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**Enhancing the Effectiveness of Social Dialogue
Articulation in Europe (EESDA)
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**EESDA National Report
Portugal**

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List of Abbreviations

AECOPS - *Associação de Empresas de Construção e Obras Públicas e Serviços* - Association of Construction and Public Works Companies and Service

ANDAEP - *Associação Nacional de Diretores de Agrupamentos e Escolas Públicas* - National Association of Directors of Groupings and Public Schools

ANDE - *Associação Nacional de Dirigentes Escolares* - National Association of School Leaders

AEEP - *Associação dos Estabelecimentos de Ensino Particular e Cooperativo* - Association of Private and Cooperative Education Institutions

AICCOPN - *Associação dos Industriais de Construção Civil e Obras Públicas* - Association of Building and Public Works Industrialists

ANESPO - *Associação Nacional de Escolas Profissionais* - National Association of Vocational Schools

APED - *Associação Portuguesa de Empresas de Distribuição* - Portuguese Association of Distribution Companies

APHP - *Associação Portuguesa da Hospitalização Privada* - Portuguese Association of Private Hospitals

ASPE - *Associação Sindical Portuguesa dos Enfermeiros* (Portuguese trade union Association of Nurses)

CAP - *Confederação dos Agricultores de Portugal* - Portuguese Farmers Confederation

CCP - *Confederação do Comércio e Serviços de Portugal* - Portuguese Commerce and Services Confederation

CCT - *Contrato coletivo de trabalho* - collective agreement

CES - *Conselho Económico e Social* - Economic and Social Council

CENFIC - *Centro de Formação Profissional da Indústria da Construção Civil e Obras Públicas do Sul* - Southern Construction and Public Works Industry Vocational Training Center

CEPS - *Sindicato dos Trabalhadores do Comércio, Escritório e Serviços* - Trade, Office & Service Workers Union

CGTP- *Confederação Geral dos Trabalhadores Portugueses* - General Confederation of Portuguese Workers

CIP - *Confederação Empresarial de Portugal* - Confederation of Portuguese Business

CNIS - *Confederação Nacional de Instituições de Solidariedade* - National Confederation of Solidarity Institutions

CNS - *Conselho nacional de Saúde* - National Council for Health

CPCS - *Comissão Permanente de Concertação Social* - Permanent Council for Social Dialogue

CRL - *Centro de Relações Laborais* - Industrial Relations Centre

CTP - *Confederação do Turismo de Portugal* - Portuguese Tourism Confederation

DGERT - *Direção Geral do Emprego e das Relações de Trabalho* - Directorate General for Employment and Labour Relations

EFEE - European Federation of Education Employers

EFBWW - European Federation of Building and Woodworkers

FENPROF - *Federação Nacional dos Professores* - National Federation of Teachers

FEPCES - *Federação Portuguesa dos Sindicatos do Comércio, Escritório e Serviços* - Portuguese Federation of Trade, Office and Service Unions

FEPICOP - *Federação Portuguesa da Indústria Construção e Obras Públicas* - Portuguese Federation of Industry Construction and Public Works

FETESE - *Federação dos Sindicatos da Indústria e Serviços* - Federation of Industry and Services Unions

FEVICOM - *Federação Portuguesa dos Sindicatos da Construção, Cerâmica e Vidro* - Portuguese Federation of Building, Ceramics and Glass Unions

FIEC - European Construction Industry Federation

FNE – *Federação Nacional de Educação* - National Federation of Education
INE- *Instituto Nacional de Estatística* - National Institute of Statistics
PORDATA - *Base de dados Portugal Contemporâneo* - Contemporary Portugal Database
SETACCOP - *Sindicato da Construção, Obras Públicas e Serviços* – Construction Union, Public Works and Services
SE - *Sindicato dos Enfermeiros* - Union of Nurses
SEP - *Sindicato dos Enfermeiros Portugueses* - Union of Portuguese Nurses
SINAPE - *Sindicato Nacional dos Profissionais de Educação* - National trade union of the education professionals
SINDEP - *Sindicato Nacional e Democrático dos Professores* - National and Democratic Teachers Union
SINDEPOR - *Sindicato democrático dos enfermeiros portugueses* - Democratic union of portuguese nurses
SINDITE- *Técnicos Superiores de Diagnóstico e terapêutica* - Technical diagnosis and therapeutic staff
SITESE - *Sindicato dos trabalhadores e técnicos de serviços, Comércio, Restauração e turismo* - Union of workers and service technicians, Trade, Catering and Tourism.
SIPE – *Sindicato Independente dos Profissionais de Enfermagem* - Independent Union of Professionals in Nursery
UEHP - European Union of private Hospitals
UGT – *União Geral de Trabalhadores* - General Union of Workers

Context

The present country report is the result of a two-year project termed Enhancing the Effectiveness of Social Dialogue Articulation in Europe (EESDA). This report concerns Portugal, one of the six countries selected to be studied.

The first part is dedicated to the cross-sectoral social dialogue articulation at the national and European level, where the peak national social partners were interviewed.

The second part collected the information from a sectoral perspective, with four sectors analysed: commerce, construction, education and health.

The main sources of the report information are desk research, reports from the organisations involved in Social Dialogue, information from websites and 28 semi-structured interviews with representatives for employer organisations, trade unions, government and experts.

The interviews concerning the national social partners were conducted between November 2018 and February 2019, , and the ones relating to the sectoral cases between July 2019 and September 2019. On the tables below (**Table 1** and **Table 2**), the interviewed organizations and respective interview dates are presented.

We would like to underline the excellent collaboration of all the interviewees and the fruitful exchange in the interview moment as well in the session aimed to discuss some conclusions, which was organised on October 10, 2019.

The point of view of the stakeholders is an important resource to better understand the EESDA research questions on how the social dialogue **articulation** is experienced both at national and European level as well as across different sectors. How the actors perceive the **effectiveness** of it as well as the overall Social Dialogue in their sectors, where exists **opportunities for improvement** and the **interaction** with EU-national levels in the four cases sectors.

***Table 1** National Social Partners interviews: list of organisations and respective date of interview*

Organisation type and name	Date of interview
Employers - CCP	27.11.2018
Employers - CIP	18.02.2019
Employers - CTP	14.02.2019
Employers - CAP	20.01.2019 and 21.01.2019
Trade Unions - UGT	07.02.2019
Trade Unions - CGTP	29.07.2019
Trade Unions - CGTP	04.09.2019
Government DGERT	02.09.2019
CRL	02.09.2019

Table 2 Sectoral Interviews: list of organisations and respective date of interview

Sectors	Organisation type and name	Date of interview
Commerce	Employers - CCP	18.01.2019
	Trade Unions- SITESE	18.09.2019
	Employers - APED	05.09.2019
Construction	Expert	02.07.2019
	Trade Unions -SETACOOOP	23.07.2019
	Employers - AECOPPS	17.07.2019
	Employers - CENFIC	17.07.2019
Education	Employers - ANESPO	10.05.2019
	Employers - AEEP	21.08.2019
	Trade Unions - FNE	29.09.2019
	Trade Unions UGT	02.08.2019.
	Trade Unions SINDEP	30.08.2019
Healthcare	Employers - APHP	04.09.2019
	Trade Unions - SINDITE	20.09.2019
	Trade Unions - SEP	30.09.2019
	Trade Unions - SE	20.09.2019

PART 1

Social dialogue articulation and its effectiveness at cross-sectoral level in Portugal

1. Introduction

Tripartite Social Dialogue, in Portugal, is institutionalised around the Economic and Social Council (CES) which is the main constitutional entity for consultation and social dialogue regarding labour, education, social and economic affairs, in a centralised State model.

Only after April 25th of 1974, date of the Portuguese revolution and the beginning of the democratisation process, social dialogue turned to be a practice that after 45 years gained maturity. The Economic and Social Council holds two different types of roles:

- a) **Consultative role:** with the participation of the most representative organisations in the Portuguese society and economic tissue (currently with 74 members), CES expresses opinions on the drafts of several programmes and policies such as policies for social and economic development; positioning of Portugal within the European institutions with regard to these policies, the use of European funds at national level and the regional development policy. In 2018, four CES plenary meetings were organised. CES brings together representatives from different civil society areas such as Government; Employers; Workers; Regional and Local Government; Various Interests and Individuals of Notorious Value.
- b) **Social concertation role:** it fosters national social dialogue and negotiation between the Government and the Social Partners, four employer associations - CIP, CAP, CCP and CTP and two trade unions - UGT and CGTP. The social dialogue practice is based on tripartite negotiations with representatives of these entities. During the negotiations, legislation projects are appraised with regard to social and labour matters, for which social concertation agreements are taken into consideration. In 2018, the CPCS -Permanent Council for Social Dialogue organised 22 meetings (usually two meetings month), supported by several meetings of working groups. These meetings demonstrate a regular and important intensity of the activity.

Aimed to feed the social dialogue negotiation with relevant and updated data to better support discussions at macro level and collective bargaining the Industrial Relations Centre (CRL), former Observatory on Professional Training and Employment, was created.

The CRL is a tripartite body with technical functions that monitors the labour market and evaluates employment policies. These policies involve imbalances between supply and demand as well as the evolution of collective bargaining and professional training.

The CRL, which was established in 2012 by the Social Concertation Agreement, negotiated at national peak level, in the CPCS, began to operate only in August 2015 showing that agreements can take some time to be implemented.

The presidency rotates each year between the four representatives of the Government¹, four representatives of the confederations² of employers and four representatives of the trade union confederations³ in a balanced tripartite composition.

Annually, two reports are published: annual report on the evolution of collective bargaining and a report on the employment and vocational training - both intended to strictly analyse the state of art without any position or comments. The report on collective bargaining is currently a valuable source of information as the topic is deeply analysed.

Each social partner will take the conclusions that could be considered more useful to defend their perspectives.

As mentioned in the interviews, it is important to underline that the CRL is a social dialogue outcome and it is composed by the national social partners (the same represented in the CPCS) but does not have a social concertation role, as such roles is placed in the CPCS.

In the scheme of social dialogue institutionalized there are several consultative bodies, in different areas, namely education, labour, health, agriculture, where the above national employers' confederations and trade unions confederations, appointed representatives to be involved in the consultations.⁴

2. Actors

At the national level, the actors are defined and the representativity of the social partners is clear. *"More than the number of affiliated organizations on each Confederation the capital of trust established in the system is crucial"* as discussed in a round table with several stakeholders. The actors recognized each other as the valuable counterpart to get the necessary outcomes and to drive the necessary changes.

From the side of the employers, the main entities involved in social concertation level are the Confederation of Portuguese Business (CIP); Confederation of Portuguese Farmers (CAP); Portuguese Commerce and Services Confederation (CCP) and Portuguese Tourism Confederation (CTP). From the trade unions side, there are two major confederations: General Union of Workers (UGT) and Confederation of Portuguese Workers (CGTP).

At European level, these confederations are affiliated to the following organisations:

- Agriculture (CAP) – affiliated to COPA - COGECA (Employer's Group of Agricultural Organisations in Europe)
- Industry (CIP) - BUSINESSEUROPE

1 From 4 departments of Ministry of Labour - Labour Authority; DGERT; IEFPP and GEP (Gabinete Estudos e Planeamento)

2 CIP, CAP, CCP and CTP

3 UGT and CGTP

4Example: IEFPP (Instituto de Emprego e Formação Profissional); ANQEP (Agência Nacional Qualificação e Ensino Profissional); CNS (Conselho Nacional de Saúde)

- Commerce and Services (CCP) - EUROCOMMERCE
- Tourism (CTP) – not affiliated until now since the tourism employers are not organised at a peak European association level which represents the tourism as a whole. There are on-going negotiations among several national confederations, namely the Portuguese CTP. The goal is to set up an umbrella European organisation to aggregate the tourism sector interest. In the interview with the representative of Tourism, the difficulties to create an organisation representing one of the sectors with the major economic growth in Europe were underlined. There are several associations representing sectorial interest as hotels, catering, car rental, but not an *umbrella* confederation, which could be involved at European social dialogue.
- The two trade union confederations UGT and CGTP are affiliated with the European Trade Union Confederation (ETUC).

At the same time, each one has a representative in the EESC- Economic and Social Committee of the EU, and as agreed several years ago, by the employers confederations in a rotative scheme, they named representatives in the Advisory Committees of the European Commission like the Advisory Committee on Freedom of Movement for Workers, Advisory Committee on Vocational Training, Advisory Committee on Health and Safety at Work, Advisory Committee on Social Security for Migrant Workers and European Social Fund Committee.

In the tripartite European agencies there is, also, a rotative process to involve all the confederations on their Governing Boards as European Foundation for the Improvement of Living and Working Conditions (EUROFOUND), European Centre for the Development of Vocational Training (CEDEFOP) and the European Agency for Safety and Health at Work (EU-OSHA). (Table 3)

Table 3 Representation of National Social Partners

Organization	Type of organization	European semester meetings	EESC	European social dialogue committee	European sector social dialogue committee	Sector EU level organization
CIP-Confederation of Portuguese Business	Employer	Yes	Yes	Yes	-	Yes
CAP-Confederation of Portuguese Farmers	Employer	Yes	Yes	-	Yes	Yes
CCP - Portuguese Commerce and Services Confederation	Employer	Yes	Yes	-	Yes	Yes
CTP - Portuguese Tourism Confederation	Employer	Yes	-	-	-	-
UGT - General Union of Workers	Trade Union	Yes	Yes	Yes	-	Yes
CGTP-Confederation of Portuguese Workers	Trade Union	Yes	Yes	Yes	-	Yes

Source: own elaboration

All the described peak level social partners were interviewed, with two representatives of each trade union national Confederation (UGT and CGTP).

Moreover, two more interviews were organized: one with a Government representative which participates in Social Dialogue forum at both European and national level and other interview with a representative from CRL - Industrial Relations Centre to collect a more extensive overview.

The interviews aimed to collect accurate information, which supports the perception about Social Dialogue effectiveness.

3. Topics

There is strong evidence that a well-functioning social dialogue is a key element to improve governance in the country, reason because the institutionalisation of the system was growing in the 1980s (CPCS -Permanent Council for Social Dialogue was created in 1984) showing, until now, a significant dynamic process both in the number of negotiated agreements and in the importance of its topics.

One of the important topics is the annual discussion on the minimum wage, which is highly relevant labour market intervention as the minimum wage defined in the collective agreements, in all the sectors, converges to the amount negotiated at top/national level. However, if it is not possible to reach an agreement, the Government unilaterally sets the amount for the year.

For the past ten years, the country was governed in alternate periods by socialists and social democrats. During socialist governance there were periods of major intensity in the social dialogue activities. On the other hand, during the social democratic government, at Troika time intervention (International Monetary Fund, European Commission, and European Central Bank), unilateral decisions like freezing the minimum wage in 2012 and 2013 resulted in strong opposition of the trade union confederations.

The last decade was a period of tripartite agreements on relevant topics such as the revision of the Labour Code, published in 2009. Labour market rules were changed, supported and legitimated through social concertation agreements. The exception is the trade union confederation, CGTP, which did not sign any agreement and defended a strong opposition on the negotiated content.

In July 2008, the tripartite agreement for a New System of Regulation of Labour Relations, Employment Policies and Social Protection, was signed. In 2011, a tripartite agreement on Competitiveness and Employment was established and in 2012, under the Financial Assistance Programme, a new Agreement on Growth, Competitiveness and Employment was signed. In 2014 and 2016, new agreements were settled updating an increase on the national minimum wage.

In December 2016, the government launched the Green Book on Labour Relations that underlines the new forms of employment to be included in the discussion on the political agenda. In January 2018, some data from the Green Book was updated.

In the year of 2017, a tripartite compromise was signed for a medium-term concertation agreement. In June 2018, an important agreement on "Combat precariousness and reduce labour segmentation and promote greater dynamism of collective bargaining" was signed. Relevant aspects were agreed as new and atypical forms of work such as the intermittent work. The Portuguese legal system provides already a set of non-permanent labour contracts (fixed-term employment contract, contract of employment of very short duration and temporary work contract) as well as a set of special arrangements (part-time work, teleworking and secondment).

The implementation and addition of these norms in the Labour Code, as agreed in June 2018 by the social partners, were approved by the Parliament in July 2019. Some political parties mentioned that *“if an agreement was set up with the social partners it’s to follow this agreement”*. This process of discussion and results was very relevant concerning the importance of the agreements signed in the CPCS - Permanent Council for Social Dialogue. The reinforcement of the role of the social partners and the degree of commitment of the actors led to a greater recognition of the importance of their involvement in the labour reforms.

As previously mentioned, all agreements were signed by only one of the trade Unions Confederations, UGT. As declared by one of the interviewed representatives of CGTP, the social concertation is *“a forum to stop the workers’ struggle”*. Although this position, CGTP is always involved in the discussions, presenting new themes and propositions and negotiating the texts and proposals. At the end they don’t sign the agreements, but they participate in the negotiation process. The Portuguese case is far away of the consensus Nordic model.

Between 2011 and 2014, Portugal was under the Financial Assistance Programme. During this period, a considerable constraint to the development of the labour market occurred. In the Memorandum of Understanding (MOU), concluded in May 2011 between the Portuguese Government and Troika (International Monetary Fund, European Commission, and European Central Bank), several labour market reforms were proposed. In particular, these reforms comprised changes to decrease unemployment benefits and to limit employment protection legislation, working-time arrangements, wages, holidays, collective bargaining and active labour market policies.

Collective bargaining was blocked and many of the collective bargaining processes were “paralyzed”.

While in 2005 there were 252 instruments in force, covering about of 1,121,472 employees, in 2016, only 146 instruments covered 749,348 employees.⁵

The country is now recovering and fast-tracking the process (220 collective agreements were published in 2018 covering 900.382 employees)⁶.

Regarding the sectors of the case studies - commerce, construction, education and health - the number of employees potentially covered by the published collective agreements in 2018 is distributed as follows:⁷

- Commerce (retail, wholesale and repair of vehicles) - 68.749 employees corresponding to 7,6%
- Construction - 101.988 employees corresponding to 11,3%

⁵ The numbers of the collective bargain - 2005/2016 Centro RelaçõesLaborais

⁶ Collective bargaining 2018 Report Centro RelaçõesLaborais

⁷ Collective bargaining 2018 Report Centro RelaçõesLaborais

- Education - 34.667 employees corresponding to 3,9%
- Health and social services - 120.562 employees corresponding to 13,4%.

The distribution by sector of activity indicates tourism as the most representative sector (hotels, restaurants and similar) with 26,1%, followed by the manufacturing representing 22,4% and Health and social services with 13,4. The conventions of these three sectors represent about 62% of the total of the sectorial collective agreements.

The implementation period of the Memorandum of Understanding with Troika was a hard moment for the country. Portugal was under an economic and social tension with cut in both wages and labour rights as working time arrangements ('banks of hours', working arrangements by mutual agreement of employers and employees negotiated at company level; reduction of minimum additional pay for overtime; elimination of the compensatory time off for overtime work); reduction of unemployment benefits (in duration and amount); cut on vacancy time and elimination of public holidays, without compensation; reduction of severance pay and facilitation of individual dismissals.

The role of the social concertation and the social partners was very important and, as mentioned in some interviews, strengthened the links between partners.

Some agreements were signed in name of the social peace to avoid radical situations and were a driver to the recovery of economy and employment in Portugal.

In that period, the effectiveness of social dialogue was well perceived by the partners (exception to CGTP) as the collaboration among them was stronger than before.

One of the employer's confederation underlined in the interview *"how important it was to reach an agreement, even though, sometimes, the agreement does not reflect their position."*

The negotiation of the "lost working conditions during Troika time" is still on the agenda of the trade unions Confederations. CGTP has the following main demands at the core of their principles: wage increase namely the national minimum wage, working time reduction, fight against precarious work and better health and safety conditions.

UGT, the other trade union Confederation, has an approach based on dialogue and negotiation to obtain binding outcomes. UGT follow the tradition of national social dialogue to negotiate global agreements with a direct link with the economic situation.

Although the negotiation of the minimum wage, UGT considers it should exist a straighter monitoring activity to follow the minimum wage implementation. Other topics considered relevant are the fight against precarious work, working time regulation, health and safety issues namely new risks as stress and "burn out", social protection and continuous training to (re)give skills to the workers already at the workforce.

It is important to underline that the trade unions structure is quite complex and fragmented. The national trade unions Confederations have different models of aggregating their affiliates.

In 2005⁸ a total of 421 trade union organizations were registered by the ministry of labour: 348 trade unions, many based at regional level and not at national level, 27 industry federations, 36 district groupings and seven Confederations (including UGT and CGTP). Although some of these organizations are not effectively operating, they contribute to the fragmentation and to the data lack of transparency, one of the major difficulties when gathering numbers of trade union membership in Portugal. At the same time there is a gap between the totals provided by the unions and the union density estimation by the government.

Regarding the Employers Confederations, there is a minimum agreement on the most relevant topics: digitalization as the job profiles are changing and the labour law is not following the dynamic of the changes, working time organization very much connected with each sector dynamics, social security and social protection, continuous training, illegal work, demographic issues as the country has a relevant demographic gap. In 2050 the Portuguese will be 8,4millions⁹ - currently they are 10.266.710. It is necessary to prepare the labour market with the decreasing of skilled people.

All the employers' representatives mentioned in the interviews that each element of discussion should be framed in two pillars: productivity and competitiveness. Without those elements, companies will face great difficulties to be on the market.

4. Social Dialogue outcomes

The national legislation does not incorporate specific rules regarding criteria and mechanisms to assess the representativeness of employer associations and trade unions. All officially registered employer associations and trade unions are entitled to engage in collective bargaining. The major challenge is to find the counterpart.

The collective agreements can be at company-level, group-level (covering several companies) or sectoral-level.

There is the possibility to enlarge the collective agreements' scope by two mechanisms: administrative extension order and celebration of adhesion agreements. Extension mechanisms explain the important coverage of collective agreements, which is 78,3%.¹⁰

In the Agriculture Sector (the only case) the entity responsible for the collective bargain is the Confederation of Portuguese Farmers (CAP). This Confederation gains both macro national social concertation and collective bargaining level.

As raised above, a fragile point on national social affairs is the availability of current data, specifically concerning the trade union and employer representativeness. The information available is based on data reported by the Single Report (annual report to be filled by

⁸<https://www.worker-participation.eu/National-Industrial-Relations/Countries/Portugal/Trade-Unions>

⁹ Rodrigues, Henriques (Re(birth): desafios demográficos colocados à sociedade portuguesa (com Filipa Castro Henriques) PCS - Plataforma para o Crescimento sustentável, Fundação Wilfried Martens Center for EuropeanStudies, Lisboa 2017

¹⁰ DGERT/GEP - Quadros de pessoal (2017)

companies). This document contains information about several aspects on the company (exclusively for the private sector) such as the affiliation of companies in employers' associations and employee's affiliation in trade unions.

According to the data reported by employers in the framework of the Single Report¹¹, the affiliation rates of companies and employees for collective representation structures slightly decreased in 2016, compared to the previous year.

In 2016, 17.1% of the companies declared that they were affiliated to an employers' association, (18% in 2015) varying between 14.4% in micro-enterprises and 47.6% in large enterprises.

Concerning the trade unions, a rate of union membership of 8.3% was declared (8.8% in 2015) varying between 1% in micro-enterprises and 18.1% in large companies. These figures reveal a weak presence of trade unions in the workplaces.

There are two aspects to be considered in order to better understand collective bargaining: The low level of trade union density (less than 9%) and how the affiliations are decreasing both from employers and trade unions side and at the same time the high coverage of collective agreements (78,3%) due to the widespread extension mechanisms.

However, a new phenomenon is the rise of new trade unions, in sensitive sectors such as health, education and transports once few employees can cause the chaos in the functioning of the services in a strike situation. These trades unions are recent and are not affiliated either in UGT or CGTP being outside the formal social dialogue.

The collective bargaining level is the most adequate way to implement the measures negotiated at national level as highlighted by several interviewees. It was also underlined *"the need to strengthen the culture of collective bargaining"*.

It is necessary a closer engagement between employers and workers in order to bring more dynamism to collective bargaining at sectoral or enterprise level and not reproducing, fully or partially, the legal regime. This could be a way out of the permanent discussion around the wages as mentioned by both employers and trade unions interviewees.

There are important subjects which need to be agreed beyond the discussion of the increasing wages. Subjects such as skills and training, productivity, working time flexibility, rest time, part-time, temporary employment, digitalisation and other critical topics to the improvement of the quality of the labour relations should be included in the agenda.¹²

¹¹Relatório Único - Year 2016

¹² Opinion expressed by several interviewees

In the last CRL report about the Collective bargaining 2018 is noticed that elements linked with technological developments such as electronic communication, protection of personal data and telework schemes have been rising in a positive trend to enlarge the topics to be discussed.

5. Actors' interaction

There is a strong interaction between actors at the two levels: national level in the CPCS and sectoral level in terms of collective bargaining.

At national level, at CPCS, it is possible to observe that is the Government who takes the advance preparing primarily the agenda, presenting (sometimes) the proposals on short notice to the Confederations. As mentioned in several interviews, this short time to answer is hurting the Confederations consultation to their affiliates to better prepare their reactions. CGTP trade union Confederation considers that CPCS is not a *"social dialogue forum. Social dialogue demands a negotiation process with results and not only auditions!"* *"It is necessary to press to get results!"*.

However, among Employers organizations there is an interactive approach both at horizontal form in the CPCS where, frequently, common positions are agreed before the negotiation process; and vertical approach in the relations with their associations. There is a strong connection between the peak level employers' confederations and their associates, which are involved in the negotiations of the collective agreements.

Among trade Unions Confederations it is more difficult to get interactive bargaining as the relations between UGT and CGTP are not easy-going. There is a competition at collective agreements level where UGT trade unions gained to sign more agreements than CGTP trade unions. If the question of wages augmentation and reduction of working time is not agreed the CGTP trade unions are not signing the agreements.

6. Perceived effectiveness

In line with the methodological framework, and as previously mentioned, eight face-to-face interviews with the representatives of the national social partners mentioned above were conducted. All the interviewees are involved on a regular basis, both at national and EU level, in a dynamic process, perceived by the social partners in a positive manner.

There is always room for improvement but, in general, social partners are satisfied with their involvement in the national process (except for CGTP that in the last years decided not to sign an agreement at national level).

In the last two years, there was concrete legislation for the reforms of the Labour Code, which resulted from the tripartite negotiation process at CPCS. These results reveal the effectiveness of the tripartite discussions.

There is a place to discuss new topics such as digitalization, an important concern mentioned by all social partners (employers and trade unions). A first study on the theme

was already presented by the Government to social partners as a starting point to latest reflections and negotiations. However, as already noted, it is still largely the Government who is setting the agenda to collect the reactions from Social partners.

The engagement in the European semester is positively perceived. The Social partners have meetings with the national European Semester Officers (ESO) and with other staff from the European Commission. The European Commission staff comes to Portugal in order to collect the points of view of the Social Partners, throughout the process of implementation of each semester. They considered to have the opportunity to voice their positions and the European semester strengthened the link between the European and the national level. In parallel, the regular discussions at CPCS - Permanent Council for Social Dialogue are feeding the European semester dialogues.

Time is necessary to build up confidence among the social partners. This is a very relevant factor to a smooth environment, which supports negotiations. Almost all the interviewees mentioned that the challenges imposed by the financial bailout helped to grow trust and informal ties. All the interviewees considered the informal relations very important and a way to prepare meetings, to arrange compromises and to entrust participants." *Many of the decisions are made at the lunch table*" as some interviewees expressed.

One of the principal points underlined by the interviews is that informal relations support trust to set up social dialogue.

Related to the employer's confederations, there are irregular meetings among the presidents to exchange views and identify common points for the future agenda.

The European Social dialogue is perceived in different ways depending on the involvement in the cross-sectorial (BUSINESSEUROPE and ETUC) or sectoral, as commerce and agricultural sector.

The representatives engaged in the cross-sectoral perceived it as more effective, as they follow the discussions with an important regularity (some Committees organize meetings each month) and the results can be politically relevant. The regularity of the discussions is an important aspect to the perception of effectiveness. The frequency of the meetings, at the same time, reinforces the links among the participants in the meetings and increases trust, an important asset on social dialogue configuration. One of the barriers which restrains e more activeness at European level is the financial aspect and the funding of the meetings. The skype meetings overcome this obstacle. However, the interviewees considered face-to-face meetings most important to build trust and commitment. The technologies are not able to replace the added value of face-to-face meetings.

One of the trade union confederation considers that more important than the topic is the instrument of agreement (Autonomous Framework Agreement, fact-finding Seminar to identify possible future joint actions, joint actions, joint projects) which translates the degree of engagement into future actions. The same Confederation expressed the opinion that from employers' side there is currently a strategy of negotiating more joint actions and seminars than signing Autonomous Framework Agreements. The expression of this

thought is the new European Social Dialogue work programme 2019-2021 signed between BUSINESSEUROPE, SMEunited, CEEP and ETUC.

Concerning themes discussed at European level, one of the employer's confederation is very much against the Written Statement Directive which did not result in an agreement among the social partners at European level. At the same time Confederation is against the concept of worker (*it can't be determinate at EU level*) as well on details of work organization such as probation periods, working time schedules, parallel employment and training impositions. The previous directive was about right of information, an important element. This new version of the Directive on more transparency and predictability at work (adapted by the Council the 13th June 2019) is about rights of workers, which each member state should regulate. The Trade Unions Confederations agreed with the rights included in the text of the Directive.

The Posting of Workers Directive is a topic that the same employers Confederation consider a barrier to the freedom of business and a source of unclear situations.

The employers' representative of agriculture declared the impossibility to apply the Written Statement Directive to the sector, which is very seasonal and with highly flexible working times.

The Employers Confederation involved at cross sectoral dialogue underlined, through an example, how the joint projects can result in more binding outcomes. It is not necessary to exclusively negotiated Autonomous Framework Agreements. The projects conclusions on cost-effectiveness of apprenticeship schemes carried out by employers (BUSINESSEUROPE, SmeUnited and CEEP) and European quality framework for apprenticeships organized by trade unions (ETUC) supported a common opinion (employers and trade unions) on the topic within the Advisory Committee on Vocational Training. Later, in 2018 the Council adopted a Recommendation on a European Framework for quality and effective apprenticeships. This was a proposal largely based on the work achieved by social partners and a very good example of cooperation. It was a step by step process highly suggested by employers' point of view.

The Social partners more involved at sectoral level (CCP and CAP) are in search of inspiration from EU level, learning from the information exchange process and good practices. This action helps them to be more effective at the national level.

From another side, "*to be on board*" is important although effectiveness is not so well perceived as it is difficult to reach the EU level with concrete topics. A small country like Portugal has difficulties to push the agenda at EU level.¹³

To participate in common projects at European level through the European social partners, it was declared as relevant both to learn with other examples and to get a more

¹³ Opinion expressed by several interviewees.

direct involvement in Social Dialogue topics. The common projects conclusions in the past resulted in common sectoral declarations.

7. Suggestions for improvement towards a more effective Social Dialogue

The need of reinforcement of the social partners capacity building was underlined by the employer's confederations. Without technical and financial resources, it is difficult to answer to all the demands. It is necessary to ensure the fluidity of the communication channels first with their associates, second with the Government and the European structures as well as among the others social partners.

For example, it was mentioned in several interviews an absence of communication between the Confederations and their representatives in EESC and the other representations at EU level (tripartite agencies and advisory committees).

Also, it could be improved the articulation of the positions among the same group of interest or/and at national level. There is an informal cooperation among certain employers' members on the EESC.

A closer cooperation would be an important step to a small country as Portugal.

At national level the employer's confederations could be more effective with a planning programme to coordinate more deeply the strategy for the CPCS activities. The regularity of the meetings could be decisive to make the agenda.

Concerning the European Semester, two aspects were pointed out to improve the process since there is a lack of follow up and evaluation of the measures. Discussions took place when the recommendations were prepared. After that, monitoring the implementation of the recommendations was not performed. The trade unions recommended an impact evaluation of the recommendations.

PART 2

Case studies: understanding social dialogue articulation within four sectors

1. Commerce

1.1. Introduction

According to 2017 data from the National Institute of Statistics (INE), PORDATA, the sector - retail, wholesale and automobile - sum 219.190 companies which 56% are individual companies with 697,9 employees (2018 data) representing 14,3% of the. Total employment of non-financial companies where the retail sector represents 57,6% of the employees.

The large sized commercial units represent 3,496 establishments (50.6% are non-food retail trade) corresponding to 114,600 employees.

One of the characteristics of the sector is the small dimension of the companies - 99,5% have up to 50 employees - revealing a strong dispersion, one of the reasons for a high number of employers' associations, in large majority organised at regional level, more evidenced in the retail sector. The wholesale sector is organised in a sectoral basis.

1.2. Actors

The main sector actor from employers' side is CCP, Portuguese Commerce and Services Confederation which is the national social partner negotiating at CPCS, national tripartite level, the labour legislation and binding national agreements.

104 associations are affiliated to CCP, either at regional level (76 associations) or sectoral level (28 associations) representing wholesale, retail, automobile and different services activities.

Each Association is able to negotiate their collective agreement - one of the main tasks to which they dedicate their own resources. According to the Portuguese Constitution (article 56^o) the trade unions are assigned employees' representation in the collective bargaining process.

CCP is a member of EUROCOMMERCE involved at the sectoral social dialogue.

Still in the employers' side, representing the large sized commercial units there is APED - Associação Portuguesa das Empresas de Distribuição, the employer's association of the largest distributors, supermarkets and commercial centres, with 159 members. The association is affiliated to Eurocommerce, a priority axe on its activities and it is involved in the national collective bargaining. At national level it is affiliated to CIP - Confederation of Portuguese Business following BusinessEurope activities.

The main trade unions actors on the sector are FEPCES - Federação Portuguesa dos Sindicatos do Comércio, Escritório e Serviços, which the major trade union is CEPS -

Sindicato dos Trabalhadores do Comércio, Escritório e Serviços. They are affiliated to the national trade union Confederation CGTP. At European level CESP is not UNI Europe affiliated and they it is not involved at EU level activities.

The other major actor is FETESE - Federação dos Sindicatos da Indústria e Serviços (Federation of Industry and Services Unions) which the principal trade union is SITESE - Sindicato dos trabalhadores e técnicos de serviços, comércio, restauração e turismo (Union of workers and technicians of services, trade, restaurants and tourism). They are affiliated to the national trade union Confederation UGT and to UNI Europe.

They are vertical trade unions covering different types of employees. One of the transformations in SITESE is currently they move from a horizontal trade union toward a vertical typology.

Table 4 Representation of Commerce Social Partners

Organization	Type of organization	European semester meetings	European sector social dialogue committee	Sector level organization	EU
CCP-Portuguese Commerce and Services Confederation	Employer	Yes	Yes	Yes ¹	
APED - Portuguese Association of large distribution companies	Employer	No	Yes	Yes ¹	
SITSESE - Union of workers and service technicians, Trade, Catering and Tourism.	Trade Union	No	Yes	Yes ²	
CESP- Trade, Office and Service Workers Union of Portugal	Trade Union	No	No	No	

Source: own elaboration

¹ EUROCOMMERCE

² UNI Europe

1.3. Topics

At national level the most important topics are around the question of wages, considered quite low by the sector trade unions. Working time arrangements (holidays, Sundays) and gender balance are critical topics on the negotiations. The employers underlined digitalisation as an important topic to be integrated in the discussion.

Another aspect stressed by the employers and the trade unions is the need to achieve the revision on the professional categories. Currently there are some collective agreements containing multiple professional categories classification, with different salaries, sometimes, with small differences. Along the times the classifications were added without

replacement which results in a complexity of professional categories, not corresponding to the current tasks and functions performed by the worker. One of the examples given is the informatic technician.

The representative from the trade union mentioned the priority to set up the revision of the professional categories, which implies important resources and time. Neither the trade unions nor the employers' associations are available to carry out this structural activity due to the lack of human resources. The technical capacity of the trade union should be reinforced in order to give to the trade union the possibility to guarantee all the representations where SITESE should participate.

Regarding the European level, the position of the large multinational distribution companies is relevant. Trade Unions raised several questions across the countries relating to the moral harassment against trade union representatives.

At EU level, employers pointed out work organisation, including working time organisation, flexibility, working conditions, skills improvement and digitalisation as important topics under discussion and to be included in the sectoral social dialogue new work program 2020/2022 still not agreed.

1.4. Social Dialogue outcomes

To support the process of negotiation on collective agreements and to increase the alignment on the commerce sector (both retail and wholesale) CCP, as a national Confederation, developed with the affiliated associations guidance for the negotiations on collective agreements. A first publication named Manual for the renovation of collective agreements in the sector of commerce and services was published in 2015 with a deep analysis of each of the collective agreement chapters.

The document contains the list of rules that, in the Labour Code, can be theme to regulation / negotiation in the collective agreement with a comment on each of these norms and an indication on the possibilities left to regulation / negotiation in future collective bargaining agreements (CCT). In many cases, suggestions are also made for the wording of new articles to be included in future CCTs.

This Manual is the conclusion of a working group created by CCP composed by several qualified lawyers with experience in collective agreement named by sectoral and regional associations affiliated to CCP. The 2015 Manual is currently under revision and updating with a new round of discussions. At the same time, the working group is an opportunity to discuss in the meetings the questions on the implementation of the contracts, obstacles, improvements for the future, practical questions. For CCP this is a very important forum since they can take the field problems to a better discussion at upper CPCS level.

This manual is not a contract type, as each association has autonomy to negotiate their own contract. However, it is an example of an effective non-binding practice popping from national level to other levels (sectoral, regional).

Regarding APED -Portuguese Association of large distribution companies, it signed, in 2010, with important amendments in 2016, a collective agreement with FEPCES and other trade unions namely FETESE. In 2016 the parts agreed to start a deep revision on the contract to revise the whole text and specifically the revision of professional categories. However, it is a difficult task. Until today it is not possible to find an agreement. In the last 23 months they meet each two months mediated by the Labour Ministry, but without any progression on the dialogue.

There are important blockage points as the wages in the sector. Some trade unions without an agreement on the wages don't move forward on the other points of the agenda.

1.5. Actors' interaction

Collective bargaining is the most effective relation at the national sectoral level where the actors can cooperate and negotiate according to their convictions. All the actors consider the collective bargaining a very important process though; sometimes the negotiation progression is blocked due to inflexible positions, mainly concerning wages discussions. Other topics which blocked the negotiations in the sector are the working time arrangements and overtime, connected to the conciliation work - family.

However, APED is observing that the work councils in the companies show less dissatisfaction than unions which have a more ideological burden and are *"not reflecting the sector reality"*.

SITESE representative revealed in the interview that currently the agreements are mostly signed at company level, also due to the large size of the enterprises, particularly in the distribution sector. Nevertheless, trade unions aimed to maintain the sector level as the major level of collective bargaining.

The formal discussions are usually preceded by informal contacts which are quite important to prepare common positions, negotiations, and to avoid, when possible, deadlock issues.

It was expressed by one of the employers' associations, that at European level is easier to reach common positions between employers and trade unions because they are far from ideological positions and the "national aspect is important" to strengthen the positions.

SITESE as affiliated to UGT, the national trade union Confederation, is called to give their expertise concerning the sectors which they represented. The articulation is quite effective as the sectoral trade union knows the reality and brings to the national level the proposals to feed UGT discussions.

APED is affiliated to EUROCOMMERCE and strongly involved in following their activities. One of the association strategical axes is to be present at EU level allocating time and financial resources to participate in the meetings. Considering the specificities of the

sector, it is fundamental for APED to be involved, even if the meetings are more on technical issues as for example about food security, e-commerce, plastic. There are changes in the operations process with implications on working conditions.

CCP within their EUROCOMMERCE membership follows regularly their activity and it is involved in the sectoral social dialogue projects which gives awareness on the European topics.

1.6. Perceived effectiveness

At EU level all the interviewees perceived effectiveness like an exercise of sharing good practices and a source of inspiration to translate to the national level. The employers are much more interested in common projects and common views.

An example of this is the work carried out by EUROCOMMERCE and UNI Europe on the skills analysis and anticipation, work already started with the creation of the European Skills Council for Commerce in 2009.

CCP representative considers the process of European Social Dialogue very important, *“allowing for profitable discussions between social partners at EU level, sharing of good practices, contacting with specific national measures adopted in several dimensions/subjects related to competitiveness and working conditions and trying to reach common views and actions at bilateral level (employers and trade unions)”*.

The trade union side considers this perspective partially effective as the EU level is not producing binding outputs there is not the need to translate them to the national level.

SITese is affiliated to UNI Europe although in the last years it did not participate in the meetings nor in the European projects, showing to be a non-active member.

In the interview no explanation was given concerning this point. However, considering the multinational distribution companies, SITese reflects UNI Europe relevant role in the coordination of the enterprises committees, with frequent meetings with trade unions from distribution sector. UNI Europe is an important mediator in case of conflicts.

1.7. Suggestions for improvement towards a more effective Social Dialogue

The Social Dialogue discussion and negotiation should be more diverse in topics. The discussion of labour issues is relatively systematic, which does not happen, however, when it comes to economic issues. It is important to discuss the Social Security system, the fiscal issues and the economic situation in general. The social partners at national level should be more engaged in the structural themes.

The trade unions would like to have more technical capacity to guarantee the representativeness and the preparation work. It would be positive to gain more common projects (either with employers or other trade unions) to gather representatives for common action. Social Dialogue story is about *“put people talking with each other to*

achieve common goals". More seminars and more targeted information would be important tools to be more effective.

2. Construction

2.1 Introduction

According to INE/Pordata data from 2017, in the construction sector there are 81.629 companies, representing 6,5% of the Portuguese enterprises which employs (2018 data) 307.000 persons (6,3% of the total employed population)

It is an important economic driver sector and it was one of the sectors most affected by the 2008 crisis. It is currently recovering. However, is facing several challenges: low skills, high labour turnover with numerous migrants, relevant undeclared work linked to the accidents on the construction sites and unfair competition.

One of the major problems pointed up by the companies was the lack of skilled people to work on the sector. It is quite difficult to recruit adequately trained people. At the same time, young people are not motivated to follow qualification training in the area. The construction sector has a negative image and needs to marketer the positive aspects to attract new people to the sector, namely Youngs and women.

2.2 Actors

The actors in the sector, on the employers' side, are two main associations: AECOPS, which is based in Lisbon and has a regional office at the south of the country; and AICCOPN, which is based in the north of the country, in Porto. Since they are not affiliated in any national Confederation, the two associations have founded one Federation, FEPICOOP, to gather positions and to lobby. Further, this organisation represents the country in the European Construction Industry Federation (FIEC).

SETACCOP, the Construction Union, Public Works and Services is affiliated to UGT and the Portuguese member in the European Federation of Building and Woodworkers (EFBWW).

FEVICOM - Portuguese Federation of Construction, Ceramics and Glass Unions is another trade union, affiliated to the national trade union Confederation, CGTP, without activity at European level. At national level in the last years, the trade union did not sign the collective agreement.

Table 5 Representation of Construction Social Partners

Organization	Type of organization	European semester meetings	European sector social dialogue committee	Sector EU level organization
AECOPS - Association of Construction and Public Works Companies and Services	Employer	No	Yes	Yes ¹
AICCOPN - Association of Building and Public Works Industrialists	Employer	No	Yes	Yes ¹
SETACCOP - Construction Union, Public Works and Services	Trade Union	No	Yes	Yes ²
FEVICCOM - Federation of Building, Ceramics and Glass Unions	Trade Union	No	No	No

Source: own elaboration

¹ FIEC (through FEPI COP - Federação Portuguesa da Indústria Construção e Obras Públicas¹⁴)

² EFBWW

2.3 Topics

One of the major concerns of the employers is the posting workers controversial topic discussed at European level, which companies are having difficulties in implementing it.

One of the characteristics of construction activities is the temporary nature of construction worksites which implies mobility of the human resources with the implications on the undeclared work, migrant work, fixed-term contracts and other types of working relations as “bogus” self-employment.

There is a lack of labour force and the construction companies are looking for workers. It is a very competitive market where the big countries wish to have the control.

Other topics, which deserved most attention, are migrants’ inclusion, mutual recognition and gap of skills. Due to the lack of skilled people to work in the sector, employers are working on the topic of attraction of young people and women.

¹⁴ FEPI COOP is the federation gathering the two employers’ associations: AECOPS and AICCOPN - Associação dos Industriais de Construção Civil e Obras Públicas. The federation is the portuguese FIEC member.

The demographic aspect is a worry for the trade unions as well working time organization and flexibility. Health and safety are always a priority topic considering the risks of the sector activity and it is on the top of trade unions concerns. Also, reconciliation of work and career responsibilities in a perspective of work life balance was pointed out as an issue to bring to the negotiation table.

2.4 Social Dialogue outcomes

In the Construction sector it is possible to find good examples of Social Dialogue cooperation both at European and national level in terms of: joint declarations, joint campaigns namely on Health and Safety, joint projects (Blueprint construction, REFORME network, SKILLCO), joint manuals editions, joint actions and good practices guides for directives implementation.

As underlined by all the sectoral social partners, one of the most effective result of a closed work among employers and trade unions is the OIRA - Online interactive Risk assessment, a practice sectoral tool provided by the European Agency for Safety and Health at Work (Bilbao Agency). OIRA is a result of a joint work between employers and trade unions at European level. It is a good example of negotiations which enabled micro and small companies to develop their own risk assessments. The tools are an outcome of a social dialogue process.

The conclusions of the joint projects are optimal training contents for the sector.

For several years and until 2017, at national level, regular meetings (sometimes monthly) were organized under the National Labour Authority with employers and trade unions. These meetings, which transposed the European Social dialogue sectoral model, were used to discuss clarifications on the law, doubts on collective agreement application and to negotiate rules on safety in an example of a good practice on Social Dialogue. Agreements on controversial topics as the level of blood alcohol and foreign workers were achieved. Translations of manuals and other results from European Social Dialogue projects into Portuguese were published under this framework.

However, since December 2017, this process is no longer active, due to change of directors in the National Labour Authority although the Social partners efforts to reactivate the tripartite regular meetings.

2.5 Actors' interaction

At European level the actors engaged at this level are quite happy with the way it works.

Both FIEC and EFBWW are well-organised institutions; dynamic and following very closely the important topics for the sector. The preparation of the sectoral social dialogue committee is quite intense. It starts with meetings exclusively FIEC associations, followed by meetings with EFBWW to a first discussion, all of them before the meeting with the European Commission. Those preliminary meetings are a more effective way to reach the goals of the Social Dialogue process. Furthermore, there are three Working Groups

dedicated to specific themes: Vocational Training, Health and Safety and Employment, which organise regular meetings, at least twice a year.

Due to financial reasons, and since several meetings are not funded, the Portuguese representatives, both from employers and trade unions, are not coming so often to participate in the face-to-face meetings. They follow by Skype and use emails to communicate reactions and points of views. However, they are aware this is not the same as being present. The regular presence in the association's activities are at the same time moments to "build the informal relations and profit from the social dialogue network as well to better understand the topics". The sector is a quite regulated sector, where the directives are important instruments. This is one of the reasons why it is so important to be fully engaged at European level.

At national level there is a positive dynamic in the bipartite collective agreement negotiation (between the interviewed organisations agreeing in the major topics.) Both employers and trade union made a positive balance on the activities around the collective agreement negotiation. However, with the trade union member of CGTP there is not an agreement.

The collective agreement between FEPICOP and SETACOOOP was integrally republished in 2017 and revised in 2018, being a vertical agreement concerning several occupations. A deep revision of the professional categories is a structural activity to be achieved by the bipartite negotiation, since they are no longer following the sector reality and a should be redefine according to the salaries. Currently preparatory meetings to agree on the methodology are taking place.

2.6 Perceived effectiveness

Both employers and the trade unions interviewed, agreed on the effectiveness of their relations and outcomes.

The construction case shows how important social dialogue is and the development of cooperative relations, formal and informal, "*as a facilitator of the negotiations*". It is necessary time to build up reliable relations, which is a key aspect to the win-win results achieved on the sector. The trade union interviewed mentioned: "*It's worth!*" *For the negotiation, a good relation with the other representatives is very positive to avoid ambiguity, one of the obstacles of Social dialogue!*" *For that purpose, the informal ties are very relevant.*"

At European level effectiveness depends on the circumstances and the topics. Health and safety and vocational training are relatively consensual.

On the posting of workers for a "*small country as Portugal it is difficult to gain position*". *The big countries have the last word!*"

2.7 Suggestions for improvement towards a more effective Social Dialogue

The employers from the construction sector consider the question of the legitimacy of the social partners relevant because they *“don't feel represented at national level”* as they are not represented at the national CES and they are not affiliated to any national employer's confederation. *“The sectors don't feel represented and at European level there is, currently, more results than at national level”*. The association considers the CPCS as a fundamental forum at national level. What is underlined is the representativeness of the actors around the negotiation table. To the employers' association the lack of participation on the formal tripartite concertation forum is overcome by the lobby action - namely in the Parliament where the association is called to discuss and give expertise on the specific topics with implications on the sector.

The improvement signed by employers and trade unions is the reestablishment of the tripartite regular framework already set and interrupted in 2017 (see section 2.4). *“It was a good practice and a way to create new opportunities to open new tracks to the sectoral social dialogue.”*

The organisation of joint seminars is another suggestion to improve the social dialogue culture.

3. Education

3.1 Introduction

Education sector is characterized by diversity either by public (national, regional, local) or private (profit or non-profit) operators and by the different professions involved in the sector as teachers, school directors, other school staff, and by the different levels of education, from pre-school to higher education showing the multiplicity of the interests. It is a mixed, complex and fragmented sector with several sub sectors.

In Portugal, 80% of the education sector is public and 20% is private.¹⁵ Employer status can be assigned to various actors by national public authorities, regional and local authorities and private school owners.

It is important to underline that education is a competence of each Member State. EU level straightened cooperation in VET European space in strictly respect of Member States exclusive competences in this matter and of the subsidiarity principle. *“Education is a State matter”* as emphasised by one of the interviewed.

According to 2017 INE/Pordata data there are 56.577 companies in the sector, (4,5% of the total number of enterprises) employing 424,200 persons (8,7% of the total employed population - 2018 data)

¹⁵ Estado da educação 2018 (edição de 2019) CNE - Conselho nacional de Educação

Demographic aspect is one of the constant challenges in this sector with a lack of young students (“schools are losing students”) and the ageing of teachers’ workforce.

3.2 Actors

The Government is the major employer, representing 80% of the sector.

The employer private sector counts with two main associations: AEEP, which represents the private and cooperative schools with 500 schools affiliated and ANESPO representing 150 private professional schools. Both integrate the CNEF - National Confederation for Education and Vocational training. This Confederation gathers five employers’ associations to claim the right to be present at national Economic and Social Committee. Their main argument is that if higher education is represented, then the other levels of education should also be. CNEF is claiming for that participation.

ANESPO at national level is affiliated to CCP, following more closely, through this affiliation, the activities at national concertation level.

Both associations are EFEE - European Federation of Education Employers members although it is a recent affiliation.

Concerning trade unions, the panorama is quite fragmented. There are the trade unions affiliated to the national Confederation UGT as FNE (assembled Teachers union and Union of Senior Technicians, Assistants and Assistants of Education), SINDEP the teacher national democratic trade union and SINAPE the national trade union of the education professionals.

FENPROF is the Teachers Federation member of CGTP, which shows action and power in the street with strikes and demonstrations. There are also associations representing the school directors and school leaders as ANDAEP - Associação Nacional de Diretores de Agrupamentos e Escolas Públicas and ANDE - Associação Nacional de Dirigentes Escolares.

There are more trade unions representing different workers from the public sector in a complex interconnection among vertical and horizontal trade unions.

Table 6 Representation of Education Social Partners

Organization	Type of organization	European semester meetings	European sector social dialogue committee	Sector level organization	EU
AEEP - Association of Private and Cooperative Education Institutions	Employer	No	Yes	Yes ¹	
ANESPO - National Association of Vocational		No	Yes	Yes ¹	

Schools	Employer			
FNE - National Federation of Education	Trade Union	No	Yes	Yes ²
SINDEP - National and Democratic Teachers Union	Trade Union	No	Yes	Yes ²
FENPROF - National Federation of Teachers	Trade Union	No	Yes	Yes ²

Source: own elaboration

¹ EFEE

² ETUCE

3.3 Topics

At national level all the organisations mentioned as major concern: career progression, wages, ageing teachers, and effective integration of migrants and refugees in education, followed by themes as digitalisation; health and safety; making teacher career attractive; working conditions. For the trade unions the recruitment and retention of teachers, the quality of teachers and educational institutions, continuing professional development of teachers, the stress and burn out aspects are gaining importance.

At European level it was pointed out by FNE the 16 most relevant topics for European education unions for European Social Dialogue post-2014 action. Themes are in order of importance: 1-Employment; 2-Remuneration and social protection; 3-Safety at work; 4-Quality of education; 5-retirement; 6-Impact of the economic crisis; 7-Recruitment and retention; 8-Development and vocational training; 9-Participation and representation of workers; 10-Psychosocial risks at work (stress, violence and harassment); 11-hours of work; 12-Equal opportunities; 13-Contents of educational programs; 14- Professional mobility; 15-Balance of professional life and 16-Public / Private Development in Education.

3.4 Social Dialogue outcomes

It was highlighted in all interviews, either by employers or by trade unions, how important Social Dialogue is in the highly diverse education sector. *“The European Social Dialogue complements and supports the national Social Dialogue and its industrial relations”* as underlined by a trade union representative.

In the ETUCE there is a strong interest in organizing conferences, seminars and round table meetings. This reflects the finding that, so far, European Social Dialogue is mostly seen as an opportunity to learn and exchange practices and experiences (both formally and informally). In addition, lobbying and representation actions are a second type of action expected by ETUCE affiliated organizations.

One of the advantages pointed out in several interviews is the meeting of diverse countries, models, systems, labour relations and cultural traditions evidenced in the European Social Dialogue. The most widely used method is the dissemination of good

practices, which can often be spread with appropriate adaptations, to other contexts. This is the procedure in many projects, including visits to educational establishments or Social Dialogue practices that may lead certain countries to adopt different policies in this area.

FNE representative is proud of its participation in favour of an effective social dialogue outcome with visible results, concerning the adoption, on 15 March 2018, of the Council Recommendation on a European Framework for Quality and Effective Apprenticeship. The framework sets out 14 criteria in relation to working and learning conditions and in criteria 9 is recognised the role of trade unions in the process.

The online interactive risk assessment (OIRA) was pointed out by both employers and trade unions as a very positive result from Social Dialogue at European level. The tool exists for the education sector and it was a collaboration between ETUCE and EFEE, the European associations with the involvement of the Portuguese representatives.

Relating to the national level collective agreements with UGT trade unions are successful and the partners are satisfied. After 28 years ANESPO achieved to sign the collective agreement with UGT trade unions in a historical moment to the association." *The discussion with FNE opened new levels of cooperation*". With FENPROF, negotiations are blocked and is quite difficult to maintain negotiations and sign an agreement. There are several meetings but unsuccessful.

3.5 Actors' interaction

From the employer's side it exists a very good cooperation as shown by the common organisation of the Education Congress. The first Congress, gathering public and private, took place in 2017. Taking into account the results of the Congress, in 2018 it was a training for School Directors and School Leaders. The 2nd Congress, held in November 2019 also involved students and parents to extend the discussion to all the stakeholders. It was underlined in the interviews to the employers this good informal practice which allows a better understanding among the actors and creates a positive atmosphere.

The employers underlined a positive relation with the Ministry of Education. They are called by the Ministry to give their opinions and expertise. The employers "*give context and explain the field specificities*" to the Ministry decisions.

The trade unions are not able to have a similar opinion because the Ministry of Education is the employer that is "*not ready to negotiate*". *The Ministry imposes unilaterally the rules and the wages... there is no room to negotiation*".

The informal ties and relations are important "*we are the country of the informal relations*".

At European level the employers are quite satisfied with the dynamic of EFEE associations where they follow closely the European agenda and participate in the joint projects and meetings.

3.6 Perceived effectiveness

One of the trade union representatives accentuated that for an effective and successful Social Dialogue is necessary *“the existence of partner organizations willing and mandated to negotiate.”*

There are *“several conditions necessary for effectiveness: all partners involvement at company, local, national and European Social Dialogue to reach agreement on joint priorities; readiness and willingness to reach negotiated, compromised solutions; development of structures and procedures to facilitate this and implement negotiated solutions at national and local levels and the development of trust between the parties.”*

The national structures must be adapted to improve the impact on the interaction of national Social Dialogue with the European level and vice-versa. For this purpose, it is necessary to improve the capacity building of the partners by ensuring constant upward and downward fluidity in the communication, representativeness, adequate resources and adequate knowledge by recruiting experts.

Social partners in the private sector perceived in a very positive way effectiveness on their context. They achieved to sign a collective agreement and they are happy with the outcomes of the European Social Dialogue (visits, common projects, common working programme, joint declarations, studies).

Concerning the public sector there is not any effectiveness because *“there is not any social dialogue. The State makes the agenda and decides!”*.

As regards the European social dialogue, the joint activity between ETUCE and Employers of education (EFEE) has been successful and a positive collaborative work. National Trade Unions regret the absence of representation by the Portuguese Government in the EFEE delegation because they are not accepting to participate in the European social dialogue. Through the European social dialogue, the partners are developing measures to make the teaching profession more attractive -one of the biggest sector challengers.

3.7 Suggestions for improvement towards a more effective Social Dialogue

Opportunities for improvement are numerous so Social Dialogue does not just become a *“ritual without effective results”*. To only participate in the meetings without any action or influence is not effective and it is not worth it.

How to improve Social Dialogue at national and European level and the confluence between them is a recurring concern at European Social Dialogue meetings, knowing that trade unions and employers cannot override national governments in educational policies. They only can present recommendation and guidelines.

Timely information to make the channels flow from bottom up and top down and insurance further participation, more reliable statistical data because with accurate information social dialogue could improve and enlarge the scope.

One of the interviewed from the trade unions mentioned that the national organisations ETUCE members could gain more with their affiliation by a stronger cooperation and a better alignment on the national positions. The different trade unions at national level could communicate more and articulate the positions.

4. Health

4.1 Introduction

The Health sector, as the education sector, has a strong diversity and fragmentation. Under the cover of the Health sector there is a mix of interests and professions. The national health system is guaranteed by three different and overlapping systems: the public National Health Service (SNS – Serviço Nacional de Saúde) managed by the Ministry of Health; special health systems for particular professions or sectors (e.g. civil servants, employees at banks and insurance companies) and the private voluntary sector, managed by large private groups which manage hospitals and clinics. The private sector is increasing and currently manages 115 hospital and counts with 20.000 employees.¹⁶

The number of employees in the health and social care, according to 2018 INE/Pordata numbers, is 451,700 (73.650 are nurses) representing 9,3% of the total employees.

7,5% of the total companies, representing 94.740 companies (2017 Data from INE/Pordata,) operate in the health and social care sector.

Health is a matter of member States national competence and as one of the interviewed mentioned *“there is not at European level a single market for health”*. At the same time it is necessary to be aware of the ideology behind the political decisions *“because ideology (socialism, liberal) print (not only in Portugal) greatly the health policy.”*

4.2 Actors

In the Health sector the main employer is the State, the Ministry of Health, covering all the public sector with a diversity of professions.

Concerning the private sector there is the APHP, the Portuguese Association of Private Hospitals which covers the private hospitals and clinics, and the CNIS, National Confederation of Solidarity Institutions, representing the private institutions of social solidarity with the statute of public utility with a relevant activity providing health care. One of the group III Portuguese members of the European Economic and Social Committee is a representative of CNIS.

Neither of these associations are involved at European level social dialogue. They only engage at national collective bargaining. However, the APHP, the Portuguese Association of Private Hospitals is affiliated to UEHP - European Union of private Hospitals, a European lobby association not engaged in social dialogue. They are also participating in

¹⁶ APHP website

BIAC - Business in OCDE in the health pillar. At national level, they are a CIP member that follows Business Europe activity throughout this affiliation.

Trade unions structure is fragmented, existing numerous trade unions. For the nurses we find five national coverage trade unions: SE- Union of Nurses is the oldest, created 106 years ago and it is affiliated to UGT; SEP - Union of Portuguese Nurses is very representative at national level in both private and public sector. It is affiliated to CGTP; SIPE - Independent Union of Professionals in Nursery without any affiliation; SINDEPOR - Democratic union of Portuguese nurses is quite recent created in 2017 and also UGT member; ASPE -Portuguese trade union Association of Nurses, also created in 2017 but without links to UGT or CGTP. It was one of the most active unions in 2019 strikes and contestations and they wish to be independent of the national trade unions Confederation. The SINDITE - Technical diagnosis and therapeutic staff is affiliated to UGT and represents 19 professions in the health sector counting with 15.000 members.

Table 7 Representation of Health Social Partners

Organization	Type of organization	European semester meetings	European sector social dialogue committee	Sector level organization	EU
APHP - Portuguese Association of Private Hospitals	Employer	No	No	Yes ¹	
CNIS - National Confederation of Institutions of Solidarity	Employer	No	No	No	
SE - Union of Nurses	Trade Union	No	No	No	
SEP -Union of Portuguese Nurses	Trade Union	No	No	No	
SIPE - Independent Union of Professionals in Nursery	Trade Union	No	No	No	
SINDEPOR Democratic union of Portuguese nurses	Trade Union	No	No	No	
ASPE Portuguese trade union Association of Nurses	Trade Union	No	No	No	
SINDITE - Technical diagnosis and therapeutic staff	Trade Union	No	No	No	

Source: own elaboration

¹ UEHP

4.3 Topics

The major issues for the trade unions in the health sector are the career progression of the health professionals, working time organisation, night work and resting time. With the crisis the deterioration of the working conditions *“was worse than the slowdown in the salaries”*. The trade unions stressed the topic of the Hardness of the jobs linked to human health and how important it would be the recognition of short-term careers due to occupation entailing high health risks (both for nurses and other technical staff, like radiation exposition). Furthermore, wages are an important topic specially in the public sector.

For the employers, the working time organisation with shifts and resting time is a crucial aspect. At the same time, they believe it is important the recognition by the Government that private hospitalisation is an economic activity that should be shared with the Ministry of Economy. The competition will be fairer and more transparent since currently only the private hospitals are under strict quality guidelines-not the public sector.

4.4 Social Dialogue outcomes

At European level there is not involvement of any of the actors in the social dialogue. Only through their affiliation to the national Confederations they may follow ETUCE and BusinessEurope discussions and positions.

At national level they are involved in collective bargaining, either at cross-sector, sector and company level. There are collective agreements signed among the actors above described, APHP, CNIS, SEP, SINDITE - public, private and social (Solidarity Institutions). However, with the public sector, there are auditions without effective negotiations. Trade Unions are unsatisfied with the public imposition. The State decides without a fair and equal negotiation. Social dialogue with the State is weak and a *“deaf dialogue”*. *“There are fake negotiations without agreement!!”*

4.5 Actors' interaction

Like in the previous sector, the health sector does not have national institutionalised social dialogue.

Nevertheless, it was created, by the Government, the CNS - National Council for Health which is an independent consultation forum made up of 30 members and with the mission to ensure the involvement of the various scientific, social, cultural and economic forces in seeking broad consensus on health policy. The six organisations represented in the CPCS are members of the Council. It is not a social dialogue forum but it improves the informal ties and enlarges the network and influence of the social partners.

For the employers it is very important to follow the social dialogue topics through CIP affiliation. They are very enthusiastic to be *“on board and they feel closer to the European affairs”*. APHP considers that exists a good articulation between the national level and sectoral level.

4.6 Perceived effectiveness

The employers regard the national bipartite social dialogue as correct, constructive and positive. The interlocutors are known, and this allows the development of the informal ties. *"We arrive at the meetings with the work done"* was a trade union representative statement. The trust among social partners allows a reliable social dialogue with convinced outcomes.

The low salaries underlined by the trade unions, hinder membership individual adequate fees, resulting in organisations with small budgets without financial capacity to be affiliated to European structures.

The Nurses Order is the entity with power to regulate all the conditions to access and perform the nurse profession. They are the Portuguese member affiliated to the European Federation of Nurses Associations. Until four years ago, the SEP participate in some meetings in a collaborative work. It does not anymore, and trade unions are more distant from the European context.

4.7 Suggestions for improvement towards a more effective Social Dialogue

Employers believe in the importance to deliver to the workers (after the collective negotiation agreement) broader information to align positions and get a better involvement and motivation from workers. This is an ongoing activity with the associated companies.

For trade unions, in the public sector it will be positive to obtain more data about the impact of wages increases and more clear information about the government proposals.

Health sector is very complex and there is always the need to further discussion and new topics. The trade unions consider important to set up working groups to discuss structural topics that are not included in the scope of the collective agreements, such as the risks associated to the health protocols. Nevertheless, those risks could have potential implications on the working conditions.

Conclusions

Tripartism is the basis of a national well-established Social Dialogue regarding legislation changes and the structural reforms, which gained maturity along the times and importance in the political national system.

The **Social concertation** aimed to agree on the macro level to top down guidelines toward the bipartite level concretised at collective bargaining level. The articulation between the peak Confederations and their members is well perceived, although sometimes lacking time to a formal consultation. **Informal ties** are important to collect a quick reaction or to get more information to feed the national discussion.

Employers Confederations are satisfied with their **general involvement** in social dialogue structures. The trade union Confederation UGT presents an attitude of openness to dialogue, negotiation and agreements conclusions. CGTP, the other national Confederation, adopted a confrontation attitude participating in the dialogue without signing agreements. However, **effectiveness** is variable though the level of effectiveness is higher in some situations and moments than in others. The topics and the context may influence the degree of effectiveness.

In general, the partners evaluated as positive the national level for negotiations and its outcomes. Trusty relations have been built up along the time and the informal ties help to set up the negotiations. They are quite important in the national context. Although the institutionalised well-established system, the informal relations are, sometimes, the driver to move forward.

Is not usual to have theme discussions and proposals presented by the social partners initiative. The Government leads the agenda and the proposals waiting for the employers and trade unions reactions. The social partners initiative to make the agenda could be improved.

The European Semester has strengthened the link between EU and national level with a positive involvement, although the consultation character of the process.

In the preparation phase the CPCS social partners contribute participating in meetings and in the written consultation. Nevertheless, there are partners that would like to be more involved and not strictly consulted.

Further, after the Recommendations publication there is a lack of follow-up and evaluation of their implementation. This is a critical point of the process which should be improved. Some social partners wish to be engaged in the operationalisation of the Recommendations.

All the partners (except the employers Tourism Confederation) are involved in the **EU level** by their **affiliation** in the European organisations. The EU is a source of inspiration and a learning process which helps to support the national level. The exchange of information and the sharing of good practices are important although effectiveness is not so well perceived. There is the idea that as Portugal is a small country it is difficult to reach the EU level with concrete topics. Even, at this level, the power of initiative is not achieved.

However, the social dialogue representation is intensive and demand human, technical and financial resources. For this purpose, **capacity building** is stressed by the partners as an essential aspect to fulfil the responsibilities of social dialogue engagement. The objective is not only participation in meetings and visits but to have the capacity to influence and take action.

The capacity of influence is not perceived and there is a lack of motivation to change the situation although the participation. Some partners stressed that currently there are meeting not reimbursed. Funding the meetings facilitates the national representation.

Sectoral level

Each sector has its own dynamic and it is not possible to consider a model for sectorial Social dialogue. The sectoral level in relation to social dialogue is characterised by the bipartite level in terms of the capacity to negotiate collective agreements.

To a better awareness about the study cases sector there is the weight of each sector in terms of employment and the number of companies. (table 8 and figure 1)

Table 8 - Sectors- number of employed people and number of companies

	Total	Commerce	Construction	Education	Health
Number of Employed Population in 2018	4 866 700	697 900	307 000	424 200	451 700
Number of Companies in 2017	1 260 436	219 190	81 629	56 577	94 740

Employed population: total e per sector of economic activity

Data sources: INE - Inquérito ao Emprego

Source: PORDATA

Last update: 2019-02-08

Companies: total e per sector of economic activity

Data sources: INE - Inquérito Anual às Empresas (until 2003) | Sistema de Contas Integradas das Empresas (from 2004)

Source: PORDATA

Last update: 2019-09-27

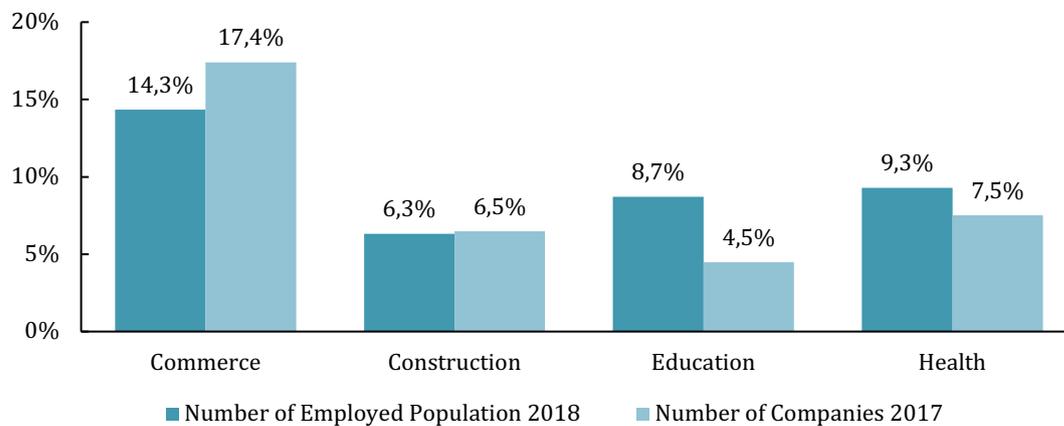


Figure 1 Percentage of employed population vs companies per sector based on Table 8

The trade union structure at sectoral level is fragmented and there is competition between the unions, mostly according to their affiliation to UGT or CGTP. This creates overlaps in a complex situation with inter-union competition within the sector. This situation is negative in terms of effectiveness because it is necessary to negotiate the collective agreements with different structures and sometimes without success in a costly process in time and resources. Political ideology is still embedded in the national trade union representation.

In the last years, new union structures outside institutionalised Social Dialogue and without affiliation to the national trade unions Confederations were created. They claim working conditions and show “in the street” by public demonstrations the profession problems. In the health sector nurses are an example of such: they created two trade unions in the last two years, showing a lack of trust in the traditional unions. They are lobby organisations using the social networks and defying the society.

Social Partners in general are developing their negotiations to achieve collective agreements and consider that **national dialogue is more effective than EU**. They consider difficult to move the national dialogue up to the EU. At the same time, they consider it is not easy to integrate the EU topics in the collective agreements. At sectoral level relating to trade unions there are two sectors engaged - construction and education - and the other two are EU level distant.

The employers are all engaged in the EU level although Health employer association is affiliated to a lobby organisation not directly involved with sectoral social dialogue.

The national associations perceived in different ways the need to be present at European level and the trade unions are not so interested in participating in the EU level.

However, the national involvement at the EU level is irregular. Sectors where EU competences are more embedded as construction, are more intensely involved at EU level Social dialogue.

The lack of involvement in the European semester (they can obtain some information if they are affiliated to the national Confederations) may explain the distance between the two levels. A closer involvement of the sectors in the European semester process could be a motivation to bring the sectors to the UE level.

It was observed the fragility of practices depending on the persons in charge and the organisations leaders. For example, the construction sector is known as a successful case where a national tripartite social dialogue was set up with positive results. Two years ago, with the change of some leaders this practice was abandoned. People make the difference.

The **capacity building of sectoral organizations** is very important as well as the vision and the strategy of the leaders on the membership in a European association. This is a very important topic to develop at the EU level: the choice of the European association. Generally, the sectorial Social Partners are happy with their European structures which they perceive positively. They “*don't feel alone*” in their concerns and sector specificities.

Also, at sectoral level informal relationships over time improve trust and patience to respect different opinions as well willingness to solve problems and commitment to close agreements.

Regarding the EU Social dialogue results, trade unions have a stronger preference for binding results, like the achievement of a negotiation process, while employers prefer exchange of information and non-binding results, such as joint projects and joint statements.

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