

POLICY NOTE

An evaluation of the social and employment aspects and challenges in Portugal

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Abstract

This policy note begins by assessing the progress towards the employment and social targets of the Europe 2020 strategy, and stresses that the current policies are jeopardising the targets set in 2010. An analysis is then made of the extent to which ILO conventions have been respected during the implementation of the Portuguese adjustment programme. It is argued that reforms to the industrial relations system and labour legislation, the austerity measures taken to tackle the financial crisis and the consultation with social partners on the fixing of the statutory minimum wage fail to respect a number of ILO Conventions. Thirdly, in relation to social dialogue, it is emphasised that even though two tripartite agreements have been signed between social partners, the current period is characterised by increasing conflict, namely an escalation of industrial action and mass protests. The policy note concludes by presenting the main social and employment policy challenges currently facing Portugal.

This policy note was requested by the European Parliament's Employment and Social Affairs Committee.

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LANGUAGE VERSION

Original: EN

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Economic Governance Support Unit provides support to the relevant bodies of the European Parliament in playing an effective role within the European Union framework for coordination and surveillance of economic and fiscal policies.

E-mail: egov@ep.europa.eu

This document is also available on Employment and Social Affairs Committee homepage at www.europarl.europa.eu/EMPL

Manuscript completed in January 2014.

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Executive Summary

The progress towards the employment and social targets of Europe 2020 strategy since 2010 has been negative. The employment rate has declined, and the young generations have been particularly hit by the deteriorating labour market situation. As regards the social targets, although the number of people at risk of poverty or social exclusion in Portugal fell by about 28 thousand between 2010 and 2012, it rose by around 64 thousand from 2011 to 2012. Furthermore, an analysis of each of the three sub-indicators on which the indicator is based allows us to conclude that recent developments are mainly explained on one hand by a slowdown in the reduction of the at risk of poverty rate after social transfers and severe material deprivation, and a dramatic increase in the share of people living in households with very low work intensity.

As concerns the respect of ILO conventions during the implementation of the adjustment programme, this policy note argues that several reforms undertaken since 2010 fail to respect a set of ILO conventions: Right to Organise and Collective Bargaining Convention (No.98), Minimum Wage Fixing Convention (No.131), and Social Security (Minimum Standards) Convention (No.102). Regarding Convention No.98, changes to the Portuguese industrial relations system led to a dramatic decrease in the number of workers covered by collective agreements. In addition, the Portuguese Government has taken some measures since the onset of the financial crisis, e.g. reforms to the labour legislation and cutting pay and cash benefits in state enterprises, even when they had been applied under collective agreement. Concerning Convention No.131, the statutory minimum wage was not set at €500 in 2011 contradicting what had been set in tripartite agreement signed in 2006. Moreover, social partners were not consulted in 2011 about the fixing of the statutory minimum wage, which is in breach of the Portuguese legislation and Convention No.131. Finally, even though Convention No.102 sets out minimum standards for social security and defines poverty reduction as one of its main goals, reforms made by the Portuguese Government to social benefits since 2010 have weakened the Portuguese social security system.

Thirdly, as concerns the evolution of social dialogue and the role of social partners during the crisis, we argue that austerity measures and amendments to labour legislation have affected power relations in the Portuguese industrial relations system. Indeed, there is increasing tension in the social dialogue between employers and trade unions. Industrial action and mass protests have escalated during this period despite the two tripartite agreements signed since 2011.

Finally, Portugal faces a set of social and employment policy challenges. Three main social policy challenges must be highlighted: *(i)* austerity policies led to massive cuts in social benefits, weakening the social security system when it is most needed; *(ii)* the disproportionate burden of austerity on low income households threatens social cohesion; and lastly *(iii)* a set of interconnected factors (the fall in fertility rates and emigration of young people) is undermining the sustainability of the Portuguese social security system due to an acceleration of the demographic ageing process. As for employment policy, the most important challenges include: *(i)* boosting job creation despite tight financial and economic conditions; *(ii)* addressing the social consequences of the crisis and the employability of disadvantaged groups, notably youth and long-term unemployed; *(iii)* guaranteeing quality employment and labour standards within an increasingly flexibilised and deregulated labour market.

1. The progress towards the employment and social targets of the Europe 2020 strategy

This section has been organised in the following way. It begins by discussing how the situation developed since 2009 with regard to the employment targets of the Europe 2020 strategy. Recent developments in the employment rate and the overall situation in the labour market are assessed (sub-section 1.1.). It will then go on to discuss how the situation progressed concerning the social targets of the Europe 2020 strategy (sub-section 1.2.).

1.1 Employment targets

The economic crisis and subsequent austerity measures have severely impacted the Portuguese economy and labour market. From the beginning of the Economic Adjustment Programme for Portugal in 2011 until 2013, GDP registered a 6 per cent cumulative decline. Economic activity in 2012 in particular recorded a significant contraction with the overall real GDP declining by 3.2 per cent (Annex 1a) and the employment rate (aged 20-64) decreasing to 66.5 per cent, 2.6 p.p. lower than the previous year (Table 1). From 2008 to 2012, the employment rate in Portugal fell 6.6 p.p.. According to the ILO report on the job crisis in Portugal, one in seven jobs has been lost since the start of the global crisis in 2008, two thirds of them over the past two years (ILOa, 2013). This is a severe setback in relation to the Europe 2020 employment headline target of 75 per cent of employment rate.

Table 1 – Employment rate (20 to 64 years old), 2005-2012 (annual averages, percentage)

	2005	2006	2007	2008	2009	2010	2011	2012
EU27	68.0	69.0	69.9	70.3	69.0	68.5	68.6	68.5
Portugal	72.3	72.7	72.6	73.1	71.2	70.5	69.1	66.5

Source: Eurostat. Accessed on 9 December 2013. Available at:

http://epp.eurostat.ec.europa.eu/portal/page/portal/europe_2020_indicators/headline_indicators

In fact, the prolonged economic recession has resulted in a sharp deterioration of the labour market performance. The increasing unemployment levels have hit young people particularly and exposed a vast number of workers to long-term unemployment. In 2012 the unemployment rate went up to 15.7 per cent (annual level), 3 p.p. higher than the previous year, 37.7 per cent of young people (15-24 years old) were unemployed and long-term unemployment rose to 8.5 percent (Annex 1c).

Recently, there have been some signs that the labour market situation is stabilising in line with a moderate improvement of the economic activity (Annexes 1c and 1d). This slight improvement in short-term labour market indicators results not only from a modest recovery in employment but also a progressive reduction in labour market participation. The contribution to the employment expansion in the second and third quarters of 2013 made by the services sector, especially accommodation and food service activities which are markedly seasonal, raises questions regarding its durability (European Commission, 2013; INE, 2013a). Besides demographic trends, and later transitions to active life, the significant decrease of the active population reflects recent changes in migration flows. In fact, in addition to the decline in immigrants' stock and inflows, evidence seems to show a significant growth in Portuguese emigration in the second half the decade. Annual outflows have been particularly high since 2008 (between 80,000 and 100,000) reflecting the impacts of the country's economic situation and the rise of unemployment, the most important motive for moving abroad (Naumann, 2013).

A significant contraction of the economic activity is forecast for 2013 as well as a steady decline in employment (-2.9 per cent according to the Banco de Portugal; -3.9 per cent according to the European Commission) - albeit less marked than the previous year (-4.2 per cent in 2012). The last available

projections indicate a gradual recovery of the Portuguese economy with positive annual rates of change of GDP for 2014 and 2015 (Annexes 1a and 1b), mostly driven by a foreign demand acceleration and growth prospects in exports. Nevertheless, there are still considerable risks of a slower than expected recovery. Continuing fiscal consolidation measures and private sector deleveraging processes limit the gradual recovery of domestic demand forecast for 2014 and 2015 (Banco de Portugal, 2013). The unemployment rate is expected to reach 17.4 per cent in 2013 (annual average) and will remain high in 2014 and 2015. A small increase in employment is only expected in 2015 according to the EC projections (Annex 1a). Despite this, employment is expected to see a large cumulative decline (8 per cent) from 2011 to 2015 due to a significant reduction in public employment and reflecting considerable job losses in the private sector, particularly in manufacturing and construction (Banco de Portugal, 2013).

1.2 Social targets

Europe 2020 set the headline target of reducing the number of people at risk of poverty or social exclusion by at least 20 million until 2020. In the Portuguese case, the objective is to decrease the number of people at risk of poverty or social exclusion by 200 thousand until 2020. This point begins by discussing the progress towards the headline target. Thereafter, figures for three sub-indicators are also taken into account since the indicator under analysis is based on a combination of three sub-indicators (European Commission, 2012:99-107), namely, the number of people at risk of poverty after social transfers, the number of severely materially deprived persons; and the number of people below 60 years of age who are living in households with very low work intensity.

First and foremost, Table 2 shows that the number of people at risk of poverty or social exclusion has decreased in Portugal (about 28 thousand) since 2010. Even if this trend remains unchanged, the number at risk of poverty or social exclusion will be reduced by 140 thousand by 2020 and therefore the Europe 2020 headline target will not be reached. However, the situation is even more problematic since the number of people in this situation increased around 64 thousand from 2011 to 2012. In fact, while the situation in the EU27 was already deteriorating since 2009 (the year of the global economic downturn), the situation in Portugal did not change until 2011 when the Memorandum of Understanding (MoU) between the Portuguese authorities and the European Union, the European Central Bank and the International Monetary Fund – commonly referred to as the Troika – was signed. Furthermore, this change goes against a sustained trend of reducing poverty or social exclusion in Portugal: between 2005 and 2010 the number of people in this situation in Portugal fell by about 144 thousand (Table 2). These figures do not however explain how each sub-indicator has evolved and therefore which of them contributed most to the changes in the main indicator.

Table 2 – Poverty or social exclusion, 2005-2012 (thousand)

	2005	2006	2007	2008	2009	2010	2011	2012
EU27	124329	123052	119397	116478	114353	116847	120177	123118
Portugal	2745	2640	2653	2757	2648	2693	2601	2665

Source: Eurostat. Accessed on 9 December 2013. Available at:

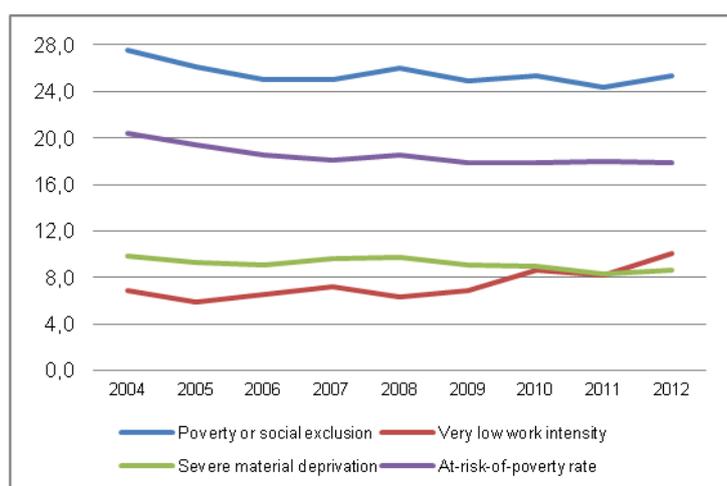
http://epp.eurostat.ec.europa.eu/portal/page/portal/europe_2020_indicators/headline_indicators

Figure 1 shows the evolution of each sub-indicator (in percentage) since 2004 and points to two main conclusions. Firstly, the sub-indicator at risk of poverty rate after social transfers has stabilized since 2010, i.e. the sustained fall over the past decade stopped in 2010¹. Indeed, it should be underlined that

¹ Note that this indicator defines being at risk of poverty as those with an equivalised disposable income below 60 per cent of the national median equivalised disposable income. However, in Portugal, the national median equivalised disposable income

Portugal saw a great decline in the share of population at risk of poverty after social transfers in the past decade; in fact, it was one of the EU15 countries (together with Ireland) with the largest drop in this period. In addition, while severe material deprivation has also remained stable since 2010, it decreased from 2004 to 2010. Secondly, there was a dramatic increase in the share of people living in households with very low work intensity in 2010 (after the global economic downturn) and in 2012 (after the Portuguese bailout). To sum up, the recent evolution in the indicator for people at risk of poverty and social exclusion is mainly explained by a slowdown in the reduction of at risk of poverty and severe material deprivation on one hand, and a dramatic increase in the share of people living in households with very low work intensity. To overcome this situation and to get back on track, it is therefore crucial to begin by stabilising the situation in the labour market and thereafter continue to invest in the policies that were producing positive results for poverty and severe material deprivation.

Figure 1 – Poverty and social exclusion and each sub-indicator, 2004-2012 (percentage)



Source: Eurostat. Accessed on 9 December 2013. Available at: http://epp.eurostat.ec.europa.eu/portal/page/portal/europe_2020_indicators/headline_indicators

2. International social and labour standards during the implementation of the adjustment programme

During the implementation of the adjustment programme, a lively debate has taken place as to whether the ILO Conventions have been respected, namely regarding the following conventions: Right to Organise and Collective Bargaining Convention (No.98), Minimum Wage Fixing Convention (No.131), and Social Security (Minimum Standards) Convention (No.102)². Below, we assess how each convention has been respected and some data will be presented to illustrate the consequences of the reforms undertaken since 2011.

Starting with Convention No.98, several changes were introduced in the Portuguese industrial relations system. The original MoU contained a number of measures that had to be implemented, namely:

dropped 3.1 per cent in 2010 (compared with 2009) and declined 1 per cent in 2011 (CES, 2013:194). Taking this into account, Instituto Nacional de Estatística (INE, 2013c), using a fixed poverty threshold in 2009 (and updated by reference to the inflation in 2010 and 2011), found that at risk of poverty rate would have increased by 3.4 percentage points between 2009 and 2011, i.e. from 17.9 per cent in 2009 to 21.3 per cent in 2011.

² Even though trade union confederations have also mentioned other conventions on their complaints (Convention No.151, No.87 and No.29) we will prioritize here those referred in the *Report of the Committee of Experts on the Application of Conventions and Recommendations* (reports from 2011, 2012 and 2013 were analysed). Public statements made by social partners were also analysed in order to carry out this analysis.

to define criteria to be followed for the extension of collective agreements; to shorten the survival of contracts that are expired but not renewed; and to further decentralise bargaining in favour of company-level bargaining (allowing works councils to negotiate functional and geographical mobility conditions and working time arrangements; allowing work councils to conclude firm-level agreements without the union delegation; and to reduce the firm size threshold for work councils to conclude agreements below 250 employees). To comply with the MoU requirements, the Portuguese Council of Ministers (Resolution No.90/2012) revised the procedures on the extension of collective agreements³. This resolution defined stricter criteria to extend collective agreements, inter alia: only collective agreements signed by an association representing 50 per cent or more of the employees in the respective branch could be extended (Campos Lima, 2013).

As a result, in 2012 the share of workers covered plummeted to the lowest values in the history of Portuguese democracy (ILO, 2013a: 53-56; Campos Lima, 2013). Table 3 illustrates this process and shows that the number of extension ordinances declined from 137 in 2008 to 12 in 2012. While 1,894,788 workers were covered by collective agreements in 2008, in 2012 the number dropped to 327,662, i.e. a variation of 82.7 per cent. However, the decline in the number of collective agreements, especially regarding sector and multiemployer collective agreements, also contributed to this fall in the number of workers covered. Furthermore, data for the first semester of 2013 (Table 4) confirms this trend: the number of workers covered continues to fall, as does the number of extension ordinances. Despite a slight increase in the number of company agreements in 2013 (comparing with the first semester of 2012), the figure remains lower than the number of company agreements in 2009, 2010 and 2011.

As Campos Lima (2013) has argued, it is not only the government's austerity policy that has influenced the strategy of employers, but the decline in the number of collective agreements is another crucial factor: "it may be that the refusal of employer associations to conclude agreements signals the imminent replacement of existing collective agreements with new ones that are more in line with the new labour code [the existing collective agreements are more favourable to workers than the regulations in the new labour code]". Taken together, this discussion allows us to conclude that, although the government may argue that this situation is linked with the economic crisis, an attempt to radically change the former system of industrial relations is underway.

Table 3 – Collective agreements and worker coverage, 2008-2012 (number of agreements)

	2008	2009	2010	2011	2012
Sector and multi-employer agreements	200	164	166	115	46
Company agreements	95	87	64	55	39
Total collective agreements	295	251	230	170	85
Number of extension ordinances	137	102	116	17	12
Number of workers covered	1,894,788	1,397,225	1,407,066	1,236,919	327,662

Source: DGERT (Relatório sobre Regulamentação Colectiva de Trabalho publicada no Ano de 2012) and UGT (Relatório Anual da Negociação Colectiva de 2012).

Table 4 – Collective agreements and worker coverage, 2009-2013 – first semester (number of agreements)

	1 st S 2009	1 st S 2010	1 st S 2011	1 st S 2012	1 st S 2013
Sector and multi-employer agreements	96	118	65	23	21
Company agreements	43	29	36	19	24
Total collective agreements	139	147	101	42	45

³ However, contrary to the MoU requirements, there has been no dialogue process with the social partners on this issue; this decision was taken unilaterally. Furthermore, 'all the trade union and employer confederations reacted against the government's decision to suspend the extension of collective agreements' (Campos Lima, 2013).

Number of extension ordinances	40	48	17	12	9
Number of workers covered	1,030,291	1,274,032	551,739	245,136	194,538

Source: DGERT (Relatório sobre Regulamentação Colectiva de Trabalho Publicada no 1º semestre de 2013)

In addition to the above-mentioned changes, other aspects concerning Convention No.98 must be highlighted. As the *Report of the Committee of Experts on the Application of Conventions and Recommendations 2013* (ILO, 2013b: 152) has noted, the government has taken some measures since the onset of the financial crisis although these had been applied under collective agreement, namely Act No. 23/2012 of 25 June 2012⁴ (which amends a number of sections of the Labour Code) and cutting pay and cash benefits in state enterprises (Act No. 55-A/2010 of 31 December 2010; Act No. 64-B/2011 of 30 December 2011; and Act No. 66-B/2012 of 31 December 2012). Act No. 23/2012 of June 2012 declared dispositions in collective agreements on additional rest for overtime work to be null; reduced the increase in the annual period of paid leave to a maximum of three days, regardless of the provisions in collective agreements; and suspended the existing provisions on increases in payment for supplementary work and public holidays for two years (after which the current values of collective bargaining will be applied, but will be reduced by 50 per cent).⁵ As for cuts in monthly wages and cash benefits, several measures have been taken since 2010 that do not consider the existing dispositions in collective agreements, inter alia: (i) pay cuts (in amounts ranging from 3.5 and 10 per cent) to salaries in the public sector exceeding €1500 a month; (ii) Holiday and Christmas bonuses for civil servants and pensioners (public and private sector) were suspended in 2012, affecting pensions of more than €600 and gross monthly earnings over €1100 (in 2013 the constitutional court declared this measure unconstitutional); (iii) payment for overtime was cut by 50 per cent. The first extra hour of overtime started to be paid at 25 per cent of the overtime rate, with any following hours at 37.5 per cent. Holiday and Sunday work began being paid at a 50 per cent overtime rate (instead of 100 per cent); and (iv) no updates to the meal allowance have been allowed since 2011. To sum up, two aspects must be highlighted as regards convention No.98 during the implementation of the MoU: reforms to the industrial relations system have contributed to a dramatic fall in the share of workers covered by collective agreements, and austerity measures taken to tackle the financial crisis and implement the MoU did not respect the collective agreements in force.

Second, the setting of the minimum wage has been widely debated in Portugal (ILO, 2013a: 56-57) and union confederations (UGT and CGTP) have placed great emphasis on this issue since 2011. Before examining how the situation has developed since 2011, let us briefly contextualise its evolution before Portugal requested financial assistance. In December 2006, a tripartite agreement was reached between social partners that established the increase in the statutory minimum wage to €500 in 2011 (in 2007, the statutory minimum wage was €403). However, the agreement was not fully implemented: in 2011 the monthly minimum wage was set at 485€ (the current value of the minimum wage). However, Act No.143/2010 of 31 December 2010, which set the minimum wage for 2011, envisaged two evaluations (in May and September 2011) to assess whether conditions were in place to increase the minimum wage to €500.

Contrary to what had been previously decided, the social partners were not consulted throughout 2011. Indeed, consultations only took place in May 2012 (within the Standing Committee on Social Dialogue). Two reasons contributed to this situation: first, the MoU (2011:55) stated clearly that ‘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’; and second, the new government, which took office in June 2011, followed a different strategy on this issue and emphasised that the increase in the minimum wage would have a negative impact on employment.

⁴ These amendments to the Labour Code were made after a tripartite agreement was reached between social partners. However, the most representative union confederation (CGTP) – accounting for about two-thirds of the organised workforce (ICTWSS, 2013; Naumann, 2013) – did not ratify the tripartite agreement.

⁵ Later, the Portuguese Constitutional Court (Judgment No.602/2013) ruled that some of the changes introduced by Act No. 23/2012 (namely those regarding collective bargaining rights) were unconstitutional (Campos Lima, 2013).

Emphasis must be given to two aspects highlighted in the *Report of the Committee of Experts on the Application of Conventions and Recommendations 2013* on the respect of Convention No.131 during the implementation of the adjustment programme. With regard to the lack of social dialogue on this issue, the Report (ILO, 2013c: 695) stresses ‘the fundamental nature of the principle of full consultation and direct participation, on an equal footing, of the social partners in the application of the minimum wage fixing machinery. This principle should be observed under all conditions, since the implementation of an economic adjustment programme or, in more general terms, an austerity policy in response to a crisis situation cannot release governments from their responsibilities in this field’. Regarding the Government's justification for freezing the minimum wage (the negative impact on employment), the same report (ILO, 2013c: 694) cites the Minimum Wage Fixing Recommendation, 1970 (No.135), which complements Convention No.131, and states that ‘minimum wage fixing should constitute one element in a policy designed to overcome poverty and to ensure the satisfaction of the needs of all workers and their families’, i.e. it should not be assessed only in light of economic policy but also as a tool to tackle poverty and social exclusion.

We now turn to the assessment of whether austerity measures had an impact on the social security system (SSS). As already mentioned in the first section, poverty and social exclusion have increased and the employment rate has fallen since 2011. Even though Convention No.102 sets out minimum standards for social security and defines poverty reduction as one of its main goals, the reforms carried out by the Portuguese Government since 2010 have weakened the SSS's ability to tackle the adverse social situation. The MoU stipulated measures in this regard, inter alia: ‘to suspend application of pension indexation rules and freeze pensions, except for the lowest pensions (...); [to reduce] the maximum duration of unemployment insurance benefits to no more than 18 months; (...) [and to cap the] unemployment benefits at 2.5 times the social support index (IAS) and [to introduce] a declining profile of benefits over the unemployment spell after six months of unemployment (a reduction of at least 10 per cent in the benefit amount)’. Furthermore, in 2010 the Portuguese Government introduced new and stricter eligibility criteria (CES, 2013: 199-208) for access to means-tested benefits (Act. No. 70/2010 of 16 June 2010). As shown below, these changes led to a sharp decline in the number of beneficiaries.

Despite the dramatic situation in the labour market that demanded more encompassing social policies, there has been an overall reduction in the recipients of social benefits since 2010. Table 5 provides evidence of this for four means-tested benefits – income support allowance; solidarity supplement for the elderly; social unemployment benefit; and child benefit –, showing the sharp decline in the number of recipients. Finally, it should also be noted that the general reduction in social benefits was accompanied by an increase in the number of people receiving food from the food bank from 250,971 in 2008 to 389,223 in 2012, and the number of people receiving daily means under the ‘Emergency Social Assistance Programme’ (a government initiative) reached 49,150 in 2013⁶ (CES, 2013:206-207). In sum, while Convention No.102 sets out the objective of reducing poverty and stresses the role of the social security system, the number of individuals receiving social benefits has dramatically decreased in Portugal during one of its worst economic crises. The growing number of people currently receiving food aid illustrates how critical the situation is.

Table 5 – Number of social benefit recipients (monthly data)

	11-2008	11-2009	11-2010	11-2011	11-2012	11-2013
Income support allowance (families)	128 663	151 950	138 334	117 465	111 932	98 670
Income support allowance (beneficiaries)	335 988	389 605	344 925	313 375	281 415	234 929
Solidarity Supplement for the Elderly	155 368	219 580	235 357	236 013	230 507	225 689
Social unemployment benefit	79 044	113 417	75 802	55 136	67 140	66 479

⁶ Note that those receiving daily meals under this programme are not allowed to receive food from the food bank. Therefore, about 450,000 people in Portugal are currently receiving food aid.

Child benefit	1 734 179	1 775 747	1 391 785	1 218 345	1 184 381	1 161 353
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Source: Portuguese Social Insurance Institute; data assessed on 27 December 2013

<http://www4.seg-social.pt/estatisticas>

While the debate on compliance with ILO conventions has been lively, no collective complaints⁷ of violations of the (revised) European Social Charter⁸ in Portugal have been lodged with the European Committee of Social Rights and no reports from the Portuguese government have been submitted since the implementation of the Economic Adjustment Programme, according to the latest available information (updated until April 2013)⁹.

3. The evolution of social dialogue and the role of social partners during the crisis in Portugal

To borrow Campos Lima and Artiles (2011:399) words, social dialogues between social partners have ranged between the two-way game of boxing and dancing, i.e. between general strikes and social pacts. This section first discusses how dialogues have taken place, highlighting the role of two tripartite agreements signed during this period (sub-section 3.1.). Then, the focus is placed on how industrial action and mass protests have developed since 2010 (sub-section 3.2.). This section argues that although tripartite agreements have played an important role they have been unable to prevent conflict.

3.1 Social dialogue

Since the start of the crisis in 2008, a series of austerity measures have been introduced impacting directly fundamental social and employment issues. The actual social protection system, employment regulations and industrial relations have changed considerably.

For the purpose of this review on the evolution of social dialogue and the role of social partners during the crisis in Portugal, special attention will be given to labour reforms and collective bargaining developments, notably those resulting from the MoU measures, governmental action, and legislative changes.

After 2011 in particular, the MoU agreed to pursue several important labour market and labour law reforms covering unemployment benefits, rules governing individual dismissals and severance payments, working time arrangements and wage-setting. A decentralisation of the collective bargaining system was also envisaged. Since 2008, the Labour Code has been extensively revised (Act No. 7/2009 of 12 February; Act No. 23/2012 of 25 June).

Austerity measures and particularly labour legislation revisions affected power relations in the industrial relations system in Portugal. Under strong pressure, social partners' autonomy and action at all bargaining levels is being weakened. There is increasing tension between employers and trade unions in social dialogue and social partners are taking more extreme and conflictual positions. Employers are ready to accept labour reforms as they enable more flexible labour market practices, lower labour costs and new working time arrangements, and seem to have strengthened their position at all levels of the industrial relations system (Naumann, 2011). The two trade union confederations, CGTP and UGT, do not accept that austerity is the only way out of the crisis; they have adopted a dispute strategy (CES,

⁷ Portugal accepted the Additional Protocol providing for a system of collective complaints on 20/03/1998, but has not yet made a declaration enabling national NGOs to submit collective complaints.

⁸ Portugal ratified the European Social Charter on 30/09/1991 and the Revised European Social Charter on 30/05/2002, accepting all of its 98 paragraphs.

⁹ Department of the European Social Charter and the European Code of Social Security – Directorate General of Human Rights and the Rule of Law (2013). Factsheet – Portugal. Update: April 2013. Accessed on 18 December 2013.

2013:151) and common protests have been organised by CGTP and UGT in a united stance against government successive austerity packages and labour reforms.

Tension has increased even within the trade unions. CGTP is against the MoU terms and deficit targets and demands the immediate renegotiation of the debt, while UGT is more cautious and stresses the importance of respecting the commitments with the European Union and the International Monetary Fund in order to be able to negotiate the extension of the deadlines and the interest rate on the debt (Campos Lima, 2011). Generally very different in strategy, both trade unions confederations have joined together in massive protests.

In fact, the exceptionally difficult situation facing Portugal is also challenging for trade union action, namely between the need to “(...) simultaneously act as counter power, seeking to mobilize power resources to limit anti-labour policies and austerity plans, and as regulatory actors, enhancing their capacity to participate in long-term negotiations (Campos Lima and Artiles, 2011:399). During this crisis period, Portuguese trade union confederations negotiated social pacts and called for general strikes. In some cases, general strikes were even followed by social pact agreements.

Between 2008 and 2012, three social pacts were signed between the government, the UGT and all the employers' confederations (CAP, CCP, CIP and CTP). All these social pacts facilitated structural adjustment in fundamental issues on social and employment regulations. On 25th June 2008, the Socialist government reached a social pact with all the employers' confederations and the UGT, which set up the basis for the revision of the labour code entering into force in 2009. On 23rd March 2011, the Tripartite Agreement for Competitiveness and Employment favoured the decentralisation of the collective bargaining at company-level and defined the reduction of severance pay and the creation of a fund to finance it. The MoU of May 2011 integrated most of these changes but pushed the commitments previously agreed by social partners further. On 18 January 2012, the Compromise on Growth, Competitiveness and Employment was a step forward in the implementation of the MoU and its commitments were mostly integrated in the revised Labour Code of 2012¹⁰.

On the trade union side, CGTP refused to sign all these social pacts. On the other hand, UGT's decision to sign the 2012 social pact in order to prevent tougher measures, notably the government plan to increase working time without compensation, seemed in particular to compromise further joint trade union actions against austerity. It was only the recent change in UGT leadership in April 2013 that reopened the way for joint trade union actions like the general strike on 27th June 2013.

However, unusual conditions and rising pressure are limiting social partners' room for 'manoeuvre' and raising questions about whether social pacts do reflect a serious trade off, as pointed out by Campos Lima. In particular “the 2012 social pact legitimized *de facto* the government anti-labour policy. And it did not prevent the government launching further attacks on labour as became clear afterwards with the unilateral decision on conditions and limits of extension of collective agreements and above all with the state budget for 2013” (Campos Lima, 2013).

In relation to the industrial relations system, the MoU also called for a “coordinated decentralization” in collective bargaining. Stricter criteria for the extension of collective agreements and a reduced length of survival of collective agreements that have expired and not been renewed were introduced (Resolution No. 90/2012). Although a critical issue for collective bargaining that seriously limits the extension of collective agreements, this resulted from the government's unilateral decision without any dialogue with social partners. Both trade unions and employers' confederations reacted strongly against this resolution.

Aiming to promote business adjustment and flexibility in the labour market, further decentralisation of collective bargaining is underway by extending what used to be trade union prerogatives of workers' representation to other bodies at company level, namely works councils. Works

¹⁰ For a detailed overview see: Campos Lima, M. P. (2013) “Portugal: Impact of the crisis on industrial relations”, European Industrial Relations Observatory on-line. Available at: <http://www.eurofound.europa.eu/eiro/studies/tn1301019s/pt1301019q.htm> (accessed on 13 December 2013).

councils will be allowed to negotiate functional and geographical mobility conditions and working-time arrangements at company level. The firm's size threshold for works councils to conclude firm-level agreements is to be reduced to 150 employees (the existing limit is 250 employees). Also sectoral collective agreements may establish certain matters for which works councils can conclude firm-level agreements without the delegation of unions.

Limiting the extension of collective agreements and shifting collective bargaining from national/sectoral levels to company level is introducing major changes in the industrial relations system in Portugal. As presented in section 2.2, the number of extension ordinances declined considerably in 2012 as well as the number of workers covered by collective agreements. The number of collective agreements also went down, especially sector and multi-employer collective agreements. In this context, the structure of trade unions and their institutional means of protecting and representing workers may be seriously weakened (Clauwaert and Schomann, 2012).

Additionally, it is not unusual for anti-crisis measures agreed by the social partners to be bypassed on the grounds of 'emergency procedures' and rising external pressure. In some cases, anti-crisis measures and labour law reforms affect fundamental social rights, directly or indirectly. In this context, reducing the role of social partners and collective bargaining may actually undermine the participatory foundations of the social dialogue and its role in drafting social legislations (Clauwaert and Schomann, 2012; Costa, 2012). In particular, the decentralisation of collective bargaining and the new criteria applying to trade union representation may allow lower-level bargaining outcomes to deviate unfavourably from the protection provided by higher level collective agreements or even statutory legislation affecting fundamental employment regulations like those referring to working time, wages and social protection (Clauwaert and Schomann, 2012:13). In this sense, there are a number of controversial issues and concerns especially on the participatory foundations of the social dialogue and the outcomes of decentralised collective bargaining.

3.2 Industrial action and mass protests

Industrial action has soared in Portugal over the past four years. Compared with the last decades, far more general and sectoral strikes have taken place. Furthermore, mass protests organised by trade unions and the civil society have escalated (Campos Lima, 2013). The above-mentioned tripartite agreements (between social partners, but excluding CGTP) reduced the level of social conflict in some periods, especially because they were signed after two general strikes held jointly by CGTP and UGT (CES, 2013:152; Costa, 2012:407). However, tripartite agreements have been unable to maintain social peace. Successive austerity packages have contributed to a level of social protests that is unprecedented since the Portuguese revolution in 1974.

If we compare the number of general strikes between 2010 and 2013 with the previous thirty-five years (1974-2009) it clearly demonstrates the current widespread social discontent: there have been five general strikes (24 November 2010, 24 November 2011, 22 March 2012, 14 November 2012, and 27 June 2013¹¹) in Portugal since 2010, and five between 1974 and 2009. Furthermore, the current government has already faced four general strikes. Additionally, whereas the great majority were organised only by CGTP before 2010 (the only general strike held by CGTP and UGT together was in 1988), since 2010 three have been called by these two union confederations. This is therefore a new element in the Portuguese industrial relations system (Campos Lima and Artiles, 2011; Campos Lima, 2010a; Campos Lima, 2013; CES, 2013:151). As Costa (2012:405-406) noted, 'the strengthening of trade union cohesion (...) was a positive and noteworthy outcome in the trade union world'. Finally, the general strike in 2010 called by CGTP and UGT 'was the first they held together to protest against the policy of the Socialist Party' (Campos Lima and Artiles, 2011:396).

¹¹ General strikes were organized against the successive austerity packages. For the specific reasons motivating each general strike see: Campos Lima (2013).

Several mass protests have taken place in Portugal since 2010¹². CGTP organised three massive demonstrations in Lisbon: on 29 May 2010 and on 11 February 2012 with about 300,000 people (Campos Lima, 2010b), and in 29 September 2012 with more than 300,000 people, according to the organisers. Furthermore, civil society has also played a prominent role in this regard, organising demonstrations with even greater numbers (CES, 2013:153). Mainly organised by the younger generations in social networks, civil society movements brought 300,000 people together in Lisbon and 80,000 in Oporto on 12 March 2010, (Estanque, Costa and Soeiro, 2013:35-36). The second, on 15 September 2012, mobilised about 500,000 people in Lisbon and 1,000,000 across the country, and stopped the government from making the planned 6 per cent reduction in employers' social security contributions and 7 per cent increase in workers' contributions (Campos Lima, 2012; CES, 2013:153; Estanque, Costa and Soeiro, 2013:40). Finally, the biggest demonstration since the signature of the MoU took place on 2 March 2013 and, according to the organizers, mobilised 800,000 in Lisbon and 400,000 in Oporto. These latter two protests have been characterised in the Portuguese media as the largest since 1974¹³.

Taken together, industrial action and mass protests have gained momentum since 2010 and constitute a crucial feature of the current times in Portugal. Although CGTP has played the leading role in the opposition to the MoU (Campos Lima, 2011), UGT hardened its position – ranging however between general strikes and social pacts –, and civil society organised the biggest demonstrations since 1974.

4. Key challenges in social and employment policy

4.1. Social policy challenges

In our view, Portugal faces three main social policy challenges: (i) austerity policies led to massive cuts in social benefits, weakening the social security system when it is most needed; (ii) the disproportionate burden of austerity on low income households threatens social cohesion; and finally (iii) a set of interconnected factors (namely the fall in the fertility rates and the emigration of young people) is undermining the sustainability of the Portuguese social security system due to an acceleration of the demographic ageing process.

As discussed in the second section, reforms made by the Portuguese government have weakened the social security system's capacity to tackle the adverse situation. The introduction of new and stricter criteria has led to a sharp decline in the number of beneficiaries of social benefits (namely means-tested benefits). In our view, these reforms are jeopardising social inclusion in Portugal and, as a consequence, Europe 2020's headline target of decreasing the number of people at risk of poverty or social exclusion by 200 thousand by 2020 is unlikely to be achieved with present policies.

Furthermore, changes to social benefits also raise questions about the progressivity of cuts in public expenditure. Recent research on this issue financed by and prepared for the use of the European Commission found that 'except in Portugal and Estonia, high income households (top decile group) contribute a larger proportion of their income to public pay cuts, direct tax increases and cash benefit cuts than the bottom decile group (...). The distribution of the burden of austerity on disposable income is clearly and strongly regressive in Portugal (...) [and that] changes to benefits (...) tend to hit those on low income the hardest (...). This is strongest in Ireland and in Portugal' (Callan et al., 2011: 28-29). Therefore, rather than safeguarding those most in need, austerity policies are affecting those on low incomes disproportionately. Thus, the challenges posed by the decreasing level of social cohesion must be taken into account.

Finally, two factors connected with the economic crisis are contributing to a significant acceleration of demographic ageing. As the ILO (2013a: 12) has reported recently 'since 2010, Portugal

¹² For the specific reasons motivating each mass demonstration see: Campos Lima (2010b; 2012) and CES (2013:153).

¹³ <http://www.tvi.iol.pt/videos/13698936>; <http://economico.sapo.pt/galeria/album/101>

has turned into a country of emigration, i.e. the number of people leaving the country has exceeded the number of immigrants (...). Between 2007 and 2012, the number of permanent emigrants increased six-fold. (...) Young people are over-represented among emigrants. According to Instituto Nacional de Estatística (INE) statistics, those aged 20 to 39 represent almost half of total permanent emigrants'. Furthermore, together with Latvia, Poland, Romania and Hungary, Portugal is among the countries with the lowest fertility rates in the EU27. A recent survey conducted by Instituto Nacional de Estatística (INE, 2013d) found that the 'amount of financial costs associated with having children' (mentioned by 67 per cent of women and 68 percent of men) and 'to have difficulties in finding a job' (mentioned by 48 per cent of women and by 59 percent of men) are the most referred reasons for not having children. These two factors are accelerating the demographic ageing process (which was already ongoing due to a longer average life expectancy and low birth rate). This process poses a great challenge in the medium-term to the social protection system, namely to its economic, financial and social sustainability (CES, 2013:209).

4.2. Employment policy challenges

In recent years, the deterioration of the labour market in Portugal has been particularly acute, triggering new and major challenges for employment policy. We believe the most important challenges include: (i) boosting job creation despite tight financial and economic conditions; (ii) addressing the social consequences of the crisis and the employability of disadvantaged groups, notably youth and long-term unemployed; (iii) guaranteeing quality employment and labour standards within an increasingly flexibilised and deregulated labour market.

Unemployment has peaked at an unprecedented level of more than 17 per cent as a result of the exceptionally difficult economic situation, severe austerity packages weighing on public expenditure, sluggish domestic demand and investment. Despite some recent signs of improvement in the economic activity and labour market, a delayed and modest recovery is expected which will have little impact on unemployment in the coming years. This calls for the stronger focus on economic growth and job creation firmly advocated in the ILO recent report on the job crisis in Portugal. A broad set of policies is required claiming for a differentiated and combined path of medium-term fiscal consolidation and well designed incentives for economic growth and job recovery. According to ILO policy simulations, a job-friendly strategy "would contribute to reduce unemployment by up to 2 percentage points by 2015 while the pace of reducing the fiscal deficit would be slower in 2014, but more rapid in subsequent years" (ILO, 2013a:5).

Portugal's youth employment prospects have deteriorated sharply in recent years despite the remarkable progress in youth education. Even with longer education careers, young graduates experience more difficult transitions to the labour market and lower quality jobs. The increasingly frequent under-employment and over-education that has come about is indicative of a serious waste of human capital. Some of the "most talented and qualified young people have been pushed into emigrating" (ILO, 2013a:2) thus raising the serious concern of a brain drain. Additionally, long-term unemployment affects nowadays two thirds of the unemployed. Growing difficulties in finding a job, discouragement and deterioration of skills raise the likelihood of an increasing number of people being permanently withdrawn from the labour market, in particular the older and low-skilled. In this context, additional attention must be given to effective active labour market policies that not only foster job creation and labour market (re)integration but also prevent social exclusion.

Finally, recent labour law reforms introduced an increased flexibilisation in the labour market, namely in employment regulations and working conditions. Bearing in mind that low paid and low-skilled jobs are predominant in the Portuguese employment system, a flexibilisation and deregulatory path could actually threaten job quality and compliance with labour standards. Furthermore, in this period of crisis, temporary employment and "dependent" self-employment as well as job retention have intensified resulting in a deeper dualisation of the labour market. Questions seem to remain on whether quality employment and labour standards are perceived as being incompatible with competitiveness and job creation (Clauwaert and Schomann, 2012).

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Annexes

Annex 1a

European Commission - European Economic Forecast Autumn 2013						
Forecasts for Portugal	2010	2011	2012	2013	2014	2015
GDP growth (% , yoy)	1.9	-1.3	-3.2	-1.8	0.8	1.5
Inflation (% , yoy)	1.4	3.6	2.8	0.6	1.0	1.2
Employment (% , yoy)	-1.5	-1.5	-4.2	-3.9	-0.5	0.4
Unemployment rate (%)	12.0	12.9	15.9	17.4	17.7	17.3
Public budget balance (% of GDP)	-9.8	-4.3	-6.4	-5.9	-4.0	-2.5
Gross public debt (% of GDP)	94.0	108.2	124.1	127.8	126.7	125.7
Current-account balance (% of GDP)	-10.4	-7.2	-1.9	0.9	0.9	1.0

Source: European Commission (2013), European Economy 7|2013, 5 November 2013; downloaded at http://ec.europa.eu/economy_finance/eu/forecasts/2013_autumn/pt.html

Annex 1b

Economic Bulletin (EB) – Winter 2013: PROJECTIONS of BANCO DE PORTUGAL 2013-2015						
Annual Change Rate (in %)						
	EB Winter 2013			EB Aut.2013	EB Spring 2013	
	2013(p)	2014(p)	2015(p)	2013(p)	2013(p)	2014(p)
GDP	-1.5	0.8	1.3	-1.6	-2.0	0.3
Private consumption	-2.0	0.3	0.7	-2.2	-3.4	-1.4
Public Consumption	-1.5	-2.3	-0.5	-2.0	-2.1	-3.2
Gross Fixed Capital Formation	-8.4	1.0	3.7	-8.4	-8.9	1.1
Domestic Demand	-2.7	0.1	0.9	-3.0	-4.4	-1.2
Exports	5.9	5.5	5.4	5.8	4.7	5.5
Imports	2.7	3.9	4.5	2.0	-1.7	2.1
Contribution to GDP growth (in p.p.):						
Net exports	1.1	0.7	0.4	1.4	2.4	1.4
Domestic Demand	-2.7	0.1	0.9	-3.1	-4.4	-1.1
of which: change in inventories	0.2	0.2	0.0	0.1	-0.3	0.2
Current plus Capital Account (% of GDP)	2.5	3.8	4.7	3.1	4.5	6.4
Trade Balance (% of GDP)	1.7	2.7	3.5	2.1	3.0	4.9
HICP	0.5	0.8	1.2	0.6	0.4	0.8

Source: Banco de Portugal (2013); downloaded at <http://www.bportugal.pt/pt-PT/EstudosEconomicos/Publicacoes/BoletimEconomico/Paginas/BoletimEconomico.aspx>

Notes: (p) projected; for each aggregate is presented the projection corresponding to the most likely value, conditional on the set of assumptions considered.

Annex 1c

Participation, employment and unemployment rates					
Portugal					
	Quarterly level			Annual level	
	3Q 2012	2Q 2013	3Q 2013	2011	2012
Participation rate (15 and over) (%)	61.3	60.2	60.3	61.3	61.0
Males	67.7	66.1	66.3	68.0	67.1
Females	55.5	54.9	54.8	55.2	55.3
Employment rate (15 and over) (%)	51.7	50.3	50.9	53.5	51.4
Males	56.8	55.3	56.2	59.5	56.6
Females	46.9	45.8	46.1	48.0	46.7
Unemployment rate (%)	15.8	16.4	15.6	12.7	15.7
Males	16.0	16.4	15.3	12.4	15.7
Females	15.4	16.5	15.9	13.1	15.6
Youth (15-24)	39.0	37.1	36.0	30.1	37.7
Long-term	8.8	10.2	10.0	6.8	8.5

Source: INE (2013b), Employment Statistics – 4th quarter of 2012 (February, 13th 2013); INE (2013a), Employment Statistics – 3rd quarter of 2013 (November, 7th 2013); downloaded at <http://www.ine.pt>

Annex 1d

Seasonally Adjusted Unemployment Rate					
Portugal					
	Oct 2012	Jul 2013	Aug 2013	Sep 2013	Oct 2013
Unemployment rate (%)	16.9	16.2	16.0	15.8	15.7
Males	16.9	16.1	15.9	15.6	15.5
Females	16.9	16.4	16.2	16.0	15.8
Youth (under 25's)	38.9	37.0	36.4	36.2	36.5

Source: Eurostat (2013), News Release Euro Indicators 179/2013 – 29 November 2013; downloaded at <http://epp.eurostat.ec.europa.eu>