The impact of the crisis and austerity measures in labour relations in Portugal

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Abstract
The measures of economic and political governance of the current crisis, framed by the financial assistance programme coordinated by the troika, have led to the deterioration of the functioning of the labour market and strongly weakened those social institutions promoting the adjustment of employment. In the last three years, the number of collective agreements negotiated by the social partners suffered an abrupt fall, as well as the number of employees covered by bargaining agreements. Moreover, the amendments to the labour code turned out to be strongly painful to workers with regard to the weakening of protective employment legislation and the reduction of their income. This paper examines some dimensions of the spiral imbalances and tensions generated in the employment relations during the current crisis in Portugal.
1. Introduction

In Europe, the recent financial crisis has affected particularly those countries that have revealed significant structural weaknesses in the economy. As a result, the crisis had a much larger amplitude than that which affected other countries. In addition, the economic and social consequences of the measures taken to combat it had, in many cases, a strong negative impact on economic growth, the welfare of the population and the functioning of labour market institutions.

Since joining the EU in 1986 until the late 90s, Portugal approached the income levels of most developed countries, rising from a real GDP per head of about 62% to 76% of that of the OECD, between 1986 and 1999. However, after the introduction of the Euro, this trend of convergence was reversed and divergence in relation to the OECD, EU or the Eurozone returned (Fig A1 in Appendix; Dias and Cerdeira, 2011). That is, the fragilities, already there before the crisis, emerged and some authors even blame the Euro for this weak performance and the difficulties to tackle the crisis (Amaral, 2013).

Data for unemployment follow a similar pattern. During the nineties, unemployment rates for Portugal where around half those of the Euro area. In contrast, in subsequent years the rate of unemployment increased every year even before the crisis, changing from 4.5% in 2000 to 8.9% in 2007, that is, higher than the average for the Eurozone, the EU or the OECD (Figure A2). External imbalances were also significant, as illustrated by data on current account balance (Figure A3) and private debt (Figure A4).

However, it was after the application of the UE recommendations to increase public expenditure and the subsequent strong increase of budget deficit and public debt that the sovereign debt crisis emerged. As shown in Fig.1, budget deficits in Portugal in 2009 and 2010 were considerably higher than the limit of 3% (10.2% and 9.8%, but excessive deficits were also observed in many other countries of the Euro area), and the volume of public debt attained 94% of GDP in 2010. Following concerns with the sustainability of public debt and exacerbated by cuts in rating and the bailouts of Greece and Ireland, yield rates of Portuguese government bonds also increased to prohibitive levels and led to the bailout of Portugal in April 2011.
Figure 1. Portugal – General Government Surplus/Deficit, Consolidated Gross Debt and 10-year Government Bond Yield Rates

Source: data from Eurostat and Datastream
In fact, the policies and measures adopted by the Portuguese Government in this period have been designed in accordance with the European governance of the crisis. In the first phase, known as the financial phase (between March and December 2008), the Portuguese Government responded with a designated "Initiative to Strengthen Financial Stability" oriented to the strengthening of financial institutions. In the second phase, when all the EU fell into recession and the European Council (January 2009) adopted budgetary stimulus measures in a strategy to avoid a "recessive spiral", Portugal reacted to calls of the European institutions with the designated "Initiative for Competitiveness and Employment", which was presented as "the national contribution to the European-wide counter cyclic effort", that had serious consequences for the budget deficit (Costa and Caldas, 2013). In a third phase, as soon as the first signs of economic recovery enrol fiscal consolidation as one of the key policy objectives of macro-economic adjustment (EC, March 2010), Portugal starts a period of reforms and restrictive policies, with the designated Stability and Growth Pact (SGP) programs. In one year four successive SGP were created, with successive accumulation of austerity measures: SGP I, SGP II and SGP III in 2010, respectively, in March, June and September. The SGP IV, presented a year after SGP I (March 2011) was rejected by the Parliament and brought down the Socialist minority Government. However, the reforms and measures contemplated therein were incorporated in the Memorandum of Understanding on Specific Economic Policy Conditionality, subscribed, on the one hand, by the troika (International Monetary Fund, European Commission and European Central Bank) and, on the other hand, by the Portuguese Government, in May 2011. Altogether, the various SGP involved a very broad set of measures aimed at curbing public expenditure and increasing revenue, involving, inter alia: reduction of wages in the public sector, public pensions and social benefits; freezing of public investment; reduction of transfers to the public business sector; reduction of tax benefits; increased rates of direct and indirect taxes and extraordinary tax surcharges and the acceleration of the privatisation programme (Costa and Caldas, 2013: 73).

Therefore, it was the adoption of a European strategy of response to the crisis, based on the idea of expansionary austerity, i.e., on a conception of "structural adjustment" in which "fiscal consolidation" and "internal devaluation" fit together to promote a quick rebalancing of public or external accounts (Reis et al., 2013), that determined policies and austerity measures that the Portuguese Government has implemented under the close supervision of the troika. Its economic and social impact has been very significant.

From 2011 to 2013, the GDP contracted 6.3% against an anticipated reduction of 2.8, the unemployment rate reached 17.7% in 2013 against a forecast of 13.3% and the effect on the reduction of deficits and debt was much lower than expected in the Memorandum: deficit of EUR 9.7 billion against a target of 5.2 in 2013 and debt of 124% of GDP in 2012 against a target of 112.2% (Reis et al. 2013; Costa and Caldas 2013). In fact, as shown in the figure below, the economic recovery started in the second quarter of 2009 reverted to recession, with a fall in real GDP that extends up to second quarter of 2013 (Figure 2).
The investment, in phase of contraction since the first quarter of 2008 is deteriorating and from the second quarter of 2010 up to the first quarter of 2014 were destroyed around 479 thousand jobs (and close to 670 thousand since the crisis began in 2008), increasing by 33% and 93%, for the same periods, the total number of unemployed. Long-term unemployment, traditionally high, rises to 57% in the first quarter of 2014.

Emigration reached levels comparable to those of the 60s of last century, i.e. corresponding to the period in which the Portuguese emigration reached the highest figures: more than 100 thousand Portuguese emigrated (permanently or temporarily) in 2011 and 120 thousand in 2012, of which 48% and 57%, respectively, aged between 20 and 40 years. The coverage of the unemployed by wage compensation changes from 60% in March 2010 to 40% in March 2013, decreasing also in 33% and 37% the number of people who receive child benefit and social insertion income, respectively. In parallel, there has been an increase in prices of various goods and services, which, together with reductions of salaries and in social policies has led to the widespread reduction of disposable income of the population.

Reforms and austerity measures that affect people’s daily life have been many. However, due to the great importance that work has in people's lives and the centrality that has been given to labour relations in crisis management, this paper focuses on the reforms and austerity measures concerning the labour market, with particular attention to the imbalances and tensions generated in employment relations, particularly manifest in the erosion of collective bargaining and individualisation of work relations. Indeed, the reform of the labour market, specified in detail in the Memorandum, has been a key element of the internal devaluation strategy underlying the business and economic recovery of the country outlined by the troika. According to some authors, this was precisely the area of the Memorandum whose execution more advanced, with serious consequences on the erosion of social relations and in the deterioration of labour relations (Schulten and Müller, 2012; Leite et al., 2013; Monteiro Fernandes, 2013; Costa and Caldas, 2013; ).
2. The pressure for reform of the labour market and the Memorandum of Understanding

The pressure for greater flexibility of the labour market, in order to reduce labour costs and the power of workers, as a strategy to promote economic growth, is now provided by several converging factors: predominance of liberal economic thinking, high unemployment, weakening of the trade union movement, dualisation and labour market segmentation, sometimes as a result of trade unions’ little inclusive strategies, disruption of labour legislation itself, and finally, a widespread economic and financial crisis, which seems to legitimise any type of action (Monteiro Fernandes, 2013).

From a possibly narrow interpretation of the functioning of labour markets, which conferred to Portugal a high degree of rigidity, expressed in the index developed by the OECD on the degree of freedom accorded by the law to employers to hire and fire (LPE), for many years this institution has recommended deep changes to labour legislation. According to the OECD, the formal rigidity of labour legislation did not provide economic growth, since it constrained labour mobility and hindered the adaptation of enterprises to rapid economic transformations, within the framework of the processes of globalization, technological developments and the resulting organizational changes. In addition, this rigidity also strongly discouraged foreign direct investment. The reform should include three major components: increased flexibility of working time; increased flexibility in labour and labour costs, so that wages reflect local conditions and levels of qualification of the labour force; finally, the revision of the provisions on job security, in order to facilitate dismissals and free recruitment of workers (OECD, 1999, 2004 and 2006).

However, as the OECD itself has come more recently to recognize, the studies are not consistent with respect, for example, the analysis of the effect of protective employment legislation on unemployment (Bertola, 1990; Nickell, 1997; Baker et al., 2003), nor with regard to the relationship between duration of employment and productivity. Some empirical evidence reveals the opposite of positive effects attributed to labour flexibility, showing that job stability (at least to some extent) exerts a positive effect on productivity (Auer and Caze, 2002; Auer, Berg and Coulibaly, 2004) Auer and Gazier, 2006). Moreover, comparative studies on the mobility of employment show that the rate of rotation of the Portuguese labour was greater than that of Germany, France, Finland and Italy and only slightly lower than in countries such as Canada, Denmark and United Kingdom (Comissão do Livro Branco das Relações Laborais, 2007; Dornelas, 2011).

This diagnosis oriented industrial relations reform of 2009 (2009 code), based on the tripartite agreement for a new system of regulation of labour relations, of employment policies and of social protection in Portugal, signed by social partners in 2008, with the exception of the CGTP-IN. Instead of a strategy of external flexibility through the facilitation of precarious employment adopted by the reform of 2003, the option was to protect flexible jobs and to introduce ways of promoting negotiated internal flexibility, in particular related to the organisation of working times and

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1 The result would be very different if it were taken into account, for example, atypical employment, hidden forms of employment and their weight in total employment.
geographical and functional mobility. These legislative changes brought down the formal rigidity of LPE, which changed from highest levels to values close to France and Germany (Dornelas et. al., 2011).

During 2010 the Government sought to resist external pressures for deeper reforms in the labour market and to introduce more flexibility. First, because the legislative changes introduced with the 2009 Code were associated with other labour market reforms, based on very comprehensive diagnostics of socio-labour reality (Dornelas et al., 2006; Comissão do Livro Branco, 2007), widely discussed by the social partners and by the Portuguese society in general. Second, because some of the legislative policies were still in the implementation phase and it was considered to soon to move on to additional changes. Thus, it is within a constrained internal and external environment and of Government weakness that the social partners endorse the Joint Declaration on a Tripartite Agreement for Competitiveness and Employment, presented at the European Summit devoted to employment and social policy², which resulted in the Tripartite Agreement for Competitiveness and Employment³. This agreement, concluded on the eve of the fall of the Socialist Government, took over as its purpose to promote the reduction of the deficit and the creation of conditions for a “strong and lasting economic recovery", encompassing a set of commitments on three main areas: the promotion of competitiveness, the reorganization and improvement of active employment policies and specific modifications in the regulatory framework of labour relations.

The Memorandum of Understanding, negotiated by the Socialist Government but also endorsed by the parties supporting the current Government (PSD and CDS), integrated the essential basic commitments of the Agreement, with emphasis on labour market reforms, developing them with enough detail, pointing out targets and deadlines for implementation, similar to what happened in other intervened countries (Schulten and Müller, 2012; Eurofound, 2013; Lehndorff, 2012). The presentation of the objectives, highlight strong concerns, among others, with combating long-term unemployment and labour market segmentation, as well as the improvement of workers’ qualifications. However, social insensitivity of many of the proposed measures reveals a low degree of consistency for such purposes and point, instead, to promoting enterprises and country economic competitiveness through the reduction of labour costs. The following table summarizes the objectives and measures envisaged:

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2 March 11, 2011
### Objectives

**1. Reducing the risk of long-term unemployment and strengthening social safety nets.**

- Reducing the maximum duration of unemployment insurance benefits to no more than 18 months;
- Capping unemployment benefits at 2.5 times the social support index (IAS) and introducing a declining profile of benefits over the unemployment spell after six months of unemployment (a reduction of at least 10% in the benefit amount);
- Reducing the necessary contributory period to access unemployment insurance from 15 to 12 months;
- Extending eligibility to unemployment insurance to clearly-defined categories of self-employed workers providing their services to a single firm on a regular basis.

**2. Reforms in the employment protection system aimed at tackling labour market segmentation, fostering job creation, and easing adjustment in the labour market.**

- Re-design the system for severance payment entitlements:
  - total severance payments for new open-ended contracts will be reduced from 30 to 10 days per year of tenure (with 10 additional days to be paid by an employers' financed fund) with a cap of 12 months and elimination of the 3 months of pay irrespective of tenure;
  - total severance payments for fixed-term contracts will be reduced from 36 to 10 days per year of tenure for contracts shorter than 6 months and from 24 to 10 days for longer contracts (with 10 additional days to be paid by an employers' financed fund);
  - implementation of the fund to partly finance the cost of dismissals for new hires;
  - aligning the level of severance payments to that prevailing on average in the EU;
- Changes to the admission requirements of individual dismissals for unsuitability and to the extinction of work positions.

**3. Reforms in working time arrangements with a view to contain employment fluctuations over the cycle, better accommodate differences in work patterns across sectors and firms, and enhance firms’ competitiveness**

- To promote the use of flexible working time arrangements, including on modalities for permitting the adoption of “bank of hours” working arrangement by mutual agreement of employers and employees negotiated at plant level.
- Implementation of the working time arrangements and short-time working schemes in cases of industrial crisis, by easing the requirements employers have to fulfil to introduce and renew these measures;
- Revision of the minimum additional pay for overtime established in the Labour Code: (i) reduction to maximum 50% (from current 50% for the first overtime hour worked, 75% for additional hours, 100% for overtime during holidays); (ii) elimination of the compensatory time off equal to 25% of overtime hours worked.

**4. Promote wage developments consistent with the objectives of fostering job creation and improving firms’ competitiveness with a view to correct macroeconomic imbalances.**

- Over the programme period, any increase in the minimum wage will take place only if justified by economic and labour market developments and agreed in the framework of the programme review;
- Define clear criteria to be followed for the extension of collective agreements and commit to them.
- To define norms for overall wage developments that take into account the evolution of the competitive position of the economy and a system for monitoring compliance with such norms;
- The desirability of shortening the survival (sobrevigência) of contracts that are expired but not renewed (art 501 of the Labour Code);
- Implement the "organised decentralisation", notably concerning:
  - the possibility for works councils to negotiate functional and geographical mobility conditions and working time arrangements;
  - the creation of a Labour Relations Centre supporting social dialogue with improved information and providing technical assistance to parties involved in negotiations;
  - (iii) the lowering of the firm size threshold above which works councils can conclude firm-level agreements to 250 employees;
- Promote the inclusion in sectoral collective agreements of conditions under which works councils can conclude firm-level agreements without the delegation of unions.

| Source: Memorandum of Understanding on Specific Economic Policy Conditionality, 17 May 2011 |
|---|---|
| **Ensure good practices and appropriate resources to Active Labour Market Policies to improve the employability of the young and disadvantaged categories and ease labour market mismatches.** | **Increase of the policies and other ALMPs in tackling long-term unemployment, improving the employability of the young and disadvantaged categories; improving the education system and vocational training.** |
A reform of severence payments for new contracts was introduced still in 2011 and the reform of the system of unemployment insurance benefits was made in the first quarter of 2012. Most of the remaining measures of the memorandum were undertaken within the designated “Commitment to Growth, Competitiveness and Employment”, signed on January 10, 2012. This "Compromise" was only signed, by the side of Trade Unions Confederations, by UGT.

Although the exposure of the reasons behind the reform of the labour market highlight social concerns, particularly related to tackle segmentation and promoting flexicurity, in fact, the legislative changes agreed here and which are the core of the deeper review of the Labour Code (Law 23/2012 of 25 June) have little to do, genuinely, with the concept of flexicurity coming from the countries of Northern Europe and understood as joint measures of flexibility and security (Garcia, 2013).

3. Main thematic areas of the labour reform

The most relevant changes of labour reform may be grouped into four thematic areas: working hours and organisation of working time; termination of employment contract by objective reasons; collective bargaining and company relations with Labour Authorities.

3.1 Working hours and organisation of working time

The limitation of working hours to 40 hours in the private sector was introduced in Portugal only in 1996 (Law 21/96), following the tripartite agreements of 1990 and 1996. This reduction came to benefit close to a million workers, standing above 40 hours the sectors of textile and footwear industry, electronic industry, commerce and hotels, restaurants and tourism. Some sectors with higher trade unions’ bargaining power negotiated shorter working times, for instance the financial sector and public administration (35 hours per week).

By unilateral decision the Government homogenises working time on central and local administration to 40 hours per week, i.e. adds another hour of daily work, without an equivalent payment. At the same time proposes to the social partners the increase of ½ hour of daily work in the private sector, along the same lines. The negative reaction of trade unions, but also the employers’ confederation CIP, to this initiative led the Government to withdraw its proposal. However, the increase in the number of annual working hours, without corresponding wage compensation, will eventually occur by three routes:

(i) reduction of four mandatory holidays;
(ii) reduction of the holiday period, through the disappearance of an increase contractually negotiated which guarantee one to three additional days of vacation for workers based on attendance. This measure was not included in the troika memorandum;

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5 Decree-Law 64/2012 and Decree-Law 65/2012 of 15 March
(iii) elimination or reduction of compensatory rest periods associated with the extra work. One of the effects associated with the additional work previously established was the right to enjoy a compensatory rest corresponding to 25% of the overtime worked. This right was extinguished and declared void all the clauses of collective agreements prior to August 1, 2012 related to this matter.

According to data from EIRO (European Observatory of Industrial Relations), the average collectively agreed normal weekly working hours in Portugal evolved from 37.6 hours to 39.3, an increase of 1.7. This evolution has no parallel in the Eurozone or EU28 and brought Portugal close to the few countries in Europe that have the highest weekly average duration (40 h).

![Source: EIRO](image)

With regard to the organisation of working time, both the five-year European Working Conditions Surveys (EWCS) and the European Company Survey (ECS) from Eurofound have shown that the presence of flexible forms of organisation of working time have in Portugal a lower incidence than in most European countries. This data is consistent with the analysis of the content of collective agreements (Dornelas et al., 2006; Dornelas et al. 2011) and reveals that the predominant modes of organisation of working time were relatively classical, i.e. mainly focused on the use of overtime.

As mentioned before, the labour reform of 2009 (2009 code) brought major changes on this issue and created schemes for individual adaptability, group adaptability, concentration of working hours and "bank of hours". The amendments introduced by Law 23/2012 reinforced existing mechanisms. The most substantive change concerns the introduction of the individual "bank of hours" by direct agreement between the worker and the employer, when before this could only be made by collective bargaining. In these cases, the “bank” may have a maximum of 150 hours per year and allows, in times of peaks, the working time to be increased by two hours per day (up to a maximum of ten). The employer must make the proposal in writing but if the employee does not respond within a period of 14 days it is considered accepted.

Another important amendment is the reduction to half of the remuneration for additional work which, as mentioned, is the most flexible solution used by Portuguese companies and represents a significant part of the income of many
workers. The extra work that before had an additional remuneration of 50% in the first hour was reduced to 25% and the additional hours that before raised compensation by 70% passed to 37.5%. Also work on holidays or during weekly rest period, mandatory or complementary, which was paid 100% went to 50%.

3.2 Dismissals

Individual dismissal severance compensation are central and strategic aspects of the labour reform. As stated above, this theme has been at the centre of pressures to which the Portuguese labour law has been subject for a long time, under the invocation of its high degree of rigidity.

Under Portuguese law there are two possibilities to terminate the employment contract on grounds not related to the employee in addition to collective dismissal which, in the Portuguese case, is extremely easy: extinction of work positions and unsuitability of the worker in case of technological changes in the workplace. The labour reform did not introduce new possibilities for individual dismissal. However, with regard to dismissal due to the extinction of work position, it gave the employer more freedom in choosing who to dismiss. In addition, it eliminates the obligation to put the employee in a position compatible his/her professional category.

Dismissal due to unsuitability of the worker became possible even if no changes in the workplace have been introduced. This becomes possible in cases where there is a substantial modification of the worker performance due to, for example, "continuous reduction of productivity or quality" and, in the case of positions of technical complexity or direction, by the mere failure of objectives.

Another aspect concerns the amended severance payments in case of dismissal of workers with a permanent contract, whose amounts are greatly reduced.

3.3 Collective bargaining

In accordance with the commitments made in the memorandum with regard to the collective bargaining system architecture, the new legislation has created conditions for the promotion of decentralization of collective bargaining. Thus, the new legislation instituted the possibility of collective bargaining at plant level by workers commissions, by delegation of trade unions (in companies above 150 workers), in subjects such as geographic and functional mobility, the organization of working time and remunerations.

Concerning the administrative extension of collective agreements, the Government approved at the end of 2012 (RCM 90/2012, of 31/10) as a criterion the condition of the signatory employers’ association representing at least 50% of the workers in the sector of activity. However, the large reduction on the number of extension directives led the social partners – both trade unions and employers' confederations –, to question the effectiveness of this criterion. On the one hand, the trade unions disapproved the condition that fewer workers are covered, on the other hand, employers' confederations saw in criterion a disincentive to participation of companies in associations (because they benefit from the rules laid down in collective agreements). Thus, the Government reformulated the criteria, introducing, as an alternative, the condition of the members of the signing agreement being, at least in 30%, represented by micro, small and medium-sized enterprises.
Regarding the revision of the time of “sobrevigência” (automatic continuation of collective agreement upon expiry) of collective agreements this is a matter still under discussion. The Government's intention is to reduce the period from five to two years, a measure challenged vehemently by CGTP-IN, which accuses the Government of wanting to destroy the collective bargaining. For its part, UGT claims to be available to negotiate the reduction of this period, but gradually and with conditions. Specifically, UGT proposes that the reduction is done, for now, from five to four years, allowing then the social partners to assess the impact of this change at the end of one year, negotiating then a gradual reduction from year to year.

3.4 Company relations with Labour Authorities

The legislative reform eliminates some obligations in sending information to the authority for working conditions, in particular with regard to issues relating to working hours. It is no longer required to send to this Authority the map of work schedule, the agreement on time exemptions or the regulation of company, for example. The application for reduction or exclusion of rest time shall be tacitly approved and communications prior to commencement of activity will be simplified. On the other hand, companies will have to report the adherence to labour compensation fund, a mechanism intended to partially the compensation to workers.

4. Sensitive labour reform guidelines: reducing labour costs and increasing employers’ unilateralism

It is well known that there are two quite different ways of promoting the competitiveness of enterprises and countries. One of these pathways is the designated "low road", based on the reduction of labour costs, promotion of quantitative flexibility, extension of working time and individualised working relationship with the consequent devaluation of the dialogue and the role of collective bargaining (Pyke and Segenberger, 1992; Castillo, 2003; Kovács, 2005). It is a road that is not new in the Portuguese society and that some economic and political forces have sought to reverse in the last two decades. However, the flexibility can be viewed in a more qualitative perspective, concerning organization and people. Flexibility, in this sense, values the quick adaptability of individuals, groups, and organizational units of the company in general to new demands and opportunities. This ability is obtained by polyvalent skills, development of new professional profiles, participatory management practices and long-term commitment between employers and employees. Qualitative flexibility is promoted by new forms of work organization and a set of changes incorporated into the logic of the high road involving the improvement of competitiveness with a view to not only high quality of products and services, but also on employment and working conditions.

Labour market reforms condensed in the documents analyzed constitute an option of developing the competitiveness of enterprises and of the Portuguese economy by the "low road". The vast majority of the troika measures point in this direction and also rely on three major orientations of the legislative amendments: the reduction of labour costs, expansion of decision power of employers and
individualization of employment relationships with devaluation of the role of collective bargaining.

The purpose of the reforms of the labour market in order to obtain advantages in terms of competitiveness of enterprises and the economy, through the reduction of labour costs, is transverse to most of the direct or indirect legislative reform measures. However, due to its greater relevance we emphasize the following: reduction of the amount and time of compensation in a situation of unemployment; decrease in the remuneration of overtime; increase of working time through the elimination of bonus on vacation provided by previous legislation (up to 3 days); elimination of four mandatory holidays; elimination of compensatory rest associated with the additional work; 50% reduction in the value assigned to the exemption of working hours; very substantial reduction of costs associated with the end of the contractual relationship for reasons inherent to the worker, i.e. unfair dismissal.

The increase in the employer’s unilateral decisions clearly emerges in the case of the organisation of working time and the relationship of the company (the employer) with the labour administration authorities. Concerning the organisation of working time, we refer the following changes: unilateralism in deciding whether the work stops on weekdays, when interleaved with holidays, should or should not be considered vacation time and choice of compensation for normal work during holidays. Although less evident also in the agreement of the bank for individual hours. In our view this is one of the most onerous change to the worker, to the extent that, given the asymmetry of power of the actors in labour relations, only in very particular situations (for example in the event of an employee being in possession of rare qualifications) will the worker have bargaining power to establish this "agreement". As Monteiro Fernandes (2013) emphasises, it is basically a change with a high potential of disruption of personal and family life of the workers, in addition to being a way to reduce the income of the employee for the conversion of overtime in normal hours.

The weight of bureaucracy is often pointed to as one of the obstacles to the competitiveness of companies and the country. The adverse effects of this bureaucracy in matters much more important than in the area of the work have been largely highlighted and evaluated and little has been done to change the status quo. However, taking in consideration that in Portugal is low the degree of effectiveness of the labour legislation (Dornelas et al., 2006), it is at least questionable whether the abolition of some means of monitoring compliance with the legislation, of which are examples the elimination of the obligation of send the internal regulations of the company, the exemption from working hours and sending a map of schedule of work.

Although the principle of collective autonomy, such as the principle of individual autonomy, are constitutionally enshrined, the devaluation of social dialogue and of collective bargaining has been an established practice. This devaluation became evident when the Government unilaterally decides to reduce wages, pensions and extend working hours without compensation equivalent in the public sector. In the case of the last revision of the Labour Code, this devaluation comes in particular due to annulment of norms of collective regulation instruments concluded before August 1, 2012, with the restrictions imposed by Law 23/2012, concerning, for example, number of days of vacation, compensatory payment of overtime and additional compensation for dismissal.
5. Some empirical evidence of the erosion of employment relations and the individualization of labour relations

5.1 The index of the protective legislation of employment (LPE)

The comparison of the strictness of LPE in 2008 and 2013 shows that, within the EU, Portugal was the country that promoted greater flexibility of labour legislation concerning individual dismissal. Thus, the index changed from 4.2 to 3, approaching countries such as the Netherlands, France and Germany.

![Figure 4. EP Strictness - Individual dismissals (regular contracts, scale 0-6)](image1)

Source: OECD, accessed 18/05/2014

With regard to the overall indicator, Portugal is also the country which records the largest drop (-0.8), followed by Greece (-0.5) and Spain (-0.4). With this decline Portugal now holds a legislation with the same degree of flexibility as the Luxembourg and more flexible than Germany, France, Italy, the Netherlands and Belgium.

![Figure 5. EP Strictness- Individual and collective dismissals (regular contracts, scale 0-6)](image2)

Source: OECD
5.2 Coverage of collective bargaining

The architecture of the collective bargaining system established with the introduction of democracy (1974) was built within a framework of high trade union density (59% at the end of the years 70) and based on the sector of activity, complemented by the intervention of the State through the publication of ordinances and extension of minimum conditions regulation for companies not associated in employers' organizations. Thus, the sectoral collective bargaining has been the most important system for the definition of wages and working conditions the companies in the sector. The company agreements and multi-company agreements (collective agreements) developed independently of the sectoral collective agreements.

Over the years some bargaining impasses have been created and collective agreements have shown little dynamism of upgrading to the new realities of companies, in particular concerning the negotiation of internal flexibility of enterprises. The ritualization of collective bargaining and the weak development of new spaces of bargaining have left some workers without coverage by collective bargaining, in particular those affected by flexible and precarious forms of employment (Ferreira, 2006).

The analysis of the dynamics of collective bargaining clearly reveals the impact of the crisis on collective bargaining. The number of collective regulatory instruments and the number of employees covered by them declines abruptly from 2010 to 2013: 70% and 83%, respectively. Comparing with 2008, this decline is, by the same order, 79% and 87%. An estimate of workers covered by collective bargaining calculated excluding civil servants indicates that the percentage of employees covered by collective bargaining have evolved from 58% in 2008 to 44.2% in 2010, 12% in 2012 and 8.1% in 2013.

Figure 6. Collective agreements and workers covered by collective agreements (2008-2013)

Source: DGERT, MTSS
6. Conclusions

The financial crisis caught Portugal in a position of fragility at various levels and with limited tools handle the problem. However, crisis management at European level also has its share of responsibility in the evolution of the crisis. As a result, we have a strong negative impact on the living conditions of the population but also on the credibility of the European institutions.

The austerity measures and the deregulation of the labour market did not lead to the desired reduction of the budget deficit and public debt, nor to the economic recovery but to recession. The flexibility of the labour market has been justified with ambitious goals such as reducing long-term unemployment and labour market segmentation, the improvement of skills, the promotion of job creation, improving the employability of young people, as well as improving the competitiveness of enterprises. However, the first impact resulted in a strong growth of unemployment and emigration and there is some inconsistency between these stated objectives and the means for its implementation, based on neo-liberal conviction that the insufficient growth of the economy and employment is only due to existing blockages to the free functioning of the market, notably of the labour market. The flexibility of the labour market, allowing variation in the volume of employment, wages, and hours of work, is regarded as an indispensable condition for the improvement of competitiveness. Therefore, any institutional framework involving the labour factor is, by nature, contrary to flexibility.

In addition to measures to increase labour market flexibility and to reduce security (limiting the amount and duration of unemployment benefits the compensation for termination of permanent contracts) measures to weak worker’s rights were promoted. Thus, in addition to poor macroeconomic performance, social
problems such as unemployment were amplified and with increasing inequalities and the risk of poverty.

The crisis, the austerity program, and legislative changes combined to promote the abrupt deregulation of the labour market and reducing labour costs. At the same time, the power of decision of employers has been expanded, in particular giving them greater freedom in the use labour force and the possibility to decide unilaterally on work schedules and other aspects of working conditions. The measures implemented reveal an orientation towards the reduction of labour costs, power imbalances in industrial relations and reducing the role of collective bargaining.

Legislative changes make clear the option, legitimized by the improvement of competitiveness, by profound alteration of power relations among social actors. The collective bargaining system was strongly shaken and individualization of labour relations was promoted. The increase of working hours, flexibility of working time on the basis of the interests of employers, the increased flexibility of labour legislation materialised in reducing the degree of rigor regarding individual and collective redundancies, the drastic fall of collective labour regulation instruments and the number of employees covered by collective bargaining, are some indicators of changing power in labour relations, which strengthened the employers side and weakened trade unions. The new European governance of the crisis and the direct intervention of the troika in the procedures and results of the "negotiation" depreciated and seriously weakened the role of traditional industrial relations actors, as well as collective bargaining, while secular institution of prime importance in regulating conflict of interest underlying the working relationships, based on freedom, plurality and the confrontation between the actors (Dunlop, 1958; Schulten and Müller, 2012).

One of the main underlying risks of this development is the increased job insecurity and a spiral of deterioration of wages and living conditions of workers. The other main risk refers to the worsening weakness of the Portuguese economy resulting from the option by the “low road” to improve competitiveness. Thus, this option resumes the Portuguese tradition, based on business competitiveness in labour-intensive industries, unskilled labour and low wages. For many years, academic and non-academic research has insisted on the need to break with this tradition by betting on dynamic factors of competitiveness (innovation, qualified and motivated human resources, qualifying work organization, new management methods, etc.). Important steps have been taken in this direction, especially in the decades of 80 and 90. However, the current response to the crisis constitutes a step backwards by returning to a tradition that substantiates a weak economy. Overcoming the weakness of the Portuguese economy requires an orientation in the logic of "high road", based on efficient improvement and innovation, i.e. through the economic and wage gains, improvements in social conditions, safeguarding workers' rights and promoting appropriate standards of social protection.
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Appendix

Figure A1. Per head constant GDP (US$, PPP, 2000 prices) of Portugal, relative to: (reference group=100)

Source: OECD

Figure A2. Harmonized Unemployment Rate: Portugal versus other groups

Note: these figures represent the value for Portugal taken as a percentage of the value of the reference group. Source: data from OECD.
Figure A3. Portugal: Current account balance (% of GDP, 3 year average)

Source: Eurostat

Figure A4. Portugal: Private consolidated debt in % of GDP

Source: Eurostat