

ARITAKE-WILD

Joint European Level Social Partners'
Work-programme 2006 – 2008

Joint Study on Restructuring in the “EU15”
Phase one

National Dossier

Spain

Madrid

28th and 29th April 2008

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Introduction - the Purpose of the National Report

This report on the role of the Spanish social partners in restructuring was prepared for discussion with the national social partners at a seminar held in Madrid on 28th and 29th April 2008. The Spanish national seminar was the eighth in a series of similar meetings to be held in ten European Union member states¹ between April 2007 and June 2008. The report was prepared by the selected external expert for Spain, Antonio Dornelas, working with the expert coordinator for the project, Mr Alan Wild.

The document is presented as an “expert report”. It represents the views of the consultants involved in its preparation and does not purport to represent the views, either individually or collectively, of the Spanish social partners or the Spanish case study company representatives that contributed to it, or those of the European level social partner organisations that were responsible for its commissioning.

The prime purpose of the report is to contribute to the development of a synthesis paper that compares and contrasts the roles of the social partners in restructuring in the ten countries studied with a view to drawing lessons for the future and to help shape the activities and priorities of the social partners at the European level in this area. It also informs readers on the role played by the Spanish social partners in the process of economic restructuring at the national, sectoral and enterprise levels. The outcomes of this phase of the project will be discussed at a seminar in Brussels in June 2008.

By the end of phase two of the project, similar national reports will have been prepared and been discussed by the social partners in all 27 EU member states. It is planned to develop an overall discussion document based on the role of the social partners in restructuring in every country in the European Union for consideration by social partner representatives from throughout the EU.

Frequently, studies of the role of the social partners in restructuring have focussed on well publicised cases where significant numbers of jobs have been lost in “household-name” companies. In this series of reports it is hoped to capture social partner influence on a broader range of restructuring activities that involve not only major job losses in private sector companies, but also what we have chosen to call “silent restructuring”. Silent restructuring includes change processes that have affected significantly the nature of work undertaken within a company or public sector organisation without major job loss. It also describes the changes taking place in small and micro enterprises that typically fall below the radar of official redundancy statistics. In this way the overall study will seek to capture how the social partners have influenced both the quantitative and qualitative effects of anticipating and managing economic restructuring.

The main body of the report is presented in three sections;

¹ Phase one of the project involves Austria (completed); Denmark (completed); France (completed); Greece (completed); the Republic of Ireland (completed); Italy (completed); the Netherlands (completed); Spain; Sweden; and the UK.

- ◇ Section one - A macroeconomic review of restructuring-;
- ◇ Section two – The role of the social partners in restructuring;
- ◇ Section three – Case studies.

Each of the sections were briefly presented and discussed at the national seminar. The Spanish social partners are asked to comment on the accuracy of the report; to suggest areas that might be “over” or “under” stated or omitted; and to assist in the drawing of overall conclusions on the effectiveness of the Spanish social partners at all levels in the anticipation and management of restructuring. The Spanish social partners were asked to consider the following questions and issues during the national seminar:

- ✧ If Spain has not invested heavily in longer term productivity drivers (e.g. education and lifelong learning) during the economic “boom” period of the last 10 years, how will the economy fare if the current decline in economic fortunes continues?
- ✧ What lessons can Spain’s “immigrant amnesty teach other countries?
- ✧ How sustainable are current levels of inward migration?
- ✧ Spain’s progress remains slow, particularly on four domains: innovation and R&D, sustainable development, information society and social cohesion. What challenges does this situation present to the social partners?
- ✧ Spain’s position in global competitiveness indicators has not improved since 2005. Obstacles to improvement are suggested to be low productivity and high labour market rigidities. It seems likely that more, rather than less restructuring will be on the agenda for the future. What are the main challenges that the need to improve competitiveness pose to the Spanish social partners?
- ✧ How do the Spanish social partners foresee future trends of restructuring? Will the current focus on internal restructuring shift toward external restructuring? What trends and tensions do you foresee for the Spanish system of social dialogue and industrial relations in the near future?
- ✧ Why is the pace of restructuring slower in Spain than in other European countries? Will the pace of change inevitably increase?
- ✧ It would seem that the fundamental investments in the future competitiveness of the Spanish economy have not been made in recent years of economic success. Why is this?
- ✧ What relevance must be attributed to the flexicurity debate on the Spanish context of social dialogue? What are the drivers of real or perceived insecurity in employment in Spain that prevent the “flex” part of the equation taking hold?

Finally, it should be noted that the ultimate audience for this document will be “non Spanish” and the authors therefore apologise to the national seminar participants and Spanish readers for providing elements of detail and background that may appear obvious or superfluous to the Spanish reader. The inclusion of this material is essential however if the broader objectives of the project described above are to be accomplished.

Section 1 - A macroeconomic review and trends of restructuring in Spain

1. Summary

Spain has been one of the EU's economic success stories. The macroeconomic stability afforded by the Euro; sound use of EU subsidies; a property boom and the influx of foreign workers have driven growth levels of more than 4 per year. Over the past four years Spain has created two-thirds of all new jobs in the Euro area's biggest four countries. In recent months the boom times seem to have come to an abrupt end. GDP growth and forecasts have slowed significantly; house prices are falling; inflation is rising and consumer confidence is at a 13 year low².

The Spanish population increased by more than 5 million people between 1995 and 2006 and continues to grow partly as a result of a positive birth rate but primarily as result of high immigration. Around 600,000 people enter Spain per year and inward migration into the country is the highest rate per 1,000 of population in the OECD.

Until the recent economic difficulties, over the period 1994 to 2008, Spanish real GDP followed EU country trends but at a rate significantly above the average. In terms of net improvement, Spain performed well, moving from a below average 93.6% in 1997 to above average at 104.7% by 2007. According to the World Economic Forum measures of performance against the Lisbon indicators, Spain ranks below average for the "EU25" in 15th place. The country is amongst the weakest EU performers on "returning people to the workforce" and "upgrading skills". With respect to competitiveness, Spain ranks 29th amongst the 131 countries included on the World Economic Forum's Global Competitiveness Index. Significantly, Spain ranks 95th in the world in the efficiency of its labour market.

Spain's overall employment rate over the last ten years has moved closer the EU15 average as a result a steady growth in the employment of both men and women. The participation rate of Spanish women remains particularly low and almost 30 percentage points behind their male counterparts. An analysis of employment contracts over recent years reveals part-time employment grew from a very low base from 1995 to 2006. Self-employment showed the opposite trend and fixed-term contracts declined from 1995 to 2003 and increased again from 2003 to 2006, in part as a consequence of increases in the use of this contract variety in public administration. In 2006, the proportion of fixed-term contracts in total employment was almost 20 percentage points higher in Spain than the EU27 average. Undeclared work is a significant problem in the Spanish labour market. The recent decision to "regularize" foreign workers who had been in Spain at least three years before the decision (adopted by the Government in 2005) had clear positive effect on the black/grey labour phenomenon.

Spain's expenditure on education as a percentage of GDP is amongst the lowest in the OECD and EU and the increase in public spending on education in Spain from 1995 to 2004 (6.4%) was amongst the lowest in OECD countries. This problem is compounded by the country's relatively poor performance in adult education/lifelong learning. The percentage of the Spanish population aged 25 to 64 participating in education and training in Spain has traditionally been very low. More positively, since

² The Economist March 15th 2008 p16

2005 the gap between Spain and the EU15 average narrowed, and in 2006 the gap had reduced to less than 1% and Spain's performance remains however only marginally better than that in the EU27

The Spanish workforce performs better than the EU25 average in terms of unit labour costs. This is driven however by relatively low wages rather than high productivity per person. According to Tripartite Economic and Social Council (CES), employment creation during the years 1995 to 2005 was concentrated in sectors with relatively low levels of qualifications and income, which may contribute to the explanation of the evolution of productivity and the decline of labour income share.

Spain's economy is relatively "closed". Expressed as percentage of GDP, international trade in goods and services is significantly lower than the EU15 and OECD averages and recently this gap has widened. During the last decade, trade in goods and services in Spain grew by just 5.8% while the EU average increased by 10.8%. Data on types of restructuring indicate that from 2001 to present business expansion has been more frequent in Spain (46%) than across EU (36.5%) and that internal restructuring is less frequent in Spain (25.4%) than in all countries (35.7%). Restructuring as a result of "offshoring" is less relevant in Spain than in other European countries. Employment lost due to offshoring in Spain (8.9%) ranks 12th in the EU27, significantly below Belgium (48.2%), Denmark (45.6%) and Ireland (38.1%). Data from the European Working Conditions Surveys suggest that the two key issues in internal restructuring are working time flexibility and changes in organisational models to secure improved productivity.

Over recent months, and even more since the general election on March 9th 2008, the state of the Spanish economy has deteriorated significantly. The effects of the global credit crunch have coincided with the bursting of the Spanish property bubble that had acted to hide underlying weaknesses in the economy.

According to the IMF, economic growth of 3.8% in 2007 will fall to 1.8% in 2008 and get worse in 2009. This would be the country's lowest growth rate since 1993. They suggest that the construction sector will shed 400,000 jobs over the next two years ³.

Current policy responses involve stimulation of demand through tax changes and public works programmes. However, a predicted tightening in public finances will reduce the margin of manoeuvre to stimulate the national economy currently enjoyed by the government.

Today, productivity and competitiveness remain Spain's biggest challenges. "The Economist" review suggest that reforms to the labour market, the educational system and Spain's research and development infrastructure need to be tackled but any change in policy in these areas take a significant period of time to produce results.

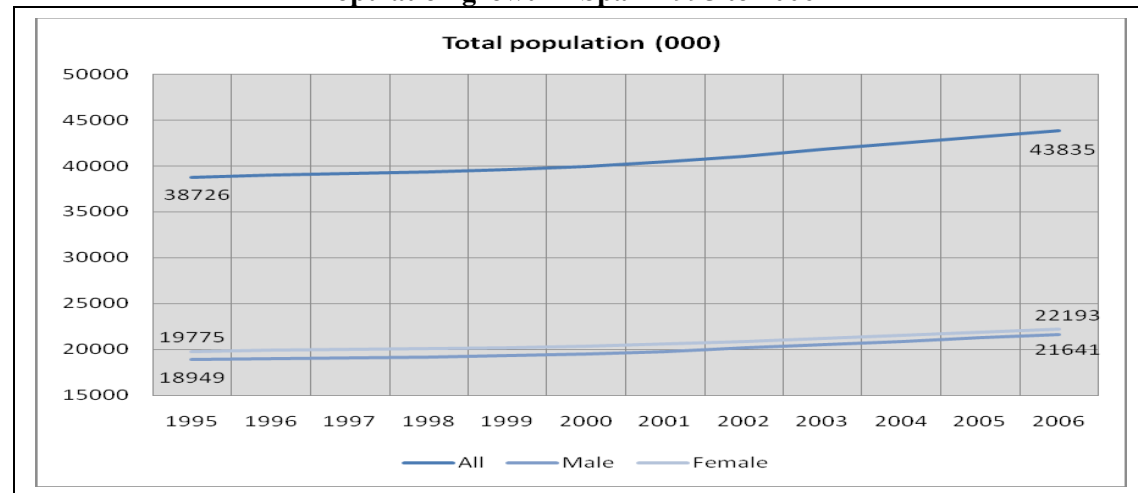
³ The economist April 19 2008 p37

2. Macroeconomic review

Population

The Spanish population increased by more than 5 million people between 1995 and 2006.

Population growth – Spain 1995 to 2006



Source: Eurostat

The average annual growth rate of the population was 0.7% between 1990 and 2004, a figure that compares with 0.3% in Germany and 0.4% in France. World Bank forecasts for the period 2004-2020 a reduction on the growth rate of the Spanish population to an average annual rate of 0.2%, which compares with 0% for Germany and 0.3% for France. OECD forecasts suggest that the ratio of the population aged 65 and over to the total population will increase in Spain from 16.8% in 2005 to 20.0% in 2020. Importantly, the ratio people aged 65 and over to the working population will increase from 37.2% to 42.4%.

According to Eurostat, life expectancy at age 65 increased in Spain by 1.1 year for males and 1.3 years for females between 1996 and 2005 to 17.3 and 21.5 years respectively. This compares with 17.7 and 22.1 years in France, the EU27 best performer.

Current dependency ratios of both “young” and “older” people, expressed as proportion of the working age population, are lower in Spain than in either Germany or in France (see below).

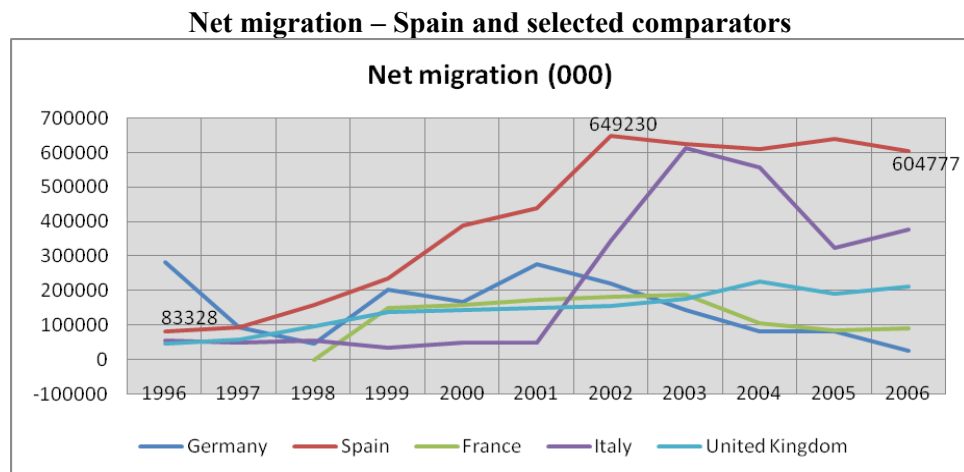
Dependants as a proportion of working age population – Spain and selected comparators

| Country | Population age composition (%, 2004) | | | Dependency ratio (dependants as proportion of working-age population, 2004) | |
|---------|-----------------------------------------|------------|----------|-----------------------------------------------------------------------------------|-----|
| | Ages 0-14 | Ages 15-64 | Ages 65+ | Young | Old |
| Spain | 14.3 | 69.2 | 16.5 | 0.1 | 0.2 |
| Germany | 14.6 | 67.2 | 18.3 | 0.2 | 0.3 |
| France | 18.2 | 65.2 | 16.6 | 0.3 | 0.3 |

Source: Eurostat

Migration

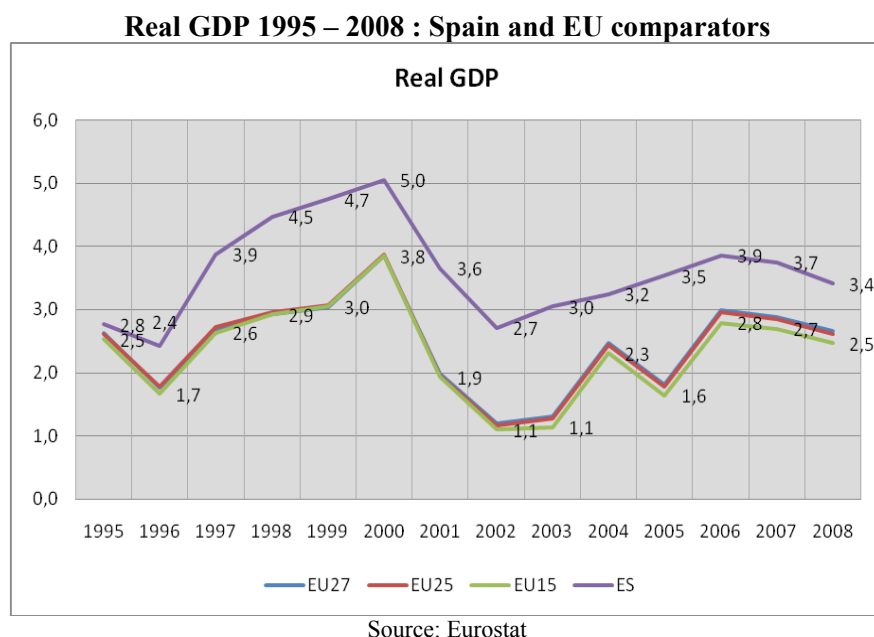
Net migration into Spain from the Americas, Africa and as a retirement location Europeans grew significantly over the period 1996 to 2002 from 83,300 people per year at the beginning of the period to 649,200 per year in 2002. Migration has since stabilised at a rate just above 600,000 persons per year during the last four years. In absolute figures, Spain's population growth is entirely attributable to net migration. By comparison, migration into Spain since 1998 has been at level higher than in Italy, Germany, France or the United Kingdom (see below).



According to the OECD, the Spanish net migration rate per 1,000 inhabitants between 2000 and 2005 was 13.4%, the highest level in the OECD. This figure compares with the OECD average of just 3.8%.

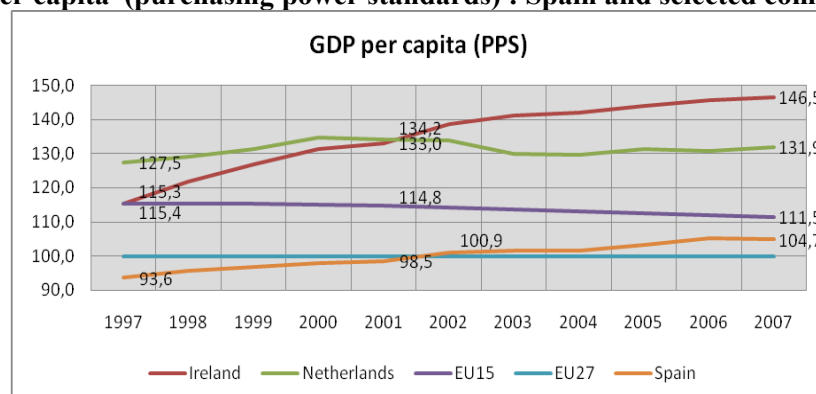
Gross Domestic Product (GDP)

Over the period 1994 to 2008, Spanish real GDP followed EU country trends but at a rate significantly above the average (see below).



The EU's best performer over the last 10 years on GDP per capita growth (measured in Purchasing Power Standards - PPS) was Luxembourg, which moved from 215.4% of the EU27 average in 1997 to 284.6%. In terms of net improvement, Spain performed well, moving from a below average 93.6% in 1997 to an above average 104.7% by 2007 at a time when the performance of the "EU15" as a whole deteriorated.

GDP per capita (purchasing power standards) : Spain and selected comparators



Source: Eurostat

Lisbon indicators

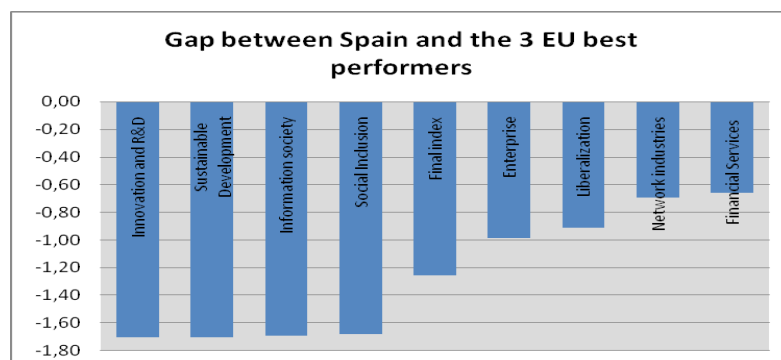
According to the World Economic Forum measures of performance against the Lisbon indicators, Spain ranks below average for the "EU25" in 15th place.

Performance against Lisbon indicators : Spain and EU average

| | Spain - Rank | Spain - Score | EU Average score |
|--------------------------------|--------------|---------------|------------------|
| Network industries | 11 | 5.41 | 5.36 |
| Financial Services | 14 | 5.65 | 5.60 |
| Innovation and R&D | 15 | 3.89 | 4.24 |
| Liberalization | 16 | 4.62 | 4.92 |
| Enterprise | 16 | 4.33 | 4.59 |
| Sustainable Development | 18 | 4.48 | 5.05 |
| Information society | 20 | 3.93 | 4.58 |
| Social Inclusion | 23 | 3.63 | 4.40 |

Source: World Economic Forum

Spain scores significantly less well in measures of "innovation and R&D", "sustainable development", "information society" and "social inclusion". Spain is amongst the weakest EU performers on the measure of "social inclusion" because of its scores on two important labour market related sub-indexes; "returning people to the workforce" and "upgrading skills". The comparison between Spain and the EU's three best performers – Denmark, Sweden and Finland – is distinct in all areas (see below).



Source: World Economic Forum, 2008

Global Competitiveness Indexes

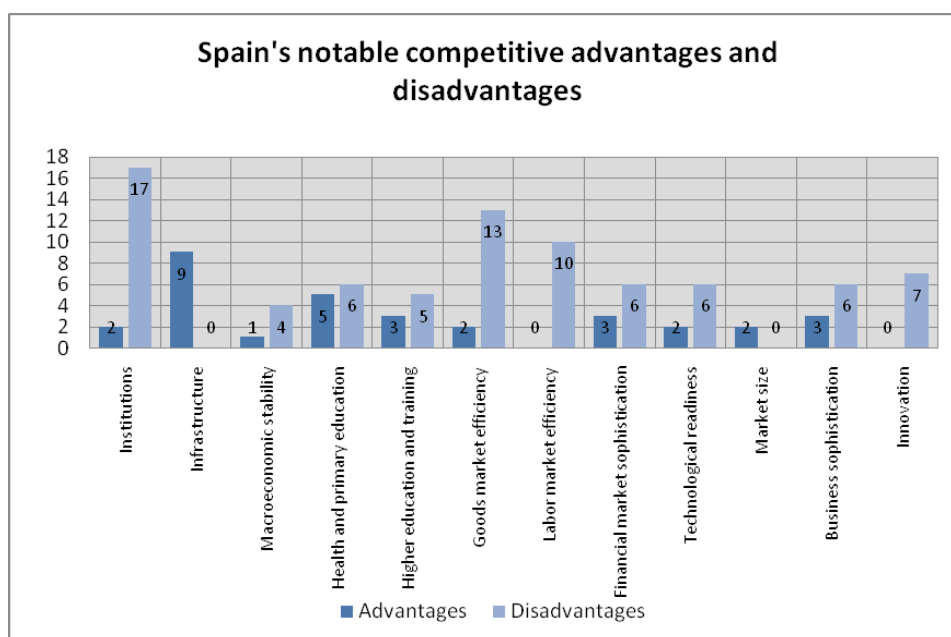
According to the last survey of business leaders across the country, Spain ranks 29th amongst the 131 countries included on the World Economic Forum's Global Competitiveness Index. The Spanish position in the Global Competitiveness index has been stable since 2005. Significantly, and in contrast to its overall ranking, Spain rates 95th in the world in efficiency of its labour market.

World Economic Forum competitiveness indicators: Spain's world ranking and scores

| | Rank - out of 131 countries/economies | Score - out of 7 |
|----------------------------------------------------|---------------------------------------|------------------|
| Global Competitiveness Index 2007-2008 | 29 | 4.66 |
| Subindex A: Basic requirements | 26 | 5.32 |
| 1st pillar: Institutions | 43 | 4.46 |
| 2nd pillar: Infrastructure | 19 | 5.46 |
| 3rd pillar: Macroeconomic stability | 32 | 5.42 |
| 4th pillar: Health and primary education | 37 | 5.95 |
| Subindex B: Efficiency enhancers | 26 | 4.68 |
| 5th pillar: Higher education and training | 31 | 4.75 |
| 6th pillar: Goods market efficiency | 40 | 4.59 |
| 7th pillar: Labor market efficiency | 95 | 4.08 |
| 8th pillar: Financial market sophistication | 34 | 4.96 |
| 9th pillar: Technological readiness | 28 | 4.33 |
| 10th pillar: Market size | 12 | 5.36 |
| Sub index C: Innovation and sophistication factors | 31 | 4.20 |
| 11th pillar: Business sophistication | 27 | 4.81 |
| 12th pillar: Innovation | 39 | 3.58 |

Source: World Economic Forum

A deeper analysis of the survey shows that respondents' opinions list only 32 competitive advantages against 80 competitive disadvantages (see below for the most significant results).



Source: World Economic Forum, 2008

Notable are the absence of “advantages” on two pillars – “labour market efficiency” and “innovation”, and the absence of “disadvantages” on two other pillars, “infrastructure” and “market size”. Looking at sub indexes, “business costs of terrorism”; “agricultural policy costs”; “rigidity of employment (hard data)”; “hiring and firing practices”; and “non-wage labour costs” are the five factors which receive the worst evaluation amongst business leaders.

Human Development Index

The Human Development Index calculated by UNDP based on 2005 data ranks Spain 13th out of 177 countries worldwide.

UNDP Human Development Index – Spain and selected comparators

| HDI rank | Human development index (HDI) | Life expectancy | Education | GDP Index | GDP per capita (PPP) rank minus HDI Rank |
|------------------|-------------------------------|-----------------|--------------|--------------|------------------------------------------|
| 1 Iceland | 0.968 | 0.941 | 0.978 | 0.985 | 4 |
| 2 Norway | 0.968 | 0.913 | 0.991 | 1.000 | 1 |
| 3 Australia | 0.962 | 0.931 | 0.993 | 0.962 | 13 |
| 5 Ireland | 0.959 | 0.890 | 0.993 | 0.994 | -1 |
| 6 Sweden | 0.956 | 0.925 | 0.978 | 0.965 | 7 |
| 9 Netherlands | 0.953 | 0.904 | 0.988 | 0.966 | 3 |
| 12 United States | 0.951 | 0.881 | 0.971 | 1.000 | -10 |
| 13 Spain | 0.949 | 0.925 | 0.987 | 0.935 | 11 |
| 14 Denmark | 0.949 | 0.881 | 0.993 | 0.973 | -6 |
| 68 Albania | 0.801 | 0.853 | 0.887 | 0.663 | 30 |
| 69 Macedonia | 0.801 | 0.814 | 0.875 | 0.714 | 11 |
| 70 Brazil | 0.800 | 0.779 | 0.883 | 0.740 | -3 |

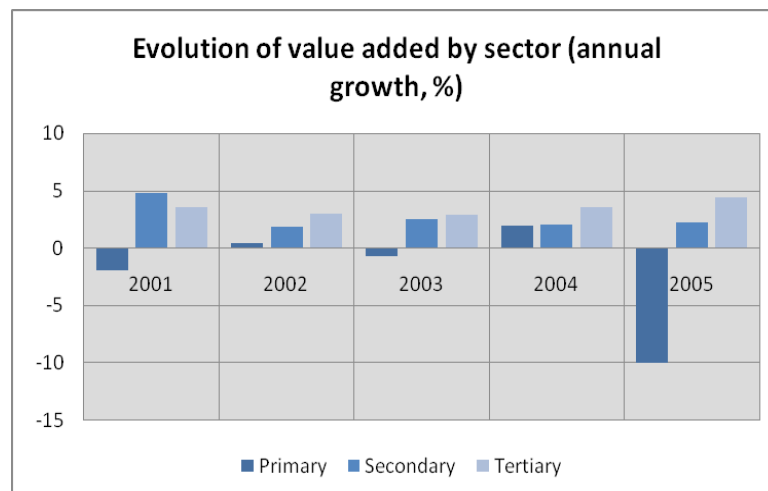
Source: UNDP, Human Development Report, 2008

Spain’s strong performance in life expectancy and education offset a relatively poorer performance in GDP per capita. This places Spain at a similar level in overall terms to the United States which has a significantly higher score on GDP per capita.

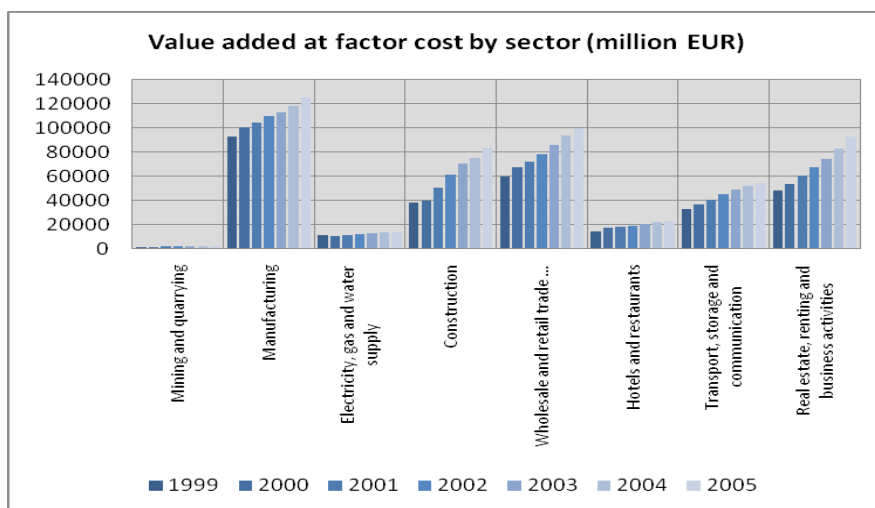
The HDI measures average achievements in a country, but it does not incorporate the degree of gender imbalance in these achievements. The gender-related development index (GDI), introduced in Human Development Report 1995, measures achievements in the same dimensions using the same indicators as the HDI but captures inequalities in achievement between women and men. It is simply the HDI adjusted downward for gender inequality. The greater the gender disparity in basic human development, the lower is a country's GDI relative to its HDI. Spain scores marginally less well when it comes to gender equality. When Spain's GDI value, 0.944 is compared to its HDI value of 0.949, its GDI value is 99.5% of HDI. Out of the 156 countries with both HDI and GDI values, 57 countries have a better ratio than Spain's. The gender empowerment measure (GEM) reveals whether women take an active part in economic and political life. It tracks the share of seats in parliament held by women; of female legislators, senior officials and managers; and of female professional and technical workers- and the gender disparity in earned income, reflecting economic independence. Differing from the GDI, the GEM exposes inequality in opportunities in selected areas. Spain ranks 12th out of 93 countries scored in the GEM.

Structure of the economy

Spain's economic value added is based on the performance of the manufacturing and service sectors. Whilst value added in manufacturing and construction in the secondary sector and business services and wholesale and retail in the tertiary sector have grown, mining and quarrying has reduced in importance.

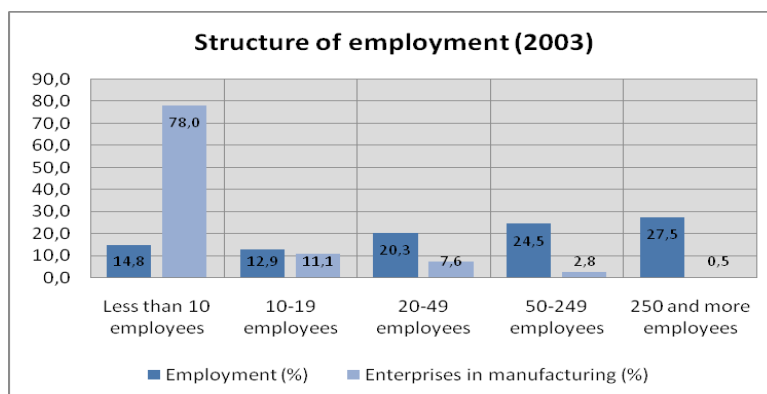


Source: OECD, 2008



Source: Eurostat, 2008

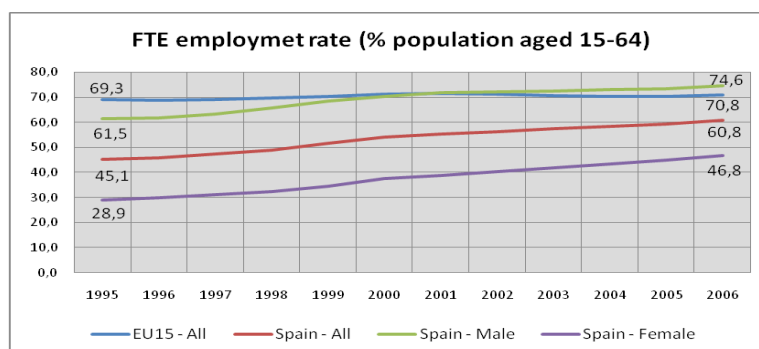
In common with many other European economies, in Spain the proportion of micro, small and medium sized enterprises (89.1%) dominates. Smaller enterprises (less than 50 employees) account for an employment share of 48% of the Spanish workforce. Companies with more than 250 employees account for 27.5% of Spain's workers. Manufacturing companies account for very few of Spain's larger enterprises.



Source: OECD, 2008

Employment

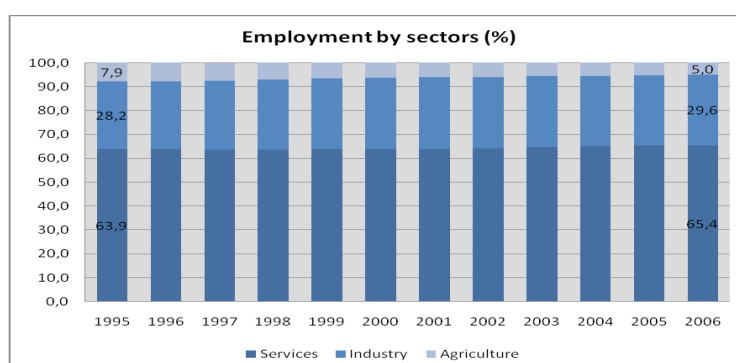
From 1995 to 2006, employment of males aged 15-64 grew by 3.5 million and female employment in the same age cohort grew by 3.7 million.



Source: Eurostat

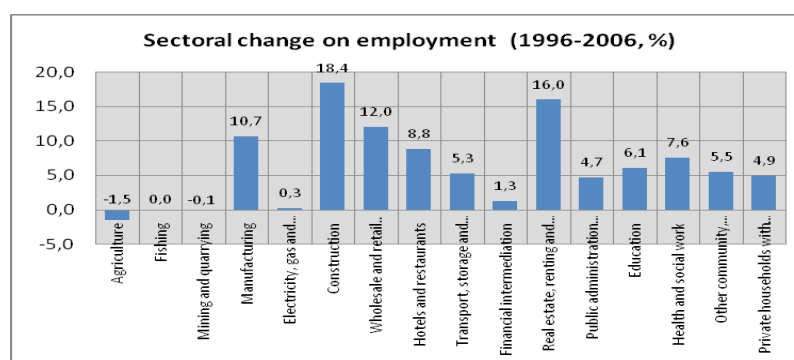
Spain's overall employment rate over the last ten years has moved closer the EU15 average as a result of steady growth in the employment of both men and women. The participation rate of Spanish women remains particularly low and almost 30 percentage points behind their male counterparts.

The employment share of primary sector declined 2.9 percentage points, while the secondary and the tertiary shares have each grown by 1.5 percentage points.



Source: Eurostat

Spain's employment share of the primary sector (5%) remains higher than the EU15 average (3.7%) and lower than the same figure for the EU27 (6.4%). The employment share of the secondary sector (29.6%) is higher than both the EU15 (23.7%) and the EU27 (25%) and the tertiary share (65.4%) is lower than both EU averages (72.6% and 68.6%, respectively). This is perhaps surprising given the contribution tourism makes to the Spanish economy.



Source: Eurostat

The slight increase in employment in the secondary sector is as a result of growth in construction (18.4%) and manufacturing (10.7%). Real estate, renting and business activities (16%) and wholesale and retail trade (12%) account for growth in the service sector.

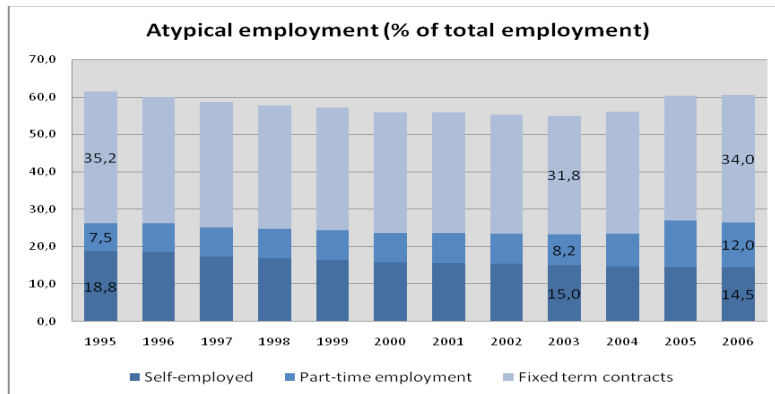
Overall, temporary employment remained very high and interestingly followed opposing trends in the private and public sectors. The incidence of temporary contracts reduced by 6.7% in the private sector and increased by around the same amount in the public sector. Much of this is accounted for by the decentralisation of public administration.

Temporary employment in the public sector and the private sector (%).

| | 1994 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|----------------|------|------|------|------|------|------|------|------|------|------|
| Public Sector | 16,1 | 16,1 | 16,6 | 18,3 | 20,0 | 20,5 | 21,5 | 21,7 | 22,7 | 22,8 |
| Private Sector | 39,2 | 40,7 | 39,5 | 38,7 | 37,2 | 36,2 | 34,8 | 34,2 | 33,3 | 32,5 |

Source: EIRO, Industrial Relations Developments, 2006⁴,

The analysis of the composition of flexible forms of employment over time and in absolute terms reveals interesting differences.



Source: Eurostat

Part-time employment grew from a very low base from 1995 to 2006. Part-time employment in Spain accounts for just 6.92% of all workers - 5.29% of men and 7.32% of women. Counter to EU trends, self-employment has declined over the period. Fixed-term contracts make up a high proportion of the Spanish workforce. This form of employment declined from 1995 to 2003 and increased again from 2003 to 2006, in part as a consequence of increases in the use of this contract variety in public administration. In 2006, the proportion of fixed-term contracts in total employment was almost 20 percentage points higher in Spain than the EU27 average.

With regard to employment conditions, the high rate of temporary employment affects women (33.7%) more than men (28.6%). for which there are several reasons: 'competition' with temporary employment, due to the flexibility offered by the latter (though 53% of part-time female workers were also on temporary contracts in 2001, according to the Economic and Social Council (CES); the low number of branches of activity that use part-time employment⁵; and the low pay and low promotion that it involves.

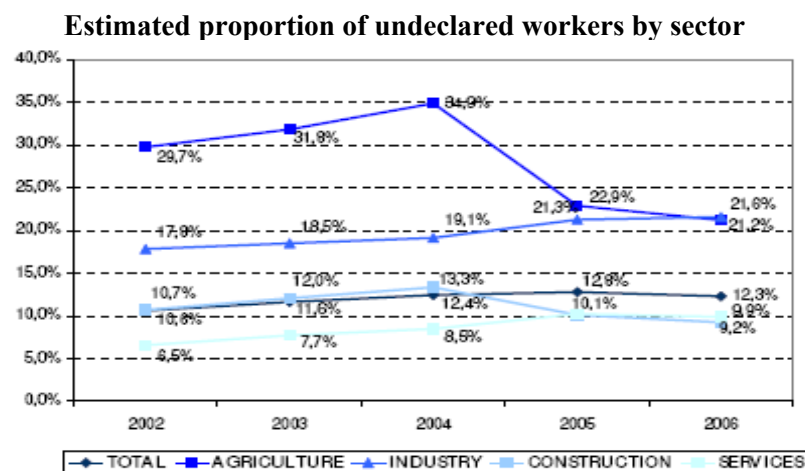
Spain's government adopted a set of measures to reduce the use of short term contracts by converting fixed-term into open-ended contracts. The overall proportion of temporary employment reduced from 33.8% in the third quarter of 2006 to 31.9% in the first quarter of 2007. This is largely due to regularisation in agriculture and construction (Gago and Sánchez – see illustration below).

Undeclared work is a significant problem in the Spanish labour market. The decision to "regularize" foreign workers who had been in Spain at least three years before the decision (adopted by the Government in 2005) had clear positive effect on the black/grey labour phenomenon. According to the estimates published by the

⁴ <http://www.eurofound.europa.eu/eiro/studies/tn0703019s/es0703019q.htm>

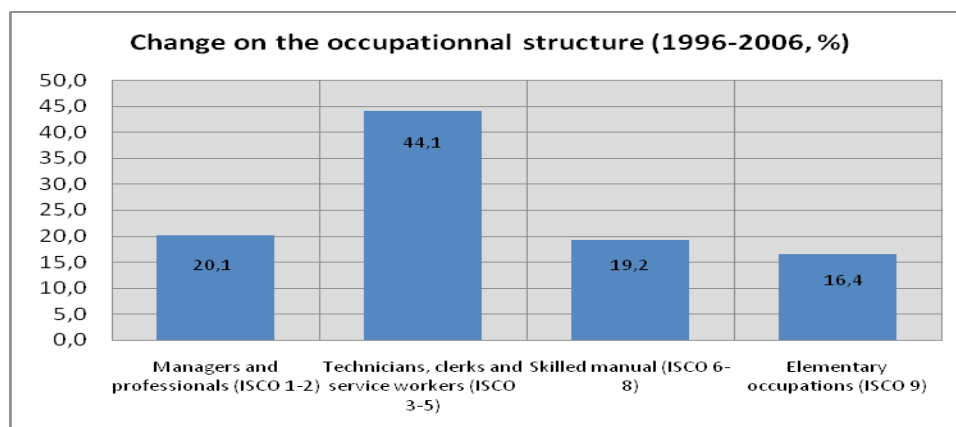
⁵ <http://www.eurofound.europa.eu/eiro/2001/06/feature/es0106245f.htm>

European Employment Observatory, 500,000 immigrants became “legal workers” a positive step in improving the quality of employment in Spain by providing a truer reflection of employment participation and assisting the financial sustainability of the social security system.



Source: Gago and Sánchez, 2007

An analysis of Spain’s occupational structure over the last ten years indicates a move up the “skill chain” (see below). Less skilled occupations grew less than other groups and technicians and skilled service workers showed the highest growth.

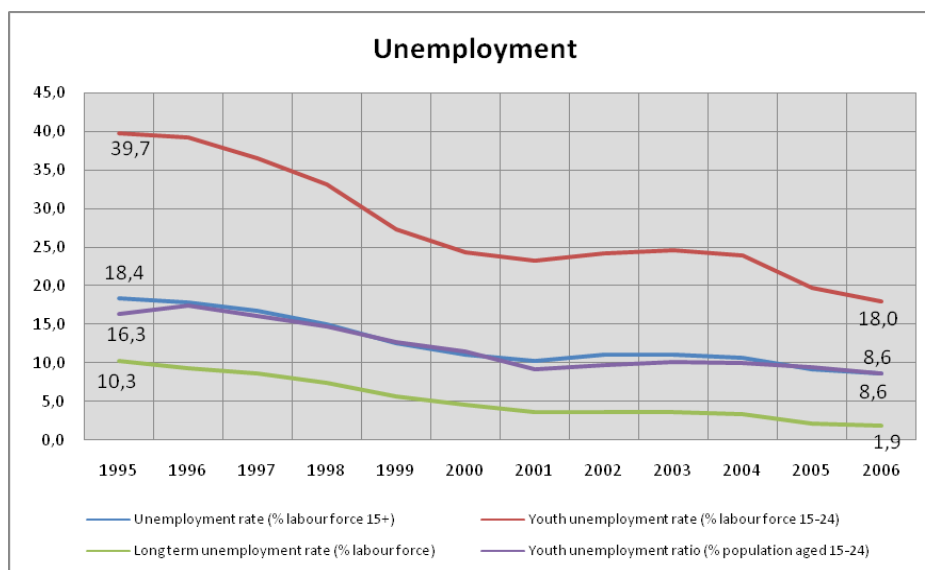


Source: Eurostat

In 2006, Spain’s total employment rate (64,8%), female employment rate (53,2%) and older people’s employment rate (44,1%) remained respectively 5,2%, 6,8% and 5,9% below the Lisbon and Stockholm targets for 2010, while the corresponding EU27 gaps were 5,7%, 2,9% and 6,5%.

Unemployment

Over the period 1995 to 2006, Spain’s unemployment rate reduced by 9.8%, with all sub-indexes, including long-term unemployment, showing a similar trend.



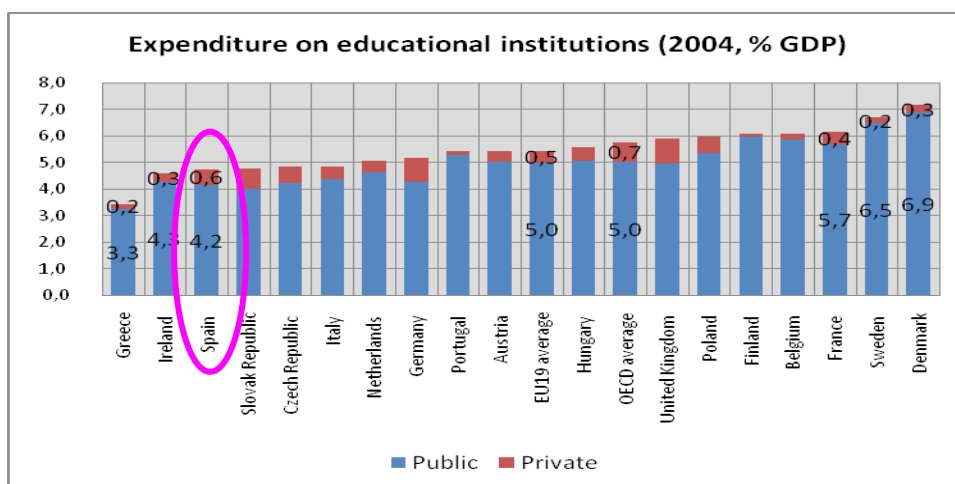
Source: Eurostat

The previously cripplingly high youth unemployment rate (the percentage of the labour force aged 15 to 24) declined by 21.7 points to a level only slightly higher than the EU15 average (18%).

In 2003, Spain's Economic and Social Council produced a report on women's economic activity⁶. With regard to unemployment, in 2002 the rate among women was 16.3% compared with 7.7% for men (according to Eurostat), and in the fourth quarter of 2003 it was 15.56%. The female unemployment rate is two and a half times the male rate and twice the EU average. The proportion of long-term unemployment among women is twice that among men, and CES concludes that 'the problem of the high unemployment in Spain is a problem of female unemployment'.

Educational attainment and qualifications

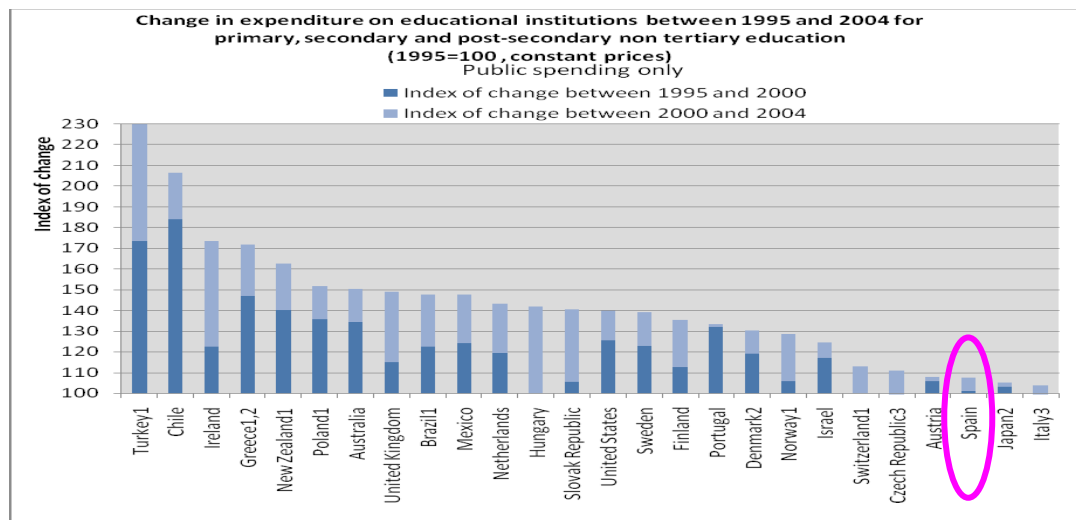
Spain's expenditure on education as a percentage of GDP is amongst the lowest in the OECD and EU (see below).



Source: OECD, Education at a Glance, 2007 (<http://www.oecd.org/dataoecd/27/52/39254884.xls>)

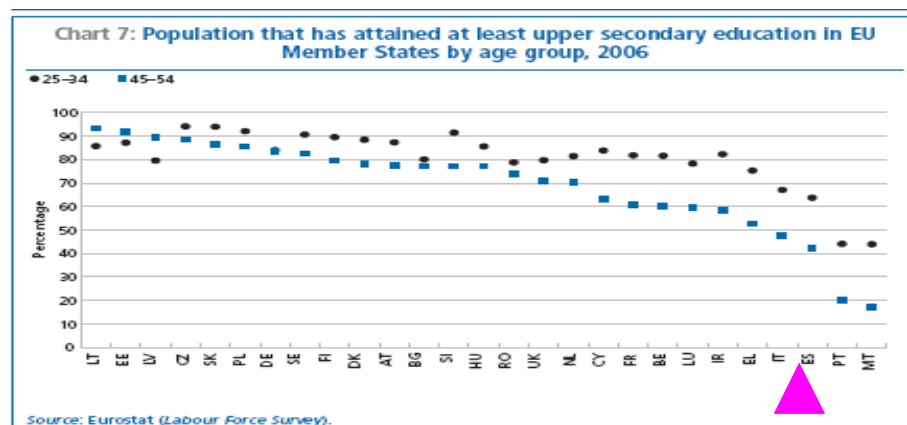
⁶ Tripartite Economic and Social Council (CES) report - 'the situation of women in the social and labour reality of Spain'. December 2003

Perhaps of more concern, from this low base the increase in public spending on education in Spain from 1995 to 2004 (6.4%) was amongst the lowest in OECD countries.



Source: OECD, Education at a Glance, 2007 (<http://www.oecd.org/dataoecd/27/52/39254884.xls>)

As a reflection of this investment, the school attainment levels of adults is poor with Spain being one of the worst performers in the EU (see below).



Source: Employment in Europe 2007

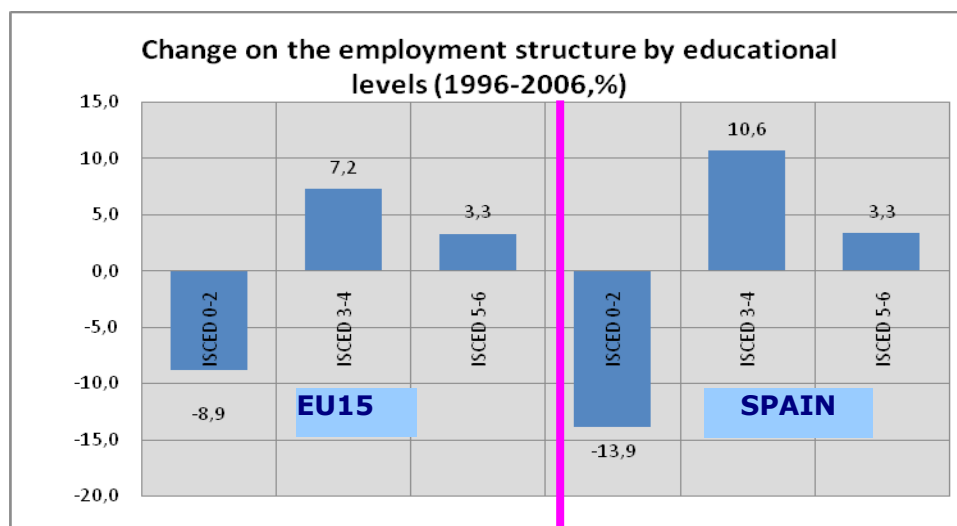
More positively, adult attendance in formal education (for ages 25+) in 2004 was marginally above the OECD average for males or females in every age cohort.

Adult attendance in formal education (%)

| Country | Total | Males | Females | Males (age brackets) | | | | Females (age brackets) | | | |
|--------------|-------|-------|---------|----------------------|-------|-------|-------|------------------------|-------|-------|-------|
| | | | | 25-34 | 35-44 | 45-54 | 55-64 | 25-34 | 35-44 | 45-54 | 55-64 |
| Spain | 10.6 | 10.6 | 10.6 | 13.2 | 12.8 | 12.7 | 12.2 | 13.3 | 12.4 | 12.3 | 11.7 |
| OECD average | 11.9 | 11.9 | 11.8 | 12.5 | 12.2 | 11.7 | 11.0 | 12.8 | 12.1 | 11.4 | 10.3 |

Source: OECD 2007 (www.oecd.org/edu/eag2006)

An analysis of the evolution of Spain's employment structure by educational level shows that progress towards higher levels has been faster in Spain than the EU15 average because lower levels have decreased more, intermediate levels have increased more and progress on tertiary levels has been the same.



Source: Eurostat

Lifelong Learning

The percentage of the Spanish population aged 25 to 64 participating in education and training in Spain has traditionally been very low. Since 2005, however, the gap between Spain and the EU15 average narrowed, and in 2006 the gap had reduced to less than 1% and Spain's performance was marginally better than that in the EU27 (see below).

Participation in education and training – population aged 25 to 64 Spain and selected comparator countries

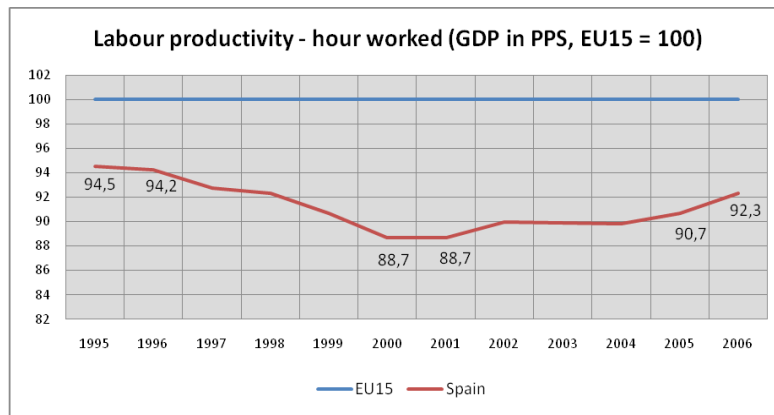
| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|----------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|-------------|
| Bulgaria -All | | | | | | | 1,4 | 1,2 | 1,3 | 1,3 | 1,3 | 1,3 |
| Denmark -All | 16,8 | 18,0 | 18,9 | 19,8 | 19,8 | 19,4 | 18,4 | 18,0 | 24,2 | 25,6 | 27,4 | 29,2 |
| EU15 - All | | | | | 8,2 | 8,0 | 8,0 | 8,1 | 9,8 | 10,7 | 11,3 | 11,2 |
| EU27 - All | | | | | | 7,1 | 7,1 | 7,2 | 8,5 | 9,3 | 9,7 | 9,6 |
| Greece - All | 0,9 | 0,9 | 0,9 | 1,0 | 1,3 | 1,0 | 1,2 | 1,1 | 2,6 | 1,8 | 1,9 | 1,9 |
| Romania - All | | | 0,9 | 1,0 | 0,8 | 0,9 | 1,0 | 1,0 | 1,1 | 1,4 | 1,6 | 1,3 |
| Spain - Females | 4,8 | 4,8 | 4,9 | 4,6 | 5,4 | 4,5 | 4,9 | 4,8 | 5,1 | 5,1 | 11,4 | 11,5 |
| Spain - Males | 3,8 | 3,9 | 4,0 | 3,8 | 4,5 | 3,7 | 4,0 | 4,0 | 4,3 | 4,2 | 9,7 | 9,3 |
| Spain - All | 4,3 | 4,4 | 4,4 | 4,2 | 5,0 | 4,1 | 4,4 | 4,4 | 4,7 | 4,7 | 10,5 | 10,4 |
| Sweden - All | | 26,5 | 25,0 | | 25,8 | 21,6 | 17,5 | 18,4 | 31,8 | 32,1 | 33,4 | 32,0 |
| United Kingdom - All | | | | | 19,2 | 20,5 | 20,9 | 21,3 | 26,8 | 29,4 | 27,5 | 26,6 |

Source: Eurostat

The level of adult participation in education and training remains however significantly below the European “best in class” - Sweden, Denmark and United Kingdom.

Pay and productivity

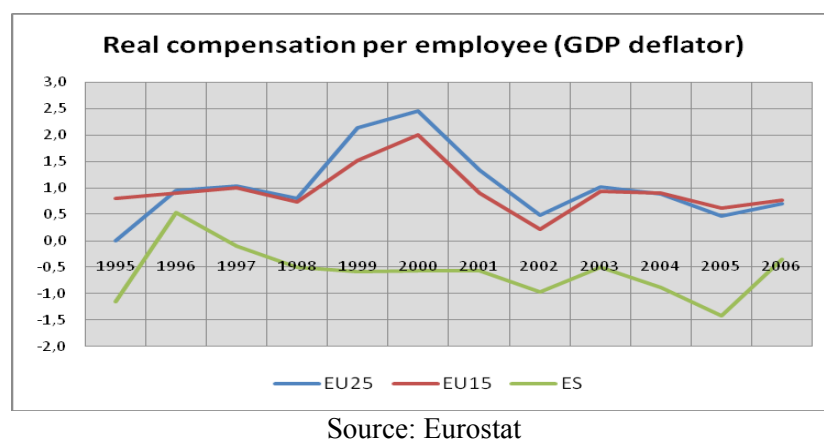
Labour productivity in Spain from 1995 to 2006 (0.5% per year) grew significantly more slowly than EU15 average (1.4% per year) and over the period the productivity gap increased (see below).



Despite poor productivity performance, with the exceptions of 1996 and 1997, Spain's real unit labour costs performed better than the EU25 average (see below).



This better than average unit labour cost performance is largely explained by wage moderation. Real compensation per employee in Spain remained below the EU15 and EU25 averages over the period 1995 to 2006.



Reflecting the above data, the gap between Spain's hourly labour costs and the EU27 average widened from 1998 to 2002 and increased more recently. Spain's workers remain however more highly paid than their counterparts in the countries in Central and Eastern Europe.

Hourly labour costs (1998-2006)

| | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
|-------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| EU27 | 17,09 | 17,8 | 18,32 | 18,76 | 19,44 | 19,66 | 20,25 | 20,35 | : |
| Spain | 14,13 | 14,22 | 14,22 | 13,07 | 13,63 | 14,21 | 14,76 | 15,22 | 15,77 |
| Ratio Spain /EU27 | 82,68 | 79,89 | 77,62 | 69,67 | 70,11 | 72,28 | 72,89 | 74,79 | |

Source: Eurostat 2008

Foreign trade and investment

Spain's economy is relatively "closed". Expressed as percentage of GDP, international trade in goods and services is significantly lower than the EU15 and OECD averages.

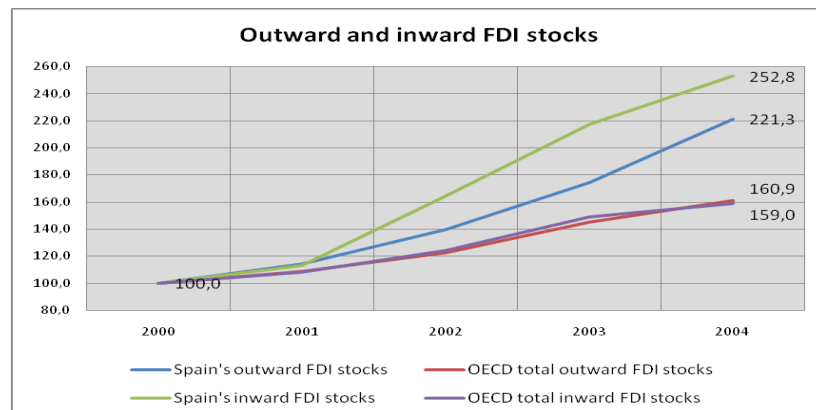
Trade in goods and services (% of GDP)

| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
|--------------|------|------|------|------|------|------|------|------|------|------|------|
| Spain | 22,4 | 23,4 | 25,9 | 26,8 | 27,6 | 30,6 | 29,8 | 28,4 | 27,5 | 28,0 | 28,2 |
| EU15 average | 39,9 | 40,7 | 43,2 | 44,6 | 45,5 | 50,8 | 50,2 | 47,9 | 46,2 | 48,4 | 50,7 |
| OECD average | 35,3 | 36,2 | 38,4 | 40,0 | 40,3 | 44,8 | 44,4 | 42,2 | 41,4 | 43,6 | 45,0 |

OECD Factbook 2007: Economic, Environmental and Social Statistics

Recently the gap has widened. During the last decade, trade in goods and services in Spain grew by just 5.8% while the EU average increased by 10.8%. Machinery, motor vehicles, foodstuffs, pharmaceuticals and medicines are amongst Spain's more important commodities and "old Europe" in the form of France (18.9%), Germany (11%), Portugal (8.9%), Italy (8.6%), UK (7.8%) and the USA (4.5%) are the main destinations of Spanish exports. Imported commodities include machinery and equipment, fuels, chemicals, semi-finished goods, foodstuffs, consumer goods, measuring and medical control instruments and are imported mainly from Germany (14.7%), France (13.2%), Italy (8.1%), UK (5%), the Netherlands (4.8%) and China (4.8%)⁷.

On a more positive note, between 2000 and 2004, Spain's outward and inward foreign direct investment (FDI) stocks increased by more than the OECD average. Inward FDI grew more rapidly than outward FDI.



Source: OECD Factbook 2007: Economic, Environmental and Social Statistics

⁷ OECD Fact Book 2007

Employment in the context of FDI

Inward flows of FDI have not created a disproportionate number of jobs. The share of employment in affiliates under foreign control, expressed as a percentage of total employment is higher in manufacturing than in services but remained almost stable between 2000 and 2004. About a quarter of Spanish employees work for foreign owned companies.

Employment in affiliates under foreign control (% of total employment)

| | 2000 | 2001 | 2002 | 2003 | 2004 |
|--------------------------------------|------|------|------|------|------|
| Share of employment in manufacturing | 16,8 | 16,4 | 15,9 | 15,4 | 15,6 |
| Share of employment in services | : | : | 8,7 | 10 | 9,5 |
| Total | | | 24,6 | 25,4 | 25,1 |

Source: OECD Factbook 2007: Economic, Environmental and Social Statistics

Recent developments in the Spanish economy

Over recent months, and even more since the general election on March 9th 2008, the state of the Spanish economy has deteriorated significantly. The effects of the global credit crunch have coincided with the bursting of the Spanish property bubble that had acted to hide underlying weaknesses in the economy.

According to the IMF, economic growth of 3.8% in 2007 will fall to 1.8% in 2008 and get worse in 2009. This would be the country's lowest growth rate since 1993. The Economist magazine suggests that the construction sector will shed 400,000 jobs over the next two years⁸ and this was later revised to 900,000. Already falling house prices are predicted to fall further by 15% over the next three years and this will affect consumer demand significantly. With its relatively closed economy, the country relies more than most in Europe on buoyant national spending.

More worrying for the economy is the rapidly disappearing budget surplus that has been a feature of recent years. It is likely that a healthy surplus will turn to deficit in 2009. Current government proposals are to introduce a fiscal stimulus to demand through tax rebates and to bring forward infrastructure and public-housing contracts. The predicted financial tightening will however reduce the margin for policy manoeuvre to stimulate the national economy currently enjoyed by the government.

Today, productivity and competitiveness remain Spain's biggest challenges. "The Economist" review suggest that reforms to the labour market, education system and Spain's research and development infrastructure need to be tackled, but any change in policy in these areas take a significant period of time to produce results.

⁸ The Economist, April 19 2008, p37.

The nature and extent of restructuring in Spain

Changes in employment

Sectoral employment indicators suggest that employment creation and destruction in Spain followed a pattern that is not very different from that witnessed in the EU15 plus Norway (see below).

Change in employment by sector

| Increase in employment (2001-2006, top 5 sectors, 000's) | | | Decrease in employment (2001-2006, top 5 sectors, 000's) | | |
|----------------------------------------------------------|---------------|--------|----------------------------------------------------------|---------------|--------|
| | EU15 + Norway | Spain | | EU15 + Norway | Spain |
| Health and social work | 1372 | 341.1 | Agriculture, etc. | -557 | -102.4 |
| Other business activities | 2130 | 418.5 | Manufacturing of wearing apparel | -353 | -4.,7 |
| Education | 1162 | | Manufacture of textiles | -327 | |
| Hotels and restaurants | 1146 | 393.4 | Manufacture of machinery and equipment | -255 | |
| Construction | 1033 | 640.,4 | Manufacture of radio, televisions, etc. | -194 | -12.2 |
| Private households | | 303.7 | Manufacturing of furniture | | -3.,1 |
| | | | Leather, tanning and dressing | | -11.7 |

Source: Eurofound, Recent restructuring trends in the EU, 2008

A more detailed analysis based on information published by the Spanish statistical authority suggests that reductions in employment are positively correlated with improvements in productivity but that employment increase is less correlated with productivity growth.

Employment growth and productivity per person employed (top 5 sectors)

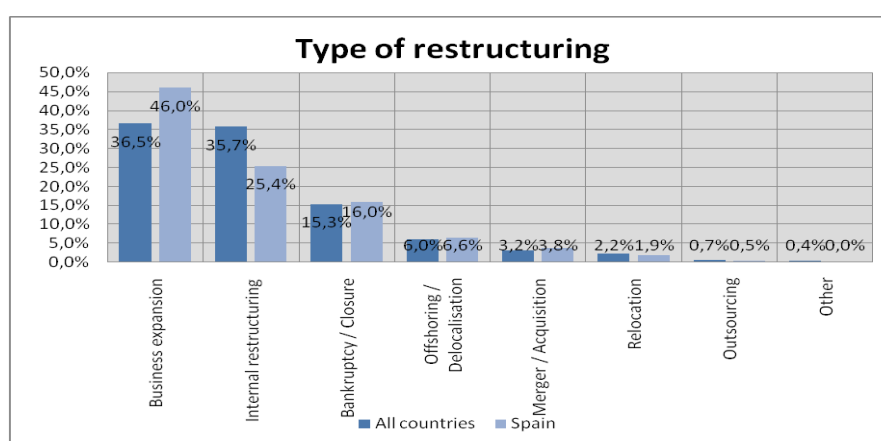
| Higher employment decrease | Employment growth (FTE, 2000-2006) | Productivity per person employed (2000-2006) | Higher employment increase | Employment growth (FTE, 2000-2006) | Productivity per person employed (2000-2006) |
|----------------------------------------------------|------------------------------------|----------------------------------------------|------------------------------------------|------------------------------------|----------------------------------------------|
| Mining and quarrying of energy producing materials | -47,3 | 47,5 | Education | 22,1 | 31,8 |
| Manufacture of textiles and clothing | -25,3 | 21,3 | Private households with employed persons | 22,9 | 5,2 |
| Manufacture of leather and footwear | -20,3 | 18,6 | Electricity, gas and water | 26,1 | 159,0 |
| Fishing | -19,7 | 23,2 | Transposts and communications | 28,9 | 43,9 |
| Agriculture, hubting and forestry | -12,3 | 22,1 | Construction | 36,5 | 26,1 |

Sources: Eurostat, Labour Force Survey; INE-ES, Contabilidad Nacional de España (serie 2000-2006)

The above data demonstrates that only one sector (mining and quarrying of energy producing materials) amongst the five sectors with biggest employment decreases has

a productivity above the national average (33,2%) with the other four performing under average. Three out of five sectors with the highest increases in employment are sectors with productivity per person employed below the national average (Electricity, gas and water and transport and communications perform better).

Although the methodology used by the Eurofound's European Monitoring Center on Change has its limitations, there is a strong convergence between Spain and the "EU15 plus Norway" on the five sectors with higher increases and reductions in employment. The data suggest that job creation has been stronger than job destruction, which is in turn, coherent with the officially recorded trends on employment and unemployment outlined above.



Source: Eurofound, EMCC, 2008

Data on types of restructuring indicate that from 2001 to present, business expansion has been more frequent in Spain (46%) than across EU (36.5%) and that internal restructuring is less frequent in Spain (25.4%) than on all countries (35.7%). Bankruptcy and closures and offshoring seem to have similar relevance on the two sets of data, with other types of restructuring showing only limited relevance in both samples. Specific data on offshoring effects in 2006 also suggest that this type of restructuring is less relevant in Spain than in other European countries, as employment lost due to offshoring in Spain (8.9%) ranks 12th in the EU27, significantly below Belgium (48.2%), Denmark (45.6%) and Ireland (38.1%)

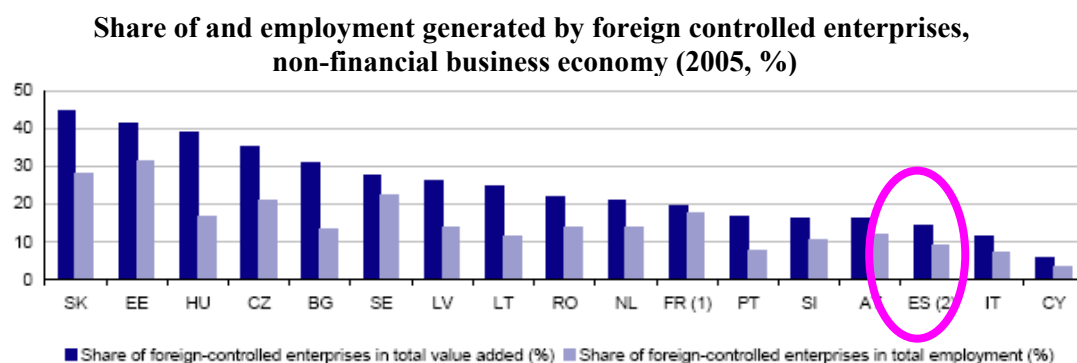
Job losses and offshoring – Spain and selected comparator countries

| Total job loss | | Offshoring job loss | | Offshoring as % of total | |
|----------------|---------|---------------------|--------|--------------------------|------|
| Germany | 119.612 | United Kingdom | 13.351 | Belgium | 48,2 |
| United Kingdom | 108.897 | France | 6.929 | Denmark | 45,6 |
| France | 69.665 | Belgium | 4.122 | Ireland | 38,1 |
| Spain | 23.748 | Spain | 2.118 | Spain | 8,9 |
| Luxembourg | 1.445 | Luxembourg | 0 | Luxembourg | 0,0 |
| Malta | 870 | Malta | 0 | Malta | 0,0 |
| Latvia | 100 | Latvia | 0 | Latvia | 0,0 |

Source: Eurofound, ERM, 2006

Reinforcing the comments above on the “closed” nature of the Spanish economy, the illustration below shows the share of value added and employment generated by

foreign-controlled enterprises in the non-financial business economy. Spain ranks 15th among the 17 European member states analysed by Eurostat

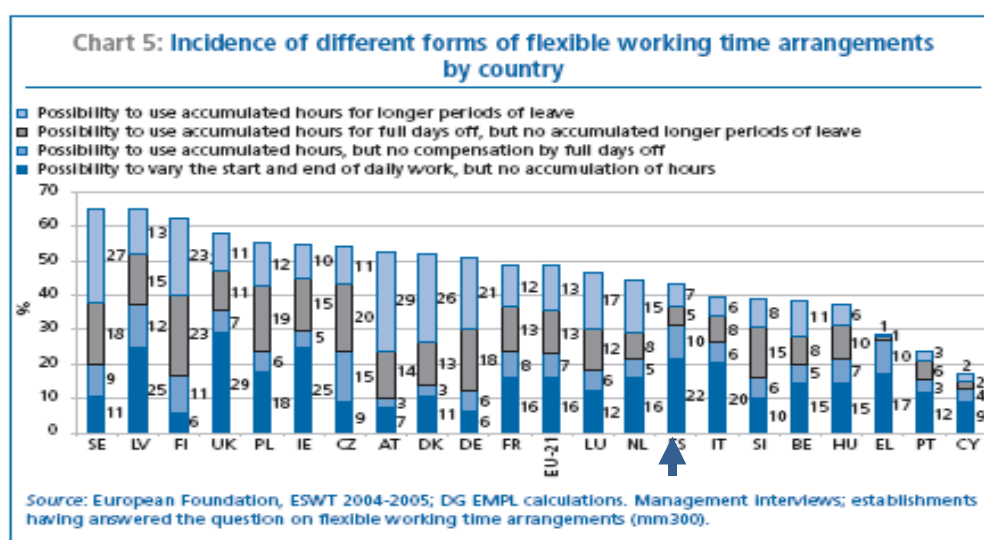


Source: Eurostat – Statistics in Focus, 30/2008. Spain's figures excludes construction

Effects of restructuring

Data from the European Working Conditions Surveys of the European Foundation for the Improvement of Living and Working Conditions, seem consistent with the data above and suggesting that the two key issues in internal restructuring are working time and organisational models.

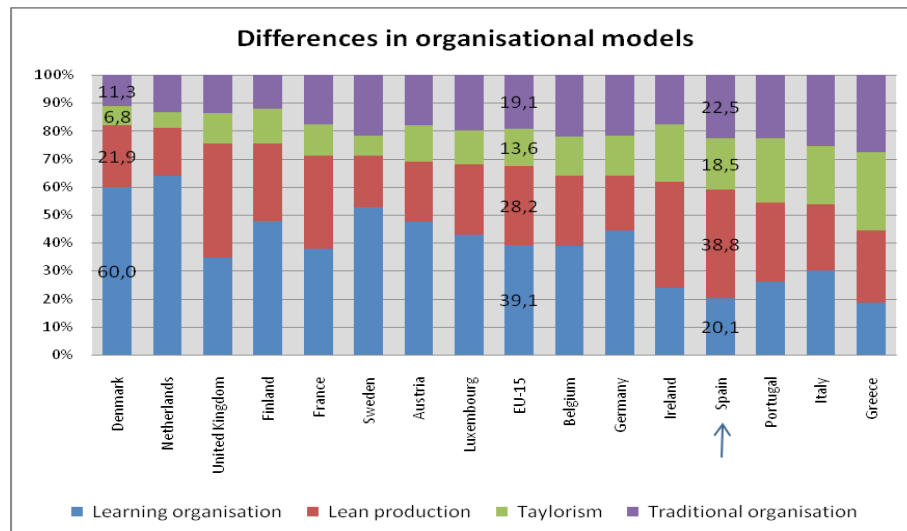
On working time, Spain's ranks 14th in the incidence of working time flexibility in 21 EU member states. A degree of flexibility of working time is present in 39% of jobs but traditional models of work still prevail (see below).



Source: Employment in Europe, 2007

The most common form of working time flexibility (22%) is varying the start and the end of daily work without the adjusting total working hours over the week, the month or the year. The incidence of other types of flexible working time arrangements decline as the extent of flexibility increases.

The Spanish situation as far as organisational models are concerned is better: innovation is present and undoubtedly important (learning organisation and lean production methods account for 58.9%) but traditional models (Taylorism and other traditional methods) are also relevant (41%). The low incidence of learning organisation models is a practical manifestation of the trends in education and training outlined above.



A comparison between Spain's situation and both the EU average and the European economy's best performers suggest that there is room both for more, and more innovative, internal restructuring.

Under these circumstances, the reduction of unemployment and the relatively moderate levels of internal restructuring described above suggest that Spain's economic and social evolution may be approaching a new crossroads, where the model of the last decade may come under stress in the context of slower growth and possible social tensions linked to higher unemployment and greater pressures to make wages converge with the European averages. As a consequence the flexicurity debate may become more central to Spain's international competitive advantage.

Section 2 - The role of the Spanish social partners in restructuring

Introduction

Since the mid 1970s following the fall of the Franco dictatorship, Spain has managed to design and to set up a comprehensive legal and institutional framework for the management of industrial relations and social dialogue. There are a variety of bipartite and tripartite institutions for discussion and bargaining where the social partners play an important role in shaping the current and future performance of the Spanish labour market. Although Spanish trade union membership is not high in European terms, trade union influence through representative bodies at the national, territorial, sectoral and enterprise levels assure a high level of generally accepted representivity of Spanish workers. The high levels of membership of enterprises in employers' organisations reflects the acceptance of trade union representivity and provides a sound basis for bipartite social dialogue and collective bargaining at all levels.

By most commonly used indicators the Spanish labour code is one of the more rigid in the European Union and the OECD. In some European countries, similar levels of legislative rigidity have led to partnership based arrangements between employers and trade unions that resulted in agreements on labour market flexibility. In this respect both Sweden and the Netherlands would be good examples of the so called "flexicurity model" arising in a context of relatively strict employment regulation. In Spain, despite the numerous institutions that exist for dialogue, rigidities in the labour code are mirrored in an absence of employment flexibility and a rather negative spiral of low productivity, relatively low wages and low employment flexibility. Neither side appears to have gained significantly from recent economic successes nor has the groundwork been laid for future productivity growth through better education, training and lifelong learning. Unfortunately, as financial pressures on the state tighten, as they are predicted to do, longer term policy options around improvements in social protection and the management of job transitions will reduce.

Relationships between the trade unions and employers on the subject of restructuring and the approach to collective dismissals tend to reflect the "zero sum game" approach described above. Success is measured in terms of administrative decisions going "against" the employer and the number of redundancies avoided rather than success in the management of transitions between jobs as the economy evolves. As the Spanish economy "opens" and competitive pressures increase it must be questioned whether this approach will be sustainable into the longer term.

More positively, the Spanish social partners have recently agreed to set up restructuring observatories in eight key economic sectors. The observatories provide an important opportunity for the social partners to jointly review data, to agree on diagnoses of problems and to reach agreement on the issues likely to face the Spanish labour market into the future. These are key building blocks if the social partners are to work together and with the government to produce appropriate policy solutions.

The development of the institutions of social dialogue

Since the second half of the 1970's, and the end of the Franco dictatorship, industrial relations and social dialogue have undergone important changes driven by political democratisation; the legalisation of political parties (1977); the Spanish Constitution of 1978; integration into the European Community (1986); regionalisation; economic liberalisation; and the institutionalisation of industrial relations. These changes have had a significant effect on employment, industrial relations and social protection policies.

The Pact of Moncloa (*Pacto de la Moncloa*, 1977), the Spanish Constitution of 1978, the Basic Interprofessional Agreement (*Acuerdo Basico Interprofesional* – ABI, 1979) signed by UGT and CEOE in 1979 and the Workers Statute (*Estatuto de los Trabajadores*, 1980) and the Basic Framework Agreement (*Acuerdo Marco Interconfederal* – AMI, 1980), also signed by CEOE and UGT are the cornerstones of the first phase of the shaping of Spanish industrial relations today.

The Spain of today has a comprehensive system of industrial relations which includes important institutions of tripartite dialogue.

Trade unions

Comisiones Obreras (CC.OO), *Unión General de Trabajadores* (UGT), *Solidaridad de Trabajadores Vascos Eusko Langileen Alkartasuna* (STV-ELA), *Unión Sindical Obrera* (USO) are the Spanish members of ETUC.

Trade union membership, always one of the lowest in the European Union, according to EIRO estimates, declined during the first half of the 1980's; rose in the 1990's; and has stabilised since. From 1985 to 2003, membership rose from one million to 2.3 million members. Trade union membership, as in France, should not necessarily be taken as a proxy for worker solidarity. In Spain, trade union representivity is based not only on membership but also on the results of works council elections which are a key indicator of trade union influence.

Number of delegates elected by trade unions (1978-2003)

| Union | 1978 | 1980 | 1982 | 1986 | 1990 | 1994-5 | 1998 | 2003* |
|--------------------|--------|--------|--------|--------|--------|--------|--------|---------|
| CC.OO | 66,540 | 50,817 | 47,016 | 56,965 | 87,738 | 77,348 | 81,314 | 106,654 |
| UGT | 41,897 | 48,194 | 51,672 | 66,411 | 99,737 | 77,112 | 76,382 | 110,495 |
| ELA | 1,931 | 4,024 | 4,642 | 5,372 | 7,488 | 7,146 | 7,267 | 9,035 |
| CIG | - | - | - | - | - | - | - | 4,595 |
| Other unions | 25,953 | 22,053 | 25,058 | 28,726 | 33,901 | 42,351 | 49,739 | 46,073 |
| Other small unions | 58,725 | 43,553 | 17,024 | 12,708 | 8,407 | 6,631 | 8,969 | 8,337 |

ELA = Basque union; CIG: Galician union; Source: EIRO

At the national level CC.OO and UGT are recognized as the most representative trade unions, but ELA-STV in the Basque country and Convergencia Intersindical Gallega (CIG) in the Galician regions are extremely important. Since the 1980's trade union competition between UGT and CC.OO has declined and trade union coordination increased in spite of the prevalence of separate union workplace representation.

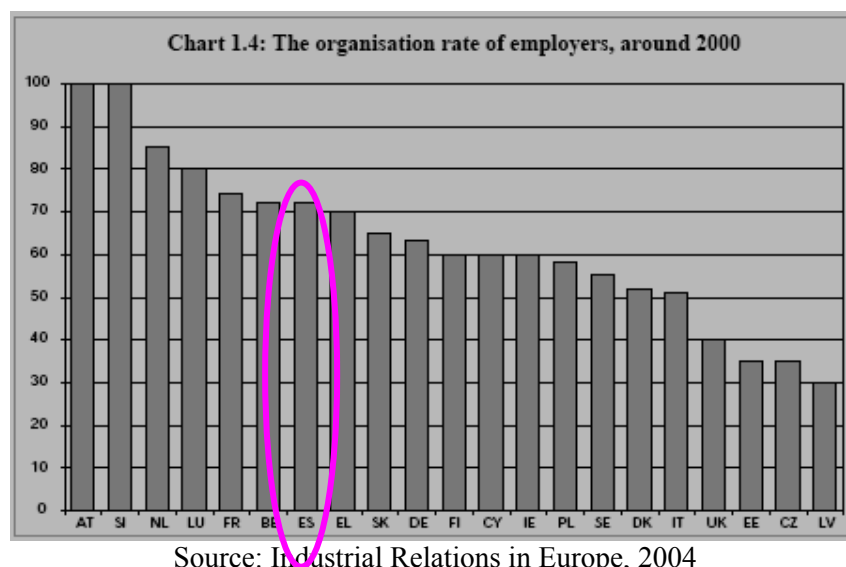
Employers' organisations

The most important peak level Spanish employers' association is the *Confederación Española de Organizaciones Empresariales* (CEOE), established in 1977 and member of BUSINESSEUROPE.

Linked to CEOE is *Confederación Española de Pequeñas y Medianas Empresas* (CEPYME), one of the Spanish confederations for SME's and a member of UEAPME, together with *Micro, Petita I Mediana Empresa de Catalunya* (PIMEC).

Sociedad Estatal de Participaciones Industriales (SEPI) is the Spanish affiliate to CEEP.

According to data published by EIRO and by *Industrial Relations in Europe* (2004), employer's organisation membership density in Spain is estimated to be in the range 71% to 80% and is amongst the highest in Europe (see below) reflecting the importance in the country of relationships between organised employers and workers. This figure includes, "indirect" representation through sectoral and territorial employers' organisations.



Observers of Spanish industrial relations usually agree that CEOE membership density and representivity plays a major role in the shaping of social dialogue and of the institutionalisation of industrial relations in Spain.

Social dialogue and social dialogue structures

Social dialogue in Spain can be said to have developed in three phases;

- ◇ Social dialogue between peak level organisations during the second half of the 1970's, the first half of the 1980's led to the series of important agreements referred to above;
- ◇ The Toledo Pact approved by the major political parties (1995); the Agreement on the Consolidation and Rationalisation of the Social Security System, signed by the government, CC.OO and UGT; and the Accord for the Stability of Employment and Collective Bargaining (or April agreements,

1997) reached by CEOE, CEPYME, UGT and CC.OO are the landmarks of bipartite and tripartite social dialogue during the 1990's;

- ◇ Since 2000, the Declaration on Social Dialogue (2004) (*Declaración para el Diálogo Social*) and the Agreement on Employment Creation (*Acuerdo para la mejora del crecimiento y el empleo*) (AMCE, 2006) have established a new agenda for social dialogue focused on economic development, improvement of employment quality, social protection, regional cohesion and environmental sustainability.

The Interprofessional Agreement on the Negotiation of Collective Agreements (*Acuerdos interconfederales para la negociación colectiva*) reached by CEOE, CEPYME, CC.OO on a regular basis since 2002 deal with the issues of wage determination, employment, further training and flexibility and security and constitute the major instrument for social partner coordination of collective bargaining. Social dialogue has also a significant regional dimension in Andalusia, Catalonia and the Madrid region.

At the national level, there are several institutions where tripartite social dialogue takes place;

- ◇ The Economic and Social Council (*Consejo Económico y Social*) was created in 1980 by the law on the Workers Statute and is an advisory board on social affairs that produces studies and gives advice and opinions (*dictámenes*) on its own initiative and when consulted by the government. It comprises 61 members of three groups appointed by trade unions, by employers' associations by and other interest groups. There are similar tripartite bodies of this kind on the 18 autonomous communities;
- ◇ The National Employment Institute (*Instituto de Empleo – INEM*) is the public body responsible for employment policy;
- ◇ The Tripartite Foundation for Employment and Training (*La Fundación Tripartita para la Formación en el Empleo*) is the body responsible for public policies of employment and vocational training;

The legal and institutional framework

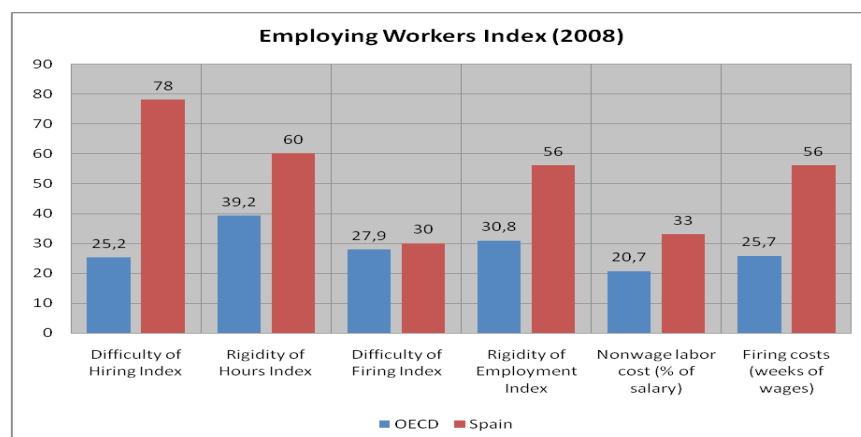
The Spanish Constitution of 1978, establishes the process of collective bargaining between workers' representatives and employers as a fundamental right and states the binding effect of the collective agreements.

The Workers' Statute is the law that regulates almost all major issues of employment and industrial relations.

Recently, there have been several important legislative changes on the legal framework of employment and industrial relations;

- ◇ As a result of an agreement between the government, the employers, the trade unions and the representatives of self-employed workers, the government has introduced the Self-Employed Workers' Statute;
- ◇ As a consequence of the Declaration on Social Dialogue (2004), laws creating subsidies for the conversion of atypical forms of employment into more stable forms of contract, including the conversion of temporary to permanent jobs, have been adopted;
- ◇ A new law on subcontracting in the construction sector aims to reduce accidents at work;
- ◇ The Personal Autonomy and Dependent Care Law was introduced to tackle problems linked to ageing and to promote employment creation in the personal care and housework sector, which employs a large number of immigrant women;
- ◇ The Equal Opportunities Law introduced compulsory measures for collective agreements on gender inequality and work-life balance;
- ◇ The recently developed Civil Servants Basic Statute (2007) represents one of the most important developments in Spanish labour law in the area of public administration.

The comparative evaluation of national labour law is a complex issue where scientific consensus is far from being reached and where the OECD and the EU Commission are preparing new indicators to be published in the near future. Using currently available analyses; according to the World Bank, Spain's degree of "hiring difficulty" and "rigidity of hours" lead a high score on the rigidity of employment index compared to the OECD average and to other EU states.



Source: World Bank, Doing Business 2008

This kind of evaluation, mainly based on employers' freedom to hire, manage and fire and dismiss workers does not take in consideration the internal dimensions of flexicurity and is sometimes seen as biased. For example, both the Netherlands and Sweden have a high degree of rigidity according to the World Bank and yet a high degree of flexibility when flexicurity measures are used (see below). Unfortunately

for the Spanish labour market, when working time flexibility and organisation model flexibility are considered, the country scores equally badly.

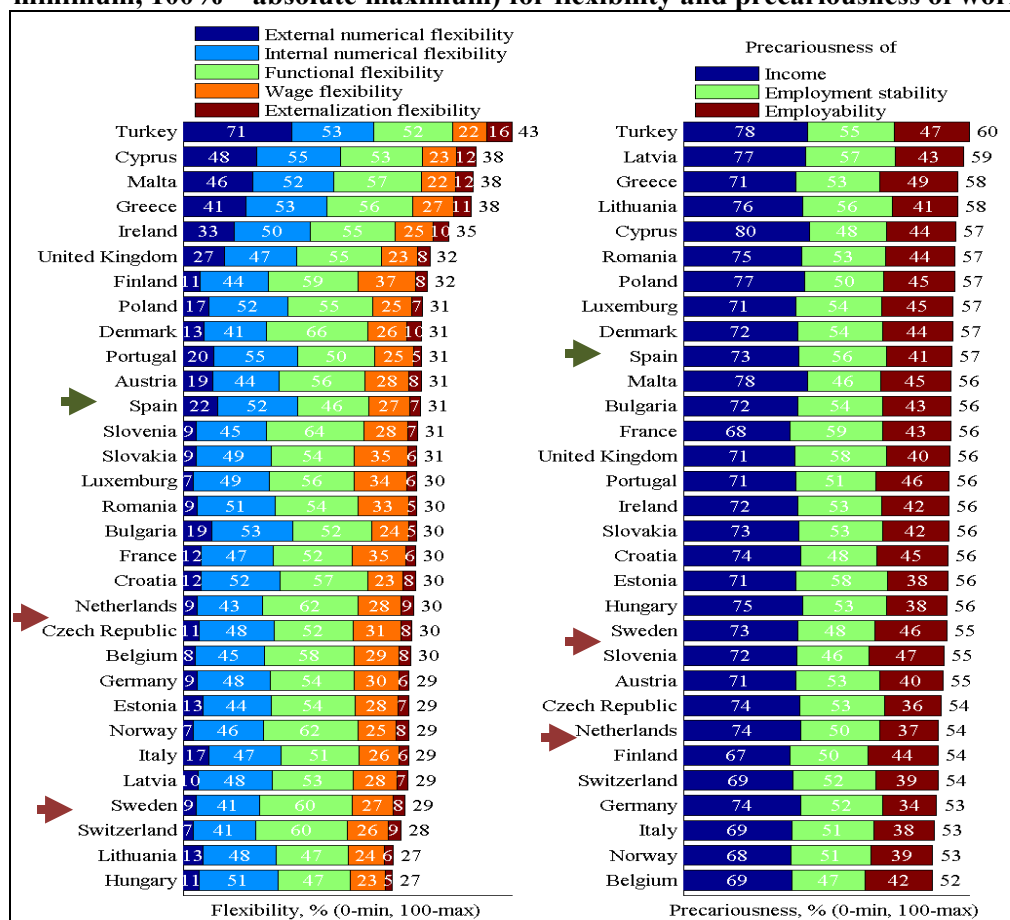
Enterprise and worker oriented flexibility

| | High degree of worker oriented flexi** | Low degree of worker oriented flexi |
|-------------------------------------------|-----------------------------------------|-------------------------------------|
| High degree of enterprise oriented flexi* | NL (3,1), SWE, DK, FIN, DE (6,5) BE, IE | UK (1,8) |
| Low degree of enterprise oriented flexi | ↑ [A(10,7)] | PT (15,15), LUX, ES, EL, IT, FR |

Source: Auer (ILO) , 2007

A more encompassing and alternative evaluation of Spain's regulatory framework can be based on the evaluation of five types of flexibility and three types of precariousness.

Composition of country indices normalized (HBS methodology: 0%—absolute minimum, 100%—absolute maximum) for flexibility and precariousness of work



Source: Seifert and Tangian, 2007

Considered together, the available indicators suggest that Spain's labour market regulation produces a trade off where both sides get low levels of flexibility, atypical employment his high, wage increases are rather moderated and precariousness ranks on the upper half of the European country indices. It should be noted that this issue

does not seem to be, to date, a matter of key relevance for either of the Spanish social partners. Neither the *Declaración para el Diálogo Social* (2004) nor the successive *Acuerdos Interconfederales de Negociación Colectiva* (ANC) mention the cost of dismissal or strictness of labour law as problems that need to be tackled by the social partners or the government.

Collective bargaining

Spain's collective agreement structure is both decentralised and fragmented, with several levels of collective bargaining taking place against a backdrop of the prevalence of enterprise level negotiations.

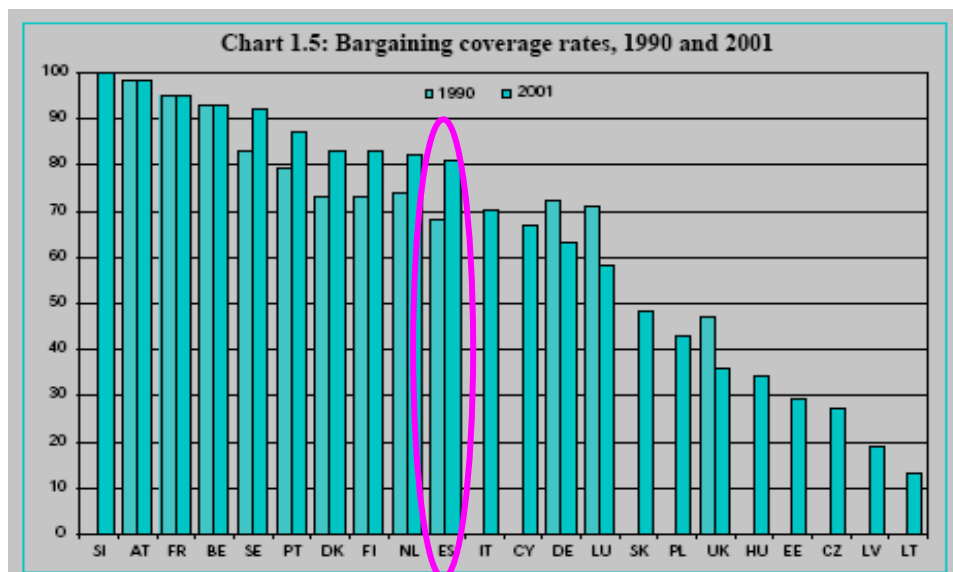
Collective agreements and coverage 1997 to 2006

| Year | Agreements | | Companies | | Workers | |
|-------|------------|-------------|--------------|-------------|--------------|-------------|
| | Number | Variation % | Number (000) | Variation % | Number (000) | Variation % |
| 1997 | 3763 | 6,0 | 847.5 | 11 | 7226.8 | 18,1 |
| 1998 | 3776 | 0,3 | 814.2 | -3,9 | 6972.2 | -3,5 |
| 1999 | 3874 | 2,6 | 894.8 | 9,9 | 7782.8 | 11,6 |
| 2000 | 3945 | 1,8 | 977.3 | 9,2 | 7862.8 | 1,0 |
| 2001 | 4021 | 1,9 | 895.1 | -8,4 | 7605.9 | -3,3 |
| 2002 | 4217 | 4,9 | 924.2 | 3,3 | 7808 | 2,7 |
| 2003 | 4364 | 3,5 | 1057.3 | 14,4 | 8147.2 | 4,3 |
| 2004 | 4182 | -4,2 | 902.5 | -14,6 | 7800.6 | -4,3 |
| 2005 | 4167 | -0,4 | 966.6 | 7,1 | 8380.9 | 7,4 |
| 2006* | 3984 | - | 967 | - | 7189 | - |

Source: MTAS. Statistics on Collective Agreements.

* Figures for 2006 are provisional and cover the period up to 31 October.

According to Jelle Visser's analysis, Spain's bargaining coverage rate increased during the 1990's and is today medium-high in European terms.



Source: Industrial Relations in Europe 2004

The main topics covered in collective agreements are wages and working time, but gender equality, lifelong learning and variable pay are issues are slowly creeping into agreed texts.

According to EIRO, in 2006, Spain's average collectively agreed normal weekly working hours were 38.5 hours, below the statutory maximum working week (40 hours) and close to the EU15 plus Norway average. The same source estimates that average collectively agreed annual working hours increased marginally from 1751 hours in 2005 to 1756 in 2006.

The power given recently to the National Consultative Committee on Collective Agreements (*Comisión Consultiva Nacional de Convenios Colectivos* – CCNCC) to act as an observatory of industrial relations may be seen as an important development in the evolution of Spanish industrial relations.

Employee participation at the workplace

Employee participation in the workplace is legally based on the Workers' Statute and on the law on trade union freedom (1985), which provides the possibility to elect employee delegates (*delegados de personal*) or works councils (*comité de empresa*) in all enterprises with 6 or more wage earners. Works councils are an important feature of Spanish workers' representation at the company level. Employees can set up a workers' committee in companies with 50 or more staff which can negotiate and conclude collective agreements and call to a strike at the company level. All companies of this size must establish a health and safety committee. Full time union delegates are provided for in bigger companies. According to the European Social Survey (2002) 41% of Spanish firms have union representation at the enterprise level.

Industrial disputes

The incidence of industrial disputes was stable over the period 1995 to 1999 but unrest increased significantly between 1999 and 2005 based on both workers involved in disputes and days lost.



Source: MTAS Boletín de Estadísticas Sociales

Social dialogue and restructuring

The Legal framework

Spanish law establishes workers rights in the event of individual and collective dismissals; on lay-off due to economic reasons; on geographic mobility; and other associated modifications of labour contracts. On collective dismissals, the procedure goes beyond European and many other European national laws in being based on the need for administrative approval by the labour administration. This procedure, “the Record of Employment Regulation” (*Expediente de Regulación de Empleo* – ERE) provides for the participation of workers representatives and often leads to a negotiation where the alternatives to avoid the dismissals; the number of workers involved; and the amount of severance pay have to be discussed before the communication of the final decision by the employer to the public authorities.

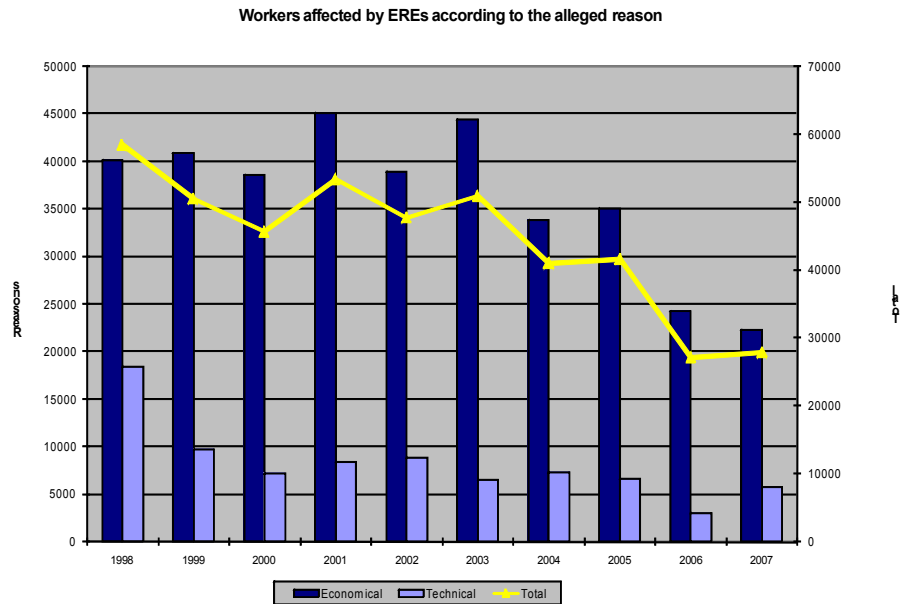
Employee participation in restructuring

According UGT calculations based on data from the Spanish Ministry for Labour and Social Affairs, ERE provides for the participation of worker representatives in negotiations with the employers and results in a reduction in the number of EREs actually authorised and the number of workers affected by dismissals due to restructuring (see tables below).

Collective redundancy proposals accepted by Spain’s public authorities

| | ERE's presented | ERE's authorised | % EREs agreed / authorised |
|----------------|----------------------------|-----------------------------|-------------------------------------------|
| 1998 | 4.379 | 4.019 | 79,6% |
| 1999 | 4.412 | 4.086 | 73,1% |
| 2000 | 4.380 | 4.089 | 79,5% |
| 2001 | 4.884 | 4.581 | 70,5% |
| 2002 | 4.819 | 4.474 | 78,5% |
| 2003 | 4.698 | 4.439 | 80,6% |
| 2004 | 4.801 | 4.405 | 84,9% |
| 2005 | 4.354 | 3.977 | 77,6% |
| 2006 | 3.755 | 3.481 | 88,0% |
| 2007 | 3.953 | 3.739 | 83,7% |
| Average | 4.444 | 4.118 | 79,6% |

Source: UGT Technical Bureau based on MTAS – Boletín de Estadísticas Laborales



Source: UGT Technical Bureau based on MTAS – *Boletín de Estadísticas Laborales*

This data also shows that the overall trend for dismissals due economical and technical reasons, although largely predominant, has declined during the last decade. Taken together, available statistical data and the information obtained from privileged observers of Spanish industrial relations, interviewed for the preparation of this report, suggest that the anticipatory approach to restructuring has not been so far a key feature of the Spanish landscape in this domain.

Section 3 - Case Studies

Two case studies were presented and discussed by national social partners' representatives at the seminar held in Madrid on 28th and 29th April 2008. The first is the innovative experience of the sectoral industrial observatories; the second is the restructuring process of the Spanish broadcasting company, Radio Televisión Española (RTVE).

The industrial observatories

As a consequence of the *Declaración para el Diálogo Social* (2004), a protocol signed in 2005 by the Spanish Ministry of Industry, Tourism and Trade (MITYC), CEOE, CEPYME, UGT and CC.OO, eight industrial observatories were set up. The sectors covered are textiles and clothing, automotive industries, manufacturing of equipment products, chemistry and electronics, information and telecommunications technologies, wood and metal.

The observatories' mission is to analyse the structural situation of the sectors, from the entrepreneurial, labour and technological perspectives; to produce information and to recommend concrete measures to improve the sectors situation and its strategic perspectives; and to share the results obtained with the relevant actors. The observatories were set up in 2005 and 2006 and may prove to become a relevant tool for a more proactive and structural approach of restructuring by encouraging a shared diagnosis of current problems and anticipation of future changes between the social partners.

The observatories were conceived as active tools for the design and implementation of an industrial policy targeted on the increase of productivity of enterprises operating in Spain and is based on the positive role of social dialogue for the identification of problems that limit productivity growth and on social partners' capability to socialise shared diagnosis and proposed measures to tackle the recognised shortcomings.

Each observatory includes the sectoral employers' representatives, trade union representatives appointed by UGT and CC.OO, representatives of the *Federación de Entidades de Innovación y Tecnología*, representatives of the Ministry of Industry, Tourism and Trade and of the former Ministry for Labour and Social Affairs (at present, The Ministry for labour and Immigration).

The analysis of industrial policy shortcomings and opportunities developed by the observatories is based on a matrix whose lines are the measures of industrial policy and whose columns are the sectors under analysis. The adopted set of horizontal industrial policy measures include economic and competitiveness policy, infrastructures, environment and sustainability, internationalization and foreign trade, training and labour market, health and safety and quality and promotion of R&D and use of ICT.

The impact of the regulatory framework of each sector on production costs and its consequences on international competitiveness, the problems linked to the existing infrastructures and the type and level of innovation in the respective sector are common domains of the eight active industrial observatories.

Selected outcomes of the activity of Spanish industrial observatories

| Observatories | Action |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Textiles and clothing | <ul style="list-style-type: none"> ✧ Analysis of enforcement of labelling regulations of textile products from third countries; ✧ Analysis of absenteeism on textile and clothing sector ✧ Logistics as a competitive factor on the textiles and clothing sector ✧ Incidence of energy costs on the textiles and clothing sector competitiveness |
| Metal, Chemistry and Textile and Clothing | <ul style="list-style-type: none"> ✧ Analysis of EU's REACH Regulation in Spain |
| Automotive industry | <ul style="list-style-type: none"> ✧ Sectoral use of <i>contratos de relevo</i>⁹ ✧ Logistics as a competitive factor ✧ Potential effects of tax reform and elimination of public subsidies to automotive components industry ✧ CARS 21. Use and follow-up of the agreed principles |
| Wood | <ul style="list-style-type: none"> ✧ Accidents at work on the sector ✧ R&D on the wood sector ✧ Environmental policies on the wood sector |
| Chemistry | <ul style="list-style-type: none"> ✧ Sustainability of the chemistry sector ✧ Enforcement of SEVESO Regulation to the chemistry sector ✧ Analysis regulatory framework set up by collective agreements |
| Manufacturing of equipment products | <ul style="list-style-type: none"> ✧ Follow-up of employment and related factors |
| Metal | <ul style="list-style-type: none"> ✧ Qualifications, skills and training needs on the metal sector |
| ICT | <ul style="list-style-type: none"> ✧ ICT impacts on potentially ICT intensive sectors ✧ Telework and its regulation at the ICT sector |
| Electronics | <ul style="list-style-type: none"> ✧ Self-diagnosis methods for the technological situation of the enterprises |

Source: Ministerio de Industria, Turismo y Comercio, 2008: Observatorios Industriales. Informe de actividades 2005-2007

The recommendations adopted by Industrial Observatories have included MITYC's guidelines on the development of the Spanish statistical system, sponsored programmes for R&D and the design of fiscal stimuli to companies.

According to the Spanish Director-General for Industry, the main difference between the Industrial Observatories and common research teams is the strong capacity that these structures have shown due to their tripartite composition.

⁹ Special type of contract that allows an unemployed person to be hired by a company to substitute an employee on partial retirement

Radio Televisión Española (RTVE)

The restructuring of RTVE recently concluded a five year process that, the latest phase, of which started with the strategic plan that *Sociedad Estatal de Participaciones Industriales* (SEPI), the public [Spanish industrial holding company](#), prepared at the end of 2001 and presented to the Management Board of RTVE in February 2002.

According to the plan, the restructuring of RTVE could not be addressed without addressing the financial burden and its costs, ongoing labour costs and the organisational model. Consequently, the legal, productive, organisational and territorial models of RTVE were reviewed according to zero base budget techniques. The issue of cultural change of the workforce has been considered to be central to the restructuring process.

As a consequence of ten years of successive poor financial results, RTVE's total debt in 2001 was almost €5bn, with debt servicing costs representing 19% of the total income of the enterprise. The strategy adopted had three elements;

- ✧ To cancel the debt and provide RTVE with a stable financial budget based on the public service provided;
- ✧ To increase the stability of management and governance bodies;
- ✧ To reduce the workforce and control labour costs.

To achieve these objectives, the decisions adopted included:

- ✧ A new law on public owned radio and television (Law 17/2006, 5th June, of the public owned radio and television – *Ley 17/2006 de 5 de junio de la radio y la televisión de titularidad estatal*) has been adopted by the Spanish Parliament (Cortes);
- ✧ The definition of the content of public service on the radio and television domains;
- ✧ An agreement on financial stability signed with the Spanish government;
- ✧ An agreement on the production of services by RTVE;
- ✧ Newly designed organisational structures;
- ✧ A reduction of almost one third of the workforce, authorised by the labour administration at the end of a negotiated redundancy proposal (see above), to be accomplished in 2007 and 2008;
- ✧ The rejuvenation of the workforce;
- ✧ Placement of a portion of the redundant workforce in the newly created structures;
- ✧ Upgrade of working conditions in RTVE, including for previously existent workers;
- ✧ A new collective agreement.

Both sides of industry underline three facts of major relevance for the success of restructuring in RTVE;

- ✧ Information and consultation with trade union representatives from the beginning of the process;

- ✧ Detailed planning of the restructuring process to avoid unnecessary tensions and to guarantee timings;
- ✧ Trade union coordination and joint action, which permitted initiatives to minimise the adverse effects on employment whilst making the restructuring viable.