

## Trends and Challenges in the Social Protection of Self-Employed Workers in Portugal: The Slow Erosion of Dualisation (1990-2020)

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### 1. Introduction

Self-employed workers in Portugal, as elsewhere in Europe, have historically been in a position of lower social protection relative to workers with a standard job contract. This issue is particularly relevant in Portugal given the historical segmentation of the country's labour market. Due to both weak employment and social protections, the self-employed find themselves in a compounded situation of heightened economic vulnerability, which worsens whenever an acute crisis breaks out, with prolonged economic recession and historically high levels of unemployment – as was the case in Portugal from 2010 to 2014, or will probably unfold in 2020 as a result of the COVID-19 pandemic. In recent years there has been an effort in Portugal to bridge these gaps and reduce the vulnerability of self-employed workers. For this reason, the difference between the self-employed and employees, notably as regards social protection, has been slowly eroding. The traditional dualisation persists, but has been narrowed.

Here, we analyse this long path towards convergence in terms of social protection between self-employed and employees in Portugal, in line with a general trend in the EU, and examine the gaps that still remain. We focus on the period from 2010, when most of the expansionary changes in terms of social protection for self-employed workers took place, which can be divided between a crisis period under center-right government until the end of 2014, and a post-crisis period under centre/left rule from 2015 to the end of 2019.

### ABSTRACT

Self-employed workers in Portugal have historically been in a position of lower social protection relative to salaried contract workers. The coverage and quality of their protection by the social security system has improved over the years, closing the gap toward employees. This working paper analyses this long path towards convergence and examines the remaining gaps, both in a national and EU context. It takes a detailed look into the period 2009 to 2019, a decade of reforms amidst deep economic crisis and recovery. We find that, despite steps towards convergence, and important recent reforms, the social protection of the self-employed relative to salaried workers still displays gaps in coverage and adequacy. The access to social protection of the self-employed still lags behind in unemployment benefits, paid sick leave and long term care. As regards inequalities in protection within the universe of the self-employed, we found in general an even pattern across self-employed categories. Particularly, economically dependent workers are not worse off than the two other major groups, own account workers and employers. There remains, however, a crucial exception, which is the outstanding lack of unemployment protection for own account workers relative to the other self-employed, as well as salaried workers. Finally, inequalities still persist as a result of a skewed balance between the contributory effort and the social protection granted: the self-employed pay a higher proportion of their income while enjoying fewer benefits than salaried workers.

Keywords: Portugal; autonomous workers; dualisation; independent workers; social protection reforms

While we focus here on the policy reform trajectory of self-employed workers, one should point out that these trends take place within changing and wider labour market structures and trends, most importantly the long-term rise in forms of “atypical employment” in Portugal as well as across the industrialised affluent democracies. In fact, atypical work takes various guises in different national and sectoral contexts – “temp” work, fixed-term employment, mini-jobs, bogus self-employment, on-demand work, “zero hours” contracts, only some of which we tackle in our paper.

The paper is organised as follows. In the first two sections we provide historical, policy and legal context. We start by depicting the Portuguese labour market with a particular focus on the evolution of self-employment, drawing out salient protection gaps. Next, we analyse the legal and contributory regimes of self-employed workers in Portugal with an eye towards inequalities relative to salaried workers. After that, we provide an in-depth look at the social protection for the self-employed in Portugal, both over time and in a comparative European perspective. We close the paper by reiterating our main findings and raising the most salient outstanding challenges in terms of social protection.

## 2. Context: Self-Employment in the Portuguese Labour Market

Portugal is one of the countries in the EU with the highest share of atypical forms of employment, those in which the worker is not in a permanent or standard contract, which include, among others, self-employment, temporary contracts and part-time work. According to the International Labour Organization (ILO, 2018), 17% of the Portuguese workforce is in some form of self-employment (employers, own account worker and contributing

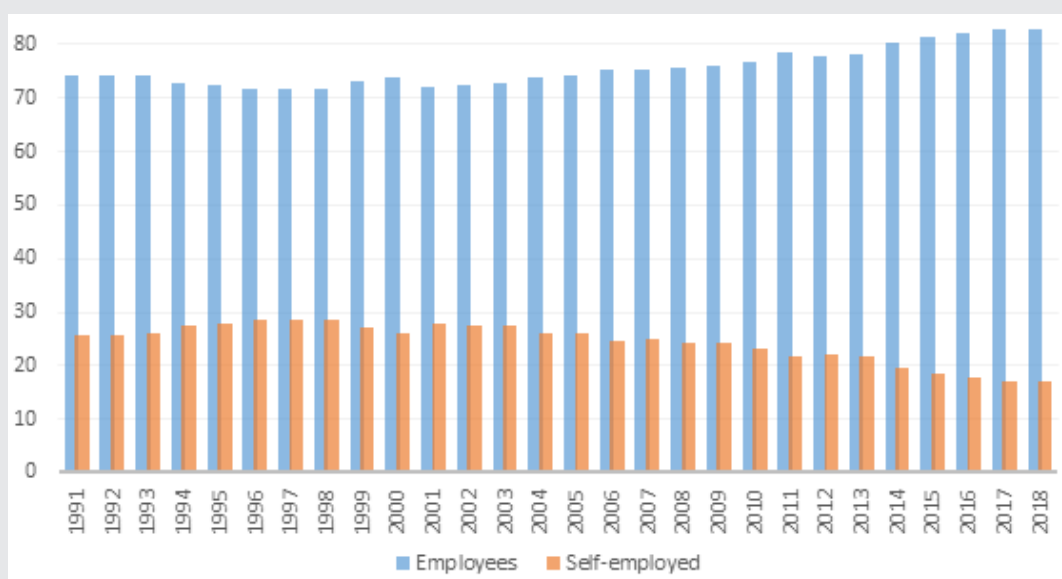
family workers), which puts Portugal among the EU countries with the highest share of self-employment. Besides self-employment, temporary contracts represent also an important share of atypical work in Portugal: more than 20 per cent of employees are currently in fixed-term contracts, a proportion significantly above EU28 average (Eurostat, 2018).

This make-up of Portuguese labour market has a long history (Cardoso & Branco, 2018). Ever since the 1990s, unable to lower employment protection for workers in permanent contracts, Portuguese governments liberalised the use of fixed-term contracts and allowed the replacement of standard employment with self-employment (Glatzer, 2012). The goal was to institutionalise a trade-off between labour and capital in which employment protection would answer workers’ demands while temporary contracts and self-employment would satisfy the flexibilising demands of companies (Centeno & Novo, 2012, p. 8). Overlaid on top a Bismarckian-based social protection, this begot increased dualisation between relatively secure and well protected salaried workers (insiders) and a growing expanse of insecure/atypical workers, with worse or individualised social protection (outsiders).

The promotion of self-employment in Portugal was in line with EU policies which posited this type of employment as an opportunity to stimulate the economy and make labour markets more “dynamic”. This was, for example, one of the key points of the Europe 2020 strategy launched in 2010 (European Commission, 2010). Similarly, in 2012, the EU put forward an action plan to promote entrepreneurship and self-employment in Europe (European Commission, 2012).

After peaking at the start of the new century, the share of self-employed workers in Portugal has been decreasing, mostly due to the shrinking economic importance of

Figure 1. Employment distribution by status in employment (%), Portugal 1991-2018.



the agriculture sector. For Portugal, roughly 60% of the decline in the number of self-employed workers is due to dwindling in self-employment in agriculture (Eurofound, 2017b, p. 8). This trend deepened during the 2010-2014 crisis considering the overall loss of jobs in the Portuguese economy, which, as we shall see, disproportionately affected self-employed workers. As Figure 1 shows, at the start of the century, and truly for the whole of the 1990s, well above one fourth of the Portuguese workforce was self-employed (28%), one of the highest in Europe, second only to Greece and Italy. This share declined to less than one fifth (17%) in 2018, one of the biggest drops in Europe (Eurofound, 2017b, p. 8)

Figure 2 shows that this decrease took place unevenly across the three main categories of self-employed workers (employers with employees, own account workers and contributing family workers), being particularly intense with own account workers. In 2001, own account workers accounted for 19,4% of the Portuguese workforce, while in 2018 this share had dramatically dropped to 11,8%. The proportion of employers held steady from 1991 to 2003, never more than 6,6% (1996), never less than 6% (1999). Since 2004, it has been on a steady though slight decline, from 6,4% to 4,8% in 2018.

Nevertheless, as digitalisation and automation make inroads in the structural transition to a post-industrial economy, this decreasing trend is likely to be reverted. It has become easier and cheaper to offer and find work online. Jobs for digital platforms – gig jobs – have grown and will grow, though still representing a small share of workers (OECD, 2018).

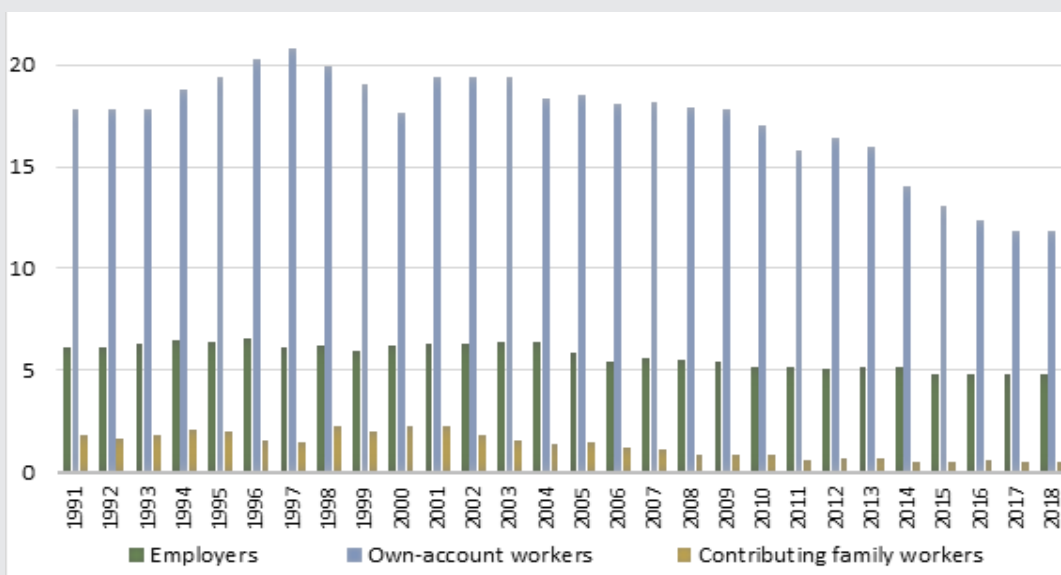
For this reason, one should put the Portuguese self-employed trends in a wider context. The new reality for a growing number of people, in Portugal as well as across

the developed capitalist democracies, is employment that is less steady, less secure, and well less embedded in traditional social protection (Thelen, 2019, p. 9). In fact, while the category of self-employed workers has been declining in Portugal driven by the dwindling numbers of own-account workers, the share of involuntary fixed-term contracts increased from 7,5% in 2000 to 18,1% in 2018, even before the impact of COVID-19 pandemic. This elicits the question of a possible transfer from one to the other, with worse outcomes, as the former has improved in regulation and social protection, as we shall see below.

As labour market evolves, policymakers at the national and EU level have been looking at ways to ensure better (and innovative) social protection for self-employed workers (Eurofound, 2017a; Spasova, Bouget, Ghailani, & Vanhercke, 2017), including in the context of the European Pillar of Social Rights. In 2018, for example, the ministers for employment and social affairs of the EU Member States reached unanimous political agreement on a proposal for a Council recommendation on access to social protection for salaried workers and the self-employed. Ministers broadly supported the expansion of social protection schemes to people in different types of employment, stressing that the scope of social security schemes ought to be enhanced to include young people in particular, with the aim of closing the existing formal coverage gap (European Commission, 2019).

In Portugal, challenges of social protection for those in atypical forms of employment (temporary, self-employed) is particularly relevant given the historically high percentage of workers in these conditions. This has generated a segmented access to employment and social protection. In fact, Portuguese insiders enjoy a better level of employment protection, higher income and better social benefits, while workers in temporary contracts and, especially,

Figure 2. Self-employed categories as percentage of the Portuguese workforce 1991-2018.



self-employed workers tend to face lower levels of security, and worse social benefits. This is the case because social security systems were primarily developed and geared towards persons working full-time in a long-term relationship with usually one employer. Traditionally, they were not tailored to people in different, atypical forms of employment and self-employment, leaving these groups without adequate protection (European Commission, 2019).

According to the European Commission (2016), the risk of poverty and social exclusion of the self-employed is 3.5 times higher than for full-time employees. In fact, Portugal is one of highest, with 25% of full time self-employed at risk of poverty and social exclusion (European Commission, 2016). In the same vein, according to the last wave of European Working Conditions Survey, 55% of the Portuguese self-employed indicate they would not be financially secure in case of long-term of illness, the 8th higher in the EU context, well above the 48% average (Eurofound, 2017b, p. 13). The vulnerability of self-employed was evident during the crisis as they represented nearly 60% of the loss in terms of employment (Baptista & Perista, 2017, p. 5). This is the case because security of self-employment, typically in very small companies and with limited financial resources to deflect shocks, depends directly upon the demand for the services provided, so such work is highly exposed to market fluctuations (Eurofound, 2017a, p. 5), which is very worrying as the economic effects of the COVID-19 pandemic impact the labour market.

It is perhaps not by chance that 33% of Portuguese respondents to the latest wave of the European Working Conditions Survey state as the reason for entering self-employment no alternatives for work, while 45% state own personal preference. These results express significant less voluntary choice (5th lower in the voluntary choice rank) and significant more lack of a better alternative (the 4th higher rate) than the EU averages, which are 59% and 20%, respectively (Eurofound, 2017c, p. 11). Historically, civil society organisations such as Inflexible Precarious (Precários Inflexíveis) have been important in pointing out these vulnerabilities and the need to mend social protection gaps (Prino, 2015). Besides publicly voicing concerns, these organisations have played a relevant role in driving policy change, as will be shown below.

Given the historical segmented access of workers to social protection in Portugal, it is relevant to understand which are exactly the gaps in protection for self-employed and to what extent have authorities in recent years implemented measures to fix them. Before tackling that central issue in the second part of this working paper, we need to set the stage by offering an overview of the legal and contributory regimes for the self-employed.

### 3. Legal and Contributory Framework of Self-Employment in Portugal

There is no precise definition of self-employment in the Portuguese labour code. In an ambiguous formulation, it

is assumed that self-employment exists in practice when the principles of the employment relationship are not present, that is, when the worker does not own nor determine the place of work, the equipment used, or the working schedule; a steady period amount similar to salary is not paid; and no leadership function is performed. If the work relationship between the self-employed and the contracting entity follows these principles, then it is a situation of 'bogus self-employment'. There have been some efforts in Portugal to combat the fraudulent use of self-employment. In 2013, following a legislative initiative by citizens and civil society organisations, the parliament approved Law 63/2013, 27 August which gave the official Agency for Working Conditions (Autoridade para as Condições do Trabalho, ACT) more powers to tackle bogus self-employment. In essence, the law established a duty for labour authorities (Agency for Working Conditions and Public Prosecutors) to open an enquiry procedure whenever they were informed of a case of self-employment with some features of subordinate employment. This changed the legal framework in place according to which the responsibility to complain about the irregular situation lied with the worker. The powers of public authorities were deepened in 2017 with the adoption of Law 55/2017, 17 July as well as the situations which could be considered irregular, such as false internships and scholarships.

The definition of self-employment is more precise when it comes to the tax code and social security. In the former, there is a distinction between income from 'dependent work' and 'independent work', with different tax rates and obligations for each. There are also different contributory schemes for each of these categories when it comes to the latter. Social security distinguishes between own account workers and self-employed workers who earn their income through a registered business of their own or possess an individual commercial establishment, as well as their spouses if performing a professional activity together with them on a regular and permanent basis.

As regards social security, ever since 2010 (Law 55-A/2010, of 31 December), a new category was added. Whenever a contracting entity benefits from at least 80% of the total value of the self-employed worker's yearly activity, the worker is considered to be "economically dependent" and, therefore, entitled to broader social benefits (for example unemployment benefits), while the entity is required to pay a portion of the worker's contribution to the social security scheme. The Decree-law 2/2018, 9 January lowered the criteria to be considered "economically dependent" from 80% to 50%. However, according to the OECD, the incidence of own-account worker who generally have one dominant client in Portugal is low (around 10%). Lower than Portugal, only Denmark and Switzerland (OECD, 2019, p. 146). This means that the bulk of self-employed workers is excluded from statutory access to unemployment benefits in Portugal and, therefore, in a more vulnerable situation than other self-employed workers and employees in general.

Among other changes, this decree-law also altered the

contributions for self-employed workers and contracting entities: it lowered the own account workers' contributions to social security from 29,6% to 21,4% and of employers from 34,75% to 25,17% while contracting entities' contributions now range from 7% to 10% (previously 5%). Despite this overall decrease, self-employed workers still pay a much higher proportion than employees, who pay a monthly social contribution of 11% of their salary. An important takeaway is that self-employed workers pay more in social protection contributions, but receive less benefits than employees. Next, we will detail the gaps in social protection of self-employed workers and the extent to which recent advancements of social protection have corrected these gaps.

#### 4. Social Protection for the Self-Employed in Portugal

In Portugal, as per the Social Security Contributory Code (Law 110/2009, of 16 September), all self-employed persons – including persons with professional income and farmers (and their spouses and assisting partners); employers with employees; economically dependent workers – are compulsorily covered by the social protection system through a general system of social security for self-employed persons. However, membership is voluntary for those whose annual reference income from self-employed work is equal or less than six times the indexing reference of social support (indexante dos apoios sociais, IAS). Certain liberal professions, such as lawyers and solicitors, are covered by specific insurance funds (Baptista & Perista, 2017, p. 9).

In general terms, the self-employed enjoy similar statutory and benefits as salaried workers. The general social security scheme for self-employed persons provides benefits for risks such as sickness, maternity, occupational diseases, invalidity, old-age, death and unemployment. However, special or specific rules apply for granting certain benefits (e.g., sickness and unemployment, see below) or for the calculation of contributions (Baptista & Perista, 2017, p. 9).

##### 4.1. Statutory Access to Social Protection by the Self-Employed in Portugal

Table 1 provides a summary of the statutory access to social protection for the self-employed. It breaks down the information by type of self-employment and by type of social risk. The classification hinges upon whether, or to what extent, self-employed persons have access to the scheme regardless of their employment status, even if they do so through different instruments or logics (be it compulsory insurance, universal benefit or means-testing), ranging from full to none (please see Table 1 and notes for categories and sourcing).

In the current section we will systematically breakdown the 11 different types of social risk in order to provide additional, clarifying information to Table 1, mentioning when needed recent legislative developments. To this effect, we used legislation as primary source of informa-

tion and the most recent MISSOC tables (July 2018), in order to complement and update the information in the valuable European Social Policy Network (ESPN) report on Portugal by Baptista and Perista (2017).

##### 4.1.1. Healthcare

Self-employed persons are covered, with no distinction, by a universal access system based on residence and financed by general taxation – the National Health Service, under the supervision of the Ministry of Health. Benefits and services available are similar to those available to employees.

##### 4.1.2. Sickness Benefits (Paid Sick Leave)

Self-employed workers are covered by the general compulsory insurance scheme. However, access to coverage requires a relevant annual income of more than €2,527.92 and a pre-requisite prior coverage period of 12 months, with the obligation (specific to self-employed) of having had 12 days of paid work in the four months preceding the incapacity. For lower incomes, insurance is voluntary. Also, there are differences regarding the waiting period for accessing the benefit. Decree-Law 53/2018 of 2/7 cut the waiting period for conceding sickness cash benefits to self-employed workers from 30 to 10 days, which is closer to the regime of contractual work for salaried employees of 3 days. In the same vein, there is a significant difference in the maximum period for receiving the benefit between self-employed, which is 365 days, and salaried workers, which is 1,095 days (there is no maximum period for some types of diseases, such as tuberculosis, which apply to both types of employment).

##### 4.1.3. Maternity/Paternity

The entitlement to these benefits depends on the worker having a record of social security contributions of 6 months previous to the request, same as all workers. Cash benefits are covered by the general insurance scheme, while in kind benefits are provided by the universal system based on residence (NHS), financed by social security contributions and general taxation, respectively. Currently, here is the list of risks covered by cash benefits: pregnancy, abortion, parental leave, extended parental leave and adoption.

##### 4.1.4. Old Age Pensions

Generally speaking, old age pensions are granted according to the rules of the general mandatory system based on insurance for the salaried employed, with similar access, amount and duration of benefit.

##### 4.1.5. Survivors' Pensions

Generally speaking, survivors' pensions are granted according to the regulations of the general system for the salaried employed. Entitlement depends on the deceased having a contribution of at least 36 months.

##### 4.1.6. Unemployment

Until 2012 the self-employed did not have access to unemployment benefits. At that time, a compulsory insurance scheme financed through social security contributions

Table 1. Statutory access to social protection for the self-employed by type of social risk, Portugal 2018.

Social Protection Risks	Category of Self-Employed				Self-Employed vs. Salaried Employee	
	1 Own account	2 With employees	3 Dependent on single client	4 Dependent on contractual relationship with client	5 Self-employed	6 Salaried employee
Healthcare benefits	Full	Full	Full	Full	FULL	FULL
Sickness benefits	Partial	Partial	Partial	Partial	PARTIAL	FULL
Maternity/Paternity	Full	Full	Full	Full	FULL	FULL
Old age pensions	Full	Full	Full	Full	FULL	FULL
Survivors pensions	Full	Full	Full	Full	FULL	FULL
Unemployment benefits	None	Full	Full	Full	PARTIAL	FULL
Social assistance	Full	Full	Full	Full	FULL	FULL
Long term care benefits	Partial	Partial	Partial	Partial	PARTIAL	FULL
Invalidity benefits	Full	Full	Full	Full	FULL	FULL
Occupational accidents/diseases	Full	Full	Full	Full	FULL	FULL
Family benefits	Full	Full	Full	Full	FULL	FULL

Source: Own elaboration, adapted from MISSOC tables (July 2018); Baptista and Perista (2017, pp. 19-20). Notes: FULL: persons have access to the scheme through compulsory insurance, universal benefits or means-tested benefits available regardless of their employment status; PARTIAL: persons have only partial access to the benefits because of a) statutory differentiation in eligibility conditions and the period of receipt of benefits compared to salaried employment; and b) if insurance-based and non-contributory benefits co-exist, individuals can access only the latter; VOLUNTARY OPT-IN: persons are not compulsory insured under a scheme but can voluntarily join in; NONE: persons have no access to the scheme (Spasova et al., 2017, p. 76).

was set up, although providing unemployment protection only for some categories of self-employed. Decree-Law 65/2012 of 15/3 and Law 20/2012 of 14/5 extended the coverage of unemployment benefits to 'economically dependent' self-employed workers, defined as those for which at least 80% of their activity was conducted for a single contracting entity. Decree-Law 2/2018 of 9/1 lowered that percentage to at least 50%; decree-law 13/2013 of 25/1 warranted coverage even when contracting firms do not make their own social security contributions. Decree-Law 53/2018 of 2/7 aligned the qualifying period of contributions for the economically dependent self-employed to that of contractual workers (employees), ie. 360 days in the previous 24 months.

Decree-Law 12/2013 of 25/1 again extended coverage of unemployment benefits, this time to cover self-employed employers, i.e. self-employed workers who earn their income through a registered business of their own or possess an individual commercial establishment, as well as helping spouse or partner.

On the whole, despite recent important changes, this still leaves own account self-employed workers unprotected in case of unemployment.

#### 4.1.7. Social Assistance

In addition to the assistance benefits that fall within other risk categories, the self-employed may also qualify to guaranteed minimum resource assistance through the protection plan to all residents with socio-economic problems, which is a universal residence based system, financed by general taxation whose access (means-tested), amount and duration of benefits are similar to those of salaried employees.

#### 4.1.8. Long Term Care

In general, this social risk is covered by the same system as for employee, which combines compulsory insurance system for cash benefits (financed by social contributions), income guarantee scheme for non-contributory cash benefits (financed from general taxation) and a residence based system for benefits in kind, the long-term care network (financed from general taxation).

As further detailed in the section below on family benefits, from 2018 all self-employed have now access to the cash benefit assistance to children and grandchildren, as well as the cash benefit assistance to children with chronic disease or disability (decree-law 53/2018), which were major gaps in the long term care protection relative to employees.

However, if categorial exclusions have been removed in coverage, there are differences in the conditions for access to coverage, similar to sickness cash benefits. This means that a threshold of annual income of €2,527.92 is required to be covered (for lower incomes insurance is voluntary).

#### 4.1.9. Invalidity Benefits

The self-employed are covered by the general compulsory insurance-based scheme, similar to salaried employ-

ees, financed by social contributions, with same access, amount and duration.

#### 4.1.10. Occupational Accidents and Diseases

The protection regime for the self-employed differs from occupational diseases to occupational accidents. Occupational diseases are covered by the general compulsory social insurance scheme, financed by social contributions, with same access, amount and duration as for salaried employees. Occupational accidents are covered through mandatory private insurance financed by insurance premiums depending on the risk, while access, amount and duration of benefits are similar to those of salaried employees.

#### 4.1.11. Family Benefits

Family benefits are granted according to the regulations of the general system of family benefits which is a universal system that covers all residents. The 'child benefit' is attributed to the child or youngster per se irrespective of the parent's employment status (indirectly relevant as this is a means-tested benefit) and it is financed by general taxation.

Until recently, as regards the need for the family to provide care for children in case of ill health or disability, the self-employed were not entitled to the child assistance benefit and to the benefit for the assistance to grandchildren. This was changed by the decree-law 53/2018 of 2/7, which extended to all self-employed said benefits, closing the extant gap, thus making the overall regime of family benefits similar to that of employees.

Stepping back from the specifics to a more comprehensive view, we would like to underline four important points. First, the access to social protection of the self-employed when compared to that of employees (contrast columns 5 and 6 in Table 1) shows three main differences: sickness benefits, unemployment benefits and long term care. We conclude that, despite recent legislative improvements along the path of convergence, the social protection of salaried employees (whose pattern is full access across the board) compared to that of self-employed still evinces some important, qualitative gaps.

Second, within the self-employed universe, there is no significant discrepancy for the worst in the social protection of economically dependent workers relative to that of own account workers and employers (vd. shaded columns 3 and 4 vs columns 1 and 2 in Table 1). Rather, there is consonance, ie, whenever the protection pattern is partial or full, that pattern then applies evenly across the board to all categories of self-employed.

Third, there is one very important single discrepancy both towards other self-employed and towards employees, which is that of the lack of unemployment benefit for own-account self-employed, which is the largest category of self-employed.

Fourth, one can surmise that the lacunae in social protection for the self-employed relative to employees have

historically focused somewhat in the so-called new social risks (vs. old social risks), such as long term care and family benefits (child care, etc.), which – when added to the complete lack of unemployment protection until 2012, and still to this day for own account self-employed – compound an enduring picture of dualization. However, recent legislative changes sought to bridge gaps in both directions: towards employees in old social risks, such as in unemployment (albeit incomplete), and towards the protection against new social risks, inter alia, with the extension to all self-employed of cash benefits for the assistance of children, grandchildren and chronically ill or disabled children (Decree-law 53/2018 of 2/7).

#### 4.2. Comparative Perspectives on the Social Protection of the Self-Employed

A major difference between self-employed and salaried workers is the prevailing gap in social protection, a trait of dualization shared with other non-standard workers. In fact, self-employed workers experience a variety of gaps, whether in terms of entitlement to social protection and certain rights, contribution gaps or integration gaps (Grimshaw, Johnson, Rubery, & Keizer, 2016).

According to a recent Eurofound report (2017b), it is currently under way a revision of social protection rights for the self-employed in many Member States, focusing, though not exclusively, initiatives to bring provisions for self-employed and non-standard workers closer to those of standard, salaried employees. At the European level, the issue of social protection of self-employed workers has recently been framed in the context of the European Pillar of Social Rights (European Commission, 2017).

In this section we shall compare the extension of social protection coverage for the self-employed and employees across EU countries. In so doing, we will deploy a three-pronged strategy to position Portugal in the EU-wide context: (i) by creating an ordinal index of access to social protection for the self-employed; (ii) by placing Portugal among different social protection regimes; and (iii) by addressing a decade of reforms implemented with a view to bring the social protection of the self-employed in line with that of salaried workers.

##### 4.2.1. Statutory Access to Social Protection: Self-Employed in the EU

Looking from a comparative perspective at the access to social protection by the self-employed, we shall consider, as in the previous section, the 11 social risks usually covered by national social protection systems (healthcare; sickness; maternity; invalidity; old age; survivors; occupational accidents and diseases; family; unemployment; guaranteed minimum resources; long-term care, as per the MISSOC tables).

Table 2 displays a composite index of scores across the mentioned set of 11 social risks. The access to protection (benefit) offered for each social risk was scored for each country in the following way: full access = 2; partial access = 1; voluntary opt-in = 0,5; none = 0. The score for each

risk is then simply added in order to yield the index figure. Therefore, the ordinal index varies between a maximum of 22 (11\*2) and a minimum of 0 (11\*0).

Table 2 provides an ordinal ranking of a qualitative feature: the extent to which every EU country provides for the self-employed comprehensive social protection for an extensive set of social risks on par with that of salaried workers. Despite its obvious limitations (it obscures variation across different risks in each country and across cases, while giving every risk the same importance or ‘weight’ in calculating the index), it nevertheless provides useful and novel information. The largest set of countries (8) sharing the same score (18) and rank (11th), including Portugal, coincides with the EU average.

Let us unpack the information a bit. We can find roughly three distinct groups of cases, in descending ranking order. First, a restrict couple of countries with maximum scores (HU, LU) indicating ‘full’ access to all protection schemes on par with salaried workers. Second, a numerous group, including Portugal, in which access to protection is only ‘partial’ or ‘voluntary’ in at least one, but usually more than one, type of social risk, but in which there is never a total lack of protection for any social risk. This group includes HR, SI, FI, SE, AT, CZ, EE, PT, PL, ES, and DK and in general takes up the upper and middle range of the distribution. It displays a low to mild inequality relative to salaried workers. The third group, slightly more numerous, is marked by having at least one social risk for which there is no (‘none’) social protection for the self-employed, often for unemployment, occupational accidents and diseases or sickness. These categorial lacunae are usually compounded by additional ‘partial’ and ‘voluntary’ coverage of other risks. The group includes, inter alia, EL, UK, DE, NL, CY, LT, LV, FR, IE, IT and BG, and typically occupies the lower half of the distribution, below the EU average. It displays the starkest inequalities relative to salaried workers.

##### 4.2.2. Clusters of Social Protection for the Self-Employed in the EU

According to Spasova et al. (2017), access to social security for the self-employed is bifurcated in the European landscape. In most European countries, the access to non-insurance-based benefits, particularly benefits and services financed by general taxation (such as healthcare through NHS in Portugal and Spain, family allowances and some forms of long-term care) and certain means-tested benefits (such as guaranteed minimum income), tends to be granted regardless of employment status, and thus to self-employed as well as to salaried workers.

The problems for the self-employed arise as regards statutory access to social protection when the access to benefits is organised on a social insurance basis, i.e., based on social contributions from the employee and the employer. Spasova et al. (2017, pp. 13, 45-46) divide the statutory access to insurance-based (contributory) benefits into four clusters. The report deploys two classification criteria: the first pertains to compulsory coverage of the self-employed



**Table 2. Statutory access to social protection: self-employed in the EU in 2017.**

Country	Index	Rank Order
HU - Hungary	22	1
LU - Luxembourg	22	1
HR - Croatia	21	3
SI - Slovenia	21	3
FI - Finland	21	3
SE - Sweden	21	3
AT - Austria	20,5	7
MT - Malta	20	8
SK - Slovakia	20	8
CZ - Czech Republic	19	10
EE - Estonia	18	11
PT - Portugal	18	11
PL - Poland	18	11
ES - Spain	18	11
BE - Belgium	18	11
CY - Cyprus	18	11
LT - Lithuania	18	11
LV - Latvia	18	11
DK - Denmark	17,5	19
EL - Greece	17	20
BG - Bulgaria	16,5	21
FR - France	16	22
IE - Ireland	16	22
IT - Italy	15	24
RO - Romania	13,5	25
DE - Germany	13,5	25
NL - The Netherlands	13,5	25
UK - United Kingdom	13	28
EU average	18	

Source: Own elaboration, adapted from MISSOC tables (July 2018); Baptista and Perista (2017, pp. 19-20). Notes: FULL: persons have access to the scheme through compulsory insurance, universal benefits or means-tested benefits available regardless of their employment status; PARTIAL: persons have only partial access to the benefits because of a) statutory differentiation in eligibility conditions and the period of receipt of benefits compared to salaried employment; and b) if insurance-based and non-contributory benefits co-exist, individuals can access only the latter; VOLUNTARY OPT-IN: persons are not compulsory insured under a scheme but can voluntarily join in; NONE: persons have no access to the scheme (Spasova et al., 2017, p. 76).

by insurance-based schemes (similar to salaried employment); the second relates to whether the self-employed are able to voluntarily opt into a scheme in cases where they, unlike salaried employees, do not have mandatory coverage. As regards the set of risks under consideration, even though the following clusters consider the pattern of risk coverage across the pool of 11 risks in the MISSOC tables, gaps in statutory access relative to salaried workers tend to concentrate on sickness, unemployment and occupational injuries and diseases (Spasova & Wilkens, 2018, p. 104). See Table 3 below.

(i) ‘Full to High access’ or ‘all inclusive access’: composed of 4 countries where the self-employed are required to be insured under all the insurance-based schemes.

(ii) ‘High to medium access’ or ‘optional access’: composed of 8 cases where the self-employed are not required to be insured under one or more insurance-based scheme (different from salaried workers), but may choose to voluntarily opt in into the scheme(s) concerned.

(iii) Low to no access’ or ‘partially exclusive’ is the biggest cluster (9 Member States), where the self-employed, contrary to salaried workers, do not have access, and – differently from the previous cluster – cannot opt into one or more insurance-based schemes (for example, unemployment benefit).

(iv) ‘Patchwork of optional access and partially exclusive systems’ combines features of both former clusters. The self-employed in this group of 7 countries are not required to be insured under at least one insurance-based scheme. They may opt into some schemes, but are completely excluded from others. This ‘patchwork group’ includes countries “where the situation is rather specific” (Spasova et al., 2017, pp. 45-46; Spasova & Wilkens, 2018, p. 106), such as Portugal.

An analytical glance at the data brings home the crucial point that, when one considers the diversity across Member States in which the self-employed access social protection, the self-employed have less extensive rights of access than salaried workers: only 12 provide comprehensive access, i.e., “compulsory or voluntary insurance under all statutory social protection schemes (‘all inclusive’ and ‘optional access’ clusters)” (Spasova & Wilkens,

2018, p. 106).

Portugal is placed in the ‘patchwork’ cluster, and admittedly is a specific case. One has to point out that some assertions about Portugal in the ESPN’s 2017 report have been superseded by very recent legislation (as documented in section 4.1 above and 4.2.3 below), for instance it is no longer the case that the self-employed cannot categorically access certain family and long-term care benefits, or that they can only opt into occupational injury benefits (occupational accidents are covered by mandatory private insurance). However, it is still correct to say that despite the self-employed making a contribution to the social security system (as salaried workers do), they still cannot access some social security benefits, the most relevant of which being unemployment. It is still the case that “only the dependent self-employed and those with a registered business have access to unemployment benefits” (Spasova et al., 2017, p. 46).

#### 4.2.3. Portugal in the Context of Recent European Reform Trends (2009-2019)

The issue of extending social security for the self-employed in order to bridge gaps in lack of legal entitlement, difficulties in eligibility or poor contribution records, has been tackled through reforms in the last decade. This section provides a comparative and contextualized depiction of reform trends in Portugal.

In order to do so, it is useful to draw a distinction between two types of reforms. Parametric reforms alter some parameters/mechanisms of a scheme (e.g., calculation base, harmonisation of contribution rates, eligibility conditions) leaving the institutional system unchanged. Paradigmatic reforms aim at an extensive integration of self-employment into social security, through the creation of new statuses or new social benefit schemes in favour of the self-employed (Spasova et al., 2017, p. 61).

The main reform trend seems to be convergence, upgrading the social protection of the self-employed, mending extant gaps towards salaried employees (Table 4). Time and again, changes increase coordination and harmoni-

sation between the social protection for the self-employed and the general social security schemes.

It is therefore no surprise that paradigmatic reforms have mostly, though not exclusively, been engaged by countries with lower to no access and partially exclusive schemes (BE, EL, FR, LT, LV), while parametric reforms have mostly, though not exclusively, been engaged by countries with a relatively higher protection standard, medium to high access or optional access (DK, ES, RO, SI, HU). Similarly, countries with a patchwork of the former two standards have engaged in catch up through parametric (EE, NL, PT) or paradigmatic reforms (IE, UK, PT). Portugal and Spain are the only countries to have engaged in both parametric and paradigmatic reforms.

Next we shall focus on Portuguese reforms from 2009 to 2019, encompassing the crisis period (2009-2014) with a center-right government under formal bailout (2011-2014) and the post crisis period (2014-2019) with a left of center government from November 2015 to late 2019, the so-called *geringonça*.

The first two paradigmatic reforms regarding social protection of self-employed in recent years took place during the crisis. Even though most of labour market reforms in this period decreased workers rights, in terms of self-employment the center-right government in power adopted measures that somewhat increased protection of workers in this situation. They both focused on protection while in unemployment. Firstly, in 2012, the government extended unemployment benefits to cover self-employed workers in a situation of economic dependence i.e., where at least 80% of their activity is conducted on behalf of a contracting entity (Decree-Law 20/2012 of 14 May). This was a major change since self-employed workers, regardless of their situation, had no access to unemployment protection until then. Secondly, in 2013 (Decree-Law 12/2013 of 25 January), unemployment benefits were again extended to cover the category of employers, that is, self-employed workers who earn their income through a registered business of their own or possess an individual commercial establishment, as well as their spouses if performing a professional activity together with them on

Table 3. Statutory access to insurance-based schemes for the self-employed in the EU.

Full/High Access All-inclusive	High/Medium Access Optional Access	Medium/Low Access Partially Exclusive	Patchwork Optional Access + Partially Exclusive
HR, HU, LU, SI	AT, CZ, DK, ES, FI, PL, RO, SE	BE, CY, EL, FR, IT, LT, LV, MT, SK	BG, DE, EE, IE, NL, PT, UK

Source: Spasova et al. (2017, p. 46); Spasova and Wilkens (2018, p. 105).

Table 4. Typology of reforms extending social protection to the self-employed in the EU.

Parametric Reforms	Paradigmatic Reforms	Index Ranking	Protection Cluster
	AT	7	Optional access
	BE	11	Partially exclusive
DK		19	Optional access
EE		11	Patchwork OP and PE
	EL	20	Partially exclusive
ES	ES	11	Optional access
HU		1	All-inclusive
	IE	22	Patchwork OP and PE
	FI	3	Optional access
	FR	22	Partially exclusive
	LT	11	Partially exclusive
	LV	11	Partially exclusive
NL		25	Patchwork OP and PE
PT	PT	11	Patchwork OP and PE
RO		25	Optional access
SI		3	All-inclusive
	UK	28	Patchwork OP and PE

a regular and permanent basis.

This reformist impetus continued and deepened in the post-crisis with the center-left government in office, supported in parliament by the radical left. It passed in 2018 a comprehensive law (Decree Law 53/2018) which increased social protection of self-employed in various ways. We single out those we deem to be paradigmatic. First, it was determined that from 2018 all self-employed could have access to the cash benefit assistance to children and grandchildren, as well as the cash benefit assistance to children with chronic disease or disability, which were major gaps in the long term care protection relative to employees. Secondly, regarding the contributory record, the law determined that self-employed workers could accumulate work periods as employee and as self-employed.

Besides these paradigmatic changes, the center-left government took several parametric changes that deepened the existing social protection. The number of own account workers who could have access to unemployment benefits increased in 2018. This was the case because the definition of who is considered to be an 'economically dependent' self-employed changed. From 2012, these were those whose 80% of their activity was for a single contracting entity. Decree-Law 2/2018 of 9 January lowered the criteria from 80% to 50%, meaning that more self-employed workers are in this category and, therefore, able to access unemployment benefits. Furthermore, for these workers the record of contributions was reduced and equals now those of contractual workers, ie, 360 days in the previous 24 months (Decree Law 53/2018). Besides unemployment, there were changes in other areas. For example, the waiting period for conceding sickness benefits to self-employed workers was cut from 30 to 10 days (closer to the regime of contractual work, which is 3 days). Lastly, until 2018, the self-employed worker could only access social protection and sickness benefits in the case of having no registered debts with Social Security or if they had been fully paid. Decree Law 53/2018 determines that it is enough to access the benefits if there is a payment plan of that debt (for a general overview of these years, see Campos Lima & Carrilho 2018, 2019).

## 5. Conclusions

In Portugal, the protection of self-employed workers by the social security system has improved over the years, closing the distance toward salaried employees. Despite this long path of convergence, and significant recent improvements, the social protection of the self-employed relative to salaried workers still displays gaps in coverage and adequacy.

Specifically, Section 4.1 has shown that the access of self-employed workers to social protection as compared to employees still lags behind in three areas: unemployment benefits, paid sick leave, and long-term care. In fact, the self-employed do not have access to unemployment benefits unless they are owners of a business or are economi-

cally dependent from one single contractor. Because the National Health Service is a universal access system based on residence financed by general taxation, self-employed workers are not worse off. However, as regards income replacement due to illness through sickness benefits, in general, those below a certain income threshold are not covered (the same for long term care); for those who qualify for coverage, the waiting period for granting the benefit is now 10 days, while for employees it is 3 days, whereas the maximum period for receiving the benefit is 365 days, while for employees it is 1,095 days.

The Portuguese self-employed are an heterogeneous group, the same as in other countries. Still, we found that within the self-employed universe there is no significant discrepancy for the worst in the social protection of economically dependent workers relative to that of own account workers and employers. However, there is one crucial single gap between a certain type of self-employed relative to other self-employed and to salaried workers, which is the aforementioned lack of unemployment benefit for own account workers, which is the largest group of self-employed.

Our analysis also considers how the pattern of social protection inequalities between self-employed and salaried workers intercepts with the cleavage pertaining to the type of social risks. The lacunae in social protection for the self-employed relative to employees have historically focused somewhat in the so-called new social risks (vs. old social risks), such as long-term care and family benefits (child care etc.). If we add to this the lack of any unemployment protection (a classic old social risk) until 2012, and still to this day for own account self-employed, the picture of dualization comes into better focus. However, recent legislation has sought to bridge gaps in both directions: towards employees in old social risks such as unemployment (albeit incomplete) and towards the protection against new social risks, inter alia, the extension to all self-employed of cash benefits for the assistance of children, grandchildren and chronically ill or disabled children.

The increasing similarity between the positions of self-employed and salaried workers relative to social protection should not cloud the fact that their respective contributory schemes are still different, to the disadvantage of self-employed workers which pay more for less, i.e., pay higher contributions (a larger proportion of their income) while enjoying fewer benefits.

Even when, as is the case, statutory access conditions have improved due to the elimination of categorial exclusions, de facto coverage and entitlement for the self-employed depends on eligibility conditions and actual take-up rates. In general, the self-employed receive lower benefits for shorter periods of time than salaried workers, as is typically the case, in Portugal as in the EU, of unemployment and sickness benefits, due to harder eligibility conditions, inadequate contribution rate, or the calculation formula of the income. Portuguese experts have also flagged the issue of under insurance of the self-employed, and that

they often insure themselves at the minimum insurance threshold. The Portuguese Minister of Labour, Solidarity and Social Security stated, when previewing the 2018 self-employed contributory regime reform, that “To have 80% of the self-employed workers making contributions to the lowest contributory tier may seem very interesting but exposes people dramatically. That way we would have again, in the future, a new generation with minimum pensions” (Baptista & Perista, 2017, p. 8; Pereira, 2016).

In Portugal as elsewhere in Europe, self-employed workers are an heterogeneous set, from employers with employees, to own account workers, to economically dependent, working in diverse areas of the economy, from agriculture, to small family retail businesses, to the digital and platform economy. Therefore, the risk of new forms of segmentation is always looming, this time within the self-employed, on top of the traditional segmentation between self-employed and salaried workers. Moreover, it is possible that, as the overall dualisation erodes, new forms of segmentation creep from within.

Indeed, recent European Working Conditions Survey data suggest the emergence of a split between, on the one hand, employers and stable own account workers (about half the self-employed) which have entered self-employment out of choice, are both economically independent and autonomous, and draw satisfaction from their work, and, on the other hand, a growing group of vulnerable and concealed self-employed (about 1 in every 4 self-employed), which are self-employed for lack of a better alternative, whose situation is marked by economic dependence or even bogus self-employment, low work autonomy, financial vulnerability and less satisfaction.

The markedly lower percentage of Portuguese self-employed by choice and higher percentage of no alternative relative to the EU average signals out Portugal as a potential case for this emerging split. Over the years, from the extension of unemployment benefit to the economically dependent in 2013 to a better legal and contributory regime in 2018 and the combat to bogus self-employment in 2017, significant legislative steps have been taken to counter-act this trend.

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