

*Labour rights in the context of structural adjustment  
and fiscal consolidation policies*

**Contribution of the Portuguese Ombudsman to the thematic report to the  
34<sup>th</sup> session United Nations Human Rights Council, by the Independent Ex-  
pert on the effects of foreign debt on human rights**

**Introduction**

After a period of relative growth and stability in the end of the XX<sup>th</sup> of century, the first years of the XXI<sup>st</sup> century in Portugal would bring the crisis and the need of reforms into the spotlight of the political, economical and social scenes. The XV<sup>th</sup> Government was elected, in 2002, following the presentation of a programme very centred in coordinating the flexibilisation of the labour market with deep fiscal and social security reforms. In April 2011, after the effects of the global economic crisis were severely felt in Portugal, external assistance was requested and a Financial Assistance Programme was agreed between the Portuguese authorities and the European Union and the International Monetary Fund (IMF) in May 2011. The implementation of the memoranda of understanding signed under the Adjustment Programme was thought to be ended by 2014.

In the past 20 years the measures adopted in Portugal in the field of fiscal consolidation, social security and labour market reforms were numerous and could hardly be synthetized as requested. Therefore, the answers here presented focus on the main measures and reforms implemented, with emphasis in those adopted after the global economic crisis of 2008-2009. Whenever found pertinent, complaint cases and specific interventions of the Portuguese Ombudsman will be briefly referred to; and



whenever possible, reports, official documents, studies, databases or other publications will be cited in order to abridge our responses.

## 1. Labour related measures adopted

### 1.1. Labour market reforms; 1.2. Changes to the national labour law and 1.3. Changes to the system of collective bargaining

- Significant reforms aiming to inforce the flexibility of the labour market and change the system of collective bargaining over the past decade were adopted mainly by introducing changes to national labour law.
- In what private sector workers are concerned, deep changes were introduced in the Portuguese Labour Code in 2003, 2009 and 2012.

A complete though brief summary of the main changes introduced can be found *in*:

- Ferreira, António Casimiro/Lopes, Taciana, *Parliament approves Labour Code*, EurWork Observatory, 2003

DOI:<http://www.eurofound.europa.eu/observatories/eurwork/articles/parliament-approves-labour-code>

-Lima, Maria da Paz Campos, *New Labour Code comes into force in wake of controversy*, EurWork Observatory, 2009

DOI: <http://www.eurofound.europa.eu/observatories/eurwork/articles/new-labour-code-comes-into-force-in-wake-of-controversy>

- Lima, Maria da Paz Campos, *Controversial new labour code comes into force*, EurWork Observatory, 2012,

DOI:<http://www.eurofound.europa.eu/observatories/eurwork/articles/industrial-relations-working-conditions/controversial-new-labour-code-comes-into-force>



- For further reading, please see also: Palma Ramalho, Maria do Rosário, “Portuguese labour law and industrial relations during the crisis”, *Governance working papers*, no. 54, International Labour Office, Governance and Tripartism Department. - Geneva: ILO, 2013

DOI: [http://www.fd.unl.pt/docentes\\_docs/ma/DCM\\_MA\\_27484.pdf](http://www.fd.unl.pt/docentes_docs/ma/DCM_MA_27484.pdf)

- In what regards civil servants and public service workers, a broad reform of the public service legislation was concluded in 2008 with the approval of Law no 12-A/2008 (on employment, careers and remuneration) and of the Law no. 59/2008 (which approved the regime of labour contract in public functions). These reforms aimed to simplify and harmonize the rules applicable to civil servants of previously different careers; and make way to a public employment law ever more similar to the private labour law.

For an overview of the reforms conducted in the public sector, with emphasis on the period after 2008, please *v.*: Lima, Maria da Paz Campos, *Portugal: Industrial relations in central public administration – Recent trends and features*, EurWork Observatory, 2014

DOI: <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/portugal/portugal-industrial-relations-in-central-public-administration-recent-trends-and-features>

- A list and synthesis of labour market policy measures adopted in Portugal between 2008 and 2013 can be found in the Database of the International Labour Organization (ILO) for the *Inventory of Labour Market Policy Measures in the EU 2008-13*.

DOI: [http://www.ilo.org/global/research/publications/WCMS\\_449984/lang--en/index.htm](http://www.ilo.org/global/research/publications/WCMS_449984/lang--en/index.htm)

#### 1.4. Freezing of salary increases for public service workers and civil servants



- Public service workers' wages were last increased, by unilateral decision of the government, in 2008 by 2.1% (Order no. 30-A/2008) and in 2009, by 2.9% (Order no. 1553-D/2008).
- Promotions and progressions have been reformed. In 2005, Law no. 43/2005 determined that the counting of the service rendered by public service workers and civil for seniority based promotion should be suspended. Law no 66-B/2007 (of 28.12.2007) created a new performance assessment system, aimed to eliminate automatic progression based on seniority. The public employment law reforms of 2008 definitely clarified the principle of performance/merit assessment based career progression.
- However, since 2010 any wage increase has been strictly forbidden by State Budget Laws. Since then, careers and wages have been frozen.
- Moreover, the (illiquid) wages over €1500 were reduced by the State Budget Law for 2011, and those reductions were kept in effect until 2016.
- Cuts in Christmas and holiday allowances were imposed by the 2012 State Budget Law and were later ruled unconstitutional by the Constitutional Court. But, in an unprecedented decision, the Court limited the effects of its own ruling, so in 2012 those allowances were actually not received by civil servants.
- A gradual return to full salary repayment during 2016 was regulated by Law no. 159-A/2015, so in October all civil servants should be receiving the wages they received before the cuts were applied. Holiday allowance has been paid, in full, in the regular period (May-July) and the Christmas allowance keeps being exceptionally paid monthly in twelfths.

### **1.5. Reduction of the number of persons employed in the public service**

- In Portugal, the reduction of the number of civil servants has been pursued by: granting priority to candidates who were already public service workers in competitive public recruitment procedures; strongly limiting or forbidding the ad-



mission of new employees; encouraging the termination of contracts by mutual agreement.

- The Adjustment Programme set as a goal the reduction of 2% of the global number of civil servants a year.
- Since 2011, State Budget Laws have made the admission of new public service workers practically exceptional.
- Programmes of Rescission with Mutual Agreement (which contained rules on the calculation of the compensation due to the worker more generous than those established in general rules), were launched through Ordinances no. 221-A/2013 and no. 8-A/2014 (central administration); no. 209/2014 (local administration) and no. 332-A/2013 (teachers).
- During this period, the most relevant staff rationalization process - which led ca. 600 workers to *requalification* – was conducted by the Social Security Institute (SSI). Before the decisions of the SSI were revoked, in 2016, complaints were presented to the Ombudsman, who in 2015 issued a Recommendation on this subject (Proc. Q/7604/14).

A summary of the case and of the Recommendation can be found in the *Portuguese Ombudsman's Report to the Parliament of 2015*, p. 119.

DOI: [http://www.provedor-jus.pt/site/public/archive/doc/Report\\_2015.pdf](http://www.provedor-jus.pt/site/public/archive/doc/Report_2015.pdf)

## 1.6. Freezing or reduction of minimum wage

- In December 2006, an agreement between the Government and the Permanent Council for Social Coordination (trade, industry, services, agriculture, tourism and union representatives) was signed, which established the goal to reach a national minimum wage of 500 euros by 2011.
- The Decree-Law no. 143/2010 (which came into effect on 1.01.2011) set the amount of € 485 as minimum wage. Between 1.01.2011 and 30.09.2014 the minimum wage remained unchanged.



- The Decree-Law no. 144/2014 (effective from 1.10.2014) increased the minimum wage to € 505 and the Decree-Law no. 254-A/2015 (which entered into force on 1.01.2016) increased the minimum wage to € 530.
- In this period, complaints were addressed to the Ombudsman by Portuguese civil servants of the Foreign Affairs Ministry working abroad that, in result of the above mentioned reduction of civil servants' wages, started receiving less than the national minimum wage in force in the countries where they worked. Shortly after the Ombudsman drew the attention of the competent authorities to this problem, the 2013 State Budget Law established that, in those particular cases, salary reductions were not to be applied (Proc. R-1384/11).

A summary (available in Portuguese only) of this case can be found in the *Portuguese Ombudsman's Report to the Parliament of 2012*, p. 74.

DOI: [http://www.provedor-jus.pt/site/public/archive/doc/Relatorio\\_AR\\_2012\\_v3.pdf](http://www.provedor-jus.pt/site/public/archive/doc/Relatorio_AR_2012_v3.pdf)

### 1.7. Privatization of state-owned or controlled businesses and services

- For a synthesis of the privatization actions adopted during the implementation of the Adjustment Programme, please *v.* the report of the Secretary of State of the Prime Minister, *Managing the Adjustment Programme*, 2014, pp. 51 *et seq.*

DOI: <http://www.portugal.gov.pt/media/1505374/20140829%20seapm%20gestao%20paef%20ing.pdf>

- During this period the intervention of the Ombudsman was requested, in order to appreciate the validity of the re-privatization process of a rescued Bank. In January 2010 - fourteen months after the nationalization of Banco Português de Negócios (BPN) due to losses of around 700 million euro and risk of rupture in payments, as well as contamination of the whole Portuguese banking system – the re-privatization of this Bank was approved. After studying the case, the Ombudsman reached the conclusion that, according to the privatization framework law, a share capital reserve in favour of retail investors was mandatory, so



a Recommendation was addressed to the Ministry of State and Finance, suggesting that all legal and administrative procedures should be taken in order to ensure this share capital reserve.

The Recommendation can be found here: [http://www.provedor-jus.pt/site/public/archive/doc/REC\\_8B2010.pdf](http://www.provedor-jus.pt/site/public/archive/doc/REC_8B2010.pdf)

### 1.8. Reform of system of unemployment and/or social security benefits

- Several measures were adopted in this domain, in line with the reforms promoted by several European countries (raise of the minimum age/working years required for retirement; reduction of pensions and other social benefits; *etc.*). The following highlighted measures are among the ones that specially required the attention of the Ombudsman.
- As a consequence of the new rules imposed by Decree Law n° 70/2010 (of 16.06.2010) on the access conditions to some social benefits, the Ombudsman received in 2010 and 2011 a significant number of complaints related to the family allowance benefit, as in fact, due to the impact of this legislative changes many family allowance beneficiaries lost this benefit. Besides, according to new rules, the relevant family income to be considered to access this benefit, should be the one regarding the civil year that precedes the year the application is made. As many families suffered a decrease in their incomes due to the financial crisis lived in Portugal at that time (many of them even lost their jobs), it became clear that many situations were being evaluated based on an income value that was no longer accurate, resulting in the unfair loss of the family allowance benefit precisely when families most needed it.

In this context the Ombudsman suggested the Government the law alteration, in a way that the access to that benefit could be done considering the current financial situation of the family (Proc. 3149/11). The suggestion was accepted and the law accordingly modified (article 7 of Decree-Law n° 133/2012 which altered article 14°, n° 7 of Decree-Law n° 176/2003).



- Over the past few years the number of complaints regarding the allowance for special school attendance (or special education allowance)<sup>1</sup> significantly increased. These complaints reflect, on one hand, delays in the assessment of applications and the delay in payment of granted benefits, and raise, in another hand, several issues concerning the appreciation of the applications as well as the grounds invoked for refusal decisions, in regard to the interpretation and application of law used by the departments concerned.

The Ombudsman issued a Recommendation (Procs. 1834/10, 361/14 and 1539/14) advising the urgent review of legislation regarding this social benefit. The Ombudsman also defended that, meanwhile, the current system of allocation should be clarified to enable immediate resolution of the ongoing claims and assure more transparency and swiftness in the allocation of the allowance. Despite, the Ombudsman's Recommendation was accepted the implementation of the announced legislative amendment is still awaited.

A summary of these procedures can be found in the *Portuguese Ombudsman's Report to the Parliament of 2012*, p. 37.

DOI: [http://www.provedor-jus.pt/site/public/archive/doc/RES\\_Annual\\_Report2012.pdf](http://www.provedor-jus.pt/site/public/archive/doc/RES_Annual_Report2012.pdf)

- In 2012, with the publishing of Decree-Law n° 64/2012, the Government introduced some relevant changes in the unemployment benefits legislation, in compliance with the MoU. One of the changes introduced was the reduction of 10% of the unemployment benefit amount after the period of six months concession (from the 181st day on).

Although the Ombudsman (Proc. 3094/13) defended, that the mentioned reduction should not take place when the unemployment benefit amount initially conceded was equal or lower than the social support index value (€419,22), the Government did not accept that suggestion.

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<sup>1</sup> This is a social benefit that intends to offset the costs with disabled descendants under 24, who need to attend a private school of special education or need individual expert support when the disability does not require a special school attendance.





- The Ombudsman also received several complaints about the drastic decrease of the pension's value on the convergent social protection scheme, as a result of the enforcement of Law n° 11/2014 and the application of the sustainability factor established by Decree-Law n° 167-E/2013<sup>2</sup>. Considering the situation's severity, the Ombudsman urged the Government to adopt a legislative measure that solves the problem (Proc. 6196/14).

## 2. Initiative, factors and antecedents of the reforms

- As a State Member of the EU, Portugal had to comply with the conditions set by the Maastricht Treaty, which limited government deficits to 3 % of GDP and public debt levels to 60 %, so as to enable countries to share a single currency. Some of the measures adopted prior to the implementation of the Economic Adjustment Programme for Portugal (2011) were related to the EU and Eurozone commitments, combined with measures adopted in reaction to the global economic crisis of 2008-2009.
- The most severe measures, though, would arise from the Adjustment Programme agreed in 2011 with the so called *troika*, formed by the European Commission, the European Central Bank and the IMF.

Documents, including the original and reviewed versions of the *Memorandum of Understanding on Specific Economic Policy Conditionality*, attachments and reports are available at: <http://www.portugal.gov.pt/pt/o-governo/arquivo-historico/governos-constitucionais/gc19/os-temas/memorandos/memorandos.aspx>

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<sup>2</sup> Besides, significant delays regarding the conclusion of the retirement requests presented in the Civil Servants Social Security System (Caixa Geral de Aposentações, IP, - CGA) worsened the situation, since the new law was applied to requests which were presented before the publication of the new law but were still pending on that date.



### 3. Mechanisms for consultation and civil society participation in the design and implementation of the reforms

- According to article 56 of the Portuguese Constitution, “Trade unions have the right: a) To take part in drawing up labour legislation; b) To take part in the management of social security institutions and other organisations that seek to fulfil workers’ interests; c) To pronounce themselves on economic and social plans and monitor their implementation; d) To be represented on social concertation bodies, as laid down by law”. Trade unions were, therefore, heard during the design of several of the above mentioned measures, in accordance with the general procedures laid in Portuguese Labour Law.
- In what regards the participation of non-governmental actors in the design of the reforms, the *Conselho Económico e Social* (Economic and Social Council)<sup>3</sup> played a relevant role, namely when, in 2012, promoted the celebration of a *Commitment for Growth, Competitiveness and Employment*, supported by various social partners.

DOI:[http://www.ces.pt/download/1032/2012 Commitment for Employment.pdf](http://www.ces.pt/download/1032/2012%20Commitment%20for%20Employment.pdf)

### 4. The Government’s monitoring and evaluation of the programme’s impact on economic and social rights

- The reviews of the Adjustment Programme adopted in result of the external assistance requested in 2011 were, generally, and as far as could be observed, a result of the rulings of the Constitutional Court; or of the evidence that some decisions were socially and politically infeasible. Any general evaluation of the

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<sup>3</sup> As described in its official site, “The CES is a constitutional body for consultation and social concertation. Its main goals are to promote the participation of economic and social agents in decision-making procedures of the organs of sovereignty, within the scope of socioeconomic issues. It is the space for dialogue between the Government, Social Partners and remaining representatives of an organised civil society *par excellence*.”



programme's impact on economic and social rights eventually carried by the Government was not formally publicised.

- Impact assessments and evaluation reports eventually carried out prior to the adoption of specific reforms or particular measures should however be made available, upon request to the Government.

## 5. The impact of the reforms on several rights contained in international human rights treaties

- In what regards the freedom of association and the right to strike in conformity with domestic laws [(a) and (c)] - as was the case with most fundamental rights which do not have economic expression or require public funding in order to be fully ensured - there is no evidence that those were directly affected by the reforms.
- Regarding the right to collective bargaining (b), authors have pointed out that collective negotiation is currently *under crisis* or practically *paralyzed* – as a result not only of the undertaken reforms. In 2012, following the approval of a Ministerial Resolution (no. 90/2012, of 31.10.2012) which established criteria that rendered the extension of collective agreements more difficult, the Ombudsman drew the attention of the Prime Minister to the dampening effect of this measure in collective bargaining (Proc. Q-1613/12).

On this subject, please *v.* :

-Palma Ramalho, Maria do Rosário, “Portuguese labour law and industrial relations during the crisis”, *Governance working papers*, no. 54, pp. 19-24

DOI: [http://www.fd.unl.pt/docentes\\_docs/ma/DCM\\_MA\\_27484.pdf](http://www.fd.unl.pt/docentes_docs/ma/DCM_MA_27484.pdf)

- Pedroso, Paulo, “Portugal and the Global Crisis - The impact of austerity on the economy, the social model and the performance of the state”, report published within the framework of the Friedrich-Ebert-Stiftung project «Social Cohesion and the State in Times of Austerity» April 2014, pp. 17-19

DOI: <http://library.fes.de/pdf-files/id/10722.pdf>



- ILO, *Tackling the Job Crisis in Portugal*, Studies on Growth with Equity series, 2014, pp. 68-72

DOI:

[http://www.ilo.org/global/research/publications/WCMS\\_228208/lang-en/index.htm](http://www.ilo.org/global/research/publications/WCMS_228208/lang-en/index.htm)

- In what regards just and favourable conditions of work **(d)** the right to equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence, was evidently *suspended*, since any wage increase is still strictly forbidden.
- Concerning the right to social security, including social insurance **(e)**, the reforms in the system of unemployment and/or social security benefits implemented in Portugal as a consequence of the Financial Assistance Programme, did not affect the universality principle of the right to social security established in the mentioned international treaty. In what concerns the Ombudsman's activity, there is no evidence of the impact of those reforms regarding the two other mentioned international treaties.
- The measures adopted did not contend with the prohibition of all forms of forced labour and of harmful child labour, nor with the prohibition of non-discrimination in employment **[(f) and (g)]**. However, the shortage of staff in the public administration might have indirect effects on the monitoring and enforcement of these rights, since there are less human resources available to conduct inspective actions and sanctioning procedures.

## 6. Changes/impacts caused by the reforms in socially relevant areas

- All the areas referred in the question suffered severe impact in Portugal, especially in the last five years. After a period of slight decrease of the unemployment rate, statistical data shows that unemployment levels started rising in 2002-2003, having reached a peak in 2012-2013, especially striking long-term unem-



ployment<sup>4</sup>. The *at-risk-of-poverty* rate rose (more notably, after 2008<sup>5</sup>), and emigration, especially among the young (25-39) and qualified inhabitants, reached unprecedented figures<sup>6</sup>.

However, many factors may converge to explain the changes produced in the general situation of those employed and unemployed, among which the global recession and crisis renders it impossible, at this point, to understand to what extent those changes were a result of the reforms.

For further reading on the subject, please *v.*:

- *OECD Employment Outlook 2016 – How does Portugal compare?*

DOI: <https://www.oecd.org/portugal/Employment-Outlook-Portugal-EN.pdf>

- *OECD Employment Outlook – 2016*, especially chapter no. 3 (“Short-term labour market effects of structural reforms: Pain before the gain?”), pp. 111 and further DOI:[10.1787/empl\\_outlook-2016-en](https://doi.org/10.1787/empl_outlook-2016-en)

- Carneiro, A., P. Portugal and J. Varejão (2013), "Catastrophic Job Destruction", *OECD Social, Employment and Migration Working Papers*, No. 152, OECD Publishing, Paris.

DOI: <http://dx.doi.org/10.1787/5k408hxxg20x-en>

- ILO, *Tackling the Job Crisis in Portugal*, Studies on Growth with Equity series, 2014

DOI:

[http://www.ilo.org/global/research/publications/WCMS\\_228208/lang-en/index.htm](http://www.ilo.org/global/research/publications/WCMS_228208/lang-en/index.htm)

- Escária, Vítor, “Portugal: Social Situation and Employment in a Post-Programme Country”, *In-Depth Analysis for the EMPL Committee*, Directorate General for Internal Policies/Policy Department A: economic and scientific policy, 2015

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<sup>4</sup> The cited data on the number of unemployed (global and by duration of job seeking) can be found in: <http://www.pordata.pt/en/Portugal/Unemployment+total+and+by+duration+of+job+seeking+-360>

<sup>5</sup> For further information *v.*: <http://www.pordata.pt/en/Portugal/At+risk+of+poverty+rate+before+and+after+social+transfers-2399>

<sup>6</sup> For further data *v.*: <http://www.pordata.pt/en/Subtheme/Portugal/Migration-34>



DOI:

[http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/563474/IPOL\\_IDA\(2015\)563474\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/563474/IPOL_IDA(2015)563474_EN.pdf)

- Statistics on public employment may be found here:

<http://www.dgaep.gov.pt/index.cfm?&OBJID=33910a71-66ef-4332-878b-103633ddce07>

- Statistics on the Portuguese population employed may be found here:

<http://www.pordata.pt/en/Subtheme/Portugal/Employed+Persons-8>

## **7. Effects of the reforms in the inclusion/exclusion of young persons, older persons, persons with disabilities, migrant workers, and members of ethnic or religious minorities in the labour market**

- As said before, no thorough studies have, to our knowledge, been conducted in order to clarify or distinguish the concrete effects of the reforms, from the effects of the downturn of the Portuguese economy. It is, nevertheless, remarkable that the number of people between the age of 15 and 24 not employed, nor in education or training (NEET) has increased significantly in Portugal since 2011<sup>7</sup>.

For further information, please *v.* Torres, Sónia/Lima, Francisco, “Dinâmica e caracterização dos jovens não empregados que não estão em educação ou formação (NEEF) em Portugal”, *Estatísticas do Emprego – 3.º Trimestre de 2014*, INE, 2014, pp. 35-47 (available in Portuguese only)

DOI:

[https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine\\_estudos&ESTUDOSest\\_boui=222612776&ESTUDOSmodo=2](https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_estudos&ESTUDOSest_boui=222612776&ESTUDOSmodo=2)

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<sup>7</sup> For further information *v.* (available in Portuguese language only):

[https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine\\_estudos&ESTUDOSest\\_boui=222612776&ESTUDOSmodo=2](https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_estudos&ESTUDOSest_boui=222612776&ESTUDOSmodo=2)



- Although statistical data does not suggest that unemployment was especially felt by the youngest or the eldest<sup>8</sup>, emigration seems to have been the solution for a significant number of qualified young persons; where workers above 50, besides naturally less flexible or able to readapt quickly, are seldom on the recruitment priorities of firms and services. Many complaints were addressed to the Ombudsman by older unemployed people, which allow to empirically confirm that trend.
- The negative effects of the debt crisis were not, to our knowledge, distinctively felt among the persons with disabilities, migrant workers, and members of ethnic or religious minorities.

#### **8. Effects of the reforms in the inclusion/exclusion of women in the labour market and in the gender-related forms of discrimination at work**

- Statistical data suggests that the gender-related wage gap has suffered a slight increase since 2000, with no significant variations registered in the years following the global crisis of 2008-2009<sup>9</sup>.
- In what regards the protection of workers related to motherhood, it is not possible to assess the impact of reforms in the private sector: the rights and guarantees enshrined in the law remained unchanged; and since private labour relationships are excluded from the scope of intervention of the Ombudsman, no raise of complaints was registered.
- In the public sector, complaints related to parental rights did not increase. However the budgetary constraints and reduction of public expense which have been imposed over the last years had a significant impact on the shortage of staff. The complainants recurrently bring to the Ombudsman's attention problems that reveal that some public employers, for instance, systematically refuse to approve flexible or continuous work schedules, based only in a vague or abstract allegation of public interest in the refusal, thus revealing to be less sensitive to the importance of reconciling work and family life.

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<sup>8</sup> ✓. data available at: <http://www.pordata.pt/en/Portugal/Unemployment+total+and+by+age+group+-40>

<sup>9</sup> ✓. data available at:

<http://www.pordata.pt/en/Portugal/Average+monthly+wage+of+employees+basic+remuneration+and+earnings+by+sex-894>



## 9. Activity of organized labour, trade union work, strikes and public demonstrations

- In what regards strikes and labour conflicts, no available data leads to conclude that there was an increase in the past 20 years<sup>10</sup>, although media coverage of labour conflicts since the beginning of the implementation of the Adjustment Programme would suggest a raise in the number of occurrences.
- No official statistics on the number of *anti-austerity* public demonstrations could be found. Nevertheless, it may be worth mentioning that in the 15<sup>th</sup> of September 2012 the public demonstration which took place in Portugal, as in several other European countries, gathered approximately one million people, protesting against the austerity measures imposed by the *troika*<sup>11</sup>. This demonstration was considered the largest organized public protest in Portugal since the demonstration of the 1<sup>st</sup> of May 1974, the first to freely take place after the fall of Salazar's dictatorship.

## 10. Good practices, achievements and measures with positive impact on the enjoyment of labour rights or economic and social rights

- After the implementation of the Adjustment Programme, many people that used to be wage earners were suddenly earning their life as self-employed persons: small businesses were undertaken and precarious work arose. Since the Law that guaranteed debtors' total or partial immunity from seizure, in order to assure them a minimum living income, dated from a period when the large majority of workers used to be wage earners, it only guaranteed immunity from seizure when salaries or retirement income were at stake.

Being aware of this change in working arrangements and of the fact that lots of people had no protection at all in case of civil or tax enforcement proceedings, the Ombudsman addressed the Ministry of Justice and suggested that, since the review of the Civil Procedure Code was under way, opportunity should be

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<sup>10</sup> V. statistical data at:

<http://www.pordata.pt/en/Portugal/Strikes+total++workers+involved+and+workdays+lost-71>

<sup>11</sup> News about this demonstration and its aftermath can be found here:

<https://euobserver.com/economic/117599>.





seized to improve legislation in order to increase the protection of any periodic income that is the debtors' only source of livelihood, thus treating this income as wages and salaries for the purpose of partial or total unseizability. The Law was, in fact, changed and this measure surely contributed to mitigate an adverse impact of both, the financial crisis and the adjustment programme.

For a summary of the case and position adopted by the Ombudsman (in Portuguese only), please see: <http://www.provedor-jus.pt/?idc=35&idi=419>

- The changes introduced by the Government in the unemployment benefits legislation (in compliance with the memoranda of understanding signed under the Financial Assistance Programme), included some measures aimed to mitigate the adverse impact of the new rules imposed. Among those positive measures we point out the following:
  - a. The increase of the unemployment benefit in 10% in some specific cases (such as lone parents with no alimony or when both spouses are receiving unemployment benefits);
  - b. The creation of a special unemployment benefit scheme applicable to self-employed and to the members of corporate bodies;
  - c. The reduction of the guarantee period for access the right to unemployment benefits;
  - d. Accepting a previous Ombudsman suggestion, Decree-Law n° 64/2012 altered the unemployment benefits legislation in order to ensure social protection for unemployed workers who become ill during the period allowed for requesting the unemployment benefit (during which they would not benefit either from the sickness or unemployment benefits).