

Dialogue for Advancing Social Europe

DIADSE

Intermediate meeting – 24 June 2015

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January - June 2015

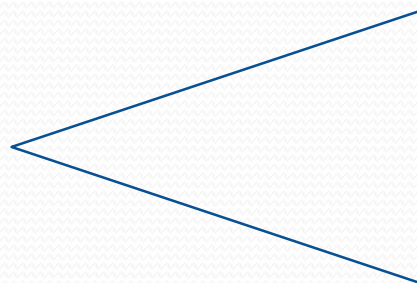
Literature review

Extensive list of relevant available statistical figures

Revision of reforms in 2008-2014

Fieldwork interviews

Country report, draft version
(sections 1, 2 and 3)



Union confederations

CGTP-IN (2)

UGT (2)

Employer confederations

CIP (3)

CAP (1)

CCP (written)

CTP (written)

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- Mapping labour market reforms and social partners involvement

Four phases – EU and Portugal agenda

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

The objectives identified by the MoU with Troika – Labour Market

- “Revise the unemployment insurance system to reduce the risk of long-term unemployment while strengthening social safety nets;
- Reform employment protection legislation to tackle labour market segmentation, foster job creation, and ease the transition of workers across occupations, firms, and sectors;
- Ease working time arrangements to contain employment fluctuations over the cycle, better accommodate differences in work patterns across sectors and firms, and enhance firms’ competitiveness;
- Promote labour cost developments consistent with job creation and enhanced competitiveness;
- Ensure good practices and appropriate resources to Active Labour Market Policies to improve the employability of the young and disadvantaged categories and ease labour market mismatches.”

(Memorandum of Understanding, 11 May 2011, pp.21)

The implementation of MoU - main issues **reconfiguring employment regime and industrial relations**

Measures	Method of decision
<p>Decentralization of collective bargaining (derogation from higher level agreements, possibility of non-union negotiators at firm level, without union mandate; lowering of the firm size threshold above which it is possible to conclude firm-level agreements) –</p>	<p>Tripartite agreement March 2011; Tripartite agreement January 2012 (both not signed by CGTP) Labour Code 2012</p>
<p>Blockade of extension procedures and introduction of stricter criteria for the extension of collective agreements – employer associations must represent 50% of employment in the sector;</p> <p>or in alternative employers associations must include 30% of medium and small companies.</p>	<p>Unilateral decision Resolution 90/2012</p> <p>Ad-hoc informal tripartite agreement 2014 (not signed by CGTP) Resolution 43/2014</p>
<p>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</p>	<p>Ad-hoc informal tripartite agreement 2014 (not signed by CGTP) Law 55/2014</p>

The implementation of MoU - main issues **reconfiguring employment regime and industrial relations**

Measures	
Freezing the minimum wage - 2012/2013/2014	Unilateral decision
<p>Reduction of employment protection, regarding collective and individual dismissals: reducing substantially severance pay; extending the conditions for individual dismissals based on unsuitability and extinction of job positions</p> <p>amendment extending the criteria for job extinction.</p>	<p>Tripartite agreement March 2011; Tripartite agreement January 2012 (both not signed by CGTP) Labour Code 2012</p> <p>Unilateral decision Law 27/2014</p>
<p>Reduction of unemployment benefit, in relation to its amount and duration – reduced the maximum amount from 1.258 to 1.048 euros; after six months the daily benefit is reduced by 10%; and the maximum duration is down to 18 months.</p> <p>Extending the access to unemployment benefit to specific categories of independent workers and reduction the necessary contributory period to access unemployment benefits from 450 days to 360 days.</p>	<p>Tripartite agreement January 2012 Law 64/2012</p>

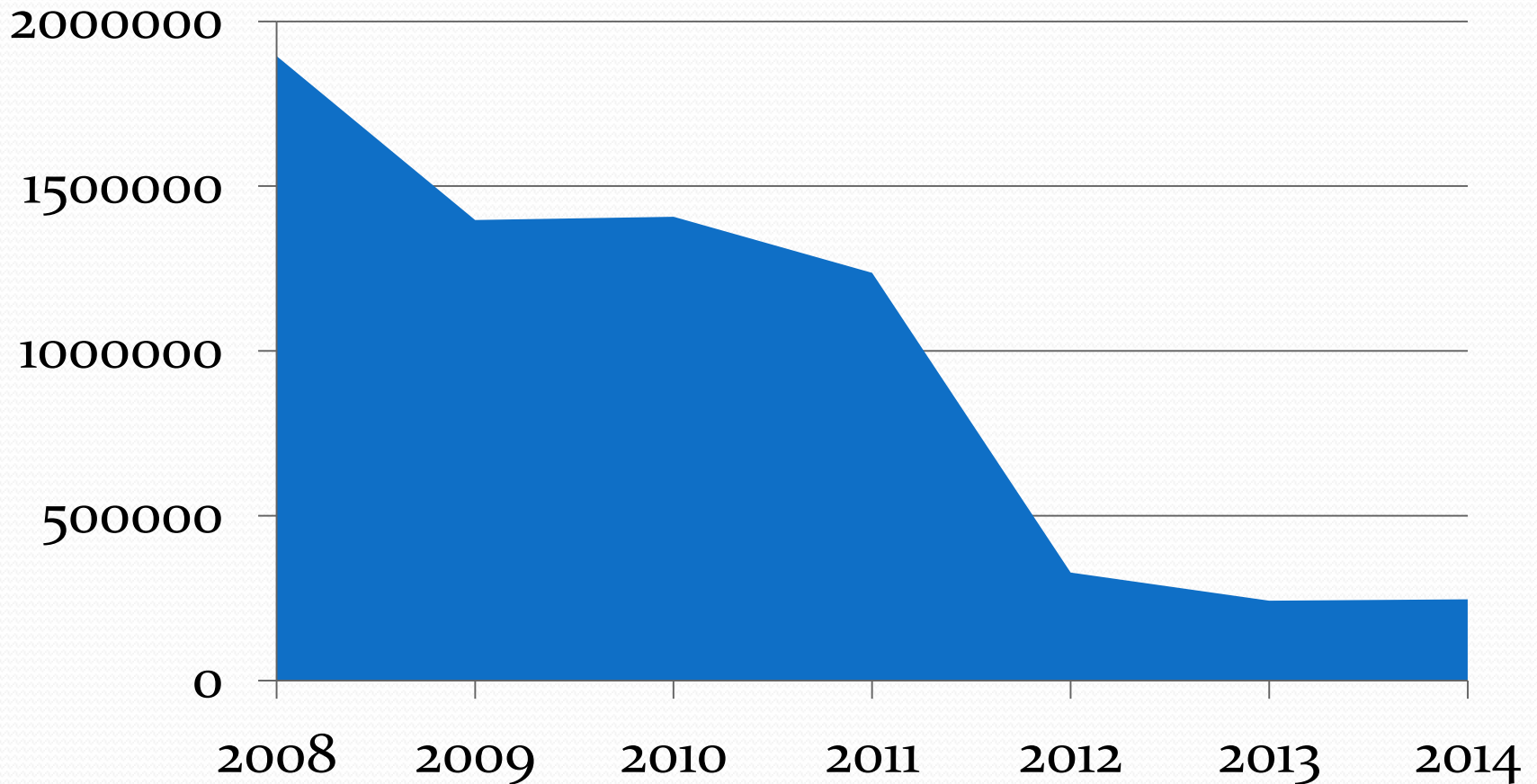
Government PSD/CDS policies beyond MoU

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

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


	2008	2009	2010	2011	2012	2013	2014
Multi employer/sector	200	164	166	115	46	46	72
Company	95	87	64	55	39	48	80
Total agreements	295	251	230	170	85	94	152
Extension ordinances	137	102	116	17	12	9	7
Workers covered	1 894 788	1 397 225	1 407 066	1 236 919	327 662	242 239	246388

Number of workers covered by collective agreements negotiated between 2008-2014



Social Protest (2010-2013)

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

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- Position and role of the social partners in the reforms (interviews)



Position and role of the social partners in the reforms

Assessment of social dialogue initiatives in 2008-2014

Reforms of employment legislation

Reforms of collective bargaining

Elements requiring further attention

Assessment of social dialogue initiatives: two viewpoints

Very weak

Limited to moments and subjects (at best)

Unilateral decisions of the government to deregulate labour relations

Undemocratic rule of the international institutions involved in the MoU

Concertation operating increasingly in favour of the employers' interests

Active involvement of social partners in decision-making

Key role

In some areas more than others (excluded in some subjects)

Participation of social partners strengthened since 2011

Asymmetry between areas of decision and social partners



Agreement on a few points...

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

The pressure of international institutions (friends or foes)

Two stages: 2008-2011 and 2011-2014

Reforms of employment legislation

Opposition to the change of the social security contribution rate

Shortcomings in the implementation of the tripartite agreement of 2012

Dismissal procedures

Increase of working time in the public sector (35 to 40 weekly hours)

Reforms of collective bargaining

Detrimental impact of the redefinition of the conditions to extend collective agreements

Consequences of freezing the minimum wage

Revision of the expiry regime and validity periods of collective agreements

Ad-hoc measures as a compensation for the decision of the Constitutional Court on the tripartite agreement of 2012



What some call decentralization is to our mind dismantlement.

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

CGTP-IN, union confederation

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, union confederation

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

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

The crisis as a source of pressure...

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

The crisis as a source of pressure...

In 2008, some substantial problems remained to be solved, especially with regard to collective bargaining. [...] 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. [...] 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.

CIP, employer confederation

The crisis as a source of pressure...

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

CAP, employer confederation

Elements requiring further attention

Tripartite agreement in January 2012

Internal reorganization of workers' and employers' organizations

Social conflict

The future of social dialogue



Thank you
Obrigada