

Financing Problems as a Pretext for a Change in the Spanish Social Security System Model: The Role of Financial Institutions and Their Media

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Abstract

This study summarizes the traditional characteristics of the Spanish Social Security System (generally taken from the European model), the different legal reforms that have come into force in recent years and the degree of penetration of important financial groups in the mass media –which increased with the last financial crisis– as well as the role developed by the insurance and financial entities benefiting from the change of model. The conclusion is that we are at the beginning of an interesting change in the Social Security model, aimed at the capitalization of social contributions by the private sector, which will obtain significant economic benefits in the management of old-age risk.

Keywords

Social Risks, Social Security, Mass Media, Capitalisation, Financial Power, Investment Funds, Pay-as-You-Go, Old-Age Pension, Pension Paradigm Change, Intergenerational Solidarity, Increased Life Expectancy, Birth Rates, Unemployment

1. Introduction

Is the (financial) market the solution to the problems of the European Social Security systems that emerged after World War II? Based on a pay-as-you-go basis—the technical translation of the values of professional and intergenerational solidarity—they seem quite unable to ensure their future sustainability in the mid and long terms due to increased life expectancy, lower birth rates and high unemployment rates. This diagnosis is not new: economic difficulties have accompanied Social Security ever since it started (Durand, 1953; Venturi, 1954).

The novelty lies in the proposed solutions: an appeal, to a greater or lesser extent, to the financial market, and in the social, parliamentary and citizen consensus that gives rise to this solution. This consensus is not coincidental: for years, global financial power has landed in most mass media to create a “unique” solution for the crisis of pay-as-you-go models: its capitalization in the financial market.

2. The European Social Security Model: Demarketising (or Publication) Social Needs

The effect that European social reformers’ historic option (AA.VV, 2007; GÓMEZ MOLLEDA, 1988) to favour tax-paying-professional-type Social Security systems (SSS) had was to shape an inseparable work-Social Security binomial. More specifically, the determining factor of this relation was the appeal of the insurance technique. After the subsidised freedom system failed, which was initially put to the test by the National Social Security Institute (1908), the next stage in building an SSS was to make compulsory the securing of some risks deriving from rendering services as employees in the new industrial society. This industrial revolution-alienation connection of work/worker was key for managing SSSs, and also for delimiting the population protected by these systems. The State’s scarce economic capacity, marked by the politico-economic liberalism of the time, the working class’s insufficient resources and the close link of promoters of social security to insurance companies all determined, on the one hand, the need to involve the employers of the new working class in financing social protection, along with the beneficiary and the State; on the other hand, the appeal of the insurance technique as a mechanism to distribute recently socialised risks. In fact, it applied only to workers less financially well off. So, it is possible to state that the “social” adjective of the first social security had a very different meaning to that employed today.

Performing occupational activities not only conditioned citizens belonging to or being registered (only relevant as workers) with social security, but also involved many other effects; e.g., workers’ needed to continue with this working relationship whenever the risk materialised (registration or similar situation), or the payments they made to the system (demand of the exclusion period for benefits deriving from common disease). In general, these effects continue today, save some exceptions or nuances. Economic SSS provisions are outlined as income that substitutes lost salary income as a result of updating protected risks, and it was only after many years did this connection weaken, but did not break, by allowing access to some economic provisions when not registered or being in a similar situation¹. The system responsible for provisions when business obliga-

¹Law 26/1985, of 31 July, allowed access to full permanent disability and retirement for non-registration or similar situations. However, a previous tax-paying period longer than the classic assumed case of accessing from non-registration or similar situations is expected. Law 40/2007, of 4 December, also allowed access from non-registration or similar situations to wid-ow/widower and orphan’s pensions. Law 40/2007 also abolished the requirement of an exclusion period to access an orphan’s pension when the workers who led to this risk situation died while being registered or in a similar situation. his connection weaken, but did not break, by allowing access to some economic provisions when not registered or being in a similar situation.

tions are not met is a clear example that still prevails, and one that is especially significant in retirement matters (AESSS, 2012).

It was not by chance that the first social security was the so-called “Retiro Obrero” (Workers Retirement; 1919), which became compulsory as of 1921, and it was a capitalisation financing system. As it acted as an instrument to accomplish “social peace”, it undoubtedly played a pacifying role given the advantage of not paying provisions in the short/mid terms. Even in the long term, it did not involve taking large economic risks when the retirement age was set at 65 years because life expectancy then did not reach that age. For some cases, many years still had to go by for compulsory insurance to cover those social risks that determined more immediate protection: maternity (1929); illness (1942); disability (1947); death and survival (1955); unemployment (1961).

Today, the Spanish SSS has been characterised since its beginning (1967) by the following features:

1) Socialising the risk of losing worker salary income by means of the insurance technique. Initially, protected risks were directly linked to occupational activity (work retirement; maternity; illness; disability; old-age death and survival; unemployment, and other risks (paternity leave; caring for minors with cancer or other serious diseases; joint responsibility in the care of the child) were socialised in more recent times.

2) Cohabitation, for which the level of protection is quite unequal, has two levels of protection: paying taxes and not paying taxes. Since the latter was passed (Law 26/1990 of 20 December), provisions and the area they cover are virtually identical. Only three risks are attended by not paying taxes: dependant children, disability and old-age. Always it is necessary that the beneficiary does not receive annual income exceeding 5488 euros (2019).

3) Separating financing sources among both levels of protection: professional financing based on contributions to the tax-paying level and tax financing for the non-tax-paying level. Since the Toledo Pact (1995) and its legal specifications (1997), all the provisions of the TRLGSS (the General Social Security Law) that are non-tax-paying are fiscally financed, including minimum pension supplements. Professional financing is provided by employers and workers; the State does not participate in the financing of this tax level. High levels of unemployment mean a loss of contributions in addition to an increase in expenses.

4) The option of a pay-as-you-go financial system as a sign of “intergenerational” solidarity because the whole amount paid by tax payments by all workers is used to pay the pensions of those who, from the same time period, receive pensions. That is, the pay-as-you-go system excludes accumulated capital and it being placed on the capitals market, save any surpluses that might arise at any time, which would form part of reserve funds. Low birth rate, the progressive increase in life expectancy and the high level of unemployed workers constitute serious problems in these distribution systems. Spain has the lowest birth rate in the European Union (7.95 per mile), the third highest life expectancy in the

world (80.5 years old for men; 85.9 years old for women)² and very high levels of structural unemployment, especially among young people³.

5) Outlining economic provisions from the tax-paying level as substitute salary income so that, for retirement and the generally disappeared forced retirement, when the risk materialises two circumstances are expected (either simultaneous or not) concurring: having reached the set age in each case and having left work.

6) In relation to point 5), the traditional incompatibility of being paid a retirement pension while working, regardless of working for oneself or someone else.

3. Risk Factors and Reforms: From the Initial Reduction in Public Pensions Sufficiency to the Paradigm Shift of Protection

3.1. Risk Factors

Two viruses can apparently affect the health of SSSs: an aging population (Errandonea Ulazia, 2019) and high unemployment rates. The dependence of pay-as-you-go systems of both variables, which will become critical when the baby boom generation reaches retirement age, has led the lawmaker to take measures to ensure the system's sustainability. It is worth pointing out that political discourse is identical in all European countries, regardless of their life expectancies and unemployment rates, and even their demographic differences, or any other national peculiarity for that matter (population; GDP; national debt, social expenditure, tax rates, etc.). Even the language that public discourse resorts to has undergone an interesting mutation: sustainability is no longer economic, but financial; whereas what is economic turns to efficient administrations to meet the human material needs of those with few assets, and what is financial refers to bank or stock exchange issues. A pay-as-you-go system does not require financial sustainability, rather economic resources (which never abound) being suitably and efficiently administered.

3.2. Reforms

For some years now, the lawmaker has taken different measures to manage the SSS's limited resources. In the Spanish case, the lawmaker employs reforms adopted from a parliamentary and social consensus in an attempt to obtain a well-backed institution in Spain from an electoral and social conflict. This consensus also offers a less compliant interpretation, which is presented later. Basically, these adopted measures are to ensure the SSS's sustainability. Specifically, the following have acted as its main pillar (Vicente Palacio, 2015):

1) Requirements to access a retirement pension have progressively become

²See INE, "Life Expectancy", (oct. 2019).

https://www.ine.es/ss/Satellite?L=es_ES&c=INESeccion_C&cid=1259926380048&p=1254735110672&pagename=ProductosYServicios/PYSLayout (Consultation date: 15-1-2020).

³All this date at <https://datosmacro.expansion.com/paro/espana> (Consultation date: 15-1-2020).

stricter. Without referring to possible sustainability problems⁴, the demanded exclusion period has been prolonged by going from 10 to 15 years (1985). Moreover, the classic jurisprudential days-contribution doctrine, which made fulfilling this requirement easily, was ended by the lawmaker years later (2007)⁵ by the application to retirement pensions being expressly abolished, where financial sustainability appeared on two occasions as the reason for driving the reform in a complex co-existence with reinforced solidarity principles and tax-paying also appealed for by the reform.

It is worth referring to the consequences of working part-time when calculating the exclusion period; after several “comings and goings” in which the Courts intervention played a key role, nowadays the global part-time coefficient outlines the materialisation of the proportionality principle being strictly applied to horizontal-type part-time work. However, this does not apply to the vertical type given the discriminatory dealings that the CJEU considered for unemployment benefit (which has been legally corrected for this benefit by RD 950/2018, of 28 July).

2) The parameters followed to calculate the quantity of pensions have been another aspect which the lawmaker has insisted on by extending the spectrum to include newly taken measures in recent years. They all converge for the same purpose: to reduce expenditure, not by better managing resources, but by cutting the quantity of pensions.

The increase in the computable period used to calculate pensions has gone from 5 (1974) to 8 years (1985), and then on to 15 years (1997) and next to 25 years (2013), which will fully come into force on 01/01/2022. That is, the reference period to calculate the exclusion period has multiplied 5-fold in 47 years (AA.VV, 2012; López Cumbre, 2012).

The reduction in the quantity of pensions that derives from this extension has been made worse by other further reforms. The increase in the number of tax-paying years (37 years) expected to be paid a 100% pension, especially the reduction in gaps being included, whose likelihood increases with the reference regulatory base period being prolonged: if before its inclusion was ensured by using the whole minimum tax-paying regulatory base for people over the age of

⁴Law 26/1985, of 31 July: “Ever since the economic crisis began, the view that Social Security requires profound reforms has been a constant generalised notion, a point which, and one that can be asserted, is supported unanimously by the most representative social and political forces today. However, this long-standing process has led to imbalances in the system that negatively affect the economy and employment, and endanger the success of the reform itself being made to ensure its feasibility; in particular, the level and necessary updating of pensions. The measures passed in this law are included in this first phase, that of rectifying the most obvious and urgent defects and deviations, and pursuing these objectives: reinforce the professional, tax-paying and proportional nature of retirement and disability pensions; better correlate non-tax-payment protection; improve protective efficiency by reordering resources; streamline the System’s structure”.

⁵Law 40/2007, of 4 December: “(...) and all this forms part of the demands resulting from the socio-demographic situation, with some highlighted circumstances like an ageing population, more women entering the labour market and the immigration phenomenon, as well as harmonising criteria that move towards what is pointed out in the EU area to ensure the pension system’s financial sustainability.”

18, then this guarantee was limited (2011) to 48 monthly payments because it limited the inclusion of the remaining monthly periods to 50% of that regulatory base. In both cases, and for part-time workers (Ruano Albertos, 2019), the minimum tax-paying regulatory base to bear in mind corresponds to the number of contracted hours as a last resort, which is completely removed from the of tax-paying and proportionality rules that have so often been appealed for.

Limiting minimum pension supplements to the annual amount of non-tax-paying pensions also reduces public protection. Separating financing sources between both the system's levels and what then (1997) seemed to be a reasonable measure of sending minimum pension supplements to tax financing as a sign of national solidarity, which is no longer professional as it was before, and using any tax-payment surpluses to build reserve funds have become a reactionary measure. Its purpose is not to avoid transferring funds from the tax-paying level to the non-tax-paying level, but quite the reverse: sufficiency at the tax-paying level is reduced under the guise of the supposedly egalitarian processing of tax-financed protection.

Moreover, it is worth mentioning the reform made of the revaluation system and the introduction of the Sustainability Factor. The variables contemplated by the new Revaluation Index (2011) the income and expenditure of the pensions system, the number of pensioners and the evolution of the mean pension- are exclusively linked to the system's financial sustainability, and not to the sufficiency of pensions, nor to its purchasing power being maintained. As all these variables are expected to negatively evolve in forthcoming years, the reform merely becomes the application of an absurdly low minimum guarantee of a 0.25% RPI Index for a long period of time. The vague agreement met during the Parliamentary Committee of the Toledo Pact allows several interpretations, and we will have to wait and see what will happen with the 2019 General State Budgets.

Finally, the Sustainability Factor (2013) acts directly on determining the initial amount of the retirement pension using a variable not linked to tax payments and proportionality: life expectancy. This is a cynical manipulation of the "intergenerational solidarity" concept, with positive impacts on the natural justice areas. In order to "adjust the initial pension so that the total amount that a pensioner who accesses the pensions system is paid all his/her life, in a certain number of years time, and who will predictably enjoy a longer life expectancy, will be the equivalent to what someone who retired earlier was paid". The system has been transformed from a model with defined payments and provisions to a mere indeterminate provisions model (Tortuero Plaza, 2014; Suárez Corujo, 2014; Monereo Pérez & Fernández Bernat, 2014). Then yet another characteristic of the new modernity appears: the State accepting to play a residual role in managing risk, a role that must be limited to promoting protection by capitalist financial mechanisms. The increase in both life expectancy and quality of life is actually a problem rather than a social conquest, and this new risk is a new market niche (reflexive society) for a newly released and increasingly powerful capi-

talism.

It is worth referring to the successive reforms made to the compatibility regime of the retirement pension with work (Monereo Pérez & Rodríguez Iniesta, 2016). While the protection of old age has developed, the lawmaker has resorted to various denominations, and it is hard deciding whether these changes simply obey the will to distinguish them from their predecessors, or if they respond to a change in the risk or protected situation. One author points out that the Retiro Obrero (Workers Retirement) never established the incompatibility of a pension with work, but express legal prohibition was possibly unnecessary because if only a few workers who were included in its area of application reached the age of 65, even fewer would do so if they continued with the occupational role. Indeed the relation that the lawmaker establishes between work and the right to be paid a pension is a clear indication of the circumstance of need that is economically protected by today's "retirement" pension.

Our SSS today explicitly establishes an incompatibility between work and the retirement pension, and generally with all pensions, as well as with permanent disability⁶. Logically there are differences between both, but the circumstance of protected need is (was) identical in both cases: loss of income earned by working when having left work due to either workers' age or their inability to continue doing their work. Economic provisions are, thus, outlined as income which substitutes that income once earned by a salary, with some outstanding exception⁷. If a retired pensioner still worked, his/her pension was suspended, and new tax payments would not affect the quantity of his/her retirement pension when (s)he eventually left work, and when the pension was once again paid.

It was within the framework of the (initial) soft policies to delay access to a retirement pension and to promote work (2002) when a retirement pension being compatible with doing part-time work was allowed for the first time, and new tax payments were recognised to affect the amount of the pension in the same way as the assumed cases of flexible retirement did, which were also outlined as doing part-time work. As the general increase in the minimum age to access a

⁶One particular situation is the widow/widowhood pension, whose characterisation is deliberately omitted. The permissive compatibility regime of the permanent disability pension and its absolute or considerable degrees of disability with work is the result of the jurisprudential interpretation (2002 and following years) of a precept, whose literal meaning has not changed since 1974 (save when incompatibility was recently established when workers reach the age to access retirement). This interpretation has even managed to recognise the right to take into account the new tax payments made when permanent disability is suspended by performing one's occupation to calculate the regulatory base of the permanent disability pension that is later resumed [Supreme Court Sentence of 25-4-2018 (no. rec. 2322/2016)].

⁷Partial Permanent Disability; Permanent Non-Incapacitating Injuries (for professional contingencies) and Compensations as lump sums in cases of death due to professional contingencies. Likewise, it is precisely a reconsideration of widow/widowhood cover. Many options are available, but recovering economic dependence is necessary as a real circumstance of protected need, without prejudice to setting compensatory temporary measures to allow the surviving partner to adjust his/her economy to the new family circumstances. The obtained savings should help to improve orphanage protection and widow-widowerhood protection whenever a circumstance of need actually comes into play.

retirement pension seemed an impossible measure to be taken within the socio-parliamentary consensus framework, paying a partial pension for a certain time seemed a preferable solution to paying the full amount. Among other reasons, the very few incentives set up to make these measures appealing, along with suspected unfair use, led to successive regulatory reforms that have gradually made requirements stricter.

The regime currently in force, and assumedly extraordinary, of a retirement pension being compatible with work, indicates the subtle transformation of the circumstance of protected need, which no longer entails loss of income from leaving work due to the “presumed” impossibility of working due to age (as verified by lack of occupational activity), but merely implies reaching the age at which the old age threshold is set. The retirement pension comes over as a periodical recovery of paid (saved) quotas that comes in the purest old-age annuity insurance form, even if the pay-as-you-go system is maintained (notional accounts). The insurance technique, which has never completely disappeared from our SSS, takes the leading role by converting the insured risk (old age) into a protected circumstance (old age).

In the ordinary scheme (Art. 213 of the Revised Text of the General Social Security Law), the compatibility of a retirement pension with doing part-time work is allowed by lowering, in this particular case, the amount of the pension by a percentage of the working day that the employee works. However, this compatibility becomes notably flexible when work is done by self-employed workers because the system allows 100% of the retirement pension being paid to these workers, provided the income paid for their work does not exceed 100% the minimum interprofessional wage. Given the difficulty of controlling self-employed workers’ income, this measure evidently implies completely opening up the compatibility of the retirement pension with self-employed work without the system obtaining a “return of solidarity” because this work is exempt from tax payments⁸ (see also [Ballester Pastor, 2018](#)). For the time being, cutting the number of the unemployed justifies excluding the retirement pension being completely compatible with self-employed work in general, but not with the Extraordinary Scheme. Indeed, another type of reason, which has nothing to do with the employment policy, inspires regulating the compatibility set out in Art. 214 of the RTGSSL. This precept allows a retirement pension to be compatible with self-employment or working as an employee, regardless of work being full-time or part-time, as long as the worker has accessed a retirement pension as of the minimum set age, and provided the percentage applied to the regulatory base to determine pensions is 100%. The amount of pension lowers by 50% in general, the percentage is 100% if the working activity is the self-employed type and if having contracted at least one employee can be proven.

⁸This estimation is deeply rooted in the classic problem of defining the field to apply the Special Self-Employed Scheme (SSES): if the compulsory nature of being registered with the SSES only takes place when the self-employed worker’s income equals or exceeds the amount of the minimum interprofessional wage.

If we now leave to one side any discrepancies about this last compatibility being applied by the National Social Security Institute, the gradual acceptance of the retirement pension being compatible with doing work abounds in the change made to the circumstance protected by an old-age pension. Age does not imply the physical impossibility of performing a professional activity, but having reached a given age at which one can recover the tax payments made to an old age “insurance”, even though the income that work provides has not actually been (for the time being, completely) lost. No doubt the flexibility of the compatibility regime is also connected with the reduction in the rate at which the retirement pension is replaced with the reforms made in recent years. The lawmaker is removing obstacles to allow pensioners to supplement their pension with income they earn from working by seeking protection from manipulating the “active aging” concept because, albeit true that this concept in its early days actually dealt with the occupational dimension to a certain extent, the truth is that the definition handled by the WHO is far removed as far as necessary old age security and cares are concerned in relation to the consequences expected of any reforms made to protect old age.

4. The Uniqueness of Solutions: Is It a Change in the Economically Neutral Paradigm?

4.1. The Financing Problem

Financing is the main stumbling block for any SSS because economic resources are always limited (López Cumbre, 2015; Rojas Rivero, 2014). And this was also true back in 1919 (Retiro Obrero) and continues to be so today in both pay-as-you-go and capitalisation systems. Indeed, the terms social security and crisis have formed an inseparable binomial since the former was set up. Those who propel the social securities all over Europe (Durand, 1953; Venturi, 1954) insist on seeking suitable solutions that have replaced and been adapted to different socio-economic situations, and have led most European countries to adopt a professional/tax-paying system financed by contributions based on professional solidarity supplemented by a non-tax-paying and universal system founded on national solidarity (Tortuero Plaza, 2018). The failure of the capitalisation in the first tested insurances led to a financial pay-as-you-go system being adopted (1931), albeit with its limitations, and SSS became an instrument of solidarity among workers, and also an intergenerational instrument. The negative evolution of the demographic variables on which pay-as-you-go systems depend so much has been well-known for decades. However, this has not hindered the European countries with low unemployment levels that set up measures to increase birth rates from undertaking systemic reforms, reforms that will remain after baby boomers have disappeared (De Paz Cobo, 2013).

All these reforms have generally been characterised by the gradual introduction of capitalisation measures, also in the public protection area, to a greater or lesser extent (vid. also AESSS, 2013). It was not until quite recently when debate

about capitalisation was limited to the supplementary level, especially within the public promotion scope of private public pension supplements, but it was still not considered an alternative to the public system. The scope of the reforms made by some European countries in recent years, encouraged by community institutions as part of the Open Coordination Method (Art. 160 of the Treaty) (vid. also CAIROS BARRETO, 2015; *Moreno Romero*, 2015), is quite different: capitalisation also reaches a compulsory stage, specifically the professional/tax-paying level, with capitalisation in which, moreover, the public area cedes its traditional socialisation area to favour private initiatives. If the social protection system has involved demarketising some individual requirements via socialisation, then the call for private capitalisation in the protection area of the compulsory public system implies completely abandoning the traditional principle of professional solidarity, which is a reformulation of the social contract that has governed the European social model for the past 100 years (*Villa Gil*, 2012).

According to the Spanish Centre of Sociological Research's Barometer, in March 2018 concern about pensions was one of the three main problems for 15.5% of Spaniards: this doubled the rate recorded for the previous month, and was the highest rate it had ever reached⁹ (vid. ext. *Sánchez Rodas*, 2018). So, what has happened for this matter to be so deeply rooted in individuals and society, who are convinced that the present system is not sustainable and is in an irreversible situation to require a completely changed model?

4.2. Uniform Social Thinking: Role of the Media

One of the characteristics of the "risk society" (BECK, 1986), which sociology predicted very early (*Vicente Palacio*, 2013), was the complete dominion of mass media by pressure groups linked to either the most brutal capitalism or, if applicable, to public powers, to produce uniform social thinking. The twist in information and the handling of emotions, particularly fear, over a continuous period of time does away with rationality, and leads individuals and society to be convinced about the unidirection nature of solutions that are neither social nor economically neutral.

Although the unquestionable financing problem of a model that depends so much on the two factors that will clearly evolve negatively in the future is undeniable, this change in social mentality is very much due to financial capitalism progressively controlling several corridors of power. Even the language used has subtly changed. Economic feasibility or sustainability has become financial sustainability¹⁰; legal

⁹See this evolution at

http://www.cis.es/cis/export/sites/default/-Archivos/Indicadores/documentos_html/TresProblemas.html.

¹⁰The Toledo Pact does not refer to sustainability and its normative materialisation: Law 24/1997, of 15 July contains one reference about the system being feasible. Nor is there any reference made to sustainability in Law 35/2002, of 12 July. Law 40/2007, of 4 December twice refers to "financial sustainability". Law 27/2011, of 1 August, mentions financial sustainability 7 times. Finally, Law 23/2013, of 23 December, indicates the "sustainability" concept 37 times. However, this can be considered normal because the regulation controls the Sustainability Factor, and constant repetition of an idea plays the social "normalisation" role.

regulations seek an indoctrinating purpose¹¹; trade unions and political parties, which do not take liberal positions, sign parliamentary pacts and social agreements by punishing the political correction of new (unidirectional) recipes and accept the State's new residual role of managing the social risk¹². All this is applauded by mass media which, as a result of the economic-financial crisis, have gone to being under the control of capitalist funds, as well as the only beneficiaries of the capital transferred to the financial market, which involves changing the social protection model.

Nowadays (2018), the Prisa Group's stakeholders include important capitalist funds: Amber Capital; Adar Capital; HSBC; Banco Santander¹³. Mediaset España is in the hands of not only Finisvent (50.21%), one of the most important financial groups of Italy linked to the Berlusconi family, but also the French Vivendi Group¹⁴. Practically all Grupo Editorial belongs to RCS Mediagrup (96%) which, in turn, belongs to Comunicación El Cairo (59.9%) and to several other financial and insurance companies (Compania di San Paolo; Credit Agricola; Banca Firenze CR; Generali; Blackrock), which belong to the most important insurance and financial groups, and appear among the top commercialisation ranking positions in Spain of CII (Collective Investment Institutions) and Pensions Funds in Spain¹⁵. The main national newspapers with general information (El País and El Mundo) and with economic information (Cinco Días and Expansión) are in the hands of these publishing houses. So, it is not surprising to notice a marked increase in recent years in news and opinion pieces about our public pensions sys-

¹¹Law 27/2011, of 1 August (DA.19^a): is a mandate to conduct a study about developing supplementary social provisions "and about measures that could be taken to promote its development in Spain"; Law 23/2013, of 23 December: (Sustainability Factor) "The first year for it to be applied in shall be 2019, which allows a sufficiently long period so that, until that time, potential retirement pensioners can be informed about the consequencing of putting this factor into practice and to take any measures if they deem them necessary".

¹²The Toledo Pact (1995) still limited capitalisation systems to the "supplementary" social security of the public system, although it called on the need to maintain tax incentives. The Agreement about Social Security Measures of 13-7-2006 refers to the system's sustainability, exactly as it stands, and always as regards its improvement. The "Document about Revising the Toledo Pact", dated 29-1-2010, refers to sustainability, and also exactly as it stands, 14 times. Special attention is paid to treating supplementary social provisions, which differs from that made in former agreements or pacts. The Sustainability Factor is also supported by Comisiones Obreras (a Spanish trade union) as its representative in the Experts Committee to write a report to design the Sustainability Factor voted in favour, although he cast a dissenting vote (Miguel Ángel García). Of the 12 members, only one voted against, Prof. Santos Ruesga, proposed by the PSOE socialist political party and a usual collaborator with the UGT trade union, and there was one abstention, Prof. Tortuero Plaza, also proposed by PSOE.

¹³Amber Capital: 27.01%; HSBC: 10%; Telefónica: 9.4%; Familia Polanco: 8.4%; Roberto Alcántara (Mx): 9.3%; Santander: 4.1%; Adar Capital (Isrl): 5.3% See <http://www.cnmv.es/Portal/Consultas/DerechosVoto/Notificaciones-Participaciones.aspx?qS={29375466-e3ed-4044-a168-5140d723a504}>; and also <https://www.prisa.com/uploads/2015/12/descargas-documento-f-20-sec-2014-es.pdf> (Date consulted: 15-10-2018).

¹⁴https://es.wikipedia.org/wiki/Mediaset_Espa%C3%B1a_Comunicaci%C3%B3n#Accionariado (Date consulted: 15-10-2018).

¹⁵See <http://www.inverco.es/archivosdb/ranking-grupos-financieros-jun-2018.pdf> (Date consulted: 15-10-2018).

tem's imminent bankruptcy and the need to move towards compulsory capitalisation systems in professional or employment terms. However, they are not the only ones to appear¹⁶.

4.3. The Promotional Role of Insurance and Pension Fund Management Entities: A Very Profitable Business

In institutional terms, this new old age protection system model is carried out by the Spanish Association of CII, Pensions Funds (INVERCO) and the Spanish Union of Insurance Companies and Guaranteeing Offices (UNESPA). Albeit there are differences between the two, they defend more private sector interventions in the public old age protection system.

The model proposed by INVERCO¹⁷ involves three pillars, of which the last two are of a capitalisation kind: the second pillar, which falls within the employment rate framework, will be compulsory and appointed by default, whereas the third pillar will be the current "free" one (employment, either individual or associated). The second pillar will be financed by a 4% tax payment from salaries: 2% paid by the company, which will lower the tax payment of the first pillar, and 2% by the worker by either reducing the present workers' tax payments or increasing their tax-paying participation. The third pillar will be free, for which the above two parties propose maintaining tax incentives, and even a state subsidy whose amount would equal the tax payments that workers make (UNESPA). For the first pillar, both defend two alternative solutions: a system of notional defined contribution (pay-as-you-go) accounts; a basic tax-financed state pension (the British model). Most importantly, as pointed out in many public appearances, and also in the Committee to renew the Toledo Pact¹⁸, lowering the current rate to substitute the public pension would be one way of increasing interest being shown in a free supplementary system.

Nowadays in Spain, companies that manage pension funds¹⁹ have accumulated 74.309 million euros in free supplementary terms (INVERCO Foundation). This quantity generates considerable profits from commissions made on deposits and their management, which are also free of any effective yields from Pensions Funds²⁰. With assets of 110,372.671 thousands of euros (including employment plans, associated plans and individual plans)²¹, it is easy to quantify the amount of the generated bonus commissions: 15.155.822 thousands of euros (**Table 1**).

¹⁶https://es.wikipedia.org/wiki/Anexo:Grupos_medi%C3%A1ticos_espa%C3%B1oles (Date consulted: 15-10-2018)

¹⁷<http://www.inverco.es/archivosdb/resumen-del-informe-fundacion-inverco-sobre-sistemas-de-pensiones.pdf> (Date consulted: 15-10-2018);

<http://www.inverco.es/archivosdb/medidas-para-impulsar-los-planes-de-pensiones.pdf> (Date consulted: 15-10-2018)

¹⁸<http://www.inverco.es/archivosdb/resumen-del-informe-fundacion-inverco-sobre-sistemas-de-pensiones.pdf> (Date consulted: 15-10-2018);

<http://www.inverco.es/archivosdb/medidas-para-impulsar-los-planes-de-pensiones.pdf> (Date consulted: 15-10-2018)

¹⁹<http://www.inverco.es/38/0/103/2018/6> (Date consulted: 15-10-2018)

²⁰<http://www.inverco.es/38/0/103/2018/9> (Date consulted: 15-10-2018)

²¹<http://www.inverco.es/archivosdb/ranking-grupos-financieros-jun-2018.pdf> (Date consulted: 15-10-2018).

Table 1. PENSION FUNDS (30-6-2018) (source: the authors using INVERCO data).

	Assets (thousands of €)	% Commission on Deposits	Net Management Commission	% Management Commission			Management Commission (thousands of €)		
				Set	Mixed	Variable	Set	Mixed	Variable
Employment Plans	74,308,433	0.03%	22,293	0.18%	0.18	0.18%	133,755	13,375,518	133,755
Associated Plans	883,494	0.20%	1767	0.30%	0.30%	0.30%	2650	2650	2650
Individual Plans	35,180,744	0.20%	70,361	0.85%	1.30%	1.50%	299,036	457,350	527,711
TOTAL	110,372,671	0.20%	220,745				435,442	13,835,518	664,117
			TOTAL BONUS						15,155,822

An estimate made using the same commissions on the second proposed pillar model also provides substantial profits for collective investment societies: with a total wages bill (2018) of 141,000 million euros (National Accountancy: *INE data; *Spanish National Statistics Institute)²², transferring funds from the public system to the private one would amount to 5,640 million euros/year, which would generate management commissions²³ of approximately 70.5 million euros/year, and the commissions made from deposits need to be added to this quantity. It would also be necessary to add the resources obtained at the third level, which will predictably increase if the amount of public pension protection lowers, even with public funds (state contributions made according to UNESPA's proposal; boosted by taxes).

However, it is not only a matter of effective economic yields. The fact that these private societies accumulate economic resources and the many firms they participate²⁴ in confers them enormous power to intervene in public policies,

²²<http://www.inverco.es/archivosdb/c87-ahorro-financiero-de-las-familias-iics-y-fp-2017.pdf>https://www.ine.es/dyngs/INEbase/es/operacion.htm?c=Estadistica_C&cid=1254736165950&menu=resultados&idp=1254735576581

²³These commissions have been calculated by applying the new reduced commissions set by Spanish Royal Decree RD 62/2018, of 9 February, which come as a mean 1.25%. These new maximum commissions are set to deal with the product's risk, so they are lower for fixed-/mixed-income securities and higher for equity securities.

²⁴By way of example, the above-cited BlackRock participates in Spain in many companies of all kinds, from mass media to banks, including insurance companies, companies working on essential infrastructures, building firms, etc.: Banco Santander SA: 8.43; (9947.4); Banco Bilbao Vizcaya Argentaria SA: 7.8 (4412); Telefónica SA: 7.5 (3952); Iberdrola SA: 6.4 (3055); Amadeus IT Group SA: 5.5 (1789); Industria de Diseño Textil SA: 1.6 (1587.1); Caixabank SA: 4.4 (1278); Abertis Infraestructuras SA: 4.56 (1039); Repsol SA: 3.7 (987); Banco de Sabadell SA: 6.5 (846); Grifols SA: 5.3 (585); Ferrovial SA: 3.5 (549); ACS Actividades de Construcción y Servicios SA: 3.8 (471); Distribuidora Internacional de Alimentación SA: 16.2 (467); Aena SME SA: 1.5 (465); Bankinter SA: 4.5 (458.6); Red Electrica Corporacion SA: 4.0 (449); Cellnex Telecom SA: 6.4 (384); Gas Natural SDG SA: 1.5 (346); Merlin Properties SOCIMI SA: 4.6 (306.6); Endesa SA: 1.31 (301.8); Enagas SA: 4.0 (260.2); Bankia SA: 1.23 (183.0); Mediaset España Comunicacion SA: 4.6 (179.6); Inmobiliaria Colonial SOCIMI SA: 3.5 (165.6); Siemens Gamesa Renewable Energy SA: 1.5 (161); Compañía de Distribución Integral Logística Holdings SA: 4.59 (146); Mapfre SA: 1.4 (143.5); Hispania Activos Inmobiliarios SOCIMI SA: 4.6 (104).

Lar España Real Estate SOCIMI SA: 5.1 (53.9); Viscofan SA: 1.4 (42.4); Acerinox SA: 0.81 (33.0); Acciona SA: 0.6 (31.2); Prosegur Compañía de Seguridad SA: 0.58 (29); Cie Automotive SA: 0.6 (26.5); Zardoya Otis SA: 0.5 (26.0); Grupo Catalana Occidente SA: 0.5 (24); Ebro Foods SA: 0.6 (22.2); Applus Services SA: 1.1 (21.5); Indra Sistemas SA: 0.79 (19.3); NH Hotel Group SA: 0.7 (19.0); Melia Hotels International SA: 0.5 (17.6); Técnicas Reunidas SA: 0.8 (14.5); Construcciones y Auxiliar de Ferrocarriles SA: 0.8 (13.8); Corporacion Financiera Alba SA: 0.37 (13.3); Faes Farma SA: 1.5 (13.1); Papeles y Cartones de Europa SA: 0.9 (13); Bolsas y Mercados Espanoles SHMSF SA: 0.4 (12.4); Ence Energía y Celulosa SA: 0.7 (12.0); Atresmedia Corporación de Medios de Comunicación SA: 0.5 (11.1).

(Source: <https://www.lavanguardia.com/economia/20180506/443279727124/blackrock-investigacion-primera-gestora-fondos.html>)

(Date consulted: 15-10-2018).

which will increase because the more resources they accumulate, the stronger their power will be, which poses a risk for democratic systems. There is also the matter of lack of transparency for the actual and final shares ownership of these finance companies' conglomerates in which the participation of public State authoritarian institutions of much penetration power cannot be ruled out. The EU is beginning to become aware of the danger of allowing strategic sectors of overseas investment to be in control²⁵. Just over a year ago, the Community Law-maker presented a Regulation Proposal, which establishes a framework to control direct overseas investments in the EU, particularly in some strategic sectors (mass media, among others), which completes the legal series²⁶ that refers to the cautionary evaluation of purchases and increases in participations in financial institutions (i.e., credit companies, investment companies and insurance companies/guaranteeing offices). This legal series does not include pensions funds, which are subject to more specific regulations that adapt to the activities of the above-cited organisation²⁷ with a specific regulatory organisation²⁸, but whose control may appear to be limited to solvency and transparency, without this new risk being taken into consideration. The progressive transfer of economic resources from workers and businesspeople from public insurance systems to private capitalisation systems should also be considered a strategic sector because future European workers' old age protection might be at risk.

According to INVERCO data, the world's assets held in Pension Funds are made up of 5 billion euros (according to the Latin meaning²⁹). The GDP of the whole Eurozone stands at 11 billion euros; the GDP of the USA is 17 billion euros; the GDP of Spain for 2018 is 1 billion euros. This last case has a national public debt of approximately 98%. According to the same data, the volume of assets of CII and Pensions Funds represented 102.3% of the world's GDP, as estimated in 2017 by the IMF³⁰. According to Public Treasury data (July 2018), most of this public debt is in the hands of resident finance institutions (16.78%),

²⁵Brussels, 13.9.2017 COM(2017) 487, final

<https://ec.europa.eu/transparency/regdoc/rep/1/2017/ES/COM-2017-487-F1-ES-MAIN-PART-1-PDF>

²⁶Directive 2007/44/EC of the European Parliament and Council, of 5 September 2007, which modifies Directive 92/49/EEC of the European Council and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards regulations about the procedures and evaluation criteria applicable to the cautionary evaluation of purchases and increasing participations in the finance sector; Directive 2013/36/EU of the European Parliament and Council, of 26 June 2013, about access to the activity performed by credit companies and the prudential supervision of credit and investment companies, which modifies Directive 2002/87/EC and repeals Directives 2006/48/EC and 2006/49/EC; Directive 2009/138/EC of the European Parliament and Council, of 25 November 2009, about life insurance, access to the insurance/guaranteeing activity and performing it (Solvency II); Directive 2014/65/EU of the European Parliament and Council, of 15 May 2014, about financial instrument markets, with which Directive 2002/92/EC and Directive 2011/61/EU were modified.

²⁷DIRECTIVE 2003/41/EC OF THE EUROPEAN PARLIAMENT AND COUNCIL, of 3 June 2003, about activities and supervising pension funds from employment.

²⁸European Insurance and Occupational Pensions Authority (EIOPA). (EU) REGULATION No. 1093/2010 OF THE EUROPEAN PARLIAMENT AND COUNCIL, of 24 November 2010.

²⁹1 billion = 1 million millions. In the Anglosaxon culture, 1 billion = 1 thousand millions.

³⁰<http://www.inverco.es/archivosdb/c87-ahorro-financiero-de-las-familias-iics-y-fp-2017.pdf>

insurance companies (81%), pension funds (1.75%), investment funds (3.01%) and other financial institutions (0.07%). In all, 31.42% of this public debt is linked to financial institutions. The historic analysis of how this debt has evolved is also very significant as far as owner institutions are concerned³¹.

5. An Epilogue and Three Conclusions

What is, to date, a high substitution rate for public pensions in Spain is the main stumbling block for the supplementary “free” Social Security to take off in Spain (INVERCO). Moreover, the traditional trust placed by Spaniards in the Spanish SSS may lead to voluntary subscriptions to supplementary systems of social provisions. Both these obstacles have been stirred up (in own interests). Successive legal reforms will imply quite a drastic reduction in the substitution rate of the retirement pension, and important mass media have already put into practice aggressive campaigns to announce the economic instability of public pay-as-you-go systems to encourage them being converted into private capitalisation systems. European SSS have involved demarketising social needs, but it would seem that only 50 years later, the direct descendents of those generations once again opt for them to return to the market, although their “sustainability” would not be guaranteed, precisely as experience has demonstrated. As the famous “too big to fail” doctrine is still very recently set in collective memory, and has cost citizens so much money³², the resources that accumulate to protect old age in the hands of private institutions which, in some cases become the possible screen of the capital of States that are either totalitarian or doubtfully democratic, are a reason for much concern.

Finally, three conclusions can be drawn:

1) The change of paradigm for protecting old age has commenced. The public pay-as-you-go system will gradually give way to the capitalisation of workers/business people’s economic resources (and perhaps also the State’s) in the private domain.

2) We face a “non-neutral” change in economic terms. The main beneficiaries will be the financial institutions or insurance companies managing these funds, which will immediately receive major yields as a management and related commissions concept.

3) Socially speaking, their profits are far from being guaranteed because a

³¹<https://datosmacro.expansion.com/deuda/espana>.

³²See the informative note of the Bank of Spain about public financial aid in the process to restructure the Spanish banking system:

https://www.bde.es/f/webbde/GAP/Secciones/SalaPrensa/NotasInformativas/Briefing_notes/es/nota_be070917.pdf.

See also the informative note about the “Report on the financial and banking crisis in Spain, 2008-2014”, published by the Bank of Spain, which indicates a figure of 62,754 million euros in the net resources made to the financial sector by the Fund for Orderly Bank Restructuring (FROB, in Spanish) and by the Deposit Guarantee Fund (DGF). It is estimated that only 1 in every 4 paid euros will be recovered.

https://www.bde.es/f/webbde/GAP/Secciones/SalaPrensa/NotasInformativas/Briefing_notes/es/nota_be160617.pdf.

change is also taking place from the defined taxpaying-provisions system to a defined tax-paying system with no defined provisions. Hence the risk of growing old has started on the road towards “de-socialisation”.

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Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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