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André Pinto

Master in Political Economy

Paulo Miguel dos Santos Marques, Assistant Professor at ISCTE -
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Resumo

O papel dos sindicatos na resistência à liberalização das relações de trabalho tem sido de grande interesse para a Economia Política nas últimas décadas. A popular teoria da dualização (Rueda, 2005), segundo a qual os sindicatos tendem a conluir com partidos de centro-esquerda, sacrificando a regulação do segmento mais frágil da força de trabalho ("outsiders") para conter os efeitos da liberalização para os "insiders", tem sido objeto de críticas por parte de novas correntes que documentam comportamentos solidários por parte dos sindicatos para com os "outsiders" – em rejeição total (e não parcial) da liberalização.

Esta dissertação propõe-se a contrastar diferentes estratégias sindicais face à liberalização, bem como as motivações a elas subjacentes. Para tal, consideram-se os casos dos setores metalúrgico e têxtil portugueses, num período de liberalização que seguiu a introdução do Código do Trabalho (2003). Nestes dois setores, os diferentes sindicatos adotaram estratégias distintas, quer pela concessão e assinatura de contratos coletivos de trabalho menos favoráveis aos trabalhadores do que os anteriores, quer pela recusa de tal cedência, levando à caducidade de alguns contratos. Através de uma análise de conteúdo das 10 convenções coletivas e notas de caducidade em questão, aliada à realização de 5 entrevistas a representantes sindicais, a dissertação tenta estabelecer a relação entre as estratégias adotadas e os fatores que as influenciaram. Os resultados corroboram a importância da ideologia – como sugerido pela literatura - na definição de estratégias sindicais, mas demonstram também a importância de outros fatores, como o contexto institucional setorial ou a agência individual.

Palavras-chave: dualização; mercado de trabalho; negociação coletiva; reformas; sindicatos

Código JEL: J50

Abstract

The role of trade unions in pushing back the liberalization of industrial relations has been of great interest to scholars in Political Economy over recent decades. The widely popular dualization theory (Rueda, 2005), according to which trade unions may collude with centre-left parties and sacrifice the regulation of the most fragile segment of the workforce ('outsiders') in order to restrain the effects of liberalization on 'insiders', has been subject to criticisms from new strands that document solidaristic behaviours from trade unions towards outsiders, in rejection of liberalization altogether.

The idea behind this dissertation is to contrast these different strategies of trade unions in pushing back liberalization, as well as the motives behind them. For such, the focus is put on the cases of the Portuguese metal and textiles sector, in a period of liberalization following the introduction of the Portuguese Labour Code (2003). Different trade unions in these sectors adopted different strategies, either conceding to signing worsened collective agreements (relative to those previously in force) or choosing to allow their caducity. Through content analysis of 10 collective agreements and expiry notices, as well as 5 interviews with trade union representatives, the importance of factors such as union ideology and economic context in determining trade union strategies is gauged. The results obtained demonstrate the importance of ideological factors in defining trade union strategies – as suggested in the literature – but also of other factors, such as the sectoral institutional context or individual agency.

Keywords: collective bargaining; dualization; labour markets; reforms; trade unions

JEL Code: J50

Table of contents

Agradecimentos	i
Resumo	iii
Abstract	v
Chapter 1. Introduction	1
Chapter 2. Union strategies in the context of the liberalization of Portuguese industrial relations	5
2.1. Liberalization of industrial relations	5
2.2. Union responses in the face of liberalization	6
2.3. Liberalization of industrial relations in Portugal – institutional change	9
2.4. The argument in brief	11
Chapter 3. Methodological choices	13
Chapter 4. Results	17
4.1. Textiles – moderate and aligned	17
4.2. Metal – class-oriented unions put aside	23
Chapter 5. Discussion	29
Chapter 6. Conclusions	33
References	35
Attachments	39

CHAPTER 1

Introduction

Over the last decades, Western labour markets have seen a continuous trend of liberalization and flexibilization, one of its main components being the decline of stable forms of employment, in detriment of which “atypical work” has grown exponentially (Kalleberg, 2009). Those involved in “atypical” forms of employment (or “outsiders”) usually face relatively worse working conditions in terms of benefits and pay (Kalleberg, 2012), have less representation and “voice” in the work place (Gumbrell-McCormick & Hyman, 2019), and bear most of the costs of economic recessions (due to being easier to dismiss). This segmentation is logically a source of increased inequality. For these reasons, scholars in the social sciences have shown plenty of interest in the phenomenon of labour market segmentation. Namely, there has been extensive work on the role of trade unions in either perpetuating or struggling against dualization.

Different theses have been put forward on how trade unions ‘behave’ towards outsiders - from collusion with centre-left parties to protect insiders at their expense (Rueda, 2005), to inclusive strategies that involve outsiders in collective bargaining and into the core constituencies of unions. The literature on solidarity has also addressed the external conditions that may influence union strategies in the face of liberalization, such as institutional contexts around collective bargaining, and put forward that the power resources of unions can effect these strategies (Benassi & Vlandas, 2016; Durazzi, 2017). However, little work exists on how types of union identities (i.e. ideological orientations) may separate the unions that concede to dualization from those that do not. This is the gap that I wish to address, by asking the following research question: *What explains the different strategies adopted by Portuguese metal and textiles trade unions in the face of the liberalization of collective bargaining?*

The aim of this dissertation is to contribute to the literature on solidarity, by contrasting the different union strategies observed in a similar context of liberalization, as well as the motivations behind them. For this, a comparative case study strategy is employed, involving a triangulation between the content analysis of 10 collective agreements and expiry notices, the analysis of the Portuguese Labour Code as a reference for said agreements, and 5 interviews with union representatives that were involved in the bargaining process with employers.

The cases of Portugal's metal and textiles sectors were chosen due to these being two similar sectors in terms of their institutional and economic context, as they bear a similar weight in terms of employment and Gross Value Added and have unions pertaining to the same confederations representing workers at the bargaining table. On the other hand, the period of analysis - from 2003 to 2010 - corresponds to a period of liberalization of collective bargaining, in which unions were put under pressure. I consider the years that followed the introduction of the Portuguese Labour Code (in 2003) as a period of liberalization of collective bargaining because this legislation brought significant changes to the way it is carried out, significantly expanding the bargaining power of employers. The continuity rule - which stated that collective agreements could not expire but only be replaced - was eliminated, meaning that rights acquired by unions through collective bargaining (and written into collective agreements) in the late 1970s and early 1980s could be revoked. Additionally, the principle of most favourable treatment was relaxed, meaning that the agreements could now contain provisions less favourable to workers than what was stated in the general labour law. These changes put pressure on unions to make concessions and potentially accept the inclusion of unfavourable clauses in agreements so as to maintain their role in bargaining and preserve some favourable contents.

Through a preliminary data collection (through the *Boletins de Trabalho e Emprego*, a journal published by *Gabinete de Estratégia e Planeamento* which contains all collective agreements published in Portugal) and a subsequent content analysis, it is observed that, in the same context of expanded possibilities for employer discretion to be upscaled through sectoral-level bargaining, some unions in metal and textiles conceded to reviewing their collective agreements “downwards” (by adding clauses unfavourable to workers, and especially outsiders) as a condition to maintain them, while others refused to do so, effectively becoming excluded from collective bargaining (and so, of part of their legitimacy as a “social partner”). With this case selection, the aim is to reach an explanation as to how much identity factors, such as ideology, affect how unions stand on dualization – and more specifically, how this transpires through collective bargaining.

A priori, it should be expected that the ideological identity of trade unions in these two sectors proves an important factor in explaining differences in the strategies that they adopted: as per the literature, it is projected that more “hard-line” trade unions – which, in Portugal, are usually affiliated to CGTP¹ – would have a lesser tendency to accept flexibility at the margin

¹ Confederação Geral dos Trabalhadores Portugueses / General Confederation of the Portuguese Workers

of the labour market than more moderate, social-partnership-style unions (usually affiliated to UGT²).

This dissertation is structured as follows: it starts with a literature review on the topics of liberalization, dualization and union strategies, as well as on the cases addressed; then, the methodological strategy adopted is addressed, and so are the reasons behind it; after such, I proceed to present my empirical results; this is followed by a discussion of said results and some concluding remarks. The dissertation is closed with a list of bibliographic references.

² União Geral de Trabalhadores / General Union of Workers

Union strategies in the context of the liberalization of Portuguese industrial relations

Before diving into methodological considerations and the case studies, the state of the art on the topic is reviewed in the following order: first, the industrial relations literature regarding liberalization is navigated in order to establish the patterns of generalized liberalization of industrial relations; second, the dualization/solidarity debate that has been generated about how trade unions react to liberalization is exposed; third and last, the relevance of the cases is introduced and the gap is identified by assessing both the trajectory of industrial relations in Portugal and the different institutional configurations and collective bargaining outcomes found in the two sectors under analysis.

2.1. Liberalization of industrial relations

The paradigm shift that corresponds to the dismantling of the Fordist model in the late 1970s - and its replacement in Western political economies by what is broadly called neoliberalism - has been a significant subject of interest for social sciences scholars in recent years. The social pact between labour and capital that had lasted for three decades after the Second World War - granting the Global North's greatest period of economic and social prosperity - was broken, leading to a new regime of accumulation (Amin, 1994). The new form of financialized capitalism that emerged brought generalized liberalization of markets in the name of competition, which in turn had visible effects on every aspect of Western political economies.

The most prominent "field" of this liberalization process has been the labour market: Western labour markets have been going through a generalized process of institutional transformation, aimed at facilitating "flexible" work arrangements and price competitiveness, as can be documented by judging the trajectory of labour law changes in European countries in the last 30 years (Baccaro & Howell, 2011, 2017). The justifications for it were drawn from economic literature of the 1980s and 1990s (Lindbeck & Snower, 1989), which attributed unemployment and precarious work to 'institutional rigidities' that raised the costs of permanent work (this is known as the economic insider-outsider literature). A relatively straightforward narrative emerged: labour market problems, like the rest of economic problems, were due to an excess of regulation impeding the free market, and so flexibilization was the

simple solution. This solution was applied progressively over decades, as previously existing regulatory systems were both progressively “adapted” and brought into changed *rappports de forces* between the two sides of the previous social pact (capital and labour).

The main dimension of change in the configuration of institutions, through their dismantlement or repurposing, was the expansion of employer discretion, i.e., the power of individual employers to unilaterally decide on “wage determination, hiring and firing and the organization of the workplace” (Baccaro & Howell, 2017:1). The same authors argue that such expansion was achieved over the last decades through “decentralization and individualization of bargaining, deregulation of the labour market and decollectivization, involving a decline in the strength, size, centralization and coverage of class organizations, primarily trade unions” (Baccaro & Howell, 2017:1). Such a process can be described as the removal of previously existing barriers - stricter state regulation and strong representative trade unions with both bargaining power and resources for collective action (through demonstrations) - to power imbalances between employers and employees. With labour law being “flexibilized” and trade unions losing their importance, political economies have seen a steep decline in the wage share, economic stagnation, and ramping inequality since the end of the 1970s (Pontusson, 2013).

2.2. Union responses in the face of liberalization

2.2.1 The dualization hypothesis

The liberalization of industrial relations and its economic consequences attracted attention from scholars in the industrial relations field seeking to explain the phenomenon of “outsiderness”. In this context, and in the period around the 2008 financial crisis – which exacerbated these inequalities and promoted a boom of new atypical contracting forms (such as platform work) - a new strand (Emmenegger et al, 2012; Emmenegger , 2014; Rueda, 2005) reaffirmed the arguments of insider-outsider theory, attributing segmentation to institutional rigidities and mainly focusing on the conflict between “insiders” and “outsiders”. This new “dualization” literature affirms that collusion between trade unions and centre-left parties is at the origin of growing inequality in both work conditions and “voice” in the workplace between the two different segments of the working class, because social democratic parties and trade unions would rather protect the interests of their voting base and core constituencies, respectively. This social coalition should then be held responsible for the successive changes to legislation (such as the one presented above) that allowed for “exceptional” forms of employment to become a norm, especially for vulnerable groups such as young people, immigrants, and women.

The dualization hypothesis is, in sum, that the segmentation of the labour market into “insiders” and “outsiders” or “core” and “periphery” workers is promoted by centre-left/social democratic governments as a second-best choice in the face of international pressures for liberalization, through two-tier labour market reforms. These reforms, while granting the security of the stronger segment of the workforce (the insiders, employed in stable conditions and with access to benefits) by restricting or at least not liberalizing employer discretion over “typical” contracts, expand such discretion over the hiring, firing, and working conditions of the weaker segment (the outsiders, under non-standard forms of contract, i.e. fixed-term contracts, agency work, etc.). This differentiation allows to keep “insiders” - often heavily represented in centre-left voter bases – satisfied.

More importantly to this dissertation, in the eyes of these scholars this second-best option happens with the consent and/ or support of trade unions, and is made possible by a frequently observed dynamic of conflict among the workforce itself, in which insiders and outsiders are “opponents”. Trade unions, which are usually affiliated with the centre-left/social democratic parties and tend to represent the workers of the core (excluding outsiders from both their ranks and strategic interests), would then rather protect the interests and perks of the “insiders”, even at the cost of forcing the social costs of price competitiveness and flexibility on the weaker segment of the workforce, than completely oppose liberalization and bear the risks of that opposition. This way, they can manage to protect their institutional role as negotiators, and even concede in a logic of recovering lost ground at a later time. By attributing this role of facilitators of dualization, so to say, to trade unions, the dualization literature puts forward that the struggle against this process can only be led by governments, through active labour market policies (ALMPs) – such as training programs – that enable the transition of outsiders into the “better” segment of the labour market, and the deregulation of open-ended contracts.

2.2.2 Alternative depictions of union strategies

The development of dualization literature has created large controversies, as some scholars in the field of industrial relations dispute the notion of widespread collusion between centre-left parties and trade unions, as well as each of the premises behind it. While different arguments have been presented, I choose to group and categorise the associated literature as solidaristic, since it stands on the idea that these two categories of agents (social-democratic parties and trade unions) can show preferences that go beyond “rational choice” approaches to appease to their core constituents and promote pro-outsider policies and views instead.

First off, it is not clear that centre-left/social democratic parties, when in government, will always follow a pro-insider strategy in their labour law reforms. Marques & Fonseca (2022) have shown that such parties may be influenced by factors such as the strength of the “radical” left and the number of “outsiders” when it comes to the direction of policy-making in this regard. When there are strong parties to the left of a social democratic government – forcing that government to compromise on an agreement or coalition– the centre-left parties may be compelled to adopt pro-outsider strategies through dedualizing reforms (which can be liberalizing or de-liberalizing as a whole). In addition to this, if atypical employment grows very significantly, the sheer number of outsiders may become a concern for the centre-left’s electoral strategies, if outsiders are numerous enough to sway election results, or start representing direct competition with insiders for jobs and wages.

Second, and more importantly for this dissertation, it has also been argued that trade union strategies vary according to certain conditions, and do not necessarily align with the interests of “insiders”. Several authors have presented empirical evidence of trade unions being inclusive towards outsiders, both in terms of structure (by including atypical workers) and bargaining strategies (minding outsiders’ interests). The power resources (Korpi, 2006) of unions seem to play an important role for some authors who consider dualization strategies to be “second-best” for unions. In this logic, the concessions made on atypical work are a last resort for weak unions to maintain their representational roles (Palier and Thelen, 2010; Benassi & Vlandas, 2016; Durazzi, 2017) and can be avoided by high-density unions. The institutional configurations around union activity – labour law, for instance, which frames the realm of possibilities for union activity such as collective bargaining - can also cause variations in the outcomes of dualization that they allow (Pulignano et al., 2015).

Lastly, and more specifically, the ideological orientation or “identity” of trade unions seems to play a key role in explaining differences in strategy. Class-oriented unions, as per Hyman’s (2001: 2-4) framework, would *a priori* be expected to consider outsiders’ interests when negotiating working conditions, include them in their constituencies and seek to have them covered by collective agreements. Indeed, empirical studies tell us that a class-oriented “identity” is an important factor in explaining why some unions practice inclusive strategies (Dorigatti 2017, Durazzi 2017). On the other hand, moderate, social-partnership-style unions should be more sensitive to employers’ demands and arguments for more flexibility and competitiveness in the face of a changing economic context, and therefore concede more easily to precarity at the margin. In the cases of Portugal and Spain, for instance, this sort of strategy

can be observed empirically through the moderate unions' stances on "dualizing" labour law reforms throughout recent decades (Marques and Fonseca, 2022).

2.3 Liberalization of industrial relations in Portugal – institutional change

This subsection is dedicated to a rundown of the recent history of Portuguese industrial relations - which bears many similarities to those of other southern European countries – since, in my eyes, it provides some important context for the empirical work done in this dissertation. Up until the carnation revolution of 1974, the arms of a fascist dictatorship confined the legal segment of the Portuguese labour movement to undemocratic corporatist trade unions controlled by the government. Consequently, after the revolution the previously illegal free labour movement "came out" with impressive strength and momentum. Mass mobilization, both in the streets and in the workplace, resulted in real social change, regarding both material factors – such as wages – and also more organizational factors -such as workers' control over production (Stoleroff, 2016). In this context, Portugal, as well as other Southern European countries (Karamessini, 2008), established a very conflictual/adversarial new system of industrial relations due to radical differences in ideological positionings - not only between the working class and the existing *bourgeoisie*, but also among the labour movement, which was extremely politicized and fragmented (Lima, 2019). CGTP, a previously illegal union confederation tied to the Portuguese Communist Party – which we could define as class-oriented, since its ideological underpinnings suppose a "class-wide anti-capitalist strategy", expressed through adversarial relations with employers - was allowed to legally establish itself as the only authorised union confederation by the first post-Revolution government, and therefore captured all unionized workers at first (this is an important detail, as it reflects on the relative strength of CGTP to this day, representing two-thirds of unionized workers). By 1978, however, the governmental approach to trade unionism changed, enforcing pluralism and freedom of association, leading to the establishment of UGT, a confederation linked to the centre-left (PS³) and centre-right (PSD⁴) which brought forward a more moderate, social partnership approach (Marques & Fonseca, 2022). In the same year, union density in Portugal peaked historically at 60.8% (Visser, 2015). This meant that, throughout the late 1970s and early 1980s, the labour movement had the power resources to sign favourable industry-wide

³ Partido Socialista / Socialist Party

⁴ Partido Social Democrata / Social Democratic Party

deals in most sectors, with manufacturing/heavy industry and the public sector being the strongest examples (Stoleroff, 2000).

Within only a few decades, however, the situation changed, with the labour movement losing momentum and trade unions becoming (much) weaker. Union density was down to 19.3% in 2010, and its decline from 1980-2010 represents the 3rd sharpest break in density for an OECD country in that period (Pontusson, 2013). We can attribute this to several factors, some of which are common to all Western political economies. Portugal faced an economic crisis from 1983-1985 - which both “exhausted CGTP’s strategy of political mobilisation” and constituted UGT (the smaller confederation) as a preferential partner for Portuguese governments due to its contrasting reformism (Stoleroff, 2000) – and then went through a process of “industrial restructuring”, from the mid-1980s on which involved privatisations in key economic sectors that had been previously nationalized, such as banking and heavy industry (Stoleroff, 2016). As large enterprises (especially those of the public sector) were dismantled, and the Portuguese economy’s structure changed (with firms being split apart and downsized), a certain “industrial proletariat” that had formed was dismembered and dispersed (*ibid*). Deindustrialization, which is common to all Western political economies in this period, and the growth of precarious forms of employment (fixed-term contracts being the only one at that point) also helped diminish the critical mass of stable industry workers that had composed the movement at its peak, ultimately depleting the power resources of labour. In the wider manufacturing sector, which this dissertation targets, union density declined from about 40-45% in the late 1990s (Stoleroff, 2000) to around 12% in 2010 (Portugal & Vilares, 2013). It must be noted that, on top of the tertiarization of Portugal’s economy, manufacturing (and its labour movement, therefore) also suffered from external competition that was not present before due to European integration and the Asian countries entering the World Trade Organization (Streeck & Thelen, 2005) (Lima et al, 2010).

With unions weakened and the labour movement dispersed, employers and a centre-right government saw the opportunity to introduce decisive changes to the labour law that could alter the functioning of collective bargaining, making it less restrictive for firms. Employers had been frustrated in the previous decades in their demands for more flexibility due to a “continuity rule” (Távora, 2019) which stated that collective bargaining agreements could not expire, but only be replaced (and so would remain valid unless new ones were signed). This rule, along with the principle of most favourable treatment (which meant that the contents of agreements could not be less favourable to workers than what was stated in the general labour law), granted that unions did not have to make any concessions and could defend the gains made in the post-

Revolution period, despite the pressures of neoliberal transformation. In 2003, the Portuguese Labour Code instituted by PSD and CDS-PP⁵ (a centre-right coalition) revoked both of these principles. This allowed employers (who by then had the upper hand in terms of power resources) to either include unfavourable clauses for workers in some matters - if unions compromised in order to keep favourable clauses in other matters – or scrap the agreements altogether and comply with the Labour Code only. The promulgation of the Labour Code can be seen as a critical juncture for the liberalization of industrial relations (and specifically, collective bargaining) in Portugal. As weakened unions were forced to renegotiate the gains of a more favourable period in terms of density, organized labour was put into a hard spot: caducity (and the possibility of it) made it hard not only to recruit and maintain members (collective agreements and its benefits being a good incentive for workers to unionize, from a utilitarian perspective), but also to negotiate or struggle for good conditions, as employers could just opt-out if they felt previous agreements or current union demands to be unfavourable to them. In sum, not only were unions put into a defensive position concerning workers' rights, but the creation of an unfavourable context for negotiation meant that their institutional role could be delegitimized (in the case of expiry).

2.4 The argument in brief

Built on the existing literature and anchored on the case studies presented and developed in the following sections, the argument of this dissertation is that trade unions' distinct identitarian characteristics and approach to labour relations can play a part in differentiating their responses to labour market dualization, as well as to broader liberalizing pressures. A secondary argument is also put forward regarding the role of the state in reshaping institutions and promoting liberalization, raising the difficulty of the context for agents that wish to fight that process.

⁵ Centro Democrático e Social – Partido Popular / People's Party

CHAPTER 3

Methodological Choices

This dissertation employs a case study methodology to compare union strategies and the motivations behind them, with the two cases being the metal and textiles sectors in Portugal. The option for a case study approach allows for in-depth empirical investigation of the configurations of each case (Vennesson, 2008) and the mechanisms that shape union behavior in this context, unlike quantitative methods which would allow for a broader, but more shallow scope of proposition.

In a search for the reasons behind unions adopting different strategies in similar contexts, I use a most-similar-cases logic to select my cases. The metal and textiles sectors were chosen as most-similar cases due to shared institutional characteristics and their similar trajectory in recent decades of the Portuguese economy. This statement is not in disregard to the relevant differences that can be indicated, namely in terms of their level of specialization and sophistication - the metal sector is considered more technologically advanced and capital-intensive, while textiles are more labour-intensive and less reliant on technology. Nonetheless, I consider the metal and textiles sectors to be appropriate for comparison because they share the key institutional characteristics that influence collective bargaining the most. Specifically, trade unions in these sectors are affiliated to the same two major confederations in Portugal – CGTP (for FIEQUIMETAL⁶, in metal, and FESETE⁷, in textiles) and UGT (for SINDEL⁸ and SIMA⁹, in metal, and SINDEQ¹⁰, in textiles), while the employers' associations (ANIVÉC¹¹ and ATP¹², in textiles, and AIMMAP¹³ and FENAME¹⁴, in metal) are all filiated in CIP¹⁵ - the biggest employer confederation for Portuguese industry. Moreover, these sectors represent a similar share of Portuguese economic activity in terms of employment – both at around 5% in

⁶ Federação Intersindical das Indústrias Metalúrgicas, Química, Farmacêutica, Eléctrica, Energia e Minas / Inter-union Federation of Metallurgical, Chemical, Pharmaceutical, Electrical, Energy and Mining Industries

⁷ Federação dos Sindicatos dos Trabalhadores Têxteis, Lanifícios, Vestuário, Calçado e Peles de Portugal / Federation of Textile, Wool, Clothing, Footwear and Leather Workers' Unions of Portugal

⁸ Sindicato Nacional da Indústria e da Energia / National Union of Industry and Energy

⁹ Sindicato das Indústrias Metalúrgicas e Afins / Union of Metallurgical and Allied Industries

¹⁰ Sindicato Democrático da Energia, Química, Têxteis e Indústrias Diversas / Democratic Union of Energy, Chemical, Textile and Miscellaneous Industries

¹¹ Associação Nacional das Indústrias de Vestuário e Confecção / National Association of Clothing and Apparel Industries

¹² Associação Têxtil e Vestuário de Portugal / Textile and Clothing Association of Portugal

¹³ Associação dos Industriais Metalúrgicos, Metalomecânicos e Afins de Portugal / Association of Metallurgical, Metalworking and Related Industries of Portugal

¹⁴ Federação Nacional do Metal / National Metal Federation

¹⁵ Confederação Empresarial de Portugal / Portuguese Business Confederation

2010 (Eurofound 2013, Eurofound 2018), are both part of a declining manufacturing sector (which in turn is part of the former industrial core of labour power), and have had low union density (around the 10% mark) and high levels of temporary employment – around 20% of total workers – throughout the period of interest for this dissertation (Quadros de Pessoal, GEP/MTSSS). These shared institutional characteristics bear more importance to the aims of this dissertation than the sectors' differences in specialization and sophistication, since they impact collective bargaining in a more significant manner. Therefore, it is deemed reasonable to class metal and textiles as most-similar cases.

The configuration of each case (sector) here is its institutional fabric (unions, employer associations, economic context) and the features that may be generalizable are the union strategies and the justifications and/or motivations behind them. The main reason of interest in the cases chosen is that, despite their institutional similarity, different bargaining outcomes were attained in the two sectors – presuming different bargaining strategies – since the introduction of caducity for collective agreements. While in the textiles sector unions affiliated with both CGTP and UGT agreed to sign new agreements with employers' associations that contained clauses more unfavourable to workers – and especially to 'outsiders' – than what was set in general labour law, in metal the scenario was quite different. UGT-pertaining trade unions did concede on these subjects, but CGTP-filiated FIEQUIMETAL did not, and its agreements ended up expiring, with 'insiders' losing acquired benefits from earlier negotiations. This reveals different strategies, which this dissertation aims to explain.

This dissertation follows a hypothesis-testing approach. The hypothesis to be tested here is that the distinct identity characteristics of trade unions can explain differences in their strategies when approaching dualization and liberalizing pressures – in this specific case, that the non-conceding unions' motivation is based on an ideological antagonism towards employers and the compromise with an ideal of class struggle which does not comply with concessions on the rights of the least protected members of the workforce. This project is also an interpretative case study, as it draws on existing theories of institutional change and labour market dualization to explain the motivations behind different union strategies, and a comparative case study, since the search for conclusions relies here on the contrast of outcomes found in the two sectors.

A multimodal approach is followed in my research: I opt for a triangulation between primary and secondary data, in pursuit of a deeper grasp of the bargaining dynamics that lead to different outcomes of collective bargaining (in response to the changed environment) in the two cases.

The secondary data used consists of a total of 10 collective agreements and expiry notices signed between the early 1980s and the late 2000s (and so, before and after the Labour Law revision of 2003), along with all versions of the Portuguese Labour Code in effect at the time of publication of these agreements. The collective agreements and expiry notices were obtained through the monthly *Boletins de Trabalho e Emprego*, which are published by the GEP – the *Cabinet of Planning* of the Ministry of Labour- on its website. The various versions of the Labour Code were found in the online version of *Diário da República*, the official journal of the Portuguese Republic. In order to understand how collective agreements changed in the aftermath of the introduction of the 2003 Labour Code, which expanded the scope of possibilities for pro-employer clauses in the agreements, and presented unions with the threat of expiry if they did not concede to those clauses, a content analysis was conducted of the last agreement signed by each trade unions in the two sectors before 2003, and also of the first agreement signed after it. In this content analysis, there was a search for clauses that are different (whether more or less favourable to workers) from what is stated in the Labour Code at the date of signing of the agreement. These differences must regard the 31 dimensions that the OECD uses to calculate their Employment Protection Legislation indicator (OECD, 2020), and also other matters such as wages and career progression (the full list is shown in Table 3.1). By comparing the agreements signed by each union that precede and follow the change to labour law, it becomes possible to identify what favourable and unfavourable clauses (for workers) were added or subtracted from the agreements that were revised following this change, and by analysing the contents of agreements that expired it may also be possible to gather what was lost by unions in that case.

Primary data, on the other hand, was gathered in the form of 5 interviews with trade union representatives who were involved in the bargaining process at the time of the 2003 Labour Law revision. The interviewees were questioned regarding the clauses introduced after 2003 and the motivations for conceding, or regarding the expiry of agreements and the motivations for refusing to concede (depending on what was observe for their trade union through the content analysis). More general questions regarding the changing context of collective bargaining, and to how changes to the labour law affect trade unions' bargaining power, were also asked. The data gathered from the interviews provided insights into the motivations behind the actions taken by the trade unions and allowed for a more in-depth understanding of the impact of the 2003 Labour Law revision on the collective bargaining process.

Table 3.1 – Items considered to compare clauses in collective agreements to the labour law

Acronym	Item
<6	Conditions to sign FTC under 6 months
AR	Special "adaptability" regime for working times
BPH	Bonus pay on holidays
CFTC	Conditions to sign FTC
DW	Inclusion criteria for disabled workers
EH	Bonus pay on extra hours
HB	Hour banks
MA	Meal allowance
NW	Bonus pay on nighttime work
PS	(Automatic) progression by seniority
SFTC	Conditions to sign successive FTC
SH	Extra pay for working in shifts
TP	Length of the trial periods
TWA	Cases for which TWA work is allowed
UWT	Updating of wage tables - nominal wage increase
VD	Number of vacation days
WA	Complement to the insurance on work accidents
WV	Wage variation relative to the minimum wage

CHAPTER 4

Results

In this section, the results of our content analysis will be presented for each case, preceded by a contextualization of the sector in question – in terms of labour relations and other relevant factors such as economic context – and by a depiction of the status of collective agreements previous to the introduction of the Labour Code. As these results are presented in detail, excerpts of the interviews conducted with union members help shed light on the process of bargaining that led to agreements being revised or not, and on the motivations behind union strategies at the critical moment that followed the reform of collective bargaining.

4.1 – Textiles – moderate and aligned

In the textiles sector, we found that around the period of introduction of the Labour Code there were two employer associations (ATP and ANIVEC) that had agreements in force. These agreements were signed by three main trade unions (FESETE – affiliated with CGTP, and SINDEQ and SINDETEX which were affiliated with UGT and eventually merged, as SINDETEX became extinct in 2011).

As for most sectors of the Portuguese economy, the trade union affiliated with CGTP – in this case FESETE - is the largest and therefore most representative union in the textiles sector. In 2012, FESETE stood at 18,550 members, more than double of SINDEQ's 7,000 – which pertain to several sectors in manufacturing, since SINDEQ, unlike FESETE, represents manufacturing workers in general, and not just textile workers. (Eurofound, 2013). To put these numbers into perspective, there were 159,110 workers in the sector in 2010, which indicates union density to be fairly low, with FESETE's at a little over 10% and SINDEQ's considerably lower than 5% (which would be the correct value if all SINDEQ members were in textiles). On the other hand, employers are represented at the bargaining table in the textiles sector by ANIVEC and ATP both part of CIP, the biggest employer association confederation for Portuguese industry/manufacturing. With ATP's members accounting for 40,000 employees in the sector, and ANIVEC's for 32,000 employees (Eurofound, 2013), total employer association density can be measured as in the 40-50% range. A curious fact is that all the trade unions and employers associations that participate in collective bargaining in this sector are based in Porto, reflecting the weight of this industry in the North of Portugal.

The textiles sector faced a steep decline over the 2000s, with its share of total employment in the Portuguese economy dropping from 8.6 to 5.7% (Eurofound, 2013). This shrinking of the sector means that there was a particularly negative context for unions' bargaining power at the time of introduction of the Labour Code. As per the union representatives that were interviewed, temporary employment is also naturally prevalent in textiles due to the irregularities of demand:

“(...) we work in sectors that have very ‘seasonal’ seasons. We have periods of the year when there is almost no work.” (FESETE representative, 16/11/2022)

Previously to the 2003 Labour Code, the agreements in force for the sector all dated back to the 1980s (see Table 4.1), with only wage tables being negotiated annually. Such is telling of the stalemate that was in place for collective bargaining over these few decades, due to the exhaustion of labour's power resources (and therefore of the capacity to obtain better work conditions) on one hand, and the way that Portuguese labour law protected the gains of trade unions in bargaining, seen as “acquired rights”, on the other hand (effectively avoiding the introduction of liberalizing clauses in collective agreements).

Table 4.1 - Agreements in force in the textiles sector before 2003

Employer association – trade union pair	Collective agreement in force by 2003
ANIVEC/APIV - FESETE(CGTP)	Agreement in 1986 and 1987 (before merge of ANIVEC and APIV)
ATP - FESETE(CGTP)	Sector-wide agreement in 1980
ATP - SINDETEX(UGT)	Agreement in 1981
ANIVEC/APIV - SINDEQ(UGT)	Sector-wide agreement in 1980

As the possibility of caducity for collective agreements was introduced, and the principle of most favourable treatment revoked, 3 new agreements emerged in the sector, in the year of 2006: FESETE signed with both ATP and ANIVEC, while SINDEQ only did so with ANIVEC.

A content analysis of these agreements was made, comparing them to both the previously standing agreements and the relevant version of the Labour Code, regarding the 18 items described in the previous section (Table 3.1). This content analysis is summarized in Table 4.2.

Table 4.2 - Changes to agreements in the textiles sector after 2003

Employer association – trade union pair	Outcome after 2003	Changes in content (clauses that were added/removed /modified) ¹⁶	New clauses that are less favourable than the labour code ¹⁷	New/remaining clauses that are more favourable than the labour code
ANIVEC/APIV - FESETE(CGTP)	Revision in 2006	AR; CFTC; SFTC; TWA; UWT; VD; WV	AR; CCT; CCTS; TWA	UWT
ATP - FESETE(CGTP)	Revision in 2006	AR; CFTC; SFTC; TWA; UWT; WV	AR; CCT; SFTC; TWA	UWT; VW
ANIVEC/APIV - SINDEQ(UGT) ¹⁸	Revision in 2006	AR; CFTC; SFTC; TWA; UWT; WV	AR; CCT; SFTC; TWA	UWT; VW

Legend	
AR	Special "adaptability" regime for working times
CFTC	Conditions to sign fixed-term contracts
NW	Bonus pay on nighttime work (green when added)
SFTC	Conditions to sign successive fixed-term contracts
TWA	Cases for which TWA work is allowed
UWT	Updating of wage tables - nominal wage increase (red if lost)
VD	Number of vacation days
WV	Wage variation relative to the minimum wage (red if lower)

¹⁶ In this column, changes in content that make workers worse-off (through removal of beneficial clauses or introduction of detrimental ones) are marked in red; changes that make workers better-off (by the introduction of more beneficial clauses) are marked in green

¹⁷ In the penultimate and last column, red and green are code colors for matters that are respectively worse and better for workers in comparison with the labour code's rule on the item

¹⁸ Since SINDETEX was extinct and merged into SINDEQ in 2006, it is considered that this agreement replaces SINDETEX's previous one

The content of all three agreements is identical in the matters that are of interest to this dissertation, with the same new clauses appearing. A new “adaptability regime” was introduced for the management of working time, giving employers more flexibility to set working hours without having to pay overtime – this is the only clause introduced that does not affect outsiders specifically. The remaining clauses are all to do with the viability of temporary work: the Labour Code determines that the signing of a fixed-term contract or the use of temporary agency work are only possible in a number of exceptional cases, but that number was expanded in these agreements – notably, there was a clause stipulating that firms were free to hire up to 20% of their employees (or 4 employees for smaller companies, those with 20 employees or less) on fixed-term contracts even if those contracts did not fit the cases mentioned above. Moreso, the latter also states that, after a fixed-term contract expires, a period corresponding to one-third of its duration must occur before a new FTC is signed, which is waived in these collective agreements.

It must be noted that the agreement between ANIVEC and FESETE suffered the biggest “downgrade” of the three, despite the similar contents, since its previous version, signed in 1987, contained a clause that instituted 30 days of holidays for employees (which was deleted from the new agreement, setting workers back to the 22 days written into the Labour Code). The major gain for the unions in signing these new agreements seems to be that wage tables continued to be revised yearly, keeping workers’ wages above the minimum wage (which would not happen in the case of caducity). For the agreements signed between ATP and FESETE and between ANIVEC and SINDEQ, the 2006 wage tables even set relatively higher median wages - in proportion to the minimum wage of the year in question – than those of 1980, meaning that the wage premium actually increased for workers. This was not the case for the agreement between ANIVEC and FESETE, which had a better wage premium set in 1987 than in 2006. In both cases, however, the mere updating of tables was considered as a positive for unions, since it ensured at least nominal wage growth and wages above the national minimum wage.

In general, the content analysis shows that the new agreements worsened the position of both ‘insiders’ and ‘outsiders’ in the textiles sector – although outsiders seem to have been more heavily affected - both through the loss of former perks for workers (such as the aforementioned extra week of holidays per year) and through the expansion of employer discretion in hiring ‘outsiders’ and defining working time arrangements (through the ‘adaptability’ regime).

The interviews revealed that there was a concerted strategy in the textiles sector in this period, which is rare in Portuguese trade union politics. FESETE wished to avoid competition from SINDEQ (and specifically, losing its agreements while SINDEQ kept theirs) which, for other CGTP unions, lead to a loss of membership to UGT unions - and so decided to concede on some of the employers' demands, while, in the representative's view, "keeping the essential [rights] that were negotiated in the revolutionary period". This is because of the perceived importance of collective bargaining as a staple of institutional legitimacy to attract members to the union:

"[maintaining collective bargaining] is fundamental. In these sectors, the element with the greatest capacity to attract members is the contract." (FESETE representative, 16/11/2022)

"There is no doubt that collective bargaining in these sectors is the most binding element to keep members and attract new ones." (FESETE representative, 16/11/2022)

Although UGT-filiated unions were the usual preferred partners for employers in this period, in the case of textiles it was even FESETE that negotiated and signed the liberalizing and dualizing revisions to collective agreements with ANIVEC and ATP, with SINDEQ signing-on after-the-fact (this was disclosed in our interview with a representative of SINDEQ, which was not recorded, therefore not allowing a direct quote).

On the specific issue of the new adaptability regime that was introduced (this being the clearest "liberalizing" clause included in the new contract, and contrary to CGTP's usual "red lines" in bargaining), the seasonality of the sector that was mentioned above was used as a justification by the FESETE representative:

"(...) let's see, we know that the adaptability regime is to transform overtime work at high peaks [sic] into normal work [in terms of pay] (...)" (FESETE representative, 16/11/2022)

"So what happens? Footwear, for example... up to December there is work, but come January and February there is no work. The tanneries from February to March have no work. It has to be rational, you have to pay your salary at the end of the month and people were really stuck. We solved that by finding a balance between high and low peaks, meaning when people are at a low peak they go home to do training etc. They don't take their holidays - we excluded holidays from that - otherwise the holidays would all be spent in that period - and people get straight holidays in the summer if they want to. So people go home, they get all their entitlements, including meal allowance. Then when there is more work, then you work one or

two hours more a day to compensate for that. And this is the balance that we have.” (FESETE representative, 16/11/2022)

Despite the concerted strategy and similar outcomes, however, the rationales behind these trade unions conceding were revealed in interviews to be slightly distinct: the FESETE representative recognized that the Labour Code, as well as the process of liberalization and “social regression” that ensued after the shockwaves of the 1974 revolution, lead trade unions into a very precarious position in terms of power resources, leaving them no choice but to concede, so as to preserve representation (through bargaining) and a few favourable clauses:

“Trade union power has faded. Macro-political conditions have also changed: there is no longer a vision of social progress, but of deregulation and social regression, because that is what it is all about. These are decades of ‘defence’. The time of ‘playing offense’ is many years behind us.” (FESETE representative, 16/11/2022)

As stated above, the representative also admitted that “unity in action” among trade unions of the sector was important for FESETE, to avoid what happened in other sectors – CGTP-filiated unions being replaced by UGT unions which signed agreements with employers without their presence. In sum, despite the categorization of certain clauses (e.g. the new adaptability regime that was introduced) as “necessary” to the sector, the overall tone of the interview indicates that FESETE’s strategy was more about survival than choice. On the other hand, the SINDEQ representative praised the reform of collective bargaining that was conducted for “breaking the stalemate” and allowing the labour market to be “modernized”, while also repeatedly affirming the union’s stance on collective bargaining as a compromising and “realistic” one – in contrast to some CGTP unions’ stances, deemed as “populist”. While, in the end, both trade unions adopted a “pragmatist” point of view and conceded on the deregulation of – especially – outsiders’ working conditions to keep their collective agreements in existence, their discourse still reveals some fundamental differences in ideology. This was manifested especially through how they evaluated this turning point on collective bargaining that was the introduction of the 2003 Labour Code. It can be extracted from our analysis that, while there was unity in strategy and a similar outcome, the motivations were different for the different trade unions.

4.2 – Metal – class-oriented unions put aside

Just as in the textiles sector, the largest and therefore most representative trade union in metal (FIEQUIMETAL) is also affiliated with CGTP. UGT is represented at the bargaining table in the sector by smaller unions – SIMA and SINDEL. It was impossible to find the number of members for each union, or a recent figure on overall sectoral density. On the other hand, employers are represented at the bargaining table in the sector by AIMMAP and FENAME, also both part of CIP. With AIMMAP’s members accounting for 50,000 employees in the sector in 2015, and FENAME’s for 60,000 employees (Eurofound, 2018), employer association density can be measured as in the 60% range, since in the same year there were about 170,000 workers in metal.

At the time of introduction of the Labour Code, AIMMAP, FENAME, FIEQUIMETAL, SIMA and SINDEL were the organizations that had collective agreements in force. As Table 4.3 shows, and differently from what is observed in the textiles sector, there was a fairly lively dynamic of collective bargaining in place in metal: the agreements in force in 2003 had all been signed in the previous decade. The difference between the sectors in this regard could be attributed to the stronger position of the labour movement in metal, due to the differentiating micro and macroeconomic factors that have been discussed along this dissertation.

Table 4.3 – Agreements in force in the metal sector before 2003

Employer association – trade union pair	Collective agreement in force by 2003
AIMMAP - SINDEL(UGT)*	CCT in 2002
AIMMAP - SIMA(UGT)*	CCT in 1998
AIMMAP - FIEQUIMETAL(CGTP)	CCT in 2002
FENAME - SIMA(UGT)	CCT in 1996
FENAME - FIEQUIMETAL(CGTP)	CCT in 2000

The changes to collective bargaining enacted in the Labour Code meant that previous contracts were all renegotiated post-2009. A curiosity of this sector is that, with unions raising doubts about the legality of expiry (due to clauses in the collective agreements that explicitly prohibited it), there was a stalemate until a new version of the Labour Code (introduced in the said year) addressed the issue by invalidating such clauses.

After the stalemate was broken, collective agreements signed by different unions met different outcomes. FIEQUIMETAL saw its agreements with both employer associations expire, as did SIMA's agreement with FENAME. However, both SIMA and SINDEL signed revisions to the previous contracts. A content analysis conducted to these agreements, shown in Table 4.4, shows that, while they are not particularly more unfavourable to workers than the Labour Code – since only one clause goes “under” it, expanding the possible justification for the use of very short-term contracts (under 6 months) – , they remove a number of clauses that were part of previous agreements and granted additional perks, especially ones to do with insiders. In comparison to what was previously in force, the bonus pay for working overtime and holidays was lowered, as were meal allowances (relative to the minimum wage). The length of trial periods was expanded, and new “hour banks” (mechanisms similar to the adaptability regimes instituted in the textiles sector) were instituted allowing employers more flexibility in setting timetables without paying for overtime. Lastly, and perhaps more importantly, clauses that dictated automatic progression by seniority were erased.

Table 4.4 – Changes to agreements in the metal sector after 2003

Employer association – trade union pair	Outcome after 2003	Changes in content (clauses that were added/removed/modified)¹⁹	New clauses less favourable than the LC²⁰	New/remaining clauses more favourable than the LC
AIMMAP - SINDEL(UGT) ²¹	New CCT in 2010	<6; BPH; EH; HB; MA; PS; TP; UWT; WV	<6	UWT
AIMMAP - SIMA(UGT) ²²	New CCT in 2010	<6; BPH; EH; HB; MA; PS; TP; UWT; WV	<6	UWT
AIMMAP - FIEQUIMETAL(CGTP)	Caducity in 2009	EH; MA; NW; PS; SH; UWT	-	-
FENAME - SIMA(UGT)	Caducity in 2009	EH; BPH; MA; NW; PS; SH; TP; UWT; WA	-	-
FENAME - FIEQUIMETAL(CGTP)	Caducity in 2009	EH; BPH; DW; MA; NW; PS; SH; TP; UWT; WA	-	-

Legend	
HB	Hour banks (looser rules)
EH	Bonus pay on extra hours
PS	(Automatic) progression by seniority, red if removed
WV	Wage variation relative to the minimum wage (red if lower)
BPH	Bonus pay on holidays
MA	Meal allowance (red if removed, green when added)
NW	Bonus pay on nighttime work (green when added)
<6	Conditions to sign FTC under 6 months
DW	Inclusion criteria for disabled workers (red if removed)
WA	Complement to the insurance on work accidents
TP	Length of the trial periods
SH	Extra pay for working in shifts
UWT	Updating of wage tables - nominal wage increase (red if lost)

¹⁹ In this column, changes in content that make workers worse-off (through removal of beneficial clauses or introduction of detrimental ones) are marked in red; changes that make workers better-off (by the introduction of more beneficial clauses) are marked in green

²⁰ In the penultimate and last column, red and green are code colors for matters that are respectively worse and better for workers in comparison with the labour code's rule on the item

²¹ This agreement ended in caducity in 2009, before a new one was signed

²² *idem*

The upside of these agreements for the unions signing them seems to be, as observed in the textiles sector, that wage tables kept being updated, and so workers still had a premium over the national minimum wage. However, the median wage set in these agreements was relatively lower than previously set wages (when compared to the minimum wage).

For the other three agreements, caducity meant that not only were these favourable contents for workers lost, but also wage tables stopped being updated, setting the minimum standards at the the national minimum wage. Other contents that were part of these agreements, but not of the ones that were revised, were also lost, such as clauses on extra pay for nighttime work and work in shifts. On the other hand, FIEQUIMETAL avoided the clause on fixed-term contracts shorter than 6 months by not signing the agreements that SIMA and SINDEL did sign.

In the interview conducted with a representative of SINDEL, on the other hand, it was sustained that caducity was the least desirable outcome for the union, which motivated the concessions that were made:

“What did the workers - and the shop stewards - ask for in all companies? Not to have a ‘negotiating vacuum’ [the non-existence of an agreement].” (SINDEL representative, 17/05/2023)

“We were asked form several sides not to enter into expiry... having nothing, which was the worst thing.” (SINDEL representative, 17/05/2023)

Another important subject of discussion was the fact that wage tables were kept in force and updated yearly, which is an important element in the metal sector due to very low wages:

(Question) “We could say that - in terms of the issues that it was possible to maintain - the most important issue is the updating of the wage tables. It's enabling that to continue.” (SINDEL representative, 17/05/2023)

Those were the ones that... otherwise it was total meltdown. In those contracts where they really fell through - which are not ours - we have places where there was never any updating of wage tables. That to me is something...” (SINDEL representative, 17/05/2023)

The interview with a FIEQUIMETAL representative revealed that the agreements signed by SINDEL and SIMA were presented by employers to the CGTP-filiated trade union as their only option to keep a role as a bargaining partner by preserving a collective agreements. However, in contrary to what happened in the textiles sector, FIEQUIMETAL refused to concede and sign the revised agreements. Instead, this union's strategy was to attempt to preserve the rights defined in their 2000 agreement, even after employers decided on caducity:

"We had to reinvent ourselves, go to the roots of the trade union movement and, with creativity, seek to circumvent this context. How did we do this? We took refuge in lists of demands [*cadernos reivindicativos*], that is, we started to do something that, in that period, for our union project, was contradictory. You don't claim rights, you exercise them. And the role of the trade unions at that time was... many times we didn't even need the Authority for Working Conditions [institution that enforces labour law at firm level in Portugal] - at that time it was the Labour Inspectorate - because the trade union ended up replacing the Labour Inspectorate. In addition to demanding better conditions, better wages - these demands are always on the table, they are what signals the antagonism between labour and capital - but as for everything else what we did was "this right is to be respected, it's in the collective labour contract". And that natural authority at that time, the unions managed to conquer it. And from one moment to the next we had to start claiming what were our rights, we had to reinvent ourselves. And the lists of demands were the instrument we found to, company by company, with the pressure of the workers, force the employers to "ok, the contract from the administrative point of view has expired, but the rights do not expire"." (FIEQUIMETAL representative, 11/04/2023)

This was done both through courts (FIEQUIMETAL, 2016) – since, as explained above, a clause in the previous agreement deemed caducity impossible, a situation which was generally resolved when the 2009 Labour Code invalidated clauses of that sort from pre-2003 agreements) – and later on, at the firm level, as FIEQUIMETAL claimed the agreement to be in force, insisted that its clauses were respected at firm-level, and attempted to incorporate them in individual contracts. The union also resorted to protests and strikes – which are an important part of its strategy, as FIEQUIMETAL put out 79 strike notices between 2013 and 2019 (DGERT, 2022) - as forms of putting pressure on employers away from the bargaining table. The representative of FIEQUIMETAL whom we interviewed justified that it would have been “unnatural” for a CGTP union, historically tied to the class conflict between labour and capital, to sign what were referred to as “the employers’ agreements”, and claimed that taking matters

to the firm level was a long-term strategy so as not to “betray” workers and union members, and maintain the critical mass needed to face employers at the bargaining table again, in the future:

“We stuck to the Code and (...) we went for confrontation. We had no other alternative. And I believe that, despite everything, it was positive. Now the time has yet to come when we can make room to build up collective bargaining again. And it would have been possible to start that path if the current government had repealed those rules that led to the expiry from 2015 onwards. If that step had been taken, and admitting that if the step were taken it would not have to meet 100% of our demands – from our side there is always full willingness to find solutions - ...but at least something had to be done, and it wasn’t.

But we will not give up and we believe that in a few years we will succeed. And time itself, and life itself, I am convinced will help us in this. These employers’ associations and these companies are ‘doomed’ to have to relate to the CGTP unions, they have no other way. I don’t believe – honestly, from what I observe – that this new generation of workers that we have in the sector, will accept this framework of rights for a long time. These are people who are not available – fortunately – for that, to ‘eat and shut up’.” (FIEQUIMETAL representative, 11/04/2023)

In the case of the metal sector, we can see that the reform of collective bargaining resulted in a loss of rights for both insiders and outsiders, regardless of the approach taken (which, here, differed between the CGTP and UGT-pertaining unions). Moreover, the interviews revealed a fundamental difference in identity characteristics, and also in mobilization power, which dictated the different strategies that were adopted.

CHAPTER 5

Discussion

In the empirical section of this dissertation, it was expected that the comparative deep dive into these two cases, in which different union strategies to face liberalization (and, here specifically, the liberalizing transformation of collective bargaining) emerged, would help in discerning the factors that determine such differences.

As anticipated when analysing the strategies of unions affiliated to the two major confederations in Portugal - whose distinct political alignments and ideological positions usually amount to also differing approaches to trade unionism - it was found that not all trade unions in the metal and textiles sectors took the same approach under the threat of caducity. The documental content analysis shows that four trade unions conceded to the revision of collective agreements, making them more unfavourable to workers than before, while one preferred to face the caducity of its agreements. The interviews also showed different rationales behind these strategies.

However, the scenario that could be expected (the alignment of unions pertaining to the same confederation, with CGTP refusing dualization and UGT conceding to it) is not observed: it does occur in the metal sector, but not in textiles, where there was an alignment of the trade unions involved to sign revised agreements that made workers – and especially the ‘outsiders’ – worse off. This seems to contradict the argument found in the ‘solidarity’ literature on union ideology/identity being the main determinant of inclusive strategies (Dorigatti 2017, Durazzi 2017), and is also inconsistent with the stances adopted by the two confederations in regards to labour law reforms at the state level over the past decades (Marques & Fonseca, 2022). There seem to be three main explanations for this contradiction.

Firstly, and as the interviews have demonstrated, it seems that trade unions pertaining to the same confederation do not necessarily fall within the same ideological positioning or bear the same ‘identity’. It was discussed in the previous section that interviews in the textiles sector captured different rationales, with FESETE seemingly conceding to revised agreements in a reluctant way – having been forced by an undesirable reform – while SINDEQ framed the reform as desirable and necessary to ‘modernize’ collective agreements. However, FESETE was closer to UGT-pertaining SINDEQ than to FIEQUIMETAL, not only in strategy (as has been discussed already) but also in discourse: the interview with a FIEQUIMETAL representative – marked by a narrative of class struggle that was absent from the other four – was also the only interview of the set in which a strong concern was shown for the working

conditions of outsiders, and the inclusion of their interests in decision making. It became clear in the interviews that FIEQUIMETAL was ideologically incompatible, so to say, with the new agreements that were signed, while FESETE showed more willingness to negotiate, and generally a more social-partnership-like, or ‘pragmatic’ logic of trade unionism, as described by Távora and Pilar (2016). An interesting indicator of this heterogeneity in approaches to trade unionism inside CGTP is the frequency of strikes for FETESE and FIEQUIMETAL: in the 2013-2019 period FETESE emitted four strike notices, even less than SINDEQ’s five. On the other hand, FIEQUIMETAL stands at 79 (DGERT, 2022). This difference in desired levels of conflict seems to capture the heterogeneity present among confederations – and in this case, CGTP – quite well, which in turn contributes to different approaches to liberalization and dualization processes.

Secondly, there are also institutional factors and constraints here that contribute to a variation in outcomes, as accounted for in the solidarity literature (Pulignano et al., 2015). In our cases, sectoral differences regarding the frailty of workers and of the labour movement seem to play an important role in explaining why FESETE was more willing to compromise. While wages and the preservation of wage tables were important matters in both sectors, they were more significant in the textiles sector because of the generally lower wages. As Table 5.1 below shows, the percentage of workers earning minimum wage or less was considerably higher in textiles than in metal over the 2003-2010 period, as was the percentage of workers only slightly (less than 10%) above the minimum wage. This means that wage tables (and the minimum wage itself) are accurate predictors for wages in the textiles sector, while wages in metal tend to be significantly higher than the minimum wage, and according to one of our interviews, higher than what is set in the tables:

“ (...)we know that the tables are a minimum, firms are not obliged to pay just there, and most firms pay above the tables(...)” (SIMA representative, 05/07/2023)

Table 5.1: percentage of workers earning minimum wage or close in the metal and textiles sectors

% of workers...	...earning MW or less		...earning up to 10% more than MW	
	Textiles	Metal	Textiles	Metal
2003	9.5%	2%	37.9%	3.1%
2004	6.6%	2.5%	31.8%	4.1%
2005	8.1%	2.0%	33.2%	4.6%
2006	11.4%	2.3%	34.8%	5.4%
2007	19.3%	4.2%	32.0%	5.5%
2008	26.5%	4.8%	28.3%	7.4%
2009	23.6%	5.0%	34.6%	8.5%
2010	36.0%	9.6%	26.8%	9.5%

Additionally, the apparently stronger power resources of FIEQUIMETAL in the metal sector, compared to both its ‘competitors’ and to FESETE in textiles, seem to play a part in the viability of their non-compromise strategy, since it allowed for strong mobilisation to defend rights at firm-level, regardless of the expiry of collective agreements, through collective action at the workplace and on the streets. For other unions, a lower density means that such a path was not as reasonable, and the expected loss in membership due to not having an agreement would have been more damaging. The importance of density and power resources in allowing for inclusive strategies has been highlighted in the literature (Palier & Thelen, 2010) and was here highlighted by the words of the SINDEL representative that was interviewed:

“UGT, and I’m speaking in particular because of SINDEL - although I’m in the UGT, I’m Vice-President - we would lose out on the streets. CGTP does the job well, we can only do it if we join them.” (SINDEL representative, 17/05/2023)

In sum, the inter-sectoral differences in terms of labour and trade unions’ bargaining ‘positions’ proved more significant than expected in determining differences in strategy.

Third and lastly, another nuance is that these unions, or at least the actors that were involved in negotiation on their behalf, saw competition among the labour movement differently: while FETESE was adamant in avoiding competition for members in the textiles sector and was successful in doing so by aligning its strategy with SINDEQ's, a different dynamic emerged in the metal sector. FIEQUIMETAL interpreted the way negotiations were conducted as an ultimatum and prioritized the maintenance of a certain ideological standing over the competition for members. In parallel, SINDEL and SIMA capitalized on the expiry of said agreements to capture part of FIEQUIMETAL's membership, as admitted by the SIMA representative that was interviewed:

“As you know, FIEQUIMETAL said no, and then we have SINDEL and SIMA. Of course that played in our favour, when I say "our" I mean SIMA's and SINDEL's, both on the same line, it's obvious. (...) there is no doubt that the fact that one did not sign was beneficial to the others.”
(SIMA representative, 05/07/2023)

The representative of FIEQUIMETAL confirmed such scenario more explicitly:

“We lost unionisation in that period, I won't hide it (...) it was a period in which many workers, in order to have their wages updated, could not resist and were forced to [switch their membership]” (FIEQUIMETAL representative, 11/04/2023)

With FESETE holding a weaker position in terms of density than FIEQUIMETAL, the prospect of competition for (and decline in) membership was probably deemed even more unattractive, which made a unified strategy to be a priority. But this unified strategy was also born of the collaboration between individual actors (the representatives of FESETE and SINDEQ involved in the bargaining process). For this reason, the role of individual agency must not be forgotten.

CHAPTER 6

Conclusions

The aim of this dissertation was to contribute to the industrial relations literatures on dualization and solidarity, by establishing the differentiating factors in the adoption of strategies by trade unions to deal with liberalization. The main hypothesis to be tested, which derives from the literature on solidarity (Dorigatti 2017, Durazzi 2017), was that the identity of trade unions and their ideological positionings tend to influence the strategies chosen to approach liberalization of both collective bargaining and industrial relations in general the most, with more “radical” trade unions delving into conflict to fight this trend and more “moderate” trade unions conceding to dualizing reforms and other practices – sacrificing the rights of ‘outsiders’ to preserve those of ‘insiders’. The comparison of relatively similar sectors – here chosen as cases, with trade unions representing the same two different confederations (collective bargaining in textiles and metal therefore capturing CGTP and UGT’s ideological differences, and even the tension between them), was designed precisely to gauge the weight of union ideology in determining more ‘dualizing’ or, on the opposite, ‘solidaristic’ strategies in facing liberalization.

As discussed in the previous chapters, the results do not, at first glance, validate this hypothesis, since FESETE’s representative union in the textiles sector conceded to the signing of new agreements that were both liberalizing and dualizing (since they expanded employer discretion in regards to the use of atypical work beyond what was stated in the labour code). This does not disprove the importance of ideology as an explanatory factor, since, as demonstrated in Chapter 5, trade unions pertaining to the more radical confederation do not necessarily abide strictly to the same ideological principles – which is to be expected due to CGTP’s relative dimension (encompassing two-thirds of unionized workers). In fact, ideology proved an important factor in determining the strategies of the remaining unions here in question, as was mentioned by all four representatives in the interviews: FIEQUIMETAL’s refusal to concede did arise from an attachment to the class-oriented philosophy of trade unionism, in opposition to SIMA and SINDEL’s more ‘social-partnership’ style.

However, and most importantly, the results obtained prove the importance of other factors that interact with ideology in determining trade union strategies. Institutional factors which may vary between sectors, regions, or countries can also prove crucial to explain different strategies. In our cases, we found the differences in power resources of unions and bargaining position of the workforce across sectors to be important in explaining different outcomes. Furthermore, the

role of individual agency and ideas of union competition should also not be understated. This is the main contribution of this dissertation: while ideology is important in explaining strategic differences in trade unions' struggle against liberalization, and namely what pushes unions to adopt more inclusive strategies (or not), it is not the only important factor. Differences in institutional context and individual agency can also play a part, as illustrated by the cases of the Portuguese metal and textiles sectors in Portugal, after the reform of collective bargaining promoted in the 2003 Labour Code.

Furthermore, there are two notes which do not answer directly to the research question, but nevertheless seem important in the bigger picture of the dissertation.

The first note is to do with the impact of this reform on working conditions. Contrary to expectations, the new agreements that were signed by unions that did concede were detrimental not only to 'outsiders' – who were most targeted by the new clauses, but also to 'insiders', who also lost the favourable clauses which they had conquered in more favourable periods for bargaining. Instead of dualization, these changes in collective agreements seem to reflect a broader process of liberalization, which expanded employer discretion and flexibility for both segments of workers.

The second note, which logically follows the first, is that workers in general were – at least in these two sectors - the 'losers' of this transformation of collective bargaining. The elimination of the continuity rule and of the most favorable treatment principle meant that the representatives of labor and capital were made to negotiate working conditions 'freely', without mediation, with the balance of power being heavily in capital's favour. Logically, this allowed employers to expand their own discretion through collective bargaining, an institution which had previously served as a means of limiting said discretion. If Streeck and Thelen's (2005) conceptual framework of institutional change is used, one could identify the patterns of institutional drift (through decades of erosion of the labour movement's power resources) and conversion (through the 2003 reform) of the institution of collective bargaining in Portugal.

This insight could prove valuable in opening paths for future research: in the same way that a state-made institution designed to advance workers' rights and protect them was here led to, through a state-led liberalizing reform, produce outcomes that further deregulate work, this pattern may also be verifiable for other study cases.

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Attachments

Attachment 1 – list of interviews/interviewees

1. FESETE representative, 16/11/2022 (Porto)
2. SINDEQ representative, 03/01/2023 (Porto)
3. FIEQUIMETAL representative, 11/04/2023 (Lisbon)
4. SINDEL representative, 17/05/2023 (Lisbon)
5. SIMA representative, 05/07/2023 (Lisbon)

Attachment 2 – list of documents (agreements and expiry notes) for the content analysis (all found in *Boletins de Trabalho e Emprego*)

1. CCT para o setor têxtil (BTE nº34, 15/09/1980) – **sector-wide agreement in textiles, replaced by later agreements that were specific to certain unions and employer associations**
2. CCT entre a Assoc. Nacional das Ind. Têxteis, Algodoeiras e Fibras e outras e o Sindetex – Sind. Democrático dos Têxteis e outros (BTE nº37, 08/10/1981) – **agreement between ATP and SINDETEX, which merged with SINDEQ in 2011**
3. CCT entre a ANIVEC – Assoc. Nacional dos Industriais de Vestuário e Confecção e a Feder. dos Sind. Dos Trabalhadores Têxteis, Lanífcios, Vestuário, Calçado e Peles de Portugal e outros (BTE nº44, 29/22/1987) – **last agreement between ANIVEC and FESETE pre-2003**
4. CCT entre a AIMMAP – Assoc. dos Industriais Metalúrgicos, Metalomecânicos e Afins de Portugal e o SIMA – Sind. das Ind. Metalúrgicas e Afins. (BTE nº29, 08/08/1998) – **last agreement between AIMMAP and SIMA pre-2003**
5. CCT entre a FENAME – Feder. Nacional do Metal e a FIEQUIMETAL – Feder. Intersindical da Metalurgia, Metalomecânica, Minas, Química, Farmacêutica, Petróleo e Gás e outros. (BTE nº31, 22/08/2000) – **last agreement between FENAME and FIEQUIMETAL pre-2003**
6. CCT entre a AIMMAP – Assoc. dos Industriais Metalúrgicos, Metalomecânicos e Afins de Portugal e a FIEQUIMETAL – Feder. Intersindical da Metalurgia, Metalomecânica, Minas, Química, Farmacêutica, Petróleo e Gás e outros. (BTE nº11, 22/03/2002) – **last agreement between AIMMAP and FIEQUIMETAL pre-2003**
7. CCT entre a AIMMAP – Assoc. dos Industriais Metalúrgicos, Metalomecânicos e Afins de Portugal e o SINDEL – Sind. Nacional da Ind. e da Energia. (BTE nº15, 22/04/2002) – **last agreement between AIMMAP and SINDEL pre-2003**
8. CCT entre a ANIVEC/APIV – Assoc. Nacional das Ind, de Vestuário de Confecção e a FESETE - Feder. dos Sind. Dos Trabalhadores Têxteis, Lanífcios, Vestuário, Calçado e Peles de Portugal – Revisão global. (BTE nº20, 29/05/2006) – **first agreement between ANIVEC and FESETE (also signed by SINDEQ) post-2003**
9. Contrato colectivo entre a AIMMAP – Assoc. dos Industriais Metalúrgicos, Metalomecânicos e Afins de Portugal e o SIMA – Sind. das Ind. Metalúrgicas e Afins. BTE nº30, 15/08/2010) – **first agreement between AIMMAP and SIMA (also signed by SINDEL) post-2003**
10. Aviso sobre a data da cessação da vigência do contrato colectivo de trabalho entre a AIMMAP – Associação dos Industriais Metalúrgicos, Metalomecânicos e Afins de Portugal e a FIEQUIMETAL –

Feder. Intersindical da Metalurgia, Metalomecânica, Minas, Química, Farmacêutica, Petróleo e Gás e outros. (BTE n° 14, 22/04/2009) – **caducity note relative to the 2002 agreement between AIMMAP and FIEQUIMETAL**²³

Attachment 3 – interview scripts (in light of the previous content analysis)

Questions asked to all representatives:

- The 2003 Labour Code brought new developments regarding the relationship between labour legislation and collective bargaining, namely the change to the principle of more favourable treatment, which now allows the rules of the Code to be overridden by "collective labour regulation instruments", even if their clauses are more unfavourable to the worker. In your opinion, does this have a positive or negative impact on collective bargaining and on your organisation's bargaining position?
- The 2003 Labour Code also allowed collective agreements to be terminated unilaterally, without the signing of a new agreement. In 2009, a new amendment repealed the clauses in collective agreements that cancelled this possibility. In your view, does this have a positive or negative impact on collective bargaining and on your organisation's bargaining position?
- Collective bargaining aside, how did the union intervene in terms of collective and social action during this period of erosion of workers' rights, through the institution of the expiry of agreements?

Additional questions asked to FESETE:

- In 2009, after the Labour Code was updated and the barriers to the expiry of collective agreements were conclusively removed, several collective agreements expired in the industrial sector due to the apparent inflexibility of the unions in accepting less favourable conditions for their workers. However, this was not the case for FESETE, which signed new collective labour agreements with ANIVEC/APIV and ATP in 2006, conceding on several issues, such as the regulation of fixed-term contracts. Why did FESETE concede in this case?
- Within CGTP itself, some unions in other sectors have apparently remained more intransigent, letting existing collective agreements expire. How do you think we can explain this difference?
- Conversely, the signing of this new agreement has allowed FESETE to keep its wage tables up to date, for example. How important was it for the union to maintain this condition, and what other matters were important for FESETE to maintain?
- How important is it for the union to maintain its relevance in terms of collective bargaining, even if this means compromising on agreements?

Additional questions asked to SINDEQ:

- In the specific case of the textile sector, how would you characterise labour relations and collective bargaining (more harmonious or conflictual)?
- We had the opportunity to interview a union leader from FESETE (the CGTP union in the sector), who told us about the collaboration between the two unions in the post-2003 period, in order to achieve the best conditions for workers. What role did SINDEQ play in this collaboration?

²³ This was the only expiry note considered, since FIEQUIMETAL was the only union that did not sign new agreements following the expiry. The note of expiry relative to the agreement with FENAME could not be found.

- In the collective agreement currently in force with ANIVEC, there are clauses that appear to be more unfavourable to workers than those stipulated by the Labour Code, particularly with regard to the viability of fixed-term contracts. In your opinion, is this a justifiable compromise in order to maintain a collective agreement under unfavourable conditions?

Additional questions asked to FIEQUIMETAL:

- In 2009, when the Labour Code definitively removed the obstacles to the expiry of collective agreements, FIEQUIMETAL's agreements with AIMMAP and FENAME expired, and to this day there are no new collective agreements signed by the sector's largest union. How did the negotiations that led to the expiry take place, and what demands did FIEQUIMETAL make that could have led to an agreement if they had been respected?
- Within the CGTP itself, some unions in other sectors have apparently taken a more conciliatory stance, signing new collective agreements at the cost of some compromises on workers' rights. How do you think we can explain this difference?

Additional questions asked to SINDEL:

- In 2009, following the update of the Labour Code, which definitively removed the barriers to the expiry of collective agreements, several collective agreements expired in the sector due to the apparent inflexibility of the unions in accepting less favourable conditions for their workers. However, this was not the case for SINDEL, which signed a new collective labour agreement with AIMMAP in 2010, giving in on several issues. For example, the new agreement no longer includes a seniority progression clause. What was the rationale behind signing this agreement?
- Conversely, signing this new agreement allowed SINDEL to keep its paycales signed with AIMMAP up to date, for example. How important was it for the union to maintain this condition, and what other matters were important for FETESE to maintain?
- How important is it for the union to maintain its relevance in terms of collective bargaining, even if this means compromising on agreements?

Additional questions asked to SIMA:

- In 2009, following the update of the Labour Code, which definitively removed the barriers to the expiry of collective agreements, several collective agreements expired in the sector due to the apparent inflexibility of the unions in accepting less favourable conditions for their workers. However, this was not the case for SIMA, which signed a new collective agreement with AIMMAP in 2010, giving in on several issues. For example, the new agreement no longer includes a seniority progression clause. What was the rationale behind signing this agreement?
- Conversely, the signing of this new agreement allowed SIMA to keep the wage tables signed with AIMMAP up to date, for example. How important was it for the union to maintain this condition, and what other matters were important for FETESE to maintain?
- How important is it for the union to maintain its relevance in terms of collective bargaining, even if this means compromising on agreements?