

THE ROLE OF THE SOCIAL PARTNERS IN TACKLING WITH OLDER WORKERS' DIFFICULTIES IN THE LABOUR MARKET: THE SPANISH STRATEGY 55+ IN THE EU POLICY CONTEXT

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ABSTRACT

When extension of working lives is in the agenda of the EU institutions and of most European countries, concrete measures need to be taken to make work possible and sustainable for older workers. These measures comprise working conditions –especially working time arrangements-, health and safety measures to adapt work to the worker's physical and mental conditions, training, anti-discrimination measures, as well as raising consciousness of older workers' contribution.

The social partners should have a major role in promoting changes in regulations or participating in discussions on the adequacy of proposed policies, but they should also intervene through collective bargaining.

In Spain the Government outlined in 2011 -at the initiative of the social partners- a global strategy (Strategy 55+) to tackle with older workers' low employment rates. This document included quite innovative proposals –such as shorter working hours with a compensatory benefit-, but they have not been implemented, as any initiative apart from delaying the statutory retirement age or restricting access to anticipated or partial retirement was abandoned after a change in government. The social partners, who should have actively participated in the Strategy's development, have not sufficiently claimed for its application.

1-OLDER WORKERS IN SPAIN IN THE EUROPEAN CONTEXT

Europe's population is ageing fast: this has been verified by different sources and is repeated in many documents¹. At the same time, older people employment rates are low: at the EU 27 only 52% of the population from 55 to 64 years are in employment (2012), while the EU has committed itself to an increase of the general employment rate up to 75% by 2020. However, the rise in this age group's employment rate has been very pronounced during the last decade, as it was 42,3% in 2005. Additionally older workers are the only group whose employment rate rose during these 10 years. But the rise in the employment rate does not result in a rise in older people in employment, as unemployment among this group has also increased (Eurofound, 2014). In

¹ The European Statistical Office projects that by 2060 there will be only two people of working age (15-64) in the EU for every person aged over 65, compared to a ratio of four to one in 2011. Special Eurobarometer 378. Active Ageing. January 2012.

Spain more than 600.000 people older than 55 years entered the labour market between 2007 and 2013, most of them women, but unemployment also rose for that age sector, reaching almost 20%². Even though their unemployment rate is lower than the unemployment rate corresponding to the entire working population, long-term unemployment is more prevalent. Consequently, this is a group with lower risk of suffering unemployment but with increased risk of prolonged stay outside the labour market in case of losing their job. This is still true, as the Spanish Employment Strategy 2014-2016 confirms that unemployment has grown among older workers, and the group is still hit hardly by long-term unemployment³.

Even though older employees are generally perceived to be more experienced and reliable, age discrimination persists⁴. As a result older workers are frequently chosen to leave the company in adverse circumstances and they find great difficulties in re-entering the labour market. Health conditions and inadequate working conditions can also push many older workers to abandon the labour too early.

Additionally, there is a clear divergence between national governments and European institutions, who constantly repeat that effective retirement age needs to be postponed, and the European citizens' opinion, who expect to work up to 61,7 years on average, an age reduced to 59,9 years in the case of manual workers (Eurobarometer 2012). Most citizens do not feel they will be capable to maintain their working activity until the legal retirement age. In fact, only 42% expect that they could go on working to 65 years and beyond and only 10% think they will be able to reach 70 in their current job. In this context, general deferring of statutory retirement age does not seem to be realistic, **both at European level and in Spain, where the average age until which workers think they will be capable of continuing working is slightly higher (62,6 years) but still far from the 67 years that should be reached in 2027 after a pension reform that in 2011 deferred statutory retirement age from the previous 65 years⁵. AQUÍ**

According to the Eurobarometer 2012, lack of opportunities to retire gradually, exclusion from training and negative perceptions of older people among employers are perceived to be the main obstacles stopping people aged 55 years and over from working (7 out of 10 citizens find these obstacles to be important). This is also true for Spain with slight variations⁶. But there are other

² Data extracted from the Spanish Strategy in favour of Employment Activation 2014-2016. It targets workers of 55+ as a priority group in employment policies.

³ While the active population older than 55 years has grown in 600.500 people between 2007 and 2013, only 154.300 have found a job. Consequently there are + 446.300 unemployed. Additionally, 75,4% of the unemployed have not worked in the last year and 58,1% have not worked in the last 2 years. Source: Spanish Government. Employment Strategy 2014-2016. Another important figure is the number of new contracts: in the region of Catalonia only in 17,80% of new contracts the worker recruited is older than 44 years (UGT 2015).

⁴ According to the Eurobarometer 2012, workplace age discrimination is the most widespread form of age discrimination with one in five citizens having personally experienced or witnessed it.

⁵ Law 27/2011, of 1 August, on updating, adaptation and modernisation of the Social Security system.

⁶ 66%, 75% and 71% respectively of Spaniards consulted find these obstacles to be important.

reasons felt significantly important for older workers to leave the labour market: the lack of skills for the modern workplace (62% find it important), the belief that pension and tax systems do not make it beneficial for older people to continue working (59%), and workplaces unadapted to the needs of people aged 55 and more (57%) (Eurobarometer 2012). Many citizens find the idea of combining part-time work and a partial pension instead of full retirement appealing (65%), but legal provisions that permit this option are unusual. These features show clearly that a large number of workers would choose to keep working on a part-time basis should this be possible. This has also been confirmed by Eurofound (2014)⁷. Findings from Eurofound's European Quality of Life Survey (EQLS) reveal that, at the same time, in all Member States people aged 50 or more in employment would on average prefer to work fewer hours, even after taking into account their financial needs. The conclusion is clear: to make work sustainable and attractive for older workers measures to slow down working lives earlier should be put into place. This would probably give as a result that a significant proportion of workers who leave the labour market early would stay longer, at least until statutory retirement age, while making it possible to combine part-time work and pension would increase the number of employees who stay even after that moment.

The general European trend is also verified in Spain, where workers aged 50 or more work on average 41 hours, while they would like to work 35 hours. In all, 50% in this age group would like to work less (3rd EQLS).

2-EU POLICIES ON OLDER WORKERS AND THE ROLE OF THE SOCIAL PARTNERS

Active ageing in employment has been included as an objective in many programmatic documents at EU level: most recently, the Europe 2020 Strategy includes it as an issue in European policy by fixing the objective of increasing employment rates, including through a greater involvement of older workers, who are pointed at as one of the groups with a particularly low employment rate. In fact, older workers are targeted in EU employment policy agenda since 2000 and these policies have been filtered through to some extent into most national policies (ETUI 2012).

2.1. Active ageing, a European objective

The concept of active ageing recognises that if people are to work longer they will need to be in good physical and mental health and may need to have access to flexible work arrangements (Eurofound, 2013). This objective should call, according to Eurofound, for the development of healthier working environments, lifelong learning and working time flexibility. Also research (ergonomic, occupational health, social psychology, and sociology of work

⁷ According to the document *Work preferences after 50* about half of all retirees who are not in employment say they would like to work, often part-time.

research, among other social science research) have pointed at qualitative factors as key factors to keep older workers in the labour market (ETUI, 2012).

However, historically national policies have in practice concentrated in younger workers' employability compared to concern shown about older employees' employability. This disproportion has been greater since the beginning of the financial crisis, as young workers were especially affected by the lack of employment opportunities. In accordance, older workers have not been seen as a priority group (Eurofound, 2011).

While older workers were not an attention focus in employment policies, alternatives for them have been progressively narrowed. Eurofound (2011) found that in the last decade policy has moved away from encouraging early retirement, as it happened in the pre-recession period. Easing early retirement has no doubt many negative effects, but it is a way out for workers who do not have reasonable prospects of finding a job as a consequence of the lack of opportunities offered by the labour market and sometimes their low employability. By forcing the extension of working lives through the increase of the statutory retirement age and the narrowing of anticipated retirement possibilities without taking into consideration the diversity in working lives and health conditions, the most vulnerable groups of workers are being relegated and their life conditions clearly worsened. This again calls for public policies and management practices to improve working and employment conditions, as the root causes of the problems faced by older workers (ill health, work organisation or expectations of work) often arise some years before they effectively compromise the continuity of these workers in employment (ETUI, 2012).

Policy instruments which have appeared to be in use among Member States (at least before the crisis) "to support" employment of older workers include precisely pension system reform (changes in benefits and contributions), raising the statutory pension age, reducing incentives for early retirement and sickness/disability pension reform in a restrictive direction⁸. Also reforming unemployment benefit systems to limit the extent to which they can be used to support early exit from the labour market has been to a certain point common. All of them are measures which, despite being described as supportive for older persons, they don't really promote employment for them and, on the contrary, they aggravate the difficult situation of those who are involuntarily out of work⁹. At the same time, anti-discrimination policies, incentives to promote lifelong learning and skills development in the workplace, financial incentives to employers to keep older-aged workers in employment¹⁰, financial incentives to employers to assist the reentry of older workers into the workforce, financial incentives to employees to stay in work longer, options for flexible working for

⁸ Otherwise an extension of the eligibility for disability pensions might lead to a shift from early retirement to disability pensions to exit early, as Eurofound (2013) points that may happen in the Danish case.

⁹ Trade unions have strongly criticised automatic increases of statutory retirement ages, without taking into account individual or sectoral specificities such as long careers in occupations with heavy physical or psychological demands.

¹⁰ In Spain financial incentives, an extensively used instrument, are strongly questioned and they have been evaluated as inadequate to promote that older workers stay longer in the labour market (FERNÁNDEZ 2011).

older workers, as well as awareness and information campaigns to promote a change of attitude towards older workers have also been to some extent put in place. However, the use of these instruments varies across the Member States and reflects differences in national priorities. Also the differences in starting points, both in terms of the employment rate and pension and social security systems must be considered. Tendencies in the use of national schemes encouraging part-time working for retired workers or partial retirement schemes for older workers are not clear. While Eurofound (2011) observes a tendency to emphasise various forms of “downshifting”, both through reduced working time and through gradual or phased retirement, in 2013 Eurofound itself describes such reduction of the working time schemes as less frequently used than in the past. In any case, the hypothetical expansive European tendency of these instruments is unfortunately nowhere to be seen in Spain.

2.2. The key factors to extend working lives: overview

By stating that the objective consisting in increasing the employment rate of older workers cannot be reached without a significant improvement in working conditions, Eurofound (2012) raises a key point. Inquiries reveal for example that there is little difference among age groups in terms of exposure to physical strain at work (including painful positions, that in some cases –operators and assembly workers- even increases with age¹¹, and a stressful work environment). This should not be the case, as the effects of such working conditions in maintaining older workers in the labour market are undoubtedly negative. On the contrary, night work and shift work decrease slightly with age, as well as the proportion of workers working at very high speed.

Also training and career opportunities are critical to maintain older workers in the labour market. According to Eurofound (2012), workers over the age of 50 report fewer opportunities for learning and to have access to training as well as less support from colleagues and managers and a decline in career prospects, especially for men. Additionally, feelings of job insecurity increase after 40. All these factors influence psychological well being, which is identified as a predictor of workers’ attitude towards the possibility of working longer. These ascertainments do not anticipate an easy path to extend working lives if this should not be achieved at the expense of workers’ rights and health.

Longer careers are an especially difficult objective for certain groups of older workers, including medium or unskilled manual occupations, who are particularly exposed to painful positions, work at high speeds, lack of discretion in work, lack of social support and lack of career prospects; service workers, who are less exposed to poor working conditions but have a higher frequency of work-life balance problems; and some other occupations such as teachers and health professionals, who face a number of specific problems (ETUI 2012).

¹¹ The authors of the study done for Eurofound (2012) maintain that the organizational forms of industrial mass production are not suited for allowing for age-related adaptations and this may lead older workers to perceive their working conditions as increasingly painful (ETUI 2012).

Policy agendas should undoubtedly take into consideration older workers' working conditions and policymakers should in the first place ask themselves whether working conditions experienced by workers make their work "sustainable" or if specific working conditions can be created so that older workers are encouraged to remain active in the labour market.

Some steps forward are being taken, but they are clearly insufficient. A good example is the pilot project promoted by the European Parliament on health and safety of older workers. This project (*Safer and healthier work at any age – occupational safety and health in the context of an ageing workforce, 2013-2015*) is being developed through an agreement between the European Commission and the EU-OSHA, who will carry out the project. It aims to assess the prerequisites for occupational safety and health strategies and systems to take account of an ageing workforce and ensure better prevention for all throughout working life. According to EU-OSHA, the results will assist policy development and provide examples of successful and innovative practices, it will identify action to be taken or prioritised and it will identify the main drivers and obstacles to effective implementation of policy initiatives in this area¹².

One major difficulty in putting to practice improvements of working conditions that would result in higher employment rates for older workers is the rapid expansion in recent years of precarious contracts among these workers. If precariousness was until now concentrated in the youngest segment of the working population, flexibilising reforms and the steps back produced in social protection is having as a result an increasing number of old workers who inevitably end up in the circle of temporary and/or short hours employment. Policies on older workers must consider these new realities.

2.3. Social partners facing active ageing

When facing the challenge of improving working conditions so that working longer becomes feasible for many employees and of training them to be in a better position to adapt to market changes and eventually reenter the labour market¹³, the social partners should not be forgotten. On the contrary, they should have a key role.

¹² According to EU-OSHA, the project is investigating:

- OSH policies, strategies, programmes and actions in relation to older workers in EU member states and beyond
- policies, strategies and actions regarding employability and return-to-work in member states and beyond
- case studies of support programmes and initiatives at the workplace
- views of occupational safety and health stakeholders, employers, workers and worker representatives exploring their experiences, motivations, needs and challenges
- tools and guidance to assist workplaces in managing occupational safety and health in relation to an ageing workforce
- gender-related issues

¹³ This has been described as "work ability", that is, the combination of the concept of being able to continue working as a result of improved health and working conditions, while at the same time enhancing employability through ongoing skills development (Eurofound, 2013).

National strategies and programmes that include the creation of a framework and conditions to facilitate longer careers “by tackling the challenges of ageing societies and workforces by encouraging active ageing across a number of policy fields” (Eurofound 2013) should have been developed in consultation with the social partners. But, in fact, these declarations of intent don’t seem to be significantly being put into practice in several countries, including Spain. But this is not only the Spanish case: Eurofound (2013) confirms that only very few of the more recent initiatives have so far led to the introduction of concrete measures to support active ageing¹⁴. Additionally, most of the programmes, have not been evaluated. Spain is part of the group of countries that, despite having adopted a national strategy, have not introduced concrete measures nor evaluated their results.

Both trade unions and employers’ associations generally agree that working conditions are very relevant in achieving the objective of extending working careers, but their priorities do not always coincide: to trade unions quality of work is essential, but employer organisations put greater emphasis on training and employment opportunities (Eurofound, 2013b). They both argue that action needs to be taken. Government action is evidently needed, but the social partners themselves can also conduct a number of wide-ranging initiatives. In spite of some intervention schemes, it can be maintained that the social partners could play a more decisive role to promote an improvement of working conditions, including measures in working hours, lifelong learning and conciliation between work and family life.

That intervention might take place at two different levels: on the one hand, consultation schemes might be used to introduce measures at statutory level; on the other hand, collective bargaining can intervene, at the national, sectoral or company level.

Tripartite consultation and participation schemes include active labour market policies in some countries, such as Germany, Austria or Sweden, all of them with strong tripartite industrial relations systems and, in this case, with the involvement of the social partners in the management of public employment services.

Following Eurofound conclusions, it can be stated that national-level agreements promoting comprehensive age management practices in companies are not very widespread (they can only be found in Belgium, Denmark, Germany, Finland, France, Ireland and Norway) and, where existing, they have not been hugely successful. Evaluation evidence is scarce, but the existing one suggests that in Norway age management practices are more widespread, while in Finland some improvements in the quality of working life, workplace development and training opportunities have been identified. In the French case individual support for career development has extended, but

¹⁴ According to Eurostat it is the case for Bulgaria, the Czech Republic, Finland, Latvia and Poland. Especially in Finland, a national framework agreement signed in 2011 and qualified as promising by Eurofound (2013) implied that the social partners should put in place a model for the initiation of programmes such as individualised career plans and flexible working time arrangements.

wide-ranging changes in working environment are not remarkable, despite the fact that a comprehensive approach of age management has been introduced through national legislation based on a social partners' agreement (also in Belgium). In the case of the Netherlands, quite a widespread measure consists in the allocation of extra holiday entitlements as a way to support extra flexibility and to ease workload for older workers. Another interesting experience can be found in Austria, where a part-time retirement compensation scheme is based on an initiative of the social partners and is in place since 2000. It must be underlined that in all these countries demographic ageing occurred early, employment rates among older workers tend to be low and solid tripartite structures at national level can be found. But in all these cases clear or binding requirements for companies are missing, despite plans including healthy work environments, flexible working arrangements and the provision of advice and guidance on active age management.

In the specific field of health and safety, Eurofound (2013) insists that collective bargaining, both at sectoral and at company level, should play a major role, but experiences that can be found thereon are quite isolated¹⁵. Also the European Agency for Safety and Health at Work considers social dialogue as a key to the success of risk prevention actions (EU-OSHA 2009).

Finally, the social partners are sometimes involved in activities aimed at raising awareness and changing attitudes towards older workers and their work performance (e.g. in Austria and in Poland). However, such activities, along with government initiatives in this field are considered underdeveloped across the EU (Eurofound 2013).

In conclusion, both government action and social partners' involvement are clearly insufficient to manage ageing in labour. As for public policies, declarations of intent and plans often do not have a translation in concrete action. For example, in relation to training, which along with an improvement of health status one of the most consensual issues between trade unions and employer associations, only a limited number of countries do offer publicly funded education and training programmes specifically aimed at providing in-work support for the updating of skills of older workers. Also agreements on non-discrimination, flexible working or improvements in ergonomics do not have a translation in taking concrete measures.

Moreover, until recently in many countries the social partners' attitudes favoured measures in the opposite direction to extended working lives¹⁶. In Spain, they have clearly supported measures in favour of early retirement, particularly in contexts of company restructuring. Now the discourse has mainly shifted and they maintain that the improvement of working conditions is a key factor to achieve the extension of working lives –trade unions show concern especially in the context of pension reform implying rises in statutory retirement ages-, but clear action is still not being taken, especially since employer

¹⁵ Some of them can be found on Eurofound's report (2013).

¹⁶ With exceptions such as Norway, Finland and the Netherlands, where long-term consensus has existed (Eurofound 2013).

organisations are much less active in defending the need of such improvement as crucial to obtain longer working careers.

But in practice, Spanish trade unions often prioritize social protection schemes in front of active ageing measures. This is logical considering the dramatic situation that is being suffered by many people who have lost their jobs as a consequence of the financial crisis and who cannot get out of long-term unemployment¹⁷.

Another field where the social partners play an important role is social protection schemes. According to Eurofound (2013b), that role has not significantly evolved in recent years, but it frequently depends on the political orientation of the government: in most countries they participate as advisors in the design and administration of public pensions, whether their role is formal in the governance and administration of public pension schemes through tripartite bodies or they are involved in consultations on pension reforms, either through permanent or ad hoc tripartite or bipartite consultative bodies, or simply in processes of informal consultation.

It needs to be underlined that in that field the influence of social partners, and especially of trade unions, has clearly decreased during the crisis and recession years. Eurofound (2013b) identifies as causes of this loss of influence the pressure for immediate reform, the fast pace of consultation, weakened ties between trade unions and political parties, more diffused paths towards influence in (coalition) governments, and to a certain extent the radicalisation of trade union position in a difficult economic and social context. In many countries the most recent pension reforms, essentially consistent in delaying retirement age or containing public spending on pensions, have been adopted with no or limited involvement of the social partners or social partners' involvement in the negotiations did not influence the final shape of the reforms. This is not precisely the case of Spain, where the pension reform adopted in 2011 was influenced by the social partners' involvement in negotiations and in fact it is the result of a broader tripartite agreement, reached after an attempt conducted by the Government to reform unilaterally pensions and the succeeding protest including a general strike. However, it cannot be ignored that the agreement was strongly influenced by the moment's critical financial situation and external pressures. Keeping in mind this context is necessary to understand how the Spanish agreement is as exception to the general opposition shown by trade unions in Europe to increase the statutory retirement age and/or requiring longer contributions, especially when no particular protection for vulnerable groups of workers is introduced and when no accompanying measures to support the extension of working lives and to combat discrimination in the workplace related to age are put in place. In Spain some measures to

¹⁷ For example, the trade union UGT-Catalonia presented in march 2015 a plan under the name of Guarantee +55, essentially consisting in the following measures:

-a subsidy equivalent to the minimum wage (today 648 € per month) for people aged 55 or more who have lost their jobs and have finished contributive unemployment benefits if they have contributed to the pension system for at least 15 years .

-a rise in retirement pensions for workers who are today unemployed and whose pension will be decreased as a consequence of the contribution gap in the last years of their working lives.

compensate the disadvantages in terms of future pensions derived from situations such as leaves of absence to take care of young children, internships, early retirement due to disability, or being affected by a collective dismissal were included in the agreement. Trade unions' resistance is based on the difficulties faced by employees in remaining in work longer due to unsatisfactory health conditions, poor working conditions, age discrimination and lower employability (Eurofound, 2013b).

In this field and especially concerning early retirement, there is more divergence between trade unions and employment organisations compared to other issues as working conditions or training, at least from a theoretical point of view. While unions insist on preserving existing early retirement schemes –especially for employees engaged in strenuous work or as the better solution for older workers who have lost their jobs and have no real prospects of reentering the labour market-, employer organizations tend to advocate for limiting access to early retirement, even though in many countries including Spain they use quite intensively in practice early retirement schemes to let go workers in restructuring contexts.

2.4. The case of the European Year for Active Ageing and the social partners' role

The Council Declaration on the European Year for Active Ageing and Solidarity between Generations: The Way Forward Active Ageing calls the social partners to participate in achieving the objective of extending working life by considering them main stakeholders¹⁸ who have to take concrete measures.

2012 was declared the European Year for Active Ageing and Solidarity between Generations. It intended to raise awareness of the contribution that older people make to society and to encourage policymakers and the beforementioned relevant stakeholders to take action with the aim of creating better opportunities for active ageing, including to stay active in the labour market. In fact, active ageing in the labour market was one of the Years' programme three pillars¹⁹. It

¹⁸ Also public authorities at different levels, business, civil society organisations, service providers and the media.

¹⁹ In the area of employment, the Guiding Principles for Active Ageing and Solidarity Between Generations (2012) includes:

-Continuing vocational education and training: offer women and men of all ages access to, and participation in, education, training and skills development allowing them (re-)entry into and to fully participate in the labour market in quality jobs.

-Healthy working conditions: promote working conditions and work environments that maintain workers' health and well-being, thereby ensuring workers' life-long employability.

-Age management strategies: adapt careers and working conditions to the changing needs of workers as they age, thereby avoiding early retirement.

-Employment services for older workers: provide counselling, placement, reintegration support to older workers who wish to remain on the labour market.

-Prevent age discrimination: ensure equal rights for older workers in the labour market, refraining from using age as a decisive criterion for assessing whether a worker is fit for a certain job or not; prevent negative age-related stereotypes and discriminatory attitudes towards older workers at the work place; highlight the contribution older workers make.

contributed to the consensus on the need of improving older workers' working conditions by affirming that "Encouraging older workers to stay in employment requires notably the improvement of working conditions and their adaptation to the health status and needs of older workers, updating their skills by providing better access to lifelong learning and the review of tax and benefit systems to ensure that there are effective incentives for working longer".

It has been stated that the most important impact of the European Year was, as planned, the mobilisation of actors (ECORYS, 2014). According to the Evaluation of the European Year for Active Ageing and Solidarity between Generations, even though many initiatives were taken at different levels, results were not completely satisfactory. In this sense, EU level NGOs maintained that controversial issues such as staying longer in employment could have been more thoroughly discussed in terms of comparing different options. One of the results that were identified was offering policymakers and stakeholders a framework to make public commitments and to take concrete action. This commitment occurred through the Guiding Principles on Active Ageing, endorsed by the EU's Social Affairs Ministers on 6 December 2012. Good intentions deserve being recognised but these results are undoubtedly far from effectively transform older workers' situation, as the Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation, results and overall assessment of the 2012 European Year for Active Ageing and Solidarity between Generations recognises. It is however surprising that the Evaluation of the European Year for Active Ageing (ECORYS, 2014) does not include any reference to employment matters in its recommendations.

As for social partners' participation in the European Year, it was stated that their involvement was variable, even though they participated in the organisation of activities in most countries, including Spain. Spanish social partners were, according to the national European Year coordinator, reached to a large extent. However, private business's involvement was not only in Spain but in general particularly weak.

To conclude this section, it can be affirmed that the role of social partners should increase significantly through involvement in public policies, collective bargaining and by contributing to age management in companies²⁰.

-Employment-friendly tax / benefit systems: review tax and benefit systems to ensure that work pays for older workers, while ensuring an adequate level of benefits.

-Transfer of experience: capitalise on older workers' knowledge and skills through mentoring and age-diverse teams.

-Reconciliation of work and care: adapt working conditions and offer leave arrangements suitable for women and men, allowing them as informal carers to remain in employment or return to the labour market.

²⁰According to the age management definition "age related factors should be taken into consideration in daily management, including work arrangements and individual work tasks, so that everybody, regardless of age, feels empowered in reaching own and corporate goals" through better awareness about ageing, fair attitudes toward ageing, age management as a core task and duty of managers and supervisors, age management included in human resources policy, promotion of work ability and productivity, lifelong learning, age-friendly work arrangements and safe and dignified transition to retirement (ILMARINEN 2012).

3-THE ROLE OF THE SOCIAL PARTNERS IN SPAIN: THE STRATEGY 55+

Like in many other European countries, in Spain authorities have devoted little attention to the needs of older workers so that they find the right conditions for them to stay active. Thus, beyond repeated mentions in miscellaneous documents on the inevitable extension of working life²¹, an overall perspective on the issue has never been adopted. Similarly, the adoption of global measures that effectively promote that older workers remain in the labour market had never before the adoption of the Strategy 55+ been considered. Only forced measures such as delaying statutory retirement age had been taken.

3.1. The social partners in the Strategy's background

The Law 27/2011, of August 1, on updating, adaptation and modernization of Social Security, in its Preamble mentions the low labour participation of people over 50 years, whose activity rate is described as insufficient. The Preamble plans the adoption of a comprehensive employment strategy for older workers. This Strategy should include the most adequate measures to encourage retention of older workers in the labour market and to promote reintegration for those who have lost their jobs when they were already in the last years of their working life.

But what should be particularly stressed is that the Preamble to Law 27/2011 fixes that such a strategy will be adopted because the social partners had previously agreed that addressing older workers' employment is a pressing need. The social partners' will to deal with this issue was phrased in the Agreement on Active Employment Policies, which is part of the Social and Economic Agreement for Growth, Employment and Pension Security, signed on 2 February 2011 by the CCOO and UGT unions and business organizations CEOE and CEPYME²². The text of the Agreement states that *"To improve the employment situation of older workers a more holistic view of public policy is necessary. This general view, along with economic incentives hitherto used, would integrate the positive values of maintaining these workers in the company."* The signatories ask the Government to prepare, by September 30, 2011 and prior consultation and negotiation with the social partners, a comprehensive employment strategy for older workers. This strategy should

²¹ *Vid.* eg Assessment Report and Reform of the Toledo Agreement, issued by the Standing Committee on Monitoring and Evaluation of the Toledo Agreement of December 29, 2010, which states that "The Commission considers the extension of working life as a necessary and desirable objective ". The Toledo Agreement was reached in 1995 by the Government and the majority of the Spanish Parliament with the objective of analyzing the social security system's main structural problems and the necessary reforms that should be taken. *Vid.* also the Preamble to the Law 40/2007, of 4 December, on measures concerning social security or law 27/2011 of 1 August, on updating, adaptation and modernization of the social security system.

²² Standing for Comisiones Obreras, Unión General de Trabajadores, Confederación Española de Organizaciones Empresariales and Confederación Española de la Pequeña y Mediana Empresa.

include, in the opinion of the social partners, measures in active employment policies and training and working conditions, with the objective of promoting the maintenance of older workers in the labour market as well as promoting the reintegration of those who have lost their jobs in the last years of their working lives. Subsequently, the Government committed to the adoption of the Strategy by Royal Decree-Law 1/2011 of 11 February, to promote urgent measures for stable employment and retraining of unemployed persons.

While exceeding the deadlines set by the social partners, the Government adopted a Resolution of 14 November 2011, incorporating the Agreement of the Council of Ministers of October 28, 2011 through which the Global Strategy for Employment of Older Workers 2012-2014 (Strategy 55+) was published. The Strategy was presented as the roadmap that should guide government action aimed at workforce aged more than 55. The document stresses that it includes measures of great social and economic relevance, with the purpose of raising the employment rate and reducing unemployment of workers over 55 years. It also aims at favouring the maintenance of older workers' employment as a way to contribute to the extension of working lives and it promotes their reintegration into the labour market, in any case not to the detriment of adequate social protection for the unemployed. Finally, it underlines the need to improve working conditions, especially in the field of safety and health at work.

3.2. Overview of the Strategy 55+

The Strategy defines itself as the means to establish the general framework of policies that are directed at promoting employment of people over 55 years, as well as the general framework of action of the public administration on this issue. The duration of the Strategy (2012-2014) is matched with the Spanish Employment Strategy. In this sense, the Spanish Employment Strategy 2012-2014 describes people over 55 years, along with others, as a priority group in terms of offering employment opportunities and encouraging recruitment.

In the years prior to the Strategy's approval, Spain had not driven reforms directed at effectively promoting older workers' employment and training. Policies have traditionally been articulated primarily around two axes: first, subsidizing companies for hiring or maintaining in employment workers of older age, both before and after retirement age, through the reduction of social contributions and, secondly, the adoption of measures to ensure sufficient income to those who are forced to prematurely leave the labour market.

The Strategy sets out four main objectives for 2012-2014: in the first place, to raise the employment rate and reduce unemployment of workers over 55 years; secondly, to promote the maintenance of employment of workers over 55 years in order to contribute to the extension of working life and longer Social Security contribution careers; in the third place, to improve the working conditions of workers over 55 years, with particular attention to improving their health and safety at work; and finally, promoting the return to the labour market of older workers who lose their jobs, ensuring at the same time adequate social protection for the unemployed.

To achieve all these objectives the Strategy establishes a set of guidelines. According to the Strategy they "should serve to enhance a specific treatment by the government and the social partners of the employment situation of people over 55 years, placing their employment needs in the same level of importance as other groups of unemployed people by offering them access to employment or the real possibility of maintaining their jobs".

The lines of action proposed by the Strategy are articulated around three themes: those related to the maintenance of employment of workers over 55 years (focus 1); those related to working conditions of workers over 55 years, with particular attention to safety and health at work (focus 2); and those related to the return to the labour market for older workers who have lost their jobs as well as social protection of the unemployed (focus 3).

3.2.1. A compendium of existing measures

Focuses 1 and 3 generally involve a compendium and updating of existing measures to promote employment of older workers, while the newest items are systematized on focus 2. Thus, in focus 1, partial retirement and the bridging contract (i.e. contracts to replace employees who retire partially) appear as prominent elements. However, with the amendments made by Law 27/2011 both seem doomed to future marginality²³. Also general incentives for maintaining employment are included. On the one hand, the Spanish Employment Strategy 2010-2012 aimed at expanding them, but at the same time their effectiveness is questionable and the Strategy 55+ determines that they should be examined to determine to what extent they are actually contributing to maintaining the employment of older workers. Newest are the measures proposed to promote the maintenance of independent workers in activity after 60; in this respect it is stated that independent workers approaching retirement age who are engaged in economic activities that require adaptation to changes in the market do not perform the necessary conversion processes, which affects negatively the opportunities for job creation and even the maintenance of their own workpost. Consequently, the Strategy stresses the need to carry out sectoral policies to support conversion processes for independent workers to stay in business, through information campaigns, counseling, training and support and, additionally, by reducing costs and establishing incentives for recruitment, as well as the inclusion of the group in measures of financial support for investments. The Strategy values self-employment in the last years of working life as particularly interesting: this is why the Government is committed to study the implementation of the abovementioned or similar measures, and if they should be implemented generally or limited to certain sectors.

Another element referenced are the clauses of collective agreements relating to compulsory retirement. In this respect it is stated that the aim of maintaining employment of older workers, along with the new regulation by which the

²³ The new regulation strongly discourages the use of that formula, as social contributions paid by companies if they wish to use it will strongly increase in the coming years.

retirement age is delayed, "make it advisable that during the term of the Strategy 55+ the social partners jointly analyze the legality, accuracy and timeliness of maintaining such clauses in collective agreements", thus urging to review the consolidated practice of including compulsory retirement clauses in collective agreements. In the same vein the social partners are invited to analyze best practices in collective agreements that include clauses favouring real and effective non-discrimination measures on grounds of age in the access and retention in employment of older workers. However, a few months after the legislator itself put an end to the controversy over compulsory retirement clauses by approving Law 3/2012, of July 6, on urgent measures to reform the labour market, whose 4th final provision flatly prohibits the use of conventional compulsory retirement clauses. They are declared void, with the exception of a transitional regime established by the Law.

The Strategy refers to two further sets of measures in relation to maintaining employment of persons over 55 years: training throughout working life, to avoid situations of ineptitude²⁴ and social awareness of the positive values that should be associated to the work of older workers.

But the Strategy does not only include action lines related to the maintenance of employment for people over 55 years: it also plans measures to improve levels of reintegration into the labour market for older workers who lose their jobs, as well as measures related to social protection for the unemployed. To achieve this commitment vocational guidance and training and activation towards employment measures are privileged. For example through the review and adaptation of the current regulation on temporary social partnership jobs²⁵, which are compatible with social benefits and unemployment benefits. The Strategy also backs training, retraining and accreditation of skills, with particular attention to women over 55²⁶. It also supports changing the incentives to facilitate return to the labour market in view of the company bonus system's poor results -they have undergone significant changes over the subsequent 2012 labour legislation reform-²⁷ and it finally encourages measures to boost

²⁴ The Strategy proposes granting financial support to companies that have a specific training plan for workers over 55 years and the possibility of improving the level of such aid in cases where the company has the figure of a "tutor" who should have the mission of detecting older workers' training needs and who provide them. But also for companies who promote intergenerational working groups to take advantage of both the capacity to adapt of the young and the experience of the older workers as well as for companies who design a specific training plan to substantially increase the number of older people receiving training.

²⁵ This is a way for the unemployed to maintain contact with the labour market. Although social partnerships with a public administration are not considered as a working relationship with the administration where the services are performed, they contribute to the acquisition of work experience and ultimately to improve employability.

²⁶ In this regard the accreditation of professional skills acquired through formal and informal means is proposed, identifying the activities and occupations with more presence of older people to give them priority in the accreditation process, making calls for accreditation of the specific work experience for this age group. This should allow recognition of older workers' current skills to guide their retraining in the same or a close productive sector and subsequently their reintegration into the labour market. The Strategy also seeks to raise training of women aged 55 and more with low-level of studies and qualifications in the sectors of catering, personal services, security and sales.

²⁷ It is proposed to consider gradual, depending on age and skills, incentives for permanent hiring of older workers, as well as the study of incentives for workers who accept lower-

self-employment and social economy enterprises²⁸. A raise in unemployment protection for older unemployed is also suggested, both through the existing subsidy for unemployed of 55 years or older -52 years until July 2012- and through a reform of the active insertion income²⁹. A revision of clauses in collective redundancy agreements is also proposed, including non-competition covenants after the termination of the employment contract because such incompatibilities discourage relocation of the employee. Finally, the Strategy points to the need of redirecting aid to workers affected by collective redundancies in need of special social protection to reinstate them in the labour market with active employment policies.

3.2.2. The Strategy's focus in working conditions

As noted, the focus line that presents the Strategy's most innovative elements is the one referred to the working conditions for employees over 55 years, especially in the fields of working hours and of health and safety at work. At European level illness and disability are the second more frequent reason for early exit from the labour market in the population between 55 and 64 years, being early retirement the first, towards which also situations of illness or disability can be derived³⁰. Communication from the Commission "Increasing the employment of older workers and delaying the exit from the labour market", COM (2004) 146 Final attributed to the hygiene and safety conditions a crucial role for the welfare of workers especially as they get old, and therefore a central role in their ability to remain in the labour market. But the Strategy also emphasizes flexible forms of work organization as a component of working

qualification jobs involving wages eventually below their expectations, as accepting these jobs entails an improvement in terms of contribution to the retirement pension. The Strategy proposes some specific steps in this direction: the Public State Employment Service should complete the worker's contribution to the retirement pension for at least two years; improving, adapting and promoting the measure already in force to enable for people over 52 years making compatible employment with unemployment benefits; finally the Strategy suggests analyzing the possibility of adopting other stimulus measures for the return to the labour market of expelled workers. These measures would be inspired by those adopted in the plans to support the sectors affected by globalization, such as aid for geographical mobility on a voluntary basis and a comprehensive treatment of all the factors involved and mainly of personal and family circumstances and housing.

²⁸ Aiming to encourage self-employment of older people the study of the following measures is proposed: fixing reductions in social security contributions for the self-employed over 55 years to be established as such for the first time; that worker cooperatives who incorporate as partners people over 55 have the same treatment in respect of social contribution bonuses as companies that hire older workers; considering raising the maximum amount than can be paid at once as unemployment benefits to finance the investments needed to become self-employed; creating a working group to study all labour and social security legislation which may hinder the establishment of self-employed; and voluntary collaboration of unemployed older people who have extensive professional experience with the Public Employment Services as advisers and mentors for new business projects promoted by young people.

²⁹ A subsidy for unemployed with particular difficulties to reintegrate the labour market due to age, disability or other social exclusion factors in families with extremely low income.

³⁰ Eurostat Labour Force Survey, also cited by the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions "Increasing the employment of older workers and delaying the exit from the labour market" COM (2004) 146 Final.

conditions that may favour the retention of older workers; therefore the Commission believes that part-time retirement is an option that deserves more attention than the currently paid.

In the opinion of the European Commission, workers should have, as they grow old, the opportunity to occupy positions compatible with their intellectual and physical abilities and must be given the option to choose to work part time or at least to choose a reduction in working hours. In this framework Member States are urged to promote working conditions that encourage job retention, recognizing the importance of hygiene and safety at work and innovative and flexible forms of work organization throughout the working life, including the provision of part-time and career breaks. Clearly, factors such as longer hours derived from their irregular distribution, night work or shift work have a greater impact on health and work performance of older workers in contrast to younger. None of these matters have been addressed by the Spanish legislation in regard of this particular group of workers; it does however respect to minors³¹.

In this respect, the European Commission endorsed in 2005 the conclusions of the Employment Taskforce³² and proposed, on the one hand, increased efforts to offer adapted part-time contracts and, on the other hand, adapting workload, improving working conditions and adapting health and safety measures to the needs of older workers, facilitating the transition to other activities inside and outside the company.

Evidently, more flexible working arrangements for older workers (which can occur through part-time work, reduction of working hours, telecommuting, etc.), along with training, are absolutely essential elements to preserve their health and to adapt the work activity to their intellectual and physical conditions, which in turn should help increase their stay in the labour market.

So far these measures have not been present in the legislation or collective bargaining in Spain³³, as measures have not been specific to preserve the safety and occupational health of older workers³⁴. In this sense, the Law on Prevention of Occupational Risks does not regulate the ageing factor, although older workers "are a group more sensitive to the risks when faced with their service delivery", being this sensitiveness to risk due not so much to their jobs but to their physical and psychological situation³⁵.

a) Proposals on working hours

³¹ Vid. CARRERO DOMÍNGUEZ, C. and MORENO MÁRQUEZ, A.: "Prevención de riesgos laborales y trabajadores maduros" in MERCADER UGUINA, J.R.(2009): *Trabajadores maduros. Un análisis multidisciplinar de la repercusión de la edad en el ámbito social*. Lex Nova. Valladolid.

³² Employment Taskforce (2003) "*Jobs, jobs, jobs, Creating more employment in Europe*", report.

³³ LÓPEZ CUMBRE, L. (2004): *Aumentar el empleo de los trabajadores de más edad y retrasar su salida del mercado de trabajo. Comentario a la Comunicación de la Comisión de 3 de marzo de 2004*. Revista del MTAS, n. 52.

³⁴ CARRERO DOMÍNGUEZ, C. and MORENO MÁRQUEZ, A. (2009).

³⁵ *Ibid.*, pg. 219.

The Strategy takes as starting point the need for workers over 55 years to have greater flexibility in the organization of working time and in particular better facilities to reduce their working hours with the aim that the worker's health (both the influence of work on health and of health at work) do not push him or her to complete cessation of their employment. It needs to be underlined that at European level the option to combine part-time work and a partial pension is appealing to the majority of citizens (65%). However, Spain is not among the countries where this option is preferred (Eurobarometer 2012). In this same line, almost 30% of European employees between 50 and 59 would prefer to work fewer hours.

The Strategy sets as an objective that workers over 55 have the possibility of progressively reducing their working hours. To do this there are currently no instruments in the Spanish labour regulations, apart from partial retirement. But precisely partial retirement suffers, according to the Strategy, of "a series of rigidities, as well as some legal difficulties as a result of the need to sign a bridging contract with an unemployed worker. Paradoxically the difficulties pointed out by the Strategy will be accentuated as a result of the changes introduced by Law 27/2011.

In response to this lack of instruments to achieve the abovementioned objective the Strategy proposes to study the legal, economic and social feasibility of establishing a right to shorter working hours, resulting in a proportional reduction in salary, as well as studying the social protection measures that could accompany such a change. This is undoubtedly the "star measure" proposed by the Strategy, but other proposals do not have less impact on the work of those approaching retirement age, such as boosting organizational strategies that align working pace, breaks, shifts and work schedules with workers' physical conditions. The latter proposal is far-reaching and would allow a much larger adaptation of the demands of work activity to physical conditions and health of workers during the last years of their working life. Clearly they are measures that would create a flexibility favorising that older workers who now find themselves unable to keep pace in response to business requirements as a result of the deterioration of their physical and sometimes mental health and who are therefore forced to exit the labour market could stay longer.

This measure is accompanied by other as actions to develop new skills and work skills through job rotation or job enrichment or implementation of complementary programs to keep the technical knowledge at professional level.

b) Proposals on safety and health at work

Safety and health at work is a key issue as far as keeping older workers in the labour market is concerned. Risk assessment is particularly important- a cornerstone in the European approach to occupational safety and health, in words of the European Agency for Safety and Health at Work (EU-OSHA, 2009). In this field, social dialogue is considered essential to the success of risk prevention actions (EU-OSHA, 2009). The initiative of the social partners in order to design specific measures adressed to older workers is particularly

important, especially since the EU-OSHA confirms that risk assessments at workplaces tend to be carried out from the point of view of a “standard worker”, which may lead to a biased situation from the point of view of workers who fall outside this “standard limits” (EU-OSHA, 2009).

But older workers feel that their health is rather poor, particularly manual workers and low skill workers. Data extracted from the 5th Working Conditions Survey (2010) reveal that in the 50-59 age group workers have a negative perception of their health state, being the main factors linked to physical and psychological ill health, painful positions, poor fit of working time with private life, tight deadlines and poor career prospects.

Even though a correct design of workposts is beneficial for all age groups, old age is considered a characteristic that determines exposure to “particular” or “increased” risks³⁶ and having particular requirements at work. In fact, according to EU-OSHA, about 30% of workers aged 50-64 need urgent adjustment at work due to their health problems³⁷ to prevent the risks of early retirement and work disability (ILMARINEN, 2012).

Before the adoption of the Strategy it could be stated that in Spain the rules governing the prevention of occupational risks reflected “the poor worry (or the absolute absence of worry) that the legislator has shown for these workers”³⁸. But the Strategy 55+ includes some measures on safety and health at work, focusing on risk assessment, monitoring of health and education and information for safety and health at work for older workers. A specific regulation for this group of workers had been claimed before by the doctrine with no results³⁹.

First, the Strategy proposes to emphasize the importance of looking at risk assessment factors inherent to age and seniority⁴⁰. Secondly, based on the

³⁶ The European Commission include older workers in the list of groups of workers who may be at increased risk. European Commission, Communication from the Commission to the Council and the European Parliament, COM (2007) 62. Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work (EU Guidance on risk assessment at work).

³⁷ Mainly musculoskeletal and mental disorders.

³⁸ CARRERO DOMÍNGUEZ, C. and MORENO MÁRQUEZ, A (2009) p. 220.

³⁹ *Ibid.* The authors highlight as particularly relevant the following specific measures:

- to redesign jobs in order to adapt them to the characteristics of older workers. In case this is not possible, to opt for a change of workpost. Specific adaptations in terms of working time would include changing schedules, reducing working time, entering pauses to reduce the physical and mental burden of work, or exempt older workers to perform certain tasks involving an extension of working time or availability for immediate call.
- to analyze the possibility of reducing rotations in shift work regimes and eliminating night shifts for older workers.
- to make specific health monitoring of workers before the worker is considered mature and more frequently when (s)he is treated as such.
- to provide workers with specific training to ensure that they are able to adapt to changes and to prevent future reductions of their capabilities.
- to define career paths that take into account both the career advancement as the necessary adaptation of jobs to people and their capabilities, with specific plans for older workers.

⁴⁰ Based on the findings of the National Survey on Health, according to which after 55 years the population is more vulnerable to a number of disease processes directly related to ageing itself

results of the assessment, a planning of preventive activity that includes an adequate monitoring of the specific health risks based on and adapted to the worker's age in which factors related to ageing and diseases resulting from ageing are taken into account is considered necessary⁴¹. The program should include training and information activities, including, for example, training of employees on how they can maintain and promote their physical and psychological performance (stress management and burnout prevention) or information about how to keep fit. Finally, the Strategy specifies that risk assessments and planning as well as scheduling of preventive actions shall take into account the specific risks affecting older women.

Apart from the measures discussed, it is intended that, in case that "age could begin to be a handicap for the worker or for the worker to perform certain tasks, all options should be considered before his or her exit from the labour market". Mention is made to preventive measures of functional mobility, along with other strategies aimed at adapting the workplace to ensure older workers' safety and health.

As for social protection, the Government commits itself, through the Strategy document, that the National Institute for Health and Safety at Work will conduct specific research on working conditions and older workers' health in order to detect patterns of disease associated with ageing that help in the design of specific interventions and epidemiological studies to determine the most potentially dangerous occupations in terms of accidents and to define the impact of age on them. Based on the results of these studies, the National Commission on Safety and Health at Work will analyze and discuss possible strategies to ensure the safety and health of older workers. The commitment also extends to the analysis and determination of measures by the Secretary of State for Social Security, in order to apply reduction coefficients to the normal retirement age for workers performing certain activities that pose a security or health risk so that they have adequate access to early retirement.

It should finally be noted that some collective agreements have started in recent years to include clauses that take into account the worker's age and plan adjustments to their work⁴². But, in fact, adaptation of work to the personal capacities, aptitudes and health conditions should be a continuous and dynamic process during all the professional career, as age is only one aspect of the workforce diversity (EU-OSHA).

3.3. The Strategy's (lack of) implementation

and to degenerative pathologies inherent therewith, as well as the cumulative effect of unhealthy life styles. Furthermore it is found that carrying out the same functions for a long time can have a negative impact on workers' health.

⁴¹ The Strategy underlines certain factors that should be included in the program: limited joint mobility, decreased strength, decreased physical functional capacity, reducing the perception and the ability to make decisions, the reduction in visual capacity, reduced hearing and slowed reaction capacity.

⁴² *Vid.* CARRERO DOMÍNGUEZ, C. and MORENO MÁRQUEZ, A. (2009).

The Strategy 55+ was considered at the moment of its approval as highly innovative in the Spanish context of previous absence of both a global approach and particular measures -apart from some incentives- to extend working lives. But the development of the Strategy has not been up to expectations. The situation is especially disappointing, as it must be underlined that the measures proposed by the Strategy have not been developed at all.

It must be considered that few weeks after the Strategy's approval elections to the Spanish Parliament concluded in a political shift. The new conservative government, supported by a parliamentary absolute majority, has shown, from the beginning of its term in office, absolutely no interest in the development and implementation of the initiatives proposed by the Strategy.

Even evaluation of the Strategy's results has no sense, as there has been no attempt at implementing any of the measures proposed in it. Consequently, almost 4 years later no changes or novelties can be reported regarding policies to favour that older workers find the adequate conditions to stay longer in the labour market. The only measures taken have intensified the highly vulnerable situation of those who lose their job and cannot find a new one in a context of rocketed unemployment figures⁴³.

Now the Strategy should be given a second chance and the Spanish public authorities should assume its objectives and design specific policies to address seriously the problems found by older workers to stay in the labour market and provide where necessary innovative solutions.

Also the social partners, who were at the origin of the Strategy, have since its approval not demanded strongly enough its application. They have not demonstrated that employment of older workers is a priority for them. This is beginning to change, with some initiatives as the beforementioned Guarantee 55+, but their involvement still needs to intensify.

3.4. Social partners' other involvement mechanisms

The plurality of areas where the social partners have a role to play implies the need to take into account other channels within their reach to influence in policies and practices affecting older workers' employment.

A special mention to collective bargaining is needed: clauses in Spanish collective agreements directed at the maintenance of older workers' employment are hard to find, including clauses to protect older employees in collective dismissals⁴⁴. The general tendency consists in the inclusion of

⁴³ For example, the minimum age to have access to a subsidy for unemployed workers who have consumed contributive unemployment benefits was risen from 52 to 55 years and the requirements to have access to it were hardened. Royal Decree-law 5/2013, 15 March.

⁴⁴ An extensive study in GUTIÉRREZ COLOMINAS, D. (2015): *Las medidas de mantenimiento del empleo de los trabajadores/as de edad en la negociación colectiva (2012-2014)*. Paper presented to the XXV Congreso Nacional de Derecho del Trabajo y de la Seguridad Social (to be published).

clauses favorising workers' retirement (with economic incentives in many cases) and promoting partial retirement and bridging contracts as instruments to maintain the older workers' employment while rejuvenating companies' workforce (Gutiérrez Colominas, 2015). Moreover, until their recent banning (2012), forced retirement clauses were not unusual.

Collective bargaining should undoubtedly have a major role in promoting an improvement of working conditions for older workers and in particular their adaptation to these workers' needs and health condition. Collective agreements are the most adequate instrument to adjust general provisions to each sector and each company reality. They could and should precise working time adaptations, workpost adaptations, functional mobility and specific health and safety actions, among other actions. Additionally, collective agreements could establish protections for older workers against dismissal and fix employment objectives for companies depending on their size and activity⁴⁵.

In this sense, the French experience is particularly interesting. In 2008 an obligation was placed on social partners to conclude company agreements on the employment of older workers, and particularly on anticipation career development and training⁴⁶. On the positive side, this obligation has forced the social partners to include the issue of older workers' employment in their bargaining agendas. But this experience also shows that putting obligations on the social partners might have limited effects if they are not sufficiently convinced of the need of prioritising the subject. Many agreements have not delivered significant results, as they might have been concluded in terms intended only to comply with the law in absence of a real concern about older workers' employment.

4- CONCLUSION

Achieving the goal of rising the number of older workers who remain in the labour market is certainly not an easy task, as leaving the labour market early can be the consequence of multiple reasons. It is no doubt very difficult to fight against the legitimate aspiration of those who are tired and want more free time after many years dedicated to their professional activity or the feeling that they need and deserve more time to reconcile professional and private obligations such as taking care of grandchildren or older relatives. Survey data indicate that almost 1 in 3 workers with ages comprised between 50 and 59 would like to

In other European countries some interesting examples can be found. This is the case of the German steel industry, where a collective agreement signed in 2006 include a wide range of measures that cover the following areas: occupational health and safety; further training; reduction of peak workloads; changing workloads with job rotation; establishment of mixed-age teams; adjustment of working time schedules; work assignment based on health and age, promotion of healthy behaviour among employees; use of long-term working time accounts for earlier retirement and lowering of the average age of the workforce by increasing the number of apprentices. This case is analyzed by Eurofound (2013) in the document *Role of governments and social partners in keeping older workers in the labour market*.

⁴⁵ See some proposals of clauses in *Ibid*.

⁴⁶ *Vid.* AMAUGER-LATTES, M.C. and DESBARATS, I. (2011): *Droit de l'emploi des seniors*. Lamy, Paris.

work less (Eurofound 2012), but this does not mean that they want to abandon the labour market.

The flexibility of working time, along with the adaptation of health and security measures, as well as functional mobility linked to the worker's requirements in terms of health and skills are necessary steps to prevent early exit of older workers from the labour market. However, the success of this objective also requires a change in corporate attitudes to value the contribution of these workers and not to only see in them increased wage costs or less productive outcome. Also to prevent excluding older workers of the training which should allow them to adapt to changes.

According to ILMARINEN (2012), the reforms necessary to enhance active ageing through longer and better careers for older workers are: an attitudinal reform to create fair and appropriate attitudes towards older workers, a management reform to identify and utilise the strengths of older workers, a work life reform to create an age-friendly working life for all generations, a pension reform which takes into consideration the large individual differences between older workers by providing a flexible range of retirement dates and a financial bonus for working longer, an organisational reform to improve the collaboration of different stakeholders and actors influencing better and longer work lives and a health service reform to strengthen the proactive and preventive occupational health services.

Some of these proposed reforms are at least partially recognizable in the Spanish Strategy 55+. The measures targeted by the Strategy 55+ on working conditions, which result both in proposals to adapt working time and safety and health issues, are in line with the conceptual shift operated in recent years in some other European countries such as France⁴⁷, incorporating age as a central element of safety and health at work, with specific analysis of physical or psychological arduousness in older workers due to elements such as working environment (work outdoors, extreme temperatures), atypical working hours, or the content of the work performed⁴⁸. Also the proposed measures on flexible working time would contribute, if adopted, to a substantial improvement of working conditions in older workers. Measures in terms of part-time work opportunities for older workers before the statutory retirement age and partial retirement provisions are not enough in terms of promoting flexible work organisation.

In short, the set of measures contained in the Strategy's focus 2 are essential so that in the future older workers are not too often forced to abandon the labour market by being subjected to the same requirements and work paces than younger workers. Thus an effective extension of working life would also be largely satisfactory to those who approach but have not yet reached retirement age, since they could continue being occupationally active while their needs derived from the ageing process are taken into consideration.

⁴⁷ *Vid.* QUINTERO LIMA, M.G. (2009).

⁴⁸ *Ibid.*

As for the social partners, generally their involvement in taking a wide range of measures to make older workers' presence in the labour market sustainable is recognized as crucial. Although their real role is not so prominent in many countries, including Spain, this is beginning to change. The Spanish social partners were in the origin of the Strategy 55+ and, even though they have not claimed strongly enough for its implementation when the Strategy has been ignored, older workers are progressively more present in their agendas. Until now this has not had a significative translation in collective bargaining, and this should change, as collective bargaining is a necessary instrument next to public policies in favour of creating the conditions to make work more sustainable for older workers.

In conclusion, there are a significative number of general programmes both at EU and at national level which underline the need to take measures to facilitate longer working careers, but specific measures are lacking. The Spanish Strategy 55+ is a good example of promising proposals with no real repercussion and of the –still insufficient- raising awareness among social partners.

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