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## *RECOVER IN BRIEF*

Funded by the European Commission DG Employment, Social Affairs and Inclusion and involving 5 European partners, the RECOVER project analyses whether and how the growth in outsourcing and subcontracting is triggering coverage problems for workers in these outsourced services. The project will accordingly compare cases of collective bargaining coverage gaps in outsourced services at sectoral and company level in six countries.

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### **KEY MESSAGES**

- Some studies on the Spanish case highlight an increase in companies of 80% in outsourcing processes during the period 2007 to 2014.
- Outsourced employment has become a key tool to reduce costs during the crisis.
- External workers are usually covered by different collective agreements than internal workers or even do not have any type of coverage.
- The introduction of subrogation clauses in sectoral agreements (obligating to maintain employees in cases of transfer of undertakings) is a fundamental mechanism to protect outsourced workers.
- While the tourism business (and specifically hotels) has improved in recent years, the employment situation of chambermaids has worsened partially due to outsourcing practice increase.
- The three crisis in where journalism is immersed (digitalization, change of financing model and economic crisis) have aggravated working conditions through outsourcing practices.
- Many Facility Management Companies are taken advantage of 2012 Labor Law reform imposing worse working conditions through company level agreements.
- The Public Administrations should play a proactive role preserving and improving the quality of outsourced employment.

## DEFINING OUTSOURCING IN THE COUNTRY

The outsourcing is a growing process in Spain since the 90s with the beginning of the privatization of the public sector and the decentralization of production and services in the private sector. Nowadays, the 30% of Spanish companies are involved in outsourcing processes (European Company Survey, 2013).

Some studies on the Spanish case point to an increase in outsourcing processes in companies from 80% from 2007 to 2014 (López, 2015)<sup>1</sup>. According to this study, Spanish businessmen recognize that the economic offer is the main reason to select a supplier. We understand that outsourcing has become a key tool to reduce costs during the period of economic crisis. As far as the public sector is concerned, the 8,66% of labor costs in the Public Administration are outsourced, raising to the 47,72% considering potential outsourced labor costs (Godino, 2017<sup>2</sup>).

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However, it is not only an economic issue. Outsourcing has become another tool to make work processes more flexible and transfer the risk of labor conflicts to other organizations. In this way, the greater adaptability, performance and lower labor cost of the employees in these supplier companies consequently improves the productivity of the client organizations, which focus on their central functions.

There are no databases that allow differentiating workers as internal or external. However, taking into account the data of those sectors where there is a greater

penetration of outsourcing in companies, we find that the main forms of outsourcing in Spain are the supplier companies (with a growing importance of facility management companies), the temporary agency workers and Dependent self-employed workers (also with a significant increase in qualified professions).

## COLLECTIVE BARGAINING COVERAGE

There are several reliability problems regarding information provide by collective agreements commission members (Perez Infante, 2010)<sup>3</sup>: a) Partial view (meaning that data collected is only related to current collective agreements); b) Poor data provided to Collective agreements commission members; c) Duplication problems about the numbers of workers and companies covered. However, it's quite accurate to place the collective bargaining coverage in Spain around 77% (ICTWSS, 2013).

Precisely, one of the fundamental problems arising from the increase in outsourcing is linked to the coverage of collective agreements. In many cases, external workers are covered by collective agreements other than internal workers or even do not have any type of coverage, as is the case of self-employed workers. The pressures between clients and companies frequently place the situation of external employees on a secondary level. This practice is accentuated if the outsourced activities are not part of the main activity of the company. This growing weakness generates important uncertainties regarding the stability of employment in cases of business transfers. In this respect, at European level the "Transfers of Undertakings Directive" (2001) was approved to guarantee not only the continuity of the existing contracts prior to a transfer of companies, but also the conditions of those contracts.

In the case of Spain, this directive became in 2002 in the review of Article 44 of the Workers' Statute, with new

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<sup>1</sup> López, J. L. (2015). Primer estudio GrupoUno CTC sobre la evolución de la externalización de procesos de negocio en España. GrupoUno CTC.

<sup>2</sup> Godino, A. (2017). La calidad del empleo externalizado. Tesis doctoral.

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<sup>3</sup> Pérez Infante, J. I. (2010). La negociación colectiva en España. Asociación Española de Economía del Trabajo, Tribuna Abierta.

features such as the requirement of the continuity of the employment relation and the contractual content; the subrogation in the pension commitments and, in general, as many obligations in matters of complementary social protection have been acquired (Desdentado, 2002)<sup>4</sup>. This regulatory change has gradually introduced subrogation clauses in the sectoral collective agreements, referring to the employer's obligation to maintain employees in cases of transfer of undertakings in outsourced services.

Thus, 19.68% of collective agreements and 22.77% of workers throughout the labor market are covered by subrogation clauses (Ministerio de Empleo y Seguridad Social, 2015). This confirms outsourcing is not a minor phenomenon in Spain. In this way, the protection that this mechanism (result of the social dialogue) gives on stability to workers generally with precarious trajectories through collective agreements coverage.

At local level, it is worth mentioning the case of the Barcelona City Council, which carries out a social evaluation of its suppliers to take in consideration also social criteria beyond the price offered (Ajuntament de Barcelona, 2016). Thus, if the City Council detects that the price offered is unusually low (and therefore implies the payment of wages below the agreement conditions) that supplier is excluded. Likewise, other minimum criteria regarding the stability and wages of workers are also applied.

## **FROM SECTORS TO ACTIVITIES: CHANGING FOCUS TO ANALYSE OUTSOURCING**

Taking in consideration RECOVER project classify the different outsourced activities by its level of qualification and its implementation on-site or off-site, we highlighted

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4 Desdentado, A. (2002). La sucesión de empresa: una lectura del nuevo artículo 44 del Estatuto de los Trabajadores desde la jurisprudencia. Revista del Ministerio de Trabajo y Asuntos Sociales, 38, 241-266.

some of the main outsourced services in Spain: communication, logistics, security, cleaning, health services and IT. From those, we selected Journalism (a high qualified activity / occupation implemented both on-site and off-site) and Chambermaids (a low qualified occupation implemented in the establishment of the client company).

### **Activity 1: Chambermaids: the hidden face of tourism**

The Chambermaids provide the service of making beds and general cleaning of bedrooms in hotels. The situation of this activity is paradoxical: while the tourism business (and specifically hotels) has improved in recent years, the employment situation of chambermaids has worsened. The main cause seems to be in the increase of outsourcing and in the dynamics of price competition between supplier companies.

The tourism is a key sector of the Spanish economy, representing a 10,2% of total GDP and 12,7% of total employment (CNE and EPA, 2017). Within the relevant subsector of Hotels, the 24,09% of workers are chambermaids, whom around 80% are outsourced. The Facility Management Companies have a key role in this process, providing not only Chambermaids services but general cleaning, catering, security and even reception desk services.

The current collective agreement for hotels sector (ALEH 2015), bargained at national level, works as general framework for agreements at regional level. Despite the relevance of outsourcing phenomena in the sector, the agreement doesn't deal with this topic at national level. However, some regional agreements (e.g. Balears) settle limits to outsourcing practices.

Some of the main consequences of outsourcing practices for chambermaids and other occupations in hotels are: 1) Arbitrariness with collective agreements coverage applying cleaning agreements or company level agreements (Facility Management Companies) rather than Hotels sectoral agreement. This usually means substantial salary and professional category reductions.

2) Less stability and insecurity about hours and days of work. 3) Workload intensification. 4) Health and safety problems. 5) Loss of quality of service and risk of de-professionalization. 6) Segmentation, division and increased competition among hotel staff. 7) Weakening of trade unions power to defend their interests (Cañada, 2016)<sup>5</sup>. Despite these facts, the profession shows low levels of affiliation. However, a professional association called “Las Kellys” has raised within the chambermaids as collective to denounce not to be represented by unions and stressing outsourcing practices as an outrage.

### **Activity 2: Journalism: storms within the crisis**

Officially the journalism is the professional activity consisting in the collection and periodic treatment of information in many forms. Considering the wide range of profiles within activity, for this research we are focusing mainly on press, but also digital media, TV, and radio. The journalism is immersed in several crisis: the digitalization is reframing the profession, the financing model has changed once the funding from advertising is decreasing and the economic crisis has accelerated these processes aggravating working conditions through mechanisms as outsourcing practices. While the 12,2% of the journalists were self-employed in 2007, this percentage has increased up to 26,8 in 2016 (APM, 2017)<sup>6</sup>.

These outsourcing practices are mostly by contacting out freelance journalists (“collaborators”) fulfilling tasks of positions before covered by internal workers. The 20% of the “collaborators” work for only one company and more than the 19% is integrated their company client. Even those who “collaborate” with some companies (41,50%), the most of them have a main client depending financially on them (APM, 2016).

In that sense, there are not covering conflicts as far as external workers cannot be covered by any agreement.

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<sup>5</sup> Cañada, E. (2016). *Externalización del trabajo en hoteles*. Barcelona: Alba Sud.

<sup>6</sup> APM (2017). Informe Anual de la Profesión Periodística. Madrid: Asociación de la Prensa de Madrid.

The current collective agreement of daily press (2017) covers journalists at national level. However, big media usually have their own company agreements. This national agreement does not address outsourcing issues and few company agreements regulates the relation between media and self-employees (specifically payments). This scenario of lack of coverage generates situations of low(er) retributions, continuous availability and insecurity.

## **FACILITY MANAGEMENT COMPANY**

The Labor law reform in 2012 transferred priority to company agreements over sectoral agreements. Therefore, many companies started to have their own agreement in order to downgrade employment conditions. That is the regular scenario with Facility Management companies: 213 new company agreements during the period 2005-2016 (32 during 2015) and 50.000 workers covered by FM collective agreements at company level during 2016. However, the Spanish Justice system responded cancelling 45 facility management collective agreements at company level in 2016.

Beyond the regulatory situation of FMCs, the RECOVER consortium has agreed to develop a standardized comparison studying same FM Company with presence in each country studied. Therefore, RECOVER develops a cross-country analysis at organizational level.

## **RECOVER PROPOSES**

Regulatory mechanisms at sectoral level such as the implementation of subrogation clauses seem good practices both to guarantee coverage and to protect employment conditions in the activities. However, outsourcing forms like self-employment doesn’t allow its application.

Also, initiatives like the social criteria established by City council of Barcelona exemplifies the proactive role that Public Administrations must fulfil in preserving and improving the quality of outsourced employment.

## RESEARCH TEAM

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This policy brief is based on the final phase of the RECOVER project and is available on the RECOVER website,

<http://pagines.uab.cat/recoverproject/en/content/national-policy-briefs>

## PROJECT IDENTITY

### PROJECT NAME

Relaunching Collective Bargaining in Outsourced Services  
– RECOVER

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Universitat Autònoma de Barcelona (Barcelona, ES)
- [Amsterdam Institute for Advanced Labour Studies](#) (AIAS)  
University of Amsterdam (Amsterdam, NL)
- [Institute of Public Affairs](#) (IPA) (Warsaw, PL)
- [Durham University Business School](#)  
Durham University (Durham, UK)
- [Università degli Studi di Teramo](#) (Teramo, IT)

## EUROPEAN COMMISSION

DG Employment, Social Affairs and Inclusion

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## BUDGET

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## WEBSITE & SOCIAL NETWORKS

Webpage: <http://pagines.uab.cat/recoverproject/en>