Job retention schemes in Europe Portugal

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Note on ETUI classification of job retention schemes (JRSs): All job retention schemes (JRS) share the objective of preserving the ties between companies and their employees in times of temporary economic difficulties. They support incomes of workers who keep their employment contract even if the work is fully suspended. Depending on the primary objective and the nature of support, three different categories of JRS can be distinguished:

- (1) Short-time Work Scheme (STW): The key objective of STW schemes is to provide support to companies to retain their employees in times of economic difficulties. The company receives financial support for the employees' wages paid for the time not worked. The extent of working time reduction can vary, including also a full work suspension.
- (2) Furlough Scheme (FS): FSs can be best understood as temporary unemployment. The financial support is thus paid directly to the worker for the period of partial or full working time suspension. The aim of a FS is to enable companies to reduce their wage bill by temporarily laying off (parts of) their workforce. While retaining the ties with the employer, workers on the FS scheme are available to seek alternative employment. Integrated into the existing system of unemployment insurance, FSs can be seen as a tool to facilitate the transition towards a new job.
- (3) Wage Subsidy (WS): The main objective of WS is to preserve employment through subsidizing companies' wage bills. For this purpose, a company in temporary financial difficulty receives financial support per employee, regardless of whether or not working time of specific employees is reduced. The employees keep receiving their wages. Permissible wage adjustments are not directly related to working time reductions.

Key characteristics of the job retention scheme

ETUI classification of the job retention scheme (JRS)	Short-time work schemes (STW)		
Name of the scheme	Simplified lay-off scheme ² (lay-off simplificado)	Extraordinary support for the progressive recovery of companies in a situation of business crisis³ (Apoio à retoma progressiva)	
Start date of the implementation of the special Covid-19 JRS rules	On 30 July 2020, the so-called 'extraordinary support for the progressive recovery of companies in a situation of business crisis' replaced the simplified lay-off scheme introduced in March 2020, which expired on 31 July 2020. The simplified lay-off scheme was, however, extended for companies that remain closed as a consequence of government confinement measures. The new scheme is more like a classical STW scheme because it allows for working time reductions of between 50% and 70% and provides wage compensation for hours not worked. In January 2021 , in connection with the state of emergency, both regimes were prolonged by 6 months by Decree Law 6-C/2021 of 15 January.		
Eligibility	Closure of business activities as a consequence of a government confinement measure.	(1) in case of a decrease in turnover of at least 40% the company could reduce working time by 50% in August and September and by 40% in the last quarter of 2020;	
		(2) in case of a decrease in turnover of at least 60% the company can reduce working time by 70% and 60%, respectively, in the same periods of the year.	

^{1.} CESIS, Centro de Estudos para a Intervenção Social.

^{2.} Eurofound (2021) Exceptional and temporary measure on layoffs to protect jobs in the context of the COVID-19 pandemic, case PT-2020-13/297 – measures in Portugal, Covid-19 EU PolicyWatch.

Eurofound (2021) Support to temporary reduction of the normal period of working time, case PT-2020-31/1278 –
measures in Portugal, Covid-19 EU PolicyWatch.

The company is then entitled to wage support for the time not worked.

Since January 2021 these provisions have been updated:

(i) in the case of a decrease in turnover equal to or greater than 25%, the company can reduce working time by a maximum of 33%; (ii) with a decrease in turnover equal to or greater than 40% working time per worker can be reduced by up to 40%; (iii) in the case of a decrease in turnover equal to or greater than 60%, the reduction of working time can be a maximum of 60%; (iv) in the case of a decrease in turnover equal to or greater 75%, the reduction of working time can be (a) up to 100% in January, February, March and April 2021; and (b) 75% in May and June 2021.

Exceptions (category of workers or companies excluded from support)

Managers and company directors; self-employed; public administration.⁴

Duration of support (maximum duration for which JRS support is paid) Workers can be taken off work for one month, which can be renewed six times, for a maximum of six months. Currently, the scheme runs until 31 December 2020.

On 15 January 2021, this regime was upgraded and prolonged by another six months (Decree Law 6-C/2021).

The duration of the new scheme is 5 months from 1 August until 31 December 2020. The working time reduction lasts for one month, but may be extended monthly while the decree law is in force.

On 15 January 2021, following the declaration of the state of emergency the regime was upgraded and prolonged by another six months (Decree Law 6-C/2021).

Level of support for employees (percentage of gross or net wage, please also specify whether social security contributions are covered) The level under the original simplified lay-off scheme (Decree -Law 10 -G/2020, of 26 March) was 66% of the original gross wage. Under the extended scheme since August 2020 the support has been 77% and 83% of the original gross salary from August to September, and between 88% and 92% from October to December 2020.

STW support has to be at least the amount of the minimum wage.

Under the extended scheme **since January 2021** (Decree Law 6-C/2021 of 15 January), the level is 100% of the original gross wage, up to three times the minimum wage. Moreover, a similar increase of support in provided for the 'normal lay-off regime' (Art. 298 of the Labour Code), when it applies to situations resulting from the Covid-19 pandemic.

Decree Law 6-E/2021 of 16 January allows that during the state of emergency, the companies that are currently benefiting from extraordinary support to progressive recovery (created by Decree Law 46-A/2020) and whose activities are suspended due to the closure of facilities and establishments by legislative or administrative decision of the government, may cease the ongoing support and subsequently opt for the simplified lay off scheme (created by Decree Law 10-G/2020).

According to Decree Law 10-G/2020 of 26 March 2020, employers benefiting from the measure have the right to temporary exemption from the payment

Compensation for hours not worked is two-thirds (66%) of the normal gross wage in August and September 2020, and four-fifths (80%) in the last quarter of 2020.

STW support has to be at least the amount of the minimum wage.

Since January 2021 (Decree Law 6-C/2021 of 15 January), compensation for hours not worked has been four-fifths (80%) of normal gross remuneration; but if it results in a monthly amount lower than the employee's normal gross pay, the amount of compensation is increased to ensure the employee's normal gross remuneration, up to a limit of three times the minimum wage.

Decree Law 46-A/2020 of 30 July 2020 granted the partial payment or exemption of employers from the payment of social security contributions (Article 9). In August and September 2020, employers were granted total exemption of contributions in the case of micro, small and medium-sized companies; and 50% partial exemption of contributions in the case of large companies. In the period October-December 2020, employers were granted 50% partial exemption of payment of contributions to social security in the case of micro, small and medium-sized companies. The Decree Law 6-C/2021 of 15 January granted only 50% partial exemption from payment of social security contributions to micro, small and mediumsized companies.

^{4.} The General Labour Law in Public Functions (Law no 35/2014, of 20 June) that regulates the public sector stipulates that civil servants cannot be laid off. There is only one situation in which this regime could apply, namely individual labour contracts in the public sector that are regulated by the Labour Code. The government has not included them in the simplified lay-off scheme and subsequent amendments, however.

of Social Security contributions (Article 4 and 11). Employers that benefit from the measure are entitled to total exemption from the payment of Social Security contributions paid by the employer for the covered workers during the period of validity of the measure. The amendment by Decree Law 6-E/2021 of 15 January terminated this exemption of employers from payment to social security (Article 4, paragraph 2).

Cap on support (maximum amount of JRS support payable)

The maximum amount paid is three times the minimum wage.

What share of the support is covered by the state and by the employer?

The state will cover 70% of the STW allowance and the employer the remaining 30%.

The new system generally keeps the rule that 70% of the reduced wage will be covered by the state and 30% by the employer. More specifically the following rules apply to the employers' wage subsidy:

- (a) 70% of STW support if the reduction of the normal working period is less than or equal to 60% (drop in revenue equal to or greater than 25% and less than 75%);
- (b) 100% of STW support if the reduction of the normal working period is greater than 60% up to 100% (drop in revenue equal to or greater than 75%);
- (c) if the drop in revenue is equal to or greater than 75%, the employer is entitled to additional support, corresponding to 35% of the remuneration due for hours worked.

This system – in the case of drop revenue equal to or greater than 75% – allows to combine b) and c) giving the employer the whole STW support for hours not worked but also 35% of the wages paid for the time that the workers actually work.

In practice, however, the amendments to the Decree Law 46-A/2020 of July 2020 made in November 2020 and January 2021 allowing the reduction of working time by 100% – in the case of drop in revenue greater than 75% – in the months of 'confinement' (October 2020-April 2021) might have reduced the likely impact of the 35% additional support for hours worked. Moreover, this kind of incentive of 35% support for the time worked has to be seen in the light that employers in Portugal are traditionally much more reticent to use working time reduction schemes than to use lay off schemes.

Dismissal protection

The measure prohibited companies benefiting from the measure from dismissing employees (supported by STW or not) during the period of temporary suspension or working time reduction, as well as in the subsequent 60 days. Dismissals are possible, however, in the case of termination of a service commission, termination of a fixed-term contract or because of due cause attributable to the employee. Also this prohibition does not prevent employers from dismissing workers during their trial period.⁵

According to the Labour Code 2009 (Art. 114) the employment of workers on a trial period can be cancelled at any time by decision of one of the parties.

Role of collective bargaining in the adoption and implementation of JRS support Collective bargaining plays no role in the adoption and implementation of STW support.

Under the normal lay-off regime (Labour Code 2009), the company must communicate, in writing, to the works councils (*comissões de trabalhadores*) or, failing that, to trade union delegates its intention to reduce or suspend work, informing them about the requirements for the measure, its scope and deadline, as well as alternatives. If there are no workers' representatives, the workforce has five days to elect representatives. Five days after communication, there is a negotiation phase, after which the company communicates (with or without agreement) what form of lay-offs will be applied.

The measures related to the Covid-19 pandemic do not require the election of workers' representatives when they do not exist (the large majority of Portuguese companies) neither negotiations, but only consultation of workers' representatives. if they exist.

Under the 'simplified lay-off' there is no mention of deadlines or negotiations, requiring only the prior communication and consultation with works councils or trade union delegates, if they exist. This communication must be accompanied by a statement from the employer and a statement from the certified accountant (Ordinance 71-A/2020 of 15 April 2020).

Under the 'support for progressive recovery' with a temporary reduction of normal working, the employer communicates, in writing, to the workers to be affected by the respective decision, the percentage of reduction per worker and the expected duration of the measure, after consulting with the works council or trade union delegates, if they exist. The employer can set a deadline for receiving the workers' representatives' views, which must not be less than three working days (Decree Law 46-A/2020 of 30 July).

Special conditions for support to avoid misuse of the system (for instance, ban on paying out dividends or bonuses; ban on share buybacks or operating from tax havens) Companies are not allowed to pay out dividends while having workers on STW.

Special provisions as regards training/ requalification/ reorientation of employees on JRS Decree Law 10-G/2020 of 26 March laid down that support for the maintenance of employment contracts can be combined with a training plan⁶ approved by the Institute of Employment and Vocational Training (IEFP) and an IEFP training grant, according to the provisions of the Labour Code. This training grant amounts to €131.60, that is, 30% of the Social Support Index (IAS), the benchmark used to calculate welfare benefits. This was €438.81 in 2020, and it is paid in equal parts to the employer and the employee.

On the other hand, Art. 7 laid down that companies that, within the scope of this decree law, have not resorted to extraordinary support to maintain employment can access extraordinary support for part-time training with a view to maintaining jobs and strengthening the skills of their workers, in order to prevent unemployment. This extraordinary support lasts for one month, is supported by the IEFP and is granted according to the hours of training attended, up to a limit of 50% of workers' gross pay, with the maximum limit of a month's minimum wage. The training plan has to be approved by the IEFP and implemented in connection with the company. Training duration should not exceed 50% of normal working time, and when possible, may be conducted remotely.

Decree Law 46-A/2020 of 30 July laid down that extraordinary support for progressive recovery with a temporary reduction of normal working time can be combined with a training plan⁷ approved by the Institute of Employment and Vocational Training (IEFP) and an IEFP training grant, according to the provisions of the Labour Code. This training grant corresponds to €131.60, that is, 30% of the Social Support Index. This was €438.81 in 2020, and it is paid in equal parts to the employer and the employee.

The training plan has to be implemented by the IEFP and in connection with the company, and when possible, may be conducted remotely. The focus in on improving workers' professional skills, whenever possible enhancing their qualifications and helping to improve the company's competitiveness.

The training can be provided by job and training centres linked to IEFP and by entities certified by the Ministry of Labour/DGERT, but can also be provided by the social partners represented at the Standing Committee for Social Concertation or by their affiliated sectoral or regional organisations, provided that their training entities are certified by the Ministry of Labour/DGERT and that an appropriate cooperation agreement is signed with the IEFP.

^{6.} Eurofound (2021) Extraordinary training plan - Exceptional and temporary measure to protect jobs in the context of the COVID-19 pandemic, case PT-2020-12/335 - measures in Portugal, COVID-19 EU PolicyWatch.

^{7.} Eurofound (2021), Training plan for companies with temporary reduction of the normal period of working time, PT-2020-12/1281 - measures in Portugal, COVID-19 EU PolicyWatch

Quantitative data

How many workers were on JRS each month? (Please indicate whether these are applications for JRS or the actual numbers of workers on JRS)

	Simplified lay-off scheme ⁸	Progressive recovery scheme
March 2020	72,507	
April 2020	1,139,373	
May 2020	120,234	
June 2020	25,204	
July 2020	9,599	
August 2020	1,829	n.a.
September 2020	347	n.a.
October 2020	146	n.a.
November 2020	15,733	n.a.
December 2020		
Accumulated data on 15 January 2021 ⁹	1,384,972	197,048
Accumulated data from 15 January 2021 to 2 March 2021	515,415	299,369
Accumulated data from 15 January 2021 to 27 April 2021	540,116	387,180

Which sectors were most affected at the beginning of the pandemic in March/April and towards the end of the period studied in November/December? (as a percentage of overall number of workers on JRS)

At the end of April 2020, the sectors that were most affected as a percentage of the overall number of workers at the companies that applied for STW (no data available for the actual number of workers on STW) were as follows: manufacturing (21.45%); accommodation and food service activities (18.40%); wholesale and retail trade (18.11%); and administrative and support service activities (11.20%).

At the end of the period, October 2020 (accumulated data from March to October), the distribution was similar: manufacturing industry (22.56%); accommodation and food service activities (18.02%); wholesale and retail trade (17.26%); and administrative and support service activities (11.38%).

Is there any data on how much money the state spent on JRS and over time? (in absolute figures and as a percentage of GDP) According to the information provided by the Ministry of Finance concerning the budget at the end of December,¹0 overall the budgetary impact of the simplified lay-off scheme and the extraordinary support for progressive recovery amounted to €981.9 million (€823.2 million for the simplified lay-off scheme and €158.7 million for the extraordinary support for progressive recovery scheme). The overall amount spent on the two schemes amounts to 0.46% of GDP (according to Eurostat Portugal's GDP was €213.3 billion in 2019).

^{8.} Refers to the accumulated number of workers employed by the companies that applied for the scheme, but not to the actual number of workers on STW. See GEP/MTSSS (2021) Indicadores Covid-19 MTSSS, Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security, http://www.gep.mtsss.gov.pt/indicadores-covid-19-mtsss.

^{9.} The data referring to the 'Progressive recovery scheme' have not been published on a monthly basis. The data published on 12 February 2021 refer to accumulated data at the end of January 2021. It indicates the number of companies (19,121) requesting this support and the number of workers they employed (197,048) and not the actual number of workers on STW. See GEP/MTSSS (2021) Indicadores Covid-19 MTSSS, Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security, http://www.gep.mtsss.gov.pt/indicadores-covid-19-mtsss

^{10.} Portuguese government (2021) Sintese Execução Orçamental – Dezembro 2020 [Summary of Budget – December 2020], Directorate-General for Budget/Ministry of Finance, https://www.dgo.gov.pt/execucaoorcamental/Paginas/Sintese-da-Execucao-Orcamental-Mensal.aspx?Ano=2021&Mes=Janeiro

Information on non-standard workers and JRS¹¹

Do non-standard workers (NSW) have access to the regular JRS scheme or are there other support schemes, for instance for the selfemployed?¹² Non-standard workers and the self-employed do not have access to the regular STW scheme.

Various measures have been implemented for non-standard workers, however:

- Extraordinary support for the self-employed in situations of reduced economic activity introduced in March (Decree Law 10-A / 2020) and valid until the end of December. This support is the most similar to STW, and the most important measure in terms of the budgetary sums involved and the scope of protection.¹³
- 2. Extraordinary measure to encourage professional activity introduced in May and valid until December (Decree Law 20-C / 2020, Article 28-A).
- 3. Integration of situations without social protection introduced in May and valid until the end of September (Decree Law 20-C / 2020, Article 28-B).
- Protection of self-employed and informal workers introduced in July (Law 27-A/2020), implemented after 23 October (Ordinance no.250-B/2020) and valid until the end of December.
- Social support for artists, authors, technicians and other arts professionals announced in June (Resolution of the Council of Ministers no. 41/2020 of 6 June), implemented since August (Ordinance 180-2020) and valid until December.¹⁴

What are the eligibility criteria?

1. Extraordinary support for self-employed workers in situations of reduced economic activity. The eligibility criteria have changed over time: in March 2020 it concerned self-employed workers who have paid contributions to social security in the past 12 months (and for at least three consecutive months), whose activities or whose sector have been halted temporarily as a result of Covid-19. In April, the measure also encompassed self-employed persons experiencing a sudden and severe breakdown of at least 40% of turnover (in the 30 days prior to their application), and to managing partners, members of statutory bodies of foundations without employees (Decree Law 12-A/2020 of 6 April). In May, the legislation included additional support measures for self-employed persons with less than 12 months of contributions, and was extended, under certain conditions, to managing partners with employees, members of statutory bodies of foundations, members of private limited companies, and to associations or cooperatives (Decree Law 20-C / 2020 of 7 May). Finally, in August, the measure was also extended under certain conditions to self-employed workers with another job (labour contract) (Law 31/2020 of

2. Extraordinary measure to encourage professional activity

Applies to self-employed workers (as well as to employees earning less than €438.81), who initiated their activities more than 12 months beforehand, but who do not meet the conditions of the previous measure (period and regularity of social security contributions); or who initiated their activity less than 12 months beforehand; or are exempt from the payment of contributions in the first year of activity.

3. Integration of situations without social protection

Financial support for people who are not necessarily covered by a social security regime, national or foreign, and who declare that they have commenced or resumed self-employed activity to the national tax authorities. The granting of support requires the integration of the workers in the social security regime and implies that they maintain self-employed activities for a minimum of 24 months after they receive financial support (household means-tested).

4. Protection of self-employed and informal workers

It applies to workers without economic and social protection and to employees who have ceased their activities, including domestic workers. But it also applies to self-employed workers who are beneficiaries of one of three previous forms of support, when the amount of such support is lower than €438.81 (one IAS) and as an alternative to such support. Only residents on national territory have access to this measure. This support requires workers' integration in the social security system, and a 30-month obligatory commitment to the social security system, after the support expires.

5. Social support for artists, authors, technicians and other arts professionals

Provides support for artists, authors, technicians and others with activities corresponding to performing arts and supporting arts, who do not have a labour contract. The support is provided only to those that registered their activities in 2019 and without tax and social security debts. Furthermore, they must also not benefit from other provisions, such as lay-offs or support in the area of culture (dependent on the Ministry of Culture). Self-employed artists, authors, art professionals, etc., who benefited previously from measures 1 to 3 are entitled to this support as an alternative.

^{11.} Non-standard workers include workers with a temporary work contract, platform workers, temporary agency workers, multiparty employment, disguised employment/dependent self-employment, freelance workers, etc.

^{12.} The following questions refer to any existing schemes for non-standard workers.

Eurofound (2021) Protection of self-employed and informal workers, case PT-2020-27/950 – measures in Portugal, COVID-19 EU PolicyWatch

^{14.} Eurofound (2021) Social support for artists, authors, technicians and other arts professionals case PT-2020-27/955 – measures in Portugal, COVID-19 EU PolicyWatch

How is the financial support for nonstandard workers calculated?

1. Extraordinary support for self-employed workers in situations of reduced economic activity

The relevant workers have a right to financial support for one month, extendable monthly, up to a maximum of six months. The amount of the support is related to the average recorded registered income of the self-employed (12 months before the application). The maximum amount of the support in March was one IAS (\pm 438.81) and was upgraded in April to the minimum wage (\pm 635.00). For workers whose average registered income was less than 1.5 IAS (\pm 952.00), the support coincides with that average, with a maximum value of one IAS. When the average registered income equals or is above 1.5 IAS, the support corresponds to two-thirds of that average and the maximum value of one minimum wage. In May a minimum amount was introduced of \pm 219.00, equivalent to 50% of the IAS.

At the end of April 2020, the number of self-employed applying for this measure was 188,176, 3.8% of whom were experiencing reduced activity. At the end of December (period March–December) the number was 214,618, 9% of whom were experiencing reduced activity.¹⁵

2. Extraordinary measure to encourage professional activity

Workers have a right to financial support lasting one month, extendable monthly, up to a maximum of 3 months, corresponding to the amount calculated on the basis of the average income reported for tax purposes between 1 March 2019 and 29 February 2020, with a maximum limit of €219.00 (half the amount of IAS) and a minimum of €93.00, corresponding to the lowest level of contribution.

3. Integration of situations without social protection

Workers have the right to financial support for a maximum of two months, corresponding to half of the IAS (€219.00). It is means tested (household income).

4. Protection of self-employed and informal workers

A monthly amount of 1 IAS, €438.81, due between July and December 2020. It is means tested.

5. Social support for artists, authors, technicians and other arts professionals

The support is paid twice (July and September) and the total amount corresponds to three times the IAS or €1,316.43.

Which sectors were most affected in terms of providing support to non-standard workers?

1. Extraordinary support for self-employed workers in situations of reduced economic activity
Data published by GEP/MTSSS do not provide sectoral information concerning this measure. All in all, at the end of April 2020, the total number of self-employed applying was 188,176, 3.8% of whom were experiencing reduced activity. At the end of December (period March–December) the total number was 214,618, 9% of whom were experiencing reduced activity.¹¹6 The budgetary impact of this measure amounted to €280 million.¹¹7

2. Extraordinary measure to encourage professional activity

Workers have the right to financial support lasting one month, extendable monthly, up to a maximum of 3 months, corresponding to the amount calculated on the basis of the average income reported for tax purposes between 1 March 2019 and 29 February 2020, with a maximum limit of €219.00 (half the IAS) and a minimum of €93.00 corresponding to the lowest level of contributory incidence.

3. Integration of situations without social protection

No information available

4. Protection of self-employed and informal workers without any economic and social protection No information available.

5. Social support for artists, authors, technicians and other arts professionals

By definition the arts, entertainment and recreation sector.

Are there any measures for training/ requalification/ reorientation for nonstandard workers? Not specifically for non-standard workers.

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^{15.} GEP/MTSSS (2021) Indicadores Covid-19 MTSSS, Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security, http://www.gep.mtsss.gov.pt/indicadores-covid-19-mtsss

^{16.} GEP/MTSSS (2021) Indicadores Covid-19 MTSSS, Strategy and Planning Office of the Ministry of Labour, Solidarity and Social Security, http://www.gep.mtsss.gov.pt/indicadores-covid-19-mtsss

^{17.} Portuguese government (2021) Sintese Execução Orçamental – Dezembro 2020 [Syntesis of Budget Execution – December 2020], Directorate-General for Budget/Ministry of Finance, https://www.dgo.gov.pt/execucaoorcamental/Paginas/Sintese-da-Execucao-Orcamental-Mensal.aspx?Ano=2021&Mes=Janeiro.

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