) and the Portuguese Industrial Association – Corporate Confederation (AIP-CE). This merge came into force in 2010, although it had been under preparation for some years before. Aggregation, whether at the level of associations or confederations, is identified by one of the respondents from the CIP as a useful mechanism to enhance the rationalization of resources and obtain gains in intervention capacities; the need to reinforce articulation among employers and reap the benefits of the economies of scale is a goal still in the agenda of the CIP.

As to prospects for the near future, several conditions are put forward by social partners as necessary to underpin a fruitful social dialogue. Their viewpoints in this regard are also relevant insofar as they translate current claims and prevailing tensions.

The officials of both union confederations point out the key importance of bringing the basic assumptions of social dialogue back into place. The employer confederations tend to consider that the structural conditions for social dialogue in the country are satisfactory; their propositions focus on measures that may help extending the improvement of regulatory frameworks that they believe took place during the last years. It is a claim of the CIP that this should incorporate a new broad social pact. In turn, the union confederations underscore the relevance of action at the European level for the conception of more adequate responses to the crisis and a more solid resistance to the commodification of social rights. They posit that the European workers' movement must gain strength (CGTP-IN) and that social dialogue at the EU level has undergone severe difficulties as shown by the significant fading of the social agenda and the principles of full employment and harmony in progress which guided the discourse of European institutions in the 1990s (CGTP-IN and UGT). Considering these various adversities, they make an appeal to the recuperation of the paradigm of tripartite negotiation.

Over the last years, the dialogue in social concertation has, in our opinion, dealt with the main problems affecting companies at that time. The Commitment for Growth, Competitiveness and Employment had

those problems incorporated. [...] And were there things that were absent from it and should be included? Well, life changes, some needs become less prominent, others become more prominent [...], and this is not even homogenous across sectors. Therefore, it would make sense to revisit today the agreement of 2012 and perhaps sign a new agreement including not only the non-implemented parts of the agreement of 2012 which are still necessary nowadays, but also answers to problems that gained importance or came up in the meantime. [...] A minor social concertation, in which we solve only minor problems... it is not exactly useless, but its scope is as narrow as the problems that we discuss there. A social pact for development enabling a fresh start, a new kick-off, is something of a completely different dimension. [...] We certainly have enough subjects for a social pact for development; we just need to get started with it.

CIP

A national government must resume and put back into practice the same spirit that presided to the creation of the International Labour Organization, which remains its greatest asset: a true tripartite social dialogue – government, employers and unions. 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 or proficient.

UGT

## 4. Labour market effects of the reforms

The impact on the labour market of the reforms and policy measures launched in Portugal in the period 2008-2014, and in particular after the 2010 sovereign debt crisis, has not been globally evaluated either by official institutions or by independent ones. This exercise is complex insofar as a wide range of measures was launched, not only in relation to the labour market and social policy but also regarding macro-economic and fiscal policy, domains which affect the labour market situation and dynamics too.

However, various studies were published discussing the policies implemented and their results, some of which encompassing a wide range of measures and some focused on specific policies. Among the studies comprising a wide range of issues is relevant to mention two reports: the ILO report – *Tackling the Jobs Crisis in Portugal* – published in 2014; and the report produced by the Observatory on Crises and Alternatives (Observatório sobre as Crises e as Alternativas) – *A Anatomia da Crise: Identificar os Problemas para Construir Alternativas* – published in 2013. Both reports included not only labour market policies but also macroeconomic and fiscal policies and provided a first evaluation of their impact in labour market and welfare, in economic growth, and employment creation. In addition several studies with more limited scope provided an evaluation of specific impacts of particular measures.

This section takes into account some of the contributions of these studies as well as new data provided by official sources updating relevant information.

### 4.1. Overview

As a result of the combined impact of international financial and economic crisis and austerity policies in Portugal, between 2008 and 2014, GDP fell by EUR 12 billion (-6%) returning to 2003 levels; employment reached its lowest level since 1995, from 5.1 million jobs in 2008 to 4.5 million in 2014; investment fell nearly 35%, more than twice the decline in European union as a whole; and public debt increased from 71,7% of GDP in 2008 to 130% in 2014 (Mamede, 2015).

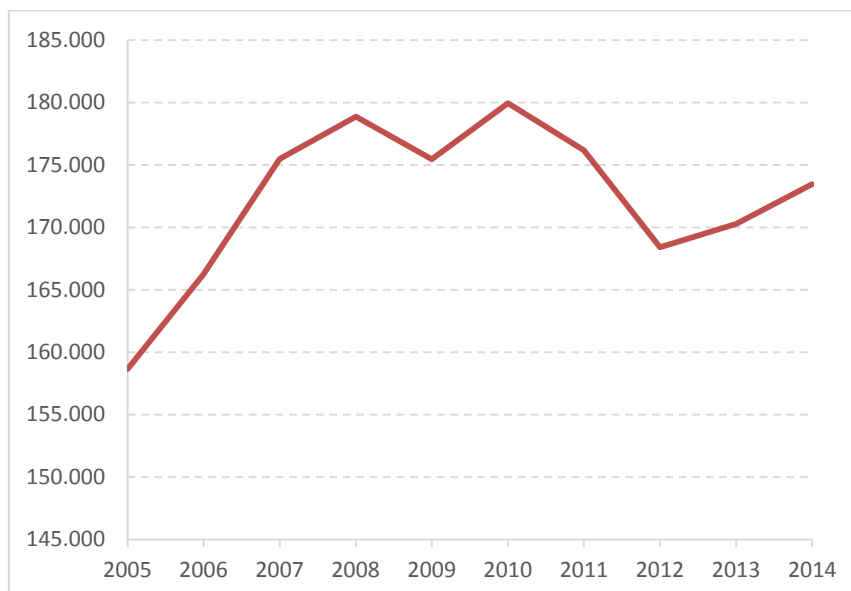
The austerity policies launched during Troika intervention in Portugal (May 2011 – May 2014) prolonged and intensified dramatically the negative trends observed in the earlier years of the crisis. In fact, the GDP fall between 2011 and 2014 was almost the double of the fall between 2008 and 2011; the employment decreased between 2011 and 2014 by 263000 jobs; investment fell around 21% between 2011 and 2014; and public debt increased from 111.4%.in 2011 to 130% in 2014. The rate of unemployment that in 2008 was 8.8% reached 12.9% in 2011 and escalated up to 16.4% in 2013. The youth unemployment rate, which was 21.6% in 2008, reached 30.2% in 2011 and escalated up to 38.1% in 2013. Despite the wave of emigration, the increase of underemployment and discouraged unemployment, in 2014 the rate of unemployment was still 14.1%, and 34.7% for people under 25 years old. Among the factors that contributed to the escalation of the crisis was the



reduction of internal demand resulting from the decline of population income, which was the consequence of wage downwards policy (nominal cuts in the public sector, freezing the minimum wage and erosion of collective bargaining) and pension cuts, thereby exacerbating the difficulties for economic recovery and financial solvency and increasing the rise of unemployment to unprecedented levels (Rodrigues e Reis, 2012; Reis et al, 2013; Costa and Caldas, 2013); and also of unprecedented tax increases targeting in particular the middle class but also people with low income (Rosa, 2015a).

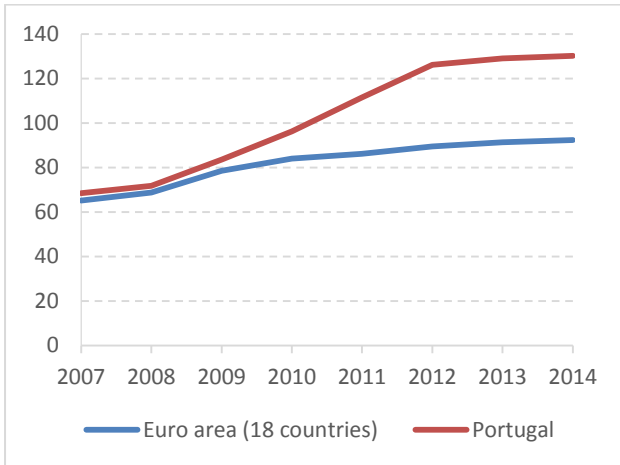
Apparently, a slight recovery started in 2013 if one consider indicators such as GDP growth, employment increase and unemployment reduction. Among the factors contributing to GDP growth was a slight recovery of internal demand as some of the measures previously in place were reversed, such as the cut of Christmas and Holiday bonuses (amounting to two wages) as required by the Constitutional Court. As to the slight decline of unemployment since 2013, the picture is less bright than it seems if one considers the dramatic wave of emigration and decline of immigration. Emigration escalated, since 2010, as result of high unemployment, wage decline, and precarious work. Between 2010 and 2013, the number of persons who left the country increased by 50% and in 2013 and 2014 it reached 110,000 persons a year (Pires, 2015). Eventually, after a recovery of public deficit between 2010 and 2013, in line with MoU requirements, public deficit escalated again in 2014. The Portuguese budget deficit for 2014 was revised to 7.2 percent of GDP on September 23rd, after including the cost of the state rescue of Banco Espírito Santo, from a 4.5 percent deficit previously estimated. The government had insisted that the rescue loans should not be counted towards the deficit, but the Eurostat decided against it.

**Graph 4.1. Gross domestic product at market prices, Portugal (current prices, million euro)**



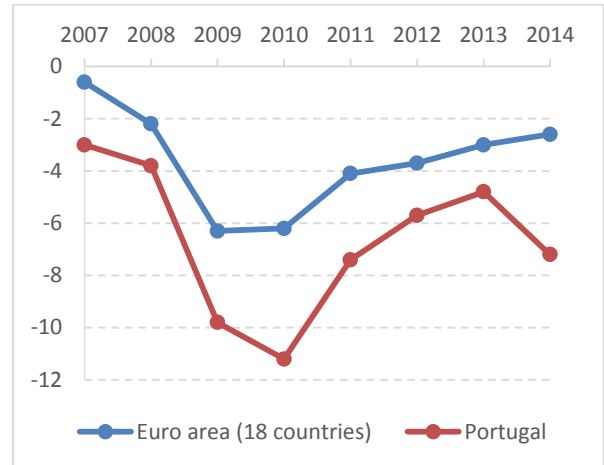
Source: [Eurostat](#), extracted on 6 Jan 2016.

**Graph 4.2. Government gross debt, Portugal and Euro area (as % of GDP)**



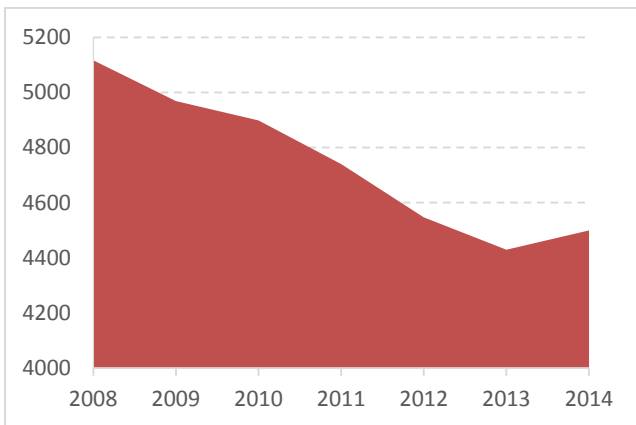
Source: [Eurostat](http://Eurostat), extracted on 30 Nov 2015.

**Graph 4.3. Public deficit, Portugal and Euro area (as % of GDP)**



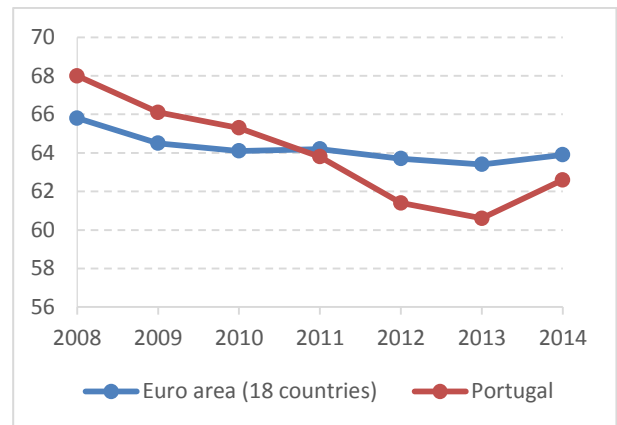
Source: [Eurostat](http://Eurostat), extracted on 30 Nov 2015.

**Graph 4.4. Total employment, Portugal (thousands)**



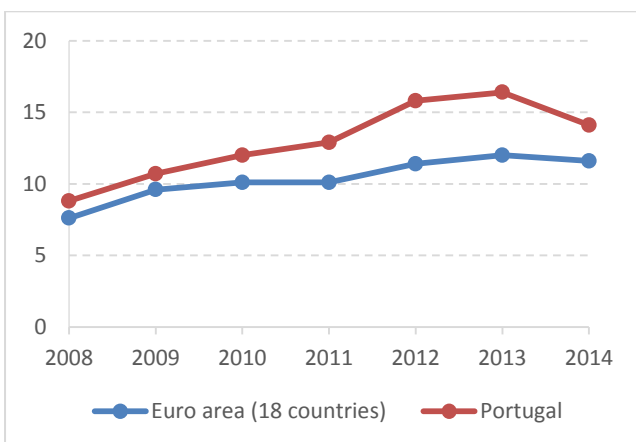
Source: [Eurostat](http://Eurostat), extracted on 28 Nov 2015.

**Graph 4.5. Employment rate, Portugal and Euro area (%)**



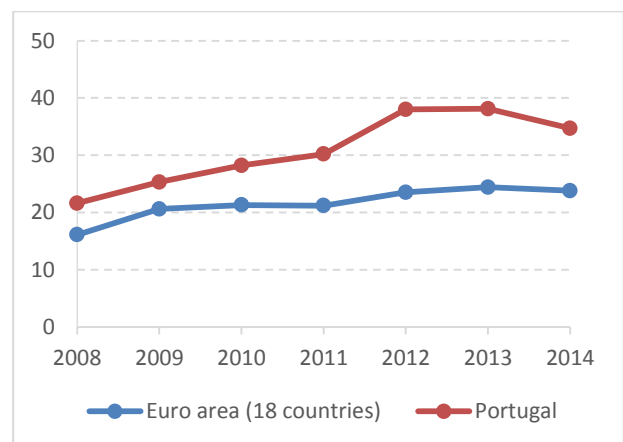
Source: [Eurostat](http://Eurostat), extracted on 28 Nov 2015.

**Graph 4.6. Unemployment rate, Portugal and Euro area (%)**



Source: [Eurostat](http://Eurostat), extracted on 28 Nov 2015.

**Graph 4.7. Unemployment rate, less than 25 years old, Portugal and Euro area (%)**

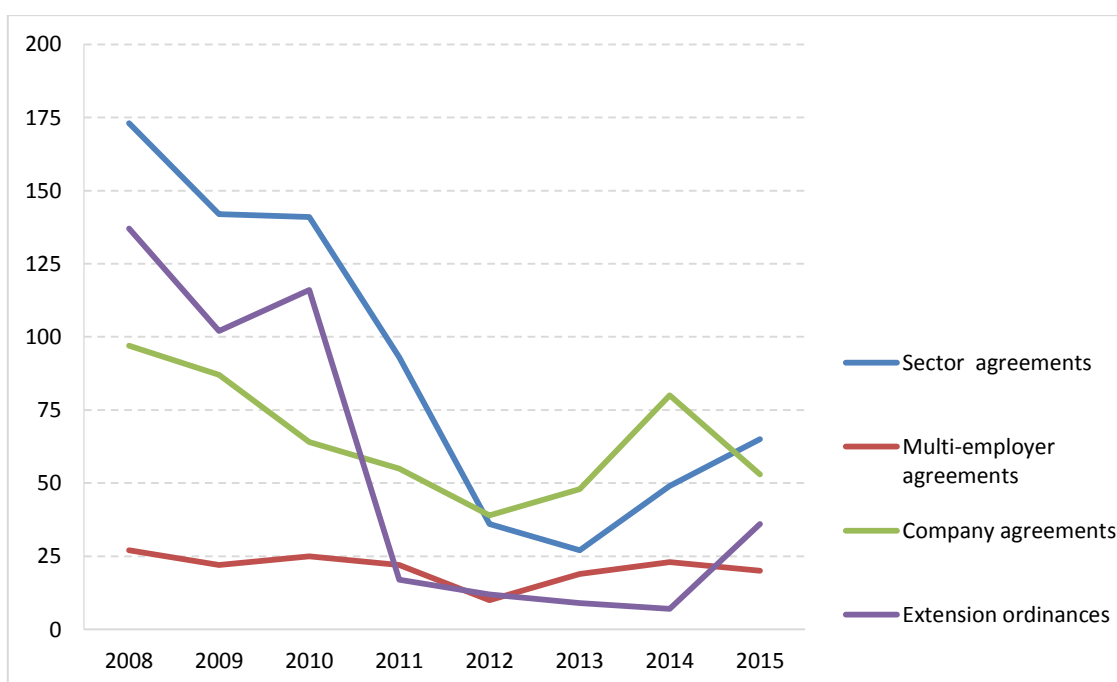


Source: [Eurostat](http://Eurostat), extracted on 28 Nov 2015.

## 4.2. Impact on collective bargaining in the private sector

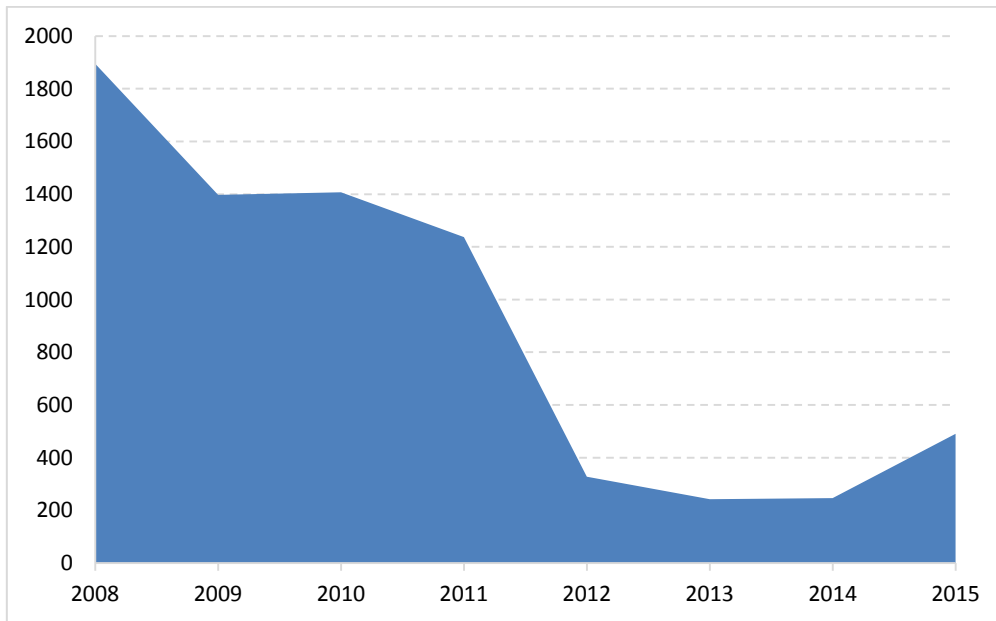
Since the beginning of the economic crisis, collective bargaining has been under extreme pressure, but it was in the context of Troika intervention and of the blockade extension ordinances that the most dramatic developments took place which resulted in the sharp decline of the number of renewed and new collective agreements (collective agreements flow) and in the dramatic decline of workers coverage (Graphs 4.8 and 4.9). While in 2008 almost 1.9 million workers were covered by collective agreements flow, this coverage dropped to an average of 272 thousand workers between 2012 and 2014. The blockade of extension ordinances impacted in the extreme reduction of the number of sector agreements signed these years, once the employer associations concerned with unfair competition were reticent to conclude agreements that they knew in advance would have a limited scope. The slight recovery in 2015, although very limited, in the number of sector agreements signed and in workers coverage, resulted probably from the impact of the increase of mandatory minimum wage and of the less stringent criterion to extend agreements, measures which were introduced in the last quarter 2014, that is, post-troika. Nevertheless, in 2015, the number of sectors agreements signed was still only 37% of the number signed in 2008, and the workers covered was still only 26% of those covered in 2008. As for company agreements, the trends regarding their flow in this period show that the foreseen decentralization was a failure, as the number of company agreements declined as well, although at a slower pace than sector agreements.

**Graph 4.8. Collective agreements flow by type and extension ordinances, Portugal (N)**



Source: Office for Strategy and Studies, Ministry of Economics ([Gabinete de Estratégia e Estudos, Ministério da Economia](#)).

**Graph 4.9. Workers covered by collective agreements flow, Portugal (thousands)**



Source: Office for Strategy and Studies, Ministry of Economics ([Gabinete de Estratégia e Estudos, Ministério da Economia](#)).

The data presented refers only to the new agreements or renewal of collective agreements (flow) which took place between 2008 and 2015 and their coverage, and it does not include the collective agreements which were not revised or updated in this period but remained in force. The estimation of the overall coverage of collective agreements having in mind stock and flow has been under discussion. Leal and Martins (2015) suggest a new formula to evaluate the overall coverage including stock and flow, which considers the average life-time of agreements, wage update, and the number of workers covered. According to their calculation in 2009, the total number of workers covered was around 2.57 million and decreased to an average of 433,000 workers in 2013, a cumulative decline of 83% in four years. Moreover, the ongoing discussion in line with updating the ICTWSS Database (version 5) presented Portugal as an example of the issues with calculating coverage rates. According to this database, the adjusted collective bargaining rate<sup>6</sup> dropped from 84.9% in 2007 to 67.0% in 2014.

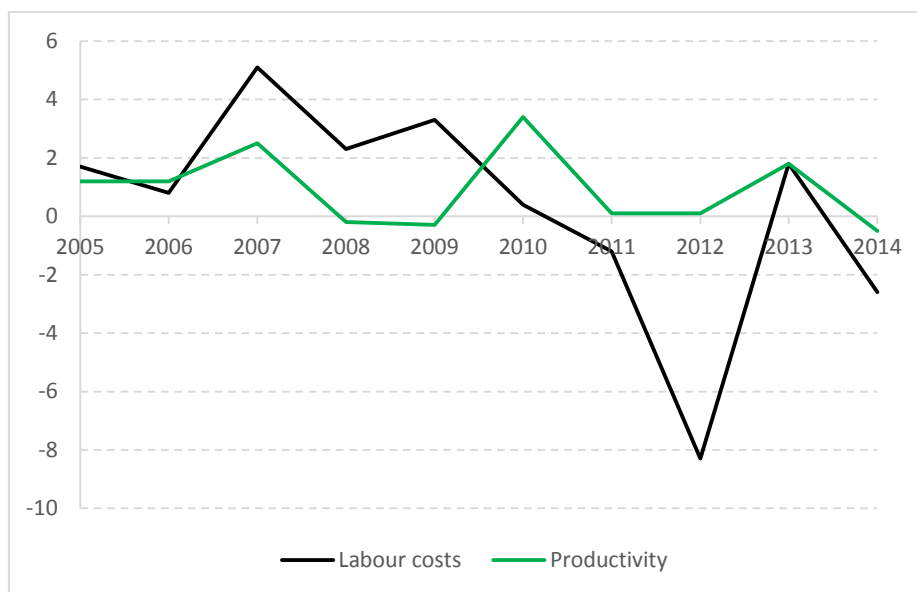
### 4.3. Impact on wage and income trends in the private and public sector

Associated with several of the aforementioned trends, there has been a significant reduction in labour costs over this period. Since 2011, except in 2013, labour costs recorded negative growth rates while productivity remained positive.

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<sup>6</sup> AdjCov: Adjusted bargaining (or union) coverage rate:  $(0-100) = \text{employees covered by collective (wage) bargaining agreements as a proportion of all wage and salary earners in employment with the right to bargaining, expressed as percentage, adjusted for the possibility that some sectors or occupations are excluded from the right to bargain} = \text{WCB} * 100 / (\text{WSEE} - \text{WStat})$ .

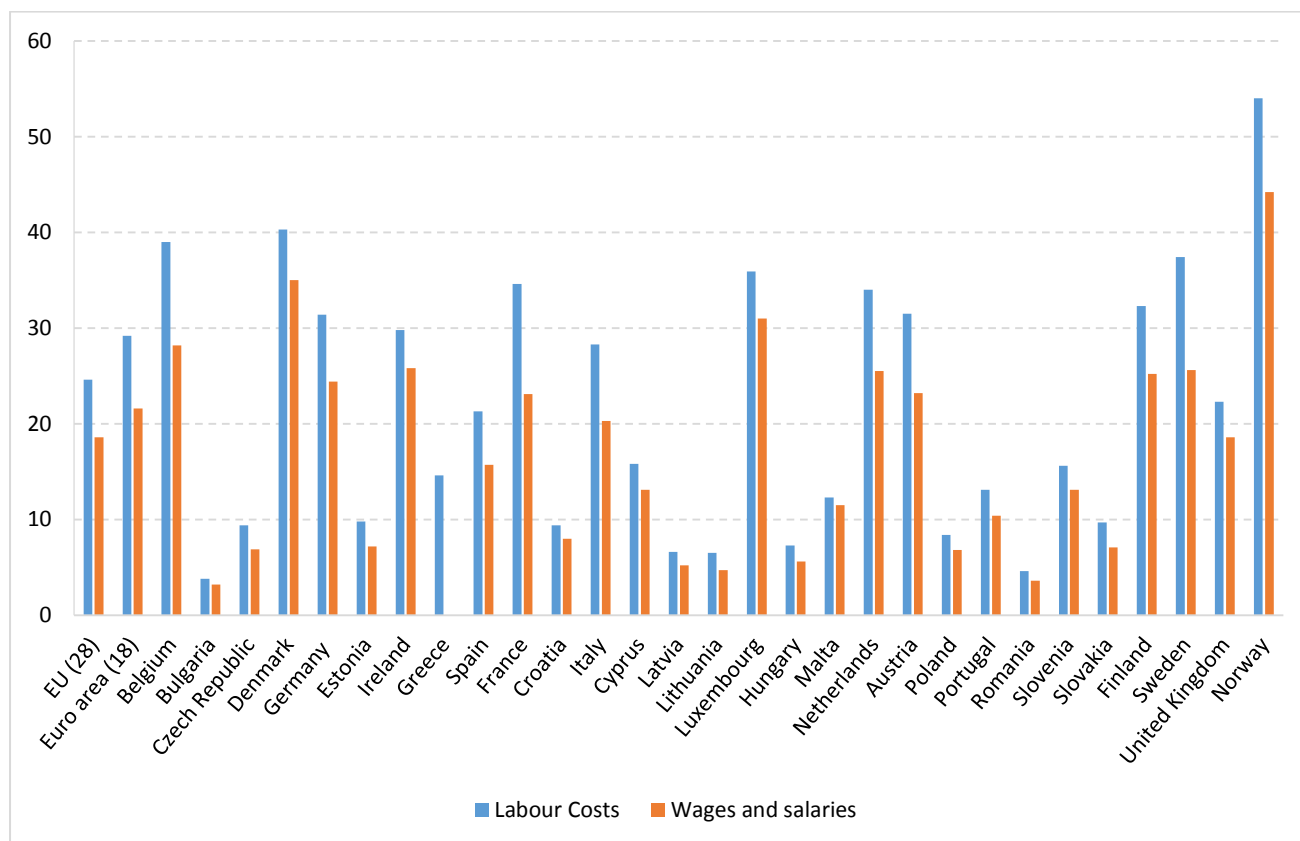
**Graph 4.10. Variation of labour costs and productivity, Portugal (% change over previous period)**



Source: [Eurostat](#), extracted on 11 Dec 2015.

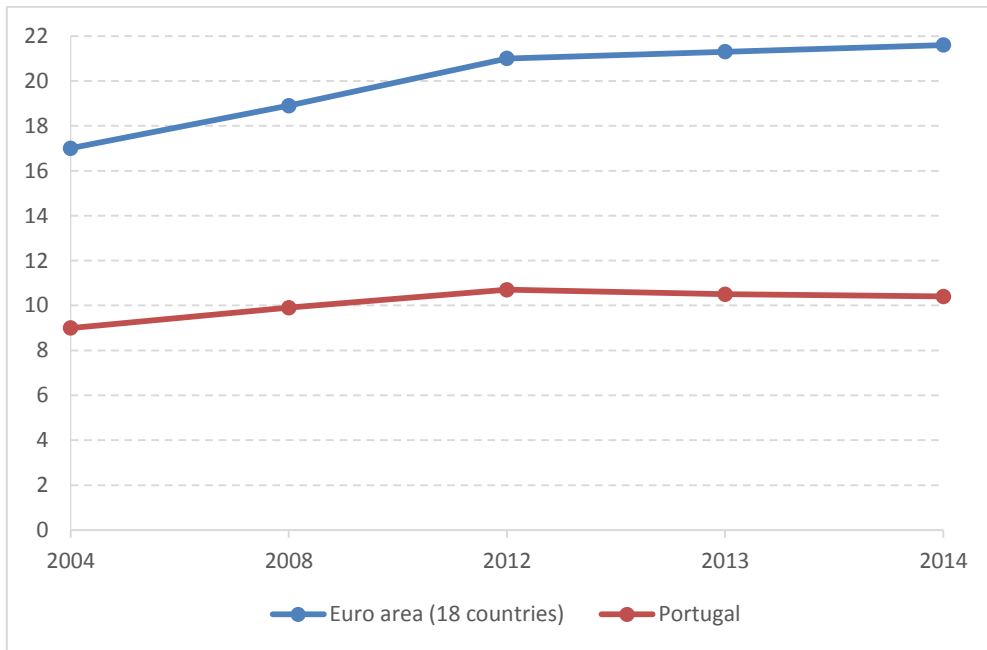
In 2014, Portugal was among the countries in EU with the lowest hourly labour costs, in particular regarding wages and salaries, with an average hourly wage of 10.4 Euros, less than the half of Eurozone average of 21.6 Euros. The divergence between Eurozone average and Portugal in terms of the hourly wage increased even more since 2012.

**Graph 4.11. Estimated hourly labour costs and wages, EU countries and Norway, 2014 (euros)**



Source: [Eurostat](#), extracted on 10 Dec 2015.

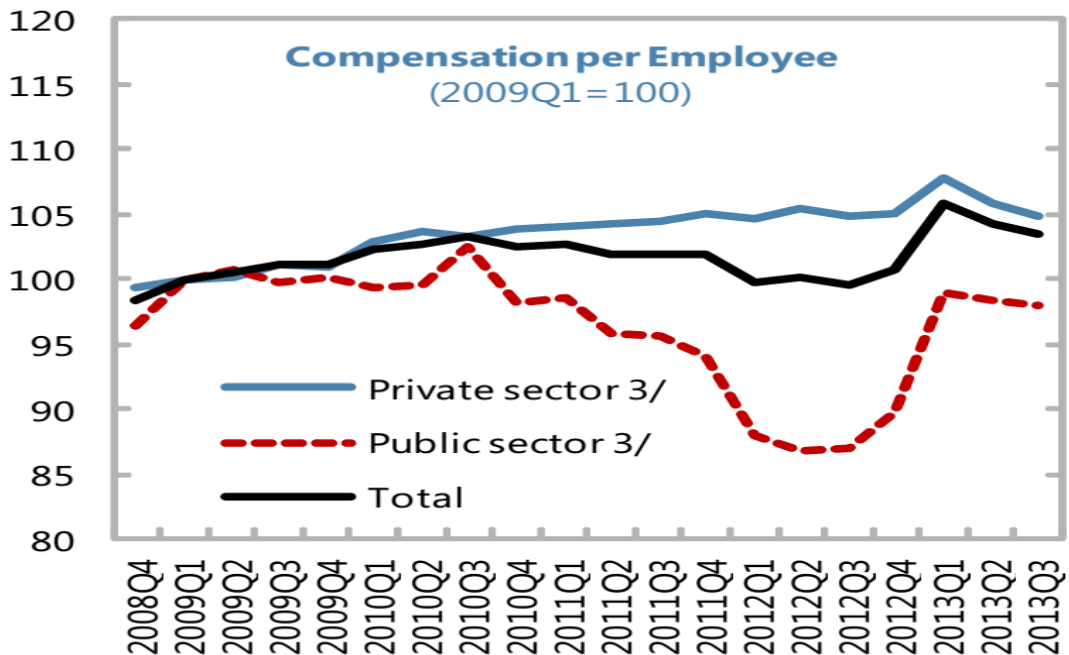
**Graph 4.12. Estimated hourly wages and salaries, Portugal and Euro area (euros)**



Source: [Eurostat](#), extracted on 9 Dec 2015.

Wages declined both in the private and in the public sector, but more dramatically in the public sector, as a result of cuts in nominal wages (from 2011 to 2014), and in Christmas and Holiday bonuses (2011 and 2012), and of wage and career freeze (from 2011 to 2014).

**Graph 4.13. Compensation per employee (1<sup>st</sup> quarter of 2009 = 100)**



Source: International Monetary Fund (2014), p. 31.

In addition, in the public sector, employees' income was also reduced by other measures. All in all, it has been estimated that their overall income loss (before taxes) amounted to around 5865 million Euros (Rosa, 2014):

**Table 4.1. Income reduction – Public sector employees (2011-2014)**

Dimensions	Period	Employees income loss (million euros)
Wage Freeze (2011-2014)	2011-2014	1360
Career Freeze (2011-2014)	2011-2014	80 - 160
Cut in nominal wages (2011-2014)	2011-2014	2692
Cut in Christmas and holiday bonuses	2011-2012	
Non paid work (Increase of weekly working time from 35 to 40 hours without compensation)	2014	743
Reduction of overtime payment (2012-2014)	2012-2014	790
Increase of employees contributions for the ADSE (Health subsystem public sector) (2014)	2014	200
<b>Total</b>		<b>5865 - 5945</b>

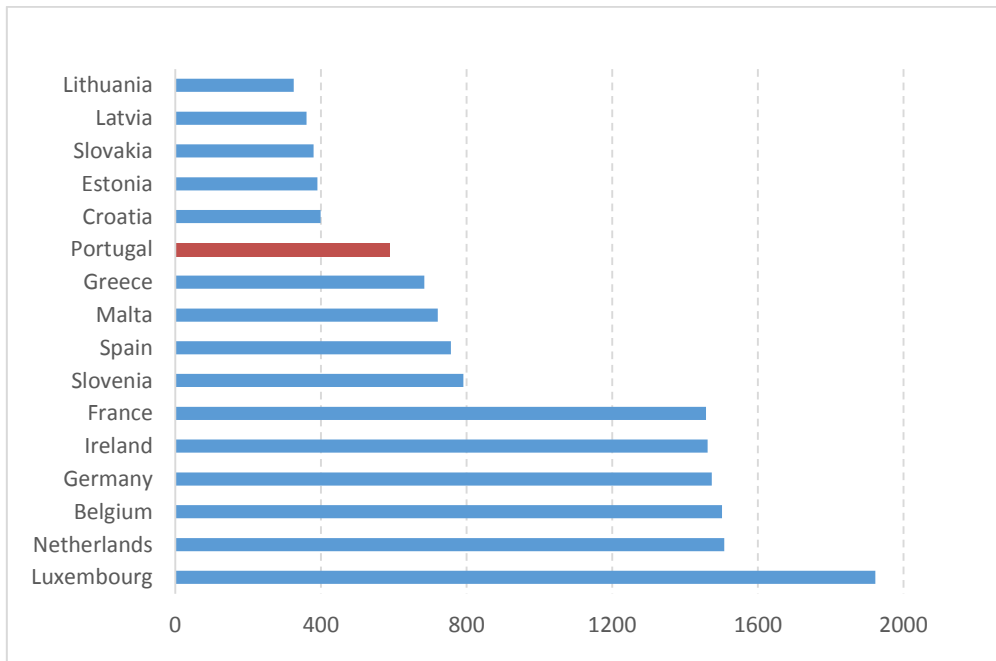
Source: Adapted from Rosa (2014),

<https://www.eugeniorosa.com/Sites/eugeniorosa.com/Documentos/2014/29-2014-rendimentos.pdf>

There is not a comparable evaluation for the private sector. However, another study (Leite et al, 2014) estimated the impact of the Labour Code measures introduced in 2012 on workers income concluding that, after one year, a worker receiving the average wage in Portugal of 962,4 euros would have lost between 351.4 and 466 euros as a result of the overtime payment reduction, the end of four public holidays and the elimination of three days of vacation.

In addition to the erosion of sector bargaining, the freeze of minimum wage during three consecutive years (2012, 2013 and 2014) contributed also for wage stagnation and decline. According to a recent study (Barómetro das Crises nº 14, 2015) the increase of the minimum wage from 485 to 505 euros in 2015 covered around 23% of workers (30.3% in the case of women and 17.3% of men); 48% of workers under 25 years of age; 38% of workers with less than one year of seniority; 35% of workers with fixed-term contracts but also 1/5 of workers with permanent contracts; and 77% of workers with low level of education (up to basic education). In 2015, considering already the increase of the minimum wage, Portugal remained among the countries with extreme low levels of minimum wage.

**Graph 4.14. Monthly minimum wage, Euro area countries, 2015**

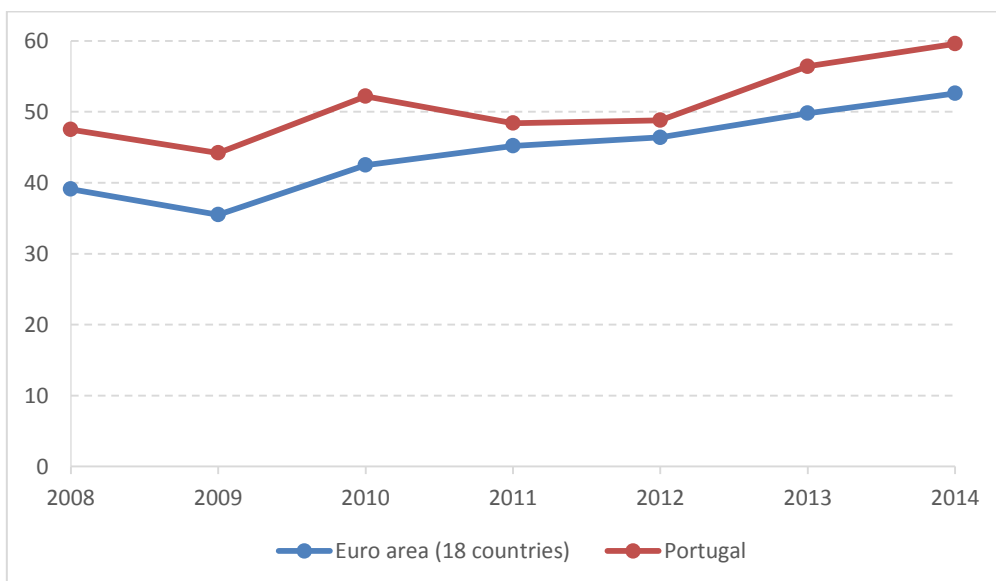


Source: [Eurostat](#), extracted on 30 Nov 2015.

#### 4.4. Unemployment and beyond

In addition to the escalation of unemployment rates to unsustainable levels, long duration unemployment rose as well at unprecedented levels reaching 59,6% of the unemployed population in 2014. This trend regarding long duration unemployment requires caution when considering the slight decrease of unemployment rate in 2014.

**Graph 4.15. Long-term unemployment, Portugal and Euro area (as % of total unemployment)**

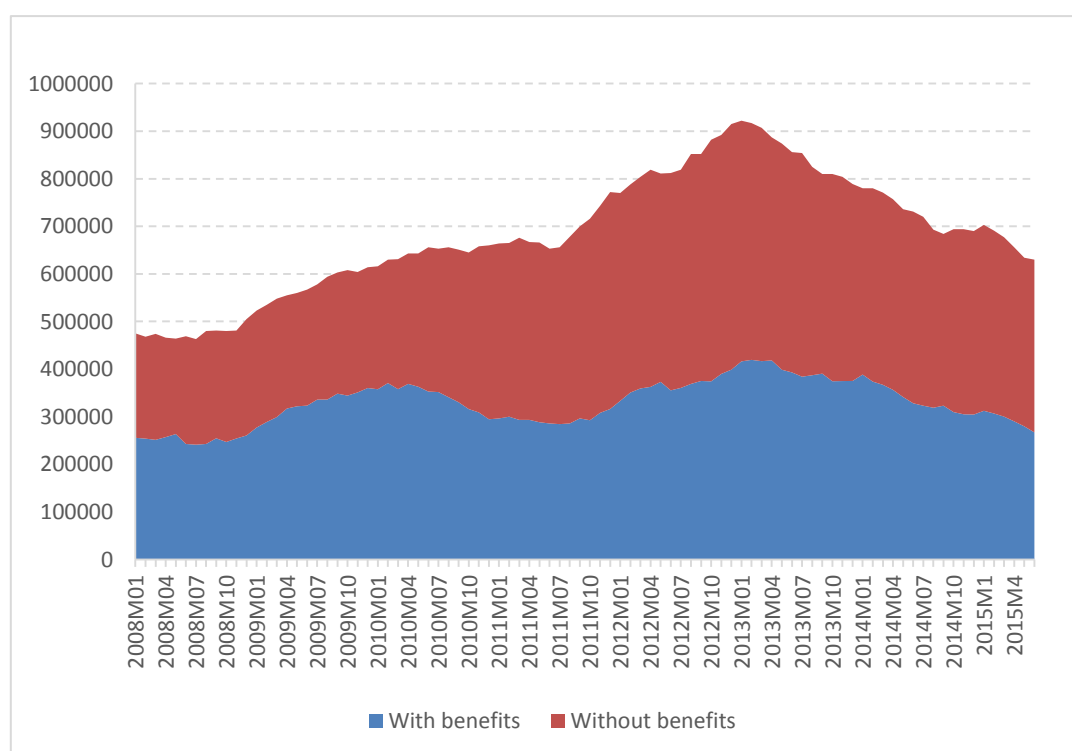


Source: [Eurostat](#), extracted on 30 Nov 2015.



While unemployment increased, the proportion of unemployed receiving any kind of benefits (unemployment benefits or social benefits) decreased. Although the legislative changes reduced the necessary contributory period to access unemployment benefits from 450 days to 360 days, the reduction of their duration (see Section Two), combined with the increase of long-term unemployment, aggravated in practice the exclusion from unemployment benefit and social benefit of a large number of people unemployed. More recently the situation became even more critical. The monthly evolution from January 2014 to June 2015 shows that the coverage of unemployment benefits and social benefits decreased by 19,3%, comprising only 42,4% of people unemployed by June 2015. Taking into consideration real unemployment – that is, including not only the officially unemployed but also the unemployed available to work but not seeking work - the coverage in that period dropped by 31,3%, and in June 2015 only 30,6% of the unemployed were covered by benefits (Rosa, 2015b).

**Graph 4.16. Unemployed people with and without unemployment benefits or social benefits, Portugal (N)**

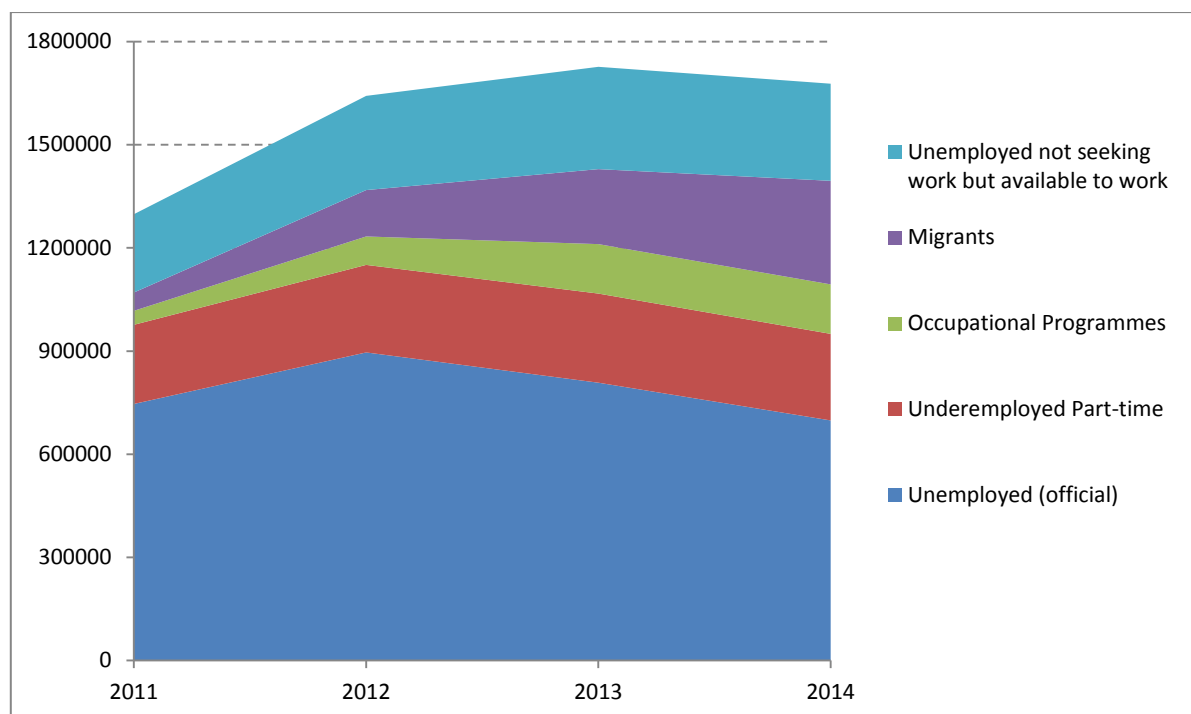


Source: [Eurostat](#), extracted on 30 Nov 2015; Social Security Database, monthly data.

The slight decline in the unemployment rate in 2014 down to 14.1% does not allow optimism as it does not reflect in its full extent the labour market problematic situation in the country, including the wave of emigration. Moreover, it is important to bear in mind the increasing number of people in occupational programmes not officially counted as unemployed; discouraged unemployment i.e., unemployed available but not seeking work; and the persistence of underemployment i.e., persons who work part-time because they

could not find a full time job. According to Labour Force Survey, the percentage of part-time workers in this situation (in reference to total part-time) has increased from 37.7% in 2009 to 49.3% in 2014.

**Graph 4.17. Beyond official unemployment, Portugal (N)**



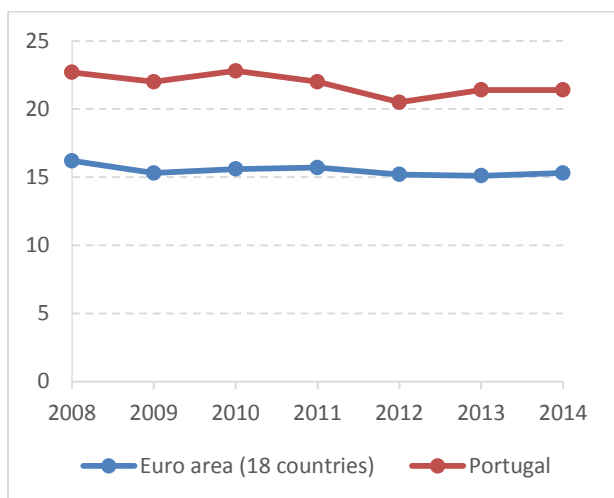
Source: Adapted from Observatório sobre as Crises e as Alternativas (2014a), p. 5.

## 4.5. Impact on the segmentation of labour market

### 4.5.1. The segmentation of the labour market

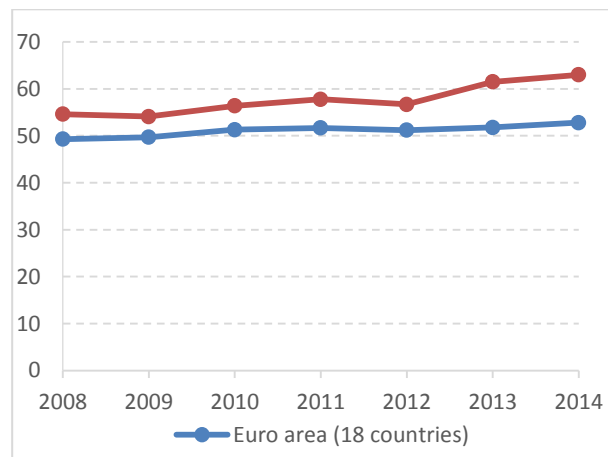
The contribution of policy measures to tackle labour market segmentation, as measured by the proportion of temporary workers, was not relevant, considering that labour legislation with an impact on employment protection entered into force in August 2012. Although there was a slight decrease of the proportion of temporary workers in the first years of the crisis (because they were easier to fire), their proportion increased again since 2012 due to collective redundancies affecting permanent workers and new hires based on temporary contracts, in particular in the case of young people.

**Graph 4.18. Temporary employees, Portugal and Euro area (as % of total employees)**



Source: [Eurostat](#), extracted on 28 Nov 2015.

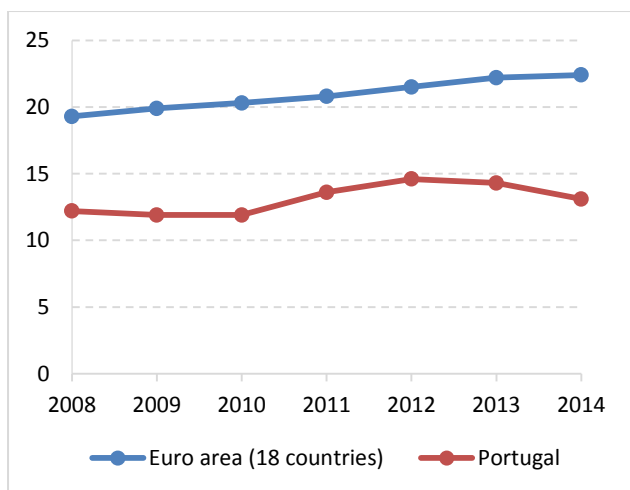
**Graph 4.19. Temporary employees aged 15-24, Portugal and Euro area (as % of total employees aged 15-24)**



Source: [Eurostat](#), extracted on 28 Nov 2015.

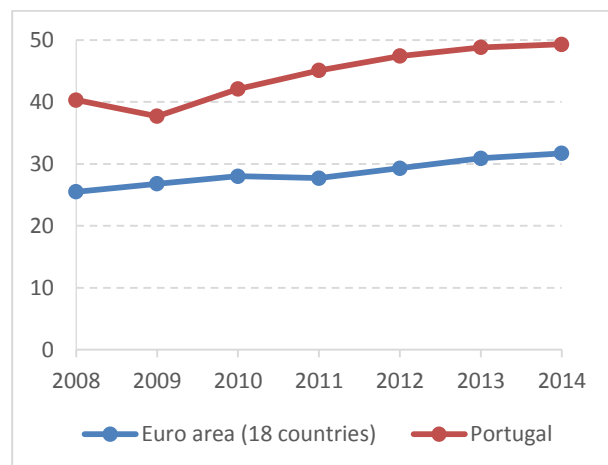
Also, taking the proportion of part-time workers as an indicator of segmentation, minor changes were observed, although Portugal scores low levels compared with the Euro Area average. However, the picture is quite the opposite regarding involuntary part-time employment. Not only Portugal presents much higher levels than the average Euro area, but also they escalated since 2009, reaching 50% of part-time workers in 2014.

**Graph 4.20. Part-time workers, Portugal and Euro area (as % of total employment)**



Source: [Eurostat](#), extracted on 28 Nov 2015.

**Graph 4.21. Involuntary part-time employment, Portugal and Euro area (as % of total part-time employment)**

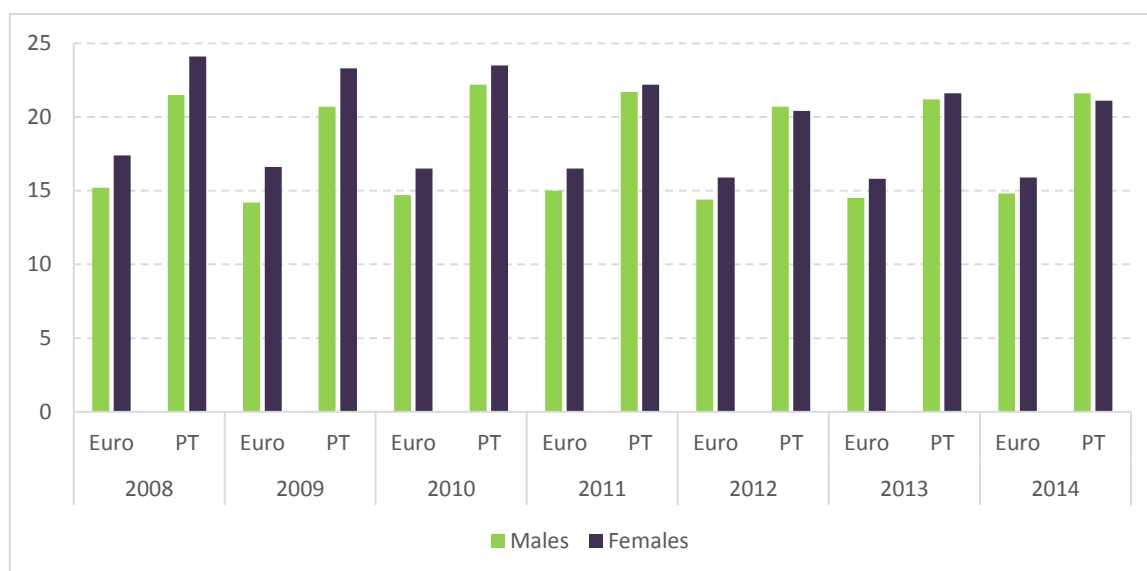


Source: [Eurostat](#), extracted on 28 Nov 2015.

In Portugal, the differences between men and women regarding temporary work have been reduced, presenting very similar percentages since 2011 and, for the first time, in 2012 and 2014 the proportion of men in temporary work reached higher levels than women, a phenomenon not observed if one considers the average in the Euro area. Moreover, there is a striking contrast between Portugal and the Euro area regarding part-time work and gender differences, which are much more striking in the Euro area. In 2008, in Portugal

the percentage of women in part time work (14.1%) was around three times the percentage of men (4.1%), while in the Euro area women percentage in part-time work (33,8%) was around five times the percentage of men (6.8%). In Portugal, the limited variation of women percentage between 2008 and 2014, and the steady increase of the percentage of men over this period, reduced even more the differences: in 2014, women in part-time represented 12.6 % and men represented 7.6%.

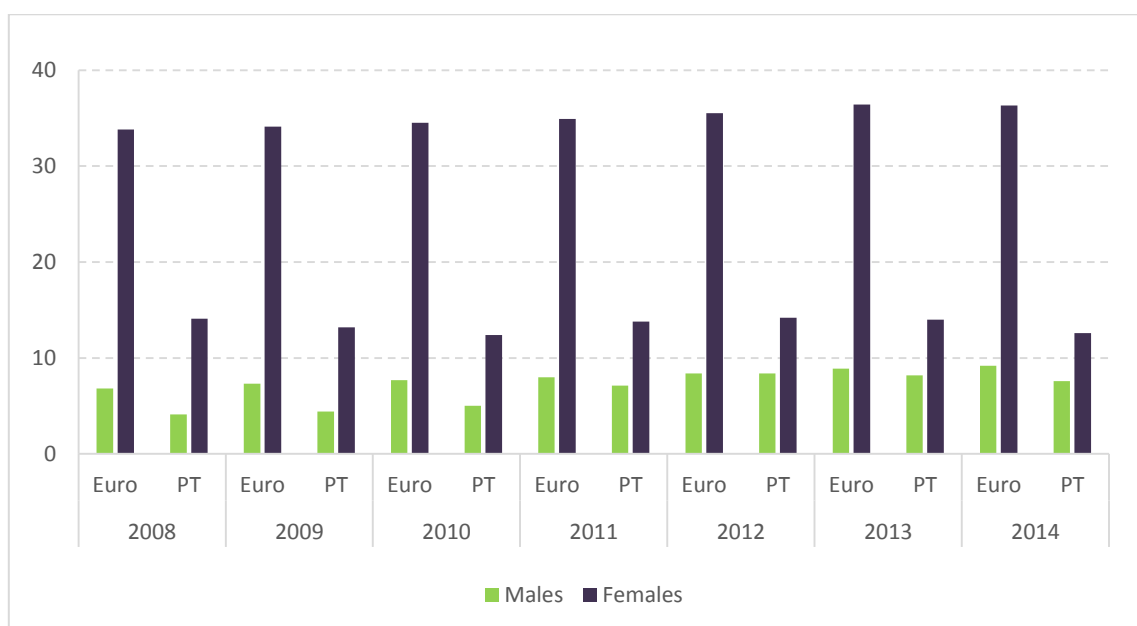
**Graph 4.22. Temporary employees by sex, Portugal and Euro area (as % of total employees)**



Note: Euro = Euro area (18 countries), PT = Portugal.

Source: [Eurostat](#), extracted on 7 Jan 2015.

**Graph 4.23. Part-time employment by sex, Portugal and Euro area (as % of total employment)**



Note: Euro = Euro area (18 countries), PT = Portugal.

Source: [Eurostat](#), extracted on 7 Jan 2015.

#### *4.5.2. The reduction of employment protection regarding individual and collective dismissals and temporary work*

The main arguments to reduce the strictness of employment protection have been to increase labour market flexibility and mobility and more recently to combat labour market segmentation. These were among the goals required by MoU. The facilitation of dismissals (individual and collective) was ‘justified’ on that basis arguing that the reduction of the strictness of employment protection in this domain was the way to tackle labour market segmentation. Nevertheless, legislative measures launched in the period of Troika intervention contributed also for the reduction of employment protection of temporary workers. Compared with previous years, the changes on employment protection measured by OECD EPL Index represented, since 2010 and in particular in 2012 and 2013, a strong reduction of employment protection in Portugal in almost all items covered by this index (Table 4.2, next page) and in all sub-indicators (Table 4.3) including regulations on individual and collective dismissals and regulations on the use of fixed-term and temporary work agency contracts. Therefore, both permanent and temporary workers saw their employment protection reduced in a time of high unemployment. Moreover this process was combined with the reduction of unemployment benefits amount and duration.

#### **4.6. Impact on inequality and poverty**

As a result of the wage and income trends described above, the available indicators on inequality and poverty raise additional concern. Changes pertaining to the distribution of created wealth are apparent: according to the EU Statistics on Income and Living Conditions, the labour income share decreased from 57,6% in 2009 to 55% in 2013. As shown in the graph below, wages have consistently decreased while the gross operating surplus has increased during this period. Income inequality as measured through the Gini coefficient also went through a slight increase, from 33,7% in 2009 to 34,5% in 2013, still lower than it was in 2005 (37,7%). The most significant increase occurred in the income differential between the lowest and highest deciles, from 9,2 in 2009 to 11,1 in 2013 (calculated in income decile share ratio). The percentage of people at risk of poverty or social exclusion increased from 24,9 in 2009 to 27,5 in 2013, with no change in 2014 regardless of the announced signs of economic recovery mentioned above.

Concerning both inequality and poverty, we can observe that the positive albeit moderate trends observed between 2005 and 2009-2011 changed into a negative evolution from then onwards, a strong suggestion that the policy measures have not encompassed fair distributional effects; indeed, the opposite seems to have been the case. Furthermore, these measures were officially presented as a ‘necessary’ response to the economic crisis; while they attained one of the goals in the austerity and flexibility agendas (reducing wages and labour costs), they were unable to attain the goals presented as a justification for that same reduction, namely the increase of GDP, job creation or the safeguard of social cohesion.

**Table 4.2. Portugal: Strictness of Employment Protection – Detailed Changes (1985-2013)**

YEAR	REG 1	REG 2	REG 3A	REG 3B	REG 3C	REG 4A	REG 4B	REG 4C	REG 5	REG 6	REG 7	REG 8	REG 9	FTC 1	FTC 2	FTC 3	TWA 1	TWA 2	TWA 3	TWA 4	TWA 5	CD1	CD2	CD3	CD4
1985	6	3	6	4	1	6	6	6	6	6	4	6		2	3	2	4,5	4	5						
1990	5	3	6	4	1	6	6	6	6	6	4	6		2	3	2	4,5	4	5						
1992	4	3	6	4	1	6	6	6	5	6	4	6		2	3	2	4,5	4	5						
1997	4	3	6	4	1	6	6	6	5	6	4	6		2	3	2	2,25	4	5						
1999	4	3	6	4	1	6	6	6	5	6	4	6		2	2	3	2,25	4	5			6	1,5	4	0
2004	4	3	6	4	1	6	6	6	5	4	4	6		2	2	1	2,25	4	5			6	1,5	4	0
2008	4	3	6	4	1	6	6	6	5	4	4	6	1	2	2	1	2,25	2	2	4	4,5	6	1,5	0	0
2009	4	3	6	4	1	6	6	6	5	4	4	6	1	2	2	1	2,25	2	2	4	4,5	6	1,5	0	0
2010	4	3	2	2	1	6	6	6	5	4	4	6	1	2	2	1	2,25	2	2	6	4,5	6	1,5	0	0
2011	4	3	2	2	1	6	6	6	5	4	4	6	1	2	2	1	2,25	2	2	6	4,5	6	1,5	0	0
2012	4	3	2	2	1	1	4	4	5	4	4	6	1	2	2	1	2,25	2	2	6	4,5	6	1,5	0	0
2013	4	3	2	2	1	1	4	4	2,5	4	3	5	1	2	1	1	2,25	2	2	6	4,5	6	1,5	0	0

Source: Authors' selection based on OECD/IDB Employment Protection Database: [Time series data on the OECD Indicators of employment protection](#) (4 Dec 2015)

	Reduction of employment protection on this item
	Increase of employment protection on this item

Code	Name	Code	Name
REG1	Notification procedures	FTC1	Valid cases for use of fixed-term contracts
REG2	Delay involved before notice can start	FTC2	Maximum number of successive fixed-term contracts
REG3A	Length of the notice period at 9 months tenure	FTC3	Maximum cumulated duration of successive fixed-term contracts
REG3B	Length of the notice period at 4 years tenure	TWA1	Types of work for which temporary work agency (TWA) employment is legal
REG3C	Length of the notice period at 20 years tenure	TWA2	Restrictions on the number of renewals of TWA assignments
REG4A	Severance pay at 9 months tenure	TWA3	Maximum cumulated duration of TWA assignments
REG4B	Severance pay at 4 years tenure	TWA4	TWA: authorisation or reporting obligations
REG4C	Severance pay at 20 years tenure	TWA5	Equal treatment of regular and agency workers at the user firm
REG5	Definition of justified or unfair dismissal	CD1	Definition of collective dismissal
REG6	Length of trial period	CD2	Additional notification requirements in case of collective dismissals
REG7	Compensation following unfair dismissal	CD3	Additional delays involved in case of collective dismissals
REG8	Possibility of reinstatement following unfair dismissal	CD4	Other special costs to employers in case of collective dismissals
REG9	Maximum time to make a claim of unfair dismissal		

**Table 4.3. Portugal: Strictness of Employment Protection – Summary Indicators (1985-2013)**

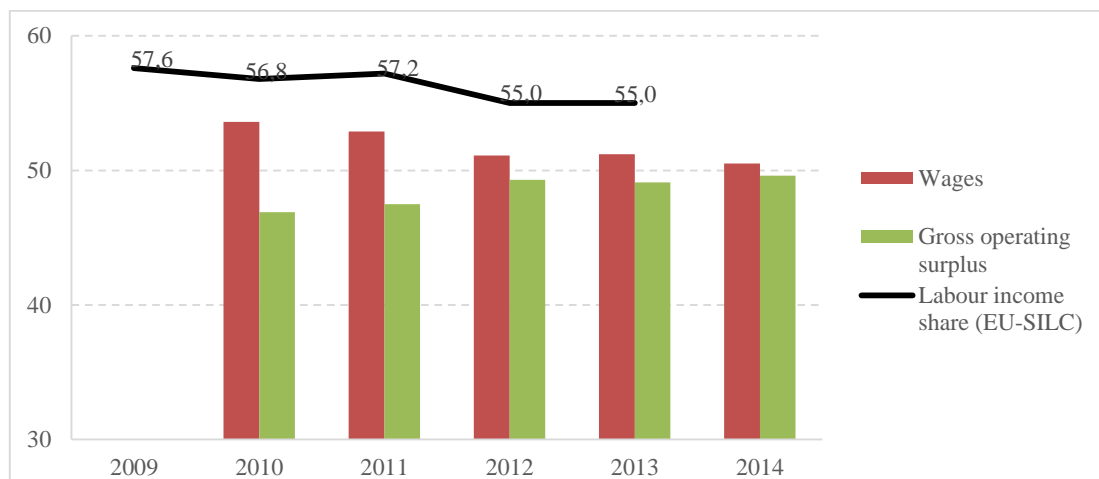
YEAR	Individual and collective dismissals (regular contracts)			Individual dismissals (regular contracts)		Collective dismissals (additional provisions)	Temporary employment – regulations on fixed-term and temporary work agency contracts	
	EPRC_V1	EPRC_V2	EPRC_V3	EPR_V1	EPR_V3	EPC	EPT_V1	EPT_V3
1985	5,00			5,00			3,38	
1990	4,83			4,83			3,38	
1992	4,58			4,58			3,38	
1997	4,58			4,58			2,81	
1998	4,58	4,10		4,58		2,88	2,81	
2004	4,42	3,98		4,42		2,88	2,56	
2008	4,42	3,69	3,51	4,42	4,17	1,88	1,94	2,29
2010	4,13	3,49	3,31	4,13	3,88	1,88	1,94	2,46
2012	3,56	3,08	2,90	3,56	3,31	1,88	1,94	2,46
2013	3,18	2,81	2,69	3,18	3,01	1,88	1,81	2,33

Source: Authors' selection based on OECD Summary Indicators on Employment Protection (4 Dec 2015).

Strictness of employment protection – individual and collective dismissals (regular contracts)	
EPRC_V1	Version 1 of this indicator incorporates 8 data items concerning regulations for individual dismissals.
EPRC_V2 and EPRC_V3	Versions 2 and 3 of this indicator refer to the weighted sum of sub-indicators concerning the regulations for individual dismissals (weight of 5/7) and additional provisions for collective dismissals (2/7). EPRC_V2 incorporates 12 detailed data items and EPRC_V3 incorporates 13 detailed data items.-
Strictness of employment protection – individual dismissals (regular contracts)	
EPR_V1 and EPR_V3	Versions 1 and 3 of this indicator measure the strictness of regulation of individual dismissal of employees on regular/indefinite contracts. EPR_V1 incorporates 8 data items and EPR_V3 incorporates 9 data items
Strictness of employment protection – collective dismissals (additional provisions)	
EPC	This indicator measures additional costs and procedures involved in dismissing more than one worker at a time (compared with the cost of individual dismissal). It incorporates 4 data items. It should not be used in isolation from the indicator of strictness of employment protection – individual dismissals (regular contracts).
Strictness of employment protection – temporary employment	
EPT_V1 and EPT_V3	Version 1 and 3 of the indicator for temporary employment measures the strictness of regulation on the use of fixed-term and temporary work agency contracts. EPT_V1 incorporates 6 data items and EPT_V3 incorporates 8 data items.

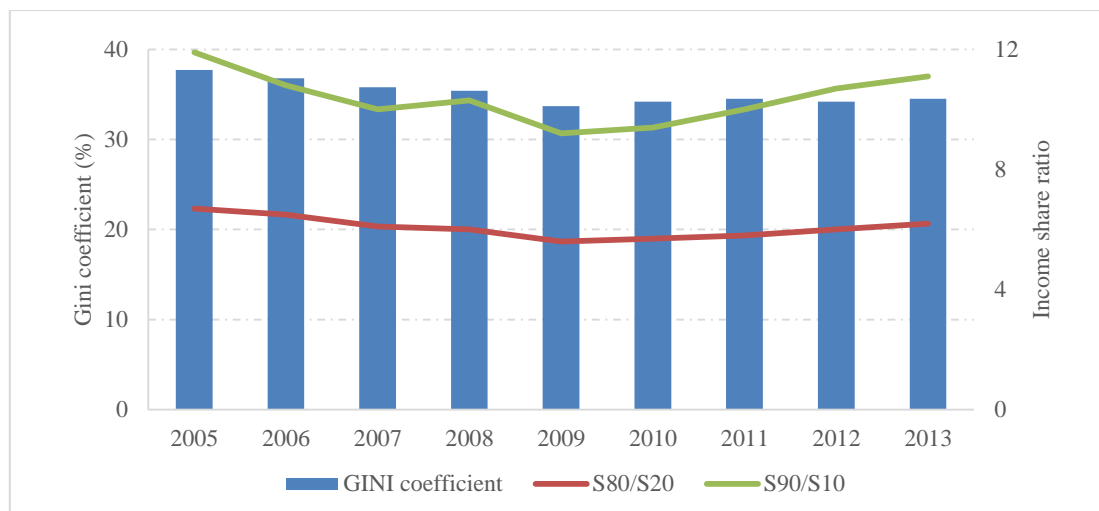
<http://www.oecd.org/employment/emp/oecdindicatorsofemploymentprotection.htm>

**Graph 4.24. Distribution of created wealth, Portugal (as % of gross value added)**



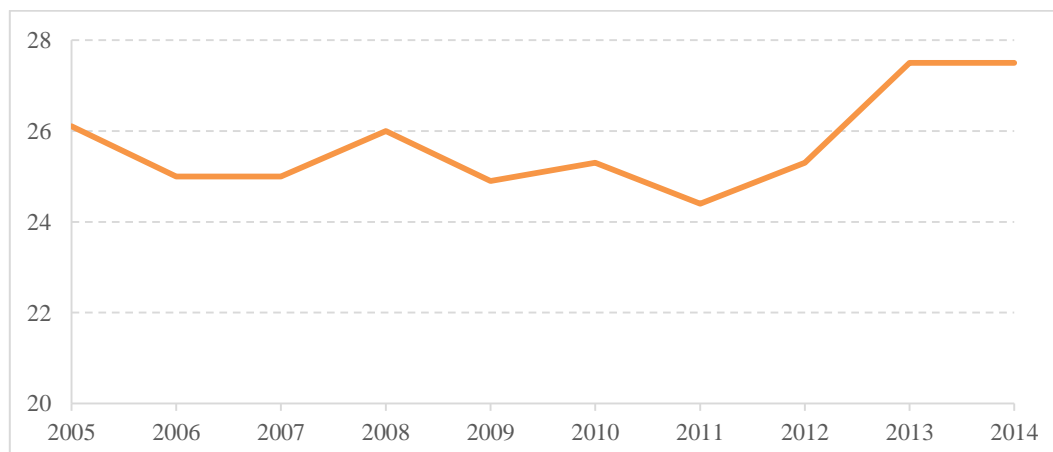
Source: International Labour Organization, based on European Union Statistics on Income and Living Conditions; Statistics Portugal ([Instituto Nacional de Estatística](http://www.instituto-nacional-de-estatistica.pt)), extracted on 16 Nov 2015.

**Graph 4.25. Income inequality, Portugal (gini coefficient and income share ratio)**



Source: Statistics Portugal ([Instituto Nacional de Estatística](http://www.instituto-nacional-de-estatistica.pt)), extracted on 16 Nov 2015.

**Graph 4.26. People at risk of poverty or social exclusion (%)**



Source: Statistics Portugal ([Instituto Nacional de Estatística](http://www.instituto-nacional-de-estatistica.pt)), extracted on 16 Nov 2015.



## 5. Conclusions

Labour market and social policies in Portugal, as well as the conditions for social dialogue, changed very significantly in 2011 under the pressure of various concomitant processes: the shift from the ‘economic stage’ to the ‘fiscal stage’ of the European response to the crisis (Caldas, 2012), the financial bailout under the terms of the MoU, and the change of government according to the results of the legislative elections held that same year. The requirements of the Economic Adjustment Programme and the agenda of the centre-right coalition in office from 2011 until 2015 were to a large extent aligned with one another, and the publicly disseminated scenario of emergency and imminent bankruptcy of the state provided favourable conditions for the government to impose the reduction of labour costs both in the public and the private sectors and to impose reforms of labour law and social policies which represented an unprecedented social regression. In short, the new European Interventionism (Callan et al., 2011; Schulten and Müller, 2013) and the ‘politics of exception’ (Clauwaert and Schomann 2012) were welcomed and pushed further by the centre-right government.

None of the proclaimed goals of labour market reforms highlighted in the MoU were achieved. Labour market segmentation, which the facilitation of dismissals was supposed to tackle, remained extremely high; the reduction of the amount and duration of unemployment benefits did not translate into a reduction of long term unemployment, which instead reached unprecedented levels; the changes in the collective bargaining legal framework did not promote organized decentralization but a dramatic erosion of sector bargaining and collective agreements coverage. In practice, these reforms favoured the institutional conditions for internal devaluation through wage depreciation and deregulation of social legislation (Degryse, 2012; Pochet and Degryse, 2013) while eroding the institutional foundations of inclusiveness: reducing employment protection; reducing unemployment benefits protection; undermining sector collective bargaining and collective agreements coverage; and limiting the effectiveness of minimum wage provisions. The changes in these four domains represented a reconfiguration of the Portuguese employment regime towards the liberal employment regime (Gallie, 2013; Campos Lima, 2015).

Our first-hand interviews with high-level officials from national social partners corroborate the significant change in the conditions for social dialogue. The trade union confederations describe the transition in 2011 as representing a severe break with the efforts and advancements of social dialogue in the years before (UGT) and an intensification of the neoliberal offensive (both UGT and CGTP-IN). Employer confederations signal the same transition as the moment when it was finally possible to advance in an efficient manner with the necessary reforms, notwithstanding some difficulties or contradictions along the way.

The considerable mismatch between the viewpoints of union and employer confederations with regard to their involvement in designing the reforms reflects the different treatment given by the government to their claims. In the period of 2008-2015, and especially since 2011, employer confederations are inclined to conclude that their position and influence in decision-making has been preserved or even strengthened (except for some policy areas strictly predetermined in the MoU), while union confederations have seen their position and claims threatened and weakened. This is one of the key reasons to understand the action of the two trade union confederations, which retained their ideological and strategic differences while also joining for three general strikes – in a total of five general strikes in four years (2010-2013), as many as during the 35 years before (1974-2009). Still, employer confederations emphasise that many of their claims and proposals aiming at economic growth and job creation were discarded or forgotten by the other actors in social concertation. Like trade unions, they were not ascribed a key role by the Troika institutions or the national government when designing the official policy response to the economic crisis, even if their influence would clearly increase along the way.

The novel adverse circumstances in which social dialogue was expected to take place should not bring us to neglect the observation that the reforms adopted in 2008-2014, officially presented as a response to the crisis, have not been entirely conceived in this period. To a considerable extent, the measures then implemented were on the table, or at least on the employers' agenda, well before the first signs of economic recession appeared; economic recession was the source of pressure to introduce such reforms more than anything else. This certainly makes it less surprising that the same period in which social dialogue is described by trade union confederation officers as a 'farse' (CGTP-IN), a 'sham' or a 'mere ritual' (UGT), is described by their counterparts in the employers side as the period when much needed changes were finally undertaken (CIP, CAP, CCP). The tripartite agreement in January 2012 can be seen as an example, and one of the most impressive heights, of this tumultuous process.

What becomes clear, having in mind an objective assessment of the measures included in the tripartite agreement of 2012 and taking into consideration the social partners' views, is that the trade-off favoured undoubtedly the employers' and government's goals, or, to be more precise, represented a zero-sum game penalising labour. Trade union confederation officials signal that their influence in the tripartite agreement of 2012 was very limited (UGT) or inexistent (CGTP-IN), while employer confederation officials express the opposite view. Moreover, the UGT respondents claim that they were able to exert some influence only in the sense of preventing even worse measures from being adopted, rather than including any new positive measures. In this context, even the use of the expression 'trade-off' seems inappropriate. Surely the tripartite agreement of 2012 constitutes a case study challenging previous findings on the emergence and institutionalization of social pacts in Portugal (Campos Lima and Naumann, 2011; Dornelas, 2011). The question formulated by Dornelas (2011) – 'social pacts in Portugal: still uneven?' –

remains topical. In the last years, the agenda of labour market reform went so far that several of the measures adopted by the government, some of them legitimated by formal agreement in social concertation, were later deemed unconstitutional by the Constitutional Court. The developments of social dialogue in Portugal examined in this report have challenged not only basic principles of equality between the negotiating parties, but also rules established in the national Constitution regarding the power balance between workers and employers.

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