

3 Employment Protection and Collective Bargaining Reforms after Austerity

Divergent Paths in Portugal and Spain

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Introduction

Policies implemented during the Great Recession overhauled the institutional architecture governing labour markets and systems of industrial relations in Iberia. Although earlier reforms had already paved the way for labour-market flexibilisation and the erosion of employment protection through two-tier changes, the measures adopted under the conditionality attached to the Memorandum of Understanding in Portugal and under austerity politics in Spain not only accelerated these trajectories but also recast core pillars of the employment-relations edifice, thereby weakening the capacity of social partners to regulate working conditions.

Iberian crisis-era reforms depleted the regulatory and protective force of employment legislation and collective bargaining. Deregulation of employment protection, together with expanded employer discretion over working conditions, served the strategic objective of internal devaluation in pursuit of cost-competitiveness. The Iberian model of sectoral bargaining was profoundly reshaped; the *favor laboratoris* principle was derogated; the administrative extension of agreements was curtailed; and expiry regimes for collective agreements were established (introduced in Spain in 2012 and already in place in Portugal since 2003).

These reforms acquired strong symbolic significance for trade unions and left-wing parties, over and above their measurable effects on inequality and working conditions. In the post-crisis period, left parties and trade unions placed the reversal of labour-market reforms at the centre of their programmes and used it as a key device to mobilise voters. The limited capacity of austerity-era measures to address soaring unemployment and inequality, together with declining productivity and stagnant economic growth thereafter, created a favourable environment for electoral upheaval in the Iberian countries and the formation of left-leaning coalitions. The objective was to reduce dualisation by promoting inclusive solidarity that would enhance the rights and protection of outsiders while maintaining, or increasing, those of insiders.

Following the accession of progressive left coalitions to office in Portugal (2015) and Spain (2019), Iberian governments embarked upon labour-market reforms designed to reverse key elements of the austerity settlement. Coalition governments in both countries relied on social dialogue to bolster the legitimacy of the reforms, whilst also undertaking inter-party negotiations to secure parliamentary approval. Despite broadly similar trajectories and political contexts, notable differences emerged in both the process and the substance of the reforms enacted.

The chapter is organised as follows: the first section sets out the institutional and policy trajectories of Iberian labour markets; the second section analyses the 2019 Portuguese reform, first through social concertation and then through the parliamentary legislative process; the third section examines Spain's 2021 reform, likewise via social dialogue and its passage through the *Cortes*; the fourth section undertakes a systematic Portugal–Spain comparison; and the final one presents the discussion and conclusions.

Throughout, we align concepts with Chapter 2 in three respects. First, arena choice is treated as endogenous to bloc priorities. Secondly, concertation is analysed as a joint-decision setting that embeds a consent constraint on measures raising labour costs or curbing managerial discretion. Thirdly, we characterise the EU as a conditional external selector that oscillates between 'liberal' and 'social' configurations.

Iberian Labour Market Institutions and Policy Trajectories

Iberian labour markets show the typical features of the Mediterranean model of industrial relations (Afonso et al., 2022: 117–120). State intervention is extensive, via strong statutory legislation; legal support for, and procedural regulation of, multi-employer collective bargaining (e.g., state-backed sectoral extensions of collective agreements). Highly fragmented and competitive unions and employers' organisations generate a weak capacity for autonomous coordination and cooperation (Crouch, 1993; Molina and Rhodes, 2007: 225–227), a deficiency that has been offset by state intervention.

The industrial relations system is broadly adversarial. Unions and employers' organisations struggle to aggregate internal interests and to reach autonomous compromises. Historically, weak national-level corporatist structures mean that the political relations of unions and employers with the state combine confrontation with occasional accommodation through incorporation. Neither producer group played a role in the development and management of welfare-state institutions (Andreotti et al., 2001: 49), nor have they been routinely incorporated into policymaking through institutionalised corporatist concertation, unlike in Northern Europe. Even so, they have at times acted as veto players through union mobilisation and disruption during industrial conflict.

The state has engaged in tripartite political exchange with social partners to secure their acquiescence and collaboration in policy reforms and in the

coordination of industrial relations, to overcome veto powers, and to resolve distributive conflicts (Molina, 2006). Tripartite social concertation has often been used to facilitate wage moderation or labour-market flexibilisation (Ebbinghaus and Hassel, 2000; Hancké and Rhodes, 2005; Molina and Rhodes, 2007).

Portugal's social-revolutionary transition to democracy divided trade unions along ideological and partisan lines and, despite a few, but important, unitary actions such as general strikes, this produced endemic organisational weakness in the labour movement. The early hegemony of the General Confederation of Portuguese Workers (CGTP) was challenged in 1978 by the creation of the General Union of Workers (UGT-P). The former represents 62% of unionised workers and maintains strong links with the Portuguese Communist Party (PCP), while the latter has close relations with the centre-left Socialist Party (PS) and the centre-right Social Democratic Party (PSD), the main governing parties (Campos Lima and Naumann, 2011). CGTP has retained an adversarial, class-struggle approach, whereas UGT-P adopts a social-partnership, reform-oriented stance. CGTP has greater mobilisation capacity; UGT-P prioritises social concertation. Combined membership fell from about 1.5 million in 1980 to 0.5 million in 2015, and union density declined from a peak of 60% in the 1970s to 19% in 2016 (Campos Lima, 2019).

Employers are likewise fragmented across several organisations. At the macro level they split along sectoral lines: the Confederation of Portuguese Industry (CIP) for manufacturing industries, the Portuguese Confederation of Farmers for agriculture, the Confederation of Commerce and Services of Portugal, and the Confederation of Portuguese Tourism. Attempts to create a single peak organisation have failed. While the larger CIP has pressed for a united institutional front, the others have resisted in order to preserve organisational autonomy. Membership rates fell from nearly 60% in 2002 to under 40% in 2011 (Lisi and Loureiro, 2022).

In Spain, the weakness of civil society and social partners is a critical legacy of the 40-year dictatorship. The trade-union movement that emerged during the transition to democracy is an attenuated duopoly of two large national confederations – the General Workers' Union (UGT-S) and the Trade Union Confederation of Workers' Committees (CCOO) – alongside a number of small professional and/or regional confederations. The different ideological and associational traditions of the two main confederations, the CCOO and the UGT-S, produced divergent strategies: bottom-up and top-down, respectively. The CCOO arose from clandestine worker mobilisation in the industrial belt of Barcelona and enjoyed stronger roots at company level, a more decentralised organisation, and a relatively robust capacity for mobilisation. By contrast, the UGT-S returned to Spain immediately after democratisation and looked to the state to build organisational strength, making it more supportive of pacting than its rival, at least until the late 1980s. Its close links with the Spanish Socialist Workers' Party (PSOE) also made it more

inclined to cooperate via pacts, whereas the most powerful influence within the CCOO, albeit declining from the late 1980s, was the Spanish Communist Party. Inter-union competition for members and votes in workplace elections prevented strong labour-movement unity until the mid-1990s.

Organisational weakness was even more pronounced among employers. The Spanish Confederation of Employers' Organisations (CEOE), created in 1977, had a highly fragmented membership and lacked disciplinary control over its constituency. Its organisational structure has always been highly complex: in 1985 there were 114 sectoral associations and 50 territorial associations (firms are usually affiliated to these organisations rather than to the peak CEOE), with both numbers increasing in subsequent years (Eurofound, 1999). As a result, the CEOE has had an ambivalent view of concertation. While organisational weakness has obliged it to take a critical position towards pacts, from which employers expect to obtain less than unions, participation has also provided it with influence.

The most enduring feature of Iberian labour markets has been acute dualism, generating a large share of temporary employment, compounded by occupational and fragmented social insurance, thereby reinforcing insider-outsider divides. Since the mid-1980s, two-tier reforms have emerged as a politically viable way to circumvent the 'Maginot line' of stricter employment protection for standard workers. Shortly thereafter, labour markets developed intense dual segmentation (in terms of employment protection and dismissal costs), producing the largest share of atypical employment in Europe. A pattern took root: low annual transition rates to open-ended employment created a growing periphery of insecure workers trapped between recurring spells of temporary work and unprotected unemployment.

Consider the paradigmatic Spanish two-tier reform of 1984. The 1980 Workers' Statute restricted the use of temporary contracts to less than 10% of all contracts. Facing an economic downturn in the wake of the second oil-price shock, mass unemployment, and social unrest, the PSOE cabinet pursued labour-market liberalisation as the route out of 'Eurosclerosis' towards job creation. Given trade-union opposition to deregulating permanent contracts, relaxing the regulation of fixed-term contracts presented the path of least political resistance. Henceforth, temporary workers could be hired to perform permanent activities and dismissed at much lower cost. The 'employment-promotion contract' carried severance of 12 days' wages per year of service (maximum duration three years), while other forms of fixed-term contracts carried none. Severance for permanent contracts in cases of fair and unfair dismissal remained at 20 and 45 days' wages per year of service (capped at 12 or 42 months' wages, respectively). The differential in termination costs, combined with a pre-determined expiry date, incentivised employers to deploy fixed-term work not only to meet seasonal needs but also to adjust to the economic cycle, or even as a cheaper, more pliable substitute for permanent, structural labour needs. By the early 1990s, the share

of temporary contracts was approaching 35%, and it never fell below 30% until the Great Recession (Marques and Fonseca, 2022). High turnover, eased by access to unemployment benefits, translated into low annual conversion rates into permanent contracts.

In both countries, segmentation by contract type (compounded by age and gender) separates a core of standard workers from a growing periphery of insecure workers who bear the brunt of adjustment. Stable employment trajectories for the former contrast with the latter's entrapment between recurrent bouts of unemployment and short-term work. Distinctively, Spain has the largest share of temporary employment and the lowest transition rate to permanent employment in Europe, together with persistently high unemployment. Portugal, by contrast, faces particularly acute age-based labour-market inequalities: young people are disproportionately represented in the sizeable temporary segment and among the unemployed, while enjoying far less protection from unemployment insurance and social security more generally (Marques and Salavisa, 2017; Branco, 2022).

Portugal's 2019 Labour Market Reform (Law 93/2019)

This section examines the Portuguese reform's policymaking process in two stages: social dialogue culminating in the 2018 tripartite agreement and the subsequent parliamentary debate. To appreciate the scope of the 2019 reform, it is necessary to recall the main features of the austerity-era legislation it was meant to revise. During the Troika period (2011–2014) the labour code was liberalised in ways that simultaneously reduced employment protection legislation and weakened multi-employer bargaining. Severance pay for standard workers was cut from 30 to 20 days per year of tenure and then to 18 days, and compensation for new fixed-term workers was likewise lowered from 36 or 24 days to 20 days and then to 18 days. The definition of fair dismissal was broadened beyond 'just cause' to include unsuitability or redundancy, while the ranking criteria introduced in 2014 prioritised the dismissal of workers with low performance, few qualifications, or higher labour costs. The requirement to redeploy redundant workers to alternative posts was removed, making dismissals simpler and cheaper.

At the same time, the conservative government tried to decentralise collective bargaining and strengthened employer prerogatives. The threshold for works councils to negotiate firm-level agreements was reduced from 500 to 150 employees, allowing non-union bodies to conclude company agreements with union authorisation. Company agreements were given priority over sectoral agreements and employers were empowered to unilaterally change working conditions. Extensions of sectoral agreements were made conditional on the representativeness of the employer associations. The ultra-activity regime was weakened: collective agreements could be terminated unilaterally after three rather than five years, and expired agreements only remained valid for 12 rather than 18 months, after which firms could withdraw without

providing reasons or submitting to arbitration. Companies in financial difficulty were authorised to suspend agreements temporarily.

The formation of the centre-left minority government in 2015 with parliamentary support from the PCP and the Left Bloc (BE) created a window of opportunity for reform. The government issued a Green Book on labour relations and, after negotiations with employers and the moderate trade union UGT-P, signed a tripartite agreement in June 2018 aimed at combating precariousness, revitalising collective bargaining, and strengthening public regulation. Unlike the radical left parties, the government did not seek to restore the pre-2003 collective bargaining regime or the full favourability principle, and it signalled that the end of the ultra-activity regime of collective agreements would remain part of Portugal's labour law tradition.

The 2019 reform reflected this compromise. On the one hand, it strengthened the regulation of non-standard employment (Table 3.1). With respect to fixed-term contracts, the law removed 'first-job seekers' as a lawful justification and confined their use to genuine temporary needs, long-term unemployed persons and new activities; the threshold for start-ups was lowered from firms with fewer than 750 workers to 250 workers, and contracts linked to the start-up of a new activity could only be concluded within the first two years of that activity. The maximum cumulative duration of successive fixed-term contracts was reduced from three years to two years, although the number of successive contracts remained four. The maximum duration of contracts of uncertain duration was reduced from six to four years. Compensation for temporary workers remained at 18 days of base salary per year of tenure and the trial period remained 30 days for contracts longer than six months and 15 days for shorter contracts. Regulation of

Table 3.1 Portugal – Employment protection legislation: Crisis-era changes (2012–2014) and the 2019 reform

<i>Dimension</i>	<i>Troika-era reforms (2012–2014)</i>	<i>2019 reform (Law 93/2019)</i>
Permanent contracts: severance pay	Severance compensation cut from 30 to 20 days per year of tenure and then to 18 days; capped at one year's wages	Unchanged: compensation remains at 18 days per year of tenure, with the same cap
Permanent contracts: fair dismissal criteria	Broadened definition of fair dismissal (unsuitability, redundancy); 2014 ranking rules prioritise dismissal of workers with lowest performance, qualifications, or higher labour costs	Unchanged: same broad definition and ranking criteria

Table 3.1 (Continued)

<i>Dimension</i>	<i>Troika-era reforms (2012–2014)</i>	<i>2019 reform (Law 93/2019)</i>
Permanent contracts: trial period	General probatory period: 90 days; 180 days for complex jobs; 240 days for managers	General probatory period unchanged; new 180-day trial period for first-time job-seekers and long-term unemployed
Fixed-term contracts: valid cases	Allowed for temporary needs, launching new activity, hiring first-job seekers and long-term unemployed, and start-ups (<750 employees)	Use limited to temporary needs, new activity and long-term unemployed; start-ups threshold lowered to <250 employees and only within 2 years of the start-up; first-job seekers removed
Fixed-term contracts: max successive contracts	4 contracts (plus transitional extensions)	4 contracts
Fixed-term contracts: max cumulative duration	Standard cap 3 years (with exceptions up to 4.5/5.5 years)	Cap reduced to 2 years
Fixed-term contracts: severance pay	Initially 20 days per year of tenure; cut to 18 days in 2013	18 days per year of tenure (unchanged)
Fixed-term contracts: trial period	30 days for contracts >6 months; 15 days otherwise	Unchanged
Uncertain-duration contracts: max duration	6 years	4 years
Temporary agency work: max duration and renewals	Assignments up to 2 years; renewals allowed if justification persists	Assignments up to 3 years; 6 renewals (unlimited for substituting absent workers)
Bogus self-employment	Presumption of employment triggered when a worker derives $\geq 80\%$ of income from a single client	Threshold lowered to 50% of income from one client

Source: Authors' own elaboration.

temporary agency work was tightened by imposing a cap of six renewals and increasing the maximum duration of assignments from two to three years. A further novelty was a presumptive test against bogus self-employment: the threshold of income derived from a single client triggering a presumption of employment was lowered from 80% to 50%.

On the other hand, the reform barely altered job security for permanent contracts. Severance pay for standard workers remained at 18 days per year of service, and the broad definition of fair dismissal and ranking criteria adopted in 2014 were untouched. The general probation period remained 90 days, but a new six-month (180-day) trial period was introduced for first-time job-seekers and long-term unemployed workers, a measure justified by the government as a way of discouraging recourse to temporary contracts.

In collective bargaining, the law made only partial changes (Table 3.2). It retained the priority of firm-level agreements and left unaltered the shortened deadlines for unilateral termination (three years) and the 12-month validity of expired agreements. Employers in financial difficulty were, however, deprived of the unilateral right to suspend collective agreements. At the same

Table 3.2 Portugal – Collective bargaining and wage-setting: Crisis-era changes and the 2019 reform

<i>Dimension</i>	<i>Troika-era reforms (2012–2014)</i>	<i>2019 reform (Law 93/2019)</i>
Who can negotiate?	Company-level bargaining open to works councils with a union mandate (companies with ≥ 150 workers); union and employer federations can negotiate multi-employer agreements	Unchanged
Favourability principle	Collective agreements allowed to derogate from statutory minima in areas such as working time and severance pay	Areas in which agreements can derogate from statutory law curtailed; individual contracts can only override collective agreements when more favourable to workers
Priority of company agreements	Company agreements take precedence over sectoral agreements	Unchanged
Ultra-activity (expiry of agreements)	Unilateral termination allowed after 3 years (down from 5); expired agreements valid for 12 months (down from 18); firms in difficulty could opt out temporarily by agreement	Deadlines unchanged (3 years and 12 months); companies in difficulty can no longer unilaterally suspend agreements
Extension of agreements	State extensions conditional on employer-representativeness: unions must represent $\geq 50\%$ of workers or $\geq 30\%$ of small and medium-sized enterprises (SMEs)	No representativeness criteria: government may extend sectoral agreements administratively

Source: Authors' own elaboration.

time, the government resumed the use of the extension mechanism without the representativeness criteria introduced during the Troika period, once again allowing sectoral agreements to be extended by administrative decision. The ability of collective agreements to derogate from statutory minima was curtailed: areas in which agreements could set terms less favourable than the law were restricted and individual employment contracts could only override collective agreements when providing more favourable conditions to workers.

From the standpoint of the Socialist government, the reform represented a pragmatic compromise that responded to concerns about precariousness while preserving a degree of labour market flexibility. For the PCP, the BE, and the CGTP, it fell short of restoring pre-crisis standards because it did not reverse the reduction in severance pay, nor restore the ultra-activity of collective agreements. Conversely, employer organisations were reassured that the core liberalising features of the Troika reforms were left intact.

Social Concertation: The 2018 Tripartite Agreement

Given the political composition of the *Geringonça*,¹ a tripartite agreement offered the government a way to circumvent longstanding ideological disputes with its radical-left partners. In doing so, however, it also generated internal tensions, as we shall see. Crucially, the balance of political power in parliament differed from that within social concertation. Whereas social concertation inherently grants employers and the moderate trade union UGT-P a *de facto* veto, the parliamentary arena was more amenable to the left parties, whose potential withdrawal of support could bring down the minority PS government. In Chapter 2's terms, concertation embeds a consent constraint: because employer approval is priced into the decision rule, measures that raise labour costs face a *de facto* veto threshold. This pushes settlements towards least-common-denominator outcomes or to the corollary sphere, unless governments wield a credible legislative fall-back.

For the government, securing the social partners' buy-in was vital for reasons of legitimacy, policy coordination, and the mitigation of opposition. A negotiated solution was politically more robust. As one MP explained, social concertation 'insulates' political initiatives from present and future challenges arising from the electoral cycle on both the left and the right, as well as from 'external pressures' (Interview 11). As a PS MP stated in Parliament:

The role of social concertation [...] is essential to protect the measures combating precariousness from future drifts from the right, as well as external pressures from international institutions that are only interested in flexibilization and cuts.

(MP Tiago Ribeiro, 07/07/2018)

Conversely, an MP from the radical-left BE was dissatisfied with the limited capacity to effect changes to the content of legislation flowing from the tripartite social pact into parliament, viewing that process, steered by the incumbent centre-left PS, as an attempt to circumvent parliament's legislative role and as a debasement of 'our democratic decision-making system on labour laws [...] through a kind of neo-corporatist bias' (Interview 2).

In 2016, the government issued the *Green Book on Labour Relations* with the involvement of the social partners, whose key role was to delineate the perimeter of discussion by establishing which issues were 'on the bargaining table' and which were not. The Green Book prioritised 'combating precarious work and labour-market segmentation,' 'dignifying working conditions,' and 'revitalising collective bargaining' (Dray et al., 2016). Notably, it omitted both the restoration of the ultra-activity regime and the full reinstatement of the favourability principle.

Subsequently, in June 2018, the Socialist cabinet, UGT-P, and the employers' confederations signed a tripartite agreement that sought to: 'fight precariousness and reduce labour-market segmentation'; 'promote the dynamism of collective bargaining'; and 'reinforce the public means and instruments of labour regulation' (CPCS, 2018). In parliament, the Socialist Minister of Labour, Solidarity and Social Security explained that the executive did not favour restoring the ultra-activity of collective agreements, as the existing expiry regime was 'part of the history and tradition of the Socialist Party.'² The party had adopted this regime during a previous term in office when it passed the 2009 labour market reform, again on the basis of a tripartite social pact. A former cabinet member with direct responsibility in this area stated:

For the PS, there was never a question of re-introducing the ultra-activity of collective agreements, nor was it admissible; not for ideological reasons, but because this was seen as returning to a past of stalled collective bargaining, which does not help collective bargaining to become more relevant.

(Interview 4)

UGT-P explained that the 2018 tripartite agreement curtailed both the maximum duration and the lawful scope of fixed-term contracts and opened the possibility of "eliminating individual working-time banks." On the expiry regime, UGT-P "never advocated the reversal tout court," since its introduction back in 2003 had "brought about a renewal of collective agreements." Before then, some agreements had remained unchanged "for over thirty years," resulting in "disharmonised wage scales across sectors." Nonetheless, UGT-P lamented employers' abusive use of the expiry clause and called on future reforms to require a reasoned expiry claim or an arbitration procedure (Interview 8).

It is perhaps unsurprising that CGTP did not sign the social pact, arguing that the agreement did not address “structural issues” from a class-based perspective: it failed to resolve “the problems of the expiry regime of collective agreements and the full restoration of the *favor laboratoris*, combat the spread of precariousness, or respond to the problems that arise from a fairer distribution of wealth” (Interview 7).

The government’s stance reflects endogenous arena selection by a Centrist–Employer bloc (see Chapter 2) seeking the legitimising benefits of pacting while maintaining control over the agenda perimeter.

Legislative Process in the Assembleia da República (2018–2019)

From the outset, the legislative process was shaped by divergent strategic orientations among the left parties, the right-wing parties, and the Socialist government.

On the left, BE and PCP argued that parliamentary discussion ought not to be constrained by the social pact, given parliament’s exclusive legislative competence over matters related to social concertation. Between 2016 and 2018, both parties repeatedly introduced bills that embodied a clear reform agenda: regulation of atypical employment; derogation of the expiry regime; full reinstatement of the favourability principle; and the reversal of crisis-era liberalisation of dismissals for permanent contracts. These initiatives were repeatedly voted down by a majority composed of the PS and the right-wing PSD and CDS – People’s Party (CDS-PP).³

For the right-wing parties, no labour-code reform was needed. Failing that, they sought to keep legislation strictly within the four corners of the 2018 social pact. As a rule, “whatever is decided in social concertation, we follow,” stated a PSD MP (Interview 10). Social concertation “is where employers and workers are represented and where the Government, which is also an employer and exercises political power, arbitrates to find some consensus between these two sides” (CDS-PP MP, Interview 6). MPs from both parties advanced these positions in parliament from 2016 to 2018.⁴

For the minority Socialist government, within social concertation employers’ associations were the crucial constituency to secure for the social pact (given UGT-P’s alignment and CGTP’s exit option), whereas in parliament the radical-left parties held the pivotal votes. If they withdrew support, the PS would have to rely on the right – exactly what happened. As a CDS-PP MP put it, the PS ended up ‘relying on the right-wing votes [to pass the reform bill] so as to foil PCP’s and BE’s proposals. PCP and BE were left utterly dissatisfied’ (Interview 6). In July 2018, the government submitted Law Proposal 136/XIII – *Altera o Código de Trabalho, e a respetiva regulamentação, e o Código dos Regimes Contributivos do Sistema Previdencial de Segurança Social* – thereby initiating a legislative process that concluded in July 2019. Following this proposal, the left parties (PCP, BE, and Ecologist Party “The

Greens” (PEV)) alongside People-Animals-Nature (PAN) presented several bills.⁵

To explore the dynamics between parties and the government during the legislative discussion, we analyse the parliamentary debates using the MAXMaps tool in MAXQDA (Figure 3.1). The map displays relationships between key themes in the legislative process and political actors, as well as the intensity of those connections. The circles represent both the categories of analysis and the political actors; the lines represent the connections (the thicker the line, the stronger the connection). As regards the government, while it is connected to themes such as precariousness, segmentation, and collective bargaining – similarly to the left parties – it takes a different view of these issues. One of the most prominent points of contention was the proposal to extend the trial period from 90 to 180 days, presented as a way to limit the use of fixed-term contracts, particularly for young workers.⁶ The left parties are strongly connected to themes such as collective bargaining, the favourability principle, and precariousness, and are at odds with the government. They are also linked to the idea of trade-offs – measures compensating employers – as well as to the theme of parliament’s legitimacy to reform labour law. These parties were highly critical of extending the trial period, which they argued increased job insecurity and offered employers

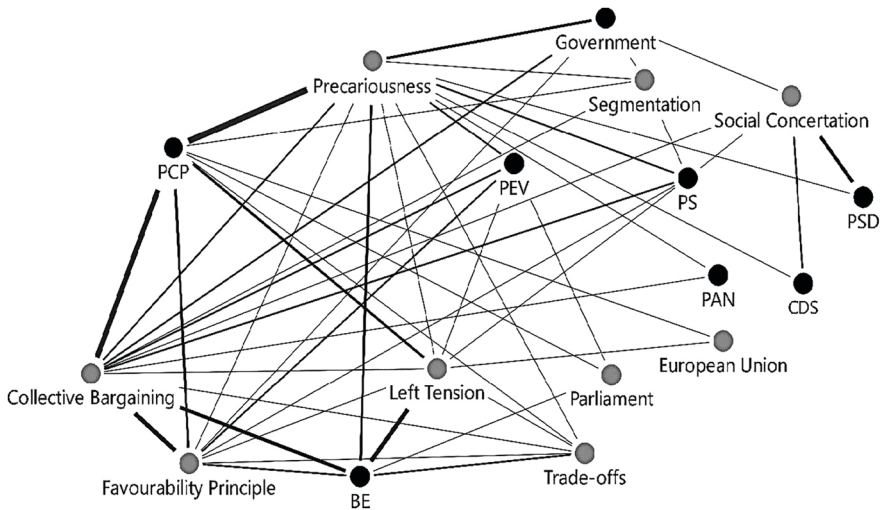


Figure 3.1 Portugal (2016–2019): Connections between key themes and political actors in legislative debates.

Source: Own elaboration using the MAXMaps tool from the MAXQDA programme.

Note: Key: black: political actors (parties and the government) | grey: dimensions of analysis.

unwarranted compensation for accepting pro-outsider regulation. Several parliamentary speeches illustrate their position:

[the extension of the trial period] cannot be traded off against limiting fixed-term contracts to young people and long-term unemployed.

(PCP MP Rita Rato)

The Government sought precarity measures negotiated with employers and supported by the right: very short-duration oral contracts for all sectors of activity, new working time accounts outside collective bargaining and the doubling of the duration of the trial period for first-time job seekers and long-term unemployed.

(BE MP José Soeiro)

[O]ne cannot trade the trial period extension for limits on fixed-term contracts for young people and the long-term unemployed – which is, in fact, a measure we appreciate – because it would assume the Government’s combat against precariousness is taking a step forward and another step back.

(PEV MP José Luís Ferreira)⁷

By contrast, the right-wing parties exhibit stronger connections to social concertation, a theme also linked to the government and the PS:

PSD respects and will always respect social concertation.

(PSD MP Susana Lamas)

[W]e are available to pass what was agreed [in social concertation]; anything that falls short or goes beyond the tripartite agreement will clearly meet our opposition.

(CDS-PP MP António Carlos Monteiro)⁸

The lengthy parliamentary discussion reveals a clear pattern of alignment. The PS concurred with the radical left on tighter regulation of atypical employment and on restoring an unbridled sectoral extension of collective agreements, but not on the expiry regime and the favourability principle. Nor did they agree on job security for permanent contracts: the PS was unwilling to reverse the Troika-era reforms in that domain and was, indeed, prepared to extend the trial period. Reflecting these cleavages, the final version was approved in July 2019 with votes in favour from the minority PS, abstentions from PSD and CDS-PP, and votes against from PCP and BE.

The episode illustrates Chapter 2’s expectation that parliamentary arenas lack an institutional employer veto, yet when a Centrist–Employer bloc chooses to root the package in concertation, inclusive amendments face a higher hurdle and are more easily diluted.

The radical left parties (PCP and BE) assessed that the gains made in the re-regulation of atypical employment were poisoned by concessions to employers (the extended trial period) and by the government's refusal to oppose policy orientations attributed to European institutions, notably regarding collective bargaining and the regulation of permanent contracts (Interviews 1 and 2). The right secured the best outcome available on the table: the final legislation remained within the four corners of the 2018 tripartite agreement. The CDS-PP "did not let the agreement be distorted, we were in the first line of defence of social concertation" (MP António Carlos Monteiro, 19/07/2019). The PSD claimed it had done "everything in its power to ensure the [tripartite agreement] was respected" (MP Susana Lamas, 19/07/2019). The government's strategic aim, a pro-outsider recalibration, was fully achieved, as a Socialist MP acknowledged: it addressed "the dualisation of the labour market [...] the problem of great precariousness of labour relations, visible above all, but not only, in the situation of younger workers [...] (not just) bogus independent work, but also fixed-term contracts" (Interview 11).

Spain's 2021 Labour Market Reform (Royal Decree-Law 32/2021)

This section analyses the Spanish labour market reform agreed at the end of 2021 and enacted as Royal Decree-Law 32/2021. The law, settled in tripartite concertation on 23 December 2021 and approved in parliament in March 2022 by a single vote, has been celebrated by the coalition government as a flagship achievement in reducing labour-market dualisation. As with the Portuguese case, its significance can only be appreciated in light of the crisis-era reforms it partially reverses.

The unilateral 2012 reform enacted by the conservative People's Party (PP) government liberalised both employment protection and collective bargaining (Malo, 2012). In the domain of employment protection, it broadened the grounds for fair dismissal to encompass economic, technical, organisational, or production causes and allowed firms to dismiss workers when turnover declined for three consecutive quarters. Compensation for unfair dismissal under open-ended contracts was shortened to 33 days' wages per year of service (with a cap of 24 months), and a new 'contract to support entrepreneurs' was set up, allowing for a 12-month probationary period. The requirement of administrative authorisation for collective dismissals was abolished, limiting reinstatement rights. On the collective bargaining front, the reform privileged company-level agreements over sectoral agreements in wage setting, job classification, working time, contract types, and other matters, eased employers opting out of collective agreements unilaterally and shortened the ultra-activity of agreements to one year after which the agreement would expire, accelerating decentralisation and eroding sectoral coordination (Molina, 2014).

The 2021 reform sought to generalise permanent employment, curb the abusive use of temporary contracts, and rebalance collective bargaining.

Severance pay for unfair dismissal remained unchanged at 33 days per year of service, but the ‘entrepreneurial’ contract and its year-long probation were abolished. Firms must now reinstate employees unfairly dismissed within five days. The law severely restricted fixed-term hiring: the long-standing contract for works and services was abolished and temporary contracts can only be concluded for ‘production circumstances’ – that is, temporary and unforeseen increases in activity – or to substitute an absent worker; production contracts may last six months (extendable to 12 by sectoral agreement), while contracts designed to cover predictable but short-lived peaks may not exceed 90 days in a calendar year. Workers engaged by the same employer for more than 18 months in a 24-month period acquire permanent status. A new indefinite *fijo-discontinuo* contract is to be used for seasonal or intermittent work. Apprenticeship and training contracts were rationalised but maximum trial periods remained six months for highly qualified workers and two months (one month for contracts shorter than six months) for other employees. The reform also introduced a presumption of employment for digital-platform workers, targeting bogus self-employment (Table 3.3). In collective bargaining, the 2021 law marked a partial return to pre-2012 rules. Company-level agreements continue to prevail over sectoral agreements only

Table 3.3 Spain – Employment protection legislation: The 2012 and 2021 reforms

<i>Dimension</i>	<i>2012 labour reform (Real Decreto-Ley 3/2012)</i>	<i>2021 labour reform (Real Decreto-Ley 32/2021)</i>
Permanent contracts: severance pay	Compensation for unfair dismissal shortened to 33 days per year of service (capped at maximum 24 months)	Unchanged at 33 days per year of service
Permanent contracts: fair dismissal grounds	Fair dismissal permitted for economic, technical, organisational, or production reasons; firms could dismiss after three consecutive quarters of declining revenue	Same causes; additional ground of maladaptation but greater emphasis on reinstatement for unfair dismissal
Permanent contracts: trial period	New ‘contract to support entrepreneurs’ with a 12-month probation; other contracts: 6 months (qualified), 2–3 months (others)	Entrepreneurial contract abolished; probation periods remain 6/2/1 month depending on qualification and contract length

(Continued)

Table 3.3 (Continued)

<i>Dimension</i>	<i>2012 labour reform (Real Decreto-Ley 3/2012)</i>	<i>2021 labour reform (Real Decreto-Ley 32/2021)</i>
Permanent contracts: reinstatement	Limited reinstatement following unfair dismissal	Employer must reinstate worker within 5 days when dismissal is declared unfair
Fixed-term contracts: valid cases	Multiple categories, including replacement, temporary market needs, training contracts, and the contract for work or services	Temporary hiring restricted to production circumstances (temporary and unforeseeable increases in activity) or substitution of a worker; contract for work or services eliminated
Fixed-term contracts: maximum duration	Specific tasks: 3 years + 12 months extension; temporary increase in workload: 6–12 months; conversion to permanent after 24 months in a 30-month period	Production contracts: 6 months (extendable to 12 by sectoral agreement); occasional predictable peaks: 90 days per year; conversion to permanent after 18 months in a 24-month period
Fixed-term contracts: severance pay	12 days per year of service (phased in from 8 days in 2011 to 12 days from 2015)	Same schedule (12 days per year)
Fixed-term contracts: trial period	6 months (qualified technicians), 2 months (others), 3 months in small firms	Unchanged; but 1-month probation for contracts shorter than 6 months
Successive contracts and conversion to permanent	Permanent status after 24 months of employment within a 30-month period	Permanent status after 18 months of employment within 24 months
Seasonal work	No specific contract; seasonal work often covered by fixed-term contracts	Introduction of the indefinite discontinuous (<i>fijo-discontinuo</i>) contract for seasonal or intermittent work

Table 3.3 (Continued)

<i>Dimension</i>	<i>2012 labour reform (Real Decreto-Ley 3/2012)</i>	<i>2021 labour reform (Real Decreto-Ley 32/2021)</i>
Temporary agency work	Allowed for temporary needs, replacement of absent workers and specific projects; no limit on renewals	Contract for works and services removed; general rules align with fixed-term contracts; conversion to permanent after 18 months in 24 months
Bogus self-employment	No presumption of employment	Presumption of employment introduced for sectors with high rates of digital-platform work

Source: Authors' own elaboration.

in certain domains (overtime pay, working schedules, job classification, contract types, and work–life balance), while others (basic wage scales and salary supplements) once again fall under sectoral agreements. The ultra-activity of collective agreements was restored: agreements remain in force until replaced rather than expiring after 12 months. Extension mechanisms were broadened so that any bargaining party may request the extension of a collective agreement, replacing the earlier restriction to the National Consultative Commission. The favourability principle remains limited by statutory exceptions, but overall the reform strengthens sectoral coordination while preserving some company-level flexibility (Table 3.4).

From a political economy perspective, the 2021 reform illustrates how European conditionality, social-partner consensus, and coalition politics moderated but did not fully overturn the 2012 liberalisation. Employers were able to retain many of the dismissal regulations, while unions achieved tighter regulation of temporary work and restoration of ultra-activity. The coalition government could therefore present the reform as progress towards reducing Spain's entrenched labour-market segmentation.

Social Concertation: Towards the 2021 Tripartite Agreement (2020–2021)

For years, trade unions and the main left-wing parties (PSOE and *Podemos*), as well as left-wing nationalist parties such as *Euskal Herria Bildu* (EH-Bildu)

Table 3.4 Spain – Collective bargaining and wage-setting: The 2012 versus the 2021 reform

<i>Dimension</i>	<i>2012 labour reform</i>	<i>2021 labour reform</i>
Who can negotiate?	Most representative unions and employer associations at national or regional level	Unchanged
Favourability principle	National agreements prevail over industry-level agreements and the latter over company agreements; derogations allowed for economic or organisational reasons	Unchanged
Priority of company agreements	Company agreements take precedence over sectoral agreements in basic pay, supplements, overtime pay, schedules, job classification, contract types, and work–life balance	Company agreements prevail only for overtime pay, schedules, classification, contract types, and work–life balance; basic salary and supplements revert to sectoral bargaining
Ultra-activity	Expired collective agreements remain in force for 12 months; 2-year limit to negotiate a new agreement	Restored: agreements remain effective until replaced by a new one (indefinite ultra-activity)
Extension mechanisms	Only the National Consultative Commission on Collective Agreements can extend agreements; rarely used	Any bargaining party can request extension of an agreement

Source: Authors' own elaboration.

in the Basque Country and *Esquerra Republicana de Catalunya* (ERC) in Catalonia placed the reversal of the 2012 labour-market reform at the forefront of their agendas. Party representatives repeatedly stated:

We must derogate the PP's labour-market reform [...] (Unidas Podemos (UP) MP Echenique Robba)

What matters to us is that the labour reform is derogated in order to restore all the aspects that have curtailed the rights of workers. [...] This is not simply tackling the temporary nature or the simplification of contracts — with which we very much agree, by the way — but also recovering the prevalence of sectoral agreements, ultra-activity, severance payments that were brutally cut with the labour reform of the PP, the processing of wages or the necessary administrative authorisation of the ERE.

(MP Matute García de Jalón, EH-Bildu)⁹

In the November 2019 elections, the centre-left PSOE won a plurality of the vote and opened negotiations to form a new government. The following month, PSOE and *Unidas Podemos* signed an agreement to form the first left coalition government since the transition to democracy. Formally appointed on 7 January 2020, the government presented an ambitious programme to combat precariousness and promote job quality, pledging *inter alia* to derogate the 2012 labour-market reform and to work within social dialogue to deliver a new Labour Code for the 21st century combining workers' protection with social, technological, and environmental challenges.¹⁰

The government quickly signalled its commitment to social dialogue. The first meeting of the tripartite social dialogue table on employment and employment relations was held in January 2020 with the two most representative union confederations (CCOO and UGT-S) and the main employers' organisations (CEOE and Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME)). One of the first laws enacted by the new executive was the 2020 minimum wage increase, previously agreed with the social partners (Molina, 2022). As the Prime Minister Sánchez underlined: the government “firmly believes in social dialogue, in reaching agreements, which is why we propose to rebuild broken consensus and repeal the labour market reform of 2012.”¹¹

The COVID-19 pandemic, erupting just two months after the government took office, compelled a shift in priorities and temporarily postponed several planned reforms, including the derogation of the 2012 reform. This generated tensions within the coalition, particularly regarding the social agenda and the appropriateness of delaying reforms in the prevailing context. Social dialogue played a more central role in many policy responses than during the Great Recession and helped mitigate labour-market impacts through innovative instruments for recovery, including the mechanism designed to alleviate the employment effects of the pandemic (renewed several times) and the agreement on telework (Molina, 2022).

Once the worst of the pandemic had passed, the government and social partners returned to labour-market reform. Negotiations began in March 2021, immediately after approval of the ‘Rider Law’ regulating platform work, itself negotiated with the social partners. Sensing a favourable political climate, CCOO and UGT-S pressed for dismantling the 2012 reform under the slogan ‘Now it’s time!’ Employers’ organisations CEOE and CEPYME were reluctant to amend a reform they regarded as effective and endorsed by international organisations. The president of CEOE even argued that this was the worst possible moment to consider derogating the reform (Europa Press, 2020).

The European dimension proved pivotal. Interviewees agreed that the EU played a key role in creating a favourable environment for agreement on reducing temporary employment, following repeated failed attempts to do so. First, curbing labour market dualisation by lowering Spain’s high share of temporary employment had long featured in the Country-Specific

Recommendations. Secondly, European Court of Justice rulings in June 2021 cautioned against wrongful renewals and the fraudulent use of temporary contracts in the public sector, particularly in the healthcare system. Finally, within the Recovery and Resilience Plan, the government committed to negotiating a reform by 31 December 2021 and to penalising the excessive use of very short-term contracts and labour fraud. The stated aims were to universalise the permanent contract; restore causality to temporary contracts; simplify hiring by revising contractual modalities; and introduce a new, permanent model of temporary employment regulation files (ERTEs), which had functioned as an alternative flexibility instrument to external employment adjustment in the face of negative shocks.

What the social partners and coalition parties perceived as a supportive setting was, for the right-wing PP, the sole reason the government pursued agreement:

[Y]ou have come to legislate dragged by the halter and you have done so by the European requirement both at the level of rulings of the European Court of Justice and the conditionality of the Transformation, Recovery and Resilience Plan to access funds.

(MP Martín Martín)¹²

Despite the favourable context, negotiations were beset by obstacles and unfolded in two phases. The first addressed matters where consensus was easier, notably collective bargaining. Here, agreement coalesced around restoring ultra-activity and introducing adjustments to the 2012 reform to ensure the prevalence of sectoral collective bargaining in key domains. As several interviews indicated, unions and employers had already developed mechanisms that de facto prolonged the ultra-activity of collective agreements, while reaffirming the importance of sectoral agreements as coordination devices. As a CEOE representative put it:

[The reform] consolidates what was already happening in the realm of collective bargaining, because what the 2012 reform had done was to make all non-renewed agreements expire within one year, unless otherwise agreed. In truth, the bargaining partners had either prolonged that year down the road or directly stated that the collective agreement would hold until jointly renewed.

(Interview 15)

The second phase centred on the most contentious issues: reforming temporary employment; introducing new flexibility mechanisms for firms; the structure of collective bargaining; and the articulation between company- and sector-level agreements. Several hurdles emerged. Employers strongly opposed the proposal to cap the share of temporary employees within firms. Interviewees also noted tensions within government, notably between the

Labour Minister, closer to *Unidas Podemos*, and the finance minister from the PSOE with a more technocratic profile. The latter was critical of some of the Labour Ministry's more radical proposals, particularly those limiting temporary contracts. Despite progress, no agreement had been reached by early December 2021.

The government then held daily meetings with social partners to conclude a deal before the 31 December deadline. Three issues remained unresolved one week beforehand. First, the creation of a new, permanent mechanism of temporary employment regulation files to provide an internal-flexibility alternative to external adjustment during negative shocks, building upon the pandemic experience. Secondly, the application of sectoral collective agreements in outsourcing and subcontracting: the government proposed applying the client company's sectoral agreement to the outsourced firm, whereas employers wanted the latter to apply the agreement corresponding to its own activity. Thirdly, the manner of limiting temporary employment, with employers rejecting a maximum percentage cap. As the CEOE representative explained:

[T]he key issues were those on the table and those outside the negotiation perimeter that had not been addressed [...] such as changes to the subcontracting regime, changes to the way working conditions are defined, the issue of subrogation. These were very important issues for the business community because they were key to internal flexibility.

(Interview 15)

A tripartite agreement was signed on 27 December by both employers' associations and union confederations. CCOO characterised it as a highly positive compromise:

[E]verything hinged upon a lot of political will, a lot of willingness by the unions and also commitment from the employers' organizations in reaching a compromise agreement [...] [we believe] the success of this reform was reached by seeking the necessary balance between government, unions and employers, each of which has very different preferences and looks out for different rights.

(Interview 12)

Subsequently, several organisations within CEOE voiced dissatisfaction with the decision to sign, including the powerful Foment, CEOE's Catalan federation, which publicly criticised the reform as inimical to its interests. The right-wing PP also attacked CEOE, opening an unprecedented rift between the main employers' confederation and the party. Criticism arose on the trade-union side as well, notably from smaller confederations that viewed the outcome not as a reversal but as a marginal adjustment to the 2012 reform.

Some left-wing parties likewise faulted social dialogue for enabling employer vetoes and producing a toothless reform.

Employers' defensive participation in concertation, entering to temper a left-legislative threat rather than block it, matches a Chapter 2 pathway whereby pacting edges towards inclusivity while preserving aspects of the earlier core.

Legislative Process in the Cortes Generales (2021–2022)

Despite the agreement with social partners, the reform attracted criticism from both sides of the political spectrum. On the right, it precipitated an historic split between the PP and CEOE. Shortly after the tripartite deal, the PP initially dismissed the reform as effecting no derogation; it then distanced itself from CEOE, contending the reform lacked broad support within the confederation and insisting that parliamentary prerogatives should not be displaced by social dialogue. On the left, smaller unions and several parties, including ERC, previously supportive of the government on other bills, also criticised the reform.

In parliament, right-of-centre parties opposed reversing the 2012 reform. Framed against the post-pandemic recovery, they argued for more, not less, flexibility:

[M]ore flexibility, more negotiation capacity, more capacity within the company to be able to adopt flexible mechanisms, more efficiency and a favourable environment for employment.

(MP Gamarra Ruiz-Clavijo)¹³

Some regional right-wing parties adopted a more nuanced stance, accepting the revision of specific aspects while retaining others seen as beneficial:

We do not want a complete repeal, but we do want a modification of the labour reform on the issue of the primacy of sectoral agreements, ultra-activity and many others.

(MP Bel Accensi)

We believe there are some aspects in need of reform: the ultra-activity of [collective] agreements, the fight against temporary employment, the issue related to relief contracts and how to promote them, or our proposal to the introduction of the so-called Austrian backpack in labour regulations.¹⁴ We believe that measures and issues [...] can be used to create a new labour framework, which will surely also have to take into account the new economy and, therefore, the whole issue of teleworking that has appeared with the pandemic.

(MP Boadella Esteve)¹⁵

The only centre-right parties voting in favour were *Ciudadanos* and the PDCAT. *Ciudadanos* offered a positive assessment of the tripartite agreement and underscored the value of a negotiated reform for access to European funds. In its view, the law delivered improvements:

[Such as] narrow the menu of [temporary] contracts in favour of the indefinite contract and combat temporary employment. But this regulation will also give Spain credibility with a view to receiving European funds, which was one of the commitments that our country obtained from our partners. Why? Because it is endorsed by the social partners. This is the government's reform, but the reform of a country endorsed by the social partners, which is much better than what *Podemos* would like to have done and what Mr. Sánchez would like to have done.

(MP Arrimadas Garcia)¹⁶

Although left parties broadly supported the initiative, not all voted in favour. Left nationalist parties in Galicia, the Basque Country, and Catalonia, including ERC, opposed the bill. They offered similar reasons: the reform lacked ambition, failed fully to derogate the 2012 changes, and retained problematic elements such as the liberalisation of employment protection for permanent contracts. Whether this opposition reflected substantive disagreement or an electoral strategy to distinguish themselves from the governing left coalition and reclaim votes on the left is difficult to determine.

The Cortes' majoritarian logic allowed the Left-Union bloc to pass the pact intact, underscoring the difference between negotiated agreement and majority voting that Chapter 2 highlights. The result is an inclusive-leaning settlement that remains bounded by what the employer consent constraint could accept at the bargaining table.

The analysis of the parliamentary debates using the MAXMaps tool helps to summarise differences in the discourse and policy priorities of the political actors involved in the legislative process (Figure 3.2). As with the Portuguese map, it represents the connections between key themes in the legislative discussion and the political actors, and the intensity of those connections. Regarding the different levels of decision-making, policy concertation and social dialogue appear to be of particular importance to the Government, while the EU and the parliamentary arena are salient for the PP and the regional left parties, respectively. Although regional right parties are also connected to the parliamentary arena, this concern was expressed more strongly by MPs from left parties, who favour Parliament over social concertation as the legitimate policymaking body. The stronger role played by the EU in the PP's discourse is likely linked to the reform's placement within a broader spectrum of measures under the Recovery and Resilience Plans, and to the fact that approval by the social partners was a necessary condition for access to European funds; this also led left parties to criticise some of the concessions made. Regarding party positions on the reform, the

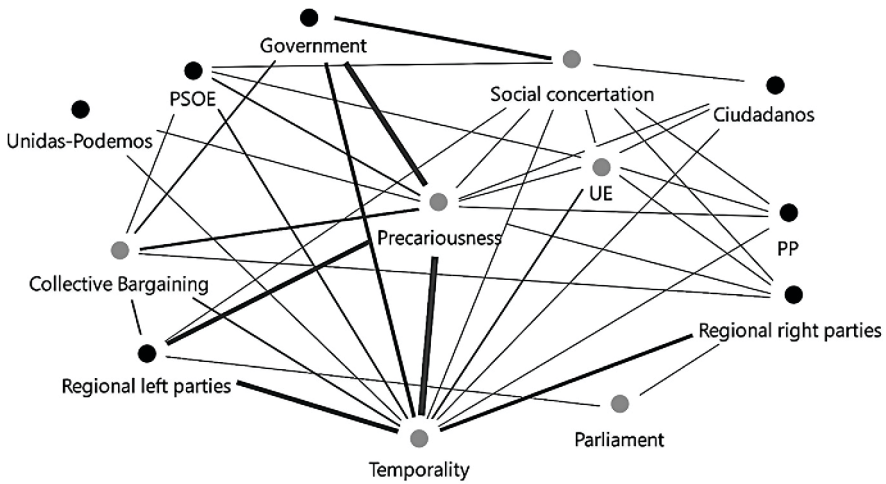


Figure 3.2 Spain (2020–2022): Connections between key themes and political actors in legislative debates.

Source: Own elaboration using the MAXMaps tool from the MAXQDA programme.

Note: Key: black: political actors (parties and the government) | grey: dimensions of analysis.

PP and regional parties (both right and left) opposed it, albeit for different reasons. The regional left parties considered that the tripartite agreement conceded too much to employers in key areas, most notably the limitation of temporary contracts and the precedence of regional collective agreements over national-sectoral ones. The latter issue was also raised by regional right parties. The themes such as precariousness, collective bargaining, and temporality emerged as highly important to the left parties (both regional and *Unidas Podemos*-PSOE) and to the Government (mainly precariousness and temporality).

Comparative Assessment: Portugal (2019) and Spain (2021)

The two reforms display distinct conceptions of how to rebuild labour-market solidarity after a period of liberalisation and dualisation. In Portugal, the 2019 reform constitutes a partial and asymmetrical reversal: it substantially re-regulates non-standard employment while preserving the core liberalising pillars introduced during the Troika period for standard workers and the structure of collective bargaining. In Spain, the 2021 reform is broader in scope: it tightens regulation across several dimensions, notably temporary hiring and collective bargaining, whilst leaving in place some elements of the 2012 settlement for permanent contracts.

In the Portuguese case, the thrust of policy reform is unambiguous on atypical work. Fixed-term contracts were confined to genuine temporary needs, the cumulative duration of successive contracts was reduced, and the presumptive test against bogus self-employment was strengthened. By contrast, the reform leaves the priority of company-level agreements over sectoral agreements unchanged and does not alter the shortened deadlines governing the expiry of collective agreements; the extension mechanism was, however, reinstated without representativeness thresholds. On permanent contracts, protection is broadly stable, albeit with a slight net commodification effect arising from the introduction of a six-month trial period for first-time job-seekers and the long-term unemployed. For temporary agency work, the net effect is best characterised as broadly neutral: the maximum assignment length was increased (from two to three years), but a cap on renewals was introduced, which offsets the deregulatory component. On balance, and as summarised in Table 3.5, the direction of change combines a strong positive change (++) for fixed-term contracts and bogus self-employment; no net change (=) for the articulation of bargaining levels and for ultra-activity; a strong positive change (++) for extensions; and a neutral to negative outcome (=/-) for permanent-contract regulation.

Spain's 2021 reform follows a different trajectory. The negotiated package severely curtails abusive temporary hiring and, in collective bargaining, both restores ultra-activity and rebalances the articulation between company and sectoral levels in key domains. Although it does not fully undo the 2012 changes to permanent-contract protection, it marginally increases the security of standard workers relative to the 2012 baseline. The overall configuration is therefore one of across-the-board re-regulation, captured in Table 3.5 as a strong positive change (++) for fixed-term contracts and

Table 3.5 Portugal (2019) and Spain (2021) compared: Qualitative direction of regulatory change by domain

<i>Regulatory dimensions</i>	<i>Portugal 2019</i>	<i>Spain 2021</i>
	<i>Direction of change</i>	
Job security for permanent contracts	=/-	=/+
Job security for fixed-term contracts	++	++
Job security for temporary agency work	=	=/+
Regulation of bogus self-employment	++	++
Articulation between company and sectoral level agreements	=	=/+
Ultra-activity of collective agreements	=	++
Extension regime of collective agreements	++	++

Source: Authors' own elaboration.

Notes: Key: direction of change in regulation: increasing/decreasing.

-: large decrease | =/-: slight decrease | =: no change | =/+: slight increase | ++: large increase.

ultra-activity; a neutral to positive outcome (=/+) for temporary agency work and for the company–sector articulation; a strong positive change (++) for extensions; and a neutral to positive outcome (=/+) for permanent-contract regulation.

Taken together, the Iberian comparison underscores how similar political economies, operating under a more socially balanced European governance framework, can deliver different solidaristic settlements. Portugal resolved distributional conflicts by relying on social concertation to re-regulate outsiders while maintaining the main competitive features of the post-crisis regime for insiders. Spain, benefiting from a broader coalition and a later, post-pandemic timing in the European ‘social turn,’ advanced a more encompassing recalibration that narrows the insider–outsider divide and strengthens the capacity of collective bargaining to coordinate wage-setting and working conditions. Table 3.5 sums up the differences that help explain why the reforms differ in their likely effects on dualisation: mitigation without full closure in Portugal versus substantial narrowing of segmentation in Spain.¹⁷

Discussion and Conclusions

The Iberian reforms pursued after the Great Recession regulated atypical employment more ambitiously than at any point in recent decades, yet they did so with divergent orientations and scopes. Portugal’s 2019 reform amounted to a partial and asymmetrical reversal: it tightened rules on non-standard contracts while leaving core elements of the crisis-era settlement in place (including the expiry regime and a truncated favourability principle). Spain’s 2021 reform, by contrast, combined a far-reaching re-anchoring of open-ended contracts with selective recentralisation of bargaining rules, thereby improving conditions for both outsiders and insiders, even if it stopped short of fully undoing the 2012 deregulation of unfair-dismissal remedies and the opting-out regime for employers. This divergence requires explanation.

The governing social bloc was decisive in shaping the direction of policy change. In Portugal, a PS-centred alliance with employer confederations and the moderate union (UGT-P) channelled reform through social concertation, where employer vetoes were structurally priced in. This produced a regulatory tightening of fixed-term contracts, whilst retaining the central pillars of the post-2003/2012 bargaining settlement and even expanding trial periods – precisely the kind of trade-off associated with competitive solidarity. In Spain, a PSOE–*Unidas Podemos* coalition with strong union participation negotiated a tripartite pact that subsequently passed intact in the *Cortes*, restoring ultra-activity and sectoral precedence in wage-setting while generalising indefinite employment. Employers consented, but the 2012 dismissal regime and opt-outs survived largely unscathed, delineating the boundary of the inclusive turn.

As predicted by Chapter 2, concertation, a joint-decision setting with a built-in consent constraint, compresses inclusive ambitions, whereas parliamentary arenas, lacking an institutional employer veto, permit legislation closer to bloc ideal points. The Portuguese centre-left executive's reliance on social concertation, leaving left parties in parliament with limited capacity to shape policy, insulated the reform politically but narrowed its breadth; by contrast, the Spanish coalition government's combination of social dialogue and parliamentary rule-making delivered a broader re-regulatory sweep, though keeping employers on board nonetheless reduced the scope of the reform.

The EU acted as a conditional selector and amplifier rather than a simple constraint. In the Eurozone crisis, EU leverage pushed liberalising internal-devaluation agendas (Scharpf, 2016; Perez and Matsaganis, 2018); thereafter, a 'social turn' rebalanced governance via the 2017 European Pillar of Social Rights (European Commission, 2017), implemented via the 2021 Action Plan (European Commission, 2021), the EU directives on transparent and predictable working conditions (Directive 2019/1152) and adequate minimum wages/collective bargaining coverage (Directive 2022/2041), and the Next Generation EU facility (Kyriazi and Miró, 2023; Petmesidou et al., 2023). Spain's reform was further enabled by European Court of Justice jurisprudence censuring abusive temporariness in the public sector (CJEU, 2016; CJEU, 2020), and by the Recovery and Resilience Plan milestones that favoured negotiated re-regulation; Portugal legislated earlier, with weaker EU social support and stronger domestic constraints tied to concertation. These supranational shifts help explain why regulation of temporariness became politically feasible – and why more was achieved in Spain.

Bringing these strands together, the contrast with Table 2.2 (Chapter 2) is instructive. Portugal exemplifies a configuration that combines a centrist government aligned with employer interests, social concertation as the main arena of decision-making, and an early and attenuated turn in EU social policy. Taken together, these features predict competitive solidarity of partial scope. Spain, by contrast, illustrates a configuration that combines a left government aligned with trade unions, social dialogue alongside Parliament as the arenas of decision-making, and strong EU social leverage. Taken together, these features predict a tendency towards inclusive solidarity of broader scope. Elements retained from the 2012 reform continue to delineate the negotiated frontier.

In sum, Iberia's post-crisis labour market reforms were not merely two national iterations of a single script. Each reform embodies a distinct political settlement: on the one hand, Portugal's competitive solidarity recalibration, insulated from partisan meddling through social concertation and bounded by pre-existing veto points; on the other hand, Spain's inclusive-leaning bargain, bolstered by a supportive EU conjuncture and consolidated in parliament. The comparative lesson is that, in post-austerity Europe, the restoration of solidarity to labour markets, whether of the inclusive or the competitive

type, requires not only favourable supranational winds but also domestic coalitions to propel them and political venues capable of harnessing them.

Notes

- 1 “*Geringonça*,” shorthand for the PS–left support pact in 2015–2021.
- 2 Parliamentary record, session 10/02/2017.
- 3 See interventions in the debates of 10 February 2017 and 9 June 2017 by MPs António Filipe and Rita Rato (PCP), José Luís Ferreira (PEV), and Isabel Pires and José Soeiro (BE).
- 4 See interventions in the debates of 10 February 2018 and 28 February 2018 by MPs António Carlos Monteiro (CDS-PP) and Maria das Mercês Soares (PSD).
- 5 In total, 18 bill proposals were discussed alongside the government’s bill.
- 6 Statement by the Labour Minister, José Vieira da Silva, session of 31 May 2019.
- 7 *Diário da Assembleia da República* (parliamentary record), sessions of 19 July 2019, 10 June 2019, and 9 May 2019, respectively.
- 8 Both interventions are recorded in the *Diário da Assembleia da República* (parliamentary record), session of 2 July 2019.
- 9 *Diario del Congreso de los Diputados* (parliamentary record), sessions of 20 December 2020 and 19 May 2021, respectively.
- 10 Prime Minister Pedro Sánchez’s investiture speech is available at: www.lamocloa.gob.es/presidente/intervenciones/Paginas/2020/prsp04012020.aspx (accessed 10 September 2025).
- 11 *Diario del Congreso de los Diputados* (parliamentary record), session of 1 April 2020.
- 12 *Diario del Congreso de los Diputados* (parliamentary record), session of 21 December 2021.
- 13 *Diario del Congreso de los Diputados* (parliamentary record), session of 24 March 2021.
- 14 On this see: Sousa et al. (2022).
- 15 *Diario del Congreso de los Diputados* (parliamentary record), sessions of 7 March 2020 and 13 April 2021, respectively.
- 16 *Diario del Congreso de los Diputados* (parliamentary record), session of 2 March 2022.
- 17 The data on the evolution of temporary employment in both countries indicate that the decline was more pronounced in Spain than in Portugal (see Figure I.1 in the introduction).

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Appendix: Interview List and Technical Note

Interview list Portugal

- Interview 1: Portuguese Communist Party (PCP) member of parliament. Date: 16/05/2022. Site: Lisbon.
- Interview 2: Left Block (BE) member of parliament. Date: 17/05/2022. Site: via Zoom.
- Interview 3: Confederation of Commerce and Services of Portugal (CCP) representative. Date: 18/05/2022. Site: Lisbon.

- Interview 4: Former member of cabinet of the Portuguese Socialist government. Date: 20/05/2022. Site: Lisbon.
- Interview 5: Ecologist Party “The Greens” (PEV) member of parliament. Date: 01/06/2022. Site: via Zoom.
- Interview 6: Christian Democrats (CDS-PP) member of parliament. Date: 02/06/2022. Site: Lisbon.
- Interview 7: General Confederation of Portuguese Workers (CGTP) representative. Date: 09/06/2022. Site: Lisbon.
- Interview 8: General Union of Workers (UGT-P) representative. Date: 20/06/2022. Site: over Zoom.
- Interview 9: Confederation of Portuguese Industry (CIP) representative. Date: 01/07/2022. Site: via Zoom.
- Interview 10: Social Democratic Party (PSD) member of parliament. Date: 12/07/2022. Site: Lisbon.
- Interview 11: Socialist Party (PS) member of parliament. Date: 19/10/2022. Site: Lisbon.

Interview list Spain

- Interview 12: Trade Union Confederation of Workers’ Committees (CCOO) representative. Date: 04/07/2022. Site: via Zoom.
- Interview 13: Member of cabinet of the Spanish Coalition government. Date: 04/11/2022. Site: via Zoom.
- Interview 14: Member of cabinet of the Spanish Coalition government. Date: 17/11/2022. Site: via Zoom.
- Interview 15: Spanish Confederation of Employers’ Organizations (CEOE) representative. Date: 25/11/2022. Site: via Zoom.
- Interview 16: General Workers’ Union (UGT-S) representative. Date: 02/03/2023. Site: over Zoom.
- Interview 17: Member of cabinet of the Spanish Coalition Government and Podemos member of parliament. Date: 11/04/2023. Site: via Zoom.

Technical Note MAXQDA

We used MAXQDA (version 2022) to conduct a content analysis of 18 parliamentary debates from 2016–2019 in Portugal, involving 32 relevant participants, and of 67 debates from 2020–2022 in Spain, involving 43 relevant participants.