Neoliberal austerity and the reconfiguration of employment regimes and industrial relations towards the liberal model: the case of Portugal

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Abstract: This paper focuses on the transformations of employment regimes and industrial relations introduced by neoliberalism which boosted the international financial and economic crisis, and especially on the subsequent wave of neoliberal austerity observed in Europe. It is argued that this wave of austerity has introduced extreme pressure on employment regimes, particularly in Southern Europe, towards their reconfiguration in the direction of the liberal regime typical of the Anglo-Saxon countries. It explores in detail the Portuguese experience during the period of Troika Memorandum, arguing that the policies developed in this context of competitive wage devaluation and deregulation of social legislation aimed at significantly weaken the components of the employment regime and of the industrial relations system in Portugal, that distinguished it from the liberal model.

1. Neoliberalism, the changes in the wage relation and the international crisis

Neoliberal policies of labour market flexibilization have been understood as one of the factors for the increase of income inequality as they promoted continued deterioration of wages and widespread job insecurity and considered one of the key dimensions for explaining the emergence of international financial crisis of 2008 (Becker and Jäger, 2012; Tridico and Fadda, 2013; Jessop, 2013; Schäfer and Streeck, 2013).

The process started in the late '70s with the neoliberal responses to the crisis of the fordist regime of accumulation (Aglietta, 1982) in the core countries of advanced capitalism, which included the search for new areas of business in sectors and activities previously carried out by the state through privatizations and liberalization, growing importance of multinational companies, relocation of production, liberalization of international trade and adoption of economic strategies more strongly focused on export growth. At the same time the logic of the fordist regime of accumulation, based on standardized mass production, was replaced by a logic much more centred on just in time flexible production and innovation of processes and products, which comprised a systematic appeal to the consumption of new goods and services.

This process was accompanied by the break with the fordist wage relation and the fordist compromise which combined distribution of productivity gains and increase of domestic demand (Fadda and Tridico 2013), giving place to policies of labour market flexibilization undermining job security and generating precarious work and by wage policies with focus on wage moderation generating wage decline and intensifying the exploitation of labour; and also to policies undermining the welfare state and social protection rights with significant impact on the decline of indirect income.
The decrease in consumption capacity in the core countries of advanced capitalism resulting from this strategy of reduction of workers direct and indirect income conflicted, however, with the levels of consumption required by the new system of production centred on continuous innovation. To tackle this contradiction and secure the accumulation of capital the focus on exports gained much more prominence while the financial sector became central to support artificially domestic demand, with the emergence of "private Keynesianism" (Crouch, 2011). The process of financialization played a central role in this process, gaining extraordinary profits at the expenses of households' indebtedness, profits which added to those resulting from the increasing exploitation of work at home and abroad. The explosion of financial activities and financial innovation and consequent speculative drift and the increasing incapacity of households to comply with the payment of their debts was therefore the basis of the emergence of the international financial crisis.

However, the emergence of neoliberalism and the pace and intensity of its embodiment in space and time over the last thirty years have resulted in different national configurations. The varieties of capitalism / VoC approach (Hall and Soskice, 2001; Amable, 2003) identified two contrasting varieties of capitalism in the advanced capitalist countries, highlighting the differences between the countries based on the liberal market variety (U.S. and UK) where the neoliberal agenda was born and implemented to a great length, and the countries based on the coordinated market variety (Nordic and continental European countries), where such agenda have had a more limited impact. The problem is that the world market is not a mechanical juxtaposition of national varieties of capitalism and that the interaction between forms of capitalism has to be considered having in mind that the accumulation of capital on a global scale depends on the reproduction of the diversity of regimes of accumulation and that the relationship between the success of certain economic areas and the costs they impose on other spaces has to be addressed (Jessop, 2013). In fact, the countries based on the liberal market variety of capitalism, namely the U.S. and the UK had a crucial contribution to the emergence of the global financial crisis. In the US to facilitate the process of accumulation via consumption, banks and employers financed consumption with basis on the extraordinary profits made at the expense of the wages of the workers, using new financial instruments increasingly toxic and highly profitable. The financial collapse that emerged when it became impossible for the citizens to pay the increasingly high debt, given wage stagnation, clearly highlighted the limits of such a model. Given the interdependence of financial markets, resulting from decades of globalization, the financial meltdown has spread throughout the world, facilitating the globalization of the crisis (Wolff, 2013).
In Europe, the neoliberal impulse initiated in the UK in early 1980s, had a different impact on the different countries, as regards the reconfiguration of the wage relation, labour markets, and industrial relations. In the 90s, the neoliberal agenda has gained new momentum at the ideological level and at the level of concrete policies. The mantra of 'need to respond to the pressures of globalization' was being increasingly relied upon to justify the break with the citizenship model of full employment (Mitchell and Muysken, 2008), and to justify increasing individualisation of employment contracts, increasing job insecurity, facilitation of redundancies, rise in employer prerogatives and power, and the reduction of social benefits through the re-commodification of social policies (Schäfer and Streeck, 2013), and the pressure on the regimes of collective bargaining towards the erosion of sectoral collective bargaining (Sisson 2013). While countries responses in this regard remained differentiated, despite including more elements of neoliberal policy on their agendas, in several other areas there was a clear convergence supported and encouraged by the European Union (EU), particularly with regard to economic liberalization and privatizations.

With the Maastricht Treaty and the creation of the Eurozone, additional pressure on member states was introduced by centring on austerity and fiscal discipline. This pressure has reduced the room for manoeuvre to use public investment and social policies, particularly in countries with a weaker economic position. In parallel, the limitation of the use of instruments of fiscal and monetary policy, after the introduction of Euro, has limited the room for manoeuvre in the Southern countries, deeply affected by globalization (including by European enlargement and changes of the international trade rules), accentuating the asymmetry of European integration and exerting pressure to 'internal devaluation', which, as we shall see, would reach new heights with the escalation of neoliberal austerity in the period 2011-2014 (Lapavitas et al, 2010; Klaus and Baccaro, 2012; Javer and Becker, 2012; Rodriges and Reis, 2012; Reis et al, 2013).

In this context one important question is how institutional national differences might be challenged taking into consideration the asymmetric interaction of the different regimes, drawing attention to the dynamics between centre and periphery in the European context, and the role of central/core countries in reproducing asymmetries. In fact, since the introduction of the Euro until the 2008 crisis, the development of specific economic dynamics and patterns of interaction between national regimes, favoured accumulation strategies based on the exports of Germany and different forms of financial accumulation at the periphery of the Eurozone, while the regimes of neo-mercantilist export benefited in that the peripheral countries did not have the monetary policy instruments to protect their productive sectors and to avoid the
accumulation of public and private debt (Becker and Jager, 2012; Reis and Rodrigues, 2012). The export strategy followed by Germany, example of ‘coordinated variety of capitalism’, was clearly facilitated by the Hartz (2003-2005) neoliberal reform, which significantly changed the wage relation, by its effects on precariousness of employment (facilitating temporary work), reduction of unemployment benefits and especially the significant drop in wages of a large part of the workforce (Heyes, 2011, 2013, Becker and Jager, 2013). Degryse (2011) mentions a study by the University of Duisburg-Essen, which estimates that in 2009, 22% of German workers earned less than 8.5 euros per hour, and 4% less than 5 euros.

2. Employment regimes, industrial relations and the challenge of neoliberal austerity

One way to grasp the national diversity in conjunction with the wage relation is to consider the types of employment regimes. This approach shows greater potential than the VoC approach to address the diversity of institutional conditions of labour markets in each country (Gallie, 2007, 2013). The concept of inclusiveness is central to this approach and articulates issues related with the systems of collective bargaining and with the systems of social protection regarding unemployment for the differential impact that may have on the labour market, distinguishing three types of employment regimes: the inclusive regime, where the policies are geared towards protect the most vulnerable sectors of the workforce, including a universalistic approach; the dualistic regime in which there is a strong distinction between the conditions and protection of workers from the core and the periphery (between full time permanent jobs and temporary/ part-time jobs); and the liberal regime in which working conditions depend mainly on the market trends.

In relation to collective bargaining this approach considers two main aspects: its scope, measured by the level of collective bargaining coverage (the proportion of workers covered by collective agreements); and its depth, measured by the level of union density. The degree of coverage is seen as an indicator of the extent of joint regulation and the level of union density is seen as an indicator of the depth of joint regulation, taking into account the effectiveness of the negotiation and implementation at the company level. Inclusive regimes comprising the Nordic countries score the highest levels of collective bargaining coverage and trade union density, while liberal regimes score the lowest levels of coverage and trade union density; countries within the dualist regime have different levels of trade union density but procedures of extension of collective agreements guarantee high levels of coverage in many of them; in Southern Countries low union density has been compensated by high levels of coverage through extension procedures.
In relation to social protection this approach is inspired by the theory and typology of welfare regimes of Esping-Andersen: the 'social democrat' regime characteristic of the Nordic countries with emphasis on universalism and de-commodification; the dualist regime characteristic of continental countries such as Germany, where the generosity of the welfare state depends on the status regarding employment; and the 'liberal' regime based on minimum provisions of the state and the commodification and dependence on market. However, the employment regime approach focuses only in social protection regarding unemployment and includes a fourth type of regime i.e. the sub-protection regime, including Southern European countries in which the level of social protection is less generous and more dependent of the state than the dualist regime.

Another relevant issue is how employment regimes differ in relation to employment protection. Dualist and sub-protection regimes have had higher levels of employment protection than the inclusive/social democrat regimes, but in the later the level of employment protection has been somehow compensated by a universalistic approach to social protection, in particular of the unemployed (flexicurity); and the liberal regimes score the lowest level of employment protection.

Some studies with focus on the first phase of the crisis (2007-2010) have examined how the differences between varieties of capitalism and between regimes of employment have influenced the level of the crisis in the EU countries in terms of unemployment and employment adjustment and in terms of the type of responses to the crisis such as wage reduction, working time decrease/flexibility, temporary work, and redundancies, etc. (Lallement, 2011; Gallie, 2013; Tålin, 2013), while other studies focused on national specific political responses during the crisis, in terms of labour market regulations, such as employment protection, social protection of unemployed, and active employment policy (Heyes, 2011). More recently, the focus on the developments after 2010 taking into consideration austerity policies at the European level and at the national level emphasized the differences on political responses contrasting employment regimes, although identifying a general trend towards increasing flexibility and reducing security (Heyes, 2013).

Compared with the situation in early 2000’s (Gallie), the situation of employment regimes in the EU countries in the first phase of the crisis (2007-2010) was already slightly different (Heyes, 2011; Gallie, 2013; Tålin 2013) taking into consideration the implementation of neoliberal policies targeting employment protection (facilitating dismissals and/or temporary work) and targeting social protection in relation to unemployment (increasing the logic of welfare), and taking into consideration as well the trends towards decentralization of
collective bargaining, erosion of sector bargaining and decline of trade union density. Despite some changes, in the first period of the crisis there were not major radical/structural changes of employment regimes suggesting the move of Southern European countries to the liberal regime or the move of inclusive/social democrat countries to the dualist regime.

After the 2010 sovereign debt crisis, austerity and neoliberal policies escalated at the EU and national level. One crucial question is whether they contributed to the radical reconfiguration of national employment regimes, and if so which countries were mostly affected and in what direction? Our hypothesis is that the neoliberal policies of austerity which have been climbing from mid-2010, attacked on all fronts and in all dimensions the institutional foundations of equality and inclusiveness of the labour market, particularly in Southern Europe, reconfiguring their regimes of employment towards the liberal regime.

The response at European level to the 2010 fiscal crisis caused, in first place, by the funding of financial sector to prevent its collapse, consisted of a much more aggressive strategy of austerity and fiscal discipline that was combined with a more intense neoliberal policy in terms of privatizations, deregulation of labour markets, fragmentation of industrial relations and the erosion of the welfare state. In fact, the guidelines of European policy expressed in the Agenda 2020, signed in 2009, the European Semester, launched in 2011, the Treaty on Stability, Coordination and Governance of Economic and Monetary Union, signed in 2012, subordinated the priorities of employment and social policies to the structural stability of the monetary union and consolidation of public finances (Degryse, 2012; Pochet and Degryse, 2013; Costa and Caldas, 2013). Under the new European governance 'social' policy is regarded as a productive factor whose primary mission is to enhance the competitiveness of companies and of the economy as a whole (Degryse, 2012). This reflected the position of strategic power players (central banks, ministries of economy and finance and DG ECFIN), who used the crisis as a window of opportunity to transform the European social model as the variable of adjustment of the Economic and Monetary Union, through competitive wage depreciation and competitive deregulation of social legislation (Pochet and Degryse, 2013).

Simultaneously, the new European governance represents the increasing power of the EU executive oriented towards a regulation dependent of the market, reducing the autonomy of national parliaments (Habermas, 2012; Streeck, 2013). This strategy, which we call neoliberal austerity considers 'internal devaluation' as the only option, especially for the Southern periphery countries in relation to central/core EU countries, notably Germany. In Southern countries the implementation of this strategy has resulted in wage cuts, in reforms towards greater deregulation of the labour market and industrial relations systems and towards the
reduction of the welfare state provisions (including regarding unemployment), having a strong impact on reducing internal demand, thereby exacerbating the difficulties for economic recovery and financial solvency and increasing the rise of unemployment to unprecedented levels, as shown by studies on the Portuguese case (Rodrigues e Reis, 2012; Reis et al, 2013; Costa and Caldas, 2013).

In the period 2011-2014 the strategy of wage devaluation was combined with a strategy of decentralization of collective bargaining – *one fit all solution* – ignoring not only national differences in relation to the level of wages (and already low wages in Southern Europe) but also the characteristics of the regimes of collective bargaining (Visser, 1996; Traxler, Hyman, 2002; Gumbrell-McCormick e Hyman (2013). This strategy was particularly intense in the Southern European countries and had perverse results, given their low levels of union density and weak influence at the company level, the importance of sectoral level (case of Portugal, Spain and Greece) and national level (Spain) of collective bargaining and the important role of the state in these countries to extend collective bargaining coverage - opening the door to 'disorganized decentralization', including the extent of the employer's unilateral decision (Lima Campos and Martin Artiles 2011; Lima Campos et al 2013). As documented by Schulten (2014), this approach had a strong impact on wage decline.

At the same time, the orientation to reduce employment protection regained centrality. This strategy is prior to the crisis, emerging in the European Employment Strategy in 1998, with the recommendation that the social partners from member states should negotiate the modernization of work organization articulating flexibility and security, with explicit reference to the concept of 'flexicurity' in the revisions of 2003 and 2005, which becomes central with publication of the Green Paper' Modernising labor law ', in 2006. Since 2011, under the new European governance the issue regained centrality and the pressure on member states towards reducing employment protection increased (Degryse, 2011; Clauwaert and Schömann 2012; Schömann, 2014), arguing that this was one of the best responses to the crisis (European Commission, 2010). This qualitative step aimed at interfere directly on the reconfiguration of the labour legislation of the member states, enhancing the flexibility pillar of 'flexicurity', while ignoring the security pillar (Heyes, 2011, 2013), or even weakening this pillar by reducing the social protection of the unemployed and strengthening the logic of workfare. Consequently, it can be observed in this period, the reduction of employment protection by facilitating redundancies and job insecurity in several European countries (OECD, 2013; Schömann, 2014).

Most European countries have introduced changes in wage policies, decentralization of collective bargaining, reduction of employment protection and of protection of the
unemployed, changes which were in some cases limited, and in other cases more substantial challenging the respective regimes of employment towards neoliberal deregulation. In Portugal and in Greece, the EU / IMF alliance, the so called Troika, required substantial changes in those areas, via the Memoranda of Understanding (MoUs) which were imposed at the expense of democratic principles of decision making, since the MoUs were not subject to the verdict of national parliaments or the European Parliament (Clauwaert and Schomann 2012). The MoUs represented therefore, a radical shift in relation to the method of political decision by introducing emergency procedures ignoring democratic principles, in short the “politics of exception” (Clauwaert and Schomann 2012, Ferreira 2011, Ferreira and Pureza, 2013), which expressed a clear strategy of flex (in) security, i.e., a deliberate policy of wage reduction, breakdown of collective bargaining, and easing of redundancies while simultaneously reducing social protection.

3. The implementation of the MoU and the reconfiguration of the employment regime and industrial relations in Portugal

In Portugal, the Memorandum of Understanding on Specific Economic Policy Conditionality setting the policy conditions to grant financial assistance was signed on 17 May 2011, by EC/ECB/IMF, the so called Troika and the interim government of the Socialist Party (PS) headed by José Sócrates, with the agreement of the center right parties PSD and CDS. The political context was marked by the precedent resignation of the prime minister José Sócrates, on 23 March 2011, following the defeat of his fourth austerity plan (PEC IV), by the dissolution of the parliament, and by the call on 31 March 2011 of general elections to take place on October 2011. Therefore, it was the government which resulted of the general elections, the center right coalition PSD-CDS, who was to implement the policy requirements of the MoU. Although they contributed for the failure of PEC IV, these two parties campaign during the elections not only highlighted their agreement with the MoU (which included as well measures of PEC IV) but also emphasized their intention to go further than Troika.

During the three years of Troika intervention (May 2011- May 2014), under the governance of the centre-right coalition PSD-CDS, the measures required by the MoU as well as the new measures launched by the coalition, not foreseen by the MoU but endorsed by the Troika, further intensifying wage depreciation and deregulation of social legislation were implemented and 'justified' on the grounds of meeting financial stability and reducing public deficit. These measures, as has been observed undermined economic growth, increased debt and generated unprecedented levels of unemployment (Rodrigues and Reis, 2012; Reis et al, 2013; Costa and Caldas, 2013). Overall, the measures implemented in this period introduced
the most dramatic changes in the employment regime and in the industrial relations system in Portugal since the democratic revolution of 25 April 1974 towards labour deregulation in line with the neoliberal model, introducing a rupture with the Portuguese tradition in three fundamental domains: wage policy, collective bargaining and balance between labour market flexibility and security.

*The reduction of labour costs in the public and in the private sector*

Since 1986, the prevailing policy in Portugal focused on wage moderation based on expected inflation and productivity gains, defined mostly through tripartite agreements. Collective bargaining at the sector level has been predominant and the extension of collective agreements through state intervention (extension ordinances) ensured the coverage of collective agreements to all the employees, thereby offsetting the deficit of union density. From 2011, there was a clear break with this tradition.

In the public sector, since 2011, during the government of the PS, and thereafter during the government PSD-CDS nominal wages were cut down. During 2011, 2012 and 2013 nominal wages above 1500 euros were successively cut down, between 3.5% and 10%. In 2014, the government extended these cuts to wages above 675 Euros, a measure which the Constitutional Court overturned in May, declaring it unconstitutional. In 2011, Christmas bonuses were cut by 50%; and in 2012 Christmas and holiday bonuses (adding the equivalent of two months' salary to the annual income of workers) were suspended, a measure also planned for 2013, but which implementation in 2013 was overturned by the Constitutional Court. In 2013, the government increased the weekly working hours for the public sector from 35 to 40 hours with no equivalent wage increase, therefore reducing in practice the sector hourly wage. In addition overtime payment was reduced. These measures were not explicitly part of the MoU, but were 'justified' to comply with MoU public deficit targets. None of these measures resulted from negotiations or social dialogue with the unions, all resulting from unilateral state authoritarian action, blocking simultaneously collective bargaining (Stoleroff, 2013). These cuts figured among the main reasons for the launching of 5 general strikes in this period. A recent study estimated that the government savings resulting from the income loss of public sector workers in this period 2011-2014 with wage freezing and nominal wage cuts, career freezing, non-paid work related with working time increase, and overtime payment cuts was equivalent of 5,745 million euros (Rosa, 2014).

In the private sector there was a clear orientation towards reducing labour costs and increase *downward flexibility of wages* (Schulten, 2014) through direct intervention and structural
reforms of collective bargaining system. The minimum wage was frozen in 2012, 2013 and 2014 in line with MoU requirements, a decision that faced strong opposition of trade union confederations. In addition, the reform launched by the Labour Code 2012 (Law 23/2012) which introduced radical changes in line with MoU and beyond and was legitimated by the tripartite agreement ‘Commitment for Growth, Competitiveness and Employment’ signed by all the social partners with the exception of CGTP, reduced some labour rights with significant impact on workers income. This reform introduced de facto unpaid working time through the reduction of the vacation period by three days, the cut of four public holidays, and the elimination of the compensatory period of rest for overtime work; and cut down the amount paid for specific work situations, halving overtime payments, reducing payment of normal working time in public holidays and reducing the payment for exemption from fixed working hours. A study with focus on the transference of income from labour to capital resulting from the Labour Code measures (Leite et al, 2013) estimated that, after one year, a worker receiving the average wage in Portugal of 962,4 euros will have lost between 351.4 and 466 euros, with the changes made on overtime work payment reduction, the end of four public holidays and the decrease of three days of vacation. These measures were not part of the MoU, with the exception of the two regarding overtime work (compensation rest and payment). According to the Labour Code 2012 these measures were mandatory for the next two years and collective agreements could not define more favourable conditions than those prescribed by the law.

The structural reforms and the developments undermining collective bargaining

The main changes of the collective bargaining framework in Portugal after a long period of stability, started with the Labour Code 2004 which reduced the period of expiry and caducity of collective agreements and continued with the Labour Code 2009 which reduced it further and also introduced regulations more favourable to decentralization of collective bargaining admitting that the trade unions could delegate to union structures at the company level or to representative structures for workers the negotiation of company agreements, in the case of companies with over 500 employees, while previously this negotiation was only the competence of sector unions.

In March 2011, on the eve of the presentation of the fourth austerity plan (PEC IV), the government of the PS succeeded to reach a tripartite agreement with all the social partners with the exception of CGTP, the Tripartite Agreement for Competitiveness and Employment, which included further changes: the possibility of including in the sector collective agreements
regulations allowing union representatives at the company level and work councils (Comissões de Trabalhadores) to negotiate the terms of functional and geographical mobility and working time schemes; the decrease in the threshold firm size above which work councils and union representatives at the company level could company agreements to 250 employees. These measures were not implemented at the time as the prime-minister resigned after the failure of the PEC IV and the parliament was dissolved.

In May 2011 the Memorandum of Understanding with Troika required substantial modifications to the framework of collective bargaining arguing with the need of 'organized decentralization' to promote competitiveness and "wage adjustments based on productivity at the firm level". The MoU included not only the measures comprised in the preceding tripartite agreement but also other major changes such as: promoting the inclusion in sector collective agreements of conditions under which works councils can conclude firm-level agreements without the delegation of the unions; defining clear criteria for the extension of collective agreements among which have to be the representativeness of the negotiating organisations and the implications of the extension for the competitive position of non-affiliated firms; and the desirability of shortening the survival of collective agreements that are expired but not renewed.

The Labour Code 2012 included these measures, with some differences: the principle of union mandate for firm-level negotiations remained as defined by the Labour Code 2009 and the threshold firm size above which structures representing workers may conclude agreements was reduced to 150 employees. Additionally, the government went further than the MoU introducing restrictions on collective bargaining by the imperative nature of Labour Code 2012 regarding vacations, public holidays, overtime payment and also severance pay (Law 23/12); and also by including the possibility of individual agreement between employers and employees in relation to individual bank of hours, which before were only regulated by collective agreements (208-A Law 38/2012). One year after the entry into force of the Labour Code, the Constitutional Court (TC), considered it unconstitutional on several issues (Judgment No. 602/2013) including the conditioning of collective bargaining on vacation days, but accepted the conditioning of collective bargaining in relation to overtime payment (Campos Lima, 2013b). The revision of the regulations regarding the extension of collective agreements, introducing stricter conditions, was launched in 2012 by the Resolution of the Council of Ministers no. 90/2012. This revision defined that collective agreements can only be extended beyond the signatory parties if at least one union and one employers’ organisation request the
extension and if the signatory employers’ organisations employ more than 50% of all the employees in the industry concerned, and has to consider the implications of extension for the competitiveness of the industry. This measure was not discussed with the social partners and faced a strong opposition not only from the side of trade union confederations but also from the side of employers confederations.

In 2012 and 2013 there was a dramatic fall in the number of multi-employer agreements and workers coverage. The number of company agreements declined as well, although at a slower pace. The decline of multi-employer agreements was the result of a blockade in the negotiations, where employers’ associations were retentent to make agreements, due to economic crisis, expectations related with new labour code introduced during 2012 and mandatory minimum wage freezing. However, the decline of workers coverage was the result first of the commitment the government had made with Troika not to allow the extension of any new collective agreements until the criteria for their extension had been redefined and after was the result of the implementation of the criteria set up by the Resolution 90/2012. Most of employer associations did not have the conditions to have an accurate assessment of their representativeness (lack of updated official statistics on the number of workers comprised in the companies of the sector/domain they represent) to comply with the new criteria. Furthermore, the blockade of extension ordinances impacted on the blockade of sector agreements because the employers concerned with social dumping and unfair competition were reticent to conclude agreements that they knew in advance would have a limited scope, once extension ordinances will not published. In fact, in 2012 and in 2013 the number of sector and multi-employer agreements was only one quarter of the number of agreements concluded in 2008; in 2012 the number of workers covered was almost one-sixth of those covered in 2008, i.e. around one million five hundred thousand workers were left without collective agreements coverage and in 2013 the number of workers covered was almost one-eighth of those covered in 2008, i.e., around one million six hundred thousand workers were left without collective agreements (Table 1; Graphs 1 and 2):

In short, the blockade and dramatic decrease of sector and multi-employer agreements and the blockade and decrease of collective agreement coverage represented an unprecedented rupture with the Portuguese tradition of industrial relations and with the regime employment towards the liberal model.
### Table 1 – Trends in collective bargaining 2008-2013

<table>
<thead>
<tr>
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<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
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<tr>
<td><strong>Sector and Multi-employer agreements</strong></td>
<td>200</td>
<td>164</td>
<td>166</td>
<td>115</td>
<td>46</td>
<td>46</td>
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<tr>
<td><strong>Company agreements</strong></td>
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<td>87</td>
<td>64</td>
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<td>48</td>
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<tr>
<td><strong>Total convenções colectivas</strong></td>
<td>295</td>
<td>251</td>
<td>230</td>
<td>170</td>
<td>85</td>
<td>94</td>
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<tr>
<td><strong>Extension ordinances</strong></td>
<td>137</td>
<td>102</td>
<td>116</td>
<td>17</td>
<td>12</td>
<td>9</td>
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<tr>
<td><strong>Workers covered by collective agreements</strong></td>
<td>1894788</td>
<td>1397225</td>
<td>1407066</td>
<td>1236919</td>
<td>327662</td>
<td>242239</td>
</tr>
</tbody>
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*Fonte: Relatório anual da Negociação Colectiva – 2013, UGT.*

**Graph 1** - Number of collective agreements

**Graph 2** – Number of workers covered by collective agreements

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In 2014, collective bargaining would be the target of new attacks. Firstly, in the public sector, the government delayed the recognition of 350 collective agreements between the unions and the local public administration which reduced the work schedule of 40 to 35 hours, questioning the autonomy of local administration to conclude agreements without government intervention. Secondly, in the private sector, the government presented two draft laws with implications in collective bargaining, which were approved by the parliament: the draft-law no.230/XII – reducing the period of caducity of collective agreements, from 5 to 3 years and their period of validity after expiring, from 18 to 12 months and defining the possibility of suspending temporarily collective agreements in companies in crisis, when
indispensable to the company survival or the maintenance of jobs; and the draft law no. 231/XII - which extends, until the end of 2014, the payment by half of overtime compensation, suspending the norms of collective agreements and of labour contracts on this issue.

Increasing flexibility and reducing security

In relation to this issue, the rupture with the Portuguese tradition was largely the result of the transposition of the requirements of the MoU into the Portuguese legislation imposing simultaneously the reduction of employment protection by facilitating redundancies and the reduction of social protection during unemployment. As regards to the facilitation of redundancies the reform introduced radical changes in two issues: the reduction of severance pay amount affecting individual and collective dismissals; and the facilitation of individual dismissals based on unsuitability and extinction of the job.

In a first phase, according to the Labour Code 2012, severance pay for new hires was reduced from 30 days to 20 days per year of tenure, with a cap of 12 months and of 240 minimum wages and the payment of 3 months irrespective of tenure was eliminated. Current employees hired before 2011 were included in a mixed regime, preserving the old system for their previous working period but included in the new regime for the period after 2011. In a second phase, introduced by Law no. 69/2013 the regime changed again defining a reduction from 20 to 18 days (in the first three years) and to 12 days (in the following years).

As regards the facilitation of individual dismissals for unsuitability and termination of job the legislative changes introduced by the Labour Code of 2012 aligned as well with the MoU which required that “individual dismissals linked to unsuitability of the worker should become possible even without the introduction of new technologies or other changes to the workplace” and that “individual dismissals linked to the extinction of work positions should not necessarily follow a pre-defined seniority order if more than one worker is assigned to identical function” and that in both cases individual dismissals “should not be subject to the obligation to attempt a transfer for a possible suitable position”. However, one year after the entry into force of the Labour Code in 2012, the Constitutional Court (Judgment No. 602/2013) declared unconstitutional the provisions regarding the extinction of work positions on the grounds that they violated the principle of prohibition of unfair dismissal enshrined in Article 53 of the Constitution, because they did not specified relevant criteria for the selection of jobs to eliminated; and because in this case, as well as in the case unsuitability, the Labour Code 2012 eliminated the provisions of Labour Code 2009 which imposed the duty of the employer to
attempt a transfer the worker for a possible suitable position and defined that the dismissal was accepted only when there was not in the company another job available and compatible with the qualification of the worker. Nevertheless, the Constitutional Court accepted that individual dismissals linked to unsuitability of the worker could be possible regardless of the introduction of new technologies or other changes to the workplace. Following the judgment of the TC, the government pushed through new legislation (Law no.27/2014) including as a requirement for individual dismissals related with extinction of work positions and unsuitability the absence of another job compatible with the professional category of the employee; and introducing criteria for the selection of the workers to fire in the case of extinction of work positions. The criteria in order of importance are the following: worse performance evaluation; lower educational and professional qualifications, higher costs for the employer for maintaining the employment relationship; less experience in the job and less seniority in the company.

At the same time and following as well MoU demands, the government reduced unemployment protection (Law no. 64/2012). The maximum amount of the unemployment benefit decreased from 1.258 euros to 1.048 euros, while after a period of six months the daily benefit is reduced by 10%. The duration of the unemployment benefit was also reduced. Previously the allocation period varied between a minimum of nine months and a maximum of 38 months (dependent of the age and period of contributions) while with the new law its duration varies between a minimum of 5 months up to 26 months. The MoU envisaged a maximum duration of 18 months. With the new system the maximum duration of unemployment benefit which applies only to those with a minimum period of two years of contributions varies: 11 months for people aged under 30 years; 14 months for those aged between 30 and 40 years; and 18 months for those aged over 40 years. The additional extension of these durations depends of the length of previous working period, and the maximum envisaged i.e. up to 26 months applies only to persons aged over 50 years with a minimum of 20 years of contributions. The new law included however two positive measures: the extension of unemployment benefit to some categories of independent workers; and the reduction the necessary contributory period to access unemployment benefits from 450 days to 360 days. However a large number of unemployed people, around half of those unemployed, remain without any kind of social protection (unemployment benefit, unemployment social benefit or other).
The reconfiguration of industrial relations and actors strategies

As we documented, the reconfiguration of the employment regime towards the liberal model under the motto of “internal devaluation” resulted from the reduction of wages and change of wage setting procedures, erosion of collective bargaining and collective bargaining coverage and reduction of employment protection and of the social protection for unemployed people. How the system of industrial relations in Portugal was challenged and reacted in this process? First, as explained before, this period was marked by the refusal or reticence of employers to sign agreements at the sector level which combined with the decline of extension ordinances defined a major decline of workers coverage paving the way for employers unilateral decision. Secondly, the government combined a strategy of unilateral decision with a strategy of tripartite concertation that took unprecedented paths. In relation to the public sector government unilateral decision prevailed, cutting wages, freezing careers, reducing overtime payment and increasing the working time. In relation to the private sector the government combined unilateral decision, for example regarding freezing the minimum wage and the revising the legal framework regarding the extension of collective agreements, with tripartite concertation regarding a number of issues in particular the Labour Code 2012. The government strategy expressed in the tripartite agreement ‘Commitment for Growth, Competitiveness and Employment’ was clearly a strategy to legitimize anti-labour policies in line with the MoU and beyond MoU. This agreement was the most perverse tripartite agreement ever signed in Portugal (Campos Lima and Naumann, 2011). It was signed by the employer confederations and by UGT. Even the leader of the Confederation of Portuguese Industry (CIP) admitted that the agreement strongly penalized workers. The main arguments of UGT to sign the agreement were the commitment of the government to withdraw its proposal to increase daily working time by half an hour in the private sector, and that the government had agreed that it would not try to push through any more labour laws that were not included in the MoU or agreed at tripartite level (Campos Lima, 2012). The trade union confederation CGTP contested these measures calling the general strike of 22 March 2012.

The strategies of trade union confederations in this period were clearly different from the past, showing a new trend, announced already in 2010 (Campos Lima and Martin Artíles, 2011). In four years (2010-2013) five general strikes were launched, where during 35 years (1974-2009) the number of general strikes amounted only to five. CGTP and UGT launched together general strikes on 24 November 2010 and 24 November 2011; the general strike of 22 March was only convened by CGTP; the general strike of 14 November 2012, in the context of the ETUC European protest was convened by CGTP and followed by 14 unions and 4 federations
affiliated of UGT; the general strike of 27 June 2013 was called by CGTP and UGT; and finally the public sector national strike on 8 November 2013 was called by all unions of the public sector. Therefore a shift was observed in trade union confederations strategies: in the case of CGTP the move towards the intensification of conflict; and in the case of UGT a strategy combining “dancing” with the signature of the tripartite agreements of 2011 and 2012) and “boxing” with the participation with CGTP in three general strikes.

In addition, this period saw the emergence and development of new social movements which included in their agendas issues overlapping with union demands in relation to labour rights, social protection, and general opposition to austerity. They were able to mobilize citizens irrespective of their affiliation to trade unions and to mobilize all generations including youth to participate in extraordinary mass demonstrations (Campos Lima and Martin Artíles, 2013; 2014). Moreover, in a number of occasions trade unions and social movements joined forces, despite their differences, and launched mass protests against austerity policies. Mass protests in this period had only parallel with the demonstrations of the revolutionary period of 74/75. Massive protests were launched during general strikes but took also place in other occasions.

**Table 2- Anti austerity protests 2010-2013**

<table>
<thead>
<tr>
<th>Year</th>
<th>National Demonstrations</th>
<th>General Strikes</th>
</tr>
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<tbody>
<tr>
<td>2010</td>
<td>24 November – CGTP and UGT</td>
<td></td>
</tr>
</tbody>
</table>
| 2011 | 12 March – Social Movement “Geração à Rasca”  
1 October – CGTP  
15 October – Social Movement “M12M”  
24 November – Social Movement “15 de Outubro” | 24 November – CGTP e UGT |
| 2012 | 11 February – CGTP  
15 September – Social Movement “Que se Lixe a Troika”  
29 September – CGTP  
14 November – CGTP and Social Movement “Que se Lixe a Troika” (European Protest) | 22 March – CGTP (Labour Code 2012)  
14 November – CGTP and 14 unions and 4 federations of UGT (European Protest) |
| 2013 | 2 March – Social Movement “Que se Lixe a Troika and CGTP”  
19 October – CGTP and Social Movement “Que se Lixe a Troika”  
26 October – Social Movement “Que se Lixe a Troika”  
1 November – CGTP | 27 June - CGTP e UGT  
8 November – public sector national strike |
Conclusions

Throughout this article, we highlighted that neoliberal policies, which contributed for the emergence of the international crisis of 2008, were extended and intensified in Europe since 2011, under neoliberal austerity, introducing an unprecedented pressure to the reconfiguration of employment regimes in line with competitive wage depreciation and competitive deregulation of social legislation. In Portugal, the neoliberal austerity imposed by the Troika eliminated or substantially reduced the components of the employment regime, which distinguished it from the Anglo-Saxon liberal model, particularly with regard to labour relations, sector collective bargaining and collective agreements coverage, employer’s discretion regarding redundancies and social protection; and was the cause of a sharp drop of direct and indirect remuneration aggravating the already low wages, operating a significant transfer of income from labour to capital.

Moreover, these changes were conducted under an authoritarian strategy imposed by unelected bodies, through the alliance EC / ECB / IMF, directly intervening in areas of exclusive competence of national parliaments and challenging the autonomy of the industrial relations actors. In the Portuguese case, the internal political and social actors favouring the neoliberal agenda took this 'opportunity' to enhance its implementation in a logic of unparalleled revenge against the core democratic and social values established since the Portuguese Revolution of April 1974 and the 1976 Constitution. The government PSD-CDS added his own authoritarianism through the unilateral decision in various domains and measures, including measures 'beyond Troika' to Troika authoritarianism. In addition to the attack on collective bargaining, the use by the government of tripartite concertation, in order to legitimize anti-labour policies, reached an extreme unprecedented level, undermining the meaning and the image of social concertation. Thus, the current reconfiguration of the regime of employment in the liberal sense has been externally and internally determined.

The implementation of this agenda faced the largest protests of Portuguese workers and citizens seen since the revolutionary period of 74, including five general strikes, and faced the emergence of new social movements that with the trade unions strongly opposed to austerity and anti-labour policies. These developments showed the deep attachment of Portuguese workers and citizens to democracy and social rights, which is certainly fundamental to build in the future a solution to reverse the ongoing social backlash.
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