

**Part III:**  
**Financing of Social Security: Experiences and  
New Approaches**







## Chapter 9

# The Influence of the Platform Economy on the Financing of Social Security: the Spanish Case

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### *I. Introduction*

So far, the debate on the future sustainability of social security has mainly focused on the impact that ageing populations will have on public expenditure. Due to the demographic change – growing numbers of pensioners whose life expectancy is longer – the upward trend of pension expenditure has placed social security and public pension systems, in particular, at the centre of the debate on the long-term budgetary and economic policies since the end of the 20th century. However, it should not be overlooked that, along with the process of ageing, the sustainability of social security systems will also be challenged by the rise of the platform economy. With robotisation embedded as a component part of the “digitalisation of the economy” phenomenon, the platform economy is transforming employment and labour markets<sup>1</sup> in a way that threatens to undermine the foundations of welfare state institutions. Along these lines, labour law is facing the question of how to preserve the traditional guarantees which have historically balanced the relationship between labour and capital. But likewise, this deep transformation threatens the current design of those social security systems where benefits are primarily based on previous contributions made by employers and employees.<sup>2</sup> It is therefore not an exaggeration to say that the framework of the debate on the long-term sustainability of social security systems has changed. Leaving aside the still unknown

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- 1 *Degryse, Christophe*, *Shaping the World of Work in the Digital Economy*, 1 January 2017, ETUI, Brussels, p. 2, [https://www.etui.org/sites/default/files/Foresight%20brief\\_01\\_EN\\_web.pdf](https://www.etui.org/sites/default/files/Foresight%20brief_01_EN_web.pdf). Accessed 7 August 2020.
  - 2 See Economic Policy Committee/Social Protection Committee, *Joint Paper on Pensions 2019*, 22 January 2020, Brussels, p. 44, <https://europa.eu/epc/system/files/2020-01/Joint-Paper-on-Pensions-2019.pdf>. Accessed 07 August 2020. In this Joint Paper an appropriate, though insufficient, reference to this technology-driven transformation and its consequences on the sustainability of pension systems is made.



impact of Covid-19, from now on policymakers will have to tackle two major structural transformations: population ageing and the emergence of the platform economy. This paper will draw attention to the latter, focusing on the issues regarding its financial side and taking Spain as a study case.

More in particular, the aim of this article is to reflect on how this major technological shift could modify the financing structure of Bismarckian social security systems. Given the fact that in this model social security is principally financed through social contributions, my argument is that dependence on such a model could seriously harm the financial balance of the system once the platform economy gains greater weight. Therefore, potential weak points in the system need to be tackled through a progressive redesign of social security financial resources or a reconfiguration of benefits. After some considerations on the legal classification of platform workers, my attention is drawn to two of the main factors that pose financial risks. One is that some platform-like service provisions could be excluded from the obligation to pay social contributions because of, for example, their sporadic character. The other is that the growth of “just-in-time” work will normally entail lower social contributions even if the activity is based on an employment relationship.

Further, I will carefully consider the advantages and disadvantages of the three possible paths that Bismarckian systems (taking Spain as a case study) could follow in the coming scenario.

The first option would imply preserving the same financial structure, basically based upon contributions. Such a solution would surely lead to benefit cuts since the system would not have the capacity to overcome the financial burdens caused by ageing. A reflection on the negative consequences that this situation would create for platform workers, among the more vulnerable workforce, seems appropriate. The second and third options would be initially channelled through the increase of State funds and deployed in two different manners. This broader involvement of the Government in financing social security could prompt a reduction of funds coming from contributions in order to maintain public expenditure. This could represent a first step towards a more Beveridgean system which focuses on reducing poverty through assistance benefits and encourages the development of occupational (or even individual) private plans. Again, a specific analysis of the capacity of platform workers to engage in these complementary schemes should be thoroughly analysed. The alternative is that this increase in tax-based financing would not call into question the current financial structure where contributions determine both the funding of the system and the granting of benefits. Two main questions are to be examined. One deals with the tax options to implement said increase.



The proposal of a “robot tax” merits an in-depth study, as well as the pros and cons of direct and indirect (earmarked or non-earmarked) taxes. Likewise, attention should be paid to how the career paths of platform workers will necessitate a potentially large-scale change to the design of social benefits.

## II. The Legal Classification of Platform Workers

Up to now, analysis concerning the influence of economic activities based on the use of online platforms has mainly concentrated on how (labour) law treats these new forms of work and the ability of the applied regulation to secure decent working conditions. According to Spanish law, what is the appropriate legal classification of this type of contractual relationship? Theoretically, we find three possible classifications with regard to the respective workers.

Two of these types of platform “collaborators” (using a neutral term) fall outside the scope of labour law. First, they can be classified as *independent contractors* or, to be more precise, self-employed workers who are in business on their own account and, therefore, do not enjoy specific guarantees with respect to the digital platform. And second, still beyond the employment relationship, the Spanish *Self-Employed Workers’ Statute* also foresees an intermediate category: the so-called “economically dependent self-employed workers” (in Spanish *trabajadores autónomos económicamente dependientes*), who render services mainly (at least 75 percent of their income) for one client. This type of “dependent contractor” reflects the combination of features that makes it difficult to give a clear-cut response according to traditional patterns; and it could certainly be an attractive solution for both parties as it offers a minimum level of professional guarantees to the service provider while it gives the platform flexibility and reduced “labour” costs – basically, social security contributions. But, as a matter of fact, it is not a real option in practice: the number of the economically dependent self-employed workers has always been very low since creation of this category in 2007, and has not been affected in any way by the emergence of the platform economy despite the interest of platforms.

As an alternative, platform collaborators can also be classified as employees falling within the scope of the Workers’ Statute enjoying all labour guarantees with the corresponding employer obligations. But in Spain, this is certainly not the case in practice since virtually all digital platforms treat their “collaborators” – i.e. service providers – as independent contrac-



tors. As in other European countries, it is not surprising that this arguably inadequate classification of a self-employed person has given rise to a controversial debate on the employment status of platform workers – in most cases, riders. And a good illustration of such a heated discussion is the high number of court decisions that have been taken so far in Spain.<sup>3</sup> In a previous research,<sup>4</sup> I analysed the main evidence supporting both legal classifications – as employee or as self-employed person – based on Spanish case law and the extent to which subordination plays a key role in determining the characteristics of the relationship between the digital platform and its collaborators.

From one perspective leaning towards the self-employed status, evidence of independence – from subordination – stems from the following contractual conditions. First, the most relevant one arguably is that working time is determined at the collaborator's discretion, which means that there is no fixed timetable and, even more importantly, that the very “collaborator” decides when to be active in the platform. Second, and along the same lines, it is common that (s)he enjoys the freedom to refuse tasks commanded through the platform. Third, it seems to show autonomy that the performance of the activity is basically self-directed, notwithstanding the existence of common instructions directed at all “collaborators”. Fourth, the non-exclusivity of the contractual engagement, which is to say, the possibility of “collaborating” with several platforms is generally considered a sign of independence (ancillary income). And, fifth, the fact that activity-related spending is not compensated for by the platform could also indicate that the service is provided on the worker's own account.

Conversely, and thus leaning towards the employee status, evidence of dependence of the “collaborator” on the platform is also frequently found in practice, some of it being typical of the traditional idea of subordination and some other showing new forms of such dependence. Firstly, in cases of

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3 It should be noted that, despite the estimates that show very high numbers of platform workers in Spain (see *Urzi Brancati, Maria Cesira/Pesole, Annarosa/Fernandez Macias, Enrique*, *New Evidence on Platform Workers in Europe*, EUR 29958 EN, Luxembourg: Publications Office of the European Union 2020, doi:10.2760/459278 (online), p. 16), real figures seem to point at a more limited proportion. Just as an example, a study published by a prominent Spanish Trade Union, Unión General de Trabajadores (UGT), quantifies the number of riders working for delivery platforms as little more than 14,000, which represents a mere 0.07 percent of the active workforce (UGT 2019, 15).

4 *Corujo, Borja Suárez*, *The “Gig” Economy and its Impact on Social Security: The Spanish Example*, in: *European Journal of Social Security*, 19 (2017) 4, p. 297, doi: 10.1177/1388262717745751.



work on-demand via apps, where the performance is physically carried out, it is common to have “collaborators” fulfil certain conditions before they are “activated”. Secondly, another sign of subordination lies in the personal dimension of the performance in the sense that it is not transferable. Thirdly, according to the experiences analysed in Spain, the supremacy of platforms is obvious in very different aspects: strict (no matter if indirect) supervision and control; detailed indications of how to perform the tasks; price fixing of services performed; sham incentives on “activation” that hide a minimum level of availability. Fourthly, the fact that the platform is allowed to “deactivate” “collaborators” in a wide range of circumstances shows a sort of disciplinary power, one of the most typical characteristic of employers. And fifthly, without being exhaustive, it is also a sign of subordination of “collaborators” that the relationship established with the client (payment included) is always channeled through the platform.

What is the Spanish courts’ view on this issue? The number of claims related to the legal classification of platform workers – always concerning delivery platforms, in most cases Deliveroo and Glovo – is growing<sup>5</sup> and, as we shall see, it appears to be favourable to the recognition of an employee status. The first court rulings date back to 2018. At that point, first instance courts did not have a clear-cut position: two court decisions held that the services rendered through the platform by formally self-employed persons really described a subordinate relationship and, therefore, recognised their employee status<sup>6</sup> whereas another ruling classified the claimant “rider” as a self-employed person<sup>7</sup>. Throughout 2019 we found court decisions – up to July coming from first-instance social courts – defending both positions favourable or contrary to the employee status, with a slight tendency to-

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5 Highly recommended is professor Beltrán de Heredia’s blog where he compiles judicial decisions on the employment status of platform workers in Spain and also in a wide range of countries: *Beltrán de Heredia Ruiz, Ignasi*, Employment Status of Platform Workers (national courts decisions overview – Argentina, Australia, Belgium, Brazil, Canada, Chile, France, Germany, Italy, The Netherlands, Panama, Switzerland, United Kingdom, United States and Uruguay), 9 December 2018, <https://ignasibeltran.com/2018/12/09/employment-status-of-platform-workers-national-courts-decisions-overview-australia-brazil-chile-france-italy-united-kingdom-united-states-spain/#spa2>. Accessed 7 August 2020.

6 Judgement of Social Court No. 11 of Barcelona of 29 May 2018 and Judgement of Social Court No. 6 of Valencia of 1 June 2018.

7 Judgement of Social Court No. 39 of Madrid of 3 September 2018.



wards the former.<sup>8</sup> This tie still existed when the “regional” – Autonomous Communities – courts of Asturias and Madrid ruled the first appeals.<sup>9</sup> But from that point onwards, the state of play seemed to have changed (definitely?) leaning towards the employment status. The same High Court of Justice of Madrid (Social Chamber) modified its view through a “plenary” decision taken by its twenty-one members – the former decision had been taken by a section of the court – who held that the claimant (Glovo rider) had an employment relationship with the platform.<sup>10</sup>

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- 8 Nine decisions classified riders as employees: Judgement of Social Court No. 33 of Madrid of 11 February 2019, Judgement of Social Court No. 1 of Gijón – Asturias – of 20 February 2019, Judgements of Social Court No. 1 of Madrid of 3 and 4 – two rulings – April 2019, Judgement of Social Court No. 6 of Valencia of 10 June 2019, Judgement of Social Court No. 31 of Barcelona of 11 June 2019, Judgement of Social Court No. 19 of Madrid of 22 July 2019, and Judgement of Social Court No. 3 of Barcelona of 18 November 2019. On the contrary, six rulings hold that there is not a subordinate relationship, but an activity that is carried out on its own by self-employed persons (Judgements of Social Court No. 24 of Barcelona of 21 and 29 May 2019), in certain cases – to be more precise – by economically dependent self-employed persons (see Judgement of Social Court No. 39 of Madrid of 11 January 2019, Judgement of Social Court No. 4 of Oviedo – Asturias – of 25 February 2019, Judgement of Social Court No. 1 of Salamanca – Castilla y León – of 1 June 2019 and Judgement of Social Court No. 2 of Vigo – Galicia – of 12 November 2019). See again *Beltrán de Heredia Ruiz, Ignasi*, Employment Status of Platform Workers (national courts decisions overview – Argentina, Australia, Belgium, Brazil, Canada, Chile, France, Germany, Italy, The Netherlands, Panama, Switzerland, United Kingdom, United States and Uruguay), (fn. 5).
- 9 The Judgement of the High Court of Justice of Asturias (Social Chamber) of 25 July 2019 recognised the labour status, whereas the Judgement of the High Court of Justice of Madrid (Social Chamber) of 19 September 2019 held that the rider was an independent contractor.
- 10 See Judgement of the High Court of Justice of Madrid (Social Chamber) of 27 November of 2019. As *Beltrán de Heredia* highlights, the Court based its decision on the following main arguments (see *Beltrán de Heredia Ruiz, Ignasi*, Employment Status of Platform Workers (fn. 5). First, a “primacy of fact principle” rules and, therefore, it is facts and not labels which determine the attribution of employee status or non-status; along these lines, written documentation did not reflect the legal nature of the relationship and without any substantial change in the fact situation the rider, who was initially classified as an independent contractor, turned into an economically dependent self-employed person. Second, in this case there was subordination to the authority of the platform since it was said platform that unilaterally established rates, and the rider’s activity was fully integrated into the digital platform’s business. And thirdly, in order to carry out the activity (delivery) what was relevant in economic terms was the app and not the means provided by the rider.



In some way, we could speak of a true turning point, given the fact that all court decisions taken by high courts of justice (Social Chamber) or by first-instance social courts since that ruling have stuck to that view defending the employee status of riders.<sup>11</sup> And it is particularly relevant that in some cases it was the result of an action taken by the Labour and Social Security Inspectorate – and thus affecting more than 500 riders.<sup>12</sup> Although we still have to wait for the “final” decision of the Supreme Court<sup>13</sup>, it seems that the judiciary clearly leans towards the employment relationship. As a matter of fact, it is probable that this heated controversy will have an end before that ruling sees the light of day on account of the fact that the Spanish Government has finally taken a first step to regulate this issue announcing its intention to present a bill that will reinforce the employee classification of platform workers.<sup>14</sup>

### *III. The Platform Economy and its Impact on Social Security<sup>15</sup>*

Much less attention has been paid to the implications of on-demand work via apps on social security. It is true that there seems to be growing interest in this issue, but in general terms these new research studies and political

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- 11 See Judgements of the High Court of Justice of Madrid (Social Chamber) of 18 December 2019, 17 January 2020 and 2 February 2020; Judgement of the High Court of Justice of Castilla-León (Social Chamber) of 17 February 2020; and Judgement of the High Court of Justice of Catalonia (Social Chamber) of 21 February 2020. Likewise, Judgement of Social Court No. 2 of Zaragoza of 27 April 2020 and Judgement of Social Court No. 21 of Madrid of 11 June 2020.
  - 12 Judgements of the High Court of Justice of Madrid (Social Chamber) of 17 January 2020. Also Judgement of Social Court No. 2 of Zaragoza of 27 April 2020.
  - 13 On 23 September 2020, the Supreme Court announced a judgement to be published in the coming days whereby the employee status of riders is confirmed.
  - 14 See the public enquiry previous to the draft of a bill on platform work that has recently been opened by the Spanish Ministry of Labour and Social Economy (Consulta pública previa a la elaboración de un proyecto normativo consistente en la modificación del Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores y de la Ley 20/2007, de 11 de julio, del Estatuto del trabajo autónomo, sobre determinados aspectos de la prestación de trabajo por cuenta propia y ajena del trabajo a través de plataformas), [http://www.mites.gob.es/ficheros/participacion/historico/consulta-publica/2020/Proyecto\\_07\\_20200606\\_consulta\\_publica\\_gabinete\\_empleo.pdf](http://www.mites.gob.es/ficheros/participacion/historico/consulta-publica/2020/Proyecto_07_20200606_consulta_publica_gabinete_empleo.pdf).
  - 15 A short draft of Sections III, IV and V was first presented at the ISLSSL World Congress 2018.



initiatives have focused on platform workers and their conditions of access to social security benefits as well as the serious risk of benefit inadequacy they are exposed to.<sup>16</sup> In this sense, ILO (2016) considers their work (in their different profiles) as types of non-standard employment that demand specific measures in order to improve access to benefits and to ensure portability of entitlements. Likewise, the European Union has taken steps to address the challenges of access to social protection for people in all forms of employment – platform workers included – through the achievement of three objectives: ensuring effective coverage (access to social benefits), transferability of social protection rights, and transparency (access to user-friendly information on rights and obligations).<sup>17</sup> Given that these difficulties in guaranteeing benefit adequacy are so crucial, it tends to be ignored that there is also a very serious financial risk that threatens social protection in the platform economy: the reduction or insufficiency of social contributions endangering the long-term financing of social security and thus the adequacy of individual social benefits.<sup>18</sup>

Before focusing on the social security field, we should make some considerations from a more general perspective on the impact that the process of digitalisation of the economy could have on fair taxation and the sustainability of State budgets. The question would be whether digitalisation

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- 16 Very illustrative: *Forde, Chris/Stuart, Mark/Joyce, Simon/Oliver, Liz/Valizade, Danat/Alberti, Gabriella/Hardy, Kate/Trappmann, Vera/Umney, Charles/Carson, Calum*, The Social Protection of Workers in the Platform Economy, Study for the EMPL Committee, 2017, European Union, Brussels, 2017, [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/614184/IPOL\\_STU%282017%29614184\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/614184/IPOL_STU%282017%29614184_EN.pdf). Accessed 7 August 2020. In particular regarding pensions in European Commission, Pension Adequacy Report 2018, <https://op.europa.eu/en/publication-detail/-/publication/62f83ed2-7821-11e8-ac6a-01aa75ed71a1/language-en>. Accessed 07 August 2020. An attempt of analysis of the different aspects of social security in *Suárez Corujo, Borja*, The “Gig” Economy and its Impact on Social Security: The Spanish Example (fn. 4).
- 17 Council Recommendation of 8 November 2019 on Access to Social Protection for Workers and the Self-Employed 2019/C 387/01, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019H1115%2801%29>. Accessed 7 August 2020.
- 18 Implicit in: Federal Ministry of Labour and Social Affairs. White Book 4.0, 1 March 2018, p. 179, <https://www.bmas.de/EN/Services/Publications/a883-white-paper.html;jsessionid=0A171136D7FF1D358063F3960C2C18E5>. Accessed 7 August 2020; *Spasova, Slavina/Bouget, Denis/Ghailani, Dalila/Vanhercke, Bart*, Access to Social Protection for People Working on Non-Standard Contracts and as Self-Employed in Europe. A Study of National Policies, European Social Policy Network (ESPN), Brussels: European Commission, 2017, p. 8, <https://ec.europa.eu/social/main.jsp?catId=1135&intPageId=3588>. Accessed 7 August 2020.



– and, in particular, the platform economy – affects the sustainability of public finances. As the European Commission has acknowledged, “[...] the growing challenge of ensuring that the digital economy is fairly taxed has still not been adequately addressed”,<sup>19</sup> leading to tax avoidance and/or to the loss of tax revenues. In brief, in a globalised and digitally connected world the redesign of tax systems appears to be a key issue in order to preserve welfare state institutions and social fairness.<sup>20</sup>

In this regard, the legitimacy of the claim in favour of the reinforcement of taxation of digital (in particular, platform) activities is based, at least, on two aspects. The first one is that long-term economic projections are moderately positive; as an illustration, the average annual potential GDP growth in the EU for 2016-2070 is projected at 1.4 percent largely thanks to a 1.5 percent average annual growth in labour productivity per hour worked over the entire period.<sup>21</sup> Therefore, there is no question that European member states will be significantly richer in thirty years’ time, despite the much more modest trend of total EU population and, in particular, the decrease of labour supply. If output is less dependent on labour, it is reasonable to redesign taxation so as to keep its efficacy on collecting funds.

But, secondly, the necessity to adapt the tax system to a changing economic environment adds another factor that has to be taken into account: numerous examples show that the quick development of platform business and the way this business is being driven is partly related to an “ill” (business-biased) motivation that seeks to reduce labour cost through eluding or limiting the obligation to pay taxes (or social contributions). We need

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- 19 European Commission, Second Phase Consultation of Social Partners under Article 154 TFEU on a Possible Action addressing the Challenges of Access to Social Protection for People in all Forms of Employment in the Framework of the European Pillar of Social Rights. Consultation Document C (2017) 7773 final, 20 November 2017, <http://ec.europa.eu/social/BlobServlet?docId=18619&langId=en>. Accessed 17 August 2020. Note that these projections were made previous to the Covid-19 crisis.
  - 20 European Commission, Staff Working Document, Impact Assessment Accompanying the document Proposal for a Council Directive laying down Rules relating to the Corporate Taxation of a Significant Digital Presence and Proposal for a Council Directive on the Common System of a Digital Services Tax on Revenues resulting from the Provision of Certain Digital Services, SWD (2018) 81 final/2, 21 March 2018, p. 5, <https://ec.europa.eu/transparency/regdoc/rep/10102/2018/EN/SWD-2018-81-F1-EN-MAIN-PART-1.PDF>. Accessed 17 August 2020.
  - 21 European Commission, The 2018 Ageing Report, Underlying Assumptions & Projection Methodologies, Institutional Paper 065, Brussels, November 2017, pp. 71-72, [https://ec.europa.eu/info/sites/info/files/economy-finance/ip065\\_en.pdf](https://ec.europa.eu/info/sites/info/files/economy-finance/ip065_en.pdf). Accessed 17 August 2020.



to be conscious that this economic model – now questioned by the social and economic consequences of the Covid-19 crisis? – destabilises the level playing field for businesses putting at risk EU competitiveness and, moreover, reduces financial contributions to social protection schemes.<sup>22</sup>

The threat of erosion of the social budgets associated with this major technological shift affects all social security models. But my attention focuses on Bismarckian systems (social insurance schemes) given the special vulnerability of social contributions – in this context the principal source of financing – in the new economic environment. My argument is that this dependence on employer and employee contributions could seriously harm the financial balance of the system once the platform economy gains greater weight. What is the best way to tackle this threat? And is it possible to turn this risk into an opportunity to redesign an established institutional solution?<sup>23</sup> Again Spain will be a reference case.

The mainly professional basis of this type of social security system makes the contractual relationship between platform and service provider particularly relevant. Legal classification (employment relationship or not), but also the specific working conditions are key aspects in determining the level of contributions and therefore could end up generating a financial risk to social security in three ways.

First of all, some platform-like service provisions can be excluded from the obligation to pay social contributions if they are not registered with any scheme of social security due to the terms in which the activity is carried out. This could be the case, for example, if said activity has a sporadic character or, more broadly, if the service provider's income remains below legal thresholds.<sup>24</sup> Certainly, these sorts of situations are not new; the

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22 Forde, Chris/Stuart, Mark/Joyce, Simon/Oliver, Liz/Valizade, Danat/Alberti, Gabriella/Hardy, Kate/Trappmann, Vera/Umney, Charles/Carson, Calum, *The Social Protection of Workers in the Platform Economy* (fn. 16), p. 40.

23 Eichhorst, Werner/Rinne, Ulf, *Digital Challenges for the Welfare State*, in: IZA Policy Paper No. 134, 2017, p. 10.

24 Gupta, Sanjeev/Keen, Michael/Shah, Alpa/Verdier, Genevieve (eds.), *Digital Revolution in Public Finance*, Washington D.C.: International Monetary Fund 2017, p. 73. In Spain, the obligation to register with the Special Scheme of Social Security for the Self-Employed is subject to the requirement that the activity must be performed regularly (in Spanish, “*de forma habitual*”). Case law gives an answer not using a time criterion, but pointing at a minimum level of (net) income, equivalent to the national minimum wage. Considering the characteristics of platform work, it is clear that a new rule is necessary in order to give an adequate response to the new type of activities associated with the emergence of the platform economy.



difference now is that they are becoming more frequent as “gig” activities increase and income distribution polarises.<sup>25</sup> Furthermore, there is an additional risk (a major one in countries like Spain) of informality<sup>26</sup> or under-declaration of income to avoid such duties.

A second risk has to do with legal classification. There are well-known implications in terms of the applicable contractual regulations. As we have already seen, whether the service provider is to be considered an employee of the platform or an independent contractor (or even a third, intermediate, category) is crucial in ascertaining whether said relation is subject to labour law or not. But sometimes it seems that it is not sufficiently highlighted that it also has important consequences for social security, given the fact that it will determine the correspondent scheme for registration. And this is not a minor thing.<sup>27</sup> On the one hand, there are still differences in terms of social coverage<sup>28</sup> and the risk of benefit inadequacy<sup>29</sup>. But, on the other, since the amount of contributions diverges depending on the scheme my interest here is the impact that such classification might have on social security funding. From the perspective of the financial condition of the system, and taking once again Spain as an example, the status of either employee (registration with the General Scheme of Social Security) or that of independent contractor (registration with the Special Scheme for

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- 25 On the new social cleavage that has emerged between those working in highly paid sectors, and those working in low-paid services, see *Palier, Bruno*, The Politics of Social Risks and Social Protection in Digitalised Economies, Policy Network, 17 May 2018, <https://policynetwork.org/opinions/essays/politics-social-risks-social-protection-digitalised-economies>. Accessed 17 August 2020.
  - 26 OECD, Pensions at a Glance 2019: OECD and G20 Indicators, OECD Publishing, Paris, 2019, p. 94, <https://doi.org/10.1787/b6d3dcfc-en>. Accessed 17 August 2020.
  - 27 Note that the relevance of this issue is today more evident in the context of the Covid-19 crisis. See an illustration in *Rasche, Matthias*, Coronavirus Highlights Sick Pay Void for Platform Workers, Eurofound, 19 March 2020, <https://www.eurofound.europa.eu/publications/article/2020/coronavirus-highlights-sick-pay-void-for-platform-workers>. Accessed 17 August 2020.
  - 28 The Covid-19 pandemic has openly – very often dramatically – shown the acute vulnerability of platform workers, who in some countries have been forced to face the economic, social and health consequences derived from the crisis without access to adequate social benefits. That is the case, for example, for sickness protection in countries like Belgium, cf. *Rasche, Matthias*, Coronavirus Highlights Sick Pay Void for Platform Workers (fn. 27).
  - 29 It is certainly true that Spain has made significant progress in extending the (social protection) coverage of self-employed persons: full coverage against accidents at work and occupational disease, and “unemployment” (cessation of activity) became compulsory since 2019 (Royal Decree-Law 28/2018 of 28 December). Nevertheless, an important gap still remains in terms of adequacy as we will see below.



the Self-Employed) makes a real difference in terms of average contribution: on average, self-employed persons pay only 60 percent of what employees pay in contributions. The legal design of this issue explains this worrying outcome:<sup>30</sup> employees contribute according to their real income (salary), whereas self-employed persons are entitled to freely decide, within certain limits, their contribution base. Not surprisingly – interested in underestimation – the vast majority of them, circa 85 percent, opt for the legal minimum base<sup>31</sup> harming their future benefit rights, but also social security revenues at present. So we might conclude that, even if there is no fraudulent purpose, not considering the service provider as an employee of the digital platform will have a negative impact on the financing of social security.<sup>32</sup>

And finally, the third and probably most relevant factor that exposes the system to a risk of underfunding has to do with the new world of work that will result from the process of major change (digitalisation) that the economy is undergoing. To be more precise, what matters at this point is that the growth of “*just-in-time*” work will normally entail lower social contributions as a projection of the income linked to short-time activities. Note that this trend is compatible with a – foreseeable – scenario where the economy keeps on an upward path, showing the already mentioned job polarisation.<sup>33</sup> And note as well that this problem of low income and

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30 Note that this unbalanced result is not caused by a divergence on the percentage of the contribution base (relatively similar in both cases), but by the legal provisions regarding such bases.

31 The current minimum contribution base stands at EUR 944 per month, in contrast with the corresponding General Scheme’s minimum base: EUR 1,050 per month. After the significant increase of the minimum wage, such a difference makes it more “attractive” in terms of labour costs to register with the Special Scheme for the Self-Employed.

32 *Spasova, Slavina/Bouget, Denis/Ghailani, Dalila/Vanhercke, Bart*, Access to Social Protection for People Working on Non-Standard Contracts and as Self-Employed in Europe (fn. 18). As a matter of fact, the impact on the revenue side depends on how the payment of contributions by self-employed persons is regulated: in Spain, that difference exists but it is not that big once the self-employed are obliged to contribute once all social risks are fully covered after the 2018 reform. But the interest of digital platforms in the self-employment status is clear: the socialist trade union UGT (*Unión General de Trabajadores*) estimates that delivery platforms (Glovo, Deliveroo, Ubereats y Stuart) could be saving EUR 76 million per year (UGT 2019, 31).

33 *Autor, David/Mindell, David/Reynolds, Elisabeth*, The Work of the Future: Shaping Technology and Institutions, MIT Work of the Future, Fall 2019 Report, p. 22, <https://workofthefuture.mit.edu/report/work-future>. Accessed 17 August 2020.



subsequent low social security contributions does not only affect self-employed persons (especially in countries like Spain, if they choose their contribution base), but also those activities based on an employment relationship. In this regard, the response to the problem that we are facing is not just a question of “ensuring neutral social protection against unemployment, sickness and other life circumstances independent of employment status”,<sup>34</sup> but a deeper, structural change that reflects the growing importance of capital with respect to labour.

As a matter of fact, this vulnerable position of platform workers is not new and, above all, not exclusive of this type of service provision; on the contrary, this characteristic is common to all forms of non-standard employment<sup>35</sup> in a context where employers try to preserve the competitiveness of their enterprises mainly by seeking to reduce labour costs. However, rather than mitigating the problem, it appears to aggravate it, because the extraordinary potential growth of the digital platform economy threatens to turn what today is atypical into typical work.<sup>36</sup>

All in all, we might conclude that the role of social contributions as the main source of financing of Bismarckian-type social security systems is, partly at least, in question. In countries like Spain, it is itself a major structural change – the dimension varies depending on the specific characteristics of the system – but its dimension becomes even more dramatic as this transformation takes place at the same time as population ageing, the retirement of the baby boom generation and a significant increase of pension expenditure. So at a moment when the social security system experiences a significant increase in financial needs, its central financing pillar is weakening, threatening long-term sustainability. Is there a margin to react

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- 34 European Commission, Final Report of the High-Level Expert Group on the Impact of the Digital Transformation on EU Labour Markets, April 2019, Luxembourg: Publications Office of the European Union 2019, p. 42, <https://ec.europa.eu/digital-single-market/en/news/final-report-high-level-expert-group-impact-digital-transformation-eu-labour-markets>. Accessed 17 August 2020.
- 35 Matsaganis, Manos/Özdemir, Erhan/Ward, Terry/Zavakou, Alkistis, Non-Standard Employment and Access to Social Security Benefits, Research Note 8/2015, European Commission, Brussels, 2016, <https://www.eurofound.europa.eu/data/platform-economy/records/non-standard-employment-and-access-to-social-security-benefits>. Accessed 07 August 2020; OECD, The Future of Social Protection: What Works for Non-Standard Workers?, OECD Publishing, Paris, 2018, <https://doi.org/10.1787/9789264306943-en>. Accessed 17 August 2020.
- 36 Schoukens, Paul/Barrio, Alberto, The Changing Concept of Work: When does Typical Work Become Atypical?, in: European Labour Law Journal, 8 (2017) 4, doi:10.1177/2031952517743871.



and cope with this challenge so the main characteristics of said social insurance systems can be preserved? Or are we on the verge of a radical shift?

#### *IV. Coping with the Financial Risks Associated with the Platform Economy? Small Steps, So Far*

Certain actions can be useful to partly correct the three problems that have just been examined as causes of financial risks to social security. These “flanking policies” could involve taking steps against those activities that are developed outside the scope of the system and consequently without the obligation to pay social contributions. In a benchmarking analysis we come across legal reforms conceived to include sporadic or irregular activities within the scope of obligatory contributions. In some cases (France), regulation has sought to give coverage to a wide range of activities – not necessarily connected to platform economy – that, fraudulent or not, were not taxed in the past.<sup>37</sup> In others (Belgium),<sup>38</sup> there has been a specific legal response for platform workers limited so far to taxation, but that could certainly favour future registration with the correspondent social security scheme. Both orientations are not incompatible and could inspire legal reforms in countries such as Spain where there is a high proportion of irregular economy and where self-employed persons are only obliged to register with social security (Special Scheme for the Self-Employed) in cases where the activity is performed on a regular basis.<sup>39</sup>

Alongside the regularisation of activities that fall outside the scope of social security, we might find other actions aimed at increasing today’s low contributions. Having noted the different positions occupied by employees and self-employed persons (also) in the field of social security and its projection on the financing system, a first achievement would be to correct the frequent cases of misclassification – platforms seeking to circumvent

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37 See the French case (*chèque emploi-service universel*, Article L1271 Code du Travail).

38 Belgian law foresees an exemption from the payment of social security contributions for those working for digital platforms with earnings below 5,000 EUR, cf. *Schoukens, Paul/Barrio, Alberto*, *The Changing Concept of Work: When does Typical Work Become Atypical?* (fn. 36), p. 318.

39 In fact, case law tries to give an answer not using a time criterion, but pointing at a minimum level of (net) income, equivalent to the national minimum wage. Given the low salary level characteristic of the Spanish economy the contribution leak is easily imaginable: a new design of the social contribution system according to real income seems to be an adequate response.



applicable quality standards and rules governing the protection of workers and, particularly, social security contributions.<sup>40</sup> Adequate recognition of professional status would reinforce the scope of the social security scheme for employees (the so-called General Scheme in Spain) and favour an improvement of working conditions, including wages and, therefore, social contributions. But there are two aspects that we have to take into account.

First, the Spanish ongoing experience shows very limited results in terms of additional financial resources so far. Most of the judgements regarding legal classification of platform workers that have been mentioned above derived from actions of dismissal brought before the courts by individual workers claiming their status as employees. Only in isolated cases, legal action has been taken by the Inspectorate of Labour and Social Security on the grounds of misclassification of the so-called “collaborators”<sup>41</sup>. Said legal actions were based on previous administrative actions by the same Labour Inspectorate related to underpayment of social contributions. To be more precise, the relevant aspect is not so much the amount of unpaid social contribution<sup>42</sup>, but the identification of the individual entity obliged to pay these: the digital platform, as the employer in the General Scheme of Social Security; therefore, not platform workers as self-employed persons in their own Special Scheme.

And second, it is important to be conscious that the labour framework itself is not enough as the increase of non-standard employment proves. Furthermore, the positive impact stemming from the employee status has probably a more individual than collective dimension. What is meant is that enriching labour and social guarantees could possibly drive the reinforcement of benefit adequacy (in individual terms). But from the perspective of financing, the extension of “just-in-time” service provision will inevitably limit the amount of contributions paid by employers and employees even if the productivity growth benefits wages.

As an alternative – beyond the employment scope, the improvement of the professional status of self-employed persons might also be a way of

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40 Federal Ministry of Labour and Social Affairs. White Book 4.0 (fn. 18), p. 61.

41 See Judgements of Social Court No. 6 of Valencia of 1 June 2018 and 10 June 2019; Judgement of the High Court of Justice of Madrid (Social Chamber) of 17 January 2020; Judgement of Social Court No. 2 of Zaragoza of 27 April 2020 and Judgement of Social Court No. 21 of Madrid of 11 June 2020.

42 The administrative actions claiming for social security contributions are not that numerous so far. They have enabled the Labour Inspectorate to claw back a total of app. EUR 20 million in social security contributions, an amount that is insignificant in terms of social security funding.



counterbalancing the financial risk to social security associated with platform activities. Always focusing on Bismarckian systems, we observe a growing attention paid to the unsatisfactory, in general terms, social protection “enjoyed” by this group.<sup>43</sup> Again, it could be stated that there is a margin for real progress in terms of adequacy (access to the system and extent of coverage).<sup>44</sup> This is particularly the case for social schemes – like the Spanish one – that exclude from registration the self-employed whose income does not reach the legal threshold, and that enables said independent contractors to choose their contribution bases without taking into account real earnings. However, we should be conscious of the burden that paying contributions represents for the self-employed, given the fact that in this type of relationship those who are in business on their own account are the only ones responsible for such duty. Once more, this step forward does not seem to go very far.

To recap, we have shown the potential negative impact that the platform economy could have on the financing of social security systems mainly based on contributions. On the one hand, we have pointed out dysfunctional aspects concerning service provision through digital platforms (undefined labour status and social security framework) that could lead to a serious drop of social contributions. While, on the other, we have also suggested the adoption of certain measures that would improve the social conditions of platform workers and reinforce contribution collection. Nevertheless, the digital transformation that enhances the platform economy is so profound that it is to be acknowledged that those changes will not be enough to guarantee the long-term sustainability of Bismarckian social security systems, especially if/when they have to face the retirement wave of the huge baby boom generation. Further actions regarding sources of financing are urgently needed.

#### *V. Preserving or Transforming the Financial Structure of Social Security Systems in a Context of Ageing?*

Another relevant aim of this article is to carefully consider the advantages and disadvantages of the three possible paths that a Bismarckian system

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43 OECD, Policy Responses to New Forms of Work, OECD Publishing, Paris, 2019, p. 52, <https://doi.org/10.1787/0763f1b7-en>. Accessed 17 August 2020.

44 Forde, Chris/Stuart, Mark/Joyce, Simon/Oliver, Liz/Valizade, Danat/Alberti, Gabriella/Hardy, Kate/Trappmann, Vera/Ummey, Charles/Carson, Calum, The Social Protection of Workers in the Platform Economy (fn. 16), p. 51.



like the Spanish one could follow in terms of financial structure reform in the coming economic scenario associated with the platform economy. It is certainly a major issue since this decision will be determinant of the design of social security and its economic and social sustainability.

The first option would imply preserving the same financial structure of social security, at this moment largely based upon contributions.<sup>45</sup> We have already examined legal reforms that could (partly?) offset the potential financial risk. In fact, it is reasonable to think that these amendments will probably see the light of day sooner or later in all European countries to guarantee minimum working conditions to platform workers. Focusing on Spain, some important decisions in terms of revenue have been taken by the Spanish Government in recent years. Particularly relevant was the significant increase of the minimum wage (plus 22.3 percent in 2019 and plus 5.5 percent in 2020), a controversial decision that did not hinder job creation and that enabled, along with some other measures adopted by the *Royal Decree-Law 28/2018 of 28 December, on the revaluation of public pensions and other urgent social, labour and employment measures*,<sup>46</sup> an impressive increase of revenue (social contributions). Likewise, the steps taken by the Labour Inspectorate and, foreseeably, by the Government to reinforce the employment status of platform workers could also have some positive (though very limited) impact.

Notwithstanding this actual – or hypothetical – achievement that certainly favours average contributions, it would be irresponsible not to acknowledge that social security will not have the capacity to overcome the financial strain caused by the structural weaknesses linked to labour precariousness and, above all, ageing. This demographic change stemming from the retirement of the baby boom generation and, to a minor extent, the upward trend of life expectancy will significantly push up pension ex-

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45 In 2019, social contributions (124 billion EUR) accounted for circa 90 percent of total public revenues of the Spanish social security system. That figure does not include financial resources: a loan allocated by the State to the social security system (13.8 billion EUR) and the withdrawal of assets from the Reserve Fund (3.6 billion EUR).

46 Said Royal Decree-Law 28/2018 foresaw full coverage against accidents at work and occupational diseases (besides “unemployment”, i.e. cessation of activity) for self-employed persons. Although the increase of contribution rate associated with the new regulation is small (and gradual), the amount of social contributions collected is growing: 174 million (accidents at work and occupational disease) and 144 million (cessation of activity). Whereas, conversely, expenditure on benefits increases very moderately (Source: Secretary of State of Social Security and Pensions).



penditure – the main component of social security – requiring additional resources throughout a time period of around twenty years.

That said, preserving the current financial structure would surely lead to growing imbalances of the social security budget since the revenues coming from employer and employee contributions will not amount to the resources needed to pay benefits (mainly retirement pensions), even if further legal adjustments are adopted and even in a context of solid economic growth. In this respect, the evolution of social security in recent years has shown how constrained employer's and employee's contributions are when it comes to facing the maturation of social security and the process of ageing of society. As we have just seen, in 2019 some decisions on the revenue side of social security were taken by the Spanish Government with a very significant growth of social contributions (an increase of 7.9 percentage points, EUR 9 billion in absolute terms). And yet, the social security deficit still stood at a worrisome level (16.9 billion EUR, 1.5 percent of GDP), despite having reduced in size with respect to 2018. Leaving aside the uncertain consequences of the Covid-19 crisis, this type of situation – budgetary deficit – could be bearable in the short term through public debt, especially if the economic juncture is not favourable. But beyond that, a “structural” (long-term) imbalance is not sustainable and would certainly end up giving way to reforms seeking a retrenchment of the spending by means of benefit cuts (eligibility-restricting or generosity-reducing reforms). The result would be particularly negative for precarious workers, platform ones included, assuming that a close connection between professional trajectory and benefits is basically preserved. What we would probably see is an exacerbated polarisation of the workforce that could leave all those working in precarious conditions (low income) in a more vulnerable social position: insufficiently protected by social security (no eligibility for benefits or less generous benefit enjoyment); and, due to their weak level of income, with no capacity – or a very limited one – to obtain in the private sector additional (retirement) savings to make up for the public shortage. In view of this outcome, I would conclude that a different path should be taken in order to preserve the sustainability of the social security system.

The second and third options would be initially channeled through the increase of general government revenue from taxation (tax-financed benefits),<sup>47</sup> but deployed in two very different manners; in fact, one would push the (originally) Bismarckian social security system towards a more

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47 OECD, *Policy Responses to New Forms of Work* (fn. 43), p. 57.



Beveridgean one, whereas the other would avoid this shift maintaining its typical (mainly) contributive, earnings-related, design.

On reflection, it seems foreseeable that the stagnation of revenues coming from social contributions caused by an increasingly digitalised economy will give way to a broader involvement of the Government in financing social security. But we must be conscious that, if the outcome is an equivalent level of total funds, this movement could have very serious implications in terms of adequacy due to the growing (pension) spending associated with the ageing process. In other words, such a reconfiguration of the financial structure could just mean a change in the financing sources of social security without an alteration of the level of public expenditure.<sup>48</sup> But this would entail a major shift in the system since the number of beneficiaries (most of them pensioners) will peak in coming years: the level of social insurance benefits is then to be reduced assuming that private instruments will make up for such downsizing. In this regard, said shift (“path switching”<sup>49</sup>) could represent a first step towards a more *Beveridgean* system which in the specific field of pensions would correspond to what is known as a “multi-pillar model of first generation”<sup>50</sup>. Here the role of social security – the public social protection system – is characterised by mainly focusing on poverty prevention through the provision of assistance-rooted flat-rate or means-tested entitlements;<sup>51</sup> while, as a key supplement, policy-makers encourage the development of occupational (normally also individual) private plans. Again, the position of platform workers in this scheme looks troubling, maybe not in terms of severe poverty, but certainly in terms of risk of lack of protection and inequality.

Obviously, the problem does not lie in the (assistance) public pillar as it could be an effective instrument to fight against (working) poverty. The difficulties for non-standard workers (platform ones included) come from

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48 To illustrate this remark, attention is drawn to the fact that the current level of public pension expenditure stands at 12 percent of GDP in Spain. In coming decades, the numbers of pensioners will sharply peak putting a strain on the pension system.

49 *Ebbinghaus, Bernhard*, Can Path Dependence Explain Institutional Change? Two Approaches Applied to Welfare State Reform, MPIfG Discussion Paper 05/2, 2005, p. 17, <http://hdl.handle.net/10419/19916>. Accessed 17 August 2020.

50 *Natali, David*, Pensions After the Financial and Economic Crisis, ETUI, Working Paper 2011.07, Brussels, 2011, p. 7, <https://www.etui.org/sites/default/files/11%20WP%202011%2007%20WEB.pdf>. Accessed 17 August 2020.

51 See *Behrendt, Christina/Quynh Anh Nguyen*, Ensuring Universal Social Protection for the Future of Work, in: *Transfer*, 25 (2019) 2, p. 30, doi:10.1177/1024258919857031. Accessed 17 August 2020.



their precarious status in the labour market and their subsequent doubtful capacity to engage in satisfactory terms in the complementary schemes (occupational or individual private plans).<sup>52</sup> Two, at least, potential risks for individuals within typical Bismarckian systems would then arise. First, from a general point of view, the restrained role played by social security and its redistributive mechanisms implies a greater dependence of individuals' social benefits on their professional trajectory. This would be particularly harmful for workers in countries with highly precarious labour markets. In this sense, it is easy to anticipate that the same precariousness that is suffered by atypical workers at the present time in Spain will also harm – in fact, already is incipiently harming – the professional status of platform workers. Second, even in countries where the quality of employment is better, this reinforced close relationship between benefits and previous wages brings along a serious risk of inequality. The “just-in-time” nature of platform activities seems to bring downward total working time, leading (inevitably?) to flat earnings. In such conditions, the saving capacity of workers – badly needed to complement their public basic pension – is more than doubtful.<sup>53</sup> The alternative is that this increase in tax-based financing would not call into question the current financial structure of Bismarckian inspiration where social contributions paid by employers and employees largely determine both the funding of the system and the granting of benefits. As a correction, the reform of the financial structure would consist of a deeper involvement of the State in funding social security – progressively seeking less dependence on said contributions.

Drawing our attention once again to Spain, in the short term this deeper involvement of the State in the financing of social security would be useful to correct a structural flaw by which certain expenditure items (i.e. operating expenses of social security, measures for the promotion of employment and temporary reduction of contributions, or subsidies to special

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52 Private pension schemes play a limited role in Spain: assets in pension funds held 133 billion dollars in 2018, 9.5 percent of GDP – in contrast to 60 percent of GDP on OECD average. But it is particularly small when it comes to occupational schemes. The proportion of workers participating in this type of plans is low: 1.9 million participants, approximately 10 percent of the total working population in 2019. With two additional problems: first, the number of workers covered is frozen, has even been shrinking in recent years; and second, coverage is skewed to permanent – often well-paid – workers, see [www.inverco.es/en/38/0/104/2020/3](http://www.inverco.es/en/38/0/104/2020/3). Accessed 17 August 2020.

53 Economic Policy Committee/Social Protection Committee, Joint Paper on Pensions 2019 (fn. 2), p. 61.



schemes) are currently supported by contributions.<sup>54</sup> In the medium term, this more balanced design would provide for additional resources, the ones needed to cope with the impact of the retirement of the baby boom generation and to compensate the (relative) loss of relevance of contributions. And once this demographic phenomenon is exhausted, the system would be in a better position to adapt its financial structure to the economic environment.

In essence, this amendment would focus on reinforcing the redistributive component of social security, making it compatible with the preservation of the contributory (earnings-related) principle that defines social insurance schemes. It would mean smoothing the proportionality base of benefits through redistributive measures that are tax-financed. And this would be key to guaranteeing the adequacy (social sustainability) of benefits. The reason is that said solidarity component goes beyond ensuring a basic level of coverage, since it becomes useful to combat inequality in two ways. On the one hand, the combination of contributory and non-contributory elements is important to reduce the dependence of workers on private social protection mechanisms with a double effect of retaining high-income workers within social security and thus strengthening the legitimacy of the system. And on the other, even more significant, the redistribution element turns to be the instrument through which social security offers adequate access and coverage to platform workers – all non-standard workers in general.

How to implement this deeper involvement of the State in the financing of social security? It could be said that the platform economy is one of the factors that contributes to forging a deep trend whereby the distribution of income is shifting towards capital and against labour: capital is gaining importance relative to labour in the functional distribution of income; which is to say that the position of the owners of capital has been reinforced to the detriment of workers, very especially those in more precarious jobs. And the problem is that this shift comes with a continued decline of the share of tax revenues from capital in overall taxation in a context of economic globalisation. As a whole, both trends threaten to make it increasingly difficult to count on contributions as a main source of financing social security. In this scenario, the already mentioned dependence of

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54 As the Independent Authority for Fiscal Responsibility (AIREF 2019, 56) has pointed out, the transfer of expenditure responsibilities from the social security system to the State would be one key measure to close the existing deficit in social security (1.5 percent of GDP in 2019).



social security financing on contributions calls for a response to preserve the labour-capital trade-off. The answer could come from collective bargaining if it could guarantee the transfer of productivity gains to wages, but recent reforms in this field in the EU countries have been oriented to weaken these instruments. Some experts also suggest favouring the access of workers to the ownership of capital.<sup>55</sup> In any case, neither of these solutions would be satisfactory enough. At present, and looking ahead, the emphasis must be put on taxing.

We find different options to diversify the financing mix of social protection. Some of them are related to capital. In this purview, new taxes are being created in Spain such as the tax on financial transactions, consisting of taxing all share purchase transactions carried out by financial operators, and the tax on digital services, ensuring that revenues generated by large companies that engage in certain digital activities not covered by the current fiscal framework are taxed.<sup>56</sup>

But the most relevant proposal so far is the *robot tax*, understood as the levy of a tax on the work performed by a robot. In fact, this new way of taxation has specifically to do with the impact of machinery (robots) replacing work currently performed by workers. It is not unthinkable that a rapid process of robotisation could demand an urgent and firm response of the State aiming at both slowing down the speed of automatisisation and giving support to the redundant workers affected. There would be born the idea of a robot tax to face a potentially major social problem.<sup>57</sup> There are alternative means to compensate for the loss of relevance of labour in the financing mix in an emerging digital economy. Along these lines, environmental taxes could play a role, especially in those countries, such as Spain, where this type of taxing is still low. Note that both environment and social security (pensions) are very closely linked to the concept of sustainability and their intergenerational dimension. Likewise, consumption

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55 Freeman, B. Richard, Who Owns the Robots Rules the World, IZA World of Labor 2015:5, doi: 10.15185/izawol.5.

56 Both bills are currently in Parliament. Though still modest in terms of revenue (their impact amounts to 1.2 billion and 850 million EUR, respectively), they trace a path that could provide for an increase of financial resources.

57 The Committee on Legal Affairs presented a motion for a European Parliament resolution on Civil Law Rules on Robotics that included a specific reference to a robot tax. However this remark was deleted from the text finally passed [European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics (2015/2103(INL))].



taxes (value added tax, VAT) play a role as an increasingly relevant source of financing.<sup>58</sup>

That said, an additional issue that should be seriously discussed is whether these potential new sources of financing social security should be earmarked. A well-known example is the French *contribution sociale généralisée* (CSG), which is levied as a separate tax on different types of income; but it can also be designed as part of general taxes on property or consumers.<sup>59</sup> In this way, earmarking could be an interesting solution to partly replace (offset) contributions as a stable source of social security financing. This motion for debate is still pending in Spain: the challenges to the sustainability of its social security system urge to open it.

## VI. Conclusion

Throughout this chapter, attention has been drawn to the impact of the rise of platform economy on the financing of Spanish social security, a typical Bismarckian system. To recap, the following concluding remarks should be highlighted.

1. The rise of the platform economy and, in a broader sense, the process of digitalisation will affect the sustainability of public finances. Although long-term economic projections are moderately positive, we already observe that output is less dependent on labour. The consequence of this shift of income distribution is that tax systems will have to be (partly) redesigned to preserve welfare states. And in particular, in this new economic environment the dependence of typical earnings-related (social insurance) social security systems on social contributions threatens to seriously harm the financial balance of the system once the platform economy gains greater weight. The question lies in assessing the best way to tackle this threat.
2. Focusing on Spain, the emergence of the platform economy potentially generates financial risks to the social security system which stem from

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58 *Spasova, Slavina/Ward, Terry*, Social Protection Expenditure and its Financing in Europe. A Study of National Policies, European Social Policy Network (ESPN), Brussels: European Commission 2019, p. 122, doi: 10.2767/145960.

59 See, for example, the Belgian case where part of VAT revenue is earmarked for social security. See *Hindriks, Jean/Baurin, Arno*, Financement des pensions: rétrospectives et perspectives, in: *Reflets et perspectives de la vie économique*, 58 (2019) 1, doi: 10.3917/rpve.581.0097.



three circumstances. One, the exclusion from the obligation to pay contributions of self-employed persons who are only obliged to register with social security if the activity is performed on a regular basis in the sense that a minimum level of income is reached. Two, legal misclassification, given the fact that the inadequate – though frequently sought – status of self-employment entails in practice a lower amount of contributions. And three, lower social contributions as a projection of the income linked to short-time activities, a new form of “atypical” employment progressively becoming typical.

3. Some steps could be taken in order to adapt the system to the new economic environment and to cope with these financial risks. Namely, regularise activities that fall outside the scope of the Special Scheme for the Self-Employed; implement a new system of social contribution for self-employed persons; and, above all, correct legal misclassification of platform workers through an adequate recognition of their professional status (employees) by reinforcing the scope of the General Scheme of Social Security.
4. Nevertheless, these measures will not be enough to tackle the major challenges faced by a typical Bismarckian social security system. On the one hand, the role of social contributions as the main source of financing of an earnings-related system of social security is partly in question due to the already mentioned shift of income distribution towards capital – against labour. And, on the other, the population is ageing as a consequence of a longer life expectancy and the retirement of baby boomers, bringing along a substantial increase of pension expenditure.
5. In order to preserve its long-term sustainability, the financial structure of the Spanish social security system should be adapted. It is important to note that not doing so in a context of population ageing would imply growing imbalances due to the financial strain caused by said process of ageing that would probably lead to reforms seeking a retrenchment of expenditure and causing an exacerbated polarisation of the labour force.
6. A first (and, in my view, unsatisfactory) response would be the increase of State funds to offset the foreseeable stagnation of social contributions. In this case, we would see a change in the financing sources of social security without altering the level of public expenditure. In an ageing society, it would entail that social security focuses on poverty relief moving towards a Beveridgean system where precarious (platform) workers face great difficulties to ensure an adequate social protection given their limited ability to enrol second pillar schemes.



7. The alternative takes a different path: increasing State funds to offset the stagnation of social contributions while preserving the current earnings-related system and its financial structure. This deeper involvement of the State in funding social security would enable the Spanish system to cope with the impact of ageing and, at the same time, reinforce its solidarity component to guarantee the adequacy of benefits. Its implementation in Spain demands a major tax reform to increase tax-revenue-to-GDP.



