

***International Association of Economic and Social Councils***

***and Similar Institutions***

**(AICESIS)**

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**NOTE ON SOCIAL DIALOGUE IN SPAIN / AICESIS**

1. **Social Dialogue in Spain**

The development of Social Dialogue in Spain took place in parallel with the construction of democracy after the dictatorship. As from the late 1970s, the social partners focused on drawing up basic social agreements, initially with the aim of establishing mutual recognition of the negotiating role of trade union and business organizations. Having achieved that recognition, the social agreements reached between these organizations aimed to create a framework for talks and also, more generally, a regulatory framework for labour relations.

The 1980 Workers’ Statute regulated the legal framework for the representation of workers and for collective bargaining, in line with the criteria laid down in the social agreements. This was the framework for bipartite agreements, mainly covering collective bargaining and wages, as well as tripartite agreements in which the Government also participated, focusing on social and employment policies.

This practice of bipartite and tripartite negotiation was interrupted in 1985 but started up again, partially, in the first half of the 1990s, with agreements on specific topics such as Vocational Training and Procedures for Resolving Conflicts.

In the second half of the 1990s, bipartite agreements were reached on wages and also, but only partially, on labour reform. To date, there have been labour reforms but these have not always been based on consensus. The latest and most extensive in 2012 was not consensus-based.

The practice of centralised wage negotiation continued to develop even during the crisis years. Stress should be placed on the changes in the reference points for wage growth. These previously focused exclusively on inflation but now include GDP and macroeconomic forecasts. The latest example of such agreements is the Third Agreement for Employment and Collective Bargaining 2015-2017, whose title stresses the links between these social agreements and employment.

With regard to tripartite agreements, as already stated, it has been difficult to achieve consensus on labour reforms, although this has not prevented the tripartite social dialogue from continuing. The latest example was the 2014 Agreement to Strengthen Economic Growth and Employment, which has been the framework for achieving agreements on specific matters, one example being the Extraordinary Program for Activating Employment.

To complete this overview of social dialogue in Spain, it must be remembered that this has also covered social welfare, based on the so-called Toledo Pact, a formula that combines tripartite agreements between social agents and the Government with parliamentary agreements or consensuses. In this field there have been a number of consensus-based reforms, especially on pensions, although there have also been disagreements, precisely with regard to pension reform.

In addition to these processes for social dialogue on a national level, there have also been consensus-building processes in the Autonomous Communities on the matters for which they have powers, especially employment.

1. **The Spanish Economic and Social Council**

The Spanish Economic and Social Council is a consultative body for the government on socio-economic and labour matters. It takes the form of a public-law legal entity with full capacity and organic and functional autonomy for fulfilling its purposes, and is attached to the Ministry for Employment and Social Security.

The Economic and Social Council is governed by Law 21/1991, dated 17 June, on the creation of the Council, by the Regulation on Organisation and Internal Functioning approved by the Plenary Session of the Economic and Social Council on 25 February 1993, and by the guidelines and instructions for its proceedings laid down by the Council itself.

The Economic and Social Council has 61 members appointed by the government as follows:

* The Chairman.
* Twenty Council Members forming Group One named by the most representative trade union organisations in proportion to their representativeness, and in compliance with articles 6.2 and 7.1 of Organic Law 11/1985, dated 2 August, on Trade Union Freedom.
* Twenty Council Members forming Group Two named by the most representative business organisations in proportion to their representativeness, and in compliance with the sixth additional clause of Law 8/1980, of 10 March, on the Workers’ Statute in the recast version given in Law 32/1984, dated 2 August.
* Twenty Council Members forming Group Three organised as follows:

Fourteen who, being members of Group Three, are proposed by the following organisations or associations:

 a) Three by professional organisations in the agriculture sector

 b) Three by fishing organisations in the maritime/fishing sector.

 c) Four by the Council of Consumers and Users.

 d) Four by associations of cooperatives and worker-owned companies, in representation of the social economy sector.

 Six experts who also belong to Group Three and are named by the National Government and proposed jointly by the Ministers of Employment and Social Security and of the Economy and Competitiveness, after prior consultation with the organisations represented in the Council. They must be specially-qualified people with proven experience in the socio-economic and labour sector.

In the exercise of their functions, the members of the Economic and Social Council act with complete independence. The mandate of the members of the Council, including that of the Chairman, is for four years, and may be extended for further periods of the same duration.

The functions of the Economic and Social Council are the following:

* To issue an opinion, of a mandatory nature, on Draft Bills of State Laws and Draft Royal Legislative Decrees on socio-economic and labour matters and on Draft Royal Decrees considered by the Government to be of special relevance for regulating such matters.
* To issue an opinion, also of a mandatory nature, on Draft Bills of Law or draft administrative provisions affecting the organisation, powers or functioning of the Council; on the separation of the Chairman and the Secretary General of the Council and on any other matter on which it is required by Law to consult the Council.
* To issue an opinion on matters which may optionally be submitted for Council consultation by the National Government or its members.
* To draft, at the request of the Government or of its members, or on its own initiative, any studies and reports relating, in the framework of the economic and social interests of the social partners, to the following areas: Economy and Taxation; Labour relations, Employment and Social Security; Social Affairs; Agriculture and Fishing; Education and Culture; Health and Consumer Affairs; Environment; Transport and Communications; Industry and Energy; Housing; Regional Development; European Single Market and Development Cooperation.
* To regulate its own organisation and internal functioning.
* To draw up and present to the Government, within the first five months of every year, a Report laying out its considerations on the nation’s socio-economic and labour situation.

The functioning of the Economic and Social Council is governed by Law 21/1991, dated 17 June, on the Regulation of the Organisation and Internal Functioning approved by the Plenary Session of the Economic and Social Council of 25 February 1993 and by the guidelines and instructions for its proceedings laid down by the Council itself.

The Council’s Plenary Sessions of the Council. Members of the Government may attend the Plenary Sessions of the Economic and Social Council after first notifying the Chairman or at the request of the Council, and are entitled to speak. Other authorities and members of the Public Administration may also attend when invited or authorised to provide information or to answer questions on matters falling within their competence.

Opinions on matters submitted for consultation by the Government shall be issued by the Plenary Session or, where appropriate, by the Standing Committee when the former has delegated this function to the latter.

The opinions of the Council shall be documented separately, distinguishing between background, assessment and conclusions, shall bear the signature of the Secretary General and approval by the President, and shall be accompanied by dissenting opinions, if any. The opinions of the ESC are not binding for the Government.

Also, the Plenary Session or, where appropriate, the Standing Committee, when the former has delegated this function to the latter, issues any studies and reports relating to the subjects falling within its competence that are drawn up at the request of the Government or of its members or on its own initiative.

The decision to draw up a report or a study on its own initiative is taken by the Plenary Session at the request of the President, the Standing Committee, a group or eleven Council Members, through the Standing Committee.

For further information, see www.ces.es

1. **The future of social dialogue in Spain**

When assessing the prospects for social dialogue in the future, it must be stressed that, in general, the factors that have given rise to considerable continuity in social dialogue remain valid today.

The first factor is precisely such continuity, which gives an idea that there are certain habits or a tradition of social dialogue among the Spanish social partners. It can therefore be considered that the Spanish social partners share a culture of social dialogue which, of course, does not necessarily lead to agreement.

It should also be noted that there is also continuity in the identification of the most representative trade union and business organisations, which are basically still the same ones that have participated in social dialogue over all these years.

The two parties that to date have had government responsibilities have expressed their preference for continuity in the social dialogue, although this does not mean that government action has been subject to the existence of social agreements. (Both parties have been through labour reform processes with and without social consensus).

On whether the socioeconomic situation can affect social dialogue in the future, the crisis has had an unquestionable negative effect on social consensus but this has not put an end to social dialogue.

It could therefore be considered that there is no reason why the socioeconomic framework over the next few years will eliminate all social dialogue. But there are certain factors, such as economic globalisation and the development of the European political project, which may affect social dialogue in that they limit the scope for action by government and by the social partners themselves. Therefore, in this new environment it is important to reflect on how social dialogue can be reconstructed.