



### NEWEFIN Project

New Employment Forms and Challenges to Industrial Relations – Reference: VS/2018/0046  
Improving expertise in the field of industrial relations



### COUNTRY REPORT: PORTUGAL

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## 1. Introduction – Background

This report presents the final findings from research carried out between March 2018 and December 2019 according to the objectives of the ‘**NEW EMPLOYMENT FORMS AND CHALLENGES TO INDUSTRIAL RELATIONS - NEWEFIN**’. The report focus on the main labour law and social protection reforms in Portugal in the period 2008-2019 in connection with new forms of employment in Portugal, with emphasis on the role and views of social partners and relevant actors and on the impact of the reforms in labour market developments. 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, trade union confederations and employer confederations with a seat at the major national body for social dialogue, the Standing Council of Social Concertation, but also with sector trade unions and other relevant new social actors. Government representatives were also interviewed.

Between September 2018 and February 2019, we conducted 13 interviews with the following participants (19 persons):

Organization/Institution	Number of persons	Themes/Topics
General Confederation of Portuguese Workers   <b>CGTP-IN</b>	2	General guide
General Workers’ Union   <b>UGT</b>	2	Idem
Confederation of Portuguese Industry   <b>CIP</b>	2	Idem
Portuguese Trade and Services Confederation   <b>CCP</b>	2	Idem
Portuguese Confederation of Tourism   <b>CTP</b>	1	Idem
Association for Combating Precariousness – Inflexible Precarious, <b>PI</b>   <b>Precários Inflexíveis</b>	3	Precarious work/ PREVPAV; Bogus self-employment; self-employment and social rights
Deputy of BE	1	Electronic Platform based transports legislation
Union of Workers in Hotels, Tourism, Restaurants of Northern Portugal   <b>STIHTRSN</b>	1	Sector union – sector impacts
Union of Commerce, Office and Service Workers of Portugal   <b>CESP</b>	1	Sector union – sector impacts
National Federation of Transport Unions   <b>FECTTRANS</b>	1	Sector union – sector impacts
Office of Strategy and Planning in the Ministry of Labour, Solidarity and Social Security   <b>GEP/MTSSS</b>	1	Views on new forms of employment legislation responses and role of social partners
General-Directorate for Employment and Labour Relations in the Ministry of Labour, Solidarity and Social Security   <b>DGERT /MTSSS</b>	1	Idem
Authority for Working Conditions   <b>ACT</b>	1	Idem

The report proceeds as follows. In section 2, we map and explain the main legal reforms, first in relation to labour and employment status and rights and secondly in relation to social protection reforms. In section 3, our attention is focused on the role and views of social partners and relevant social actors throughout the period under study. A distinction is made between their role and views regarding policy measures supported by tripartite agreements within the Standing Council of Social Concertation and those adopted by other processes of social dialogue at other levels. We examine as well the main ideas of the social partners concerning new forms of employment, how adequate is current legislation and the challenges ahead.

The section 4 is committed to an assessment of the labour market effects of the measures undertaken. We examine the impacts in terms of the evolution of demographic trends and labour market participation, fixed term and very short term contracts, temporary agency work, dependent and ‘bogus’ self-employment and digital platform workers.

### **1.1. Background**

Since 2008, labour and social protection laws went through significant changes in conjunction with the responses to the dramatic impact of the international crisis in Portugal and to new labour market and social challenges arising from increasing competition and new technological developments. The emergence of new business models in the country added to those challenges, namely via platform economics or on-demand economics.

Three distinct phases are to consider that corresponded to specific political cycles and economic and labour market challenges: the *first phase*, of the emergence of the crisis and , from 2008 to 2010, under the government of the Socialist Party (PS); the *second phase*, of the escalation of the crisis and unemployment, from 2011 to 2014, in conjunction with the austerity programme implemented by the centre right coalition between the Social-Democratic Party (PSD) and Democratic and Social Centre (CDS), in line with the Memorandum of Understanding on Specific Economic Policy Conditionality (MoU) ; and the *third phase*, since 2015, of economic recovery, in conjunction with the first steps to turn the page of austerity, implemented by a PS government supported by the left parties, i.e., by the Left Block (BE), by the Portuguese Communist Party (PCP), and by the Ecologist Green Party (PEV).

These distinct phases did not configure a cumulative process of reforms. In some domains, they represented a turbulent and contradictory process (see section 3.). Between 2011 and 2015, 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 PSD CDS implemented the measures foreseen by the MoU and beyond, which represented a significant change in the labour and social legal framework. Notwithstanding the transversal measures with impact in all forms of employment, such as the freezing of minimum wage and blockade of collective bargaining, the successive amendments introduced significant changes to the 2009 LC with direct implications in the regulation of the forms of employment and associated rights, including to social protection (Campos Lima and Abrantes, 2016; OECD, 2017; ILO; 2018). As pointed by the most recent ILO report on Portugal: *“At the onset of the latest global economic recession, the legal framework favoured the use of temporary contracts favoured the use of temporary contracts, a situation that was reinforced by the reforms introduced between 2011 and 2013. Further ease of the use of temporary contracts was accompanied by a decrease of employment protection for permanent workers without leading to a change in the share of temporary workers among employees. Thus, adjustment reforms reduced protections without benefit to employment or the labour market (ILO, 2018:4).*

In the new political cycle started in November 2015, the economic and social policies enacted by the PS, especially the reversal of austerity cuts on wages, pensions and social benefits, and the upward trajectory of the national minimum wage favoured economic and employment growth and a significant drop in unemployment (ILO, 2018). The main priority of the government, a priority which has been actively supported by the left parties, has been to promote labour law and social protection reforms to tackle the problem of precarious work and enhance the rights of precarious workers. The measures foreseen included limiting the use and duration and renewals of fixed term contracts (FTC) and temporary agency work (TAW), reinforcing the combat to ‘bogus’ self-employment, extending social protection rights of self-employed ‘economically dependent’ and of self-employed in general.

The measures reinforcing the combat to ‘bogus’ self-employment and extending social protection of self-employed ‘economically dependent’ (or not) – which are critical regarding new forms of employment – were at the centre of the parliamentary left deals and answered to important citizens initiatives assembling precarious workers. Also the government launched an innovative programme – *The Extraordinary Programme of Regularisation of Precarious Employment Relationships in Public Administration* (PREVPAP) – to combat precarious employment in the public sector and state owned companies. Social partners were consulted but these measures did not result from tripartite agreements.

On the other hand, the Government required that the measures, resulting from left parliamentary commitments to limit the use, duration and renewals of fixed term contracts (FTC) and temporary agency work (TAW), should be part of a tripartite agreement to negotiate with the social partners. The ***Tripartite agreement on combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining*** (thereafter called 2018 tripartite agreement) signed on 18 June 2018<sup>1</sup>, comprised those measures, but also new measures reflecting compromises to secure the support of employer confederations (Eurofound, 2018a). The largest trade union confederation, CGTP, opposed to those new measures – arguing they created new forms of precariousness – and did not sign the tripartite agreement. Extending the trial period when hiring first job seekers and long term unemployed and facilitating ‘very short term contracts’ were two of the most controversial new measures.

The Law 93/2019<sup>2</sup> published on 4 September 2019, which entered into force on 1 October 2019, reflected the 2018 tripartite agreement. Left parties BE, PCP and PEV voted against this law. They questioned, among other, the amendments extending the duration of very short employment contracts, and extending the probationary period for first-time jobseekers and long-term unemployed people (Eurofound, 2018b). After the publication of the law, these parties asked the Constitutional Court to review those two provisions on the grounds that they violate the principles of fairness and security at work (Eurofound, 2019a; 2019b), a review that is still ongoing.

Platform economy added to the recent challenges. While *platform linked individual transportation business* has been subject to regulation (Law 45/2018 published on 10 August 2018), which generated controversy (see section 3), other activities platform-linked did not receive the same attention from

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<sup>1</sup> Tripartite agreement on Combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining (Acordo para Combater a Precariedade e Reduzir a Segmentação Laboral e promover um maior Dinamismo da Negociação Coletiva), Comissão Permanente de Concertação Social/CES. Available online in: <http://www.ces.pt/storage/app/uploads/public/5b2/7e5/2f6/5b27e52f6b180834433182.pdf>

<sup>2</sup> Portuguese Government: Law 93/2019 of 4 September.

the legislator. Trade unions organising workers in services, tourism, hotels and restaurants became increasingly concerned about the deregulation induced by the widespread of *food delivery platform-linked business*.

## 2. Labour and social law reforms (2008-2019)

### 2.1 Labour reforms and new forms of employment

#### 2.1.1 *The legal concept of employment contract*

The first major labour law reform in this decade was implemented by the 2009 Labour Code (LC), approved by Law 7/2009. Despite significant changes in various domains in comparison with the 2003 LC (Law ), the 2009 LC maintained the definition of the *employment contract*, as a contract “*in which a natural person undertakes, upon remuneration, to provide activity to another or other persons, within an organization and under their authority*”(Law 7/2009, Article 11).

According to 2009 LC the existence of an employment contract is presumed when, in the relationship between the provider of the activity and the other(s) that benefit from it, some of the following characteristics can be verified (Article 12, paragraph 1): the activity is carried out in a place belonging to or determined by the beneficiary of the activity; the equipment and working tools belong to the beneficiary of the activity; the activity provider complies with the start and end times of work determined by the beneficiary; a certain amount is paid to the activity provider, as a remuneration; the activity provider performs management or leadership roles within in the organizational structure<sup>3</sup>. The successive amendments to LC 2009, in the following decade, did not change the definition of employment contract nor the presumptions of its verification.

Legal subordination constitutes the main criterion that distinguishes all forms of employment contract, to which the labour law applies from other contracts, namely contracts for services with self-employed persons performing work independently, which are regulated by civil law (Abrantes and Canas da Silva, 2016, 2017). Moreover, it is considered a very serious misdemeanour, attributable to the employer, the performance of an activity with a formal appearance of a services contract under the typical conditions of an employment contract (art. 12(2) LC).The Labour Procedure Code (Law 107/2009) regulates the mechanisms and sanctions to comply with this rule, which have been reinforced in 2013 and in 2017 with the explicit aim of combating ‘bogus self-employment’ (see bogus self-employment).

#### 2.1.2 *The modalities of employment contract*

Since 2008, the change of regulations concerning the *various forms of employment within the category of employment contracts* has been significant. The range of measures include: alteration of valid reasons for the use of temporary forms of employment and of their duration and renewals; introduction of new types of employment contracts; and new rules on dismissals with focus on reducing employment protection (EPL) allegedly to combat labour market segmentation. The 2009 LC includes various *types of employment contracts* in the section ‘Modalities of employment contract’: open ended contracts; fixed term contracts (of certain term or uncertain term); fixed term of very short duration; part-time work; intermittent work; telework; temporary service commission work; and temporary agency work. They were already regulated in the 2003 LC, with the exception of two: the *fixed term of very short duration* and the *intermittent work contract*.

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<sup>3</sup> The criteria to presume the existence of an employment contract remained almost identical to those of 2003 LC, with the exception of the last condition of ‘activities of management and leadership within the organizations’ that were added by the LC 2009.

### 2.1.2.1. Fixed term contracts – changing regulations

- Valid reasons for use of FCTs

In the last decade the regulation of fixed term contracts (FTCs) had significant changes with focus on the valid reasons for their use; their duration and renewals; and workers compensation when FTCs expire and severance pay (an issue we address in 2.1.1.2)

The 2009 LC allowed the use of fixed-term contracts (FTCs) in the same terms defined by the 2003 LC, establishing that FTCs are only permitted to satisfy companies' temporary needs and for the period strictly necessary to fulfil such needs (Article 140 (1,2)LC). It maintained also the exceptions to this rule, foreseen in 2003, allowing the use of FTCs *for launching a new activity or starting up a new company*, although limiting this later possibility to the companies of fewer than 750 employees (art.140 (4a) LC). It also maintained as valid reasons for use of FTCs to comply with purposes of employment policies and for hiring *workers seeking their first job or long-term unemployed* (art.140 (4b) LC).

In the new political cycle opened in 2015, the combat to precarious work was paramount of the 'deals' that sustained the support of the PS government by the left parties. These parties demanded restrictions to the exceptional possibilities of using FTCs, beyond temporary needs. The Labour Code amendments set up by Law 93/2019 (art. 140 LC) restrict the use of FCTs *for launching a new activity or starting up a new company* to the companies of fewer than 250 employees (before 750); and eliminates the rule allowing the recruitment of *first job seekers and long term unemployed* with basis on FTCs for permanent company needs, with the exception of the case of *very long term unemployed*. This exception, allowing to recruit on a fixed term basis the most vulnerable i.e. very long term unemployed for activities of permanent nature did not get however the support of the left parties and *generated mixed reactions among trade union confederations* (see 3.)

- Duration and renewals of FTCs and TWA

The duration and renewals of fixed term contracts have been subjected to changes in opposite and contradictory directions in the last decade, against the background of a persistent high proportion of workers hired on the basis of FCTs. The Portuguese legislation defines two types of FTC: the *FTC with a specified date of expiry (certain term)*; and the *FTC without a specified date of expiry (uncertain term)*, which expiry date depends of the conclusion of a specific task or project.

Aiming to tackle the problem of widespread use of FTCs in Portugal, the 2009 LC reduced the total duration of *FTC with certain term* from 6 to 3 years; and limited the *FTC with uncertain term* to a maximum duration of 6 years (art.148 LC). In contrast, in the years of troika intervention, the PSD/CDS government imposed, unilaterally, amendments to the 2009 LC facilitating the use of FTCs, by allowing two extraordinary renewals for FCTs after their maximum duration, first in 2012 ( Law 3/2012) and again in 2013 (Law 76/2013). FTCs were subject to this regime of extraordinary renewals until the end of 2016.

As part of the combat to reduce precarious work, the left 'deals' of 2015 envisaged to limit the duration and renewals of FCTs. Law 93/2019 integrated these objectives, also in line with the 2018 tripartite agreement, and established the reduction of the maximum duration of fixed-term contracts, including renewals, from 3 to 2 years; and the total duration of renewals may not exceed the contract's initial duration. The maximum duration of *uncertain term* contracts is reduced from 6 to 4 years. As regards

to temporary agency work, fixed-term temporary employment contracts became, as a rule, subject to a maximum of six renewals.

- Combating excessive use of FTCs - Excessive Turnover Additional Contribution

In line with the tripartite agreement 2018, Law 93/2019 added a provision (art. 55-A) to the Code of Contributions for Social Security, establishing an *Additional Contribution for Excessive Turnover* – to be applied to legal persons and natural persons with business activities, regardless of their nature and the purposes they pursue, that in the same calendar year have an annual share of fixed-term contracts higher than the respective sector average. The additional contribution rate is progressively applied based on the difference between the annual number of fixed-term contracts and the sector's average, up to a maximum of 2 per cent. This measure took effect on 1 January 2020, but companies will only start to pay the fee in 2021 because its implementation depends on provisions to determine the 'sector average turnover', which will serve as a reference. (European Commission, 2019; Eurofound, 2019b).

- Trial Period

In line with the tripartite agreement 2018, the Law 93/2019 foresees a specific measure allegedly to promote the integration of first job seekers and long term unemployed in open-ended contracts, by *extending their trial period* from 90 days to 180 days (art.112 LC). Previously the trial period was 90 days for the generality of workers; 180 days for workers with special qualification and 240 days for management staff and senior management. Left parties did not support this proposal that also generated mixed reactions among trade union confederations. They fear that extending the trial period might generate perverse effects, increasing precariousness of people in vulnerable condition, once it is extremely easy to terminate legally the contractual link without allegation of just cause, without notice and without payment of any compensation (See section 3). The left parties, BE, PCP and PEV voted against this measure and asked the Constitutional Court to review this provision.

#### 2.1.2.2. New types of contracts: FTC with very short duration and intermittent work contract

- FCTs with very short duration

The *FTC with very short duration* is a type of contract introduced in 2009 (art.142 LC- Law 3/2009) that applies to casual work and it was only possible to use in agricultural seasonal activity or to carry out during a tourist event. This type of contract is not subject to a written form, although obliging the employer to communicate it to the competent social security department by means of an electronic form. In 2009, the law established that its duration could not exceed one week – with a total duration of contracts with the same employer not exceeding 60 working days in the calendar year. In the austerity cycle of policies, an amendment extended its duration to 15 days and contracts with the same employer to a maximum of 70 days per year (Law 23/2012). As we will see, this type of employment contract offers less social protection in case of unemployment and sickness (see section 2.2).

The Law 93/2019 established two modifications: the extension of the duration from 15 to 35 days maintaining the maximum of 70 days per year with the same employer; and the extension of their scope beyond agricultural activities and tourism activities. These modifications generated controversy and opposition from the left parties supporting the PS government, and mixed reactions from the side of trade union confederations (see section 3).

- The intermittent work contract



The Law 4/2008 establishing the *special labour regime for artistic activities*<sup>4</sup> was the first to mention *intermittent work* (Article 8) as a modality of labour contract. With the 2009 LC, the scope of *intermittent work contracts* (Articles 157 to 160) is extended as it applies to any company that engages in discontinuous activities of variable intensity, when parties agree that the work periods may be interspersed by one or more periods of inactivity. This type of contract entails a contract of indefinite duration comprising periods of work and periods of inactivity. The period of work cannot be less than six full-time months per year, of which at least four months must be consecutive. During the period of inactivity, the employee is entitled to a compensation in the amount established by collective agreements or, failing that, to 20 per cent of the basic salary payable by the employer. This regulation did not change between 2009 and 2018. As we will see this type of contract offers less social protection during the inactivity periods (see 2.2.).

The Law 93/2019 decreased the minimum period of work from six months to five months. This is another controversial measure, insofar the period of inactivity – with low income and low social protection – is extended.

- Regulating dismissals and reducing employment protection (EPL)

The *legislation regulating dismissals* introduced by the 2009 LC simplified dismissal procedures to speed up disciplinary cases, limiting the time for court dismissal claim, reducing the cases of mandatory reinstatement and establishing a maximum of compensation, following legal disputes. Since 2011, the amendments to 2009 LC, following MoU requirements, set up by Law 23/2012 and Law 27/2014 modified valid grounds for dismissals facilitating collective and individual dismissals. On the other hand, the amendments set by Law 53/2011, Law 23/2012 and Law 69/2013 reduced *severance pay*, targeting both workers in permanent and non-permanent contracts.

Previously, severance pay due in the case of dismissal for unsuitability, elimination of the position, and collective dismissal amounted to a one month basic salary, per year of tenure, without ceiling, with a minimum payment of 3 months irrespective of tenure (arts. 366, 372 and 379 LC- Law 7/2009), which provided a high level of protection of workers with short tenure compared with other countries (ILO, 2018). Law 53/2011 eliminated the payment of 3 month salary that benefited short tenure workers, reduced the amount of severance pay to 20 days of basic salary per year of seniority, and introduced a cap of 12 months penalizing workers with long careers. Laws 23/2012 and 69/2013 reduced successively the amount to the current 12 days of basic salary for each full year of seniority.

In turn, the amendments (Law 23/2012 and Law 69/2013) aligned the *specific rules of compensation for the expiry of fixed term contracts* (arts. 345 and 346 LC) with the rules of *severance pay* (art. 366). This change increased the amount of compensation due the expiry of fixed term contracts (FCTs) from 2 or 3 days per year of tenure (depending of the duration of the contract below or above six months) to 18 days salary per year of tenure in the case of FCTs with certain term; and to 18 days (in the first three years) or 12 days (in the subsequent years) in the case of FCTs with uncertain term (Campos Lima and Abrantes, 2016; OECD, 2017; ILO, 2018). In the new political cycle initiated in 2015 the troika legacy

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<sup>4</sup> Amendments to this special regime were implemented in 2009 (Law 105/2009), in 2011 (Law 28/2011) and in 2019 (Law 22/2019).

in respect to this legislation was not questioned by the PS government and new measures envisaged by tripartite concertation did not touch on the issue (see section 3).

#### 2.1.2.3. *The Extraordinary Programme of Regularisation of Precarious Employment Relationships in Public Administration (PREVPAP)*

In the new cycle initiated in 2015, the PS government launched an innovative programme to combat precarious employment in the public sector and state owned companies, to respond to the resurgence of precarious forms reinforced by austerity policies (2011-2014) that imposed budgetary constraints and restrictions on recruiting public sector employees on permanent/open-ended contracts. The *Extraordinary Programme of Regularisation of Precarious Employment Relationships in Public Administration* (PREVPAP) launched by Law 42/2016 (art.25) and implemented by Law 112/2017 targeted workers who perform functions corresponding to permanent needs, and subjected to hierarchical authority, discipline or direction, without a 'proper legal employment relationship'. It considered the following situations: FCTs prolonged beyond their term and FCTs without a valid reason for their use; contracts of services for the performance of functions corresponding in fact to employment contracts (full-time workers subjected to hierarchical authority and discipline of public services or entities); and recruitment using active employment policy measures, such as the employment-insertion contracts to meet the permanent needs of public administration. The PREVPAP encompassed three phases: the first, mapping the incidence of temporary contracts in public sector; the second, the definition of criteria and procedures of evaluation and the beginning of the implementation phase; and the third, concerning the examination of workers' requests and decisions by Bipartite Evaluation Committees (CABs), and integration of workers in respective services (Campos Lima, 2018). The third phase of PREVPAP was recently completed, but with challenges to its full implementation in some critical areas, such as education and research, namely concerning the integration of researchers that perform permanent functions in adequate employment relationships (see section 3).

#### 2.1.3. *Economically dependent, without legal subordination: 'in between' employment relationships?*

The 2009 LC considers implicitly the 'economic dependence' of the provider of the activity (i.e. the employee) from the beneficiary of the activity (i.e. the employer) as a feature of the legal definition of employment contract and presumptions of its existence (arts. 11 and 12 of LC). And it establishes implicitly that 'economic dependence' is not a sufficient condition to define a contract as an employment contract. Legal subordination is the key element. However, Portuguese legislation considers also situations of economic dependence without legal subordination, which are outside the scope of the employment contracts, but in relation to which certain labour rights and regulations are specified by the 2009 LC and by the specific Law 101/2009 (Abrantes and Canas da Silva, 2016, 2017).

In the first case, Article 10 of 2009 LC extends some rights – personality, equality, non-discrimination and occupational health and safety rights – to *'situations in which work is performed by a person for another without legal subordination, where the provider of work is to be considered in the economic dependence of the beneficiary of the activity'*<sup>5</sup>. While these provisions theoretically may encompass service contracts with self-employed or service providers economically dependent, the concept and

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<sup>5</sup> This provision was already in the 2003 Labour Code (Law 93/2003, art.13) but with a slightly different formulation, applying to the *situation of contracts for the provision of work* without legal subordination with 'economically dependent' providers.

measure of economic dependency is not explicit in the law. The second case of 'economically dependent work without legal subordination' refers to the specific regulation, approved by Law 101/2009, establishing the 'legal regime of work at home' (trabalho no domicilio). This regime is clearly distinct from the telework employment contract (that implies juridical subordination) and corresponds to an old type of 'informal' employment relationship that was often used in traditional manufacturing sectors like the textile.

#### 2.1.4. Combating 'bogus' self-employment and beyond

The main issue of combat against bogus self-employment has been to examine the nature of the relationship under contracts of services, allegedly as independent work, inquiring to what extent it meets the criteria defining an employment contract. Self-employed workers in service contracts may benefit from some rights (see 2.1.2.) but they are excluded from many other including the right of collective bargaining or the right to strike that are closely linked to the notion of employment contract and legal subordination. Over the years 'hiring' self-employed workers to perform tasks under *de facto* conditions of an employment contract (2.1.1.), but under the legal conditions of self-employment, became attractive to employers because of inexistent dismissal costs and almost inexistent burden with social security contributions until recent years (see section 2.2). While this practice has been considered a very serious misdemeanour attributable to the employer (art.12 (2) LC), the mechanisms to secure compliance with the law were not efficient enough to tackle the problem until 2013. Doubts on the application of this legal mechanism led to several attempts by the Supreme Court of Justice to clarify the distinction between employment contract and self-employment arrangement (e.g. rulings on 16 January 2008, 21 January 2009, 9 December 2010 and 12 September 2012) (Perista and Baptista, 2017).

The new legislation that came into force in 2013 (Law 63/2013) to combat 'bogus' self-employment – in the height of the austerity period – reflected to a large extent the unprecedented Citizens Legislative Initiative<sup>6</sup> (project law 142/XII – *Law against Precariousness*) with focus on combating precarious labour, based on a petition signed by 35 000 citizens. This initiative was strongly influenced by social movements against precarious work (Campos Lima and Artiles, 2013) and in particular by the 'Association for the Fight against Precariousness - Inflexible Precarious'<sup>7</sup> (thereinafter called Inflexible Precarious), a social movement engaging a large number of temporary workers. The Law 63/2013 introduced a judicial procedure to assess the nature of contracts (of services and employment) and to requalify "bogus self-employment" as an employment contract, giving to the Authority for Working Conditions (ACT) the duty to act in these situations, without the worker having to confront the employer. The ACT notifies the employers and forwards the case to the Public Prosecutor's Office if the employer does not proceed to the immediate regularization.

In the new political cycle initiated in 2015, new measures set by Law 55/2017 improved the legal regime governing the recognition of the existence of an employment contract, established by Law no. 63/2013 and extended the procedural mechanisms to combat 'bogus self-employment' to all forms of undeclared work, including false internships and false volunteer work (amending Law 107/2009 and the Labour Procedure Code/Decree-Law no. 480/ 99). This new law introduces a protection mechanism

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<sup>6</sup> According to the Portuguese Constitution (art. 147) and Law 17/2003 the citizens' right to legislative initiative is exercised through the presentation to the Assembly of the Republic of bills signed by at least 35 000 citizens.

<sup>7</sup> In Portuguese 'Associação de combate à precariedade-Precários Inflexíveis'.

that prevents employer attempts to dismiss the employee as soon as the ACT starts the process. Several other amendments reinforce the role of ACT and the Public Prosecutor's Office. The dialogue with activists of social movements, such as the Inflexible Precarious was an important played an important role (see section 3.).

#### 2.1.5 Digital platforms and forms of employment:

Legislative measures with focus on digital platforms are very recent in Portugal. Uber entered in Portugal in 2014 and only in November 2018 came into force the Law 45/2018 of 10 August 2018 regulating the activity of electronic transport platforms such as Uber (US), Cabify (Spain) and Taxify (Estonia) active in Portugal. Previous decision from Lisbon central court in April 2015, a court of first instance, decided in favour of Antral, an association of taxis, a precautionary measure filed against Uber, determining, among other measures, the cessation of the company's activity. The decision ended up having few practical effects, and the activity in question continued to be exercised in Portugal. At the end of 2017, the decision was confirmed by the Lisbon Court of Appeal (Carvalho, 2018). The Law 45/2018 was approved, following many months of parliamentary discussion and clashes with the taxi sector, concerned with competition and social dumping. More than the employment status of the drivers and their labour rights, what gained momentum in the public sphere, following the prolonged protests of taxi owners and drivers, was the issue of unfair competition (see section 3).

Law 45/2018 establishes the *Legal regime for individual and paid passenger transport in de-characterised vehicles based on an electronic platform* (herein after referred to TVDE<sup>8</sup>), and also the *legal regime of electronic platforms* that organize and make available to the interested parties that mode of transport (Art.1. (1 and 2)). The activity of *TVDE operator* has to be exercised in the Portuguese territory by *legal persons (collective persons)* who carry out the activity of *transportation of passengers* and which activity has to be subject to licensing (art.2 (1)). TVDE operators are 'partners' of electronic platforms. The drivers are at the service of TVDE operators and not at the service of platforms (art.2. (3)).

Platforms are defined by the law as electronic infrastructures owned or under exploitation of legal persons that provide, according to a business model of their own, the *intermediation service between users and TVDE operators adhering to the platform* (art.16). This definition qualifies the *platform operator* as performing a merely *intermediary service* between the *TVDE operator* and the *user* (art.16), which contradicts the meaning of European law that establishes the responsibility of platforms as transport companies. The Portuguese law establishes, however, that platforms share responsibility (with TVDE operators) for the punctual obligations arising from the contract with the users (art.20 (1) (Carvalho, 2018)).

Nevertheless, the absence of a clear definition, beyond the intermediation role of platforms, has implications in the regulation of forms of employment and responsibility of platforms in that regard. In fact, while the law defines the responsibilities of platforms regarding the users, it does not define responsibilities of platforms regarding the drivers, with the exception of working time control. Platforms information systems have to register the drivers working times and the compliance with the driving

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<sup>8</sup> From the Portuguese title of the law 25/2018 'Regime jurídico da atividade de transporte individual e remunerado de passageiros em veículos descaracterizados a partir de plataforma eletrónica'.

time and rest time envisaged by the law (art.20 (3)). According to the law platforms Uber, Cabify and Taxify will pay 5 per cent in taxes for each trip<sup>9</sup>.

The *TVDE operators* and the *drivers* (registered by an electronic platform) shall conclude a written contract signed by both parties. According to Law 45/2018 (art.10) this contract can be qualified as an employment contract, in application of article 12 of the Labour Code. In line with this presumption, the law defines that the equipment and instruments of work are all those belonging to the beneficiary (TVDE operators) or exploited by the beneficiary or any other type of lease (Article 10 (11)). The working time regime for the drivers in TVDE transport activity follow the same regulations that apply to employees engaged in mobile transport activities (Decree Law 237/2007) or to the working time regime for independent drivers (Decree Law No. 117/2012), depending on the type of contract in force between the parties (Article 10 (12)) (European Commission, 2018). TVDE drivers, who will need to hold a Category B driving license for more than three years, also have to complete a compulsory training course, which will be valid for five years.

## **2.2 Social Protection: legal changes and new forms of employment**

### *2.2.1. Workers in standard and non-standard forms of employment*

Social protection provisions of workers in standard and non-standard labour contracts are defined by the general regime of social protection. Full time and part time employees, in opened ended or fixed term contracts, temporary agency workers, casual and seasonal workers, and paid trainees are all, in principle, fully covered by the wide range of existing benefits: healthcare, sickness, maternity/paternity, preretirement and old age pensions, survivors pensions and death grants, unemployment benefits, social assistance, long-term care and invalidity benefits, and accidents at work and occupational injuries benefits. However, as the eligibility criteria to access to some of the benefits is conditional to a period of work of at least six months – as it is the case for requesting sickness benefits – some workers with temporary contracts may be left out. Furthermore, some benefits – as it is the case, among other, of maternity/paternity and sickness benefits – explicitly exclude workers with contracts of very short duration, i.e. contracts lasting up to 15 days (Perista and Baptista, 2017).

In this decade the most significant changes concerned the legal framework of protection against unemployment risks. The Portuguese unemployment protection system comprises a set of monetary benefits: the unemployment insurance (UI), a benefit proportionate to the income that precedes unemployment, with a guarantee period; and the unemployment assistance (UA) that corresponds to a means-tested lump-sum benefit, with a guarantee period less demanding than the UI<sup>10</sup>. The reform of the system (Decree Law 220/2006; Ordinance 8-B/2007) on the eve of the international crisis introduced a number of measures with impact on the duration of benefits and on the eligibility conditions, but did not touch the basic foundations of the system designed to protect, exclusively, against the risks of unemployment, the dependent workers or wage earners in a formal employment relationship. At the same time, this reform had limitations regarding the protection of risks of wage earners, in particular young people, those in precarious jobs, and long duration unemployed (Silva and Pereira, 2012).

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<sup>9</sup> The first version of the law had been approved by the Parliament in April, but subsequently vetoed by President of the Republic, who saw the law to be an imbalanced treatment disfavoring taxi drivers. One of the major changes in the legal document has been the stipulated tax contribution, which has risen from between 0.1% to 0.2% to 5%.

<sup>10</sup> In addition to the initial UA, it is possible to qualify for a subsequent UA once the UI is completed, provided that the condition of resources is verified.

In fact, to be eligible to UI required 450 days of work with contributions for social security in a period of two years, limiting the coverage of various categories of workers. Furthermore, the reform introduced new criteria for the calculation of the duration of the period of UI, combining age with the length of contribution career.

When the economic crisis and unemployment and social crisis escalated, the Employment Initiatives of 2009 and 2010 defined temporary measures, among which the amendments to the unemployment protection regulations (Decree Law 68/2009 and the Decree-Law 15/2010) 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, in the context of the 2010 turn to austerity, the temporary protective measures were withdrawn and additional changes were set up (Decree-Law 72/2010), this time reducing the UI amount by limiting it to no more than 75 per cent of the net amount earned during the claimant's previous job (instead of the previous maximum of 65 per cent of gross earnings) and to no more than three times the value of the social support index (IAS<sup>11</sup>). In addition, it lowered the level of wage beneficiaries had to accept for job offers or to lose the UI (Campos Lima and Abrantes, 2016).

In 2012, the package of measures foreseen by the Troika MoU represented a substantial changes in the unemployment benefit regime: reduction of maximum duration of UI; reduction of the amount paid for UI; decreasing the necessary contributory period to access unemployment insurance; and extension of eligibility to clearly-defined categories of self-employed workers (see section 2.2.2). Under the Law 64/2012 the maximum amount of the UI decreased from 1.258 to 1.048 euros, with a reduction of 10 euros after a period of six months of daily benefit. The duration of the UI benefit was reduced from 24 months to a maximum duration of 18 months. The new law required a period of two years of contributions to be entitled to such duration. The additional extension of duration depends of the length of previous working period, and the maximum envisaged – 26 months – applied only to workers aged over 50 years with a minimum of 20 years of contributions.

This law included a positive measure to extend the coverage of UI by reducing the necessary contributory period to access UI from 450 days to 360 days, benefiting slightly fixed term contracts. Nevertheless, the law continued to be restrictive in relation to fixed term contracts with short and very short term duration. Moreover, the reduction of the duration of UI combined with the escalation of long-term unemployment during this period resulted in the decrease of the proportion of unemployed receiving any kind of benefits (unemployment benefits or social benefits). The percentage of unprotected people in unemployment increased from 38 per cent in 2008 to 57.2 per cent in 2016 (Campos Lima and Abrantes, 2016).

In the new political cycle, the Decree-Law 53-A/2017 of May 2017 softened the unemployment benefit cuts, by restricting the 10 per cent reduction in the amount of unemployment benefit after 180 days; applying this reduction only to benefits higher than €421.32 (the value that corresponds to the Social Support Index, IAS). It also established that unemployment benefit cannot be lower than the IAS. Eventually, the Budget law for 2018 eliminated the 10 per cent cut in the amount of unemployment benefit after 180 days (Article 122, Law 114/2017). Moreover, in 2016 it was created an extraordinary social benefit for long-term unemployed, to be allocated to the unemployed enrolled in the general social security scheme, for whom the period for granting the social benefit has expired. This extraordinary social benefit (means tested) is allocated over a period of 180 days and takes the form of a monthly

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<sup>11</sup> The social support index (IAS) was in 2010 €419.22 per month.

amount equal to 80 per cent of the amount of the last paid social unemployment benefit (Article 80, Law 7-A/2016).

### *2.2.2. Self-employed*

Self-employed persons have been entitled to social security provisions in case of sickness, maternity, occupational diseases, invalidity, old-age and death. Until 2012 protection against unemployment risks did not apply to them, but only to employees. Another significant difference between self-employed persons and employees has been related to healthcare and sickness cash benefits. In general, the period of absence for conceding sickness benefits to the self-employed has been 30 days, while for employees it has been 3 days; furthermore, the maximum period for getting this allowance has been 365 days, while for employees it has been 1,095 days. The self-employed also do not have the same rights in relation to care and long-term care opportunities. They are not been entitled to the child care benefit, to the benefit for the care of grandchildren and to the benefit for the care of disabled or chronically ill children. Provisions in case of maternity/paternity and the access to pensions are less prone to relatively disfavour the self-employed as is also the case in the provisions for invalidity, accidents at work and occupational injuries (Cabrita et al, 2009; Perista and Baptista, 2017).

Although until 2012, self-employed have been excluded of unemployment benefit provisions, some steps in that direction have been taken, configuring the emergence of a third “in-between” category between employees and self-employed (Eurofound, 2017) i.e. the “self-employed economically dependent” (Silva e Pereira, 2012; Perista and Baptista, 2017). The first step although not explicit, was set up by the Law 55-A/2010 (state budget 2011) that amended the Contribution Code (Código dos Regimes Contributivos do Sistema Previdencial de Segurança Social - Law 110/2009) in relation to the regime regulating self-employed persons. The Law (article 140) defined the concept of ‘contracting entities’ as those legal collective or individual business entities who benefit from the provision of services by self-employed persons. The amendment to this article set two new conditions: that these contracting entities benefit from ‘at least 80 per cent of the total value’ of the self-employed worker’s yearly activity; and that services provided to companies of the same economic group are considered in the same contracting entity. That being the case, the code defined that contracting entities, had to pay 5 per cent of contributions to social security, as before.

Therefore, despite an implicit recognition of the situation of ‘economic dependency’ of this subcategory of self-employed people, no consequences were taken in terms of the increasing responsibility of contracting entities through the payment of higher contributions for social security. Furthermore, the new formulation was not immediately translated into the implementation of measures entitling this subcategory of workers to protection against the risks of unemployment. That objective would be later included in the MoU of May 2011 with Troika (Silva e Pereira, 2012; Campos Lima and Abrantes, 2017). The new legislation from 2012 and 2013 (Law 65/2012 and Law 12/2013) defined the access to unemployment benefits is limited to self-employed workers who are economically dependent or who earn their income through a registered business of their own or possess an individual commercial establishment. Thus the self-employed who do not perform 80 per cent of their yearly activity for the same entity do not have access to the unemployment benefit. Those performing 80 per cent of their yearly activity for the same entity or who earn their income through their registered business must have completed a record of contributions of 720 days in the previous 48 months compared to the record of 360 days in the previous 24 months applicable to most employees (Perista and Baptista, 2017).

The extension of the unemployment benefit to the subcategory of 'economically dependent' self-employed, did not translate into any legal change of the Contribution Code requiring the increase of contributions of contracting entities to social security, that remained at the level of 5 per cent. In this sense, contracting entities/employers could continue to benefit of lower labour costs by 'hiring' persons in these conditions compared with hiring them in labour contracts (standard or non-standard), this time transferring the burden to the social security system. Furthermore, in addition, the article 140 of the Contribution Code was again modified (Law 83/2013 – State budget 2014), this time adding – to the condition of 80 per cent of income provided by the same contracting entity (Law 55-A/2010) – a measure limiting its scope by establishing that the quality of the contracting entity is determined only in respect of self-employed persons that have an annual income obtained by providing services equal to or greater than six times the value of IAS - currently meaning at least €2,515.32 (Perista and Baptista, 2017).

In the new political cycle initiated in 2015 the change of the regime of contributions of the self-employed and improvement of respective social rights was one of the important commitments. The change foreseen has been profound: it is in practice a new regime and a new framework of social protection. The Decree-Law 2/2018 defined new rules for Social Security contributions made by self-employed workers and entities that hire self-employed workers. It redefines the conditions of economically dependent work - *perform 50 per cent of their yearly activity for the same entity*; it lowers the workers contributions to social security from 29.6 per cent to 21.4 per cent while employers contributions will vary from 7 per cent to 10 per cent (previously 5 per cent). All self-employed workers will pay a fixed contribution of 20 euros per month to maintain the continuity of their integration in social security and benefit from all correspondent provisions. There will be a minimum value of 20 euros for the worker to remain in the system, but the logic now is to ensure the continuity of the contribution career and access to social benefits. Taxes will be based in real income, and the amount payable in each month is directly derived from the average income obtained in the previous quarter. The new rules take effect in early 2019.<sup>12</sup>

In addition the Decree-Law 53/2018 – reduced the period of absence for conceding sickness benefits to self-employed workers from 30 to 10 days (closer to the regime of contractual work); and extended to them maternity and paternity cash benefits for children assistance. As to the regime of unemployment benefit for the self-employed 'economically dependent' the record of contributions to access to UI will be equal to the one of contractual workers - 360 days in the previous 24 months.

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<sup>12</sup> Interview 1 and <http://www.precarios.net/recibos-verdes-finalmente-um-primeiro-passo-verdadeira-seguranca-social-artigo-le-monde-diplomatique/>



### 3. The role and views of social partners and relevant actors

#### 3.1 Social Dialogue, tripartite concertation and new challenges

The economic and political periods identified (Section 1) corresponded to divergent political orientations concerning labour and social measures (Section 2), and to contrasting strategies of governments concerning the involvement of social partners in the definition and implementation of policy measures. In the first period (2008 to 2010), the reforms promoted by the PS government were strongly based on tripartite concertation supported by the *Portuguese Green Paper on Labour Relations 2006* (Dornelas, 2006). These reforms, including the reform of labour legislation set up by the 2009 LC, were based on the 2008 tripartite agreement (CES, 2008), signed by all the social partners with the exception of CGTP-IN, the most representative trade union confederation. For this confederation some of the positive measures of the agreement, such as the limitation of the duration of fixed term contracts, were not enough to compensate the negative ones such as the increasing flexibility of dismissals and working time (Campos Lima and Naumann, 2011). Eventually, the tripartite agreement signed on March 2011 (CES, 2011) – not implemented during the PS mandate – anticipated some of the measures of the MoU signed in May 2011 by the interim government of the PS, in particular regarding the reduction of severance pay.

In the second period (2011-2015), the reforms promoted by the centre right coalition PSD/CDS and aligned with the requirements of international institutions were either based on tripartite concertation ‘under the shadow of troika’, or based on government unilateralism in detriment of labour. The result of such concertation was the tripartite agreement signed in January 2012, integrating basically MoU measures (and beyond), which favoured undoubtedly the employers’ and government’s goals, representing mostly a zero-sum game penalising labour (Campos Lima and Abrantes, 2016). This package encompassed, among other, the following measures: facilitating dismissals, encouraging temporary work and reducing the duration and amount of unemployment benefits, while extending its coverage to self-employed workers under specific conditions (see Section 2). In addition it promoted the individualisation of working time (bypassing collective agreements) and weakening collective bargaining institutions. In the final phase of this period, in September 2014, the government and social partners signed an agreement increasing the minimum wage, which had been frozen during three years.

The period initiated in November 2015 with the PS government supported by the left parties, now in the last year of its mandate, constitutes a unique period. For the first time in the history of Portuguese democracy, a PS government sought to articulate in one hand the commitments with the left parties regarding social and labour issues with, on the other hand, possible compromises with the social partners. Such articulation has been a complex challenge, insofar political agendas (government and left parties) and social partners’ agendas (trade union and employer confederations) were not entirely convergent. In some issues, related in particular with overcoming troika legacy in the area of labour legislation, the room for convergence with employer confederations has been narrow. This complex challenge has been in the centre of the debates preceding the revision of labour legislation, as we will see.

### **The program of the PS government (2015 -2019) and the social dialogue**

The program of the XXI government (2015-2019) enounced the purpose *'to sustain a consistent agenda of change in a strong commitment to resume the dynamism of social dialogue at all levels, from social concertation to collective bargaining at sectoral and company level, as opposed to the marginalization and disrespect that characterized the last years.'*

The program goals included: updating the minimum wage; tackling precarious employment and combating the excessive use of short-term contracts, bogus self-employment and other atypical forms of work; reinforcing regulations and amending the rules of social security; promoting the extension of collective agreements to secure inclusiveness and overcome the breach of collective bargaining dynamics and coverage; combating individualisation of labour relations – in particular, on working-time arrangements, through referring their regulation to the sphere of collective bargaining; and unlocking collective bargaining in the public sector on wage and working-time issues that have been unilaterally changed.

The program was explicit about tripartite concertation, expressing its commitment to two goals: presenting a proposal at the Standing Committee for Social Concertation (CPCS) on an annual monthly increase in the minimum wage (from 2016 to 2019); proposing a medium-term strategy to foster competitiveness and social cohesion, connecting economic, taxation, income, employment and social protection policies and negotiating it with the social partners (Campos Lima, 2017b).

Following the tripartite agreement, signed in 2016, with focus on the minimum wage increase, two tripartite agreements were concluded respectively in 2017 (CES, 2017) and 2018 (CES, 2018). These agreements were prepared with basis on the evaluation of labour market and social trends prepared by the *Portuguese Green Paper on Labour Relations 2016* (Dray, 2016). While all the four employer confederations, the Confederation of Portuguese Industry (CIP), the Portuguese Trade and Services Confederation (CCP), the Portuguese Tourism Confederation (CTP) and the Portuguese Confederation of Farmers (CAP) signed the two tripartite agreements, the trade union confederations CGTP and UGT have had mixed reactions. CGTP did not agree with part of the measures foreseen and increased the pressure to reverse legal provisions not only from the so called 'troika period' but also from precedent periods. UGT signed both agreements estimating that the positive measures foreseen compensated for the less positive ones.

The measures envisaged by the 2018 tripartite agreement, aiming at introducing changes in labour legislation, resulted to a great extent from the government program and respective commitments with the left parties, in particular to limit the use and duration of fixed term contracts and temporary agency work and to promote these workers' rights; but included also measures neither supported by the left parties, nor by the largest trade union confederation, the CGTP. The divergence has been about two measures that rose concern on the grounds that they risk the emergence of new forms of precariousness: the extension of the duration of 'fixed term contracts of very short duration' and the possibility of their use beyond agriculture and seasonal touristic activities; and the extension of the trial period (for the double), when recruiting first job seekers and long term unemployed. In addition, the envisaged creation of an additional social security contribution due to excessive turnover, to be applied to companies which in a given year have an excessive volume of fixed-term employment, *above the average* in the sector, generated also controversy. Scepticism about this measure relates with the criteria penalising only companies using fixed term contracts *above the average* that is seen as giving too large discretion to companies and, consequently, as a risk for reproducing sectoral patterns of precariousness (Interview CGTP; interview PI; interview CESP). Last but not least, another divergence is about the possibility foreseen by the tripartite agreement of implementing working time accounts, outside the

collective bargaining framework, with basis on referenda at company level organised by employers, attributing a mere role of surveillance to trade unions and workers representatives (Campos Lima and Perista, 2018).

The trade union confederation UGT, that signed the agreement, argued that the positive measures compensated the risky of the controversial ones that responded to employer confederations concerns. Besides, this trade union confederation estimates that these risks can be prevented with effective monitoring. On the other hand, the employer confederations insisted on the implementation of the supra mentioned two controversial proposals as a condition to accept the measures resulting from the 'left deals'. To secure this trade-off, the government risked losing support of left-wing parties and to rely on right-centre parties to pass the legislation implementing the tripartite agreement. In fact, the Law 93/2019 resulting from the tripartite agreement passed with the favourable votes of the PS, the abstention of centre right party PSD and the opposition of all left parties.

### **3.2 Social Partners and policy makers' views on new forms of employment, labour and social protection**

The content of a total of eight interviews will be explored in this section.

Our focus here will thus be on:

- The five interviews with social partners:
  - three with the most relevant employers' organisations: Confederation of Portuguese Trade and Services (*Confederação do Comércio e Serviços de Portugal*, CCP); Confederation of Portuguese Industry (*Confederação Empresarial de Portugal*, CIP); and Confederation of Portuguese Tourism (*Confederação do Turismo de Portugal*, CTP);
  - two with the existing trade union confederations: General Confederation of Portuguese Workers (*Confederação-Geral dos Trabalhadores Portugueses - Intersindical Nacional*, CGTP-IN); and General Union of Workers (*União Geral dos Trabalhadores*, UGT).
- The three interviews with policy makers:
  - General-Directorate for Employment and Labour Relations (*Direção-Geral do Emprego e das Relações de Trabalho*, DGERT) of the Ministry of Employment, Solidarity and Social Security - General Director;
  - Strategy and Planning Office (*Gabinete de Estratégia e Planeamento*, GEP) of the Ministry of Employment, Solidarity and Social Security - General Director;
  - Authority for Working Conditions (*Autoridade para as Condições de Trabalho*, ACT) - General Inspector.

The statements collected during the interviews will be complemented with inputs from relevant Opinions issued by the social partners within the framework of the policy debate on these topics.

Our approach in this section will be to highlight only the most relevant topics covered by the respondents.

### *3.2.1. Impact of new/non-standard employment forms on labour law*

The non-standard forms of employment covered by the NEWEFIN research cannot be considered, in the view of all respondents, as 'new' in Portugal.

Temporary (short-term) contracts, temporary agency work, self-employment and (even) digital platform workers are forms of employment regulated by law, having even deserved particular attention in recent years, as detailed in section 1.

The situation of digital platform workers though asks for specific consideration. Even though this is not completely 'new' – many interpreters, graphic designers, among others, have been working through digital platforms, via contact centres (as mentioned namely by UGT and CCP) -, recent developments, such as UBER and UBER Eats, pose specific challenges and assume diverse business models and characteristics (when compared with other existing platforms, as stressed by policy makers, GEP in particular).

The public debate and the legal approach so far have focused on the economic activity regulation (as stressed by the trade unions' confederations as well as by CCP) and on issues about unfair competition (as stressed by CIP). Conversely, the protection by labour law of workers in this transportation digital platform is still to be properly and sufficiently addressed (according to UGT) and little is known on the actual labour status of these workers: part of them will be genuine independent workers, other part will be bogus self-employed, some others will be employees (as mentioned by UGT, CGTP-IN, and CTP).

As highlighted by UGT (as well as by the policy makers), the definition of a concept of worker covering these new realities is required so that they can be covered by labour law. And a new concept of worker and the new forms of employment will impact on new forms of business organisation, namely in terms of dematerialisation.

Furthermore, concerns with the impact of digitalisation on the business fabric were expressed by all employers' organisations. The fast and increasing digitalisation of the economy, including of the tourism sector, may lead to new business forms and new models of industrial relations, not aligned with the existing Labour Code, still anchored on a traditional and static view on the labour realities (CCP, CTP).

The policy makers interviewed recognised the existence of 'grey areas' in labour law, namely in relation of the heterogeneity of profiles of independent workers and digital platform workers (still largely unknown, as stressed namely by DGERT). They also acknowledged the persistence of problems in terms of implementation and effectiveness of legal regulations, associated to the need for increased surveillance and regulation of labour relations. In parallel, the policy makers highlighted the importance of the recent initiatives, such as the recent law regulating the operation of UBER (in particular its article on the presumption of employment contract but also the legal requirements on the training and the working time of the drivers), and the 2018 tripartite agreement.

### *3.2.2. Impact of new/non-standard employment forms on social security protection of workers*

Also in terms of social security protection, the situation of **digital platform workers** is considered as asking for specific consideration. As stressed by the UGT, the definition of a concept of worker covering these new realities would be required so that these workers could be covered by social security.

The workers in the other non-standard employment forms under consideration are thought by the respondents to be protected by social security legislation.

The recent changes in the contributory code for **independent workers** (see section 2) and their impacts on their respective coverage by the social security system deserved specific attention in the interviews, including by the policy makers.

A general agreement on this legal diploma, namely considering the increased protection provided to these workers, the approximation between real income and contributory effort, and the greater share of that effort between the worker and the contracting entity, is expressed by the UGT.

The CGTP-IN also voices a general agreement, particularly noticing as positive the improved social protection rights in case of illness and parenthood as well as the contributions being made on the basis of the actual income; though, this trade union confederation disagrees on the enlargement of unemployment protection to self-employed with corporate activity or to members of the statutory bodies of legal persons.

Conversely, all the employers' organisations view as negative developments the increase in the contribution rates for employers resorting to self-employed workers, and in the financial and bureaucratic costs for companies.

The CIP shows particularly against the recent changes that, in their opinion lead to a forced and unjustified miscegenation and approximation in the social rights of self-employed and employees, thus expressing a strong disagreement and rejection of issues such as: the enlargement of the concept of contracting entity; the increased costs and contribution rates for the contracting entities; the increased bureaucratic burden for independent workers; and the reduction in the exemptions in terms of contributions for independent workers.

Concerns and uncertainties about the real impact of the new legal regulations were voiced by several respondents (UGT, CGTP-IN, but also CCP) namely regarding the reduction or the increase in the contributions of the independent workers. Concerns were also expressed regarding their potential effects on the reconfiguration of precariousness and false employment status, i.e. the conversion of (bogus) independent workers into (bogus) self-employed without employees or (bogus) sole proprietorships<sup>13</sup>, as a way of getting around the law in this area.

The fight against bogus self-employment is explicitly assumed as a priority in the intervention of the policy makers interviewed, the ACT in particular. The increase in the number of labour inspectors and the improved intercommunication and data cross-checking among the labour inspection and the tax and social security systems are also mentioned as foreseen developments that will favour the prosecution of this objective.

The legal limitations to **term contracts** introduced in the 2018 tripartite agreement were also discussed during the interviews.

The enlarged legal possibilities to resort to very short-term contracts and the increased duration of these contracts are viewed as very positive by the employers' organisations, namely by the CCP and

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<sup>13</sup> A note should be made here on the fact that the statistical data analysed in section 4 do not allow for the distinction between independent workers (those who are covered by this legal diploma) and self-employed without employees or sole proprietorships.

the CTP, especially given the seasonal nature of the work and the activity picks in sectors such as tourism and complementary trade and service activities in touristic areas (similarly to agriculture).

Although considering that the final version of the agreement did not fully met their expectations, the UGT considers the limitations to term contracts as a positive outcome in terms of reducing legal precariousness as well as to fight against illegal term contracts.

The reduction in the number of term contract renewals allowed by law and the improved capacity of the Labour Inspectorate in this area are also recognised as positive by the CGTP-IN.

However, a matter for disagreement between the two trade union confederations refers to the introduction of the extraordinary contribution by employers due to excessive turnover. While this is viewed as a positive development by the UGT, the CGTP-IN considers that this measure legitimates the existence of a certain proportion of term contracts (always very high when considering the average in the respective sector) and tolerates the remaining via the payment of that contribution, disregarding the admissibility of the term contracts.

The increased duration of the probation period and the enlarged legal possibilities to resort to very-short term contracts were among the other reasons why the CGTP-IN did not subscribe this tripartite agreement and firmly rejects the law proposal under discussion in the Parliament.

### *3.2.3. Reactions of social partners to new employment forms and changes in industrial relations – a decline in membership?*

The employers' organisations acknowledge an increase in **membership** in recent years, namely due to the augmentation of affiliates in the new technologies sector (CIP), in the contact centres sector (CCP) or in the local accommodation sector (CTP).

As to the CGTP-IN, while recognising a general trend to a decline in membership, it refers to a growth in filiation in sectors and occupations related e.g. to telemarketing, home-care support services or social cultural animation, but also of companies' directors and managers.

The UGT refers to different trends in different sectors: in some sectors, the number of affiliated declined and in some others this increased; in general terms the membership rates should have remained stable although with new configurations.

The **role of trade unions regarding independent workers** was also addressed by the trade union confederations, who expressed divergent opinions.

The UGT defends that trade unions should have enhanced possibilities to represent independent workers. In spite of a long-lasting discussion on the constitutional right of trade unions to protect independent workers, in the UGT's view, trade unions have been playing an important role in representing and defending the rights of bogus self-employed workers. Further though should thus be given to this matter in order to envisage the opportunity for trade unions to contribute to the organisation and protection of legitimate independent workers.

The CGTP-IN expresses a clear view against this possibility. Labour law has been structured on the existence of an employment relationship. Therefore, in their opinion, the focus should thus be on the employment status and on the respect for the related-legal regulations. Furthermore, a single labour contract would risk a decline in labour rights.

#### *3.2.4. Role of social dialogue / interaction with new actors in regulating new forms of employment*

As some of the respondents (UGT and CIP) specifically stressed, social movements are not social partners. Therefore, rather than new actors in industrial relations, there are new actors discussing labour issues.

However, especially considering that social movements have their own policy agendas and priorities, as stressed by the UGT, there has not been much interaction of these new actors with the social partners. The action of these new actors and of social partners may though be complementary, as highlighted by the CGTP-IN, namely regarding the fight against precarious employment (e.g. with *Precários Inflexíveis*).

#### *3.2.5. Views on options for future regulatory initiatives*

A consensual view was expressed by the respondents that it is too soon to anticipate the actual effects of recent developments in Portugal, namely in terms of the legal framework. Furthermore, new developments are expected to occur in a very near future.

Given the existing weaknesses and limitations in collective bargaining in Portugal, in the view of both trade union confederations, regulation efforts in the future should be made mostly by law, with the further support of collective bargaining processes.

The employers' organisations express a different view: the main issues at stake do not ask for further legal regulation but for better inspection procedures. A renewed social dialogue and social concertation should thus deserve a primary role in the regulation of labour relations.

As stressed by the UGT, during the interview, a new basis for social dialogue may be being built. The new forms of employment that have impacted on workers are also impacting on companies and on new forms of business organisation, namely regarding dematerialisation. This thus constitutes a matter of concern both for employers and trade unions, and the need to regulate both dimensions may open an area for future dialogue between social partners namely within the framework of social concertation.

The specific role of social dialogue and collective bargaining is also stressed by the policy makers, regarding the regulation efforts in the future. (As said before) Improved dynamics in collective bargaining is one of the axes of the 2018 tripartite agreement; the challenge here is, according to the respondents, how to cover the workers involved in new forms of employment by collective representation and bargaining. This challenge is particularly highlighted in relation to independent workers and platform workers. Furthermore, the full assumption of this role in future regulatory initiatives would require the willingness of social partners to innovate and include new topics and new approaches in the social dialogue agenda.

### **3.3 The recent challenges: new forms of dialogue, new roles and new actors**

#### *3.3.1. Combating precarious work in the public sector and articulating multiple actors*

The most recent period showed not only a variation of national-social dialogue processes and outcomes in the context of tripartite concertation (Campos Lima and Carrilho, 2018), but also the emergence of other forms of social dialogue, including different political and social actors and social movements. As explained before, one of the central issues of the left deals supporting the PS government has been the combat to precarious work and the promotion of labour and social rights of precarious workers. This commitment framed, to a certain extent, not only the direction of the change but also gave room to new forms of interaction and participation of new actors. In parallel with tripartite concertation and with formal rounds of dialogue with the social partners, the political dialogue has encompassed experts and persons linked to movements of the civil society in more or less structured or ad-hoc initiatives. The constitution and the activity of the ad-hoc Working Group constituted in September 2016 assembling representatives of the government, of the PS and the BE and of law experts appointed by the two parties to elaborate a *National Plan against Labour Precariousness* is the most significant example of the new forms of interaction. Not surprisingly, one of the persons appointed by the BE to participate in this working group was one of the founders of the social movement 'Association for the Fight against Precariousness - Inflexible Precarious', a movement that gained increasing importance voicing precarious workers claims (see Section 2). The most recent measures combating 'bogus self-employment' and with incidence in the extension of social benefits and unemployment benefits of self-employed and redefinition of the scope of 'economically dependent workers' (see Section 2) were a product of the debate within the ad-hoc Working Group. The social partners were also consulted about these measures in the context of the Standing Council of Social Concertation, but consultations did not generate tripartite agreements over these issues (Gillot, 2018; Interview CGTP and Interview Inflexible Precarious, PI).

The implementation of measures to combat against precarious work in the public sector – in the context of *Extraordinary Programme of Regularisation of Precarious Employment Relationships in Public Administration* (PREVPAP) – brought also new forms of social dialogue and a new institutional role for public sector trade unions with their participation in the Bipartite Evaluation Committees (CABs), with legal competences for examining workers' requests and participating in the decisions concerning their integration in regular labour contracts (Campos Lima, 2018). The goals and design of PREVPAP have been also a result of the left deals and of the debate within the above mentioned ad-hoc Working Group. Furthermore, various social movements helped specific groups to express themselves and helped workers to formulate their individual requests to integrate regular employment relationships. The 'Inflexible Precarious' gave, to a certain extent, the initial impulse to some of these movements. Their articulation resulted in an umbrella movement, the so called 'Precários do Estado' (Precarious of the State)<sup>14</sup> that assembles persons working in the public sector in very diverse precarious situations, and from very diverse professional backgrounds. Under the motto 'nobody is left behind' this umbrella movement played an important role putting pressure in the various phases of the process for inclusive solutions and inclusive criteria and for the fast integration of precarious workers. This pressure has been accentuated, in particular in more difficult sectors, such as in the case of precarious academic researchers, because of universities reticence to integrate them in regular employment relationships. (Interview PI).

Notwithstanding, those controversial cases still to solve, in the end of 2019 the implementation of PREPAV was almost completed in what in relation to workers applications and selection. On 22 No-

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<sup>14</sup> <http://www.precariosdoestado.net/>



vember 2019, the Ministry of Labour, Solidarity and Social Security and the Ministry of Finance informed, in a joint statement, that tenders have been launched under the PREVPAP to integrate 20,126 workers. In the central administration, tenders were opened for 10,130 jobs, while in the local administration 9,996 workers were covered. According to the same source, 11 bipartite assessment commissions (CABs), which analyse and give an opinion on the requirements submitted by workers, completed the work and to that date and 74 per cent of the candidates<sup>15</sup> have had a favourable opinion on their integration. The movement 'Precários do Estado' continues to play an important role, in dialogue with the government, pressing to solve the most complex problems of integration, to conclude the process of integration and for transparency.

### *3.3.2. Work linked to platforms and social dialogue: a challenge to trade unions and employers' associations*

#### *3.3.2.1. Electronic platform based individual transport*

In general, the debate and implementation of labour and social protection measures engaged, in various forms, the participation of social partners, sector unions and social movements. The exception has been the case of the regulations on *electronic platform based individual transport* which differed substantially in respect to the process of debate and the actors involved. Despite the fact that Uber and similar platforms generated in Portugal a media debate about income insecurity, workers controlled by algorithms rather than by an employer, excessive working hours and the right to disconnect (OECD, 2019a), the trade unions were not called to be involved in the consultation rounds to discuss the regulations. To start with, the question was framed initially as a competition problem with taxi business and a problem of social dumping (in detriment of the taxis business).

The fact that the process of discussion and consultations took place in the parliamentary *Committee on Economy, Innovation and Public Works* instead of the parliamentary *Committee on Labour and Social Security* set the scene and selected to a certain extent the actors to involve in the consultations. While labour law projects generate almost automatically the consultation of trade unions, as a constitutional right, competition legislation does not oblige to do so. In addition to the consultation of representatives of Uber and Cabify business in Portugal, the auditions involved various public bodies with competences in the area of competition and transports, a consumer rights NGO, the association DECO, and the two main associations of the taxi business sector: the ANTRAL (Associação Nacional dos Transportadores Rodoviários em Automóveis Ligeiros) a business association also with competencies in the area of collective bargaining, which affiliates are private taxi companies, taxi cooperatives and self-employed drivers; and the FPT, and the Portuguese Federation of Taxis (Federação Portuguesa do Taxi), an association representing the employers in the sector, with competences in the area of collective bargaining (Interview BE deputy).

The concern with labour issues was incorporated in the debate and resulted mostly from the left political parties draft law proposals (PS, BE and PCP) than from the recommendations of those associations, more concerned with fair rules regarding competition. The legislation now in force, as explained before (Section 2), required the compliance with already existing labour code regulations about the

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<sup>15</sup> The official information about the candidates is published in: [https://prevpap.gov.pt/ppap/javax.faces.resource/docs/PREVPAP\\_em\\_numeros\\_20180115.pdf](https://prevpap.gov.pt/ppap/javax.faces.resource/docs/PREVPAP_em_numeros_20180115.pdf)

criteria for the recognition of the 'employment contract' (distinguishing *who is and who is not an employee*) and the compliance with already existing specific regulations on working time for mobile transport activities.

The challenge to trade unions is whether the employees and the self-employed without employees, working in the scope of the '*Legal regime for individual and paid passenger transport in de-characterised vehicles based on an electronic platform*' (TVDE), will join the existing unions organising the taxi drivers and their collective agreement, or create new unions and new agreements or most likely, at least during some time, will not be covered by any collective agreement. Uber and Cabify representatives in Portugal did not respond to the attempts of the FECTRANS, the main trade union federation, organising workers in the transport sector and taxi drivers, to have meetings with them. Also, from the side of taxi employers organizations ANTRAL and FPT there was no reaction to the FECTRANS proposal of a collective agreement for taxi sector workers to be extended to similar sectors such as Uber and Cabify, a proposal made in the beginning of 2017, before the legal regime entered into force (Interview FECTRANS). The proposal of collective agreement made by this union federation claims: minimum basic wage of 600 euros (equivalent to minimum wage) complemented by variable pay depending of service; meal bonus payment; overtime payment after 8 hours of work; and extra payment for night work hours, between 20:00 and 07:00 hours, adding 25 per cent to hourly wage.

The proposal by FECTRANS relates to two critical issues for the trade unions and for the employer organisations. First, the problem is not only that workers under the regime TVDE join the unions, but also if 'TVDE employers' will join the employers' organisations or will constitute alternative employer organizations. The first hypothesis seems unlikely for the moment, if one considers the tensions between in one hand ANTRAL and FPT and in the other hand the platform linked drivers. The second hypothesis seems unlikely as well, in times when companies prefer unilateral decision to sector bargaining, seen as an obstacle in the competition race. Secondly, it does not seem legally possible (?) to extend collective agreements signed by ANTRAL and FPT for the taxi sector to the workers working for 'TVDE employers', unless some of these employers join those employer associations. That will be also a challenge for law makers.

Last but not least, the response to the question of identifying *who is an employer and who is not*, a critical question in the case of triangular employment relationships like in temporary agency work (TWA) and subcontracting, seems to be more difficult in the case of working arrangements emerging from new forms of business with basis on platforms (OECD, 2019b: 144). The response given by the TVDE legal regime defines that the employment relationship is established between the *TVDE operators* i.e. the 'employers' and the drivers at their service and not at the service of the platforms. Platforms have no responsibility or obligations regarding labour and social protection, a situation which is even more critical for the workers, than other cases of triangular employment relationships. In fact in the TVDE regime they are not triangular in what concerns labour relations. Paradoxically, as explained before, the only responsibilities of platforms regarding the drivers is that their information systems have to register the drivers working times and the compliance with the driving time and rest time envisaged by the law. Therefore, the critical function of working time control – that would be typically considered an employer/management function – operates outside the formal scope of the employment relationship. As the legislation is very recent, there is not yet an evaluation by the trade unions of the possible impacts (Interview with FECTRANS).

The widespread number of TVDE companies and drivers (see section 4) since the law was published, with the number of TVDE drivers reaching around 21.000 (almost as much as the taxi drivers), calls the attention for the need of a re-evaluation of the legislation in terms of competition and labour and social protection issues. It calls also the attention for their forms of organization, association and representation. So far the specific business associations created, assembling TVDE companies, did not assume formally the status of employer associations. Two were already created before the law came into force<sup>16</sup>. As for the drivers, it seems that some of them have the intention to support an autonomous trade-union, as suggested by the Facebook profile and home page of the so called *Sindicato dos Motoristas TVDE Portugal* (TVDE Portugal drivers trade union)<sup>17</sup>, not yet formally registered as a trade union at the Ministry of Labour, but that has been voicing drivers concerns with excessive TVDE competition in Lisbon and Porto<sup>18</sup>. Evidence of mounting discontent of TVDE drivers became apparent with the first protest demonstration staged by UBER drivers on 6 January 2020, against UBER decision to reduce TVDE fares, a protest that was organized through social media<sup>19</sup>.

### 3.3.2.2. Food Delivery platform-linked work

While platform linked individual transportation business has been subject to regulation, other activities platform-linked did not receive the same attention. Trade unions organising workers in services, tourism, hotels and restaurants are concerned about the deregulation induced by the widespread of *food delivery platform-linked business* such as UberEATS and Glovo. In their opinion, the platform linked business model increased the deregulation of labour in sectors, where business models of subcontracting and outsourcing were already increasingly circumventing the labour rights enriched in collective agreements (Interview CESP and interview STIHTRSN). The Union of Workers in Hotels, Tourism, Restaurants of Northern Portugal (STIHTRSN) has been following with particular attention these developments, highlighting the poor working conditions (long hours and low wages) and the lack of security of the workers against accidents at work; and pointing to the different strategies used by the platforms, either combining the use of self-employed workers in partnerships with delivery companies, such as in the case of UberEATS, or relying mainly directly on self-employed workers, such as in the case of Glovo.

With the goal of organising these workers and helping them to formulate their demands, this trade union called a general meeting to take place on 7 March 2019 in Porto, with distributors of meals from UberEATS, Glovo and other platforms, to analyse the situation of these workers. The initiative was part of a CGTP campaign against precarious work. The STIHTRSN concluded that most of these workers are in a situation that corresponds in fact to 'bogus self-employment' and that recently their conditions have been deteriorating. The union requests meetings with Uber Eats and Glovo, as well as with the intermediary companies and partners of these multinationals, to demand "employment contracts and

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<sup>16</sup> Associação Nacional de Transportadores Utilizadores de Plataformas Eletrónicas (ANTUPE) and Associação Empresarial de Operadores de TVDE (AEO-TVDE) that replaced ANPPAT.

<https://observador.pt/2017/01/20/anppat-e-antupe-os-parceiros-da-uber-e-cabify-ja-tem-quem-os-defenda/>

<sup>17</sup> Sindicato dos Motoristas TVDE Portugal – <https://www.smtvde>; <https://www.facebook.com/Sindicato-Motoristas-TVDE-Portugal-145582389718115/> a closed group that counts 355 members and 2225 followers (4 March 2020).

<sup>18</sup> <https://www.tsf.pt/portugal/economia/lisboa-e-porto-ja-tem-mais-motoristas-da-uber-que-taxistas-comecam-a-faltar-clientes-11829181.html>; <https://www.tsf.pt/portugal/economia/lisboa-e-porto-ja-tem-mais-motoristas-da-uber-que-taxistas-comecam-a-faltar-clientes-11829181.html>

<sup>19</sup> <https://www.abrilabril.pt/trabalho/centenas-de-carros-da-uber-em-protesto-buzinaram-em-frente-empresa>

wage conditions for these workers" and the guarantee of a minimum wage of 700 euros. Yet, there is a long way to go before some positive results will be achieved.

On 31 May 2019 this trade union succeeded to have a meeting held at the Ministry of Labour with the multinationals Uber Eats and Glovo, "to demand that these companies conclude individual employment contracts with these workers and recognize the collective bargaining rights in force". The trade union denounced that Uber Eats and Glovo couriers are illegally hired as self-employed. At the meeting Uber Eats and Glovo rejected to conclude labour contracts with the couriers. The trade union has been asking for labour inspection intervention, reiterating that the couriers in question are, in fact, employees, since they carry out their activity in a place determined by the multinationals (zone), use equipment and work tools of the companies (electronic platform and backpack), have a pre-scheduled defined and receive a compensation for their work (amount paid for each delivery).

On 7 February 2010, around 50 couriers from the company Glovo gathered spontaneously at Praça do Comércio (Lisbon), in protest against overdue wages<sup>20</sup>. These workers claim an increase of the salary per service and point out that, since the closure of the office in Lisbon, contact with the company, by e-mail, has been heavily conditioned. The working conditions of couriers are marked by precariousness. The inexistence of an employment relationship with the company, the inexistence of and insurance for accidents at work, the instability of work which income depends on the number of deliveries they make, and the low remuneration of this service, which forces many to work more than ten hours, are just some of the various difficulties these workers reported. The STIHTRSN<sup>21</sup> welcomed the courier's initiative and claimed again that workers of Uber Eats, Glovo and other platforms should be considered as employees and must have a direct employment contract with the multinationals.

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<sup>20</sup> <https://www.abrilabril.pt/trabalho/estafetas-da-glovo-protestam-contra-salarios-em-atraso>

<sup>21</sup> <https://www.facebook.com/sindhotelarianorte/>

## 4. Labour market effects of the reforms

This section aims primarily to concentrate on the analysis of publicly available quantitative data on the Portuguese labour market in the past decade especially regarding the different non-standard and new forms of employment in focus in this country report.

However, explaining how these figures evolved over time requires some initial paragraphs setting the scene on key economic and social trends in Portugal in the last ten years.

Our analysis, namely in 4.1 and 4.2, is based on official statistical data (updated, whenever possible, in order to correspond to the time period under scrutiny in the NEWEFIN study) included in one, or in several, of three main sources:

- The *DIADSE – Dialogue for Advancing Social Europe country report on Portugal* (Campos Lima and Abrantes, 2016).
- The Centro de Relações Laborais *2017 Report on Employment and Training* (CRL, 2018) and the *2018 Report on Employment and Training* (CRL, 2019).
- The International Labour Organization report *decent work in Portugal 2008-18: From Crisis to Recovery* (ILO, 2018).

### 4.1. Overview - macroeconomic performance

The global financial and economic crisis and the Eurozone debt crisis impacted strongly on the country, which was already experiencing modest growth in the early 2000s. The GDP (gross domestic product) declined abruptly between 2008 and 2014, falling by EUR 12 billion (-6 per cent). The austerity policies launched during Troika intervention, and the contraction of internal demand, 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; investment fell around 21 per cent between 2011 and 2014; and public debt increased from 111.4 per cent in 2011 to 130 per cent in 2014.

The growth rate in Portugal only turned positive in 2014. Recovery in Portugal started accelerating from 2016. In 2017, the country economic growth was superior to the Euro area for the first time since 2009; nevertheless, as stressed in the 2018 Report on Employment and Training, in 2018, the GDP per capita in Portugal represented about 63 per cent of the EU average, while it represented 67 per cent in 2010. The reduction of the public deficit to historically low levels (from above 10 per cent of the GDP in 2010 to below 2 per cent since 2016), the stabilization of public debt, and the exit from the excessive deficit procedure in 2017 have largely justified the reduction of the long term interest rates supported by the Portuguese State. Furthermore, the recent positive developments namely in terms of external accounts are related to strong export growth, relative import compression due to subdued domestic demand and sustained capital inflows, since the country has regained access to the international financial market.

In sum, 'Portugal went through many economic difficulties during the past decade, but it is now bouncing back with surprising vigour. (...) But, by and large, the process of adjustment and recovery is on a firm ground thanks to a combination of factors and policies that go beyond the conventional recipe of fiscal consolidation and hyper-deregulation' (ILO, 2018: 12).

## 4.2. Demographic trends and labour market participation

The impact of the crisis and of the austerity policies on employment and incomes was dramatic in Portugal.

More than 600,000 jobs – about 12.5 per cent of total employment – were lost from the start of the financial crisis in 2008 to the first signs of recovery. In 2014, employment reached its lowest level since 1995, 4.5 million, as opposed to 5.1 million jobs in 2008.

The increase in unemployment following the austerity was abrupt. The unemployment rate that in 2008 was 8.8 per cent reached 12.9 per cent in 2011 and escalated up to 16.4 per cent (compared with 10.9 per cent in the EU average) in 2013. The youth unemployment rate that in 2008 was 21.6 per cent reached 30.2 per cent in 2011 and heightened up to 38.1 per cent in 2013. In 2014, and despite the wave of emigration, the rate of unemployment was still 14.1 per cent and 34.7 per cent for people under 25 years old. Long-term unemployment rose as well to unprecedented levels reaching a rate of 9.3 per cent in 2013.

An even sharper increase of labour underutilisation was noticeable. This rate, which complements the unemployment rate with involuntary underemployment and the discouraged workers, increased more rapidly than the unemployment rate in 2010-13, more significantly than the European average, and it remained higher, although it started declining considerably in 2013, when it reached a peak of 25.4 per cent. Its levels in 2018 (13.7 per cent) were still higher than those prevailing before the crisis for both total and youth (15-24) employment. Although the decline of the underutilisation rate was higher among women than among men, women still present a higher labour underutilisation rate.

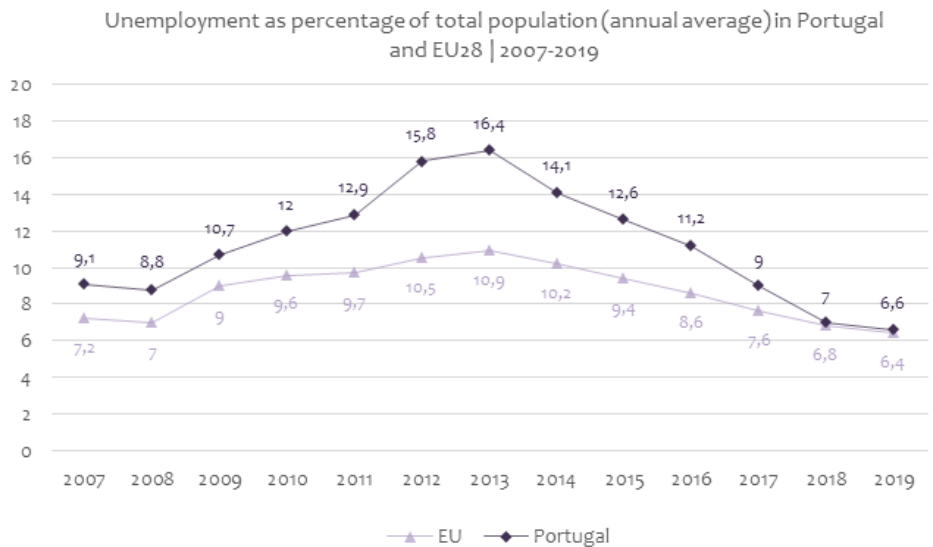
‘Among the factors that contributed to the escalation of the crisis was the reduction of internal demand resulting from the decline of population income, which was the consequence of wage downwards policy (nominal cuts in the public sector, freezing the minimum wage and erosion of collective bargaining) and pension cuts (...) and also of unprecedented tax increases targeting in particular the middle class but also people with low income’ (Campos Lima and Abrantes, 2016).

This was accompanied by massive outmigration that rose to levels unseen since the 1970s. Between 2010 and 2013, the number of persons who left the country increased by 50 per cent, and in 2013 and 2014 it reached 110,000 persons a year. Nearly 500,000 people emigrated between 2011 and 2014, especially young and educated persons, which put substantial pressure on the sustainability of social protection system and may have negative impact on productivity as well. This outmigration, combined with the reduction in immigration flows, contributed to accelerate the rising share of older population and the drop in the share of young people since 2010. Moreover, between 2010 and 2014, there has been a decline in the population by 200,000 (about 2 per cent).

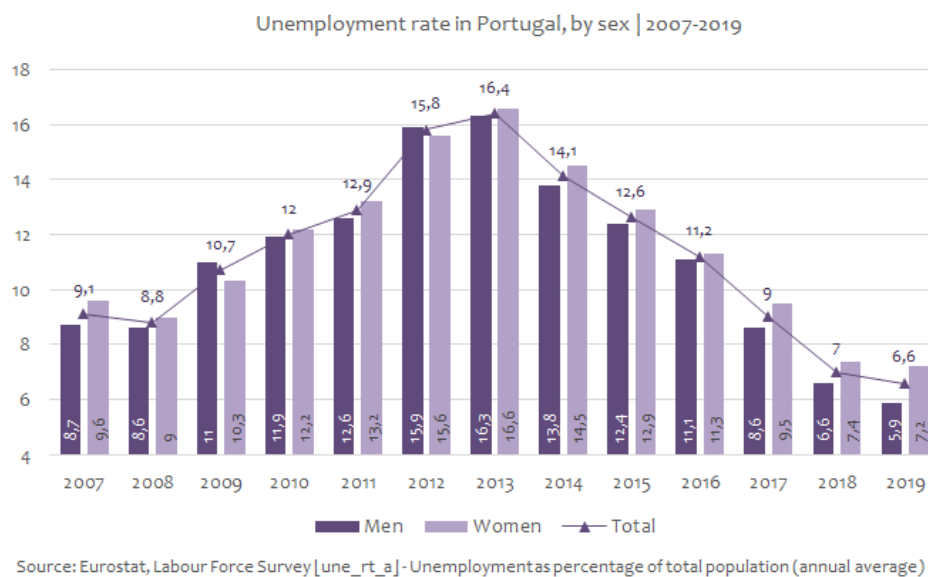
These demographic changes are also reflected in the economic activity rate, which declined from 73.9 per cent in 2008 to 73.0 per cent in 2013; this rate has been recovering since then reaching 75.1 per cent by 2018. The gender differential in the activity rate has been reducing since 2008. When compared with the EU average, there was convergence over the period, since the activity rate in Portugal has remained relatively stable, around 73-74 per cent, as opposed to a trend for growth of the activity rate, from 70.7 per cent in 2008 to 73.7 per cent in 2018, in the EU countries on average.

Since 2014, economic growth has regained momentum, unemployment has declined significantly (facilitated by the effects of wage subsidies and other active labour market policies), and living standards

in 2017 were back to the level they were in 2008. Unemployment is now approaching the levels prevailing in the pre-crisis period as well as the EU average, having fallen to its lowest level since the early 2000s; in 2018, the rate of unemployment was 6.6 per cent per cent (close to the rate in the EU 28).

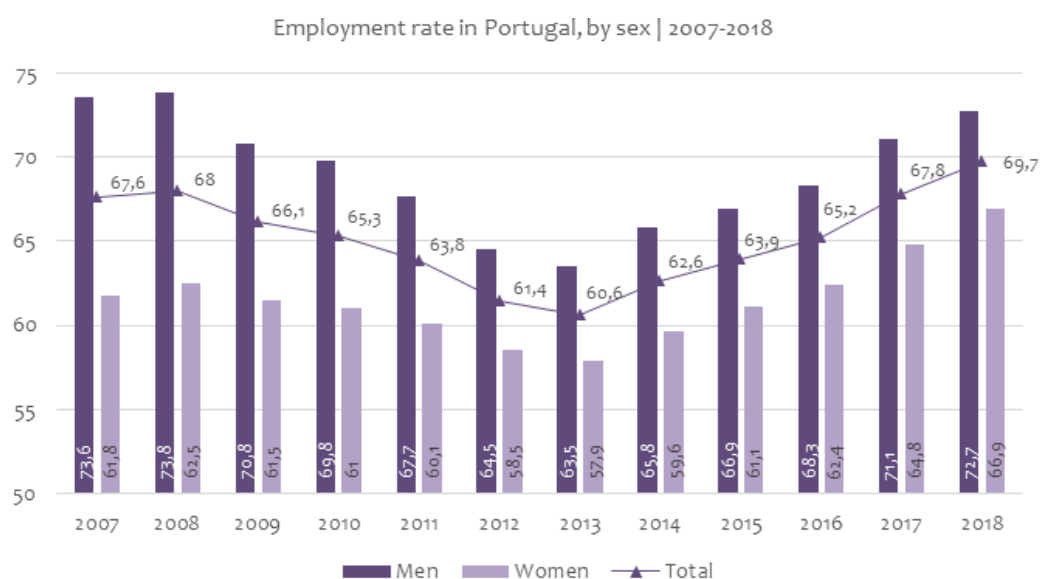


Nevertheless, in 2018, the youth unemployment rate was more than double those for other age groups (20.3 per cent). The reduction of female unemployment over time, since the recession, has been more prominent; the female-to-male unemployment rate differential reached near parity in 2016. However, the female unemployment rate stood higher than the male unemployment rate from 2007 onwards; in 2019, the female unemployment rate was 7.2 per cent, compared with 5.9 per cent for men.



Long-term unemployment has also been declining, to a rate of 3.1 per cent (compared with 2.9 per cent in the EU28) in 2018, which ‘suggests that the causes of unemployment are becoming less structural in nature and compared to search and cyclical unemployment’ (ILO, 2018: 38). The reduction in the numbers of the discouraged workers and the involuntary underemployed as well as the recent reversal of migration flows (for the first time in years, data for 2018 indicate higher immigration numbers) are further signs of the recent rebounding of the labour market.

Employment rate, after reaching its lowest level in 2013 (60.6 per cent, as opposed to a peak at 68 per cent in 2008), recovered to 69.7 per cent in 2018, with female employment 5.8 percentage points lower than male. The increase in the employment of working-age women was responsible for 90 per cent of the total increase in employment during the period between 2012 and 2016. This has practically closed the gender gap in employment, placing Portugal third among EU countries, although not in wages.

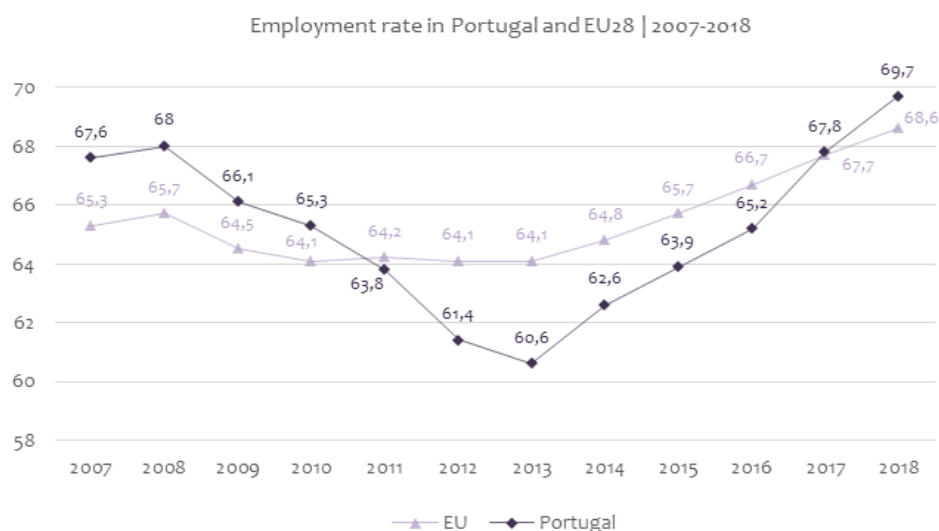


Source: Eurostat, Labour Force Survey [lfsi\_emp\_a] - Employment and activity [15-64 years old]

Concentrating on the 25-54 age group, by end-2017 the employment rate in Portugal stood at 82.5 per cent, above the average rate for the EU 28 (79.6 per cent).

However, considering the general employment rate, from 2011, the EU average employment rate was higher than that for Portugal, which represents an inversion of a previous trend, since the employment rate in Portugal has always stood above the EU average since the early 2000s. From 2017 the employment rate in Portugal is again slightly higher than the EU average.



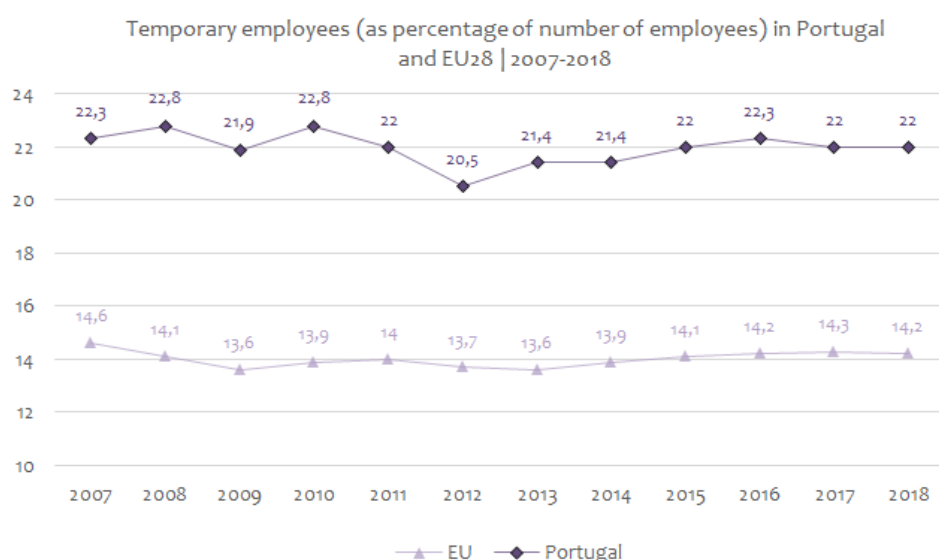


Source: Eurostat, Labour Force Survey [lfsi\_emp\_a] - Employment and activity [15-64 years old]

There remain gaps in the labour market and concerns with the quality of jobs, especially for youth. Stable and secure jobs are especially rationed for the younger cohorts. Remuneration has remained stagnant and low relative to EU averages. Labour market segmentation is widespread, with large number of temporary jobs. Moreover, non-standard forms of labour contract and new forms of employment have been showing significant developments in Portugal in the past decade.

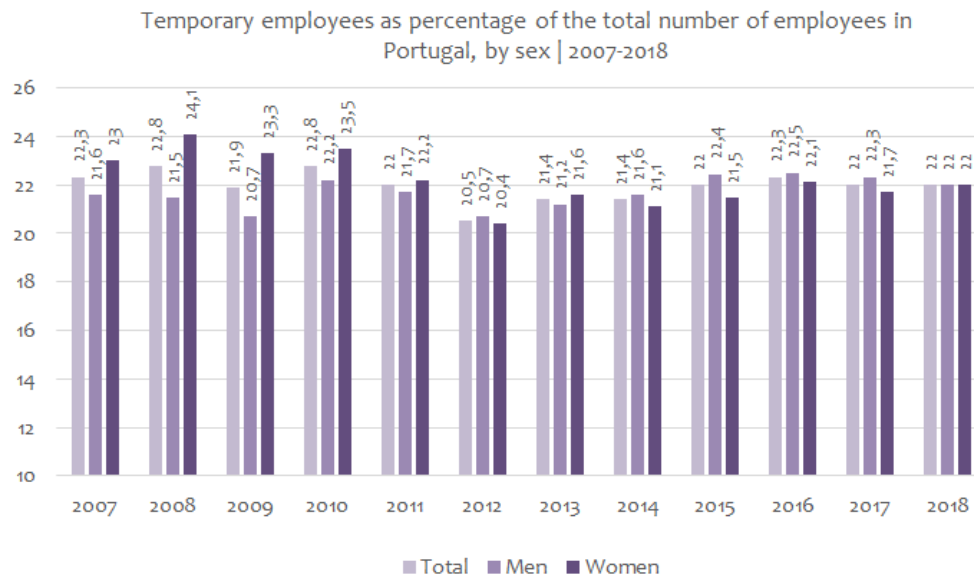
### 4.3. (Temporary and) Very short-term contracts

In Portugal the incidence of temporary contracts is high, having oscillated around 22 per cent, compared with 14 per cent in the EU28.



Source: Eurostat, Labour Force Survey [lfsa\_etpgan] - Temporary employees as percentage of the total number of employees (15 to 64 years of age)

Women have been somewhat more prone to hold a temporary contract but this trend was slightly reversed in the last five years: by 2018, 22 per cent of both male employees and female employees had a temporary contract.



Source: Eurostat, Labour Force Survey [lfsa\_etpgan] - Temporary employees as percentage of the total number of employees (15 to 64 years of age)

However, national Labour Force Survey data, released by Statistics Portugal, show that in absolute figures more women than men have a temporary contract; and that the number of temporary contracts increased significantly more for women, compared with men, between 2017 and 2018: 4 per cent and 0.3 per cent, respectively.

Since 2014, overall still more permanent jobs were created; though temporary jobs increased much more rapidly in relative terms: in 2015, 46.7 per cent of the new contracts were temporary contracts.

Contractual segmentation in Portugal manifests in some key features:

- ✓ Temporary contracts have a high presence across most sectors of activity, and it equally concerns male and female workers (LFS).
- ✓ Temporary contracts are overrepresented among young workers (59 per cent in 2017), but are also relatively wide spread across the prime-age population (16 per cent of workers aged 25-55 years in 2017) (Eurostat).
- ✓ Temporary contracts have a strong involuntary aspect: 84 per cent of all temporary workers in 2014 (LFS).
- ✓ Transitions between contractual statuses are low (Eurostat).
- ✓ Temporary jobs fare worse than regular jobs along the whole range of working conditions, especially regarding earnings (EWCS 2015).

Short temporary contracts have been rising: in 2008, 2.45 per cent of all temporary contracts had a duration lower than 1 month, and 5.58 per cent of all temporary contracts had a duration between 1

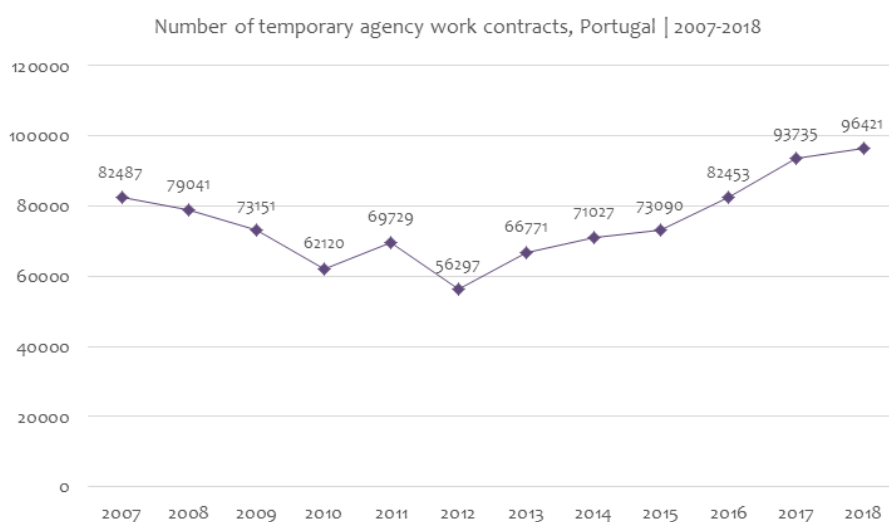
and 3 months; whereas in 2017, 6.25 per cent of all temporary contracts had a duration lower than 1 month, and 8.48 per cent of all temporary contracts had a duration between 1 and 3 months (LFS).

Very short temporary contracts with a duration up to 15 days – in seasonal activity in the agriculture or in touristic events - have been also increasing: from 1,108 in September 2011 to 1,786 in September 2015 (Instituto de Informática, IP, MTSSS).

#### 4.4. Temporary agency work

Temporary agency work has a low expression in the Portuguese labour market (similar to the EU 28), covering about 2 per cent of all employees (aged 15-64) in 2018. Moreover, temporary agency workers, as a percentage of all temporary contracts, have been declining, from 9.9 per cent (7.7 per cent for men and 2.3 per cent for women) in 2010 to 3 per cent (2 per cent for men and 1 per cent for women) in 2016.

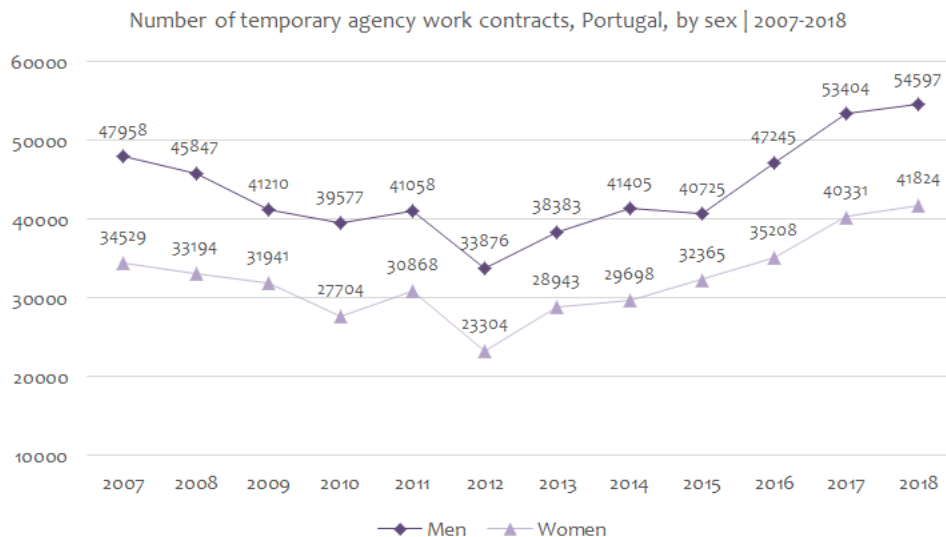
According to the Personnel Records, there were 96,421 temporary agency work contracts in 2018. Out of these, 54,597 were held by male employees and 41,824 by female employees.



**Note:**

- Between 2007 and 2009 data refer to Portugal. Since 2010 data refer to Portugal mainland exclusively.
- Temporary contracts includes: Temporary contracts for occasional assignment; temporary open-ended contract and temporary fixed-term contract.

Source: Office for Strategy and Planning [Gabinete de Estratégia e Planeamento – GEP], Personnel Records (Quadros de Pessoal).



Note:

- Between 2007 and 2009 data refer to Portugal. Since 2010 data refer to Portugal mainland exclusively.
- Temporary contracts includes: Temporary contracts for occasional assignment; temporary open-ended contract and temporary fixed-term contract.

Source: Office for Strategy and Planning [Gabinete de Estratégia e Planeamento – GEP], Personnel Records (Quadros de Pessoal).

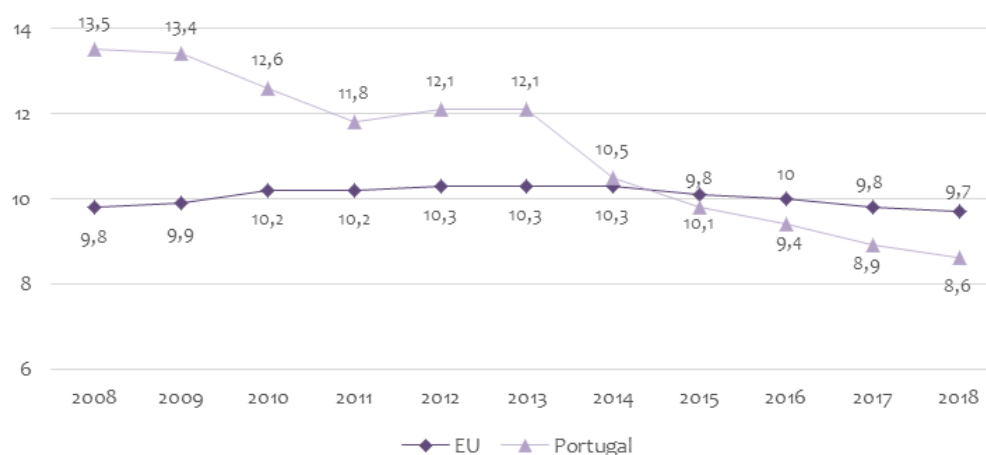
The number of temporary work agencies registered at the Institute for Employment and Vocational Training (*Instituto do Emprego e Formação Profissional*, IEFP) increased from 197 in 2014 to 212 in 2015; then declined to 198 in 2016. The number of workers covered by temporary agency work, according to the same source, has though been increasing: 144,853 in 2014; 162,298 in 2015; and 166,519 in 2016.

The number of contracts celebrated has increased even more, as it did the ratio contracts/workers: 3.21 in 2014; 3.34 in 2015; and 3.58 in 2016.

#### 4.5. (Dependent and bogus) Self-employment

The share of total employment that is self-employment without employees used to be higher in Portugal but in 2014 it was similar in Portugal and in the EU28, slightly above 10 per cent. From then on, while the figures for the EU28 remained stable, this share continued to reduce in Portugal, reaching 8.6 per cent in 2017. Self-employment has in fact registered a steady drop over time, from 2012-2013.

Self-employed without employees in percentage of total employment in Portugal and EU28 | 2008-2018 (own calculations)



Source: Eurostat, Labour Force Survey. Own calculations based on detailed annual survey results/employment [lfsa\_egan2] and self-employment [lfsa\_esgan2]

A distinctive feature of self-employment in Portugal refers to its involuntary aspect: 34 per cent of workers (compared to 20 per cent in EU28) are self-employed because there were no other alternatives for work (EWCS 2015). Still according to the 2015 European Working Conditions Survey, economically dependent self-employment represents a high proportion, i.e. 9 per cent of all employment and 41 per cent of all solo self-employment in Portugal.

Different results were obtained in the 'Labour Force Survey (LFS) ad-hoc module 2017 on the self-employed persons' (Eurostat, 2018). According to the operational definition adopted by Eurostat, the share of dependent self-employed is lower in Portugal than in EU28: the economically dependent self-employed amount to 0.2 per cent of the total employment and 1.3 per cent of the self-employed (compared with, respectively, 0.5 per cent and 3.4 per cent at EU level).

Still concerning bogus self-employment, relying on data collected by the Labour Inspectorate, from 1 September 2013 (when Law 63/2013 came into force) to 2017<sup>22</sup>: 3,639 bogus self-employed workers were identified; 1,170 situations were regularised voluntarily by employers; and 856 participations to the Public Prosecutor's Office were made.

Synthesis of the application of Law 63/2013

Year	2013	2014	2015	2016	2017	Total
Bogus self-employed workers identified	500	1,510	478	559	592	3,639
Situations regularised voluntarily by employers	na.	507	291	84	288	1,170
Participations to the Public Prosecutor's Office	13	425	64	37	317	856

Source: Authority for Working Conditions [Autoridade para as Condições de Trabalho, ACT], Inspective Reports.

<sup>22</sup> The information about the situations regularized voluntarily by the employers started to be collected in 2014.

#### 4.6. Digital platform workers

Data on digital platform workers in Portugal are scarce.

According to the 2016 Eurobarometer 438, 23 per cent of respondents in Portugal (compared with 32 per cent in the EU28) have ever provided services on collaborative platforms.

The 2017 COLLEEM pilot survey (covering a 14 countries sample) provides some further relevant information on platform workers:

- ✓ Nearly 11 per cent of the entire adult population in Portugal (compared with nearly 10 per cent in the total sample) have ever provided labour services via platforms.
- ✓ 7.1 per cent in Portugal (compared with 7.7 per cent in the total sample) are “relatively frequent” (at least once a month) platform workers.
- ✓ 6 per cent in Portugal (compared with 5.6 per cent in the total sample) dedicate at least 10 hours per week to the work carried out via platforms.
- ✓ 4.2 per cent in Portugal (compared with 6 per cent in the total sample) make at least 25 per cent of their monthly income via platforms; and 1.6 per cent (compared with 2.3 per cent in the total sample) make at least 50 per cent of their monthly income via platforms, i.e. platform work remains extremely low as a main source of employment or main source of income.

Almost one year after the law 45/2018 that regulates electronic individual transport platforms (TVDE) came into force, the Institute of Mobility and Transport (IMT) reported that on 15 October 2019, 18,265 drivers were officially certified drivers of TVDE; while in the taxi sector, the number of certificate taxi drivers (CMT) was 25,785. On 15 December 2019 the press (Jornal de Noticias) reported that the number of companies and drivers of TVDE escalated: *“In a universe of eight platforms available, there are currently 6672 companies and there are already more than 21 thousand drivers - almost as many as taxi drivers (25 834)”*.

## 5. Conclusions

It must be highlighted that the widespread use of the so called ‘atypical’ forms of employment or ‘new forms of employment’ was not entirely triggered by the economic crisis of 2008. Considering, for instance, the share of temporary jobs (in the broad definition of the Labour Force Survey), it was between 1995 and 2001 that it escalated, by 10 percentage points, reaching around 20 per cent in the turn of the century, a proportion that would continue with slight variations during this decade<sup>23</sup>. Following the crisis a slight decrease was observed as these jobs were the easiest to cut down, but in 2015, 2016, 2017 and 2018 the pre-crisis levels were reached with a share around 22 per cent. In fact there is a concern that the recent economic and employment recovery has been mainly based on precarious and low wage jobs and on sectors where they are widespread (Observatório sobre Crises e Alternativas, 2018; Caldas and Almeida, 2018).

On the other hand, the crisis seems to have had the effect on decreasing the level of temporary agency work, but since 2012 it started to increase again reaching already in 2016 levels above those observed before the crisis.

As for the trends regarding self-employment they are interesting. While in 2008, the share of self-employed in Portugal was well above the average in EU 28, respectively 13.5 per cent and 9.8 per cent, in the earliest phase of the crisis it was observed a decrease that was accelerated significantly after 2013-2014 – coinciding with the first measures to combat ‘bogus self-employment’ – reaching since then lower levels than the EU average, respectively 8.6 per cent and 9.7 per cent, in 2018. It has been argued (e.g. by some of our respondents, as mentioned in 3.2.2) that this downward trend may somehow reflect a reconfiguration of precariousness and false employment status, i.e. the conversion of (bogus) independent workers into (bogus) self-employed without employees or (bogus) sole proprietors.

The magnitude of particular forms of employment such as the economically dependent self-employed or the platform workers remain largely unknown, or uncertain at least, which proves particularly challenging namely for the purposes of this study. Statistical data is not yet available to assess the possible impact of the widespread of platform linked work observed during 2019 in individual transport (TVDE) and also in food delivery platform-linked work.

New forms of employment, beyond labour contract, seem to relate to new forms of flexibilization of labour, towards ‘*deslaborização*’ (Leite, 2013: 25 ), a term meaning the decline of the labour contract and the shift from labour law to business/civil law; or, said in another way, the transformation of an employment relationship (Huiskamp, 1995) in a business relationship of exchange of services, where the responsibilities of the employer in terms of labour and social protection tend to be circumvented. The legislation combating ‘bogus self-employment’ has improved after the amendments made in recent years, but the compliance with the law remains a challenge for trade unions and for labour inspection authorities. More resources are needed to follow up and tackle the problem, a problem that might have increased with the expansion of platform linked work.

The increasing institutionalisation of a kind of ‘third category’ – the category of independent workers economically dependent – between the typical employment relationship with all labour and social protection rights, including the right to collective bargaining, and the typical condition of self-employed

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<sup>23</sup> Eurostat, Labour Force Survey [lfsa\_etpgan] – last update 11.03.2019 (extracted 02.04.19).

or independent workers not subordinated to the employer authority, raises new questions. On the positive side the independent workers economically dependent, are granted more social protection rights and employers contracting their services have more responsibilities; on the negative side they constitute a new segment of workers that do not have full rights, namely of collective bargaining and coverage of collective agreements, adding to the already existing forms of precariousness of work. Moreover, changes in the legislation did not, so far, attributed any responsibility to platform linked business or more specifically to platforms to share 'employer-like' responsibility in terms of labour rights and conditions and social protection – a problem that remains unsolved at the national and European level. In addition it seems that within the category of labour contracts there is an increasing risk of pulverisation of forms of precarious work for instance with the extension of scope and duration of very short duration contracts and with the extension of trial period for more vulnerable groups such as the first job seekers and long term unemployed.

The legislation and political measures in the new political cycle (2015-2019) combined in different ways the influence – sometimes with contradictory effects – typical and new forms of social dialogue, conventional industrial relations actors at macro/top level and at sectoral level and social movements. This experience constituted a learning process that will be useful for the evaluation of the impact of the measures and to improve legislation and political measures, hopefully in line with promoting labour and social rights and protection and the capacity of actors.

Eventually, the response to the new challenges in terms of organising and capacity building is still in the beginning. Local concerns of trade unions and social movements have not yet been translated in general concerns and reflexion at national level. The recent emergence of spontaneous protests of platform linked workers, using social media, shows that there is room for collective organisation, but also that it will be a learning process demanding new skills and new strategies from the side of trade unions.



## REFERENCES

- Abrantes J. J. and Silva R. C. (2016), “New forms of employment in Portugal”, in Blanpain R. and Hendrickx F. (eds) *New Forms of Employment in Europe, Bulletin of Comparative Labour Relations*, VOLUME 94, Kluwer Law International B.V., pp 313-323.
- Abrantes, J. J. and Canas da Silva, R. (2017), The Concept of ‘Employee’: the position in Portugal, in Waas B. and van Voss G. H. (eds.) *Restatement of Labour Law in Europe*, Vol I, The Concept of ‘Employee’, Oxford: Hart Publishing.
- Cabrita, J. et al (2009), *Portugal: Self-employed workers*, Eurofound. <https://www.eurofound.europa.eu/publications/report/2009/portugal-self-employed-workers>
- Caldas, J.C. and Almeida J.R. (2018), Emprego e salários: pontos de interrogação. *Barómetro das crises/ 19*, 22 November 2018, Observatório das crises e das Alternativas. [https://www.ces.uc.pt/ficheiros2/files/19BarometroCrises\\_Interrogacao16112018.pdf](https://www.ces.uc.pt/ficheiros2/files/19BarometroCrises_Interrogacao16112018.pdf)
- Caldas, J. C. (2012), *The impact of “anti-crisis” measures and the social and employment situation*, European Economic and Social Committee – Workers Group.
- Campos Lima, M. P. (2018), *Portugal: Innovative social dialogue to combat precarious work in the public sector*, Eurofound. <https://www.eurofound.europa.eu/publications/article/2018/portugal-innovative-social-dialogue-to-combat-precarious-work-in-the-public-sector>
- Campos Lima, M. P. (2017a), A grande regressão da negociação coletiva: os desafios e as alternativas, in Manuel Carvalho da Silva, Pedro Hespanha and José Castro Caldas (org.), *Trabalho e Políticas de Emprego. Um Retrocesso Evitável*, Almedina, Coimbra, pp. 219-270
- Campos Lima, M. P. (2017b), *Portugal: Tripartite commitment on labour market and collective bargaining measures*, Eurofound. <https://www.eurofound.europa.eu/publications/article/2017/portugal-tripartite-commitment-on-labour-market-and-collective-bargaining-measures>
- Campos Lima, M. P. and Abrantes, M. (2016), *DIADSE – Dialogue for Advancing Social Europe, Country report: Portugal*. [https://www.cesis.org/admin/modulo\\_projects/upload/files/DIADSE\\_Portugal%20Report.pdf](https://www.cesis.org/admin/modulo_projects/upload/files/DIADSE_Portugal%20Report.pdf)
- Campos Lima, M. P. and Carrilho, P. (2018), Portugal: Developments in Working Life 2017, in *Developments in working life in Europe: EurWORK annual review 2017*. Eurofound. <https://www.eurofound.europa.eu/sites/default/files/wpef18041.pdf>
- Carvalho, J. M. (2018), O contrato de transporte em veículo descaracterizado (Uber, Cafiby, Taxify), *Revista de Direito Comercial*, 28 October 2018. <https://www.revistadedireitocomercial.com/o-contrato-de-transporte-em-veiculo-descaracterizado-uber-cafiby-taxify>
- CES (2018), Tripartite agreement on Combating precarious work and labour market segmentation and promoting greater dynamism in collective bargaining (*Acordo para Combater a Precariedade e Reduzir a Segmentação Laboral e promover um maior Dinamismo da Negociação Coletiva*), Comissão Permanente de Concertação Social/Conselho Económico e Social (CES). <http://www.ces.pt/storage/app/uploads/public/5b2/7e5/2f6/5b27e52f6b180834433182.pdf>

CES (2017), Tripartite Commitment for a Mid-term Concertation Agreement (*Compromisso Tripartido para um Acordo de Concertação de Médio Prazo*), Comissão Permanente de Concertação Social/Conselho Económico e Social (CES).

<http://www.ces.pt/storage/app/uploads/public/58b/f17/f44/58bf17f449b88132493082.pdf>

CES (2012), Tripartite Agreement for competitiveness and employment (*Acordo tripartido para a competitividade e o emprego*), Comissão Permanente de Concertação Social/Conselho Económico e Social (CES). <http://www.ces.pt/storage/app/uploads/public/58b/f17/f57/58bf17f573aeb017446575.pdf>

CES (2011), Tripartite Agreement – Compromise for growth, competitiveness and employment (*Acordo tripartido – Compromisso para o crescimento, competitividade e emprego*), Comissão Permanente de Concertação Social/Conselho Económico e Social (CES).

<http://www.ces.pt/storage/app/uploads/public/58b/f17/f4e/58bf17f4edc0b556660321.pdf>

CES (2008), Tripartite Agreement for a new system of regulation of employment relations, and policies of employment and social protection in Portugal (*Acordo tripartido para um novo sistema de regulação das relações laborais, das políticas de emprego e da proteção social em Portugal*), Comissão Permanente de Concertação Social/Conselho Económico e Social (CES).

<http://www.ces.pt/download/205/SistRegRelLab2008.pdf>

CRL – Centro de Relações Laborais (2018), *Relatório sobre Emprego e Formação – 2017*.

<https://www.crlaborais.pt/documents/10182/13353/Relat%C3%B3rio+sobre+Emprego+e+Forma%C3%A7%C3%A3o++2017/f7207809-83d5-471c-8238-80961c51042a>

CRL – Centro de Relações Laborais (2019), *Relatório sobre Emprego e Formação – 2018*.

<https://www.crlaborais.pt/documents/10182/13353/Relat%C3%B3rio+emprego+e+forma%C3%A7%C3%A3o++2018/dd6a7865-9ebd-433f-b214-f5f9c3e6134d>

Dornelas, A. (org.) (2006), *Livro Verde sobre as Relações Laborais*, Lisboa, Ministério do Trabalho e da Solidariedade Social.

Dray G. (Coord.) (2016), *Livro Verde sobre as Relações Laborais*, Lisboa, Gabinete de Estratégia e Planeamento do Ministério do Trabalho, Solidariedade e Segurança Social (GEP/MTSSS).

[www.portugal.gov.pt/media/26493126/20170324-mtsss-livro-verde-1.pdf](http://www.portugal.gov.pt/media/26493126/20170324-mtsss-livro-verde-1.pdf)

Eurofound (2016), *Exploring the fraudulent contracting of work in the European Union*, Publications Office of the European Union, Luxembourg.

Eurofound (2017), *Exploring self-employment in the European Union*, Publications Office of the European Union, Luxembourg.

Eurofound (2018a), *Portugal: latest working life developments Q2 2018*.

Eurofound (2018b), *Portugal: latest working life developments Q3 2018*.

Eurofound (2019a), *Portugal: latest working life developments Q2 2019*.

Eurofound (2019b), *Portugal: latest working life developments Q3 2019*.

European Commission (2018), *ESPN Flash report 08/2018*, Directorate DG Employment, Social Affairs and Inclusion, August 2018.

European Commission (2019), *ESPN Flash report 09/2019*, Directorate DG Employment, Social Affairs and Inclusion, August 2018.

Governo de Portugal (2015), *Government Programme* (Programa do XXI Governo Constitucional:2015-2019) <https://www.portugal.gov.pt/ficheiros-geral/programa-do-governo-pdf.aspx>

Gillot, T. (2018), O que traz o novo regime contributivo? Recibos verdes: finalmente um primeiro passo para uma verdadeira Segurança Social, *Monde Diplomatique*, January 2018. Lisbon. <https://pt.mondediplo.com/spip.php?article1220>

Huiskamp, R. (1995), Regulating the employment relationship: an analytical framework, in Ruys-seveldt J. V., Huiskamp, R. and Hoof, J. V. (eds.): *Comparative Industrial and Employment Relations*. London: Sage Publications, 16-36.

ILO (2018), *Decent Work in Portugal 2008-2018: from crisis to recovery*. International Labour Office, Geneva. [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_646867.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_646867.pdf)

International Labour Organization (2014), *Tackling the Jobs Crisis in Portugal*, ILO, Geneva. [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_228208.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_228208.pdf)

Leite, J. (2013), La reforma Laboral em Portugal, *Revista General de Derecho del Trabajo y de la Seguridad Social*, nº. 34, 2013.

Observatório Sobre as Crises e as Alternativas (2018), Retoma económica: o lastro chamado precariedade, *Barómetro das crises 18*, Observatório Sobre as Crises e Alternativas. [https://www.ces.uc.pt/ficheiros2/files/18BarometroCrises\\_Retoma\\_precariedade.pdf](https://www.ces.uc.pt/ficheiros2/files/18BarometroCrises_Retoma_precariedade.pdf)

OECD (2019a), *Policy responses to new forms of work*, OECD Publishing, Paris. <https://doi.org/10.1787/0763f1b7-en>

OECD (2019b), *The future of work: employment outlook 2018*, OECD Publishing, Paris. [https://read.oecd-ilibrary.org/employment/oecd-employment-outlook-2019\\_9ee00155-en#page147](https://read.oecd-ilibrary.org/employment/oecd-employment-outlook-2019_9ee00155-en#page147)

OECD (2017), *Labour Market Reforms in Portugal 2011-2015 - a preliminary assessment*. <https://www.oecd.org/employment/emp/Labour-market-reforms-in-Portugal-2011-2015-preliminary-assessment.pdf>

Perista, P. and Baptista, I. (2017), *Prospects for increased social protection for the self-employed in Portugal*, ESPN Flash Report 2017/02.

Perista, P. and Baptista, I. (2017), *ESPN Thematic Report on Access to social protection of people working as self-employed or on non-standard contracts- Portugal 2017*.

Público (2019), *Sindicato vai apurar situação de estafetas de plataformas digitais de entrega*, Newspaper Público 13 January 2019.  
<https://www.publico.pt/2019/01/13/sociedade/noticia/sindicato-vai-apurar-situacao-estafetas-plataformas-digitais-entrega-1857511>

Ramalho, M. R. (2014), Portuguese labour law and relations during crisis, in Konstantinos Papadakis and Youced Ghellab (eds.), *The governance of policy reforms in Southern Europe and Ireland*, Geneve, International Labour Organization: 147-163.

Silva, P. A. and Pereira, M. T. (2012), As políticas de proteção no desemprego em Portugal, *Sociologia Problemas e Práticas* n.º 70, pp. 133-150.

Távora, I. and González, P. (2014), 'The reform of joint regulation and labour market policy during the current crisis: Portugal', Country report for the project *Social dialogue during the economic crisis: The impact of industrial relations reforms on collective bargaining in the manufacturing sector*, Directorate-General of Employment, Social Affairs and Inclusion, European Commission.