

Spain

Attempting to adapt unemployment insurance to a flexible labour market

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Over the last 25 years the Spanish economy has been defined as much by the mass unemployment that struck at the end of the 1980s as by its spectacular recovery from 1996 onwards. Tackling this unemployment, through the creation of a more flexible labour market, has been the authorities' most pressing social concern. Unemployment benefit arrangements have also occupied a key place in government policy, which has taken two successive directions. A decision was initially made in 1992 in favour of a drastic reduction in economic benefits in order to bring the scheme into balance. From 2002 onwards, priority was given to active employment policies to aid rapid re-entry into the labour market. The economic crisis, which has hit Spain hard, has brought with it a sharp rise in unemployment, demonstrating the vulnerability of employment to economic circumstances. Nonetheless, the government has remained on course, boosting subsidies for the redeployment of the unemployed and declining, for the time being, to cut back on its benefit arrangements.

Employers' organisations and trade unions do not play any role in the running of the unemployment benefit system. Unlike the labour market reforms of the 1990s, which were often carried out against a backdrop of tripartite dialogue involving the government and the social partners, the basic principles of the employment insurance system were established in a unilateral decision by the political authorities, which may explain the public opposition they have attracted, leading to no fewer than two large-scale general strikes.

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Cutbacks in the benefit scheme to tackle the mass unemployment of the 1990s

Like all Spanish social security measures, of which it is one, the current unemployment benefit scheme was set up in 1978 at the end of the process of democratic transition¹. Coming under the exclusive competence of the State, which determines the regulatory framework, the system is financed through work-based social security contributions. There are three types of unemployment benefit:

- contribution-based benefits, access to which is conditional on the prior payment of contributions for 12 months of the previous six years and which correspond to 70% of the reference wage for the first six months, and 60% subsequently. The amount is increased according to the number of dependants;
- welfare benefits for unemployed persons not or no longer entitled to receive unemployment benefit, which is the equivalent of 75% of the minimum wage and is paid for between six and 24 months according to age and the number of dependants;
- specific benefits paid to agricultural workers in the regions of Andalusia and Extremadura, which are more akin to partial unemployment compensation for seasonal farm workers.

A single budget, managed by the INEM (*Instituto nacional del empleo* – National Employment Institute)², finances all three allowances, without any distinction between those that are insurance-based and those that are not. The INEM is also responsible for managing and implementing employment policy, thus combining the tasks of compensation and job placement. Employment policy itself is financed by the government.

The unemployment benefit system, which started out as rather generous, would undergo its first reform in 1992 in order to redress its significant financial imbalance. From the beginning of the 1980s Spain, forced to

1. Article 41 of the Spanish Constitution of 6 December 1978 states: 'The public authorities shall maintain a public social security system for all citizens, guaranteeing adequate social assistance and benefits in situations of hardship, especially in the event of unemployment...'

2. Also created in 1978, the INEM is a public body run under the auspices of the Ministry of Labour and Social Affairs.

modernise its apparatus of production in the midst of an economic crisis, had been one of the European countries hardest hit by unemployment. For two decades, industrial upheavals in traditional sectors and a large-scale rural exodus caused unemployment rates to soar, until more than 20% of the population was affected. Severe recession at the beginning of the 1990s took unemployment to the record level of 24.2% in 1994, twice the European Union average.

The unemployment benefit system became one of the main causes of the public finance deficit, the clearing of which – essential if the demands set by the Maastricht agreement were to be met – was the government's priority. The Decree of 7 April 1992 introduced a firm tightening of the conditions of access to, and payment of, unemployment benefit³. The minimum contribution period entitling someone to compensation increased from six to 12 months in the last six years. The duration of the benefit and the amount paid out were also reduced (see table in annex). The reform did not only affect the benefit scheme, but also tackled jobseekers' entry into the labour market.

For the first time, the Decree introduced the notion of a 'suitable job vacancy' (*oferta adecuada de empleo*), defined on the basis of the jobseeker's physical and professional aptitude, even if the position did not correspond to his/her previous occupation. This attempt to strengthen an active policy with regard to unemployment spending, which was boosted in 1995 by the removal of the INEM's monopoly on job placement, would have only a moderate impact, owing to the structural weaknesses in the public employment service, whose performance was unanimously judged to be mediocre (Sobrino, 2007). Active employment measures went from 23.5% of total spending in 1998 to 27.8% in 2003. Within this expenditure on active policies, the subsidies paid to companies for recruiting jobseekers accounted for the largest share, rising from 37.8% in 1998 to 43% in 2003⁴.

The 1992 Decree and the government's plans to create a more flexible labour market met with staunch opposition from the trade union movement. The UGT and the CCOO, the two main trade union confederations, joined forces to call a general strike, the second of the post-

3. See C. Vincent, 'La réforme du marché et de la protection du chômage', *Chronique internationale de l'IREES*, No. 16, May 1992.

4. Source: Eurostat.

Franco era, the success of which did nothing, however, to sway the socialist government. Financial balance within the INEM, which was not achieved until the end of the 1990s, came at the cost of a dramatic fall in the coverage rate for the unemployed, which dropped by 30 percentage points in three years, from more than 80% in 1992 to just over 50% in 1995. At the same time, the Spanish labour market was undergoing major upheaval.

A radical attempt to adapt to a new-look labour market (2002)

From 1996 onwards, economic growth brought with it a revival of the labour market and a spectacular recovery from unemployment, which fell from a rate of 20% of the working population in 1996 to 11% in 2001, even dropping to 8.5% in 2006. The change was far from just quantitative: Spain witnessed a profound alteration of the nature of unemployment and the unemployed (Santos, Serrano, 2006). While Spain's economic performance was the product of a period of growth that was particularly employment-intensive, it was helped by a policy - at first legislative and then contractual - of improving the workings of the labour market by making it more flexible. The number of temporary jobs grew rapidly⁵. They represented 15% of paid employment in 1985 and 35% in 1995. From 1994 the temporary contract became the most common form of recruitment. In spite of the bargaining policy to improve job quality pursued from 1997 to 2002, in particular at the urging of the trade unions, insecurity continued to characterise the labour market, changing the face of unemployment. Spain, which had, until then, had to contend with mass, structural and persistent unemployment, was now experiencing reduced, frictional and recurring unemployment (Santos, Serrano, 2006). These developments were accompanied by changes in the make-up of the unemployed. In fact, the fall in unemployment was most marked among first-time jobseekers, the long-term unemployed and people with a poor level of training. Women, on the other hand, suffered most as a result of the new flexibility.

The social portrayal of unemployment by the authorities also underwent a radical change. In the 1980s unemployment had been seen as a

5. See C. Vincent, 'De la dérégulation à la recherche d'un équilibre entre flexibilité et sécurité', in a special edition (No. 97) of the *Chronique internationale de l'IRES*, entitled 'Précarisation de l'emploi et représentation syndicale', November 2005.

collective social affliction; now it was viewed as an individual's problem, a question of employability. In line with this, an overhaul of employment policy, comparable to that which had taken place in many other European countries, was deemed necessary: instead of providing assistance through economic allowances, the unemployment benefit scheme was to focus on returning people to work as quickly as possible. In 2002 the conservative government attempted, to that end, to force through a wide-scale reform of the benefits system - an attempt that ended in failure. In terms of substance, the Decree of 25 May 2002 took on board the European Commission's guidelines aimed at making active expenditure more widespread⁶. One of the aims pursued was to force jobseekers to accept the vacancies proposed by the employment services by widening the criteria for the definition of suitable vacancies and stepping up penalties.

In calling a general strike for 20 June 2002, the CCOO and the UGT demonstrated their opposition to the reform of the unemployment benefit system: to its content, naturally, but also to the approach taken. One of the key issues was the authoritarian nature of the decision-making process, which represented a break with the practice of prior consultation of the social partners that had been in place during the first Aznar term (1996-2000) (Bérout, 2007). Since 1997 at least, the trade unions had relied on collective bargaining at the highest level in order to battle job insecurity. Social dialogue had brought results in this regard. The same was not true for unemployment benefit, where, for the second time, the government had failed to seek a consensus with the social partners. From the trade unions' point of view, while the general strike had led to the ultimate withdrawal of the Decree, it did not help them, any more than social dialogue had done, to organise unemployed and vulnerable workers, nor to make their specific demands heard, with the notable exception of the protest by agricultural day labourers in Andalusia⁷ (Bérout, 2007). The government's climb-down at the end of December 2002 was due as much to its political repositioning in the run-up to the next parliamentary elections as to the success of the strike, thereby demonstrating the largely ideological nature of Aznar's endeavours. In any case, there was no urgent financial need to reform the benefit payment scheme, which, owing to the continuing fall in unemployment figures, was in surplus. Since 2000 the

6. For the content of the Decree finally repealed at the end of 2002, see C. Tuchsirer, 'Grève générale contre une politique de l'emploi plus contraignante pour les chômeurs', *Chronique internationale de l'IREs*, No. 77, July 2002.

7. One of the aspects of the reform was the abolition of the special agricultural benefit scheme set up in 1984 for agricultural day labourers working in Andalusia and Extremadura.

government had ceased to make a financial contribution to this branch of social security; on the contrary, it had been tapping the INEM's surplus funds to finance its employment policy. The benefit scheme would subsequently undergo only marginal changes, consisting mainly of a reduction in employers' contributions. The introduction by the first Zapatero government (2004-2008) of a top-up contribution for temporary employees has been the only significant change, including since unemployment began to rise again in 2008 (see table in annex).

Underpinning the government's 2002 plans was a desire to encourage jobseekers to return to work, implicitly rejecting the passivity of income guarantee measures, which are suspected of encouraging people to remain out of work, in favour of active spending on integration and training measures. While the more radical aspects of the reform had been shelved, the laws of December 2002 and of 2003 would manage to lay the foundations for a combination of greater contractual commitments and penalties and a significant modernisation of the structures of the public employment services.

The public employment service has difficulty adapting to flexible unemployment

Following the failure of the authoritarian reform of 2002, the employment policy pursued in incremental fashion during the last two years of the Aznar government aimed to give priority to active labour market integration policies within an unemployment insurance system still essentially focused on providing monetary benefits. In this regard, the law of December 2002, replacing that of May of the same year, introduced into the social security regulations new restrictions on unemployment benefits, which nevertheless differed from those that had been abandoned. In terms of active expenditure, a decision was made to increase jobseekers' individual sense of responsibility in order to enhance their employability.

A rather one-sided commitment to labour market integration

Together, the two laws adopted in 2002 and 2003 amended, without completely turning on its head, the approach taken to integrating the unemployed into the labour market. The public employment services would now be required to offer the unemployed preventative and

personalised measures, with particular emphasis on disadvantaged groups. To do this, they would draw up, with the registered jobseeker, a 'pathway to work' (*itinerario de inserción laboral*). In return, the jobseeker would undertake to play a more active part in pursuing his/her pathway. Those in receipt of benefit were required to show even greater commitment by signing a 'work undertaking' (*compromiso de actividad*)⁸. In signing it, which was necessary to go on receiving unemployment payouts⁹, jobseekers committed themselves to searching actively for a job, taking part in courses to increase their employability and, most importantly, accepting suitable job offers that came their way. The concept of a suitable job vacancy was nothing new, having been introduced in 1992. However, the 2003 employment law adopted a standard definition based on three fairly traditional criteria:

- an occupational criterion: a job offer was suitable if it matched the occupation sought by the jobseeker or those he or she had previously held, or if it tied in with his/her physical and work-related capabilities as assessed by the employment services. The law retained the 1992 text, interpretation of which was clearly problematic, but which had provided an abundance of case law (Torrentz, 2006). However, the new law also gave the employment services greater discretionary power, in particular concerning those who had been unemployed for more than a year¹⁰;
- geographical criteria, very standard in that they deemed suitable any job vacancy situated less than 30 km from the jobseeker's home, and where the daily travelling time was less than 25% of the daily working hours and the monthly transport costs less than 20% of the wage or salary;
- conditions relating to the employment contract or the jobseeker him/herself, which included the type of contract, the proposed duration of the work, etc. In terms of pay, the only legal requirement was that it should be of a level paid in that particular occupation.

8. The use of the word '*compromiso*' is significant, as in Spanish it can mean both an agreement, in the sense of a contract, and a commitment, in the sense of an obligation.

9. All forms of benefits are affected, contributory and non-contributory.

10. '... after one year of uninterrupted benefit payments, in addition to the worker's previous occupations, other jobs may be considered suitable which, in the view of the employment services, the worker is capable of performing' (Article 231.3 of the General Law on Social Security).

The system of penalties applicable to those who failed to meet their commitments did not change, but it is an acknowledged fact that, in practice, the actions of those responsible for enforcing the measures rather than the substance of the legal texts determine their effectiveness.

In addition to stepping up contractual commitments between jobseekers and the public employment services, the law of 2002 also sought to encourage the development of casual work as a means of transition between unemployment and employment (Lefresne, Tuchsirer, 2006). For instance, unemployed people over the age of 52 in receipt of benefit could now combine part of their allowance with earned income. The clear aim was short-term re-entry into the labour market. Instead of penalising the unemployed, it was considered preferable to help them back into the labour market as quickly as possible. The legislative amendments of 2002/2003, aimed at enabling the employment services to pursue this approach, substantially strengthened their discretionary powers, leading to a relationship balanced in their favour and to the disadvantage of the unemployed. No clarification was given of the jobseeker's role in determining his/her own pathway to work, nor as regards the type of job sought or the training courses followed (Torrentz, 2006). In practice, the 'work undertaking' was drawn up unilaterally by the public employment services.

If the aim in redefining employment policy was for the unemployment insurance scheme to accompany the introduction of greater flexibility to the labour market, for it to contribute to 'the stabilisation of instability' (Santos, Serrano, 2006), then the condition for its success was to act as an effective link to the labour market. The public employment services should have been able to put in place a well-oiled technical apparatus designed to diagnose and address the needs of the unemployed. That is far from being the case.

Modernisation through decentralisation

One of the characteristics of unemployment in Spain is that it affects the individual regions very differently. This uneven distribution goes hand in hand with varying success in mediating between jobseeker and labour market, which explains why tackling these regional disparities remains a priority for the central government. It was therefore by means of decentralisation that the law of 2003 aimed to improve the re-integration

of the unemployed into the labour market. The territorial organisation of power in Spain, established by the 1978 Constitution, guaranteed the application of the principle of solidarity among territories, while ensuring an appropriate and fair economic balance between the 17 Autonomous Communities. In this sense, the central government is the main actor in terms of policies to tackle unemployment.

However, with the adoption of successive constitutional amendments, the allocation of competences in respect of employment policy and unemployment protection has evolved towards a weakening of State intervention (Cayado, 2005). In terms of unemployment insurance, the central State administration retains responsibility for the management of financial programmes and the management and control of unemployment payments¹¹. The employment law of 2003 formalised the decentralisation of competence regarding the management of employment policy. It confirmed the dominant role of the central government in drafting employment policy, but, for its implementation, the law established a national employment system consisting of the INEM and the public employment services of the Autonomous Communities. The latter are responsible for managing active employment policies. Thus, with the loss of the INEM's job placement monopoly in 1995 and the transfer to the Autonomous Communities of most of the responsibilities connected with returning the unemployed to the labour market, the government's role in providing unemployment protection has been reduced to paying out compensation (Cayado, 2005). The Autonomous Communities now find themselves in charge of social assistance policy too, after taking the initiative in the early 1990s, as a means of compensating for the meagre social benefits - including unemployment allowances - of introducing a minimum income more or less related to occupational integration. The introduction of assistance measures has usually been the result of negotiations between the regional government and the trade unions. Owing to this twofold competence, the Autonomous Communities are now emerging as the key actor in policies to tackle occupational exclusion and aid re-entry into the labour market (Cayado, 2005).

11. Article 149.1 of the Constitution states: 'The State shall have exclusive competence over the following matters: [...] 17. The basic legislation and financial system relating to social security, without prejudice to the provision of these services by the Autonomous Communities'.

In spite of these structural changes, the public employment services are not always considered by social stakeholders to be effective. The waiting time for an initial interview with the PES, the weakness of the redeployment measures proposed and the failure to monitor and follow up job searches are regularly criticised. The government and the trade unions and employers' associations broached the issue in the agreement they signed in May 2006 on tackling job insecurity. The government pledged to produce a comprehensive plan within three months aimed at modernising the public employment services at both national and regional level, with the specific objective of substantially increasing the level of labour market intermediation. Figures were attached to this aim: within six months of registration, all jobseekers were to receive a job offer, training or career advice. The plan concerned the material and technological means with which the services should be equipped, as well as the human resources needed to improve their organisational structure and the working and remuneration conditions for staff. The budget increase needed to put this plan into action was set out in the 2007 Finance Law, and remains in place, in spite of the recession that has hit Spain since then. In mid-April 2008, the government approved an economic recovery plan that placed the emphasis on providing unemployed persons in ailing sectors with guidance and vocational training. The plan also provides for a more personalised handling of jobseekers through the recruitment of 1,500 vocational guidance advisers.

Making the fight against unemployment a priority

Spain is both one of the first European countries to be affected by the crisis and one of the countries in which the impact on the labour market has been most rapidly felt. In 2007 the construction sector, which fuelled Spain's growth in recent years, began to show signs of slowing down: a fall in sales and the number of new building projects, difficulties for the property development market, etc. The number of unemployed in this sector, which accounts for 13% of jobs, rose by 65.4% within one year. The effects on employment became noticeable in autumn of that year. After several years in decline, the unemployment rate, which had fallen to 7.9% in July 2007, ended the year at the higher rate of 8.6%. In 2008 the recession was confirmed and the increase in jobseekers began to affect services and industry. Unemployment soared, reaching almost 12% by the end of 2008 and 14.5% in February 2009.

In order to kick-start employment, the government initially sought the support of the trade unions and employers' organisations. Between employers pushing their two long-standing demands, namely a drop in charges and easier dismissal, and unions rejecting any assistance for businesses and calling for improved protection for the unemployed, it proved impossible to reach a consensus. The government therefore settled on a number of unilateral measures in the course of the year, aimed at stemming the rise in unemployment and reducing the social impact of the economic crisis: incentives to recruit certain jobseekers (November 2008 and March 2009), measures to encourage self-employment (November 2008) and short-time work arrangements, serving to ease the costs for companies employing such workers and provide better protection for the workers in question (March 2009). At the same time, a consultation has been launched on a possible labour market reform, but the chances of reaching a negotiated agreement appear slim.

Conclusion

Repeatedly criticised by the trade unions, the decision to give priority to a policy of rapid labour market integration rather than the long-term development of skills has had some success over the last 15 years, as the approach has been based on a flexible labour market defined by an ever greater turnover of workers. Even so, this flexible unemployment model has been made viable by a rise in the number of public subsidies for the recruitment of jobseekers. On the other hand, the financial and human investment in the public employment services has not materialised. What becomes of a low-cost active employment policy when the labour market ceases to offer the job opportunities it once did? This is the problem facing the Spanish Government.

References¹²

- Bérout S. (2007) “La difficile émergence d’un mouvement de chômeurs en Espagne (1998-2002)”, *Politique européenne*, No 21.
- Cayado E. (2005) “Les pouvoirs publics et la lutte contre l’exclusion professionnelle : l’exemple espagnol de distribution territoriale des compétences”, *Revue Française des Affaires sociales*, No 3.
- Lefresne F. and Tuchsirer C. (2006) “Dynamiques d’insertion et politiques d’emploi : une comparaison de six pays européens (Belgique, Danemark, Espagne, Italie, Pays-bas, Royaume-Uni)”, in Dang A-T., Outin J-L., Zajdela H. (eds.) *Travailler pour être intégré ? Mutations des relations entre emploi et protection sociale*, Paris, CNRS éditions.
- Santos Ortega A. and Serrano Pascual A. (2006) “El giro copernicano del desempleo actual”, *Cuadernos de Relaciones Laborales*, Vol. 24, No 2.
- Sobrino González G. M. (2006) *La política de colocación*, Albacete, Bomarzo.
- Torrents Margalef J. (2006) “El marco jurídico de la activación de los demandantes de desempleo”, *Cuadernos de Relaciones Laborales*, Vol. 24, No 2.
- EIRO and UIMM Social International.

12. I would like to thank Amparrrro Serrano for her judicious advice on background reading, which served as the basis for this article.

Annex

Development of the unemployment insurance scheme in Spain

	Before 1992	1992-2002	After 2002-2003	2008
Contribution rate	6.7% - 5.6% payable by employers - 1.1% payable by employees		7.55% - 6% payable by employers - 1.55% payable by employees	7.3% - 5.75% payable by employers - 1.55% payable by employees Top-up contributions 8.3% for full-time fixed-term employees; 9.3% for part-time fixed-term employees and temporary workers
Minimum membership conditions	Six months of contributions in the last four years	12 months of contributions in the last six years	Idem	Idem
Benefit period	From 3 to 24 months		From 4 to 24 months	Idem
Amount of benefit	80% of the reference wage, 60% after 12 months	70% of pay for the first 6 months, then 60%	Idem	Idem
Minimum monthly allowance	None	None	80% of the IPREM ¹ + 1/6 according to dependants	Idem
Maximum monthly allowance	170% of statutory minimum wage	Idem	225% of the IPREM + 1/6 according to dependants	Idem

¹ The IPREM (Indicador público de renta de efectos múltiples - multi-purpose public income indicator) entered into use in 2004 and serves as the basis for the calculation of the minimum wage. For information purposes, it is currently EUR 509.40 a month.

Source: UIMM Social international