

# Chapter 3

## The neverending story. Labour market deregulation and the performance of the Spanish labour market

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### 1. Introduction

Labor deregulation is not something new in Spain. Since the enactment of the Labour Code (*Estatuto de los Trabajadores*) in 1980, the first compendium of Spanish labour law of the democracy, there has been more than 50 labour market reforms (Fundación 1º de Mayo 2012). The first one was approved by a social democratic government in the Orwellian year of 1984 and marked the starting point of the growth of atypical employment in Spain. That reform allowed the use of temporary employment contracts regardless of the temporal or permanent nature of the job performed. Paradoxically, many of the subsequent reforms, including the last major reform of 2012 – piloted by a conservative government – aimed at reducing the dualisation of the labour market between temps and workers with open-ended contracts, a problem directly related to the 1984 reform and considered by many to be the main malaise of the Spanish labour market.

This chapter aims at reviewing the results of such reforms in terms of the evolution of the Spanish labour market, paying special attention to the last two reforms approved in 2010 and 2012 by two consecutive governments of different ideology (social democratic in the first place, conservative in the second) but sharing the same flavour in terms of objectives and tools, if not in intensity. In order to do so, section two provides the reader with a brief summary of the evolution and characteristics of the Spanish labour market. Section three presents evidence on the impact of the major reforms undertaken, paying special attention to those approved during the Great Recession. In doing so we follow a deductive approach and not one based on ‘hard’ data or a modelling strategy. The chapter ends with a summary of the major conclusions of the analysis.

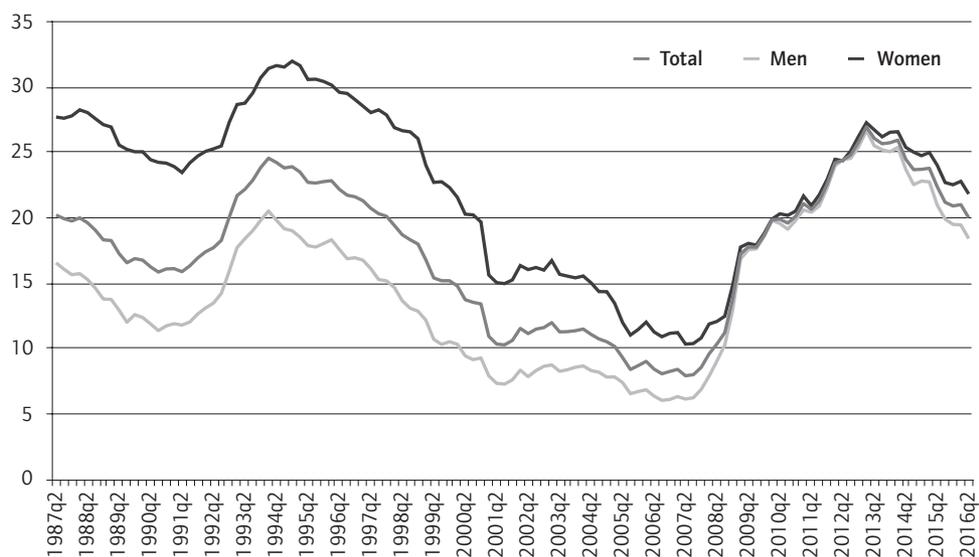
### 2. Spanish labour market through boom and bust

The dubious honour of being one of the countries with a higher unemployment rate and – until the crisis – the highest temporary employment rate explains that there is no lack of updated accounts of the characteristics of the Spanish labour market (Horwitz and Myant 2015; Muñoz de Bustillo and Antón 2011). In what follows we will profit from such abundance and limit our account of the characteristics of the Spanish labour market to five items that we consider describe the essence of its functioning.

(1) *A high unemployment rate across the cycle.* A quick glance at Figure 1, which reproduces the evolution of unemployment rate by gender from 1987 to 2015, is enough to see

how unemployment has been a structural characteristic of the Spanish labour landscape for the last three decades. Even after a decade of high economic growth and employment creation, during which Spain contributed almost one-third of the employment growth of the EU, in 2007 the unemployment rate, at its lowest for decades, was still as high as eight per cent (six per cent among men). Such a high unemployment rate over the cycle, related to the restructuring of the productive system and associated with the opening of the Spanish economy and the democratic transition, is the background to most of the changes in labour market regulation that have taken place in the last three decades.

Figure 1 Unemployment rate in Spain: 1987-2015



Source: authors' analysis from LFS data

In any case, it is important to acknowledge that, throughout this period, Spain experienced a huge increase in labour supply (from 14.7 to 23 million) related, in the first part of the period, to the belated incorporation of women in the labour market and, later, to the huge inflow of immigrants that took place in the decade before the crisis. Regarding the first item, female labour force participation grew from 27 per cent in 1978 to 54 per cent in 2015 (87 per cent in the case of women 35 to 39 years old), i.e. from four million to 10.5 million. Regarding the second, in a little over a decade Spain went from having a negligible foreign-born labour force, around one per cent in the mid-1990s, to 15 per cent in 2009, increasing the labour force by 3.4 million. Such an increase in labour supply, usually kept out of the list of the usual suspects in the Spanish unemployment malaise, is, from our perspective, another important element to take into consideration when explaining the evolution of the Spanish labour market. It is well known (Okun law) that, under the assumption of constant labour productivity (or constant labour productivity growth), the absorption of growing numbers of new entrants to the labour market requires higher levels of GDP growth. Without such extra growth, the increase in supply will translate into a lower decrease in unemployment rates.

Obviously, once the *ceteris paribus* assumption is relaxed, allowing for interaction between the variables, the result becomes uncertain. For example, the increase in the labour force might trigger changes in effective demand increasing GDP growth, or eliminate bottlenecks in certain sectors, such as construction or domestic services, that might translate into further GDP growth. However, such changes cannot be taken for granted or, at least, not at the level of intensity needed to compensate in full the unemployment implications of a large increase in the labour force. For those scholars who believe that the major restrictions on growth are found on the supply side of the economy, the expansive effects of the increase in the labour force will dominate the equation. For those who consider that there might be important short-term demand restrictions on growth, the increase in the labour force will not always be, by itself, enough to trigger the level of economic growth needed to offset fully its impact on unemployment.

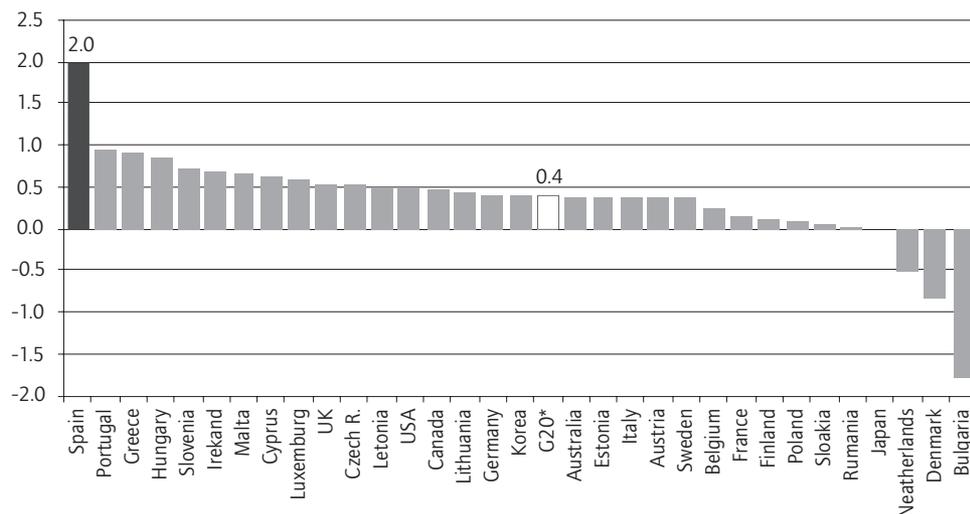
In conclusion, the changes in demand and supply of labour are clearly interrelated: immigration grew because labour demand was growing and such growth in demand was partially explained by the availability of labour; while the significant growth of the labour force also left its imprint in terms of a lower rate of reduction of unemployment during the long years of GDP growth.

(2) *High employment elasticity to changes in GDP.* Employment and unemployment in Spain are extremely sensitive to changes in the economic cycle. The behaviour of employment during the Great Recession 2008-2013 is a good example, although not the only one, of the high elasticity of employment to changes in GDP compared to other OECD countries. We can see in Figure 2 that Spain has the highest employment elasticity to changes in GDP of the countries in the sample, with a sensitivity that is five times higher than the G20 average. This means that negative demand shocks (such as the last crisis) produce much higher effects in terms of employment destruction than in other countries, amplifying the social impact of the crisis *vis-à-vis* other countries with similar, or larger, drops in GDP. In this sense, Spain seems to suffer from a case of labour market extra flexibility, at least in terms of numerical adjustment to changing economic conditions, and not the opposite.

Such a high elasticity is the result of different factors, acting at different levels of the economy. One of them is clearly the hypertrophy of the construction sector that characterised the Spanish economy during the boom years and until the burst of the construction bubble with the crisis. According to the estimates of Uxó *et al.* (2016), the reduction in the number of jobs directly or indirectly associated with construction and real estate add up to 69 per cent of jobs lost in the period 2007-2014. The end of the construction bonanza meant a sudden and abrupt halt in construction that no reduction in wages could compensate. On a different level, the high rate of temporary employment in the Spanish labour market (see below) allowed for an adjustment in real time of labour demand to the new conditions of the market.

(3) *A high percentage of non-standard employment.* We can see in Figure 3 that Spain was the *avant-garde* of the development of new precarious forms of employment. The above-mentioned labour reform of 1984 generalised the possibility of hiring on

Figure 2 Elasticity of employment to GDP in a sample of countries, 2008-2013



(\*) G20 of high income countries. Elasticity of employment to GDP is defined as the percentage variation of employment divided by the percentage variation of GDP.

Source: ILO, OECD and World Bank 2015: 33-34

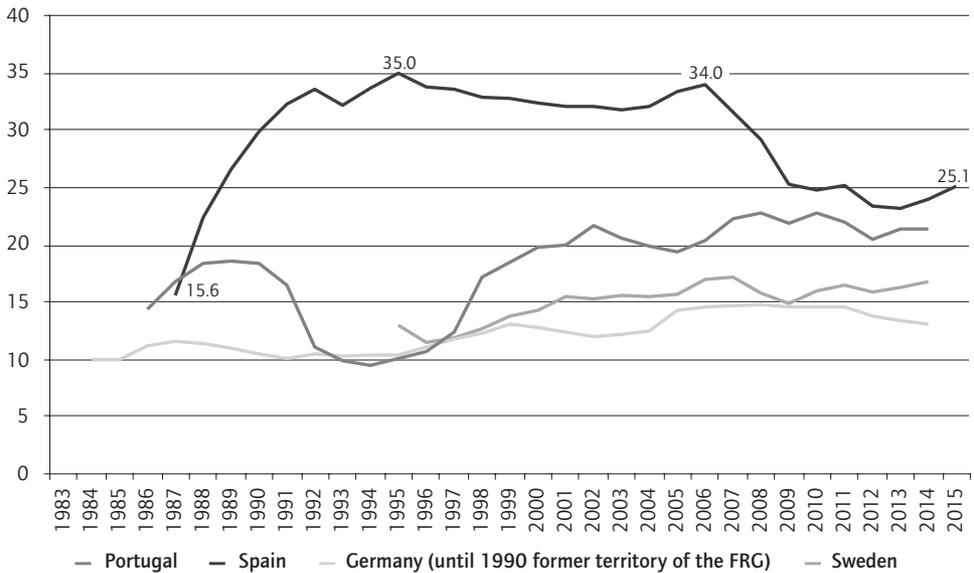
a temporary basis, regardless of the temporary or permanent nature of the job. By doing so, even if with the best of intentions,<sup>1</sup> the legislator started a dynamic of mass hiring using the different new types of temporary contracts. The result was that, in less than a decade, more than one-third of employees were hired by means of a temporary contract. In the following decade, many different measures were approved to reduce the temporality rate, both by promoting different means for the transformation of temporary into open-ended contracts and by limiting the use of chain temporary contracts and increasing their termination cost, although the temporality rate proved resilient to these efforts. In fact, only with the coming of the economic crisis and the concentration of the destruction of employment on temporary workers did the Spanish temporality rate show a major reduction. However, such a change in trend seems to be contingent on the crisis since, with the recovery of the economy, the temporality rate is again on the rise (from 23 per cent to 25 per cent in two years).

Together with its extension and prevalence, another important characteristic of temporary contracts in Spain is their relatively short duration: for example, in October 2014 as many as 25 per cent of all temporary contracts had a duration of fewer than seven days while only 0.4 per cent were for more than one year.<sup>2</sup> In terms of the type

1. The reform aimed at facilitating the creation of employment after years of economic stagnation and growing unemployment. To give an idea of the ethos of the moment, in the presentation of the project of the Labour Code few years earlier, the Minister of Labour, Mr. Calvo Ortega, defended that 'in this moment, the dialectic between open-ended employment and temporary employment is false and unreal, and the authentic dialectic, in a moment of crisis, is temporary employment, part-time employment or unemployment' (Valdés Dal-Ré 2005: 38).

2. Almost 43 per cent of temp contracts do not specify a duration.

Figure 3 Temporary employment as a percentage of total dependent employment in Spain, Portugal, Germany and Sweden: 1983-2015



Source: authors' analysis from European LFS data and Spanish EPA

of workers affected, as is to be expected, most new entrants to the labour market have temporary contracts; thus, high temporality among young employees is the rule. However, that does not mean that older workers are protected against this type of employment relationship; in fact in 2014 workers over 40 years old made up 35 per cent of all temporary employees (Muñoz de Bustillo and Pinto 2016).

Temporary employment is clearly the dominant type of precarious employment in Spain, but other types of non-standard employment are also present in the Spanish labour market. In this respect, Spain, even now, has a larger than average presence of self-employment and a growing percentage of part-time (PT) employment.

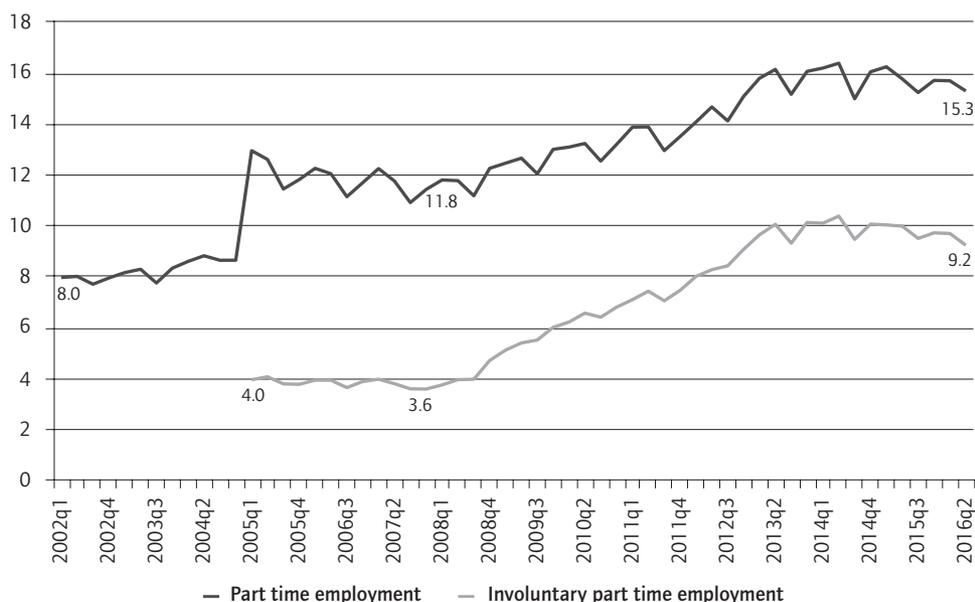
Regarding the former type of employment, there is a growing concern that self-employment is being used in a denaturalised way as a substitute for a standard employment relationship, often called 'bogus self-employment'. In fact, the Self-Employment Code of 2007<sup>3</sup> created the figure of 'economically dependent self-employee' (TAED, in the Spanish acronym: *Trabajador Autónomo Económicamente Dependiente*) to address the issue of self-employees working almost exclusively for one customer/client. There are no statistics about the extension of this type of 'employment' relationship, but it is estimated that around 13 per cent of the self-employed are

3. *The self-employed workers statute*, 20/2007 law of 11 July. Chapter III deals with the professional regimen of the economically dependent autonomous worker.

TAEDS.<sup>4</sup> The transformation of an employment relationship into a mercantile one has important implications for the well-being of workers regarding the reduction of their rights in terms of employment protection, paid vacation, unemployment benefits, etc., as well as the transfer of labour costs covered by the firm in the case of employees (such as social security contributions) to the worker. Such a reduction of rights has been only marginally confronted with the creation of this new figure of TAED.

In relation to the growth of part-time employment, it is important to acknowledge that PT employment never enjoyed much popularity in Spain. We can see in Figure 4 that, before the crisis, the rate of PT employment was around 11 per cent. With the crisis, there has been an important increase in the use of PT by firms, reaching an all-time high of almost 16 per cent by the end of 2015. More interesting than this change is the overarching involuntary nature of PT in Spain: 62 per cent of PT workers are working part-time because they had not been able to find a full-time job. The crisis has produced an increase in involuntary PT working across most EU Member States, but there are very few countries – with non-marginal PT rates – in the EU (Italy and Cyprus) which have such a high involuntary part-time employment rate.

Figure 4 Part-time and involuntary part-time employment rates (per cent of total employment) in Spain: 2002-2016



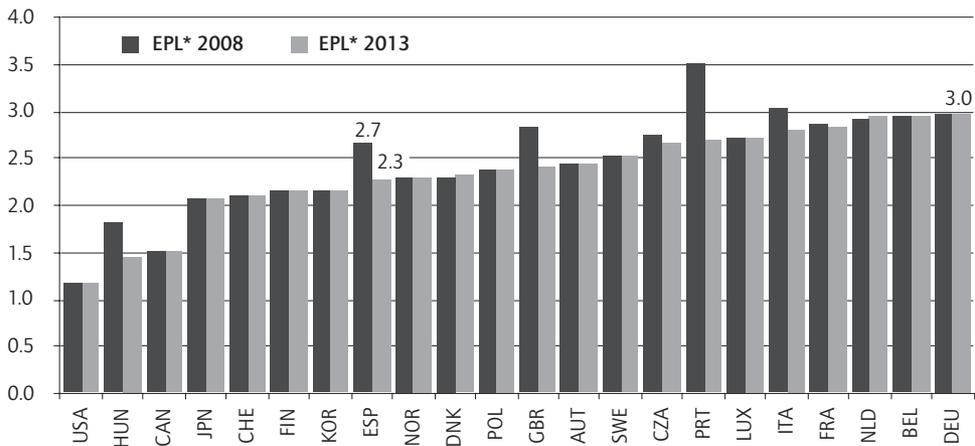
Source: authors' analysis from Spanish EPA

4. Estimates based on INE data. UPTA: *Los autónomos dependientes crecen un 14,5% desde marzo de 2013* (Miércoles, 7 de Mayo de 2014). [http://upta.es/index.php?option=com\\_content&view=article&id=523:2014-05-07-10-41-08&catid=1:latest-news&Itemid=18](http://upta.es/index.php?option=com_content&view=article&id=523:2014-05-07-10-41-08&catid=1:latest-news&Itemid=18)

(4) *A dual labour market.* The existence of a large group of temporary workers alongside a still-large but decreasing group of workers enjoying once-standard (full-time, open-ended) employment relationships is often considered the culprit of the Spanish unemployment malaise. For example, a 2012 OECD report stated: ‘Tackling labour market dualism is key in Spain, and therefore the reform’s objective of rebalancing labour protection by lowering excessive employment protection for workers with permanent contracts is a step in the right direction’ (OECD 2012: 2). In the same line of reasoning, Wölfl and Mora-Sanguinetti (2011) argue that: ‘Very high *de facto* severance payments in permanent contracts has resulted in a rigid dual market with adverse effects on unemployment and productivity’ (p. 2). This has also been the mantra guiding the labour market reforms developed in the last two decades. In the next section we will have the chance to discuss the logic behind the argument in more detail. Here we will examine the extent to which the claim of high *de facto* employment protection can be sustained with the data normally used when addressing this issue: the OECD employment protection legislation (EPL) index.<sup>5</sup>

As we can see from Figure 5, which reproduces the widely-used employment protection legislation index of regular employees, developed by the OECD, Spain does not stand out in terms of EPL regarding employees with open-ended contracts. Certainly not in 2013, after the last major labour reform that left Spain with an EPL below the simple average of the countries of the sample; but not even before the crisis, when Spain had an EPL index higher than the average but still lower than the index of Germany, Belgium or the Netherlands.

Figure 5 EPL of regular employees



Source: OECD 2013, EPRC\_V3: weighted sum of sub-indicators concerning the regulations for individual dismissals (weight of 5/7) and additional provisions for collective dismissals (2/7). It incorporates 13 detailed data items.

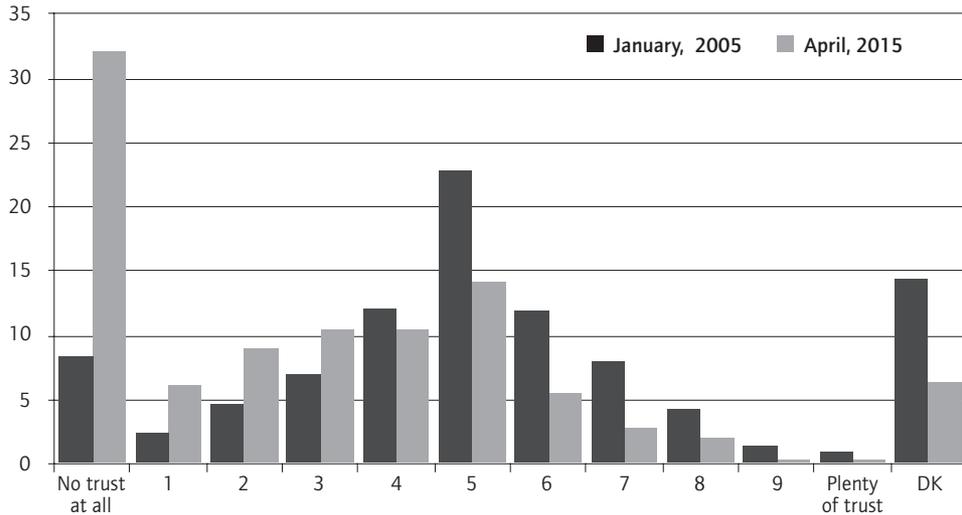
5. For details and a critical review of the OECD EPL index, see chapter 1 in this volume.

Interestingly, where Spain does stand out is in the EPL index for temporary workers, with a value for 2013 (EPT\_V3) of 3.17 (68 per cent higher than the average for the sample of countries in Figure 5, which is 1.88). This value puts Spain at the forefront in terms of restrictions on the use of temporary employment. Looking at the position of Spain in both sets of indexes from a cross-country perspective, we would have to conclude that the Spanish oddity is the higher level of restrictions imposed on temporary contracts, and not the privileged position enjoyed by employees with open-ended contracts *vis-à-vis* their OECD colleagues.

(5) *A relatively high coverage of collective agreements and moderate wage increases through social dialogue in a context of relatively weak and battered trade unions.* The last element to address in our brief review of the characteristics of the Spanish labour market is the structure and extension of collective agreements and the role and strength of trade unions. In this respect, four elements stand out: (a) a relatively high (but decreasing) coverage of employees by collective bargaining, related to the *erga omnes* principle under which collective agreements (CA) signed by the representative trade union and employer organisations are automatically extended to all workers in the scope of activity of the CA, as well as the principle of *ultra-activity*, according to which the CA was enforceable, even after the end of its period of validity, until a new CA was signed (although this is now extinct since the 2012 reform); (b) the dominance of the CA at the provincial level, although with a reasonably high level of coordination since the main lines of wage bargaining are frequently set through negotiations between the trade union and employer organisations at the national level. The *3<sup>rd</sup> Agreement for Employment and Collective Bargaining*, setting wage growth at 1% for 2015 and 1.5% for 2016 is an example of such a type of coordination; (c) low membership rates but high participation in trade union elections (conducted every four years); and (d) a deterioration in the public image of trade unions (as well as other institutional actors) due to own errors (corruption cases in specific regions), a lack of effectiveness in fighting back against austerity policies and a fierce public opinion campaign during the toughest years of the crisis, among other things.<sup>6</sup> In this respect, Figure 6 is illustrative regarding the loss of trust faced by trade unions in Spain, with the average level of trust (on a scale of 0-10) dropping from 4.5 to 2.6 in a decade.

6. This campaign was orchestrated by the Conservative government and by major media. For example, trade unions were accused of fighting for the interests of those employed: 'I ask the trade unions when are they going to think about those without a job; when will they stop thinking about their specific interests (...) instead of the interests of the workers' (María Dolores de Cospedal, Secretary General of Partido Popular, *El Mundo*, 17/03/2012); or of having strange and unclear finances: 'The mystery of trade union financing' *El Mundo*, 18/11/2013). Special groups of workers, such as public employees (the public sector employees' union CSIF reacted with a campaign in defence of the dignity and work of public employees) and teachers (who started a campaign in defence of public education) were also targeted. There has also been an increase in the use of an article of the Penal Code (315.3) against picketers (around 300 instances, according to one trade union); etc.

Figure 6 Trust in trade unions in Spain: 2005 and 2015



Source: authors' analysis of *Barómetro* 2588 and 3080 (CIS)

### 3. Impact of the labour market reforms on employment and working conditions

We can see in Figure 7 that, in terms of GDP reduction, Spain reached the bottom in 2013; while employment started growing the following year. Altogether, the crisis has meant a return to 2005 in terms of GDP and to 2002 in terms of employment level. The official discourse, making use of the logic *post hoc ergo propter hoc*, links the recovery of the economy to the policy of fiscal consolidation followed by the conservative government (and by the previous social democratic government during the second half of its mandate) and by the structural reforms applied, especially in the area of the labour market. In sharp contrast, other researchers argue that the policy of austerity pursued since May 2010 can only be credited with deepening the crisis (the second dip of 2011-13) and delaying the recovery (Muñoz de Bustillo 2014a, 2014b), linking the improvement of the economy to factors of a different nature such as the relaxation of the deficit reduction goal by the European Commission (or the failure to fulfil it in 2014 and 2015, an election year),<sup>7</sup> the development of an aggressive expansionary monetary policy by the ECB, the depreciation of the euro or the fall in energy prices (Rosnick and Weisbrot 2015; Tilford 2015).

7. In 2015, Spain had a public deficit of five per cent, well beyond the 4.2 per cent target agreed with the European Commission.

Table 1 Main changes in labour market regulation during the crisis

Measures	Comments
New open-ended contract ( <i>Contrato de trabajo por tiempo indefinido de apoyo a los emprendedores</i> ) for workers under 30 years old for firms with less than 50 employees. (ii)	Firms benefit from different incentives, including 50 per cent of the unemployment benefits not taken up by the hired employee; a lump sum subsidy of EUR 3 000 per employee; other incentives for encouraging the hiring of specific groups of workers; and one year trial periods.
Measures to facilitate changes by the employer in the working conditions specified in the labour contract or collective agreement. Such changes include geographical mobility and changes in working time, pay, functions, etc. (i) (ii)	The mere expectation of future losses is considered as a cause enough for implementing such changes. This might lead to the deterioration of employment security and working conditions
Firm-level collective agreements are given priority over national, regional or sectoral agreements. (i) (ii)	Potential bargaining problems for small firms (80 per cent of firms with employees have fewer than six, the required number to have a trade union representative). This might weaken bargaining power and lower wages.
Removal of the requisite of administrative authorisation for collective dismissals ( <i>Expedientes de Regulacion de Empleo, ERE</i> ). (ii)	The existence of such a requisite acted as an incentive for firms to negotiate collective dismissals, often 'softening' the impact of plant downsizings and improving the conditions of fired workers.
Changes addressed to facilitate dismissals for economic, technological, organisational or productive reasons with minimum severance payments (20 days per year). (i)	Reduction in dismissal costs; risk of increasing the rate of dismissals. Lower compensation for fired workers now facing a long period of unemployment (in 2012, 30 per cent of the unemployed had been unemployed for more than two years).
Reduction of redundancy payments for non-justified dismissals. (ii)	From 45 days per year (up to 42 months) to 33 days per year (up to 24 months).
Changes addressed to facilitate dismissal without severance payment in case of justified absenteeism (in the case of sickness, for example). (i)	Increase of insecurity, potential risk of increasing <i>presenteeism</i> with undesired social effects and the deterioration of working conditions.
Extension of collective dismissals to the public sector (excluding civil servants). (ii)	Radical change of the stability of employment principle, once a basic element of the public employment compact.
Reduction of pay and social benefits (sickness, days off, leave, etc.) and longer working hours for public sector employees. (i) (ii)	Worsening of working conditions for public employees and eventual demonstration effect for private workers.
Possibility of increasing the number of working hours (complementary hours) of part-time employees. Reduction in the period of notice for changes in working time. (ii)	Greater flexibility for firms to adapt PT working to their needs. Increase in uncertainty regarding working hours.
Temporal flat-rate social security contribution (EUR 50/month) for new self-employed workers. (iii)	Facilitation of self-employment. Reduction in social security income.
Reduction in subsidies (in working time and money) to trade union and employer associations. (iv)	Weakening of trade unions with lower income and fewer human resources to carry on activities in a moment of high demands.
Freezing of minimum wages in 2011 and 2013 (v). Increase of 0.6 per cent in 2012 and 0.5 per cent in 2014.	Possible increase of the incidence of low pay and negative effects on negotiated wages.

(i) *Real Decreto-ley 10/2010, de 16 de junio, de medidas urgentes para la reforma del mercado de trabajo.*

(ii) *Real Decreto-ley 3/2012, de 10 de febrero, de medidas urgentes para la reforma del mercado laboral.*

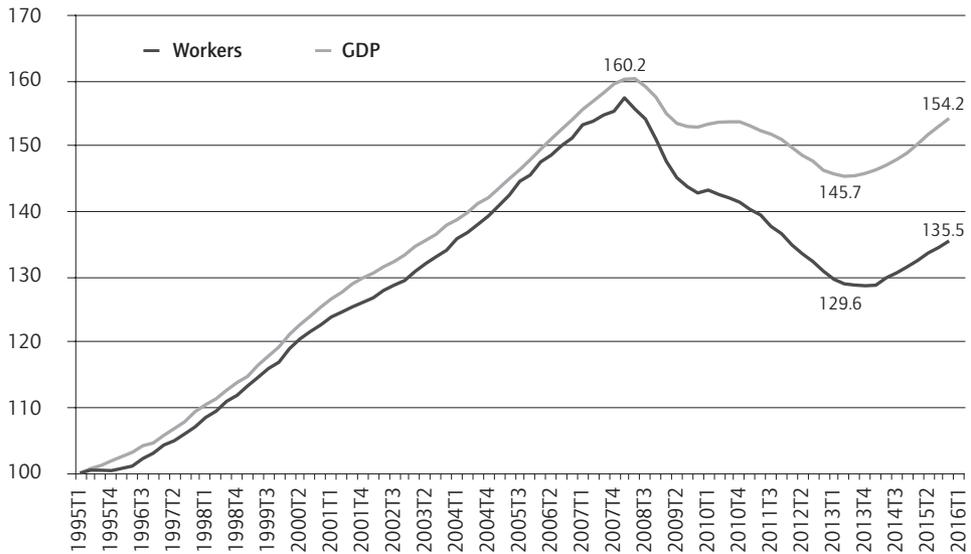
(iii) *Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización.*

(iv) General State Budget, different years. Overall reduction of no less than 60 per cent (CCOO, 2016)

(v) *Real Decreto-ley 1717/2012 and 1046/2013.*

Source: updated from Muñoz de Bustillo and Antón 2015: 473

Figure 7 Evolution of real GDP and employment in Spain: 1995-2016 (1995q1=100)



Source: authors' analysis from *Contabilidad Nacional de España, Base 2010*, INE

The master lines of Spanish labour market reform, as expressed in numerous European Commission and IMF documents, aimed at two major goals. The first one is increasing the flexibility of open-ended employment (understood as facilitating changes in working conditions and dismissals) through different measures such as the creation of new open-ended employment contracts with lower redundancy payments and the redesign of the system of collective agreements. The second one, obviously connected to the previous, is the development of a process of internal devaluation through wage reduction in order to increase international competitiveness. Table 1 presents a summary of the major measures taken. In what follows we will attempt to gauge their impact in terms of trends in employment and working conditions since their enactment.

### 3.1 Reducing labour market segmentation

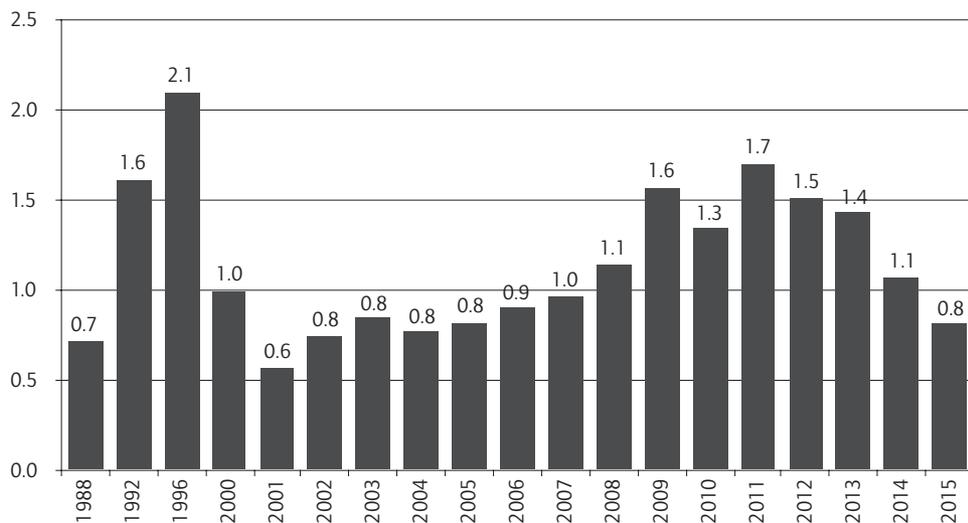
Since the mid-1990s and aiming at reducing labour market segmentation, understood in a simple, almost caricature-like way as a dual labour market with *outsiders* (employees with temporary contracts) and *insiders* (employees with open-ended contracts protected from the ups and downs of the economy),<sup>8</sup> different governments have approved measures directed at decreasing the use of temporary contracts by firms and favouring the use of open-ended contracts. In the former case, measures were taken in order to make it more difficult for firms to resort to temporary employment by limiting the use of chain temporary contracts, i.e. the maximum time a given worker can be successively hired by a given firm using temporary contracts (now 24 months in

8. For a more nuanced concept of labour segmentation, see Rubery and Piasna (2016).

the last 30), and increasing its cost through the introduction of a termination payment related to the duration of the contract (currently 12 days per year). Regarding open-ended contracts, different measures were taken to reduce dismissal costs (Table 1, rows five and six) by: (1) reducing redundancy payments in cases of unjustified dismissal from 42 days per year (with a maximum of 42 months) to 33 days per year (maximum of 24 months); and (2) facilitating the use of the procedure of justified/fair dismissal for economic, technical or organisational reasons, with lower dismissal costs (20 days per year with a maximum of 12 months).

The rationale behind such a policy is two-fold: a) employment protection for employees with open-ended contracts in Spain is comparatively high. However, we have seen in section 2 that this is not so. In fact, in aggregate terms, we can see in Figure 8 that redundancy payments, although comparatively higher than in the rest of the EU,<sup>9</sup> are relatively low, at around 1.5 per cent of total labour costs during the crisis, in the context of massive termination of employment and dismissals.

Figure 8 Payments to dismissed employees as percentage of total labour costs



Source: *Encuesta de Coste Laboral*, different years

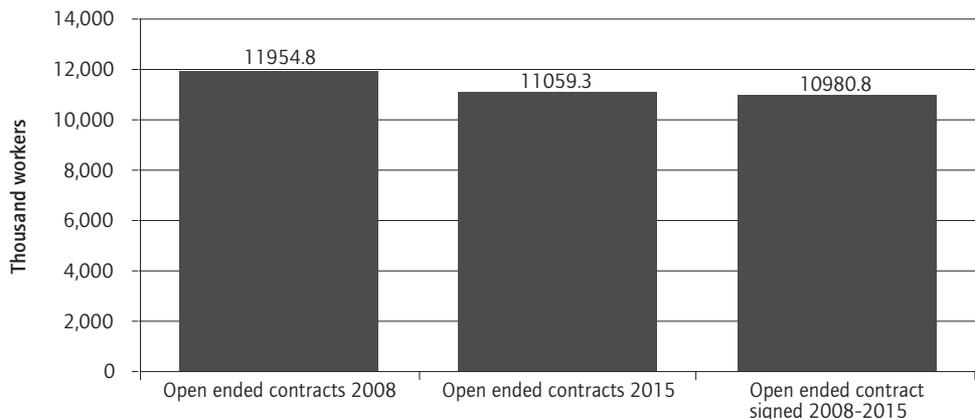
b) The allegedly high dismissal cost of employees with open-ended contracts transforms them into virtually permanent employees, regardless of the situation of the firm, delaying and slowing the adaptation of firms to changes in the economy and making their survival more difficult. Once again, the available information contradicts such

9. In 2012, the share of payments to dismissed employees as a percentage of total labour costs in Spain was the highest of all EU countries for which there is available data (Eurostat, Labour Costs Survey 2008 and 2012 – NACE Rev. 2). The average for the EU was 0.39. It is important to keep in mind that this type of payment is just one of the costs associated with the dismissal of workers. The average position held by Spain in terms of the EPL of regular workers, shown in Figure 5, implies that Spain ranks lower than others in some of the items constituting the index of employment protection such as, for example, notice periods (one month in Spain compared to up to six months in Sweden, Finland or Denmark for employees with twenty years of seniority in the firm) (OECD 2008).

an interpretation. Open-ended contracts in Spain are much less secure than usually believed. It is true that the destruction of employment in the first years of the crisis concentrated on temporary employees (89 per cent of jobs lost from the first quarter of 2008 to the first quarter of 2011).<sup>10</sup> However, as the crisis dwelled and temporality rates decreased, the destruction of open-ended employment increased. Thus, across the whole period of (aggregate) employment destruction, almost one-third of the total employment destroyed corresponded to employees with open-ended contracts (around one million). The contribution of this group of workers was larger in construction (62 per cent) and manufacturing (40 per cent).<sup>11</sup> All in all, this means that *insiders* were far from fully protected against losing their job during the crisis.

Following Toharia and Malo (2009), another way to gauge the actual level of job security enjoyed by ‘permanent’ employees in Spain is by looking at the relationship between the number of dismissals and total private sector employees. According to their calculations, dismissals were, before the crisis, equivalent to around five per cent of total private open-ended employment. Our own analysis for the 2008–2013 period points to an average rate of 8.5 per cent. The equivalent rate for the 2007–2015 period is 7.6 per cent. Such a rate means that, in a ten-year timeframe, almost one-half of open-ended employees in the base year would have been affected by dismissals.

Figure 9 Open-ended employment and open-ended contracts signed in Spain: 2008 and 2015



Source: authors' analysis from *Servicio Público de Empleo Estatal*, SEPE (State Public Employment Service) and *Encuesta de Población Activa*, EPS (Labour Force Survey)

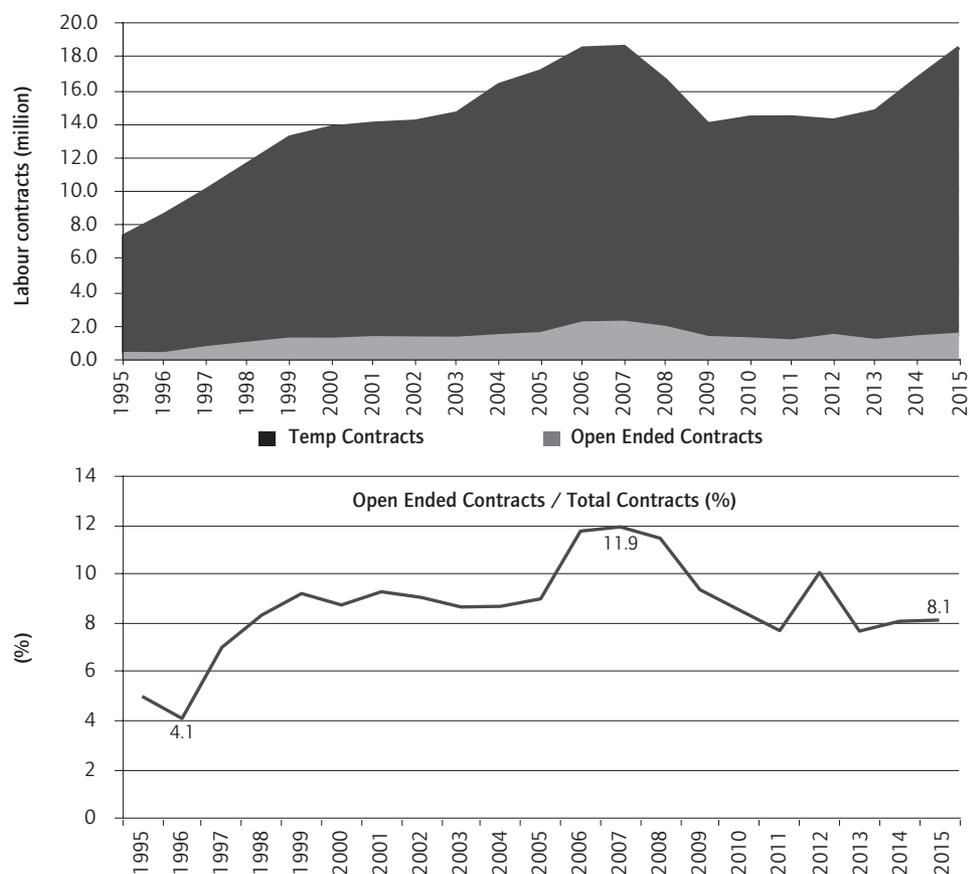
Another indirect way to gauge the risk of the dismissal of employees with open-ended contracts is by comparing the evolution of the number of total employees with open-ended contracts since the beginning of the crisis and the number of open-ended labour contracts signed in the same period. The data reproduced in Figure 9 is eloquent enough

10. Nonetheless, there are compositional effects behind such dynamics, because the contribution of construction to the destruction of employment was very large (54 per cent of all jobs lost from the first quarter of 2008 to the first quarter of 2011), while the temp rate in construction was higher than average: 51 per cent at the beginning of 2008 compared to an average of 30 per cent.

11. In services there was actually an increase in open-ended contracts.

not to require further comment: eleven million new open-ended contracts were signed, even if the total number of employees engaged on such a type of contract decreased by almost one million – from 11.9 to 11.1 million. These numbers, even allowing for the voluntary change of employment of a part of these employees and for retirements,<sup>12</sup> imply a high incidence of the termination of contracts among open-ended employees.

Figure 10 Total number of contracts signed according to their temporary or open-ended nature. Spain 1995-2015



Source: authors' analysis from SEPES (*Movimiento Laboral Registrado*) and EPA

Taking this information into consideration, it is fully understandable that, in 2011, according to the European Commission (2011), as many as 71 per cent of respondents (almost three times higher than the existing temp rate) declared themselves to be

12. The estimated number of open-ended employees (calculated using the employment dependent rate and the open-ended employment rate of older workers) retiring during the period is around 1.4 million. Regarding transitions from open-ended employment to open-ended employment, the estimates produced by Gómez Jiménez (2016), based on LFS quarterly flow data for 2005-14, point to very low probabilities (transitions/stock) of around 1 per cent.

concerned (15 per cent) or very concerned (56 per cent) about losing their job. This result is certainly difficult to match with the interpretation of employees with open-ended contracts as care-free people who, having a secure job, use their market power to set their working conditions without taking into consideration the economic situation. In the terms used by Toharia and Malo (2009), renowned Spanish labour economists: 'If someone thinks that having an open-ended contract is a guarantee of permanence, he is totally wrong. The data simply refutes such belief.' (p. 21).

In any case, to what extent has reform increased the use of permanent contracts? Figure 10 reproduces the evolution of the total number of labour contracts signed according to their temp/open-ended nature, as well as the ratio of open-ended to total contracts. The graph shows clearly the slump of 2009 and the recovery of the economy from 2013 but it does not show, so far, any major change in terms of the low preference of firms for open-ended contracts, one of the objectives of the reform.

### 3.2 Overall assessment

The combination of massive unemployment, growing long-term unemployment (from 21 per cent in 2008 to 60 per cent in 2015),<sup>13</sup> lower unemployment benefits coverage<sup>14</sup> and different aspects of labour reform which have increased the leverage of firms *vis-à-vis* employees helps to explain the undeniable process of wage deflation (as documented, for example, by Conde-Ruiz *et al.* 2015; García *et al.* 2014; Fernández and Rodríguez 2015; and Uxó *et al.* 2016). In this respect, we can say that the reform attained one of its goals. A different question is to what extent such changes have accelerated the recovery of the economy, increasing the intensity of employment growth.

One way to see whether labour reform has increased the employment generation capacity of GDP growth in Spain is by looking at year-on-year elasticity rates before and after the reform. Once again, it could be that the time elapsed since the reform is not long enough to allow for all its 'employment creation potential' to unfold but, according to the result reproduced in Figure 11, it does not seem that there has been any major change in the direction expected by those backing the reform. The elasticity of employment to changes in GDP in the two years of economic recovery is similar to the elasticity of the years before the crisis; if anything, it is slightly lower.<sup>15</sup> Moreover, if we take into consideration that there has been a significant increase in part-time employment during the crisis and recovery, we can argue that elasticity in terms of people employed and characterised in Figure 11 would overestimate the real employment generated in terms of hours (full-time equivalent). Indeed, according to the National Accounts, the index of employment to full-time equivalent employment dropped from 89.4 in 2007 to 87.9

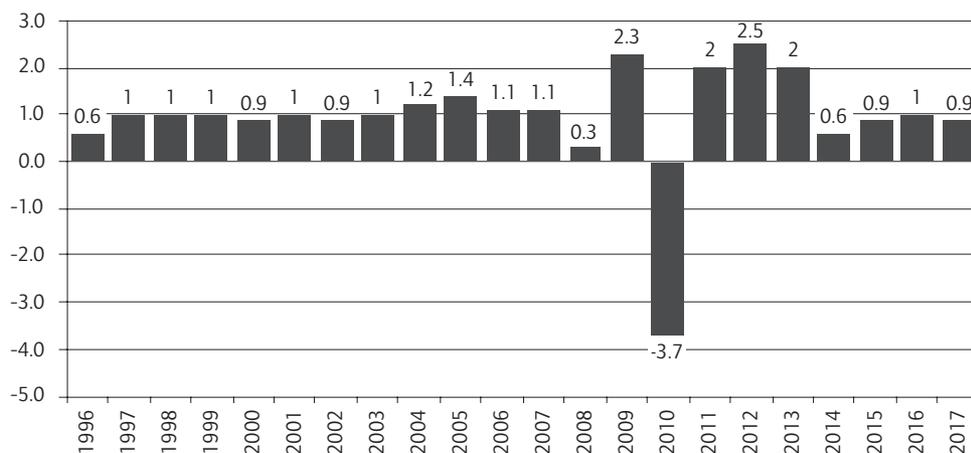
13. Measured as the percentage of unemployed workers unemployed for more than one year. Spanish Labour Force Survey data.

14. In this case as a result of the long duration of the crisis and the corresponding increase in long-term unemployment, with important implications in terms of the unemployed exhausting their entitlement to unemployment benefits (a maximum of 720 days).

15. The 'abnormal' result corresponding to 2010 is explained by the maintenance of the dynamic of employment destruction that started in 2009 in a year in which, due to the countercyclical measures being followed, GDP was roughly stagnating.

in 2014. Moreover, neither does the aggregate picture show a reduction in the intensity of the destruction of employment in the down years since the elasticity of employment of 2013 is similar to the elasticity of the year prior to the reform.

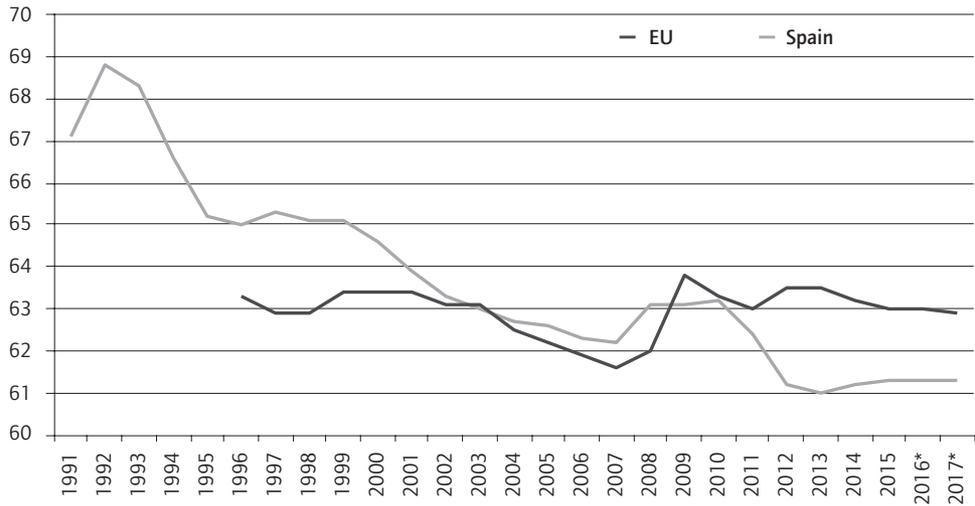
Figure 11 Elasticity of employment to GDP. Spain 1995-2015



Source: authors' analysis from AMECO (Gross national income at 2010 reference levels, deflator GDP) and INE (Encuesta de Población Activa)

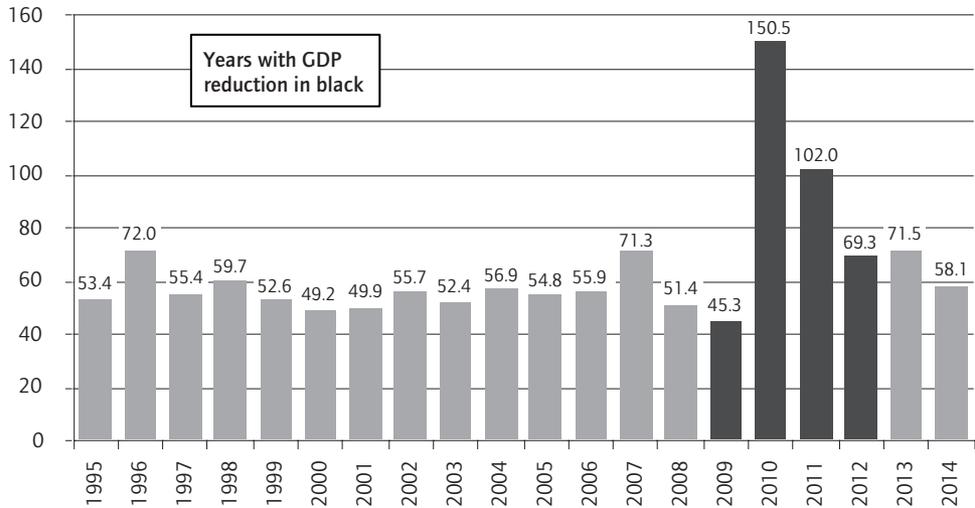
The reduction of wages and the destruction of employment (with the corresponding increase in productivity) have produced a major decrease in the wage share (Figure 12) and the development of a growing gap with the EU on this measure. From the perspective of the distribution of output between wages and profits, the decrease in wage share means that the cost of the crisis, in terms of foregone earnings, has been paid mostly by wage earners. If we calculate how the loss in revenue (GDP) from 2008 to 2015 has been allocated between profits (and mixed income) and wages, we observe that wages have borne almost 92 per cent of lost income, leaving profits (plus mixed income) largely unaffected – in relative terms – by the crisis. The overwhelming role played by wages in the adjustment is even larger when we look at changes in total wages and profits on a year-to-year basis. We can see from Figure 13 that, during the core years of the crisis in terms of employment destruction (2010-11), wages absorbed the entire drop in GDP; in fact in 2010 the decrease in wages was higher than the overall decrease in GDP.

Figure 12 Adjusted wage share (Total employee compensation as percentage of GDP at factor cost)



\* Forecasted  
Source: AMECO

Figure 13 Share of wages in annual variation in GDP (per cent): 1995-2015



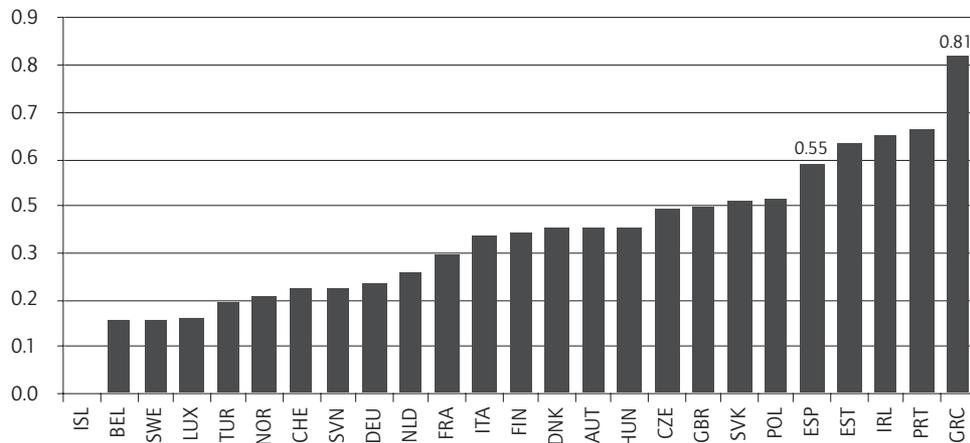
Source: authors' analysis from *Contabilidad Nacional de España Base 2010* (INE)

## 4. Conclusions

We have taken the liberty of borrowing the title of Michael Ende's famous fantasy novel for our paper for two different reasons. In the first place, Spanish labour reform is a never-ending story. It looks like the reform is never radical enough to accomplish its goal. In the second, just like in Ende's novel, the reform is, in our opinion, based more on a fantasy than on a factual account of the workings of the Spanish labour market.

Regarding the first item, a glimpse at Figure 14 is enough to see how Spain has been among the more advanced pupils of the European Union in terms of 'responsiveness to structural reform' as measured by the homonymous indicator developed by the OECD.<sup>16</sup> Still, it does not seem that such a readiness to follow the EC, OECD, IMF and ECB recommendations has paid off in terms of unemployment reduction, neither for Spain nor for most of the vanguard countries of structural reform. However, that does not seem to bother the promoters of structural reform or even make them doubt their potential. The usual response is to argue that reforms carried out at the margin are not sufficiently intense to produce the desired outcomes. In the Spanish case, for example, the recent OECD *Going for Growth interim report 2016* recommends: 'narrowing the gap in job protection between regular and non-regular workers (...) and increasing the flexibility of wage formation by reducing further the administrative extension of sectorial bargaining' (p. 25).

Figure 14 Reform Responsiveness Indicator (2011-14 average)



Source: OECD (2016)

Obviously, the argument that the reform has not been drastic enough, regardless of what evaluations such as the above-mentioned index show or of the opinion of its advocates: *'Tomorrow, we approve the reform of the labour market. You will see that*

<sup>16</sup>. The reform responsiveness indicator is based on a scoring system according to which each priority set in the previous edition of the OECD's *Going for Growth* takes a value of one if 'significant' action is taken the following year, and zero if not (OECD 2012, Box 1.1).

*it's going to be extremely, extremely aggressive, you know, with large flexibility in the collective settlement of agreements and we reduce severance payments. Well, you will see, you will see,*<sup>17</sup> makes it quite difficult to criticise such a perspective on the grounds of its ineffectiveness in improving the performance of the labour market.<sup>18</sup> Confronted with such criticism, the standard response to argue that the reform has not been bold enough could be developed into an argument that can be used farther and farther until the whole Labour Code has been wiped out.

In relation to the second item, we have argued in this chapter that the labour reforms have neither succeeded in changing the preference of Spanish firms for temporary contracts nor in increasing the employment intensity of economic growth compared to its already high pre-crisis level. Obviously, the economic recovery has produced a significant increase in employment, but such increase has been largely based on precarious forms of employment such as temporary contracts and involuntary part-time employment. Moreover, the debilitation of employees *vis-à-vis* firms, derived both from the existence of massive unemployment and the reforms themselves, has led to a process of wage deflation that, by weakening domestic demand, might put in jeopardy the maintenance of the economic recovery. In this respect, it is worth mentioning the recent call made from institutions, such as the OECD or the ECB,<sup>19</sup> for wage increases in order to allow a stronger recovery of the European economy.

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17. Comment by Luis de Guindos, Spanish Minister of Economics and Competitiveness, to Olli Rehn (European Commissioner for Economic and Monetary Affairs and the Euro) and caught by open microphones at a meeting of the Eurogroup, Brussels, 9 April 2012.
18. Another indirect proof of the intensity of the labour reforms of 2010 and 2012 is the reaction of the trade unions: two general strikes, the first on 29 September 2010 in response to the first reform; and the second on 29 March in reaction to the second.
19. 'The case for higher wages is unquestionable' (Mario Draghi, press conference following the meeting of the Governing Council of the European Central Bank on 20 October 2016 at its premises in Frankfurt am Main, Germany) (Smith 2016). 'We need more jobs. But we also need higher wages' (remarks by Angel Gurría, Secretary-General, OECD, 7 July 2016, Paris, at the launch of the 2016 Employment Outlook).

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