

SPAIN'S LABOUR REFORMS: AN OPPORTUNITY MISSED AGAIN - SAGARDOY

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Spain's Workers' Statute, at the time of its enactment, no doubt served a pivotal role of stability in the Spanish labour market. One of the main objectives then was to break with the previous political regime, modernising the relationship between employer and employee and establishing a collective bargaining regime that presented greater negotiating freedom to the parties and was free from outside interference.

However, the Statute was also partially based on a set of "future" conditions that would set out a labour standard but which were never actually issued – at the time the will necessary to create the employment regime required for a modern, dynamic business subject to strong global competition was perhaps not wanted or could not even be envisaged.

Aware of these shortcomings, subsequent governments have pushed through partial reforms of labour regulations (principally in 1984, 1994, 1997 and 2006) with the aim of improving the unintended impacts of the Statute on Spain's labour market. But none (except perhaps in part in 1994) has managed to change the structure of our labour relations – notably issues surrounding recruitment, companies' internal flexibility and collective bargaining powers.

We all know that a country's labour legislation is one of the keys to economic progress and social development, although the fact that you have a modern and flexible labour law does not necessarily result in greater economic prosperity. But what is also in no doubt – and Spain is a classic example of this – is that rigid labour laws anchored in the past will never promote positive results or an improvement in the competitiveness of companies.

Se han intentado diversas enmiendas al Estatuto de los Trabajadores desde su promulgación en los años 80, pero ninguna de ellas ha logrado solucionar cuestiones fundamentales como el reclutamiento, la flexibilidad interna de la empresa o las negociaciones colectivas. La reforma laboral sigue en esta línea, opina. Los resultados de las actuales reformas no se harán sentir hasta dentro de muchos años.

Therefore in order to properly respond to this challenge there must first be a real and proper analysis of the basic characteristics of our labour markets in order to provide an accurate diagnosis that can prove corrective not just in a palliative sense – lessening the impact of the evident errors – but which provides a "surgical" cure.

At present, it could be argued that Spain's labour market is: obsolete, because it is based on institutions of the past; rigid, which is asserted not only by employers (both SMEs and large enterprises) but also by international organisations such as The World Bank, OECD, IMF, etc: and, dual, as workers' protections vary considerably depending on the type of contract that binds them to a company (temporary or permanent).

For these reasons, we have seen the disastrous consequences of the Workers' Statute for employment in the modern Spanish market, which is the most restrictive labour market among the developed countries. There is clearly an urgent need for a paradigm shift in our labour institutions through a profound reform of the labour regulation.

Fundamental changes are necessary to reinvigorate job creation efforts and the viability of companies looking to foster the healthy and sustained growth of our economy in the context of global competition, and which will become more pronounced over the coming decades.

The new model should be based on the concept of "flexisecurity", namely better employment protection not employee protection, allowing more internal flexibility for companies, and truly effective employment stimulation policies. This is the model that many of our European partner countries are already committed to but which the Spanish government based on its current proposals is not yet willing to embrace.

Any changes in the Spanish labour legislation must take account of this concept, which primarily promotes three key elements of industrial relations: varying types and the development of contracts of employment, active employment policies and the promotion of collective bargaining systems.

Spain's recent labour reform approved by Royal Decree Law 10/2010 can be considered positive for the opportunity it presents in realising such developments, and in responding to both domestic and international demands for the need for change in our labour market. It includes substantial changes

notably with regard to the cost of dismissals and in the penalisation of temporary employment contracts, but these are changes that only apply to new contracts and the true results of this reform will not be fully realised for many years.

Recently, Spain has seen reform but of a kind that has again failed to deal in depth with the fundamental issues that clearly affect its labour market.

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