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## **Unemployment and Pensions Protection in Europe: the Changing Role of Social Partners**

Spain



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### **Spain**

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## Executive Summary

### Introduction

Occupational welfare has been one of the topics usually addressed in Spanish collective bargaining, although to a very limited degree. In spite of being a background issue, it has become more important over the decades, but certainly, in the brief history of Spanish welfare, it seems not to have been at the top of the social partners' agenda. Only relative importance has been granted to some specific issues, such as pension plans and funds, temporary illness top-up payments to state benefits, and provisions regarding unemployment and retirement in agreements concluded during consultation periods in collective redundancy processes. In the context of the current crisis, public social cuts and decentralization of collective bargaining, OW is being reduced and is not at all a priority in political or trade union debate, since occupational welfare is a bargaining chip to limit redundancies and wage reductions.

### Context information

Like other late developers in the European Union, Spain's welfare system is still changing. The Spanish welfare system – as part of the Mediterranean model – thus incorporates elements from Bismarckian and Beveridgean traditions, and has reached an intermediate level of de-commodification and universal access and means-testing for social benefits and services. Despite the economic growth achieved in recent decades, Spain is currently among the countries with lower levels of social spending. The Spanish pension and unemployment protection systems are based on a powerful public system, but late reforms are partially limiting their extent. Since 2010, austerity policies have tightened the requirements for access to certain public protection schemes and have reduced the level of coverage. These reforms are not only eroding the coverage of public protection but are also the driving force behind the decentralization and individualization of collective bargaining. The Spanish industrial relations system operates in a context with a strong presence of small and micro-size companies, a low degree of union density, a prevalence of sectoral level branch agreements and very high collective bargaining coverage. In this context, the second and third pillars of social protection have always been of very limited importance in Spain, and it is unlikely that they will develop further in times of crisis, due to increasing labour precariousness, social and fiscal cuts and decentralization of collective bargaining.

## Key findings

The General Law on Social Security states that complementary welfare measures may take two forms: a direct top-up to social security benefits or establishing additional contributions to the public system. In the so called 'Pacto de Toledo' a major consensus was reached, which recognized the need to develop occupational complementary pensions and to reach a broad level of coverage. Spanish collective bargaining contains several references related to occupational welfare, but it is not addressed as frequently as in other countries.

Occupational welfare pensions in Spain are still not common: nearly 11% of the working age population contributes or has contributed to some kind of occupational pension system, but their contributions are very low. The most important occupational pension instruments are the occupational pension plans -followed by collective insurance schemes, which are the result of old pension grants covered by collective bargaining. One of the core specificities of these plans is their governance, which takes place through a Monitoring Committee, made up of developers, members and beneficiaries, in charge of monitoring and implementing the plan. In order to assess the importance of these plans, it is noteworthy that the average level of savings in occupational pension plans is very low, which highlights that this system is not a real complementary welfare system. An analysis of assets shows a very unequal distribution. Most plans are small and almost 50% of the assets in occupational pension plans belong to the Insurance sector and 9% to the IT sector.

In Spain, there is no structured system of occupational welfare acting as a supplement to state unemployment protection. However, we can find two different contexts where such tools may be used. Firstly, long-term unemployment is considered by the law as an 'exceptional case of withdrawal'. This makes it possible to reclaim the individual savings from the plan once state coverage has finished. Secondly, some measures complementing unemployment benefit can be found in collective employment restructuring agreements. These agreements usually top up the legal minimum level of compensation for the termination of contracts, but there are also several measures, 'social accompanying measures' for collective redundancies or short-time schemes, other compensation, benefits or economic support to reduce the effects on affected workers. There are no available data concerning coverage of these occupational unemployment schemes, so no actual evidence of unequal access exists. However, the segmented labour market must mean limited access for certain groups. These collective agreements are present only at company level and in large companies with enough union density, while most of the workforce in Spain is not covered.

It is not easy to distinguish between the consequences of the crisis and the outcome of the reforms to occupational welfare. Labour and fiscal reforms are of crucial importance in this respect. Firstly, it is important to mention the reduction in fiscal incentives, both concerning contributions and business taxes. Secondly, the labour reform enabled employers to change the most important working conditions unilaterally – which has resulted in a general reduction in wages – and the reduction of the role of public authorization in collective plans.

## **Conclusion and Outlook**

Recent reforms have reflected an increased risk of reductions in both statutory and occupational welfare. Austerity measures are eroding key elements of the social system and particularly the social protection system. The most evident consequence is a reduction in coverage and level of benefits. The worsening of the poverty rate and the increased number of families with no regular income are clear demonstrations of this: the Social Security system and social services are not able to cover the risk of precariousness and unemployment in Spain.

In Spain, occupational welfare has not replaced (but has acted as a supplement to) statutory welfare schemes. The debate between social partners is concentrated on the risks related to the development of occupational schemes. First, the focus is on the social costs of promoting these private systems in terms of social equality and redistribution. There is a risk of a division of social rights as a consequence of the segmentation of the labour market, since precariousness is becoming an unremitting long-term trend. This will ultimately determine living conditions up to and beyond retirement. Nowadays only 47% of the working age population is in employment and 12.5% of workers live in households below the at-risk-of-poverty threshold. Moreover, we cannot forget that the segmentation in the Spanish labour market includes an important gender gap, together with age and migration gaps. The fact that 24.5% of working women have part-time jobs – most of them involuntarily – shows not only how difficult it is for these women to secure a sufficient public pension, but also their need for a direct salary instead of occupational contributions.

It is thus difficult to envisage a new way to promote occupational welfare in general, and occupational pensions and unemployment benefits in particular. The priorities of social partners differ, the public administration is cutting previous tax relief, and cuts in social protection are jeopardising solidarity and redistribution, in a context where collective bargaining is being weakened.

### **Further reading and contact details**

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**Escudero Rodríguez R. (coord.) (2012)** La Negociación Colectiva en los Expedientes de Regulación de Empleo. Informes y Estudios, Relaciones Laborales, Ministerio de Empleo y Seguridad Social.

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## 1. Introduction

The goal of this report is to describe and analyze the development of occupational welfare schemes in Spain. In this regard, the report addresses the relationship between OW and the Spanish welfare state, as well as the role of social partners in its configuration and trends.

The document is organized in six sections. The first two chapters provide the context, presenting the main characteristics of the Spanish welfare system and its industrial relations system. The next section gives a general overview concerning occupational welfare in Spain and the fifth focuses on occupational pensions and unemployment protection. The last chapter broadly analyses the relationship between occupational, social and fiscal welfare, the role of the social partners in occupational welfare and its governance.

The report is the result of a methodology which uses various sources. Firstly, the report is based on a review of the most relevant research, reports and essays published on the matter in Spain. Secondly, the available statistical and administrative data were used, from public and private institutions. Thirdly, the report has also taken information from the documents produced by different public and private institutions on complementary pensions. Additionally, the study has collected information from various documents produced by the social partners in relation to occupation welfare and public policies, especially in the field of pensions and unemployment protection. The sectoral approach has been mainly addressed through an analysis of collective agreements in the two selected sectors – the retail and automotive sectors – and interviews. These interviews have given very important indications of the social partners' opinions, interests and strategies in relation to occupational welfare.

## 2. The country's welfare state and industrial relations.

### *2.1 The country's Welfare State*

The Spanish welfare state is relatively recent, especially when compared to other European countries. Most of the changes in the welfare state occurred in the mid-1970s, following the end of the dictatorship of General Franco, in 1975.

The main measures in Franco's time were a social security Law, dating from 1963, an education Law, from 1970, and a housing financial plan, 1961-1976. However Franco's regime was characterized by the inability of social groups to provide input to the political system, by the subordination of the whole welfare state to the goal of capitalist accumulation, by weakness of the

welfare financial system and, finally, by a regressive fiscal structure that did not permit a redistributive policy. Traditionally, the Catholic Church had great influence over Spanish welfare policies, which were designed to support patriarchal family structures and the authoritarian state.

General Franco died in 1975 and the Spanish welfare state underwent a big change with the transition to democracy, in a context marked by the economic crisis and the difficulties associated with the building of a democratic State. A process of welfare institutionalization began with a liberal-reformist focus. It was based on income redistribution through a new progressive fiscal system of 1978 – with direct taxes on income and property – and on some universalistic welfare services; at the same time the process of government decentralization began.

Later, the welfare system covering areas such as health care, social housing, and education developed rapidly. Like other late developers in the European Union, Spain's welfare system is still changing. In terms of the models approach of (Esping-Andersen 1990), several authors have theorized about a fourth distinctive model including Spain, Greece, Italy and Portugal (Ferrera 1995; Moreno 2001). These countries share needs and different lifestyles, family microsolidarity and a mix between universalism and selectivity in the access to social protection. The Spanish welfare system – as part of the Mediterranean model – thus incorporates elements from Bismarckian and Beveridgean traditions, and it has reached an intermediate level of de-commodification and universal access and means-testing for social benefits and services. Spain can be considered as an accurate representation of this middle point between the universalization of health care, education and pension systems and the permanence of a contributory system of social security (Moreno 2001).

Social spending in Spain, measured as a percentage of GDP and taking account of the population, has been always low in comparison with the European average. Despite the economic growth achieved in recent decades, Spain is currently among the countries with lower levels of social spending. In 2011, social expenditure in Spain represented 26.8% of GDP, more than 1 point below the average of the nine countries (2.4 excluding Poland - Table 1).

The essential social rights underpinning the Spanish welfare state were set out in the 1978 Spanish Constitution. The pillars of the Spanish welfare system have been developed to a greater or lesser degree in different areas to include – or at least aim at – universal public education, health care, pensions, unemployment benefits and the beginning of the implementation of a system of dependency care.

**Table 1: Total public and mandatory private social expenditure and voluntary private social expenditure over time**

	<b>1990</b>	<b>2000</b>	<b>2007</b>	<b>2011</b>
<b>Spain</b>				
Per head*	4102.9	5316.3	6511.8	7664.2
% of GDP	19.9	20.3	21.8	27.3
<b>Average 9 countries</b>				
Per head	5731.0	7342.6	8409.9	9104.5
% of GDP	24.2	25.9	26.1	28.6
<b>Average 8 countries</b>				
Per head	6292.0	7955.8	9074.9	9783.2
% of GDP	25.3	26.6	26.9	29.7
<b>OECD average</b>				
Per head	4080.2	6002.1	7147.5	7847.8
% of GDP	17.9	21.2	21.6	24.3

\* Per capita, at constant prices (2000) and constant PPPs (2000), in US dollars.

**Source:** OECD SOCX database (2015).

It must be noted that the extension of the welfare state in Spain has been strongly affected by the country's decentralised territorial organisation, which gives the regional governments powers over many social policy issues. As a result of this, there is a somewhat mixed picture in the state as a whole, with 17 Autonomous Communities (plus the autonomous cities of Ceuta and Melilla) having their own legal identity and capacity for action in certain areas of social policy.

The development of the Spanish welfare system over these last four decades has led to a significant increase of expenditure on social protection per capita, with growth slightly higher than the average (although spending has never reached the level of other countries). Nevertheless, in recent years, social protection expenditure has increased considerably, owing to the drop in economic activity caused by the crisis and the increasing social needs resulting from the high and long-lasting unemployment (with an unemployment rate of 23.8% in 2015 and 14.5% for long-term unemployment) <sup>(1)</sup>.

Structural vulnerabilities have been intensified during the current crisis, generating new social needs within Spanish households. The helplessness that many people have had to face is dramatic, because of long periods of unemployment to which are added other situations of

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1. The unemployment rate rose from 11.1% in 2008 to 26.3% in 2013, Source: Encuesta de Población Activa, Instituto Nacionalde Estadística (2015).

vulnerability, such as the reduction of benefits and income or the loss of housing and evictions. All these factors are making the social situation as a whole untenable. Poverty and exclusion rates rose from 23% to 27% between 2007 and 2013, while economic inequality – measured by the Gini index – increased 3 points in the same period, reaching the highest inequality level in the EU (Eurostat 2015).

National and regional governments have adopted several austerity policies since 2010, eroding social rights and altering the basis of the Welfare State in Spain. The reforms implemented in the fields of health, education, the long-term care system, labour market and pensions have caused significant changes in public coverage. Against this background, unemployment and poverty are rapidly increasing, affecting more citizens and households more deeply, at a time when solidarity is breaking down and people are in need of social protection. As an example of this trend, unemployment coverage has dropped from 78% in 2010 to 59% in 2014 (Ministerio de Empleo y Seguridad Social, Boletín de Estadísticas Laborales 2015).

The Spanish Social Security (Seguridad Social) system is structured into four types of protection:

- First, contributory protection, professional and proportional, which compensates for the absence of salary as a result of sickness, accidents, unemployment, family needs, disability, retirement or death. Its amounts are defined in relation to time and previous contributions. It is funded by the contributions of workers and employers and is managed by the State.
- Secondly, non-contributory protection, which provides economic benefits in situations of disability, retirement, unemployment or family allowance, at a fixed level. This protection aims to make up for the lack of resources of beneficiaries. It is funded by public contributions from taxes and is managed by the State.
- Thirdly, a universal-type protection, consisting of health care and social services, which is funded mainly through taxes.
- Finally, complementary social welfare, of which the main forms include social benefit mutual societies, collective life-insurance, and pension plans and funds.

The table below shows how social welfare is structured through the main three pillars in Spain.

**Table 2: Social Welfare Pillars and protection systems**

1 <sup>st</sup> Pillar	Public social security	<ul style="list-style-type: none"> <li>- Contributory benefits (unemployment, pensions, temporary disability, maternity)</li> <li>- Non contributory means-tested benefits (unemployment, pensions, temporary disability, maternity)</li> <li>- Universal health care and social services</li> </ul>
2 <sup>nd</sup> pillar	Occupational systems of voluntary and collective social welfare plans	<ul style="list-style-type: none"> <li>- Complements to benefits for sickness leaves</li> <li>- Complements to benefits for reconciling life and work</li> <li>- Complements to benefits on family protection</li> <li>- Occupational pension systems: occupational pension plans, company mutual social provisions, collective insurance schemes, business social welfare plans, intern funds</li> <li>- Tripartite system of vocational training</li> <li>- Social plans and complements to unemployment protection in redundancy processes</li> </ul>
3 <sup>rd</sup> pillar	Individual private systems of social welfare	<ul style="list-style-type: none"> <li>- Individual insurance for disability, decease and survivors</li> <li>- Individual or associated pension plans, insured pension plans and investment funds</li> <li>- Individual health insurance</li> </ul>

**Source:** Own elaboration.

Social Security, as in other European countries, has been configured as the main public institution in Spain for social protection. The Social Security system covers contributory services aiming at the provision of individual social benefits addressing certain risks. Access to this depends on work activity, and it is funded through membership fees, as are unemployment benefits and other non-contributory services. These services are based on universal access and funded by contributions from the State Budget. Social security is also responsible for the management of health care, both primary and hospital care, sick leave for convalescence, economic benefits covering temporary disability, maternity, paternity, death and survivors' pensions, contributory and non-contributory disability benefits, retirement and unemployment, social services and social assistance.

It is worth stressing that the management of some of these powers is decentralised, and the regions and local authorities are regarded as providers of some services, which are supplied mainly through the public system. However, since the 1990s there has been an intense process of privatization of these services –for example of the hospital care system.

### 2.1.1 Specific focus on the two risks under scrutiny

In Spain, the share of spending on old age protection in total public and private expenditure has shown a significant downward trend in the last three decades, especially when compared with other countries. In 1990, Spain was 2.5 points above the average of the countries under scrutiny. Ten years after, it was 5 points below this average. In 2011, old age protection represented 32.74% of total public and mandatory private social expenditure in Spain.

It is important to note that public and private expenditure on old age has increased by 70% during these decades. However, its share in total social expenditure has fallen while those of family or survivors' protection have increased.

**Table 3: Relevance of branches of public and private expenditure on Total public, mandatory private and voluntary social expenditure over time**

	<i>Branch</i>	<i>1990</i>	<i>2000</i>	<i>2007</i>	<i>2011</i>
<b>Spain</b>	<b>Old age</b>	36.18	33.60	30.89	32.74
	<b>Active labour programmes</b>	3.92	3.92	3.63	3.27
	<b>Unemployment</b>	15.83	8.29	8.16	12.64
<b>Average 9 countries</b>	<b>Old age</b>	33.75	37.27	37.50	38.27
	<b>Active labour programmes</b>	2.96	3.18	2.67	2.65
	<b>Unemployment</b>	5.65	4.90	4.30	4.78
<b>Average 8 countries (w/t Poland)</b>	<b>Old age</b>	34.56	36.69	36.54	37.48
	<b>Active labour programmes</b>	3.22	3.42	2.68	2.72
	<b>Unemployment</b>	6.35	4.98	4.64	5.24

*Source:* OECD SOCX database (2015).

Unemployment protection has always accounted for a higher level of expenditure as a percentage of GDP than the average of the 9 analysed countries, even during the period of growth. In 2011, this expenditure was more than 4 points above the figure for 2007, and was more than 7.5 points above the average of the 9 countries under scrutiny.

The importance of unemployment protection in Spain is related to the high structural levels of unemployment and long-term unemployment, in a context of deindustrialization. It is remarkable that the lowest unemployment rate in Spain in the last 20 years was in 2007, with a figure of 8.26. Active labour policies have never been considered as a real solution, given the low capacity for

generating sustainable employment. The poverty risk has always been a threat to social cohesion. This is the main reason for the generous system, in terms of length of protection, since the amounts are not so high and have been reduced in recent years.

### *Pension system*

The Spanish pension system is based around a powerful public system, aiming to offer universal coverage, and with a replacement rate which is one of the highest among the OECD countries. Although the system is less extensive than in other countries, Spain has developed different occupational pension and individual schemes, which are becoming increasingly important.

The state pension system in Spain is the most important pillar of social protection. Since the creation of the 'Retiro Obrero Obligatorio' in 1919, the system has developed and nowadays it is a Pay-as-you-go system, mainly contributory, mandatory and redistributive.

**Table 4: Three pillars of pension protection in Spain**

First pillar (Statutory schemes)	<ul style="list-style-type: none"> <li>- PAYG contributory system</li> <li>- Means-tested non contributory system</li> <li>- Partial retirement system</li> </ul>
Second pillar (Occupational schemes)	<ul style="list-style-type: none"> <li>- Occupational pension plans</li> <li>- Collective insurance</li> <li>- Company mutual social provisions,</li> <li>- Company social welfare plans</li> <li>- Company intern funds</li> </ul>
Third pillar (Individual schemes)	<ul style="list-style-type: none"> <li>- Individual insurance for disability, decease and survivors</li> <li>- Individual or associated pension plans, insured pension plans and investment funds</li> </ul>

**Source:** own elaboration.

The state pension regime is managed by the Social Security system in Spain. This is in charge not only of the contributory scheme, but also of the non-contributory means-tested scheme:

- Contributory pensions cover retirement, permanent disability and death (widowhood, orphanhood and family-related);
- Non-contributory means-tested pensions are geared to people whose incomes are considered insufficient, bearing in mind the composition of the household. These pensions are: disability and retirement.

Several reforms in 1985, 1997, 2006, and the most recent in 2011, have modified the number of working years to be considered in the calculation of the amount of the benefit, in relation to previous salaries and the minimum number of working years needed to be eligible for a contributory pension benefit.

The system has been quite stable and has been in surplus for several years. A reserve fund was created in the year 2000, to ensure the sustainability of the system, since it makes it possible to react in periods of crisis without the need for increases in contributions or reductions in benefits. From the beginning of the crisis, this fund was used to cover the deficit of the social security funds. This was a controversial measure.

Public expenditure on pension benefits has significantly risen since the return to democracy (from 4.8% of GDP in 1977 to 12% in 2012), although the trend in relation to national income has oscillated due to the economic cycles.

Contributory retirement pensions represent the most significant expense and one of the main budgetary headings for social protection. Every worker belongs to the social security system, and is eligible if he or she meets the requirements concerning age and minimum period of contribution. As shown in Table 5, the number of beneficiaries of this type of pensions has considerably increased in the last 10 years. In 2014 there were more than 9 million pensions, most of which were retirement pensions. This year, it is estimated that around 68% of people over 65 years were covered by a retirement pension, and 79% of widows were covered by a contributory widowhood pension. This last point is important, as the traditional family model in Spain is such that these pensions are the main income for older widows who had not made sufficient contributions, in a context where 30% of women over 65 live alone.

**Table 5: Contributory pensions by type**

Year (annual average)	<i>Total</i>		<i>Permanent disability</i>	<i>Retirement</i>	<i>Widowhood</i>	<i>Orphanhood</i>	<i>Family aid</i>
	Beneficiaries (In thousands)	Monthly Benefit amount	%	%	%	%	%
2005	7,979.71	609.75	10.44	767.24	260.08	5.62	1.85
2010	8,671.02	779.49	10.77	659.48	245.26	5.23	1.65
2014	9,201.08	871.01	10.10	638.22	252.66	5.86	1.63

**Source:** Own elaboration from Estadísticas de la Seguridad Social.

The pension system in Spain is now a key aspect of social policy, since it alleviates the high rate of poverty, which, in 2013, was 8 points lower among the over 65s. 20% of Spanish households, moreover, have a retirement pension as their main income. Thus it is noteworthy that, while the number of contributory pensions has increased, the number of non contributory pensions has decreased in the last 10 years, as illustrated in the table below.

**Table 6: Non contributory pensions by type**

Year (annual average)	<i>Non-contributory pensions</i>			<i>Social pensions</i>			Social Inclusion of disabilities
	Total	Disability %	Retirement %	Total	Disease %	Old age %	
2005	484,508	42.38	57.62	33,101	77.57	22.43	63,369
2010	453,295	43.27	56.73	14,848	89.20	10.80	34,687
2014	449,631	43.88	56.12	5,789	93.71	6.29	21,053

**Source:** Own elaboration from Estadísticas de la Seguridad Social.

Since the last reform, benefit is calculated in terms of the salary contribution over the last 25 years -instead of 15. The statutory retirement age is established at 67 years old, workers must have contributed for 37 years to obtain a 100% pension benefit and the access to early retirement has been restricted.

The Spanish contributory pension system offers pension benefits which are very high with respect to previous salary, ranked in the fourth position for average earners in estimates for the OECD countries. Nowadays, the OECD estimates a replacement rate of 73.9% of the previous salary, a percentage that has gone down since the adoption of the last reform, and is expected to follow an important downwards trend.

It is possible to distinguish between different systems of second and third pillar welfare protection in Spain. With respect to occupational systems, the main instruments are the occupational pension plans and collective insurance schemes, but there are also other instruments called company mutual social provisions, company social welfare plans and intern funds. The most representative individual schemes are the individual and associated pension funds and private insurance schemes.

It can be said that both pillars are underdeveloped in comparison with other countries. This can be explained, to a large extent, by the large scope of the public pension system, but there are other factors to be taken into account. The results of a survey in 2014 by the Caser Insurance Pension Observatory show that 43.5% of respondents do not have a savings system for their retirement because they have confidence in the Public Social Security regime.

The characteristics of the Spanish labour market, with a high level of temporary work and low salaries, have always constituted a constraint. 61.20% of respondents affirm that they cannot save up for retirement because they cannot save up in general.

Secondly, the peculiar process of growth in Spain, where house prices rose significantly, had two consequences: workers had to use a large share of their salary to buy a house, and secondly, investing in housing was considered the best 'pension plan'. To illustrate this, OECD data show that 90.7% of Spanish people over 65 years old own a house: the third country in the ranking.

Finally, these systems are seen as financial instruments for long-term saving, instead of social protection schemes. They are not therefore considered to be a real option for most employees, for the reasons given above and due to their low profitability.

### *Unemployment*

Unemployment protection in Spain is also mainly based around a redistributive public system; the second and third pillar of protection are limited in scope. Occupational unemployment policies in Spain have developed in the context of public initiatives to offer enterprises alternative paths to overcome economic difficulties, through short-time working schemes, and as a way to encourage business to mitigate the consequences of collective dismissals.

Although there was an early precedent at the time of the Second Spanish Republic, the current system was effectively launched in 1980, with the Basic Employment Law. The system was designed to be autonomous from the general social security system, and managed by the Public Employment Service, with the funds from the Social Security System.

**Table 7: Unemployment protection in Spain**

	<b><i>First pillar (Statutory schemes)</i></b>	<b><i>Second pillar (Occupational schemes)</i></b>	<b><i>Third pillar (Individual schemes)</i></b>
<b>Unemployment protection</b>	- PAYG contributory system - Means-tested non contributory system	- Exceptional access to funds in occupational pension plans and insurance schemes	- Exceptional access to funds in individual pension plans and insurance schemes
<b>Short-time schemes</b>	- Partial temporary unemployment benefits	- Complements to partial temporary unemployment benefits	
<b>Other redundancy/ dismissal schemes</b>		- Early retirement programmes	
<b>Active Labour Market Schemes</b>	- Tax incentives for hiring - Vocational training	- Replacement schemes - Vocational training	

**Source:** Own elaboration.

Four years later, non-contributory assistance was introduced, covering people once their contributory benefit had expired, and special coverage for unemployed workers of 55 years old or more was launched.

Other reforms in the 1990s limited the coverage of the contributory system. This was done by increasing the minimum periods of contribution required for access to the contributory system, reducing the duration of receipt of benefits in relation to time of contribution and reducing the amount of the benefits in relation to previous salaries. Secondly, the coverage of non contributory benefits was increased, although some limits were established.

From 2002 onwards, following the European recommendations, a new reform was launched based on activation principles. It sought to reinforce active labour programmes, toughening the conditions for access to contributory benefits, penalizing abuses of the system and requiring unemployed persons to accept 'suitable' working offers. The last reform in 2013 reduced the coverage of benefits and expanded the scope of exceptional non contributory benefit to cover long term unemployment situations.

Unemployment protection has always played a key role in Spain, due to a high structural level of unemployment and temporary work. In the last 15 years, unemployment rates have ranged between 7.9 in 2007 and 26.6 in 2013 (second quarter, Spanish Labour Force Survey), and the extent of long term unemployment has led to an increase in coverage beyond the contributory limits.

The unemployment contributory benefit covers workers who have lost their jobs involuntarily, who have made contributions to the Social Security system for, at least, 360 days throughout the last 6 years. The benefit is extended by a third of the time during which the worker has contributed, and it has to cover a minimum of 4 months and a maximum of 24. The amount of the benefit is calculated on the basis of the level of contribution during the last 180 days of work. However, there are minimum and maximum levels, fixed annually by the General Budget, which depend on family circumstances. This benefit is received once per month and nowadays amounts to 70% of the worker's previous salary for the first six months and 50% from the seventh month onwards. It is worth mentioning that people receiving the benefit are contributing to their retirement contributory pension. Reforms in 2002 <sup>(2)</sup> made it possible to receive a certain amount of the contributory benefit in one payment, for those persons wishing to begin a new activity as an employer or as a partner in a cooperative or a Limited Society.

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2. Article 228.3 from the Ley General de la Seguridad Social y la Disposición transitoria cuarta de la Ley 45/2002, 12 December 2002.

For self-employed workers there is special coverage, as long as they have made contributions to Social Security. The amount of the benefit is 60% of the total potential unemployment benefit, and it can be increased to 100% for men under 30 and women younger than 35. The previous activity and contributions should be sustained for a minimum of 18 months.

Non-contributory means-tested benefits cover workers not entitled to a contributory benefit, whose income is lower than 75% of the minimum salary, and who are in a situation of vulnerability related to family or personal circumstances.

There is another special benefit (contributory and non-contributory), linked to a specific programme targeted at temporary agricultural workers in two specific regions (Andalucía and Extremadura). It is known as 'P.E.R.' and covers workers who have worked at least 35 days of agrarian work. It guarantees a 6 months period of benefit.

Also, there are several non-contributory subsidies aimed at ensuring basic incomes to unemployed workers. These link passive and active labour policies: (a) Active Insertion Income (Renta Activa de Inserción): targeting unemployed people over 45, victims of gender violence and people with above 33% disability; (b) PRODI and PREPARA plans: targeting unemployed people who have used up their contributory benefit and are attending vocational training courses. In 2011, they received an amount of 426 euro per month. This has now been reduced to 350 euro, for up to six months; (c) Extraordinary activation for employment plan (Programa extraordinario de activación para el empleo): launched at the beginning of 2015, targeting all those previously in employment and who have exhausted every other possibility of benefit. Beneficiaries must have family responsibilities and no other source of income.

At the same time, from the 1990s onwards, but especially from 2000, Spain has reinforced the active labour programmes. The main actions consist in incentives to hire workers, and for the conversion of temporary contracts into permanent and vocational training for unemployed workers.

**Table 8: Beneficiaries of contributory and non-contributory pensions and Coverage rate**

Year (annual average)	Total	Contributory		Non-contributory					Active Insertion Income (%)	Coverage rate** (%)
		Total%		Total		Non- contributory (% non- contributory)	Agricultural income (% non- contributory)	Temporary agricultural workers (% non- contributory)		
		Beneficiaries	%	Beneficiaries	%					
2004	1,262,391	663,154	52.5	559,984	44.4	63.0	1.7	35.2	3.1	61.48
2009	2,681,223	1,624,792	60.6	960,888	35.8	79.6	3.9	16.5	3.6	75.48
2014	2,542,977	1,059,799	41.7	1,221,390	48.0	83.5	6.0	10.5	10.3	58.85

\* The coverage rate takes as a reference the number of people registered with the Public Employment Service.

**Source:** Own elaboration from statistics from the Spanish Social Security system,

As has been mentioned, the unemployment rate in the second quarter of 2015 was 22.37%, and the general coverage rate of benefits is 59% (in 2014). Five years before, the coverage level was 16 points higher, which could be seen as a positive figure in tackling the high poverty rate. Importantly, however, due to the crisis and as a result of reforms in 2012, the number of beneficiaries of contributory benefits, and the amount they receive per day, is decreasing, while the number of non-contributory beneficiaries is growing.

It is noteworthy that there are 757.2 thousand households without income, and that access to unemployment benefits has been hindered as a result of the new reforms.

Since the 2013 reform, several changes have been implemented, resulting in a retrenchment of contributory unemployment protection and new limits on non contributory benefits. The main cut concerned the level of payments received, which was reduced to 50% of the previous salary after the sixth month.

Occupational welfare in this sphere does exist in Spain in the context of collective dismissals. Enterprises use public resources to implement short-time schemes, and social partners can negotiate supplements to the state partial unemployment benefits or promote early-retirement systems. Legislation forces enterprises to hire replacements for dismissed workers, which constitute another issue for collective bargaining.

**Table 9: Beneficiaries of contributory unemployment benefits**

	<i>Total contributory</i>	<i>Collective redundancies</i>	<i>Suspension and short-time schemes</i>
<b>2007</b>	780,205	35,337	1,840
<b>2011</b>	1,328,020	67,974	15,898
<b>2014</b>	1,059,799	72,673	17,337

**Source:** Spanish unemployment benefit statistics.

As is represented in the table above, there are currently 17,337 workers receiving partial unemployment benefit as a result of a suspension of contracts or short-time schemes, as an alternative to collective dismissals.

## **2.2 The country's industrial relations**

The collective bargaining system in Spain has, historically, been characterized by the following structural features (Rocha 2014):

The prevalence of small and micro-size companies: more than 95% of companies with less than 10 workers.

- A long tradition of collective bargaining and collective agreements, most frequently at sectoral level (national and provincial). This preference for sectoral level branch agreements is due to the small size of most companies. These agreements have played a significant role in bringing about consistent and uniform working and living conditions.
- The power to sign collective agreements, at every level, on behalf of employees, is mainly granted to trade unions, except at company level, where this is more usually done by works councils.
- In general, collective agreements apply generally to all the workers, affiliated and non-affiliated – erga omnes – as long as these agreements respect the legal provisions on bargaining legitimacy (arts. 87 and 88 Estatuto de los Trabajadores). Nevertheless, trade unions and employers' associations can also sign collective agreements between bodies not composed according to the legal provisions. In this last case, the contents of collective agreements are applied only to affiliated workers, although individual workers can ask for them to apply (judicial interpretation).
- One of the most important features concerns the period of validity of the collective agreements, the so called 'ultraactividad' clause. This means that a collective bargaining agreement has remained in force even after its expiry, in the absence of a new agreement. In practical terms, it means that new agreements have been reached only if they provided workers with improved

conditions. This kind of provision provides workers with a high level of security about their working and living conditions, but at the same time it has weakened the collective bargaining process, in terms of content, over the years.

- A high degree of wage indexation to inflation, much more widespread in collective agreements than in other countries, even though it is not prescribed by law.
- Collective bargaining coverage rates in these countries are very high. Different sources give a coverage rate in 2008 of between 80 and 85%, or 74.5% <sup>(3)</sup>. These coverage rates were due to extension mechanisms for the contents of collective agreements (judicial and administrative extension procedures) – similar in some cases to those in Italy and Portugal; while in Spain, the main type of collective agreement has erga omnes effect.

Table 10 shows the main data and information concerning the industrial relations system in Spain, characterized by a low degree of union density and a very high collective bargaining coverage.

**Table 10. Industrial relations system in Spain**

	<b>2000</b>	<b>2007</b>	<b>2013</b>
<b>Union density</b>	16.6	15.5	16.9
<b>Employers' density</b>	72*	75**	
<b>Collective bargaining coverage</b>	85.1	78.8	79.8
<b>Dominant bargaining level</b>	Sector or industry level		
<b>Type of representation at the enterprise level</b>	Dual system: works councils or structures for employee representation (union and notunion-based) and union representatives		
<b>Main trade union organizations</b>	At the national level, Comisiones Obreras (CCOO) and Unión General de Trabajadores (UGT)		
<b>Main employers' organisations</b>	Spanish Confederation of Employers' Organisations (CEOE); Spanish Confederation of Small and Medium-Sized Enterprises (CEPYME)		

**Source:** Own elaboration from Visser/AIAS database, 2016.

Since the mid-1990s, the number of collective agreements in Spain has been growing progressively, reaching a total of 6,016 agreements signed in 2007. In the same way, the number of workers covered also registered a continuous increase until the onset of the crisis. These two

3. Sources: National Labour Force Survey and Social Security.

tendencies have resulted from the main expression of the basic principle of collective bargaining, namely the automatic general recognition of collective agreements.

From the beginning of the crisis a downwards trend therefore appeared: between 2007 and 2010, 949 fewer agreements were signed, and, using provisional data for 2011 and 2014, we observe an extraordinary fall of 1,876 in the number of collective agreements. Different factors could be behind this trend: the impact of the crisis and the reduction in the number of enterprises, or the consequences of changes in the collective bargaining system – with the promotion of company level agreements – since the last labour reform (see below). However, collective bargaining in Spain has maintained its structure. Sectoral bargaining has been roughly stable, and there has been an increase in new collective agreements at the company-level – motivated largely with the desire to amend wage conditions downwards. New enterprise agreements have also emerged in sectors where they were less common (Secretaría Acción Sindical 2014: 47).

Collective bargaining in Spain is also characterised by an intermediate degree of coordination. International statistical sources <sup>(4)</sup> recall that in 2011, Spain scored 4 points on a scale of 1 to 5 - representing minimum and maximum coordination levels. Furthermore, the Spanish collective bargaining system retains some elements, such as a high degree of fragmentation and dispersion of bargaining units, which reflect a static model with minimal changes in the bargaining system. In spite of the various attempts to further rationalise the negotiating framework, there was no real change before the crisis, either through legal reforms or through mechanisms such as the 1997 'Interconfederal' Agreement on Collective Bargaining (Escudero y Mercader 2010).

However, in the context of the current crisis, there have been renewed discussions on this matter. In particular, several authors have questioned the efficiency of the current Spanish collective bargaining structure, in terms of macroeconomic results. They have proposed greater decentralization, to raise the profile of company-level agreements over sectoral agreements. From this perspective, the impact of wages on company development – particularly on indicators such as productivity – will be better reflected in collective agreements at company level than in sectoral agreements <sup>(5)</sup>.

According to various international bodies and institutions, these characteristics of the collective bargaining system created additional rigidities in the responsiveness of wages to economic and firm-specific conditions, therefore aggravating the most negative impacts of the current crisis. As a consequence, there have been various legal reforms of the collective bargaining system since

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4. ICTWSS: Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 countries between 1960 and 2012.

5. See, for example Bentolila and Jimeno (2002); Bentolila *et al.* (2010) and Simon (2010).

2010, the most significant being the reform unilaterally approved by the Conservative government in 2012 (Royal Decree law, 3/2012 and Law, 3/2012).

The 2012 labour market reform meant a qualitative leap, aimed at encouraging an in-depth decentralization of the collective bargaining system through three main mechanisms: (a) temporary non-application of collective bargaining agreements; (b) a new collective bargaining structure that guarantees by law priority for the company-level collective bargaining agreement; and (c) new regulations governing the periods for which collective bargaining agreements are in force (Escudero Rodríguez 2012b).

This new legal framework of the collective bargaining system has caused a rupture of the characteristic balance of power between employers and employees that lies at the roots of labour law. It can be affirmed that the 2012 legal reform launched a radical move towards the consolidation of an authoritarian model of industrial relations, which exalts unilateral employer decisions in working regulations as a principle of new labour law, impacting information, consultation and negotiation rights. Various pieces of research have pointed out, for example, how changes in collective bargaining frameworks have had a strong negative impact on wage development in the southern European countries (Cruces *et al.* 2015).

Also it is worth noting that, in a country like Spain with a majority of small and micro-size companies, reforms aimed at encouraging a unilateral decentralisation process open up the risk of a labour market in which real collective bargaining may take place in only a small number of companies.

Against this background, the Spanish social partners reached a new Agreement for employment and collective bargaining 2015-2017 (AENC 2015) in May 2015. This agreement established a general framework for negotiations for the coming years, with a wage increase of up to 1% in 2015, and to 1.5% in 2016.

The agreement covers the following issues: employment and contracting, with particular reference to the recruitment of young people, training and professional qualifications, restructuring, rights of information and consultation, equal treatment and opportunities, safety and health at work, salary structure and determination of wage increases, needs for information and complementary social security, flexibility instruments and working conditions, job classification and functional mobility, working time arrangements, derogating of certain working conditions in the agreements, telework, temporary leave, absenteeism, ultra-activity and negotiating process, joint committees and conflict resolution systems.

The AENC-2015 reflects the social partners' positive assessment of Supplementary Social Security Systems, which must be developed in the context of collective bargaining. It also sets out the role of businesses with respect to Complementary Social Welfare, which should reflect the voluntary nature of the schemes, and their value, correlated with the public pension system.

### **3. Spanish Occupational Welfare**

Article 41 of the Spanish Constitution establishes that 'the public authorities shall maintain a public Social Security system for all citizens guaranteeing adequate social assistance and benefits in situations of hardship, especially in case of unemployment. Supplementary assistance and benefits shall be optional'.

The later adoption of the Pactos de Toledo in 1995, and their renewal in 2003, revealed the interest of the political actors in promoting complementary social mechanisms, as important elements in investment and saving processes, but, above all, as key aspects in the consolidation of a state social protection model.

In a context of severe unemployment, searing social cuts and an increasing poverty rate, Occupational Welfare is currently not a very topical issue. Certainly, in the brief history of Spanish welfare, it seems not to have been top of the social partners' agenda. Only relative importance has been attached to pension plans and funds.

Occupational welfare has always been one of the topics addressed in Spanish collective agreements. In spite of being a background issue, it has become more important over the decades. In the context of the crisis and international recommendations in the 1960s, the public social security system was expected to be able to cover and provide social benefits for every citizen. At that time, then, Occupational Welfare measures were considered a secondary element, even controversial. From the early 1980s, doubts about the sustainability of the social security system justified the liberal cuts in social expenditure, and Occupational Welfare measures began to gain importance. A clear example was the adoption in 1987 of the law to regulate pension plans and funds (Gala Durán 2007), which began to introduce incentives, facilitating the development of these pension plans over other welfare measures.

The main difficulty in addressing this matter is that several legal sources are involved: labour laws (especially those related to collective bargaining and labour contracts), Social Security laws, mercantile and fiscal laws, special laws related to pension funds and plans, civil laws, etc. 'Los Pactos de Toledo' as well as several laws targeting the promotion of pension plans and funds reflect the rise of certain kinds of social protection.

The General Law on Social Security establishes that complementary welfare measures could take two forms: a direct top-up to social security benefits or as additional contributions to the public system. Enterprises can supplement these benefits by taking charge of the payments -but exceptionally, workers can contribute themselves, with approval. These measures are voluntary, but once a worker is entitled to the related benefits, this right cannot be denied -except in the case of a specific legal provision to the contrary.

Spanish collective bargaining contains several references related to occupational welfare, but the issue is not addressed as frequently as in other countries, as is shown by the data collected. Collective agreements do not properly regulate occupational welfare, since they usually do not even define clearly who are the beneficiaries, the kind of risk covered or the extent of the coverage. None of the articles of the Spanish labour law contain provisions on occupational welfare. However, collective agreements at company level frequently include provisions related to top-up payments to public benefits in cases of temporary illness. In the case of agreements concluded during consultation periods in collective redundancy processes, there are also articles related to unemployment and retirement.

OECD figures reveal different facts concerning occupational welfare. Firstly, it is worth mentioning that there are no data on mandatory private expenditure, as this could be considered non-existent in Spain. Voluntary private expenditure is also very low in relation to GDP, so the OECD only gives figures on voluntary private expenditure in health, which stood at 0.5% in 2011, almost 2 points below the OECD average.

However, other related figures show that throughout the last 20 years, voluntary private expenditure per head has increased almost threefold, and the share of private expenditure in total social expenditure has risen to 58% (N.B. the figures are very low).

**Table 11: The importance of voluntary private social expenditure in Europe: Total social expenditure**

Year	Voluntary private social expenditure (Per head)* <sup>(1)</sup>		Voluntary private as a % of total social expenditure (public and private)*		% variation over time in voluntary private social expenditure* <sup>(2)</sup>	% variation of the share of private expenditure in total social expenditure
	1990	2011	1990	2011	1990-2011	1990-2011
Spain	49.6	147.2	1.2	1.9	191.5	58.3

\*: Per head, at constant prices (2000) and constant PPPs (2000), in US dollars.

a. Based on column 1.

**Source:** OECD SOCX database (2015).

Spanish official data on labour costs also indicate a very low level of spending on this budget-line. The Spanish Annual Labour Cost Survey (2015) gives the percentages of components of labour costs. It is important to note that this is a mere approximation, since some contributions to occupational welfare are not considered separately, such as contributions to occupational pension plans. In Spain, these company contributions are considered salary in kind, so they are included within 'wage costs'.

As is illustrated in the table below, occupational welfare represents a very low percentage of total labour costs. In 2014, 3.37% additional costs are shown, over and above wages – 73.75% – and compulsory contributions to the Social Security System – 22.85% – This distribution has not changed much over the last fifteen years, but 2014 shows the lowest figures in this respect.

**Table 12: Distribution of labour costs 2001, 2005, 2010 and 2014**

	2001	2005	2010	2014
Total labour cost	100.00	100.00	100.00	100.00
Wages	73.23	72.75	73.14	73.75
Compulsory contributions to S.S.	22.71	22.82	22.09	22.85
Other complementary costs	3.98	4.35	4.73	3.37

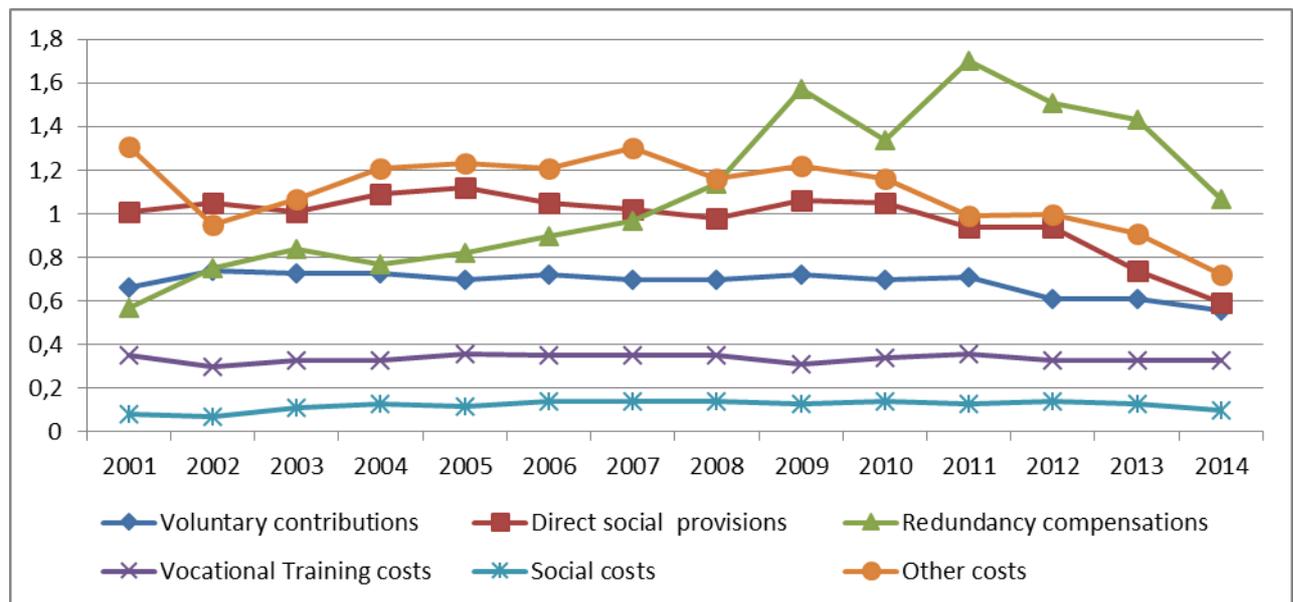
**Source:** Spanish Annual Survey of Labour Costs, INE, 2015.

These complementary costs include various items:

- a) Voluntary contributions, which include contributions to plans and pension funds -but not occupational funds-, health insurance, maternity, accidents, other insurance plans and other contributions;

- b) direct social benefits, direct payments to the worker or his family including temporary disability, unemployment, retirement, death and survival, disability or handicap, family assistance, and medical assistance c) expenditure on vocational training: supply and maintenance of infrastructure for training, payments to external trainers, learning material, etc.; d) Social Costs: canteens, nurseries, sports and cultural activities, etc., e) redundancy compensations, and f) other costs.

**Figure 1: Labour cost components -except wages and compulsory contributions to SS- as a % of total labour costs. 2001-2014**



**Source:** Spanish Annual Survey of Labour Costs, INE (2015).

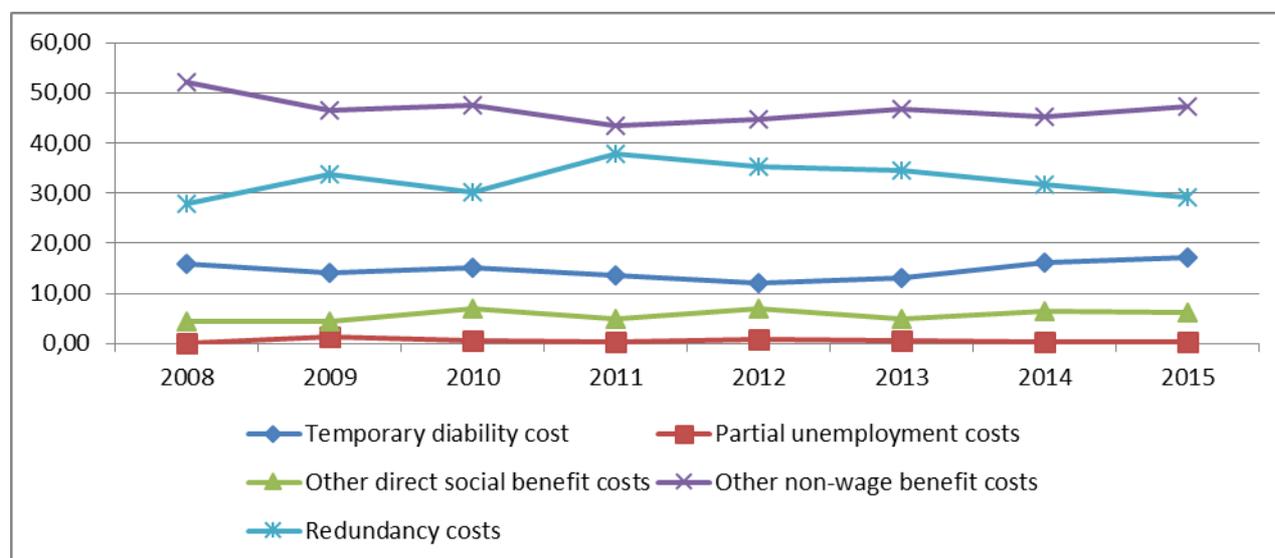
The figure above (Figure 1) shows the past trend in components of labour costs, excluding wages and compulsory contributions to the Social Security System. As stated, there have been no major changes. Nevertheless, redundancy compensation has increased notably from the beginning of the crisis in 2008, and shows a downward trend from 2011, which could be the result of the new legislation. The 2012 labour reform both reduced compulsory compensation and, on the other hand, opened up the possibility of changing working conditions as an alternative to dismissals. Finally, there is a striking downwards trend in direct social provisions, and a slightly similar trend for voluntary contributions.

A more detailed analysis, based on data from the Quarterly Labour Cost Survey, shows that there have been no significant variations in recent years, from 2008 onwards. Nevertheless it describes the different components of each major group within the total labour costs.

Apart from wages, which include wages in kind and contributions to certain types of pension plans, we can see the importance of certain compulsory company payments and certain entrepreneurial measures. Compulsory contributions are made up of: contributions for common contingencies (such as non-occupational temporary illness, maternity, disability, death), which represent more than 70% of compulsory payments; contributions for public unemployment, the Wage Guarantee Fund and the vocational training system; and other compulsory contributions.

The figure below illustrates the different components included in the item 'direct social benefit costs'. The largest component is 'Other non-wage benefit costs', comprising payments to workers to offset work-related costs, and compensation for the termination of working contracts.

**Figure 2: Distribution of the labour cost components of direct social benefit costs 2008-2015 (2ndQ.)**



**Source:** Spanish Annual Survey of Labour Costs. INE, 2015.

The second item in terms of importance is 'redundancy costs', followed by 'supplements to state temporary disability benefits'. 'Other direct social benefit costs' include other supplements to public or private benefits for retirement, death, medical assistance, etc.

Finally, there are unemployment payments, paid by the enterprise to workers affected by a temporary suspension of contracts or a temporary short-time scheme, as a top-up to public unemployment benefit.

A sectoral approach confirms that OW is limited in each of the larger sectors, and that there are no significant imbalances. It is, however, possible to point out some differences. The industry sector has a higher percentage of supplementary costs. Voluntary contributions in the industry sector are

almost double those, in percentage terms, of the building and services sectors. Meanwhile, the building sector shows lower expenditure on these contributions and provisions, especially on direct social provisions.

**Table 13: Labour cost components -except wages- as a % of total labour costs by sector, 2014**

	<i>Compulsory contributions</i>	<i>Voluntary contributions</i>	<i>Direct social provisions</i>	<i>Redundancy compensation</i>	<i>Vocational Training costs</i>	<i>Social costs</i>	<i>Other costs</i>
<b>Industry</b>	22.94	0.89	0.63	1.42	0.40	0.13	0.43
<b>Building</b>	25.06	0.44	0.28	1.30	0.24	0.01	1.71
<b>Services</b>	22.67	0.49	0.60	0.96	0.31	0.10	0.72

**Source:** Spanish Annual Survey of Labour Costs. INE, 2015.

Data on the two sectors selected show that OW is less widespread in the retail trade sector, and more developed in businesses manufacturing vehicles, trailers and semi-trailers, in relation to total distribution. The percentage of labour costs represented by voluntary contributions, direct social provisions, training and social cost are markedly higher in the automotive industry, which, however, has, at the time, lower costs relating to redundancy compensations (6). The main difference between these two sectors is company size and composition.

In general terms, the retail sector is a very difficult one in which to develop occupational welfare, due to the characteristics of the sector. Employment in this sector is mainly characterised by small and micro enterprises, with low union presence, low salaries, and high levels of part-time and temporary work. It employs more women and young people. For these reasons, the sector has barely developed occupational welfare.

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6. Compulsory contributions, redundancy compensation and other costs are difficult to analyse. Compulsory contributions and other costs tend to represent a higher percentage of labour costs for small companies with low salaries. The level of redundancy compensations depends on how hard each sector was hit by the crisis. Small companies were very hard hit.

**Table 14: Labour cost components -except wages- as a % of total labour costs in the two sectors analysed, 2014**

	<b>TOTAL</b>		<b>Manufacture of motor vehicles, trailers and semi-trailers</b>		<b>Retail trade</b>	
	<b>2014</b>	<b>dif 2008-2014 (%)</b>	<b>2014</b>	<b>dif 2008-2014 (%)</b>	<b>2014</b>	<b>dif 2008-2014 (%)</b>
<b>Compulsory contributions</b>	22.85	2.10	23.28	0.9	23.88	-0.3
<b>Voluntary contributions</b>	0.56	-20.00	0.88	15.8	0.19	18.8
<b>Direct social provisions</b>	0.59	-39.80	1.05	-1.9	0.46	-30.3
<b>Redundancy compensation</b>	1.07	-6.14	0.68	-70.2	1.61	32.0
<b>Vocational Training costs</b>	0.33	-5.71	0.40	-34.4	0.21	16.7
<b>Social costs</b>	0.10	-28.57	0.23	-36.1	0.03	0.0
<b>Other costs</b>	0.72	-37.93	0.23	-57.4	0.94	-2.1

**Source:** Spanish Annual Survey of Labour Costs, INE (2015).

The 'Manufacture of motor vehicles, trailers and semi-trailers' is an important sector for the Spanish manufacturing industry. It is characterized by the presence of few large enterprises, but with links to a great number of companies producing components for the automotive industry. Its magnitude and trade union presence is probably why, on average, it has more than double the percentage of direct social provisions, or 57% more voluntary contributions. Labour conditions in this sector are, in general terms, better than in retail, with higher salaries (<sup>7</sup>). It is also a sector with a high presence of men. Collective bargaining in this sector is very active, addressing large-scale collective dismissal processes, and managing the need for labour time flexibility when needed. However, occupational pensions are very rare and do not seem to be a core issue.

Company size is the main reason for the differences concerning OW (Secretaría confederal de Protección Social y Políticas Públicas 2015; Milla Molina 2006). In the main areas of study for this research, the larger the company, the higher the percentages spent on occupational welfare. Companies with over 200 employees spend more than double the percentage of labour costs on voluntary contributions and on direct social costs, even if these amount to even less than 0.8% and 0.15% of labour costs.

These complementary benefits are usually designed as salary sacrifice arrangements, deducting the cost of the additional benefits from the gross salary of the workers. In the particular case of

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7. The median annual salary of this sector is 27,276 (28,176 in the case of men), according to the Spanish Salary Structure Survey.

continuous vocational training, much of this training is funded by contributions from businesses and workers themselves. In the field of pensions, the situation depends on the kind of system and what could be negotiated, and in the case of unemployment, the outcome depends on the negotiating capacity in collective redundancy processes.

In a context of crisis, employers are stopping social benefits and workers themselves are in favour when it means an increase in their direct salary. The automotive union officer affirms *'we are now negotiating with an enterprise willing to stop all occupational welfare for its workers, by transforming part of the benefits into direct salary. We have agreed that 45% of OW costs will be paid as direct salary. Workers are pleased, but new workers will receive nothing'*.

In a general context of high levels of public protection, low salaries, considerable job rotation, a large percentage of SMES and a certain business culture, these extra benefits have never been considered, by employers or even by workers, as an important issue worthy of promotion (De la Puebla *et al.* 2006).

#### **4. A more in-depth description of Occupational Welfare in the field of Pensions and Unemployment**

It is not easy to analyse the Occupational Welfare system in Spain, partly due to its low level of development compared to other countries, but also because of the lack of detailed statistical data. Nevertheless, it is possible to use public reports to give a general overview of its extent and coverage.

Occupational Welfare in the field of unemployment seems to appear relatively frequently in Spain in the context of collective redundancy processes. It is, however, considered more as a temporary business strategy to take advantage of public resources, rather than as occupational welfare as such <sup>(8)</sup>.

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8. The actuary at the Secretary of Social Protection and Public Policies of CCOO remarks: 'Short-time schemes are a system through which the enterprise can face a temporary drop in demand. They can reduce the working time of their workers and save part of their salaries as they are covered by the public unemployment protection. In addition, they keep their qualified staff (...) several problems are linked to these strategies, as sometimes these reductions are not justified and coexist with overtime work (...) In fact, this policy has been a very useful system of solidarity between workers in this period of crisis'. The representative from the Employers' Organization affirms 'OW welfare concerning unemployment does not exist in itself. Recently it has been debated, taking as a reference the Austrian model, but Spanish workers will not accept a reduction in their salary when there is very generous public protection'.

## **4.1 Pensions**

The replacement rate of pension benefits in Spain in relation to most recent salary is estimated at 73.9%, which is one of the higher OECD figures. Against this backdrop, a major consensus was reached in the Pactos de Toledo, which recognized the need to develop complementary occupational pensions and to reach a broad level of coverage (Secretaría confederal de Protección Social y Políticas Públicas 2013).

One of the strategies developed by the social security system is to establish special agreements on contributions to the public system. The self-employed can contribute voluntarily to ensure higher levels of state benefits, and unemployed workers over 55 years old, or with a new contract paying them less than their previous work, can make higher contributions. In the case of partially retired workers, enterprises and workers have to contribute as if they were working a full day. There are other special contribution schemes for workers with reduced working hours for care responsibilities, or part-time workers. When collective dismissal affects workers between 55 and 61 years old, enterprises have to make contributions for them as if they were still working.

Occupational welfare pensions in Spain are still not common, a fact which is highlighted by both trade unions and employers. Currently, 3.4 million people are estimated to be paying into occupational welfare savings schemes. However, assets are unevenly distributed; only a few thousand workers contribute enough to ensure real complementary social welfare, while a large number of workers have very low levels of savings. There are more people with individual pension plans and social welfare insurance: around 8 million accounts. Social partners reckon that, at this point, such schemes cannot represent a real pension supplement except for high-salary workers in some sectors.

OECD data on the coverage of private pension schemes in 2005-2006 give a coverage figure for occupational pensions systems of 3.3%, considerably lower than individual pension plans, which covered 15.7% of the working age population.

In Spain, the precursors of the current occupational pension system were the old commitments to cover certain risks such as retirement, disability or death. These were contained in collective agreements. Legislation required that these agreed commitments be outsourced to the current different systems of pension plans or collective insurance schemes, aimed at protecting these workers' rights in the event of business failure. Even nowadays there are still some classic formulations in collective agreements related to old age, such as a mandatory retirement age, sometimes with economic compensation, or partial or early retirement, which can be considered a business strategy allowing companies to restructure their staff. These, together with fidelity or

seniority awards, should have been converted into a pension plan or similar scheme, but labour inspectors are not working hard to enforce the law.

Occupational welfare is highly complex and it is not easy to distinguish between the second and the third pillar of welfare protection, which could be considered a political issue. These kinds of complementary benefit have been promoted by governments in recent decades. To do so, they have used several instruments, such, as tax incentives (for companies and subscribers), which have remained constant or been increased over the last 15 years. Governments have also promoted all individual or collective systems of complementary social savings. Additionally, the requirement to outsource the pension commitments entered into by enterprises vis-a-vis their workers has also been a means of promotion. However, it could be said that these incentives have been geared towards the boosting of long-term savings instruments, instead of promoting real occupational pension welfare systems.

There have been several laws setting out the main guidelines for developing these instruments. The recast text of the Law on the Regulation of Pension Plans and Funds approved by Royal Decree 1/2002, which includes the original law 8/1987 and its successive amendments (in 1995, 1997, 1998 and 1999 different laws introduced, for instance, modifications to complete the adaptation system for pension commitments entered into by enterprises vis-a-vis their workers). Text 24/02/2004 develops the Regulation for this Law. In the last 10 years, new amendments have been introduced concerning fiscal issues.

**Table 15: Participants or insured persons and beneficiaries of different types of pension schemes, 2013**

	<i>Occupational pension Plans</i>	<i>Company Social Welfare Plans</i>	<i>Collective Insurance schemes</i>	<i>Mutual Societies</i>
<b>Participants/insured</b>	2,139,292*	38,938	884,231**	294,856
<b>Beneficiaries</b>	79,607	378	335,626	40,767

\*: Number of accounts. One person can have more than one account.

\*\*: Only the number of insured persons with retirement risk included.

**Source:** Own elaboration from Spanish Statistical Report on Instruments for Complementary Social Welfare produced by the Spanish Ministry of Economic Affairs, 2013 and Quarterly reports by INVERCO.

At the moment, information on pension schemes is rarely collected from companies for the purposes of collective bargaining, neither in sectors nor in enterprises, although more frequently in this last case. In 2007, only 16% of the reports analysed by (Gala Durán 2007) addressed the

transformation of old collective bargaining commitments into plans and collective insurance schemes. Most of these are in the insurance sector.

The 2013 statistical report on Complementary Social Welfare, produced by the Spanish Economic Affairs Ministry, and the annual report by the Spanish Economic and Social Council (Ministerio de Economía y Competitividad 2014; Consejo Económico y Social de España 2014) show the current situation of some of the main welfare instruments supplementing the public social security system, and gives a general overview of the development of the second and third social protection pillars. These are made up of Pension Plans (Occupational Pension Plans and Individual Pension Plans), collective insurance schemes, company Social Welfare Plans, and benefit mutual societies.

The table above shows the relative importance of each system. Most important are the occupational pension plans, followed by collective insurance schemes, which are the result of old pension grants covered by collective bargaining.

It is not possible to give an accurate general coverage rate, as there are no data on the number of insured workers but only on the number of accounts. Workers can have more than one account or insurance policies (although it is not usual for the second pillar). It is also important to note that participants could have stopped their contributions, as has happened with the public administration (which represents 27.5% of all beneficiaries of occupational pension plans). Taking all this into consideration, using data from the Ministry of Economy, it could be said that this is a slippery slope, and that nearly 11% of the working age population contributes or have contributed to some kind of occupational pension system.

All these instruments share some common points:

First, all of them are defined as institutions of voluntary and free saving. Benefits from such institutions are never substitutes for state Social Security benefits, and are thus private and complementary.

Secondly, several social risks are covered by benefits from different types of occupational pension, as is stated by the existing regulation:

- a) Retirement. If the beneficiary cannot retire, the benefit is to be received once the person reaches 65 years old.
- b) Total and permanent occupational disability affecting usual work, or absolute and permanent disability affecting any work, and major disability.
- c) Death of the contributor or beneficiary, which can generate rights for widows or orphans or benefits for other inheritors or designated people.
- d) Severe or major dependency of the participant, determined by law.

Nevertheless, these occupational pensions instruments differ as to the role of developers and participants, governance, costs and financing.

As well as in the regulation previously described, details about the development and application of the different systems of occupational welfare pensions are contained in the technical specifications of each plan. Collective bargaining establishes different levels of detail for systems of occupational welfare pensions, generally at enterprise level.

### *Occupational Pension plans*

An occupational pension plan is a scheme developed by an entity, corporation, society or enterprise, and whose members are its workers. The developer can promote a single occupational plan, individually or together with other enterprises and entities, contributions can be made by the enterprise or by the worker, and they can choose between a defined-contribution, a defined-benefit or a combined system.

Occupational pension plans can have sub-plans, with different arrangements for contributions and benefits. Workers should participate in each plan or different system of contributions or benefits according to criteria established by collective bargaining or by the specificities of the plan.

The system must respect some core principles: non-discrimination -every worker in the enterprise is eligible to join the pension scheme voluntarily -, capitalization -as these are finance tools for individual capitalization-, irrevocability of contributions, attribution of rights, mandatory integration into a pension fund and the sacrosanct nature of vested rights.

Concerning transferability of rights, vested rights in an occupational pension plan cannot be transferred to other types of pension plan except in two cases: termination of the labour contract – if this is considered in the plan – or termination of the plan. The economic right associated with the occupational pension plan can be transferred only in the case of termination of the plan.

One of the core specificities of these plans is their governance, which takes place through a Monitoring Committee. Each occupational pension plan needs to form a committee made up of developers, members and beneficiaries, in charge of monitoring and implementing the plan. Its tasks are:

- to monitor compliance with the terms of the plan, in relation to the rights of contributors and beneficiaries;

- to select an actuary to certify the situation and dynamics of the plan;
- to appoint representatives from the committee to the related pension fund;
- to represent the interests of the contributor and beneficiaries.

The committee, together with the plan manager, is responsible for drawing up a declaration of principles, which determines the investment policy of the fund.

The committee can be formed by the process for direct selection of the members of the negotiation committee (or any other body referred to in the collective agreement); a system of designation of workers' representatives is another option. If there is no designation system, the developer can launch an election process.

The main characteristics of the committee are:

- Developers (enterprises) and contributors (workers) should be represented on a 50-50 basis, unless the contrary has been negotiated and agreed through collective bargaining.
- In cases where the plan is defined-contribution to cover retirement, decisions concerning fund investment policy need a favourable vote from at least half the company representatives.
- When the plan is defined-benefit (or combined), those decisions affecting the cost of benefits borne by the enterprise require a favourable vote from at least half the company representatives.

These points have been changed; previously the workers were in the majority in the committees.

Pension funds involving assets from occupational pension plans also have monitoring committees, and participation in decisions on financial strategies is considered a significant opportunity to promote Socially Responsible Investment.

In 2014 there were 2,101,610 accounts – one participant can have more than one account - and 1,396 occupational pension plans were registered in 2013. The number of plans had shown a downward trend from 2006, while the number of accounts grew until 2010, when the trend was reversed.

First of all, the average level of savings in occupational pension plans is 16,828€, which highlights that this system is not a real complementary welfare system. Moreover, there has been a downward trend from 2001 to 2011 and, in recent years, a shift upwards. The reason for this trend could be the reduction in the number of participants.

**Table 16: Main data on occupational pension plans, 2007, 2011, 2014**

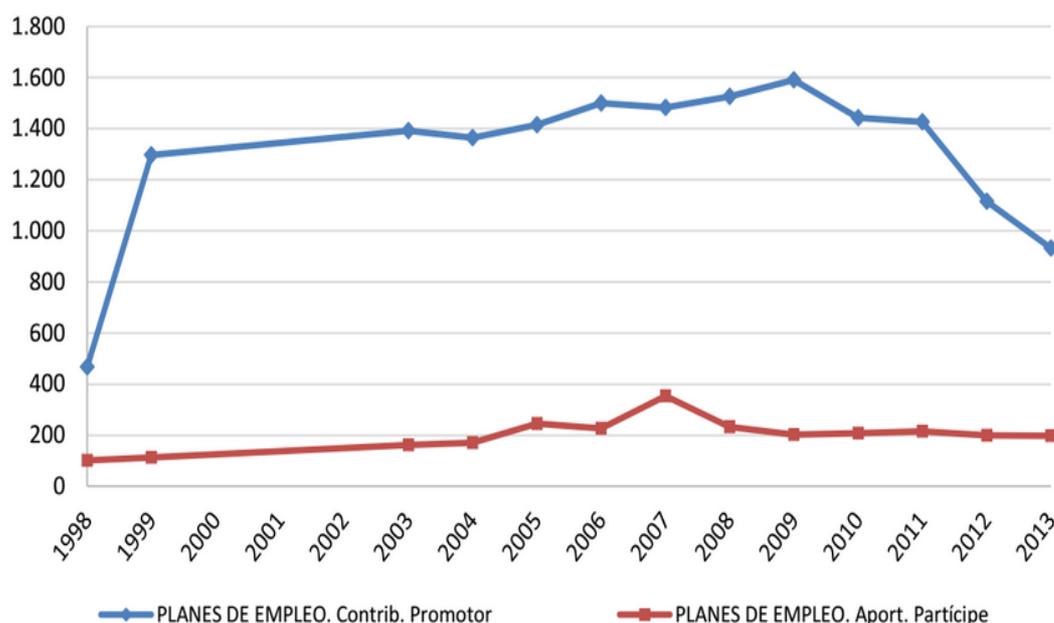
	<b>2007</b>	<b>2011</b>	<b>2013/2014</b>
<b>Global assets (million of €)</b>	31,826	31,689	35,365**
<b>Assets as a % of GDP</b>	2.9	3.0	3.4
<b>Number of plans</b>	1,559	1,501	1,396*
<b>% Defined contribution</b>	67.5	69.9	70.2*
<b>Total contributions (million of €)</b>	1,836	1,640	1,131*
<b>% Business contributions</b>	77.1	87	82.5*
<b>% Defined contribution</b>	45.3	41.3	30.4*
<b>Total benefits (million of €)</b>		1,535	1,390**
<b>Participants</b>	1,848,438	2,210,377	2,101,610**
<b>Participants over population 16-64</b>	6.1	7.1	6.8
<b>Average savings (€)</b>	17,218	14,336	16,828**
<b>Beneficiaries</b>		64,771	81,750**
<b>Beneficiaries over retired -60 and more-</b>		1.2	1.7

\*: Data for 2013 from Ministry of Economy.

\*\* : Data 2014 from INVERCO.

**Source:** Own elaboration from Statistical reports by the Spanish Ministry of Economy: annual reports on Instruments of Complementary Social Welfare, 2011, 2012 and 2013 and Quarterly statistical reports on Pension Plans and Funds, 2014; and Quarterly statistical reports on pension plans and funds INVERCO, 2011, 2012 and 2013.

Most of the plans have a defined-contribution system (around 70%). Defined-benefit plans are very rare, but there are a good number which combine the two systems. However, many systems are mixed because they have specified that retirement risk is ruled by a defined-contribution scheme.

**Figure 3: Evolution of contributions to occupational pension plans by contributor.**

**Source:** Spanish Statistical Report on Instruments for Complementary Social Welfare, Spanish Ministry of Economy, 2013.

In the case of occupational pension plans, contributions can be made by the developer or by the participant. As is shown in the table, most contributions are provided by the enterprises (82.5% of total contributions) and the figure has shown a marked downwards trend since the beginning of the crisis –illustrated in the figure below. There have been significant cuts to the public budget, which have resulted in the stopping of contributions to public plans for employees.

**Table 17: Distribution of contributions in relation to the annual amount, 2007, 2011, 2013.**

	<b>2007</b>		<b>2011</b>		<b>2013</b>	
	<b>Number of contributions</b>	<b>%</b>	<b>Number of contributions</b>	<b>%</b>	<b>Number of contributions</b>	<b>%</b>
<b>From 0 to 300€</b>	1,064,113	58,9	1,513,819	68.8	1,637,290	76.5
<b>From 301 to 900€</b>	333,516	18.5	290,958	13.2	197,141	9.2
<b>From 901 to 1,800</b>	146,929	8.1	135,360	6.2	91,281	4.3
<b>From 1,801 to 3,000€</b>	134,318	7.4	107,122	4.9	82,311	3.8
<b>From 3,001 to 4,500€</b>	76,956	4.3	75,129	3.4	65,863	3.1
<b>From 4,501 to 6,010€</b>	34,267	1.9	44,532	2.0	34,289	1.6
<b>From 6,011 to 8,000€</b>	17,369	1.0	20,199	0.9	15,746	0.7
<b>From 8,001 to 10,000€</b>			1082	0.0	8,067	0.4

<b>More than 10,000€</b>			34	0.0	29	0.0
<b>From 10,001 to 24,250€ (disabled people)</b>			72	0.0	4	0.0
<b>From 10,001 to 12,500€ (over 50 years old)</b>			12081	0.5	7,271	0.3
<b>TOTAL</b>	<b>1,807,468</b>	<b>100.0</b>	<b>2,200,388</b>	<b>100.0</b>	<b>2,139,292</b>	<b>100.0</b>

**Source:** Spanish Statistical Report on Instruments for Complementary Social Welfare, Spanish Ministry of Economy, 2011, 2012 and 2013.

An analysis of assets shows a very unequal distribution. Most plans are small, having between 1 and 100 accounts, and contributions are very low. In 2013, 76.5% of pension plans had annual contributions of below 300€, a percentage which has increased considerably from 2007. It is worth mentioning that the average annual salary is 22,790€. This means that most workers with occupational pension plans contribute less than 1.3% of their global average salary (Table 17).

Sectoral distribution is imbalanced too, as almost 50% of the assets in occupational pension plans belong to the Insurance sector and 9% to the IT sector, followed by the sector for Electricity, gas, steam and air conditioning supplies and the Public administration. Interestingly, there has been a process of concentration of assets in the Insurance sector in recent years, with an increase of around 13 points.

An analysis of collective agreements shows us that, despite the non-discrimination principle, the option of creating a regime based on different contribution systems and even with different sub-plans, there may still be inequalities. Although the only legal requirement is a certain seniority of no longer than 2 years, the same employer may end up paying different contributions for different workers. There may be diverse systems of contributions or even sub-plans, while still respecting the provisions decided upon in collective agreements or similar dispositions, and keeping to the plan. In fact, it seems relatively common to find collective agreements establishing double treatments.

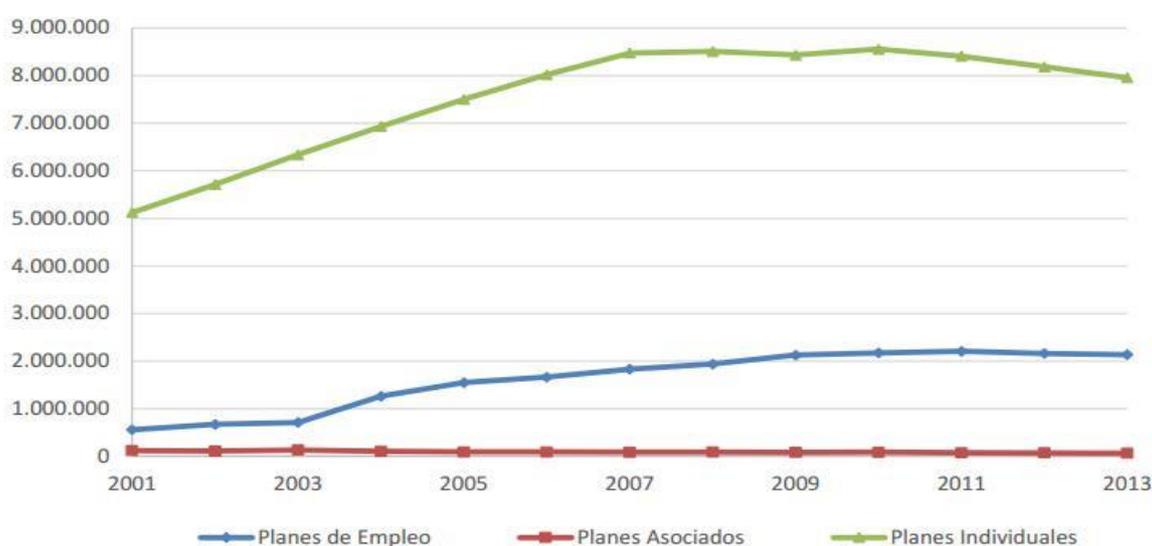
It is not easy to distinguish between the consequences of the crisis and the outcome of the reforms. Even before the beginning of the crisis, the number of occupational pension plans had started to decline, with a reduction of more than 4% from 2006 to 2013. This data is not necessarily significant, as plans can be merged for different reasons. More significant is the general reduction in the number of participants registered from 2010, but even more relevant, the decrease in the level of contributions. Between 2010 and 2013, the percentage of annual contributions below 300 Euros increased by almost 10 points.

Labour and fiscal reforms are of crucial importance in this respect. Firstly, it is important to mention the reduction in fiscal incentives, both concerning contributions and business taxes. Secondly, the labour reform enabled employers to change the most important working conditions unilaterally, which has resulted in a general reduction in wages. Thirdly, in 2012, the Public Administration stopped its contributions to these plans. This last factor was of great significance.

It is important to make a general comparison between second and third pillar pension plans. At the end of 2013, there were 10.16 million accounts in pension plans, of which 78% were individual pension plans. Throughout the last seven years, while employment plans have experienced a downward trend, the number of individual plans had been growing. However, the trend is changing, as now we are seeing a reduction in all kinds of plan. In any case it is worth stressing that, in 2013, the average amount in occupational pension plan accounts was more than double that of individual pension plans.

Unionists have seen the existence of monitoring committees for occupational pension plans as an opportunity to open up a new forum for collective bargaining. In contrast, employers seem less happy with this system, and usually prefer other occupational pension schemes.

**Figure 4: Evolution of number of accounts in individual and occupational pension plans**



Note: Blue corresponds to Occupational Pension Plans; red to Associated Pension Plans; and green to Individual Pension Plans.

**Source:** Spanish Statistical Report of Instruments for Complementary Social Welfare (2013).

In any case, these plans had two main advantages. Firstly, there were fiscal incentives in a deferred tax system, since while contributors benefited from tax reductions, benefits were taxed. Contributions to occupational pension plans were considered as salary in kind, and were not included in the basic taxable salary. Enterprises could reduce their business taxes while the workers owned the resources in their accounts and were fiscally responsible for them. Fiscal incentives have been reduced in recent reforms (2013 and 2014).

The second advantage is related to management costs: pension plans are mandatorily monitored and managed by enterprises, and the costs of occupational pension plans are considerably lower than those of individual plans.

Individual pension plans are sold as a savings tool with higher profitability. However, in spite of fiscal incentives and reduced management fees, these advantages are only relevant to savers with large incomes and contributions.

This greater importance of individual pension plans is partially explained by the abolition of fiscal incentives for occupational pension plans and wage reductions, but also could be partially due to banking strategies. Some banking sector campaigns took place, and during the growth period, banks, as active players in the real estate bubble, frequently made the granting of mortgages conditional on the taking out of an individual pension plan with the same bank.

### *Collective insurance schemes*

Collective insurance schemes are a very common instrument used by enterprises to regulate the pension grants that enterprises had with their workers and beneficiaries.

In this kind of insurance scheme, the contracting party is the enterprise, contributions are made by the enterprise or the worker and the worker – or his/her heirs – is insured and a beneficiary of the scheme. Workers are not necessarily owners, the principles governing the pension plans are not compulsory – except for capitalization – and there is no monitoring committee managing the scheme. These factors make this an easy tool for enterprises, although there is little access to fiscal incentives and bonuses.

Non discrimination is not guaranteed, since the enterprise can offer only certain workers the possibility to join the scheme, and when the labour contract finishes, the worker would only have access to the insurance if he/she is a policy-holder.

In the case of collective insurance, there is no compulsory institution such as a monitoring committee to monitor the plan. In some very special cases, where special agreements exist, there

may be Monitoring Committees or Investors' Committees which could receive information from the insurance company, but without any commitment and regulation.

**Table 18: Collective insurance schemes covering retirement risk, 2007, 2011, 2013**

	<b>2007</b>	<b>2011</b>	<b>2013</b>
<b>Premiums</b>	1,709,492,052	1,434,986,779	1,652,203,630
<b>By companies (%)</b>	97.51	96.85	96.60
<b>Number of enterprises</b>	20,275	19,974	19,924
<b>Number of insured persons</b>	1,262,050	906,619	884,231
<b>Beneficiaries</b>	376,812	320,463	293,617
<b>Income system (%)</b>	94.70	96.53	95.47
<b>Benefit total amount</b>	2,972,724,655	2,623,721,637	2,555,056,283

**Source:** Spanish Statistical Report on Instruments for Complementary Social Welfare, 2011 and 2013 and Reports on Collective Insurances, 2007 from the Spanish Ministry of Economy.

In 2013, 19,924 enterprises chose this kind of retirement insurance instead of pension plans or other forms of outsourcing, showing a downwards trend since 2007. There has been a similar reduction in the number of insured workers. The total amount of premiums seems to have suffered during the first years of the crisis but has been recovering in recent years. Almost 97% of premiums are paid by the employers. There are around 294 thousand beneficiaries, most of them receiving benefits through an income system (95%).

Most of these insurance schemes cover collectives of less than 25 holders, which accounted for 91.38% of total contracts in 2013, but the largest concentration is in groups with less than 5 holders (62.93%), as would be expected given the Spanish business fabric.

In recent years, several collective insurance schemes have been created in order to outsource the management of collective agreements as part of collective dismissal processes, for example in relation to early retirement agreements.

#### *Company Social Welfare Plans*

This kind of collective insurance has become one of the options for outsourcing previous pension commitments in collective bargaining. In fact, this instrument was recently created as a way to use a collective insurance scheme, while satisfying the conditions for fiscal incentives. These plans are eligible for fiscal incentives if they fulfil certain conditions: the premiums must be fiscally linked to each worker, workers should be entitled to future benefits, the enterprise must not be the owner

of the insurance assets, and the plan must respect the main principles of occupational pension plans (no discrimination, ownership...).

However, their success has been very limited, since in 2013 there were 38,938 people covered by this kind of insurance. 77.03% of the total contributions were paid by the enterprise and the rest by workers.

### *Benefit mutual societies*

These are Insurance entities with a company structure. Data show that these societies have 448,628 insurance policies, 294,856 policy-holders and 40,767 beneficiaries. In the case of benefit mutual societies, an assembly acts as a monitoring committee, in which workers decide and monitor the occupational pension plan. In fact these societies are rare, except for in the País Vasco, where there is a tradition of mutual societies.

**Table 19: Percentage of voluntary contributions in total labour costs\***

<b>Number of employees</b>	<b>2008</b>	<b>2011</b>	<b>2014</b>
<b>Total</b>	0.70	0.71	0.56
<b>From 1 to 49</b>	0.40	0.40	0.35
<b>From 50 to 199</b>	0.74	0.67	0.55
<b>From 200 or more</b>	1.02	1.08	0.77

\*: Contributions to occupational pension plans are excluded.

**Source:** Spanish Annual Survey of Labour Costs (2015).

In general terms, we should note the unequal access to occupational pension schemes. First of all, the segmented labour market in Spain, and the significant differences in access to employment and salaries, have important consequences: there are key gender, age and nationality gaps, which have led to unequal access to occupational welfare in general and occupational pensions in particular. Access also depends very much on the sector and the size of enterprises. Insufficient data is available to carry out an accurate analysis, but it is possible to give a general overview.

The available data on the size of enterprises do not offer concrete information about pensions, and do not include occupational pension plans, but do give figures on other insurance together with health insurance, maternity, accidents, and other contributions. However the above table gives us an idea of the differences and trends. As previously stated, the volume of contributions is very limited but some elements can be highlighted: a) the percentage of voluntary contributions in total labour costs is higher in larger enterprises: more than double in enterprises with 200 employees or

more than in those with less than 50 employees; b) in recent years, the amount of these contributions has decreased in all sizes of enterprise, but more steeply in the case of the largest ones.

#### **4.1.1 Occupational pensions at the sectoral level: the case of retail and trade and automotive.**

Despite the lack of global data, the 2013 complementary welfare report gives figures concerning occupational pension plans in different sectors. In this respect it is remarkable that almost 50% of the assets held in occupational pension plans belong to the sector 'Financial services –except insurances and pension funding–', followed a long way behind by the 'IT sector', with more than 9.5% and the 'Electricity, gas, steam and air conditioning supply' sector, with almost 6.5% of total assets. With respect to the two sectors to be analysed, 'Retail trade, except for motor vehicles and motorcycles' represents 0.4%, although it accounts for 7.96 % of occupational pension plans; and the 'Manufacture of motor vehicles, trailers and semi-trailers' sector represents 0.08%.

Data from the 2009 Report on collective insurance schemes shows that this sort of pension scheme is also especially well-developed in the 'Financial services –except insurances and pension funding–' sector (28.1% of total mathematical provision) and the 'Electricity, gas, steam and air conditioning supply' sector (13.6%).

**Table 20: Percentage of assets in occupational pension plans. Main sectors and sectors of interest. 2013**

	<b>2011</b>	<b>2013</b>
<b>Insurance sector</b>	35.74%	49.00%
<b>IT sector</b>	10.00%	9.72%
<b>Electricity, gas, steam and air conditioning supplies</b>	5.09%	6.48%
<b>Public administration, army and Mandatory Social Security</b>	4.10%	4.98%
<b>Insurances and pension funds</b>	4.61%	3.05%
<b>Manufacture of motor vehicles, trailers and semi-trailers</b>	0.06%	0.08%
<b>Retail trade(except motor vehicles)</b>	0.32%	0.38%

**Source:** Spanish Statistical Reports on Instruments for Complementary Social Welfare from the Spanish Ministry of Economy, 2011, 2012 and 2013.

As was previously explained, the retail sector is a very difficult sector in which to develop OW. The union officer makes the following comment: 'in our sector we find the old pensions grants included in the collective agreements, which are still nowadays to be transformed into occupational systems

of pensions. Enterprises, most of them SMES or micro-enterprises, only think in terms of money and money, and even large ones laugh at you whenever you suggest developing occupational plans; and workers, most of them youngsters and temporary employees with salaries below one thousand euro, just want to have their money as direct salary’.

In spite of the characteristics of the retail sector which make it difficult to develop OW measures, there are some interesting cases concerning pensions. Oddly, there are two singular collective agreements at enterprise level: the inter-regional agreement for the flowers and plants retail sector and the Sectoral agreement for the paper and graphic arts retail sector. The first has always been an example for occupational pensions, since the sector has developed an occupational pension plan. This example is probably unique, since this specific sector is quite specialized, it is difficult to organise vocational training and there is less job rotation. In any case, the union actuary provides an explanation: ‘employers in the flowers and plants retail sector found a way to go beyond the limits on contributions to their individual pension plans by having a second pension plan through an occupational pension system, since most of them are self-employed’. Nonetheless, even union officers have expressed some surprise at the willingness of the business association to develop this measure, because the fiscal incentives seem initially insignificant: ‘fiscal incentives were an extra element which helped in the negotiation, but they are not at all enough to start new pension plans in the sector’.

The occupational pension plan in the collective agreement for the flowers and plants retail trade establishes a new system of occupational pensions, replacing the old grants by a commitment from each company in the sector. ‘The commitments made in articles 30 and 31 of collective agreement XI are entirely replaced by an obligation on each company falling within the scope of the collective agreement, to make contributions on behalf of their staff to a jointly-developed pension plan system, to be promoted, preferably, by the whole sector’. This plan covers 1641 beneficiaries, with average savings per beneficiary of 823€. The risks to be covered are retirement, disability and death. Each employee contributes 0.80% of his or her annual gross salary, and the plan also collects additional extraordinary contributions for workers over 48 years old, in a progressive percentage in relation to age. Every worker with over 18 months of seniority is eligible for this plan. The main rules of the plan are annexed to the collective agreement.

The second agreement gathers together old measures, and is an example of the state of late implementation of the legislation. It brings together a number of measures concerning grants for early retirement. The collective agreement for the retail trade in paper and graphic arts includes an early retirement system, linked with a commitment to hire unemployed and young unemployed people, and establishes financial grants, the amount of which depends on age – to reward earlier retirement -. ‘Where there is agreement between parties, the company shall provide other workers, unemployed or young jobseekers, with a contract of the same nature. (...) This early

retirement is rewarded according to the following scale (...)’ from 9,015€ at 60 years old to 1,984 at 64 years old. The agreement includes mandatory retirement at 65, unless the worker has not completed his contributory commitments to the Social Security System.

In the ‘Manufacture of motor vehicles, trailers and semi-trailers’ sector, occupational pensions have developed in an almost random fashion. Even union officers from the sector are unaware of the existence of complementary pensions, and among the large companies, only SEAT has an occupational pension plan. Its employees are all eligible to participate in the plan and an old life insurance scheme has been introduced into the plan.

The case of SEAT is interesting. The occupational pension plan for the SEAT Group was designed in the context of a partial retirement scheme, which included the creation of relief contracts. It was established that every worker incorporated from that moment would receive his or her ‘seniority salary complement’ as a contribution to the pension plan. The monitoring committee and the unions involved are asking for workers to have a real possibility to choose whether they prefer their salary complement as a direct salary payment or as a contribution to their plan –or even to be able to choose the amount of contributions-. This demand has been especially strong in recent years, as workers’ living conditions were suffering the consequences of the crisis and new political reforms. The demand means that workers would have the option of ensuring a higher direct salary, contributing to the public social security system and unemployment protection. Although the company resisted, since there was tax relief on contributions, in 2014 unions and employers reached an agreement.

This plan covers 7,399 beneficiaries and the average savings for each beneficiary amount to 3,100 €. In this case, the collective agreement just makes a general reference to the plan, so the main rules governing it have been developed separately.

It is important to point out that the crisis and related policies (wage reductions, weakened collective bargaining, reinforcement of entrepreneurial power...) and the reduction of fiscal incentives have negatively affected this kind of plan. From the beginning of the crisis, the creation of new occupational pension plans was interrupted, and, contributions to some already existing plans even stopped. In some cases, this interruption of payments was of significance, as in the case of the Public Administration or of certain major nationalized banks. In some cases, the end of these plans has meant the elimination of existing rights.

## **4.2 Unemployment**

In Spain, there is no structured system of occupational welfare supplementing state unemployment protection. However, we can find two different contexts where such tools may be used. Firstly, long-term unemployment is considered by the law as an 'exceptional case of withdrawal'. This makes it possible to reclaim the individual savings in the plan once the state coverage has finished. Regrettably, there is no data available concerning coverage of the second pillar. Secondly, some measures complementing unemployment benefit can be found in collective employment restructuring agreements. These agreements usually top up the legal minimum level of compensation for termination of the contracts, but there are also several measures, 'social accompanying measures' concerning collective redundancies or short-time schemes, other compensation, benefits or economic support to reduce the effects on affected workers.

Legislation on collective redundancy schemes has changed considerably in the last 20 years, especially from 2010, when crisis policies began. We can find three different schemes which can be implemented within enterprises when an enterprise alleges the need for restructuring as a result of economic, technical, organizational or productive problems. These are: collective termination of contracts, collective temporary suspension of contracts, and temporary short-time working schemes.

As is recognized in the Labour Law –transposing Directive 98/59/EC-, collective redundancies, suspensions of contracts or short-time working schemes are tools to be developed by enterprises for economic, technical, productive or organizational reasons. They should be set up in consultation with workers' legal representatives. Changes have been made to the limits, content, and the role of the Labour authorities in this regard in the different laws adopted since 1994.

Since 1996, Spanish legislation has recognised that processes of collective termination or suspension of working contracts, or temporary reductions of working time in enterprises with 50 or more workers, should include a consulting period between social partners and a Social Accompanying Plan. This plan should incorporate the measures adopted and envisaged by the enterprise in order to avoid or reduce the effects of the collective redundancy process. Its objective should be to mitigate the consequences on affected workers, by means of measures such as the re-adaptation or retraining of workers and their possible move to other working placements inside the enterprise itself or within its company group, or measures which help to preserve permanent jobs or the redistribution of working time.

The reform of 2010 included the possibility for workers to be helped to find another job by authorized external enterprises, as well as other measures such as training to improve employability and ensure the continuity and viability of the business project. One year after, a new reform specified how the plan should be developed, and offered different measures to be considered:

- External reemployment of workers, which could be addressed through authorized reemployment enterprises.
- Vocational training aiming to improve workers' employability
- Promotion of self-employment.
- Compensatory measures for geographical mobility costs
- Compensatory measures for salary gap in relation to a new job.

Subsequent reforms have changed conditions and made the process more flexible, have reduced the content of social measures and have ignored the previous mandatory need to consider the real reasons for collective redundancies as a core subject of the consultation period. The later reform of 2012 omitted the obligation for a Social Accompanying Plan and reduced the level of commitment by requiring an 'outsourced external reemployment plan' from enterprises where 50 or more workers are affected by collective redundancies. Such a plan should include individual guidance and training measures. It would apply for at least 6 months, and its cost would be covered by the enterprise.

However, the most significant shift in the legislation concerning collective redundancies is the removal of administrative approval in cases of termination or suspension of contracts and reduction of working time as a result of business circumstances –except for 'major causes'-. This means that the measures to be developed are discussed with worker representatives during a consultation period. This period has been reduced to one month for enterprises of 50 or more workers, and to fifteen days in the case of small enterprises.

In spite of this, there were collective agreements in relation to collective dismissals affecting most workers. As is shown in the table above, around 85% of workers affected by collective redundancies were subject to collective agreements.

Table 21 illustrates the number of workers affected by collective redundancy processes, but there is no statistical information concerning the extent of occupational welfare measures in this respect. However, in 2012, the National Advisory Commission of Collective Agreements published an analysis of collective redundancy agreements, which makes it possible to give a general

description of social measures and accompanying plans. This section uses information based on an analysis of collective redundancy processes from a sample of the years 2009, 2010 and 2011 (Escudero Rodríguez 2012a).

**Table 21: Workers affected by collective redundancy processes, and importance of collective agreements**

	<b>2000</b>	<b>2007</b>	<b>2011</b>	<b>2015*</b>
<b>Affected workers</b>	60325	58401	343629	42298
<b>% affected workers with collective agreement</b>	81.22	81.94	89.96	85.48
<b>Workers affected by suspension of contracts</b>	29326	32433	215012	25287
<b>% workers affected by suspension of contracts</b>	48.61	55.54	62.57	59.78
<b>% workers affected by suspension of contracts with collective agreement</b>	72.54	71.75	90.68	83.39
<b>Workers affected by short-time schemes</b>	1282	226	60636	7097
<b>% Workers affected by short-time scheme</b>	2.13	0.39	17.65	16.78
<b>% Workers affected by short-time scheme with collective agreement</b>	98.52	88.94	88.74	96.98

\*: from January to May.

**Source:** Spanish statistics of 'expedientes de regulación de empleo'.

As it was previously remarked (Table 9), in 2014 1.64% of the recipients of contributory unemployment protection are receiving such benefits as a consequence of a suspension of contract or a short-time scheme. This figure has increased from 0.24% in 2007.

#### *Collective termination of contracts*

In collective redundancies implying termination of contracts, most of the measures taken are economic, especially those related to compensation for contract termination, improving statutory levels, through extra financial compensation and early retirement schemes.

The consequences the mandatory administrative authorization are to be considered, but at the time of the analysis (2012), most collective agreements top up the statutory compensation levels, which is set at 20 days of salary per year of work with an upper limit of 12 months salary.

In cases of collective redundancies, some **extra forms of economic compensation** have also been added, although these are expected to decline in importance, as they were not promoted in the last labour reform of 2012. They are: supplementary compensation, linear compensation, family related compensation and vocational training compensation.

*Supplementary compensation.* There are three kinds of supplementary compensation. Firstly, some collective redundancies fix a total amount or an individual quantity to be distributed among workers, taking into consideration the age of the person or the length of time for which he has been employed in the enterprise. Second, other collective redundancies see supplementary compensation as a percentage of the main compensation. Third, supplementary compensation may consist of extra days of salary per year of work.

*Linear compensation.* This can be set as a one-off compensation amount granted to every worker in the enterprise, or as a global amount to be divided in equal parts among workers affected by the redundancy process.

*Family related compensation.* Workers receive extra compensation when they have family responsibilities. This seems to be very infrequent.

*Vocational training compensation.* The 2010 law stated that enterprises with 50 or more workers envisaging a collective redundancy process should include vocational training to improve workers' employability. Some plans have incorporated the sums required for training courses.

Quite a few collective redundancy processes resulting in termination of contracts have developed **early retirement programmes**. These processes often offer voluntary redundancy schemes, with compensation above the statutory limit, which include early retirement programmes for workers over a certain age.

In these situations, the enterprise guarantees the employee a monthly income topping up unemployment benefit up to a certain percentage of the previous salary, and until the moment the employee reaches the legal retirement age or the age established by the particular agreement. This measure can be implemented in different ways, combining variables considering the age of the worker, the seniority of the worker within the enterprise or his salary. Management of these programmes is frequently outsourced to a collective insurance scheme.

An analysis of collective redundancy processes shows that other social measures have also been adopted, implying different tools to promote the reemployment of the workers affected. Several changes have been introduced in this respect through the labour reforms. There are two options. On the one hand, there can be internal transfers of workers, which often mean a geographical or functional shift, or a substantial change in working conditions, or vocational training. On the other hand, a displaced worker may be subject to an outplacement, either in the same enterprise or in another, while the same enterprise, or other authorised enterprises, remain responsible for him.

**Relief contracts** are a measure coordinated with partial retirement programmes. A high percentage of the retired worker's salary is paid by the Social Security, and meanwhile a young worker is hired. Legislation has tightened the conditions for developing these schemes and they are expected to finish in 2018.

### *Collective suspension of working contracts*

From 1994, there were demands from the social partners to the legislator that the legislation governing collective redundancy processes should be revised and modified. Over the last 20 years, several changes have been introduced in this respect.

The later legislation on the suspension of contracts states that: the working contract can be suspended temporarily as a result of economic, technical, organizational or production reasons, when the cessation of the business activities which had been carried out by the employee affects full, continuous or alternating, working days for at least one working day. The extension and duration of the requested measures should be adapted to the situation in question, which should be temporary.

Before 2012, the Labour Authorities were in charge of approving these temporary measures, in order to ensure that the enterprise was able to demonstrate convincingly the temporary character of its situation and the pertinence of the measure in helping to overcome the economic, technical, organizational or production difficulties. Since the last reform, this obligation has been dropped, by agreement between the social partners.

The importance of suspensions of working contracts can be evaluated in terms of the number of days during which the measure lasts and how the temporary suspension is organised. Generally, collective suspensions of contracts required – before 2012 – a continuous suspension of six months or a year for each worker, or a lesser suspension with a vesting period of twelve months or less. There are also frequent cases which only specified a term of suspension or temporary suspensions depending on worker profiles (related to working place, workstation etc.), or rotating suspensions, affecting different employees at different periods.

It is also important to consider the percentage of persons affected in the enterprise. In some cases, such measures affect all the staff, and in others just some staff members. There are also examples of mixed systems structured in stages.

These restructuring processes develop social accompanying measures as encouraged by the law. However, the limited content of social plans could be emphasised.

By analysing agreements on collective suspension of contracts, the authors established three categories: a) measures intended to avoid or reduce the effects of the process; b) measures to mitigate its consequences; and c) other measures. Measures in the first group include the reemployment of workers or restrictions on overtime work or part-time work. The second group contains some common measures such as the right to take the whole leave allowance, despite changes in the organization of working time or, less frequently, a guarantee of full extra payments.

Along these lines, some cases develop supplementary unemployment benefits which make up for the loss of income compared to the worker's previous situation. In the sample analysed here, we found a few cases of income compensation of between 80% and 100% of the previous salary, in other cases a linear amount which declines as the months pass. It is important to note that not every scheme uses the same reference salary. Some of them use gross salary, others, net salary.

#### *Collective temporary short-time schemes*

Although short-time schemes existed previously in Spain, in cases of collective redundancies, the labour legislation included a reference to them in 2010, as internal flexibility tools to maintain employment during crisis periods. These schemes are developed in the context of collective redundancy systems and are considered as an alternative to termination of contracts and temporary recruitments. Since 2010, this kind of measure has become much more frequent.

As established, the working time can be reduced by between 10% and 70% of daily, monthly or annual working time.

Two parallel measures existed: the right of workers to receive partial state unemployment benefit, and a system of bonuses to enterprises during periods covered by short-time working schemes, which were higher if social partners had reached an agreement. The first of these measures requires the recognition of a situation of partial unemployment, with a reduction of up to 70% of working time. Benefits are subtracted from the total benefit right in relation to reduced hours.

Those workers affected by a short-time scheme and whose contract is later terminated have the right to an extra period of public unemployment benefits up to 180 days. The latest reform establishes limits for this measure.

Secondly, concerning bonuses, the 2010 law offered bonuses of 50% of employer social security contributions, which could be increased to 80% if the enterprise had reached an agreement on measures to reduce effects on staff, such as vocational training. With the new law, extended bonuses disappear. The duration of the bonus cannot be longer than the period of the measure,

up to 240 days per worker. To access the bonus, the employer needs to undertake to keep his workers in employment for at least one year once the suspension of contract or the short-time scheme have finished.

An analysis of the sample of collective redundancy schemes in the years 2009, 2010 and 2011, allows us to draw some conclusions. In general terms, temporary short-time schemes applied equally to all affected workers, although sometimes distinctions were made in relation to personal or working situations, such as pregnancy. In general terms, these measures implied a reduction of between 33% and 50% in working time, and applied to a very high percentage of the staff affected, sometimes to all workers.

Short-time schemes are usually developed together with other measures to 'ensure the viability of the enterprise', such as increased flexibility in the organization of working time, which is commonly taken as an opportunity to introduce substantive changes to working conditions.

Despite the limited number of measures included in social plans in this kind of scheme –and the scarce practical application-, analysis of the sample allows us to find some global results.

There are economic compensations for short-time arrangements. If the affected workers do not have access to unemployment benefits, the enterprise can provide extra payments up to 90 or 95% of the net annual salary. Sometimes, this right is extended to top up unemployment benefit up to 80% or 90% of the gross daily salary or even 100% of net salary. There are also cases where a flat rate incentive is agreed upon for workers who shorten their working time, or linear financial compensation is agreed upon.

There are also many plans stating that the reduction in working time will not affect extra pay and holidays. In some examples, the enterprise pays the worker's salary while he is waiting to receive state temporary short-time unemployment benefits.

Certain isolated cases foresee compensation for future redundancy after the short-time measure if the worker has no access to unemployment benefit, by ensuring some months of salary or by taking account of the previous situation when calculating the level of redundancy compensation.

Accompanying, replacement and training measures are currently supposed to be provided by an external enterprise: their quality and extent depend on the collective agreement. Although workers seem not to appreciate this sort of arrangement, unions are willing to promote good quality measures of this kind.

There are no available data concerning coverage of these occupational unemployment schemes, so no actual evidence of unequal access exists. However, the segmented labour market must mean limited access for certain groups. It is relevant as well that these collective agreement processes are present only at company level and in large companies with enough union density, while most of the workforce in Spain is not employed by such companies.

#### **4.2.1 Occupational unemployment protection at the sectoral level: the automotive sector**

The sectoral approach to occupational unemployment measures is really interesting in the case of the 'Manufacture of motor vehicles, trailers and semi-trailers' sector, since the crisis and special productive needs of the sector have repeatedly led to flexible labour time organization and collective processes of termination and suspension of working contracts.

The social partners' bargaining approach when dealing with a collective redundancy process differs according to the employers' strategy, whether they are thinking of dismissing the older workers or the younger ones <sup>(9)</sup>. In any case, labour legislation is a changing set of parameters which definitely affects the deal struck: for instance, 'the changes to partial-retirement and relief contracts are an obstacle to saving jobs'. The union office affirms 'they are a great opportunity for reducing the consequences of collective dismissals as they allow the company to hire young workers at a lower salary, and older workers have the opportunity to retire after working for 40, 42 or even 46 years'. The trade unionist reckons that in some cases the agreed economic compensations in collective dismissals are so high that they are seen as the best option despite the closure of the factory.

The recent agreement on termination and suspension of working contracts at Peugeot Citroën Automóviles España includes the dismissal of 110 employees from a working centre of 5,105 employees, and the suspension of working contracts for 10 labour days affecting 350 employees of the total workforce. The dismissed workers are receiving compensation above the legal limit, the higher the further the employee is from retirement age. 'During the days of suspension, each worker affected will be paid an indemnity contract, added to the gross unemployment benefit received in those days, to achieve the amounts indicated'. For those workers whose contracts are suspended for more than 5 working days, the company pays a compensation topping up the public unemployment benefit up to 80% of gross salary.

The IVECO agreement also includes various measures. It implied, on the one hand, the suspension of working contracts for all the staff in one working centre for 95 working days, where workers

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9. Union officer from the automotive sector.

were affected to an equal degree, thanks to a rotation system. In this case, the top-up to public partial unemployment benefit covered 70% of the gross salary of each worker. Impacted employees over 51 years old were guaranteed a maximum level of contributions to the Social Security System through the Special contribution convention, aiming at guaranteeing 100% public unemployment protection in the future and maintaining rights to state pensions. Finally, the enterprise paid to top up state benefits up to 100% of gross salary for those days spent on vocational training.

Concerning termination of contracts, the agreement established a system for partial early retirement and early retirement. 'The socioeconomic conditions of the termination of the employment relationship of those workers who, having met the requirements, decide to adhere to this measure, will be individually negotiated between the parties, depending on the characteristics of each worker and the economic budget available to the company to cover this contingency'.

Additionally, it includes an agreement for future reemployment of workers, by which a number of dismissed workers would be rehired before 24 months, that is to say the end of the period of receipt of public unemployment benefit. These workers would receive the minimum redundancy payment, to be topped up in the case of failure of the agreement.

These kind of schemes have been used for decades in Spain, but their development depends very much on the relevant legislation. From 2010, short-time schemes have increased in a context of crisis, but as a result of a new law, which recognized these as a way to enhance internal flexibility. As commented by the trade unionist, the schemes have acted as collective support an alternative to dismissals. Reforms have also affected collective bargaining conditions in this respect.

Prior to the approval of the reform in 2012, there were difficulties in collective bargaining, although administrative authorization was required and the objective of the consultation period was to reach an agreement. Workers' representatives were usually not experts in the company's situation, since 'ad hoc' committees were formed due to the lack of legal representation in a great number of enterprises. Furthermore, employers tried sometimes to reach individual agreements. However, due to the previous legislation, there was 'good faith' to negotiate and a willingness to reach an agreement, key conditions which resulted in a high percentage of agreements linked to collective redundancies and containing significant improvements on the legal minimum requirements. Nevertheless, after the 2012 law, employers were less keen to conclude such agreements.

Agreements such as the two analysed here are increasingly difficult to attain, since there is no obligation. The last reform in 2012 not only does away with the requirement of authorization from the Labour Administration, but also exempted companies from drawing up a social plan in the case

of temporary short-time schemes, as well as eliminating the extra bonuses to the entrepreneur in the case of an agreement.

Administrative authorization was a filter encouraging employers to negotiate. The new legislation finishes with it and opens new opportunities to enterprises, allowing them to lower the cost of their workers, whose salaries are partially paid by public funds.

## 5. Analytical Insights

### *5.1 Social (fiscal) and occupational welfare*

Public policies promote complementary welfare in two ways. On the one hand, there are special systems of additional contributions to the public social security system. On the other hand, public expenditure aiming at a three pillar public Social security system is supported by fiscal policy. However, as has been previously highlighted, its scope seems to be limited in the Spanish context.

Additional contributions to the public system are provided by public policy aiming to mitigate the consequences of a segmented labour market for certain groups. Mandatory supplements to statutory contributions have constituted a mechanism to compensate gender and age inequalities on the labour market, since part-time jobs and reductions in working time due to care responsibilities particularly affect women and workers over 55, who are particularly vulnerable to long-term unemployment.

Governments have promoted fiscal measures to boost top-ups to the social security benefits to be received on retirement, following the path marked by the European Union. They have adopted several laws to regulate occupational pensions, and generated a fiscal framework, by providing fiscal incentives for both enterprises and workers. Fiscal bonuses were also approved, to promote short-time labour schemes instead of collective dismissals. However, in recent years, governments have approved several fiscal reforms reducing these incentives.

Private pensions have been boosted through four kinds of fiscal tools: (a) Fiscal incentives, applying to income tax on contributions to individual pension plans (up to a limit), income from these plans was also exempted; (b) Fiscal incentives applying to corporate taxes on contributions to employees' occupational pension plans (gradually reduced as workers' salaries increase). Pension funds are also exempted from paying this tax; (c) For some years, there was an exemption applicable to payment of tax on assets; and (d) Exemption from social security contributions for employers' contributions to occupational pension plans.

Supplementary pension provisions have been encouraged since 1988 (R.D. 1307/1988), when the first reform of the public pay-as-you-go system was carried out. The government introduced tax income exemptions for voluntary contributions to private pension funds, in a progressive scheme with several brackets, up to a certain limit. Additionally, the returns were made tax-free and withdrawals were taxed at a lower marginal tax rate. Afterwards, from 1995, some payroll taxes were exempted and in 2011 several tax incentives for corporate taxes were also included. However, the major tax incentives applied from 1999 to 2007, with higher general and specific contribution limits and a tax exemption of 40% on lump-sum withdrawal payments (Anton *et al.* 2014).

Several reforms took place from 2003, which limited fiscal deductions and contributory exemptions to the Social Security system. The law 62/2003, amending law 1/2002 concerning Pension Plans and Funds, established deductibility measures for corporate taxes and various limitations on contributions. Contributors below 50 had a limit which became higher as they became older. In law 16/2006, the number of limits was reduced to two: one lower for contributors below 50 and another higher for contributors over 50. This law also introduced the possibility of a new exceptional recovery system linked to evictions caused by non-payment of mortgages, and first limited the tax incentives for lump-sum withdrawal payments.

With law 26/2014, special measures for older people were stopped, as a fixed and reduced amount was established. This later reform, which came into force in 2015, somewhat reduces fiscal incentives on contributions while lowering income tax on benefits. It also continues to limit the promotion of reduced tax incentives for lump-sum withdrawal payments, and establishes a limit of two or three years for acceding to these—promoting the receipt of benefits by an income system. Additionally, it adds a new exceptional case of redemption after 10 years, without any conditions, and reduces management fees.

Concerning specifically the second pillar, a new backward step has been taken by the government. It has made enterprises pay for contributions to plans and insurance premiums as part of the salary. Before reform 16/2013, these contributions were considered as deferred salary, as were other fringe benefits, so enterprises were exempted from social security contributions on them. This measure shows the government's wish to reinforce Social Security accounts by containing expenditure, together with a shrinking of public coverage. Law 22/2013 on the General State Budget established that the public sector should stop contributions to occupational pension plans and collective insurance schemes including those covering the retirement risk for its workers. This was another obstacle for occupational welfare, discouraging enterprises.

The cost of tax incentives relating to income tax means, according to State Budget estimates, that more than 99 % of tax benefits relate to pensions. Therefore the Spanish authorities have offered

most volume and detail of information about these incentives. Data collected by (Muñoz de Bustillo 2010) show the high cost of fiscal incentives, which have fallen recently in terms of Spanish GDP (Table 22).

**Table 22: Estimated cost of fiscal relief on private pension plans to the State Budget**

	<i>Millions of euro 2010</i>		<i>% GDP</i>	
	<b>Income taxes</b>	<b>Corporate taxes</b>	<b>Income taxes</b>	<b>Corporate taxes</b>
<b>2003</b>	2084	144	0.289	0.02
<b>2007</b>	2612	37	0.269	0.004
<b>2010</b>	2169	12	0.225	0.001

Note: The cost of tax incentives as a proportion of GDP in 2010 is estimated from projections of economic growth from the Bank of Spain in March 2010. The figures in the table do not include information on the Basque Country and Navarre. The tax benefits on income tax after 2002 have been estimated by extrapolating the estimates for fiscal expenditure forecast by the central government and representing 67 % of total revenue.

**Source:** own elaboration from Muñoz de Bustillo (2010).

However, the role of fiscal policy in promoting the second and third pillar of pension protection should not be underestimated, as noted by Muñoz de Bustillo (2010). In 2009, the volume of fiscal expenditure on incentives for private pensions represented 0.3% of GDP, with a similar amount for means-tested pensions, or equivalent to public savings as a result of the pension freeze in 2011.

Spanish fiscal policy promoting occupational pensions has been repeatedly considered regressive, partly due to the scarce participation of low-income contributors in these systems, and partly due to the specific design of these subsidies (Anton 2008). Debates about the consequences of encouraging private pensions through tax relief are highlighted by these authors, and comments could be made on obligatory contributions. However, it is important to note that boosting private welfare could itself be considered regressive in a labour context with important differences in incomes and a large gender gap.

There is little information on fiscal incentives for occupational unemployment benefit. With regard to short-time working schemes aiming to reduce the number of workers affected by collective redundancy processes, bonuses for enterprises concerning contributions to state systems were approved in 2009. In 2010, the bonuses were increased if the company agreed extra social measures to mitigate the consequences on affected workers, but lately, in 2012, these bonuses were reduced again.

Assuming that the economic crisis has led to a reduction in occupational welfare, the consequences of such a measure are still to be analysed. Given the general trend from 2011 of reductions in labour costs, these measures are probably one of the reasons for the decline in occupational pensions. Another reason could be union capacity to negotiate supplements in collective restructuring processes.

The issue of which measures should be promoted is not a burning topic, although there are serious doubts about the sustainability of public pensions systems given the ageing of the population and high unemployment rate. Ensuring public coverage, stopping the downwards trend in salaries and trying to maintain collective bargaining and social dialogue are issues that are sidelining the promotion of occupational welfare.

In Spain, it is clear that occupational welfare is a complement to a strong public system, since it is still very limited. In a context of an extensive public pension system – with one of the highest replacement rates in OECD countries – and a productive system based on low salaries, high temporary work and high undeclared work it is difficult for occupational welfare to gain followers.

## ***5.2 Occupational welfare and industrial relations***

Occupational Welfare is clearly not a priority for the social partners, although both employers and trade unions recognize its increasing significance, especially concerning pensions. The economic and labour situation relegates these policies to a second place. Debates within trade unions about the convenience or not of promoting OW and the lack of will among employers to establish such policies keep OW and the protection it offers at a low level. However, to some extent, it has always been present as one of the areas of bargaining in recent decades.

In any case, employers and trade unions play a key role in the development of occupational welfare pensions, particularly to supplement public unemployment measures. As was previously stated, some pension plans, company complementary plans and collective insurance schemes have their origins in previous company pension benefits contained in collective agreements. Significant efforts have been made to regulate these and ensure workers' rights in this sense. Concerning unemployment occupational measures, collective bargaining is a core issue, since they are linked to collective redundancy agreements.

In general terms, employers and the main trade unions are in favour of boosting occupational welfare in the field of pensions, as is recognized in the latest general collective bargaining agreement –June 2015-. However, there are two main issues in the debate: who pays for it and which instruments should be used. The differing conditions of the pension plans and collective

insurance schemes and the reinforcement of individual pension plans create a complex negotiating context.

Trade unions point out the importance of developing this kind of occupational welfare, as part of a double strategy. On the one hand, in terms of workers' rights, ensuring remuneration even when containment of inflation limits wage increases, and the right to maintain purchasing power while receiving public benefits. Unions also wish to keep up political action with respect to collective bargaining through pension plan monitoring committees, but also to help determine financial policies in pension fund monitoring committees.

Unions insist on the importance of promoting occupational welfare pensions in a collective way, linked to collective bargaining and ensuring ownership, participation and significant control by workers. They highlight the importance of promoting sectoral instruments to increase coverage, increasing complementary public benefits through an income system. This is a crucial point in Spain, given the productive fabric shaped by a majority of small and medium enterprises. Trade unions stand for a specific regulatory framework in terms of evaluation criteria, participation and information tools – an alternative to the rules on individual saving systems. Thus the trade unions are pushing for a specific type of occupational system, the Occupational Pension Plans, which are collectively negotiated, where equality and rights are ensured and where workers can develop an active role in monitoring committees.

The monitoring committees for the Funds included in Occupational Pension Plans represent an opportunity for union action, not only at local but also at global level. Participating in these committees allows unions to have their say in decisions on how to invest the fund. The largest Spanish trade unions are represented in the Committee on Workers' Capital and promote Socially Responsible Investment. In order to develop this issue, unions try to see beyond company publicity campaigns to truly promote this approach, by building accurate systems of evaluation and monitoring. As an example, this year the CWC is promoting a campaign to boost responsible fiscal policy in companies, through investments from occupational pension funds.

However, union representatives note the serious difficulties involved in promoting occupational pensions. Firstly, the characteristics of the Spanish productive fabric and working conditions hamper such developments, with low wages, high levels of temporary work and the clear segmentation of the labour market. This means that even workers are against promoting occupational pensions instead of increases in direct salaries. The survey by Caser Insurances in 2014 shows that 81.11% of respondents prefer direct increases in salaries rather than contributions to pension plans.

Secondly, labour reforms have designed a complex picture. Imbalanced power has been given to employers, who can reduce employees' rights, in the form of unilateral wage reductions. Moreover,, defending these rights in a context of decentralization of collective bargaining is becoming more and more difficult, and is consequently the main focus of union action. In this context, the elimination or reduction of pension occupational rights is the least of the unions' problems. Additionally, the decentralization of collective bargaining makes it difficult to promote broadly this kind of occupational welfare, which is much more developed in big companies and almost non-existent in sectoral agreements <sup>(10)</sup>.

Thirdly, union officers reckon that there is a general lack of information about occupational pension plans. There is a general perception of little interest – if any – from employers, unionists and employees in promoting these social benefits, which seems to pre-date the beginning of the crisis <sup>(11)</sup>. 38% of respondents to the survey by Caser insurances consider that workers' representatives do nothing for the promotion of occupational pensions, and 33% think that unions do almost nothing. Some cases have been found in the two selected sectors, but even the union officers consider that these are anecdotal.

Finally, unions seem to be aware of the social importance of promoting these systems, although it is not a burning topic due to their weakness and clear complementary – rather than substitutional – nature. It should be noted that efforts are being made to ensure a sufficient state pension system. Additionally, the structural unemployment and the segmentation in the labour market are the main problems to be addressed in the Spanish labour market, since women, migrants and young people are the main groups involved in temporary work, involuntary partial time work and non regulated work. These elements underpin the debates inside the unions, addressing the consequences of promoting occupational welfare over and above redistributive welfare state provision.

In general terms, employers understand the importance of promoting occupational pensions as a way to ensure the sustainability of the current public system of pensions. However, it appears to be a hot topic, as they consider the major obstacles facing it. From a general point of view, employer associations seem to be undecided as to what to promote: consumption or long-term saving.

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10. The consequences of labour reforms were specially highlighted by the Actuary at the Secretariat of Social Protection and Public Policies of CCOO.

11. Union officer for the automotive components sector, CCOO; Union officer for the automotive industry, CCOO; Union officer responsible for collective bargaining in the 'Services' union federation.

The Employers' Organization recognizes the reasons for the weak development of occupational pensions. They emphasize the current confidence in public coverage, the characteristics of the Spanish productive fabric, the low profitability of pension plans and the housing sector –at the same time an expensive cost for workers and a shelter for savings <sup>(12)</sup>.

It could be said that, from a business point of view, there are two possible approaches: to see occupational welfare as a labour cost or to see it as a human resources policy. Employers can consider contributions to occupational pensions as part of remuneration policies, as a working incentive to encourage specific working goals, as a strategy to take on professional employees and as an element to ensure loyalty and keep talented workers.

Nevertheless, these business policies are not strongly developed. The 'Barómetro de Vidacaixa' on occupational welfare points out that employers would promote this kind of remuneration system if fiscal incentives were larger, if social security costs were lower and if OW had a better image among workers. Employers' organizations recognize that this unwillingness of workers to support occupational welfare is related to their unhappiness with wages being reduced to promote companies' contributions to pension plans, their confidence in the public pension system, their mistrust of financial products with low profitability and the culture of saving through the property market.

The majority of enterprises think in terms of total labour costs when thinking of pension benefits and contributions to occupational welfare pension systems. That is the reason why they usually promote defined-contribution schemes, or stopped or reduced contributions from the beginning of the crisis.

Additionally, companies are involved in the monitoring of new outsourced occupational welfare instruments, and they prefer collective insurance, through which they have more flexibility to choose coverage, change the premiums and where there is no need for a monitoring committee. Business representatives reckon that monitoring committees are an important sign of transparency, but some regulations in favour of workers are considered problematic to accept, especially before the new regulation establishing balanced representation in the committee <sup>(13)</sup>. These issues are a key point of conflict between trade unions and business organizations, and the situation becomes more complicated when the companies are smaller, as unions are less strong and the mandatory outsourcing process is difficult.

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12. Appointed by the Director of Labour Relations of the Employers' organization, CEOE.

13. Life and Pensions Director of CASER assurances.

Fiscal policy is debated in the unions and in the business associations, although it is not a burning topic due to the relatively scarce development of the second and third pillars. Although in general terms business organizations ask for tax relief, the representative from the Business Association states that *The weak trend in occupational pensions is not really linked to fiscal policy. They have always been weak and there is no expectation of them becoming stronger. We think that probably making contributions mandatory would be a path forward but, who would pay for it?'* On the other side, unions reckon that fiscal incentives demonstrate the success of workers' suggestions: *'Before the fiscal reforms, we could explain to the employer that they could increment salaries by contributing to occupational pension plans, spending less than with direct salary rises'*.

Several debates have taken place on occupational welfare in the area of unemployment since the Austrian model was used as an example. However, there has never been a thorough debate. The main reason is the wide scope of public unemployment coverage. In any case, the representative from the business organization points out that 'the sustainability of such public systems is at risk, since there are more workers receiving means-tested benefits than contributory ones'.

Collective bargaining plays a crucial role with respect to unemployment welfare measures. Although, in this respect, there is no insurance scheme and these measures are not included in ordinary sectoral and company collective agreements, the result of complementary social measures in redundancy processes totally depends on collective bargaining. Its peculiarity responds to an extreme situation, as the first objective of bargaining in these processes is to avoid as many dismissals as possible, prevent business closure, and reduce the number and consequences of suspensions of contracts and short time schemes.

This extreme situation is at the core of the union perception that these negotiations are the lowest rated activity of unions, which can cause serious burnout for the bargainers. Most workers do not feel well represented when their representatives negotiate in these processes, as their role is trying to make difficult situations less traumatic. The most important issue concerning these negotiations is access to economic information on the company, which can be a difficult point.

In this respect, later labour reforms have minimized the role of collective bargaining: it is no longer mandatory to present a collective dismissal to the labour authority, the consultation period with the workers' representatives has been reduced to one month and there is no encouragement for social partners to develop a social plan linked with the collective redundancy process.

Collective agreements are in any case still very important in such processes, and collective bargaining has led to real improvements in terms of better compensation, top-ups to partial unemployment benefits and the promotion of better accompanying measures.

### ***5.3 The governance of occupational welfare***

The governance of occupational welfare in Spain falls under collective bargaining, where employers and employees and their representatives negotiate schemes supplementing the public social system.

One of the key differentiators between various occupational pension systems is their governance. While collective insurance schemes do not have representative or democratic government systems, the Basque mutualities have an assembly of policy-holders for decision-making, and occupational pension plans have monitoring committees with equal representation of employees and employers. The composition and functions of these committees are set out in law, ensuring transparency and participation of social partners.

In a context of low levels of occupational welfare, especially in the field of pensions and unemployment protection, institutions play a limited role. First of all, neither third-sector bodies nor sub-national authorities have any real role to play in relation to these policies. Nevertheless, it is true that there are many occupational pension plans for public employees at regional and local level.

Financial institutions focus on boosting pension plans, by spreading serious doubts about the sustainability of the public pension system and emphasising the importance of the meagre savings of the Spanish population. As could be expected, their campaigns are geared towards gaining clients for individual pension plans, the management fees of which represent a large share of their earnings. Several banks, for instance, make access to a mortgage conditional on subscribing to an individual pension plan, and organise far-reaching campaigns at the end of the year. Their role in this respect consists of pushing for better fiscal incentives, which at the moment means an advantage for high income subscribers, and gains in flexibility to attract a new public to their individual options. The latest fiscal reform (2013) reduced the maximum management fees for pension plans, and opened up a new option to withdraw money after 10 years, applicable to various pension systems. This is seen by financial institutions as an attractive option especially to young people. Financial institutions put constant emphasis on pension plans as a long-term savings system with a focus on higher profitability, thus trying to change the conservative Spanish mind-set and deflecting the responsibility for scarce economic resources onto individuals.

However, the housing business has been very profitable for years, as banks were able to fix the prices, had a high rate of mortgage interest with 'floor clauses' and very advantageous conditions regarding foreclosures. This preference, together with the culture of savers investing in housing, has kept individual plans in a second position.

The most representative Spanish trade unions have found ways to participate in pension funds created by occupational pension plans, through the previously mentioned monitoring committees, as well as working together with other unions in the Committee on Workers' Capital, promoting Socially Responsible Investment. This approach has been developed in Spain in two spheres: development of SRI – basic, as assets have been reduced – and participation in Spanish shareholder meetings. These policies are usually very limited and basic, but there are expectations in this regard. New reforms have been introduced in this respect with the Declaration of Investment Policy including a minimum percentage of business portfolio in SRI.

European policies on occupational pensions seem to have had little impact on Spanish occupational welfare since the transposition of Directive 80/987/EEC, which led to the first Spanish pension law in 1987. From that moment onwards, the process of outsourcing internal pension commitments in companies through collective bargaining began to move towards the current system of pensions and collective insurance. Later directives concerning harmonization do not appear to have had much impact on the situation in Spain.

The Spanish legislation on collective agreements relating to collective redundancy processes is based on Directive 98/59/EC, which required a consultation period in these processes and obliged the company to provide full information in order to allow the workers to make constructive proposals. Later Spanish reforms, as stated earlier, have made significant changes to these requirements.

## **6. Conclusions**

Spanish expenditure on social protection has grown significantly in the last 20 years, but is still behind the European level. The most important state budget headings concern retirement pensions and unemployment, combining a Pay-as-you-go system with a means-tested scheme.

The current economic crisis, like previous similar crises, has reopened the debate on the use of public resources and how society should be organized to deal with new social challenges and risks. The background debate concerns whether to maintain the collective instruments developed by the welfare states, in terms of fairness, effectiveness and potential, or whether it would be more profitable, beneficial and realistic to wager on other systems promoting individual incomes and savings.

Recent reforms have triggered this debate, as they are eroding key elements of the social system and particularly the social protection system. The most evident consequence is a reduction in coverage and the insufficiency of certain benefits. The poverty rate and the large number of

families with no regular income are clear demonstrations of this fact, since the Social Security system and social services are not able to cover the risk of precariousness and unemployment in Spain.

This reports shows how Occupational Welfare is very limited in scope. In this context of crisis, public social cuts and decentralization of collective bargaining OW is being reduced, and it is not at all a priority for political or union debate. In the context of labour cost reductions, occupational welfare is a bargaining chip to contain redundancies and wage reductions. Labour reforms are very important as they give the opportunity to employers to make unilateral changes to labour conditions and decentralize collective bargaining in a system dominated by SMES.

There have been increasing discussions on trends in occupational pensions. Occupational Welfare pensions over the last decade have been characterised in Spain by the outsourcing of mandatory pension commitments previously agreed in enterprises. Although this sort of OW has grown in the last 20 years, it is less important than in other European countries.

Diverse reasons for the underdevelopment of this system have been explained in the text. First of all, the public and social partners' commitment to developing a public pension system after Franco's regime focused all expectations on ensuring a solid foundation. This large shared challenge led to the current replacement rate, which is one of the highest among the OECD countries, although it is not as redistributive as in other countries. Secondly, the characteristics of the segmented labour market, with high rates of unemployment, temporary work and low salaries and the high price of housing influence the possibilities for long term savings. Thirdly, the specific Spanish home-owning culture was boosted during the real estate bubble in the years after 2000, and has led households to use housing as the best system for long term savings. Finally, we cannot forget the southern culture of intergenerational family support.

In Spain there are several systems of occupational pensions, the main ones being Occupational Pension Plans and Collective Insurance schemes. These differ basically in their governance and the tax-relief available. It is complex to estimate an accurate coverage rate, but it could be said that around 11% of working age people have or have had some kind of occupational pension. However, the ability of occupational pensions to top up social protection coverage has been very weak until now and there are few expectations as to the next few years. Since this is one of the main fields of complementary social protection, pensions are following a similar trend to other company social policies, since labour cost reductions are the core concerns of enterprises. Significantly, even during the economic growth period – when there were more fiscal incentives – the development of occupational pensions was slow-moving, so the observed backward trend is not surprising in a context of crisis, wage reductions and new restrictive fiscal policies.

While occupational pensions are, in general terms, on the agenda of trade unions and business organizations, they are not considered a priority and there are few key points of conflict. On the one hand, the main question is 'who should pay the contributions?' Business organizations do not want to bear the cost of supplementing the public pension system. On the other hand, as there are different schemes, trade unions promote those where union and workers' representatives are active in defining the principles of the plan, monitoring it and taking decisions about investment policies.

For these reasons trade unions have supported Occupational Pension Funds, their regulation within collective bargaining and better and greater coverage by such funds. Business organizations, on the contrary, prefer to promote individual systems of saving, or, within the enterprise, other systems such as collective insurance schemes, which give them more potential control.

In the last decade, complementary welfare has been geared to financial products, and not seen as a means of saving, as enterprises and insurance companies have promoted the individual third social protection pillar. It is worth mentioning that in Spain, individual pension plans are increasing in parallel, but are still scarce for the same reasons that limit the development of occupational pensions.

Occupational unemployment measures are also limited. There is no second pillar system as such to prevent the consequences of unemployment. The reasons are probably similar to those which account for the weak occupational pension system. However, we can find some non-systematic occupational measures, developed in the framework of collective redundancy processes at company level.

Different systems of benefits and services have been developed in this respect, going beyond the statutory limits and supplementing public protection. Although suspensions of contracts and short-time arrangements are considered as business strategies taking advantage of a public protection system with collective bargaining, it is also recognized that they can limit the number of dismissals and minimize the consequences of these processes. This is true for some collective agreements, the significance of which is difficult to illustrate.

Several reforms have had important consequences. Recently, the removal of the requirement for a public labour authorization, the reduction of the consultation period to one month and the reduction of fiscal incentives for reaching an agreement have restricted union capacity to react and negotiate.

In Spain, the supplementary character of occupational welfare is clear. The downsizing of public protection represents a real challenge (Natali and Stamati 2015). It is important to evaluate the

social costs of promoting these private systems in terms of social equality and redistribution. There is a risk that the labour market may be further split, since precariousness is becoming an unremitting long-term trend. This will ultimately determine living conditions up to and beyond retirement. Nowadays only 47% of the working age population is in employment and 12.5% of workers live in households below the at-risk-of-poverty threshold. Moreover, we cannot forget that the segmentation in the Spanish labour market includes an important gender gap, together with age and migration gaps. The fact that 24.5% of working women have part-time jobs – most of them involuntarily – shows not only how difficult it is for these women to secure a sufficient public pension, but also their need for a direct salary instead of occupational contributions (<sup>14</sup>).

In any case, it is difficult to envisage a new way to promote occupational welfare in general, and occupational pensions and unemployment benefits in particular, when the priorities of the social partners differ, the public administration is cutting previous tax relief, cuts in social protection are jeopardising solidarity and redistribution and collective bargaining is being dismantled.

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14. Employment data correspond to the third quarter 2015, Spanish Labour Force Survey and in-work poverty data to 2014.

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## **Collective agreements:**

### *Retail trade sector*

- Collective inter regional agreement of the flowers and plants retail sector
- Collective sectoral agreement of the paper and graphic arts retail sector

### *Manufacture of motor vehicles, trailers and semi-trailers*

- Collective agreement SEAT S.A.
- Collective redundancy agreement of IVECO ESPAÑA S.L.
- Collective redundancy agreement PEUGEOT CITROËN Automóviles ESPAÑA S.A.

### *Interviews*

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- Union officer of automotive components, CCOO.
- Union officer of the automotive industry, CCOO.
- Union officer responsible for collective bargaining in the 'Services' union federation (including the retail, tourism and hospitality, banking and insurance sectors, etc.), CCOO.
- Actuary at the Secretary of Social Protection and Public Policies of CCOO.
- Director of Labour Relations of the Employers' organization, CEOE.
- Life and Pensions Director of CASER assurances.