



SPAIN¹⁸⁵

El affiliates

FECCOO	Federation of Education of the Trade Union Confederation of Workers' Commissions
FETE-UGT	Federation of Education Workers of the General Workers' Confederation
CIG-Ensino	Federation of Education of the Galician Trade Union Confederation
ELA-GIZALAN	Federation of Public Services of the Basque Workers' Solidarity
Enseñanza CSI-F	Education Sector of the Independent Trade Union Confederation of Public Servants
STEs-Intersindical	Confederation of Education Workers' Unions
FE-USO	Federation of Education of the Workers' Trade Union Confederation

Others

National Association of Education Teachers (ANPE);
Confederation of Independent Education Trade Unions

Ratifications

- C. 87 Freedom of Association and the Protection of the Right to Organise(1948) ratified 1977
- C. 98 Right to Organise and Collective Bargaining (1949) ratified 1977
- C. 100 Equal Remuneration (1951) ratified 1967
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 1967
- C. 144 Tripartite Consultations (1976) ratified 1984
- C. 151 Labour Relations (Public Service) (1978) ratified 1984
- C. 154 Collective Bargaining (1981) ratified 1985

The Status of Teachers

In Spain, teachers in the public sector are either employed as civil servants, with a guaranteed permanent appointment, or as public employees, with a work contract. The Basic Statute of Public Employees (*Estatuto Básico de los Empleados Públicos-EBEP*), adopted in 2007, recognises the increasing proportion of workers in the public sector without civil service status, and sets out a national framework for the rights and responsibilities of public sector workers, regardless of their employment status and at all levels of government. Public employees with a work contract are also covered by the Statute of Workers (*Estatuto de los Trabajadores - ET*), adopted in 1980 and last amended in 2012. In the private sector, employment of teachers is only governed by the Statute of Workers (*Estatuto de los Trabajadores*).

¹⁸⁵ Grateful acknowledgement of the written report and additional comments from FECCOO

Freedom of Association

Freedom of association, including for migrants and undocumented workers, and the right to strike are fundamental rights as provided by Article 28 of the 1978 Spanish Constitution, the Organic Law 11/1985 on freedom of association, Royal –Decree Law 17/1977 on work relations, and Law 7/2007 on the Basic Statute of Public Employees (EBEP). The Constitution provides for special modalities to apply for public employees. Members of the armed forces, as well as judges, magistrates and public attorneys, do not have the right to strike. Special provisions also apply to the State police and, in certain cases, to the police forces of the autonomous communities.

Collective bargaining

The right to collective bargaining is provided for in Article 37.1 of the 1978 Spanish Constitution and the Royal Legislative Decree 1/1995 on the Statute of Workers and the EBEP.

Collective bargaining in private education institutions is similar to the collective bargaining of other private sectors. It takes place, predominantly, at the national level, with several sub-sectoral collective agreements (pre-primary school, primary and secondary school, universities, vocational training, etc.). For primary and secondary education institutions, there are different collective agreements for private institutions with State subsidy (*centros concertados*) and for fully private institutions.

The EBEP is a progressive reform designed to facilitate social dialogue for all public sector workers. It establishes the right of all public sector workers, whether civil servants or public employees, to negotiate collectively and to participate in the determination of work conditions. Collective bargaining is subject to the principles that it must be lawful, its outcomes are covered by the budget and that it is compulsory, undertaken in good faith and is in the public domain and is transparent.

However, collective bargaining in public education is quite complex and fragmented, reflecting the different contractual arrangements of teachers according to their status and also regional differences, given the considerable devolution of powers onto the Autonomous Communities. The situation is also evolving, and the practice can be different from the law.

Broadly speaking, the EBEP establishes that negotiations takes place at both general and sectoral negotiation “tables” (*mesas*) at the three administrative levels: national, Autonomous Communities (regional) and local. Public employees but not civil servants have the additional right to bargain and sign collective agreements as set out in the Workers’ Statute (Estatuto del Trabajador ET). In this system, one of the challenges is to ensure that



there is coordination between the different negotiating bodies.

National level

The general negotiations table of public administration (Mesa General de Negociación de las Administraciones Públicas) sets a framework and it negotiates the common terms and conditions of employment of all public sector workers. Its mandate includes the negotiation of new legislation, regulations or decrees affecting all civil servants and public employees, and the overall annual average salary increases to be included in the General Budget Law every year.

There are two sectoral bargaining tables related to the education sector at national and also typically at regional level although they have not been formally constituted but work on a non-formal basis, and thus are dependent on the good will of the Ministry of Education:

- teaching staff of public education institutions (excluding universities);
- teaching staff at public universities;

Within the framework of the basic statute for public administration workers, the national sectoral tables can define the salary structure and career structure for teaching staff and some salary components. Working hours as a whole have been fixed for all civil servants by EBEP but teaching hours are established at regional level without negotiation.

Autonomous Community (Regional) Level

The same system of a general negotiation table for all public administration and sectoral negotiation tables exist.

The system of negotiating tables

In non-University education, the status of non-civil servant teachers is assimilated to those of civil servants, though with some exceptions. The working conditions of the administrative staff with public employee status are negotiated through the general collective agreement for the public administration (at national or regional level). At regional level non-University education staff is paid directly by the Autonomous Community (Regional Government) so the non-university regional table is the last step in the cascade of bargaining tables. National education laws enable some degree of freedom in the class size, and number of hours and subjects taught in the different official languages (there are 5 autonomous communities with two official languages) and regional salary complements. Also several regions have a Regional Education Law. All these issues can be negotiated in the sectoral regional tables. While there is a national act which determines the general system and criteria, education staff selection takes place regionally and the selection processes are organised regionally and, in theory, negotiated in the regional tables.

In universities, the main aspects of working conditions are negotiated at the national

level for teaching staff. The proposed Statute of University Teachers and Researchers "*Estatuto del personal docente e investigador*" was negotiated at the national sectoral table but was not finally adopted. Regions organise their regional system, and create universities (public or private) and determine the campuses, faculties and programs. Several regions have their own University Law. In the case of public universities, the main part of the budget is allocated by the regions. Regions can also regulate certain aspects of the public employee teaching staff, for example refining the teaching categories based on those defined in the Spanish University Law. Additional salary components can also be negotiated regionally. These and other aspects could be negotiated in a regional university negotiating table. There can also be university level negotiation tables, which can define the number of positions needed in different departments or faculties or for the non-teaching staff services.

Collective bargaining for the university teaching staff with public employee status takes place predominantly at regional level (the collective agreement covers all the universities).¹⁸⁶ There are generally different collective agreements for the teaching staff and the administrative staff. Collective bargaining for the administrative staff with public employee status is predominantly at university level.

In the negotiating tables, unions are represented through elections of delegates to the Personnel Committees (*Juntas de Personal*). These elections are carried out only by those union members with civil servant status. Generally, if a union achieves 10% of delegates, they are represented in the negotiating tables. At national level, for both the general and sectoral negotiation tables, however, there are provisions that unions, which have a strong regional base but do not reach 10% of the delegates at national level, can be allocated representatives. The Personnel Committees do not have the right to establish collective agreements, though they may establish informal agreements, without the force of law.

Public employees elect union delegates onto works councils (*comités de empresa*), which are similar in structure to the private sector. The works council then negotiates the collective agreements, which have the force of law. Also unions can negotiate collective sectorial agreements.

Formally the workplace representation structure of employee delegates and works councils does not depend on union involvement, but in practice the composition of the works council depends on the union election results and the unions play a central role. The vast majority of elected representatives are proposed by the unions and around three quarters of them

¹⁸⁶ Section based on *Representativeness study of the European social partners: Education Sector-Spain Section 4: The system of collective bargaining/regulation*

come from the CCOO and the UGT.

Spanish trade unions also have separate legally recognised structures within the workplace with a range of legal rights. These trade union sections bring together all the members of a particular union in the workplace.

COLLECTIVE BARGAINING IN THE EDUCATION SECTOR					
	NON-UNIVERSITY			UNIVERSITY	
		Private	Public	Private	Public
Teaching staff	Civil servants	-	Negotiation tables	-	Negotiation tables
	Employees	Collective agreement for teaching and administrative staff	As civil servants (with some exceptions)	Collective agreement	Mixed: Collective agreement for teaching staff As civil servants (with some exceptions)
Administrative staff	Civil servants	-	Negotiation tables	-	Bargaining tables
	Employees	Collective agreement for teaching and administrative staff	Collective agreement for public administration	The same collective agreement as teaching staff	Mixed: Collective agreement for administrative staff As civil servants (with some exceptions)

Social dialogue

Over the last decade, there has been a strengthening of social dialogue institutions at national and regional and autonomous community levels.

Since 2002, in the private sector, the articulation of collective bargaining and the criteria for pay reviews in Spain have been governed by the recommendations and guidelines laid down in the Multi-Sector Agreements for Collective Bargaining (*Acuerdos Interconfederales para la Negociación Colectiva, AINC*s). The content of collective bargaining has also been extended to include an increasingly wide range of subjects, due to new legislative reforms and their development through the following framework agreements: control of temporary recruitment, prevention of occupational risks and promotion of gender equality. The last framework agreement was signed in January 2012 covering the period 2012-2014.¹⁸⁷

In the public sector, there have been a series of agreements, notably the Government-Trade Union Agreement on financial measures and public sector employments for 2006 (*Acuerdo Administración-Sindicatos sobre medidas retributivas y de Oferta de Empleo Público para el año 2006*) Government-Trade Unions Agreement for the Public Sector in the framework of social dialogue for 2010-2012, (*Acuerdo Gobierno-Sindicatos para la función pública*

en el marco del diálogo social) and the Social and Economic Agreement for growth, employment and pension guarantees (2011) (*Acuerdo social y económico para el crecimiento, el empleo y las garantías de las pensiones*) and the Law 27/2011 on reforms to the social security system (*Ley 27/2011 sobre actualización, adecuación y modernización del sistema de Seguridad Social*).

The State School Council (*Consejo Escolar*) is an administrative body with national scope for the participation of sectors involved in the education system. The Council carries out consultations on bills and regulations that affect educational levels prior to university and is able to elaborate proposals to the Administration.

The Council includes representatives from:

- parents' and students' associations;
- owners of private education centres;
- employer associations and trade unions;
- State Education Administration;
- universities;
- women's organisations ;
- individual appointments of well-known persons.

The Impact of the Financial Crisis

Until 2007, the Spanish economy was growing at relatively steady rates, largely fuelled by domestic consumption and the construction sector but then began to lose momentum. The global economic crisis had a particularly devastating impact because of Spain's high level of foreign debt. Spain currently suffers from one of the highest unemployment rate in the European Union, now at 26.6% in January 2013, and youth unemployment is 56.5%.¹⁸⁸ Poverty and inequality indices continue to rise. It is calculated that 27% of the population is living below the poverty line.

During the government of Jose Luis Rodriguez Zapatero (PSOE), significant austerity measures were only introduced in May 2010, with budgetary cuts of Euro 15.6 billion to reduce the deficit with a 5% cut in public sector salaries in 2010 (7-8% cut in salaries for teachers) and a wage freeze in 2011. Since the Constitutional reforms of September 2011, and most dramatically, following the election of the conservative government of Mariano Rajoy (PP) there have been major changes in the political, economic and social model of the State, in part imposed by international financial institutions, focusing on the dismantling of the welfare State and the privatisation of public services. There have been a vast swathe of reforms, designed to deregulate labour relations, and reduce overall labour costs. The trade union movement as a whole has responded with substantive mobilisations, protests

¹⁸⁸ Eurostat January 2013

and general strikes.

While there have been no legislative changes to the right to freedom of association and its regulation, the PP government has made statements to the effect that they think it is necessary to introduce new regulations concerning the right to strike but no specific proposals have been put forward to date. In practice, however, because of the multiple restrictions on the right to collective bargaining, the right to freedom of association has also been affected. Furthermore, since the PP government came to power in December 2011, and before that in the case of some of the Autonomous Communities under the control of right wing parties, there has been an increasing repression against demonstrators and strikers by the police, with many persons detained and even wounded.

Royal Decree-Laws (RDLs) are approved by the Government and come into effect immediately the day after their publication in the State Official Bulletin and must be validated by the Congress of Deputies within a period of 30 days. This procedure was designed to be used in exceptional circumstances although it has been used frequently over the last few years, particularly by the conservative government of the Popular Party (PP).

Cuts and reforms in the public sector have been legislated as follows:

- RDL 8/2010, of 20 May- extraordinary special measures are adopted to reduce the public deficit;
- RDL 20/2011 of 30 December- extraordinary budgetary, fiscal and financial measures to reduce the public deficit;
- RDL 14/2012, of 20 April, urgent measures to rationalise public expenditure in the education sector;
- RDL 16/2012, of 20 April, urgent measures to guarantee the sustainability of the national health system and to improve service quality;
- RDL 20/2012, of 13 July, measures to guarantee budgetary stability and to encourage competitiveness;
- RDL 5/2013 of 15th March, measures to favour continuity in work for older workers and to promote active ageing.

In the private sector, and public sector employees, there have been a series of labour reforms and reforms to collective bargaining:

- Law 35/2010 of 17 September – urgent measures to reform the labour market;
- RDL 7/2011 of 10 June on urgent measures to reform collective bargaining;
- RDL 3/2012 of 10 February –urgent measures to reform the labour market.

been convened since 2010. The governments have justified this decision because Article 38.10 of the EBEP provides for the breach of agreements in exceptional and serious situations of public interest, because of substantial changes in the economic situation. In the case of some public employees, this has resulted in the revocation of some of the collective agreements in force. RDL 20/2012 has weakened collective bargaining still further as it allows for the unilateral suspension or modification of a collective contract in part or its entirety, without any prior consultation with workers' representatives, and without any prior procedures before any autonomous conflict resolution body, or any tripartite body. It is only necessary to inform the concerned trade union organisations. RDL 3/2012 allows for the revocation of an existing collective contract if negotiations for the renewal continue for more than two years, in which case the sectoral collective contract will apply, or in its absence, the provisions of the ET. The unions are therefore under pressure to conclude a new agreement and the employers to delay.

At the same time, the government has limited the number of persons granted trade union leave in the public sector and the number of working hours they can take off to carry out trade union work thereby drastically reducing the number of trade union delegates. In the case of education, over a two-year period, the number of delegates has been reduced by two thirds.¹⁸⁹

These reforms have also given the government new and wide powers to carry out collective dismissals of public employees for reasons which have been very broadly defined, as economic, technical, organisational and productive. Collective dismissals were not possible before 2012.

Cuts to Education Budgets

Since 2010, cuts in education budgets have amounted to 4.5 billion Euros and it is estimated that there will be a further 3 billion Euros of cuts, having a devastating impact on the quality of state education, as a consequence of cuts in staffing levels, increased class sizes, closure of smaller rural schools, fewer scholastic services such as free school meals, the increasing privatisation of education services, increased university fees and many other consequences.

In 2011, the Spanish government agreed in its Fiscal and Financial Policy Council to set new goals to try to reduce the average public deficit of all the autonomous communities (regions) from 3.9% to 1.3%. Regional governments have responded by cutting education

¹⁸⁹ *Spain: unprecedented attack on union representation* 5.10.2012 www.ei-ie.org accessed 15.02.2012

¹⁹⁰ *Estudio Comparativo de los recortes en educación aprobados en los diferentes planes económico-financieros de las comunidades autónomas 2012-2014* Gabinete Técnico junio 2012, UGT-FETE Enseñanza

budgets further, which are within their competencies.¹⁹⁰

The government has committed to reducing public spending to 3.9% of GDP by 2015.¹⁹¹

Overall, for the 2012-2013 school year, it is estimated there will be between 80,000-100,000 fewer teachers in the Spanish educational system. Regional governments have all increased teaching hours. New sick leave arrangements have also been put in place so that if a teacher is on sick leave for less than 10 school days there will be no replacement teacher, unless the school funds it from its own resources.¹⁹² In addition, a teacher who is on sick leave only receives 50% of their salary for the first 3 days.

A coalition to protest at the dismantling of State education has been formed, known as the Nationwide Platform for State Education (Plataforma Estatal por la Escuela Pública) comprising unions affiliated to Education International (education unions FECCOO, FETE-UGT, STEs and CSI-CSIF), as well as students' organisations, parents' associations and educational reform groups.

Education expenditure and GDP growth

% GDP spent on education	% public expenditure spent on education	GDP % Growth
2008: 4.6 %	11.2 %	1.2%
2009: 5.1 %	10.8 %	-3.7%
2010: 5.1 %		-0.1%
2011		0.7%

Source World Bank/IndexMundi

¹⁹¹ ACTUALIZACIÓN DEL PROGRAMA DE ESTABILIDAD, REINO DE ESPAÑA. 2012 – 2015. página 49, Cuadro 3.3.5 Cambio en la estructura del gasto por funciones) http://ec.europa.eu/europe2020/pdf/nd/sp2012_spain_es.pdf

¹⁹² UGT/FETE Comunicado de Prensa 21st June 2012