



INVOLVE PROJECT SURVEY NATIONAL REPORT SPAIN

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Spanish economic framework in which layoffs are developed

In 2016 it has been met eight years since germinated in US international economic crisis, whose consequences remain still now. In this long period developed countries have gone through different phases of the economic cycle and behavior has not been the same in all cases. In Spain, after a fleeting and timid recovery in 2010 and early 2011, which was the result of expansionary policies in the two previous years, there was a relapse of the activity, in which GDP plunged into negative territory for 10 consecutive quarters. The analysis of GDP indicates a clear improvement in economic activity since the middle of 2014. But the output of this second recession arrives in Spain with delay, compared with economies of surrounding countries, and is marked by two features: the irreparable harm suffered by the labor market in terms of job insecurity, increase of unemployment and lack of protection of persons; and the extent of inequalities in various economic and social fields.

This is because this improvement in economic activity has not been the result of policies and reforms implemented on the contrary they have hampered recovery (spending cuts, wage devaluation, reduced public employment), but it is based on three factors of external nature: the depreciation of the euro against the dollar, the falling of oil prices and monetary expansion decided by the European Central Bank.

Consequently, the Spanish economy is now growing significantly, but it does so supported by external factors, and as such it cannot be controlled by national policy, to which must be attributed a small portion only of the takeoff of activity. Besides the risks of relapse which are still very high, growth is not moving towards employment improvement as required by our situation in order to increase the quality of life of households. Growth has come, but crisis is still very intense. It is true that since 2014 the occupation grows, but it is based on poor quality jobs, mostly precarious. Part-time jobs prevail. The percentage of temporally jobs, imposed on the workers against they need has increased to above 62%. Temporality remains one of the main problems of the Spanish labour market. Temporality affects more than 26% of employees, being the highest in the European Union, with the exception of Poland, and double of the average of surrounding countries.

To this an increasingly is added precarious permanent jobs, protected by new employment contracts and training contracts. Although they are indefinite employment contracts, entrepreneurs are entitled to a trial period of one year, which abuses the rule which states that the employee must stay at least three years from the date of commencement of employment. Failure to pass the annual test period, means that the contract is terminated without any

compensation. On the other hand training and apprenticeship contracts are allowed until the worker is 30 years old, and when the contract ends, the employee is not entitled to receive any compensation.

The decrease of wages has been very intense. It has generated an impoverishment of families, it - has fueled the growth of inequality and poverty, and as a consequence, it has affected consumption, which is essential to overcome the crisis. In Spain there has been a decline of 4.2 percentage points in real wages since the beginning of the crisis (from 2011 to 2016).

The minimum wage and the Public Indicator of Multiple Effect on Income (IPREM), are unjustly frozen. Since the beginning of the crisis they have risen by an average of 1.80 per year. There was an increase in population at risk of poverty or social exclusion, and actually 29.2% of the Spanish population is in this situation. Increased economic and social inequalities, an expansion of the conditions of poverty and a deteriorating quality of life in the country is observed. The figure is very significant that the average household income in Spain is € 26,154.

We are currently in a situation of global recession. In Spain the situation is aggravated by political instability since general elections of December 20th, 2015, which have not given a stable Government

In this economic and social environment, The General Union of Workers (UGT) is one of the major trade unions along with Comisiones Obreras (CC.OO). UGT is grouped into different federations by sector of activity. The Federation of Mobility Services and Consumption of UGT (SMC-UGT) brings together workers in the following sectors: Commerce, Hospitality, Tourism, Game, Transport, Telecommunications and Mar. Castile and Leon it has 9,436 members among all sectors mentioned.

Influence and implementation of the new Royal Decree 3/2012 Labor Reform of the February, 10th.

With the crisis in Spain especially in the years 2011 and 2012, the adjustments that were carried out were particularly aggressive.

The government imposed by Royal Decree a particularly aggressive labor reform, without the prior consultation with or information of social partners. The direct influence of this reform affected not only wages and layoffs, but also employment regulation, a case which concerns us for this project.

Main amendments due to the labor reform:

1. Layoffs are easier and cheaper, because they included economic, organizational and production reasons. Additional reason that facilitated dismissal of workers is that companies did not have to pay high severances any more.
2. Meditation process for termination of work contract (ERE) could be proposed by the companies, without prior agreement with the employee, as they can justify three quarters of losses of money in the company.
3. ERE, provided that they follow the protocol prescribed by law which is supervised by the ministry of labor, can be carried out if there are causes that justify them. So far, collective layoffs (ERE) needed to be authorized by the labor authorities. Actually there is no need for that anymore, business decision prevails. Against these redundancies there will be no other defense but to go to court.
4. Workers may be offended, and if they extinguished their labor contract is terminated, they are entitled to no more severance than 20 days per year worked. So it is easy to terminate bad contracts in ERE'S.
5. The Absenteeism and sick leave are justified grounds for dismissal between day 1 and 9. With the exception of the labor accident, companies have the power to force the medical discharge. Prior to the Labor Reform, only the doctor could give medical leave, and it was more difficult to dismiss an employee under those conditions. The company, if it is necessary, can fire an employee for absenteeism (with severance of 20 days per year worked), albeit justifiably, (for example by being in a situation of temporary disability for common illnesses and different from each other, unless they are due to serious diseases) 20% of their time absence in two consecutive months, or 25% absence in four months over a period of 12 months from the first temporary disability.
6. If you are hired by a company with fewer than 50 workers (that is to say almost all companies) the contract called "entrepreneurs contract" may be abused. It is a three-year contract, so is called "indefinite", but with a trial period during the first year in which you may be dismissed at any time, without more justification, compensation or rights of any kind.
7. If the worker is under 30 years of age, it is the first contract of his/her life, the company receives a grant of 3,000 euros of public money.
8. If the worker is unemployed without right to unemployment benefits, it is very difficult to find a job, because it is more profitable for companies to hire an unemployed receiving a benefit, because the company can them fiscally deduct 50% of the benefit the worker would have received for a year, and this may

account for 25% of the salary paid by the company. That is, the company will consume 50% of the benefit of the worker.

9. The training and apprenticeship contracts, applicable to workers between 16 and 25 years old may be extended to workers up to 30 years old (no age limit for people with disabilities), during the time that Spain has a rate of unemployment of more than 15%. These contracts may cover up to 3 years (before the reform they were 2 years contract). Working time for training and apprenticeship remains at 75% of the working day for the first day, but it has expanded to 85% for the second and the third year. In these contracts the worker is not covered by Social Security.

10. Until February 12, 2012 the compensation for unfair dismissal was 45 days per year worked, with a limit of 42 months. Today these limits are only 33 days per year worked and a maximum of 24 months. Unemployment benefits, are only maintained if the worker is re-integrated in the labor market.

11. Companies can change the working conditions if the company decides to break the collective agreement, which it should apply.

As we see, with this labor reform, records of employment regulation are easier to manage, and companies waited 9 months from the entry into force of the labor reform in order to begin to initiate reforms in their companies dismissal of workers, claiming organizational or economic reasons, as they met the requirement of having three quarters of the year with losses, and they were obliged to pay particularly small severance. Severance of 20 working days per year with a maximum of 9.12 monthly payments, caused that companies in our country, in which the average salary does not exceed 1000 euros, may dismiss a worker for no more than 3000 or 3500 euros.

Purpose of the study

SMC-UGT Castilla y Leon has accomplished 10 interviews. We conducted surveys among worker representatives of Hotels (Hotel Plaza), supermarkets (El

Arbol), casinos (Casino Boecillo), rail transport (Acciona) and transport in highways (Pardo Feijoo). Hospitality companies such as Hotel Valderrábanos, the Meson El Rastro and El Parador de Gredos; Electronics companies trade as Avila and social restoration companies like Albie, S.A. All companies surveyed have suffered redundancies – and wage cuts- in recent years as a result of the crisis.

All surveys were carried out using the template provided by OBES.

The conclusions of each of the survey questions are included:

1. *Is there a written agreement between the employer and the trade union, establishing practical details of information and consultation? If yes, what does it include?*

Acciona and the Casino was no written agreement, in fact in the latter case employees demanded such an agreement.

In Pardo Freijoo there have been several layoffs, all lasting 15 days. And they had documents detailing the way affected workers were rotated so that they were not always the same and that the duration was strictly necessary and supplementary wages were up 90%.

At the Hotel Plaza existed a written agreement between the company and the trade union that includes that workers worked without being paid to meet deadlines.

In supermarket EL ARBOL agreement was the need to make an ERE.

In the Valderrábanos Hotel, there was a written agreement, although it was not always very clear.

In the Parador de Gredos, there were agreements and information since collective bargaining took place at the national level.

In Albie, S.A. they had to communicate the situation to the workers, in addition to organize joint meetings between the representatives workers, lawyers of both parties and the company.

In Electronics Avila, there have always been negotiations, before starting the consultation period, as the company have suffered several redundancies and needed to manage it very well.

Meson El Rastro, is a small company, which has negotiated with the workers representatives to reach a logical agreements.

2. *What kind of situation of changes in employment requiring information and consultation procedures did face your company or the company (ies) you refer to and when?*

In Acciona, they had possible redundancies.

In the Casino they had a dismissal program (E.R.E) in 2015.

In Pardo Freijoo there have been several successive ERE. They have always reached quick agreements.

At the Plaza Hotel five workers, all from the Administration Department were dismissed.

In the supermarket EL ARBOL there was a need for intervention because the Administration considered ERE was due to force majeure.

In the case of Hotel Valderrábanos there was a restructuring of staff, since there were too many workers for the work they had to carry out.

In the case of Albie, S.A suspension affected 50% of employees so a major restructuring was necessary.

At Meson El Rastro, there was a need to adapt working hours.

The Parador de Gredos, and all Paradores of Spain, were more or less affected, depending on the workload they had. So in the Parador de Gredos it was necessary to proceed to restructuring of the staff, since their workload was not much.

And in Electronics Avila, after two dossiers of employment regulation, and the dismissal of two workers, it was necessary to adapt to the new situation, since there was a considerable decrease of work.

3. *What were the main problems you had to face?*

In Acciona there have been decreases in wages.

In the Casino from the point of view of UGT the main problem has been the Company and the four members of the Committee related to the employer Company.

In Pardo Freijoo it was rotating because at first, the proposal of the company not rotation established so that all workers were equally affected was met.

At the Hotel Plaza the main problem was the timing as the company was at a pre- bankruptcy stage.

In the supermarket EL ARBOL the main problem was to find a fair formula for dismissal compensation.

In the Valderrábanos Hotel the main problem was that there was too much work for the staff remaining after redundancy procedure.

At Meson El Rastro, the company instead of talking with the union representative, they hid the information.

Electronics Avila, after suffering two redundancy procedures, immediately they started another one, and wages were badly reduced.

The Parador de Gredos in view of a huge redundancy regulation, intended that all territories were represented.

In Albie, S.A. it was impossible to cope with the workload with half of the workforce affected. To cope with this situation it has created an employment agency.

4. *Did information precede the decision making of the employer or the employer just announced an already made decision? Did he call you for information and consultation?*

In all cases the decision was made by the company and then it proceeded to the consultation with unions because it was mandated by the law. Even in the case of successive dismissal procedures in Pardo Freijoo, companies didn't respect the 15 days previewed and they carried forward in only three days.

5. *With whose initiative did information take place? Where did it take place? Who participated from each side (employee/employer? Was there an agenda and who prepared it?*

The initiative in all cases has been taken by the Company. Information has taken place in the workplace. Employers have participated through managers, CEOs and corporate lawyers and employees have participated through works councils' or through representatives. The agenda has been prepared by the Company, according to the 'works councils' members or representatives.

6. Did your employer inform you in written using analytical and documented information about the above-referred changes in employment?

In all cases information included accounting and financial documents. As well the decreased workload, of which the workers themselves were aware since it was obvious.

7. *Did you ask for analytical information taking the initiative yourself, when for example there were rumors that there would be restructuring or redundancies? On what issues did you ask for information?*

All representatives asked for technical reports, service contracts etc...

We have to take into consideration that in the Supermarket EL ARBOL, the company falsified information.

Representatives in of Pardo Freijoo need to ask for reports analyzing the situation because of the reduction of the workload as this company was working for RENAULT, which was their main customer and since RENAULT has followed dismissal procedures, it also reduced Prado Freijoo work as carriers.

In the case of Albie, S.A workers understood that there was a decrease of students, which although not necessary, affected half of the workforce.

On the other hand, in the Parador de Gredos, it was necessary to justify economically, a company operating nationwide, why there were hotels that had a positive figure while others did not.

8. *Did you ask for assistance of an expert or any third party (e.g. an economist, a lawyer or an engineer)? What kind of assistance did you get?*

All respondents were assisted by lawyers and economists of UGT, except in the case of the successive dismissal procedures of Pardo Freijoo where the whole process took place directly between union representatives and the management of the business and where they agreed that the salary supplement would be calculated as 90% of the base salary instead of 85% offered by the company.

Lawyers were always present companies.

9. Did you have any objection about the information procedure followed? What juridical process did you engage (Labour Inspectorate, Ministry of Labour, Court of justice etc.)?

The only that went to the Labour Court was that of Casino. All other cases have been settled through agreements in the Territorial Labour Office or with the intervention of the Labour Inspectorate.

Workers affected by suspension or dismissed following a dismissal procedure went to SEPE (Public Employment Service) to apply for unemployment benefits.

Most of the companies, including SMEs, decided not ask to be advised by an UGT attorney at the time in which they had the possibility of to ask for information because of the consequences that this might cause them.

10. Was the information you received satisfactory? Did it cover the economic situation of the company, evolutions of employment and changes in work contracts or redundancies?

Most of the surveyed companies ended by having layoffs except Acciona and Pardo Freijoo in which days have been especially reduced and salaries proportionally cut. Respondents were not satisfied with the information received, which they considered as insufficient in all cases.

Most workers interviewed surveyed said that the crisis was an excuse for companies to proceed to re- structuring and, although there, were less losses than in previous years, did not need to tell lies to workers.

11. Did you transfer information you got from the employer to employees and how did this take place?

The information in all cases was forwarded from the employer to the union works council or its representatives and then transferred to the other workers through Assemblies held in the premises of the company.

12. Did your employer give you information he said was confidential? Did he explain to you the reasons of confidentiality and how long would it last? Did you have any problems?

It was noted in all cases that the information was confidential and could not be diffused outside the company, i.e., financial reports were delivered by companies to lawyers or union representatives in order

that they get evidence that the requirements of the dismissal procedure were met and therefore they have no problems with the ministry of labor.

On the other hand, in the case of Hotel Plaza, the management did not give the information available to potential buyers.

13. In the case your employer provided you with information you asked, how much time did you have to examine data provided in order to form and express your views and opinions during consultation?

In all cases companies have respected the 15 days required by the law, except in the case of the Company Pardo Freijoo in which the process took three or four days and which dates were falsified, to officially meet legal deadlines, with the consent and signature of the representatives.

14. Did you ask in written for clarifications on the information received? Did the employer answer to you in written, in order that you get prepared for consultation?

All information has always been written. And all agreements and records of all meetings are in written.

15. Where did consultation take place? Who participated from each side? Who wrote the agenda with issues to be discussed?

All meetings are held either at the law firm of the company, in the workplace or in the headquarters of the UGT and CCOO

Always participants were union representatives, works councils' members, advisors of the trade union on one hand, and the company management and lawyers on the other.

16. How long did consultation last? Were there written minutes signed by the employer and the employees? Did you ask for assistance of an expert or any third part?

All cases have been settled within 15 days to one month, except in the successive dismissal procedures in Pardo Freijoo ERE which have been resolved in four days.

17. Did you ask the employer for justified responses to the opinions that you expressed during consultation? On which matters? Did you get them?

In all cases there was exchange of information and documentation. Also, in the case of big companies such as the el Parador, the company had to justify at the national level, taking into consideration that there were many affected hotels and depending on the number of people, which could be more or less affected by the dismissal process, and it was necessary to give extensive explanations. In the case of supermarket EL ARBOL the company could not give any justification.

18. Except of the consultation procedure, did you manage to create conditions pressing the employer towards your positions (trade-union pressure, allies in the community, political pressure, Ministry of Labour, Labour Inspectorate etc.)?

In the case of the dismissal process of the Supermarket EL ARBOL employees used the press and the media as measures of pressure. In the rest cases there was no use of pressure tactics (such as complaints or strikes) except the negotiation with the trade unions, in which the lawyer or lawyers, raised the possibility of challenging the dismissal process, if the causes were unclear or not properly justified. So in front of that pressure, companies chose to follow the previewed protocols before been taken to court.

19. How do you assess the results of the information and consultation? Did the opinion you expresses during consultation achieve in influencing or changing decisions made by the employer for changes in work organization or work contracts?

Except in the case of the dismissal process of Casino, in the other cases interviewees that participated in consultation themselves said they did not influence the final decisions. Since in all cases in consultations participated lawyers, they included clauses protecting employment, and tried to improve working conditions despite the labor reform (Law).

20. Did you conclude to an agreement regarding the employer's decisions on the future?

In general, there were agreements. While it is noteworthy, that in the case of an interruption of the dismissal process of the Casino, the representative interviewed disagree in principle, but the document was signed by a majority of the Works Council.

In most cases agreements were trying to encourage and support workers as much as possible, always protecting their jobs into the consideration that the age of the most of them did not allow big changes. For this reason, alternative chosen was always the temporary suspension or reduction of working hours, rather than termination of the job.

21. What practical advice would you give to trade unionists facing analogous situations?

To be well informed on how an ERE (dismissal process) is made, its entire procedure.

Negotiate within the limit of not losing jobs.

The trade union should, through its experts, check everything, always trying to negotiate better conditions and improving settled case law.

Unity, responsibility and solidarity.

22. Which processes and means did workers' representatives use to inform all employees on the results of information and consultation?

By organizing Assemblies of workers at the time of shift changes, by putting pressure through the press in the case of supermarkets EL ARBOL, and by telephone conversations with workers individually. In the case of the Paradores, meetings and site visits allowed to know how national agreements affected each hotel specifically.

23. In case your employer did not give you information you required or refused information & consultation procedure did you proceed to juridical measures? If yes, which exactly and what was the result? Were there sanctions for the employer and if yes which?

In all cases information has been provided, there have been agreements and there were no sanctions, except in the case of supermarket EL ARBOL, which worker's representatives have reported to the Labour Inspectorate in order to claim documentation.

24. Do you consider that these sanctions were effective, dissuasive and proportionate to the seriousness of the offense to employment? Were there sanctions at all?

There were no sanctions and in the aforementioned case of the supermarket EL ARBOL workers' know if there were sanctions.

25. In case the company belongs to a multinational grouping of companies, in which there is a EWC have you informed the EWC? Has the subject been discussed in the EWC? Has the EWC restricted Committee discuss the subject with the central management of the grouping in a meeting of information and consultation based on a report of the central management? Have you been called to participate in this meeting? Have you informed employees about the results?

Only in the case of supermarket EL ARBOL where national Works Councils' representative were called to participate in the meetings of the EWC, as in the Paradores de turismo, where the same protocol of meetings with the central management and the works council is followed.

26. What difficulties or obstacles have you encountered due to the Law, administrative system, juridical system or in general?

That the law is very permissive for the employer as it facilitates the processing for ERES, ERTES ... and therefore dismissals. The labor reform has enabled and facilitated layoffs, making them cheaper and easier.

Conclusions:

In recent years under the pretext of the economic crisis, companies have eliminated jobs citing "organizational economic, technical, or production" reasons.

And if the dismissals were not enough, the aim to have "cheaper workers" has been achieved, through the implementation of changes in working conditions, decrease in salary, changes in working hours, changing the functions of workers etc..

Most employment contracts terminated with ERE preview severance payment of 20 days and for a maximum of 12 months. From the 12th February 2012 on companies need not to justify losses of jobs and layoffs for economic reasons; they just need to have gained less in the previous three quarters of the year.

In conclusion: the rules governing the regulation records of employment and labor relations in general are unfair for workers, inefficient regarding the economy and useless as far raising of employment is concerned.

As of April 28, 2016 the number of unemployed in Spain is 20.9% of the population of working age, demonstrating that the labor reform had no impact on raising employment.

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