

# National Report [SPAIN]



Cáritas Española

Claudia Carrasco  
Hernández



## [PROJECT PESSIS: PROMOTING EMPLOYERS' SOCIAL SERVICES ORGANISATIONS IN SOCIAL DIALOGUE]



Supported by DG Employment, Social Affairs and Inclusion  
Sole responsibility for the contents of this publication lies  
with the partners of PESSIS. The European Commission is not  
responsible for any used that may be made of the information  
contained therein.

# Social Dialogue and Collective Bargaining in the Social Sector. Spain

## Table of Contents

<b>1. Introduction</b> .....	<b>2</b>
1.1 Methodology .....	3
<b>2. Profile of the social services sector</b> .....	<b>5</b>
2.1 Introduction .....	5
2.2. Background: defining the social sector .....	5
2.3. The largest groups inside the social sector. A brief.....	7
2.4. The employees of the social sector.....	13
2.5. Features of the social service sector organizations. ....	15
2.6. Business volume/income and profits in the social sector. ....	19
2.7. Sources of financing for the suppliers of social services .....	19
<b>3. Social dialogue in the social services sector</b> .....	<b>21</b>
3.1. Social dialogue in Spain.....	21
3.2. Social dialogue in the social services sector. Main features.....	21
3.3. Social Dialogue understood as collective bargaining in the social services sector. Spain .....	23
3.4. Existing employer organizations in the social services sector.....	24
3.5. Issues dealt with in collective bargaining .....	25
3.6. Strengths and weaknesses of the existing agreements .....	25
3.7. Existing agreements which cover part of the sector.....	28
3.8. Approach to the main labour issues in the social services sector. ....	29
3.9. Issues that would be better addressed at EU level .....	31
<b>4. Agreements in Social Dialogue/Collective Bargaining.</b> .....	<b>33</b>
<b>5. Conclusions</b> .....	<b>34</b>
<b>Annexes</b> .....	<b>35</b>

## 1. Introduction

The aim of the research project 'Project PESSIS: Promoting employers' social services in social dialogue' is to provide a detailed understanding of how social dialogue is organised and structured (or not) in the social services sector in Europe. It aims to identify barriers to increased cooperation among employers in the sector. The term social dialogue is defined as 'a dialogue between employers and employees'. Eleven national studies will contribute to an overall European perspective of social dialogue in the social services sector, outlined in the European summary report.

Each national report presents a 'picture' of how social dialogue is organised at local, regional and national levels and has addressed the following six research questions:

1. What is the size of the social services sector, both in terms of workforce and of employers in aggregated value?
2. How well represented is the sector in terms of number of employers and workers covered by collective agreements?
3. What are the types of social dialogue or collective agreements that exist?
4. How many employers of the sector are involved in social dialogue and at what level?
5. What are the key labour issues dealt with and at what level?
6. Are there any labour issues that could be dealt with at European Union (EU) level?

'Social services' is a term that can be interpreted in different ways across Europe but for the PESSIS project, the key groups included are:

- ◆ Long term elderly care
- ◆ Disability
- ◆ Childcare

A fourth variant (Social Exclusion) was added which, at least in Spain, has been one of the main objectives of the sector, therefore the focus of this national report is the exclusion sector and the three groups listed above.

This fourth area takes on a significant importance, given the current economic environment since, only in the last few years in Spain, according to the CÁRITAS paper "**Social Exclusion and Development in Spain. Analysis and Outlook 2012**" (2012), living conditions in Spain have worsened for the population as a whole and, more specifically for 25.5% , or 11,675,000 citizens, were at poverty risk in 2010, latest data available in the abovementioned study.

Another significant fact the paper provides is that the number of people assisted in the Cáritas Shelters alone has doubled since 2007, which is why a large part of the Social Action Third Sector in Spain is focused on this group. The terms public, for-profit and not-for profit sectors are widely used across Europe. They are defined in this report as:

Public sector – Government departments, public sector agencies or municipal authorities commission social services in many countries and contract for-profit and / or not-for profit providers to deliver social services. In some countries, social services may still be delivered by municipal or regional government authorities. Public authorities (national, region or local government) may fund social services by providing money directly to individuals.

For-profit sector – Providers of social services which operate to make a profit. They may operate with shareholders or they may be private companies, owned by one or more individuals. In some countries, family businesses deliver social services. They may be large or small in size.

Not-for-profit sector – Providers of social services, which do not operate to make a profit. In some countries this sector may be called the voluntary or charitable sector. In some countries, volunteers deliver some of the services for the not-for-profit sector.

### 1.1 Methodology

The stages in the research for the creation of the report have been as follows:

#### Documentation stage:

The collective agreements for the social sector have been reviewed, as well as publications in the sector, in an effort to have a clearer picture of the structure in the sector.

The following table shows the relationship between the areas of the study, the structure of the social services sector in Spain and a list of the collective agreements signed.

TABLE 1: CORRESPONDENCE: AREAS OF THE STUDY/AREAS OF THE STUDY IN SPAIN			
EU APPROACH: SECTOR STUDY	SPANISH APPROACH: SECTORS OF THE STUDY	NATIONAL COLLECTIVE AGREEMENTS: SIGNED OR UNDER NEGOTIATION <sup>1</sup>	CNAE
Long term Elderly care.	Elderly people / Dependency	Assistance services to dependent people and the fostering of the development of personal independence	871, 873, 879, 881
Disability	People with Disabilities/ Dependency	Assistance centres and services to disabled people	872, 873, 879, 881
Exclusion	Social Action and Intervention	Social action and intervention (under negotiation). Juvenile reform and Protection to Minors, Children, Youth and Family	87 y 88
Infancy/Exclusion			872, 889
Infancy (Childcare)	Educational Sector	N/A	N/A

<sup>1</sup> There are others at the Autonomous and Provincial level.

Therefore, and given the present effort to establish the boundaries of the Third Sector in Spain, cited as examples in the introduction of this report, we have decided, on the one hand, to take into account the two most structured subsectors, the Dependency/Elderly and the Dependency/Disability and, on the other, to encompass the remaining activities in social services, to use the term they themselves use to define the sector: Social Action and Intervention.

The compiling of data regarding size, structure and economic data has been based on the CNAE (National Standings in Economic Activities 2009) and previous studies.

**Empirical and analytical stage:**

The study of the social dialogue/collective bargaining reality has been carried out through in-depth interviews of relevant actors in this field. This has been decisive to know the structuring of the sector in Spain, as mentioned in the documentary stage, which is what defines the functional areas of the existing collective agreements or those under negotiation.

We are grateful for the participation and the interest shown by all of the participants in this study.

Once the interviews were done, we have carried out a speech analysis in order to have a true picture of the sector regarding collective bargaining, followed by a feedback to all of the participants to check on the research, and, by enlarging the field, to have as many points of view as possible.

## 2. Profile of the social services sector.

### 2.1 Introduction

Social Services are dedicated to prevent, reduce or correct maladjustments between what individuals are able to do independently in their daily lives and the community or family networks to which they belong and which provide them with support.

Although there does seem to be a certain structure under the Economic Activities (Social Services fall under sections 87 and 88 of the CNAE in Spain) there is a certain ambiguity as to establishing the scope of the social services sector. What frequently identifies the sector is not so much the service in itself as the other more qualitative features, such as financing, the legal nature of the entity, the way of provisioning or qualitative features in the person who receives the attention. This brings about a certain overlapping with other sectors, such as health, education, hospitality or work at home.

On the other hand, subsectors which have strong economic and functional foundations, such as assistance to the elderly in retirement homes, coexist with others that are less consolidated and stable, such as care at home, or leisure activities for people with disabilities.

Day care, for children, activities are not regarded as social services as such, since they are culturally understood to be an integral part of the education system, between the ages of 0 – 6 schooling is not compulsory, i.e. Spain was the fourth EU country in rate of schooling of children aged three, with 96.2%, 22.3 points above the average for Europe.

In another order of things, in the sector coexists public entities, or those ascribed to them, private entities and what is known as the Social Action and Intervention Third Sector, composed of specific entities established by civil society under legal coverage that encompasses not-profit associations.

### 2.2. Background: defining the social sector

A review over the history of the Social Action Third Sector as we see it at present will show that it really did not come into being until Spain's entry into the European Union, although organizations such as RED CROSS and CÁRITAS existed already, they did not talk about the Social Sector but rather of Charity with the aim of assisting those groups at risk of exclusion or in social exclusion.

Regarding the elderly people and the people with disabilities assistance to these groups fell on their families, at home, where, strictly speaking, it was women who cared for them, and it was not considered a qualified activity. Severe mental disability was covered by health care and patients were hospitalized.

In the mid-eighties, Spain's political and economic situation takes a drastic turn, politically, due to the strengthening of democracy and entry into the European Union, and economically, due to the flow of funds provided by the European Union and its convergence policy. This brought about high economic growth and state welfare and a government provision of social services that were unequalled.

Thus, tasks that had been in the field of the home started to become professionalized and women, with their entry into the labour market, filled most of the positions in the Third Sector, in all of the subgroups into which it is divided.

Once women join the labour market in a general way, assistance to these groups has to be outsourced, becoming part of the economy, through the public sector, through the market or through the Not-for-Profit sector, according to which type of entity provided the service.

The evolution in the provision of these services is linked to the evolution of civil society, with the appearance of social movements such as 0.7% in the nineties. This type of social movement is organized in entities which define themselves as Non-Governmental and Not-for-Profit, and they will be the main actors in the Social Action and Intervention sectors.

The most visible to the public are the NGO's in Cooperation Development, but along with these there also appear, due to the outsourcing of the services in the Public Sector, those organizations which provide a service to risk groups within Spain.

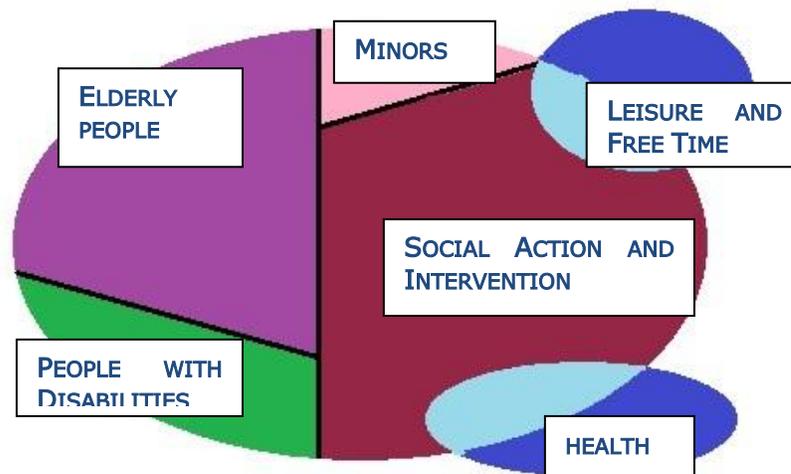
It is worth pointing out that childcare for children until they go to school, legally required or not, falls in Spain to the Educational Sector. What is part of Social Action and Intervention is the assistance to minors and the specific laws relative to their protection and reform.

### 2.3. The largest groups inside the social sector. A brief.

Having made the introduction to the Third Sector and explained the methodology used, we will specify the three groups it is divided into in Spain:

- ◆ Elderly/Dependency
- ◆ Disability/Dependency
- ◆ Action and Social Intervention
  - Social Action and Intervention (including minors, in the regulated environment of negotiation, Minors and Reform or Infancy, Youth and Family)
  - Development Cooperation

There are other sectors, which indirectly, to the degree that their activity may be at times aimed at people under risk of exclusion, carry out activities in a social context. Due to this, the social sector in Spain would be defined as follows:



Source: Based on the graph: "The Social Action Third Sector" by Ricardo Molinera. Cáritas

All the informants questioned agree that the existence of specific laws which apply to the Elderly People and the people with Disabilities as well as to Minors are the main reason for the division of the social sector into subgroups, giving rise to the different collective agreements. The inclusion of Development Cooperation in the sector is one of the contributions of this research.

The different sectors have been defined based on the functional context as defined in the collective agreements, since these establish a consensus agreement between employers and worker representatives.

### Elderly People/Dependency

Within the social sector, this group defines its functional sphere, and in accordance with the recently signed collective agreement (2012, pp1) at a national level as:

*"The scope for the application of this collective agreement is made of the companies and enterprises which carry out their activities within the sector of assistance to dependent people and/or the development of the support for personal autonomy; homes for the elderly, day or night centres, sponsored homes, home assistance services or teleassistance. Any of these regardless of name and with the single exception of those whose management or ownership belong to a public administration.*

*Also covered by this collective agreement are the departments, lines of business, sections or independent units of production devoted to the provision of the service in a working context, even when the company to which they belong may have a different line of business or more than one line of business in different productive sectors.*

*Specifically excluded from the application of this collective agreement are those companies which carry out specific health care activities as their fundamental activity, understanding this exclusion, will not harm health care for people who may be residents or users of the above mentioned services, as these activities are a consequence of their age and/or dependency."*

According to the IMSERSO (2012) (Institute for the Elderly People and Social Services) there are around 4639 retirement homes, community and sponsored homes.

**TABLE 2: HOMES**

Ownership	Amount	Sponsored <sup>2</sup>	% according to ownership	% Chartered regarding the total amount	% Chartered in each subgroup of ownership
Private	3025	1215	65,21%	26,19%	40,17%
Not-for-profit private	510	19	10,99%	0,41%	3,73%
State	4	0	0,09%	0,00%	0,00%
Autonomous	335	92	7,22%	1,98%	27,46%
Provincial	61	13	1,31%	0,28%	21,31%
Local	622	363	13,41%	7,82%	58,36%
Subtotal	4557	1702	98,23%	36,69%	
Unspecified	82		1,77%		
Total	4639		100,00%		

<sup>2</sup> By chartered we are referring to the fact that the competent public administration (State, Autonomous Community, Provincial or Town Hall) finances the residence interns but the management is private

According to the same source (IMSERSO) but in the day centre category (depending on ownership) also applicable to the Elderly People subgroup we can see:

Ownership	Amount	Publicly Managed	%of Public Management	Private Management	%of Private Management	Mixed management	% of mixed management
<b>Private</b>	1204	4	0.33%	970	80.56%	5	0.42%
<b>Not-for-profit private</b>	142	2	1.41%	128	90.14%	2	1.41%
<b>State</b>	1	1	100.00%	0	0.00%	0	0.00%
<b>Autonomous</b>	543	81	14.92%	99	18.23%	5	0.92%
<b>Provincial</b>	37	6	16.22%	26	70.27%	0	0.00%
<b>Local</b>	660	165	25.00%	141	21.36%	2	0.30%
<b>Subtotal</b>	2587	259	10.01%	1364	52.73%	14	0.54%
<b>Unspecified</b>	133						
<b>Total</b>	2720						

The results obtained regarding day centres are cross referenced with the kind of management, be it public, private, or mixed. As may be observed, the majority are privately managed, although these data are not final because there are 1083 centres for which there is no information on the kind of management.

The fully public side of this sector, regarding the direct provision of services, is limited to those State Centres, they are Centres specializing in a certain type of case and there are four presently in operation.

However it can be observed, as was clearly established in the canvassing, that the different public administrations act mainly as a financier, not as a service provider.

Along these lines, it can also be seen that, within the sector, the mercantile/profit aspect is the most important. According to the collective agreement only a third of the sector is Not-for-profit.

#### People with Disabilities/Dependency

People with Disabilities, whether physical or mental, is traditionally ascribed to Dependency, however it is segregated from dependency as such, as it has its own social dialogue and collective agreements.

For a more precise approximation, we include the definition of the work environment functional sphere as set in the Collective Agreement (2010, pp72551-72552):

1. *"The present Agreement shall include all companies and work places whose aim is the assistance, diagnosis, rehabilitation, training, education, promotion and work integration of people with physical, mental or sensorial disabilities as well as the associations and institutions set up to this purpose.*

2. For the individual consideration of the different type of enterprise and centres object of this Agreement, requiring differentiating work conditions, the Agreement regards the following as applicable to each of the enterprises and centres according to the following types:

A. Centres or enterprises with an assistance nature – For the purposes of this Agreement, we understand Centres of Assistance for people with disabilities those, regardless of the nature, kind or structure of the ownership, which have, as their aim the assistance, care, training, rehabilitation and promotion of people with physical, sensorial, character or personality challenges and alterations or social conduct disorders, as well as the institutions or associations set up with this aim...

B. Educational Centres. Centres for Special Education

C. Workplaces: Centres for Special Work.”

The structure of the subsector regarding the type of entities that are part of it (profit and not-for-profit) is mainly organized through Not-for-profit organizations.

According to the approximate data give by the key informants there is approximately 9000 entities working in this subsector, both in terms of a welfare centers and in special employment centers. And the Centers for special education are tending to disappear, due to the policies of inclusive education.

There is a common trait that differentiates the Elderly People and People with Disabilities form from the Social Action and Intervention Sector, and that is their structure, being sectors with economic activity dating back to the nineties, for example: in People with Disabilities/Dependency they are presently negotiating the 14<sup>th</sup> Collective Agreement and in Elderly People/Dependency they have just signed the 6<sup>th</sup>, whereas in Social Intervention and Development Cooperation they are presently negotiating the first Collective Agreement of a National scope.

#### Social Action and Intervention

The establishing of the scope of Social Action and Intervention is one of the most complex issues in the report, as previously mentioned we shall include in this category, and for the reasons mentioned, the areas of intervention, based on the Collective Agreements, signed or under negotiation at a national scale.

- ◆ Juvenile Reform and Protection to Minors.
- ◆ Social Intervention and Development Cooperation.

Although there is a specific collective agreement for Infancy/Minors, they are included in the field of social action and Intervention in the current Collective bargainings, and as will be seen when defining their different work scopes, functional spheres, the above mentioned are included.

The debate at this point is whether the existing collective agreements should be included in the scope of Social Action, a debate which in the case of Minors is awaiting a court resolution.

In the absence of a National Collective Agreement in this area, the work scope has been taken from the current collective agreements, one Autonomous and two Provincial ones.

The Collective Agreement for the Catalonia Autonomy (2011, pp57625) defines the work scope functional sphere as follows:

*"Included under the present collective Agreement, regardless of the ownership of the service, are all of the enterprises and/or entities which provide social action activities to children, youths, families and others in an at risk situation (...)*

*Services fighting social marginality and poverty: services which detect, assist and provide social treatment of people in a poverty and social exclusion. Treatment Centres, Homes and Shelters, Winter Shelters, Day Centres and Social Insertion teams and Food services.*

*Also under the cover of this Agreement shall be the lines of business, sections or any other productive unit of companies working in the provision of services in the work environment of the present Agreement, belonging to any company regardless of their main activity. The above list is not intended to be final, therefore any other activity, prior ruling by the Commission created for this purpose, existing or to be created shall be included, should their functions be under the above-mentioned list.."*

In the existing Provincial collective agreements (Bizkaia and Gipuzkoa, provinces in the Basque Country) the working environment is defined in a similar way, although, as the Gipuzkoa one (2011, pp50-51) came after the Bizkaia one, it is more specific and therefore used as a reference:

*"The present collective agreement shall be applicable to all those enterprises, associations, foundations, centres, entities or similar organizations (herewith: organizations) whose main activity is the carrying out of Social Intervention activities, whose legal status is not publicly-owned, nor whose single or majority shareholder is a Public Administration.*

*Social Intervention is understood to be the set of activities or actions that are carried out in a formal or organized way in response to a social need and whose purpose may be to soften, prevent or correct social exclusion processes as well as the fostering of those of social inclusion or participation.*

*This Agreement shall include the areas of social action, as well as the socio-labour and social-health, and also those socio-cultural and socio-educational and sudden mental illnesses (...)*

*The target groups are equally diverse: minors and youth, women, the elderly, economically excluded people, the homeless, people with mental problems due to any type of addiction or former addiction, immigrants, the unemployed, convicts and ex-convicts; in any case, people or groups in exclusion, at risk of exclusion or who require a fostering of their social participation among others.*

*Also included in this Agreement are the divisions, business lines, sections or any other unit dedicated to the provision of services in the work environment even when they may be a part of an organization whose activity may be of a different nature or covers a range of sectors with its activities., with the exception of those whose agreed conditions are more beneficial than the ones included in this agreement, in which case the aforementioned shall be the guaranteed minimum.*

*Likewise, those organizations whose main activity is environmental, sports or culture, in the strictest sense and with reference to what is mentioned in the previous paragraph.*

*Expressly excluded are those organizations whose main activity is the assistance and care of people who are physically and/or mentally disabled as well as those whose activity is related to Development Cooperation.*

*Also excluded are employment workshops, retirement homes and residences and the home assistance services which have coverage of their own (...)*

*Finally, excluded are the Lifeguard services in beaches and the people who receive the training and employment programs in the scope of this Agreement, even when provided by the entities within the scope of this Agreement."*

This Agreement has attached a consensus catalogue of non-excluding activities, which we will not include for concision purposes. They can be found in the published collective agreement.

As can be seen, both collective agreements include activities related to Infancy and the socio-educational ones in the functional sphere.

One peculiarity of the abovementioned provincial collective agreements is the non-inclusion of Development Cooperation activities in their functional sphere, whereas, it is included in the national one, which is presently under negotiation.

Therefore the projected scope to be signed in the framework of the national General Agreement (2012, p.8) in a consensus with employers is:

*"The present collective agreement is applicable to employees of enterprises or entities which, regardless of their legal status, design and/or carry out programs and actions in Social Action and Intervention defined as follows:*

*Under this Agreement shall be the activities carried out in Social Action and Intervention in the socio-labour, socio-health, socio-cultural and socio-educational, psycho-social, assistance socio-communitary intervention,*

*international cooperation, and any other field whose aim is to detect, prevent, soften or correct situations of vulnerability and social exclusion or foster processes of inclusion, insertion, dynamics, participation and social awareness processes in favour of those people in situation of exclusion or social vulnerability.*

*Also included in this collective agreement are the divisions, lines of business, sections or independent productive units devoted to the provision of services in the field, even when the main activity of the company to which they belong is different or the company participates in different sectors, unless the terms agreed to in these organizations are more beneficial than the ones in this Agreement, in which case the aforementioned shall be the guaranteed minimum.*

*Expressly excluded are the activities regulated by the following Collective Agreements:*

*National Collective Agreement for Dependent People and the Development of the Fostering of Personal Independence.*

*Collective Agreement for Centres and assistance to disabled people.*

*Collective Agreement for Education and Unregulated Education.*

*Collective Agreement for Juvenile Reform and Protection of Minors.*

*National Collective Agreement Framework for Educational Leisure and Socio-cultural animation.”*

This subsector is mainly represented by not-for-profit management, with a 50% representation at a national level.

#### 2.4. The employees of the social sector

This section will provide an approximation to the employees in the social services sector, divided by gender, age and type of social service (understood to be within the three main groups defined previously)

The existing data regarding the number of employees have been obtained from the latest Active Population Survey (EAPS) which the National Statistics Institute (INE) carries out, with data from the 2010, 2011 and the first quarter of 2012 surveys, although only specific as regards to gender.

According to the National Classification of Economic Activities (CNAE) social services are included under codes 87 and 88; Assistance in Residences and Social Service Activities without shelter respectively.

The data have to be taken as being an approximation, due to the fact that many Not-for-profit organizations listed themselves under another code when they started their activities, i.e. 94.Associatives activities.

Data from 2010 to 2012 have been chosen in order to obtain a multi-annual comparison.

According to INE data, the social sector in Spain regarding people working in it would look as follows:

TABLE 4: EMPLOYEES

	TOTAL		
	2012	2011	2010
87 ASSISTANCE IN RESIDENCES	245.5	264	251,7
88 SOCIAL SERVICE ACTIVITIES WITHOUT SHELTER	226.5	218,3	211,2
94 ASSOCIATIVE ACTIVITIES	96	100,7	94,2
<b>Total</b>	<b>568</b>	<b>583</b>	<b>557,19</b>

Source: INE: Series 2005-2012EAPS, and first quarter of 2012

Units: people per thousand

Stratification of employees according to gender would be as follows:

TABLE 5: EMPLOYEES BY GENDER

	MALE			FEMALE		
	2012	2011	2010	2012	2011	2010
87 ASSISTANCE IN RESIDENCES	37,9	37,1	34,9	207,6	226,9	216,9
88 SOCIAL SERVICE ACTIVITIES WITHOUT SHELTER	24.1	25,8	30,5	202,4	192,5	180,7
94 ASSOCIATIVE ACTIVITIES	38.1	39,8	37,2	57,9	60,9	57
<b>Total</b>	<b>100,1</b>	<b>102,7</b>	<b>102,6</b>	<b>467,9</b>	<b>480,3</b>	<b>454,6</b>

Source: INE: Series 2005-2011EAPS. And first quarter of 2012

Units: people per thousand

The sector is predominantly female, as can be seen by an 87% representation of women in the sector.

Regarding the age groups, in the 87 and 88 codes of the CNAE for Social Services are as follows:

TABLE 6: EMPLOYED BY AGE GROUP AND AREA OF ACTIVITY (2011)

	87. Assistance in Residential Centres		88. Social Service Activities without shelter	
	Units in thousands	%	Units in thousands	%
Aged 16 to 34	72	27.51%	61.7	28.63%
Aged 35 to 44	68.5	26.18%	56.6	26.26%
Aged 45 to 54	79.5	30.38%	58.6	27.19%
Over 55	41.7	15.93%	38.6	17.91%
<b>Total</b>	<b>261.7</b>	<b>100%</b>	<b>215.5</b>	<b>100%</b>

Source: INE Active Population Survey: Series 2005-2011. Fourth Quarter 2011. Units thousands.

For the Other Services group, the data are the following:

TABLE 7: EMPLOYED BY AGE GROUP AND AREA OF ACTIVITY (2011)		
	S Other Services	
	Units Thousands	%
Aged 16 to 29	89.6	23.14%
Aged 30 to 39	122.6	31.66%
Aged 40 to 49	95.9	24.77%
Aged 50 to 59	56.2	14.51%
60 and over	22.9	5.91%
<b>Total</b>	<b>387.2</b>	<b>100%</b>

Source: INE Active Population Survey: series: 20052011. Fourth Quarter 2011  
Units: people per thousand

As can be observed, in the 87 and 88 code of activity, the weight of the employees is in the 45 to 55 age group, in Other Services it is in the 30 to 39 age group, with a highlight in the 16 to 29 and 40 to 49 age groups which make up close to 25% of the people employed.

The age groups are different. The data for the age groups in codes 87 and 88 have been supplied, upon request by the INE. The data for code S Activity are the ones published on the INE website; we have grouped age intervals so they were as similar as possible between them.

## 2.5. Features of the social service sector organizations.

This section attempts to define the social services sector regarding the entities which are part of it.

### a. Type of entity.

The first stage of organization classification is: public, private for-profit and private not-for-profit:

#### Public organizations:

Public organizations are tending to disappear, as direct providers of services, and their role is becoming that of a financier of these services. The most relevant of these would be the services provided by Town Halls, although there is no data for the nation as a whole and they cannot be classified as a public organization.

#### Profit and Not-for-profit organizations

Before starting the breakdown of the profit and not-for-profit organizations in the sector, and taking into consideration the lack of specific data, we have taken the following approach: starting from INE data, from the tables called Central Companies Directory, through the (NACE) mentioned in the methodology section, under which different organizations are registered, with code 87 ( Assistance in Residential Centres) , 88 (Social Service activities without shelter) and 94 (Associative Activities), we have obtained the sector's total data for 2011.

**TABLE 8: COMPANIES BY LEGAL STATUS, MAIN ACTIVITY (NACE GROUPS 2009)**

MAIN ACTIVITY	COMPANIES BY LEGAL STATUS				
	Legal Person	Incorporated companies	Limited liability companies	Other legal status	Total
<b>87.Assitance in Residential Centres</b>	407	230	2516	1891	5044
871. Assistance in Residential Centres with health care	152	32	644	326	1154
872. Assistance in Residential Centres for people with mental disability, illness and drug dependency	21	11	114	183	329
873. Assistance in Residential Centres for the Elderly or Disabled	229	184	1732	1186	3331
879. Other assistance activities in Residential Centres.	5	3	26	196	230
<b>88.Social service activities without shelter (Subtotal)</b>	<b>778</b>	<b>48</b>	<b>1519</b>	<b>2443</b>	<b>4788</b>
881. Social service activities without shelter for the elderly or Disabled	359	20	828	1141	2348
889.Other social service activities without shelter	419	28	691	1302	2440
<b>94. Associative Activities</b>	<b>23</b>	<b>5</b>	<b>8</b>	<b>33669</b>	<b>33705</b>
941. Company, professional or management organization activities	9	4	4	4533	4550
942. Union activities	0	0	0	346	346
949. Other associative activities	14	1	4	28790	28809

Source: Preparing by the author on the basis of INE data: Central Companies Directory

### Private for-profit Organizations

Lacking more available broken-down data, we can estimate their size as the sum of the incorporated companies and legal person (employer's also) giving us a sector total of 5534.

Although It is difficult to establish a correspondence between the NACE and the sector's large groups, there is greater presence observed in the Elderly People sector and in the People with Disabilities one, in particular:

- ◆ 871 Assistance in Residential Centres with health care.
- ◆ 872 Assistance in Residential Centres for people with mental disability, illness and drug dependency.
- ◆ 873 Assistance in Residential Centres for the Elderly or Disabled.
- ◆ 881 Social service activities without shelter for the elderly or Disabled.

Whereas in the Social Action and Intervention, we can suppose there is a reasonable presence in these areas:

- ◆ 871 Assistance in Residential Centres with health care.
- ◆ 872 Assistance in Residential Centres for people with mental disability, illness and drug dependency.

Especially so in:

- ◆ 879 Other assistance activities in Residential Centres.
- ◆ 889 Other Social Services activities without shelter.
- ◆ 949 Other Associative activities.

#### Not-for-profit Organizations

Regarding the Social Action and Intervention Sector and according to the study by The Fundación Luis Vives (EIDS, 2010 P. 20), with data from 2008, there would be 28790 not-for-profit organizations, out of which approximately 19,000 would work in the Social Action and Intervention field, out of these 7223 (EIDS, 2010, p.52) would have direct intervention as their main activity.

The INE data for 2011 would yield 31,249 Organizations in the NACE which come close to the "other" status, if we were to apply the percentages used by the Fundación Luis Vives' study (EDIS 2010, p.52) the number would be very similar: 7840. In any case the data must be handled with caution, since:

- ◆ Firstly, there are a variety of legal structures that groups the same type of organization: Collective Societies, Commandatory Societies, Communal Goods, Cooperatives, Associations and others, Autonomous bodies, Religious organizations and institutions.
- ◆ Many organizations working in the Third Sector may not be registered under the codes we have chosen, although these are the most specific.
- ◆ Maybe their main activity is not that of the code.

**b. Professionals who work in these entities**

According to INE data and following the tables of the General Company Directorate, specifically the table "Companies by legal framework, main activity (CNAE groups 2009) and employee stratum" the sector companies regarding the number of employees appears as follows:

**TABLE 9: EMPLOYEES BY MAIN ACTIVITY AND COMPANY SIZE**

SIZE OF COMPANY	MAIN ACTIVITY			Total
	87 Assistance in Residential Centres	88 Social Service Activities without shelter	94 Associative Activities	
No employees	690	1300	11949	13939
1 to 2 employees	409	932	12290	13631
3 to 5 employees	435	697	4193	5325
6 to 9 employees	521	530	2404	3455
10 to 19 employees	1101	526	1421	3048
20 to 49 employees	1218	435	876	2529
50 to 99 employees	445	185	302	932
100 to 199 employees	142	99	173	414
200 to 499 employees	53	59	78	190
500 to 999 employees	15	13	17	45
1000 to 4999 employees	14	9	2	25
Over 5000 employees	1	3	0	4
<b>Total</b>	<b>5044</b>	<b>4788</b>	<b>33507</b>	<b>43537</b>

Source: Preparing by the author on the basis of the data of the "Company by legal status, main activity, (NACE groups 2009) and employee strata" from INE

As can be seen in the table, entities with between 10 and 49 employees under code 87 are nearly 50% of the total; however for codes 88 and 94 nearly 73% of the ascribed companies have fewer than 10 employees, which may indicate two essential things: sector atomization and volunteer work.

Regarding the Elderly People, the FED (Business Federation for dependency assistance), the main management employer organization in the sector, including the Autonomies, quotes a figure of 5000 businesses, although the sector itself speaks of centres, not businesses, because there are large operators with many centres throughout the country in the Elderly People sector.

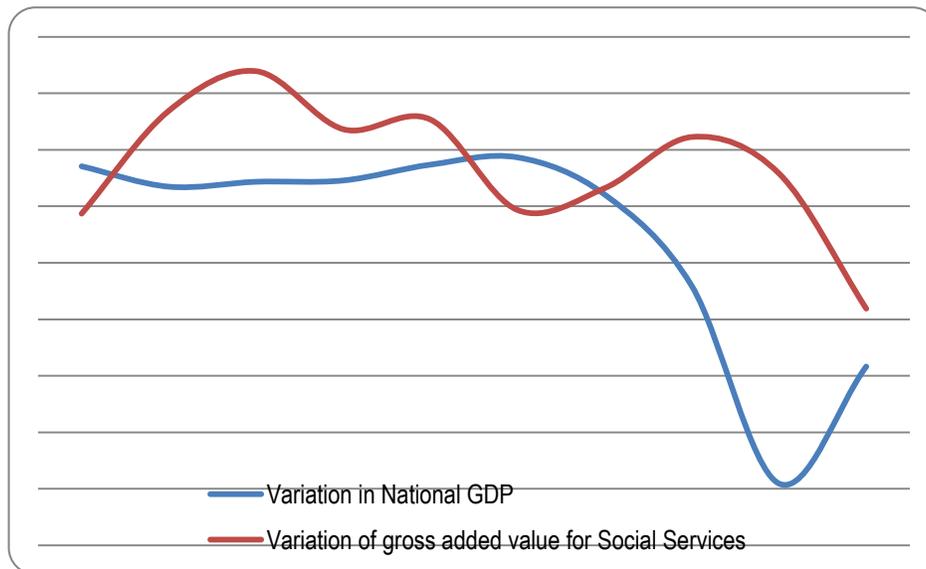
The presence of private mercantile initiatives is scarce in the remaining subsectors, although the tendency is rising, because other businesses are diversifying and are entering the sector, EULEN and CLECE for example, but they do not provide accounting in these areas because it is not their main activity.

## 2.6. Business volume/income and profits in the social sector.

There is a lack of reliable data, but one which offers very useful information to size up the social services sector is its share of the GDP.

According to INE data (INE 2011, Rates of Domestic Accounting) the Social Services Sector (CNAE 87 and 88) has undergone continual growth, both in gross Added Value (with a total of 12.322 billion €) as well as its share of the Spanish GDP, representing 1.17% in the year 2010.

EVOLUTION OF THE VARIATION OF GDP AND THE GROSS ADDED VALUE FOR SOCIAL SERVICES



Preparing by the author on the basis of INE

If we look at the variations of the data through time, we can see that, apart from 2006, growth in the sector is higher than the economic growth, showing the delay of one year in the impact of the recession, largely due to the main financing patterns in the sector, dependent upon the public sector.

## 2.7. Sources of financing for the suppliers of social services

The main sources of social services financing are the various public administrations, be they the State, Autonomous Communities, Provinces or Town Halls.

As has been mentioned in the Elderly People/Dependency section, of the Centres in all of the country, in the private mercantile case there is a 40% of direct public financing and for the not-for-profit, and according to the available data, 3.75% of direct public financing.

Of those of public ownership, a 21% of the total, nearly half have private management.

The remaining ways of financing, come, either through direct public administration aid (depending on the Autonomous Community, the amount varies) or through the fees of their users or their families.

According to the aforementioned Fundación Luis Vives study, over 60% of Social Action financing is of a public nature. 23% comes from private funding (savings and loans, companies, etc.) donations and member quotas, the rest, 14% is self-financing.

It also shows that the entities which work in the Third Sector have different financing according to their legal status. In this way, Associations are the ones which receive most money from the public sector, 65.4%, foundations 54.8% and the singular entities, (Red Cross, Cáritas, ONCE) 35.9 %.

Public financing is distributed through subventions, charters or tenders. Private financing comes from donations or quotas, and self-financing come from the sale of goods or services of the entities on the market.

It is the smaller organizations which, as a rule, have a greater dependence on public administration funds. According to the Social Action Third Sector Yearly, this type of organization has an income volume of up to 1,000,000 € and are mainly Associations.

One of the present debates in the Third Sector is the search for alternative financing, and the "Strategic Plan for the Social Action Third Sector. Proposals for the Improvement of Public Financing in the Social Action Third Sector", by the Social Action NGO Platform 2011, is a good example.

This strategic plan includes some proposals that, because of the economic crisis and the changes in the Spanish finance system, must be re-addressed, as an example the potential financing from the local savings banks which, due to the mergers recently carried out, has been brought to a halt.

### 3. Social dialogue in the social services sector

#### 3.1. Social dialogue in Spain

Social dialogue is primarily understood as the dialogue between employers, unions and government or public administrations. In some cases it may also be extensive to Associations, Organizations or interest groups, depending on the matter to be dealt with.

One of the basic features of social dialogue is that it is not regulated and it is not binding, so the conclusions or agreements reached are simply recommendations. Along these lines, the State or corresponding Public Administration does not legislate; it rather tries to reach agreements with the main actors in these in the issue at hand.

Social dialogue in Spain takes place, mainly, among government, unions and employers, in all sectors and it is a part of Spanish political and social reality since the advent of democracy.

Attached, Annexe II, are some of the main agreements reached through social dialogue, in a labour environment, ranging from, on the one hand, 2004 to 2007 and 2008 to 2011 on the other.

Social dialogue in Spain, at present, has been affected by the economic crisis, bringing about losses in some areas, for example the freezing of pensions, cuts in dependency, etc...

With the current situation, unions feel that social dialogue has broken down. Along these lines, and up until mid-2011, social dialogue has been an essential part in the social and political spheres. From that time, the feeling in the unions, and our informants, is one of expectancy.

#### 3.2. Social dialogue in the social services sector. Main features

As mentioned in the previous section, social dialogue in Spain is carried out among the government, unions and employers.

There is no social dialogue, as defined above, between social sector employers, unions and government.

The Third Sector Platform, created in early 2012, made up by 7 large Third Sector organizations and which includes a large part of the entities connected to Social Action and Intervention and People with Disabilities (The Social Action NGO Platform, The Spanish Volunteer Platform; PVE, EAPN Spain, Spanish Committee of Representatives of People with Disabilities, CERMI, Spanish Red Cross, Cáritas Spain and the National Spanish Organization of the Blind, ONCE) has this as one of its aims, the power to talk directly to the government, although the Platform does not have the legal status of an employer's organization, nor does it include any from the sector.

In addition to this initiative we can mention different consulting committees in which specialized organizations take part.

Regarding the Elderly People and People with Disabilities the "Dependency System Consulting Committee" was set up, although the organizations which are part of it are of a general nature and at national level, CEOE and CEPYME.

In addition, registered in the Ministry of Health, Social Services and Equality, is the "Disability Patronage" (2012), a body which aims to:

- ◆ *"Promote the application of human ideals, scientific knowledge and technical improvements to the perfecting of public and private actions on disability in the areas of:*
  - *The prevention of deficiencies.*
  - *The disciplines and specialties related to the diagnosis, rehabilitation and social insertion.*
  - *Equaling opportunities.*
  - *Assistance and tutelage.*
- ◆ *Enabling, within the area defined in the above section, exchanges and cooperation among the different public administrations, as well as these with the private sector, both at a national and international level.*
- ◆ *Supporting bodies, entities, specialists and sponsors in the field of studies, research, information, documentation and training.*
- ◆ *Issuing technical reports and recommendations on the areas relevant to its field of work."*

At the Social Action level, and within the Ministry of Health, Social Services and Equality (2012) there is a "State Council of Non-Governmental Social action Organizations", divided into the following workgroups:

- ◆ *"Social Action Third Sector Strategic Plan (set up in three Commissions)*
  - *Commission for the Development of the Strategic Plan.*
  - *Quality Commission.*
  - *Communication Commission.*
- ◆ *Social Inclusion, Employment and Rural Group.*
- ◆ *Legislation and Financing Group.*
- ◆ *Gender and Equality Group.*
- ◆ *Volunteer work Group."*

Third Sector organizations are partly represented in this Council, but individually, not associated to the employer organizations to which they belong.

The main functions of these consultative councils are to improve the services provided to the people in these situations, as well as achieving visibility for the groups which they assist. The will to make social dialogue extensive to

other groups depends on the social agents that participate in the councils at this time.

Having reviewed social dialogue in Spain, with the definition of Social Dialogue previously put forth, we will now focus on collective bargaining within the Social Sector in Spain.

### 3.3. Social Dialogue understood as collective bargaining in the social services sector. Spain

Within the Social Services sector in Spain there are various collective bargaining processes taking place, or signed and into effect, in each of the areas previously mentioned.

Before going into the issue in question, and from the results obtained in our interviews, it is necessary to make a short reference to the recent reform to the Labour Market Law (Government, 2012, Official Gazette (BOE) 02/11/12) and the aspects which relate to collective bargaining.

Firstly, the labour reform states, regarding collective agreements, that it is possible to withdraw the terms of the agreement in effect, and fall back on the individual company collective agreement.

From now on the validity and application of the existing collective agreements at a national, autonomous and provincial level will depend on the individual entities, and according to key informants, we will have to wait and see how things develop, although they are all "optimistic" in the sense that General Collective Agreements will continue to be the basis of the sector's structure. Although a very clear threat is the introduction of mercantile competition in the sector:

*"What does this reform do to the business side(...) introduces obvious competition between for-profit and not-for-profit organizations among all of the organizations in the sector, (...) and if competition is introduced we are ruining the most important part of this sector, which was not-for-profit and did not follow the rules of competition but those of social construction(...)"*(informant 4)

Considering the Labour Reform, the negotiation which will be most sought after will be the one on a national level, for this report. However, the existing agreements, prior to the reform, as before, will be listed.

There is a regulation on collective bargaining as part of the Statute of Workers, with the adequate amendments, the last being from June 2011 (Government, 2011, Official Gazette (BOE) 06/11/2011)

The features of the agreements regarding the scope of applicability are set by the type of agreement:

- ◆ National, Autonomous, Provincial or Company

The agents in collective bargaining at the national, autonomous and provincial level, as well as those in different sectors and intersectorial agreements are:

- ◆ The most representative employers organizations in the Sector
- ◆ Most representative Unions

For company agreements, the actors in the negotiation are:

- ◆ Company
- ◆ Legal workers' representation

Regarding duration, the very agreement establishes the length, although it usually goes from two to three years.

### 3.4. Existing employer organizations in the social services sector.

As can be observed, there are as many employer organizations as there are employers signing the agreements. There are even organizations which are left out of the signing because they do not have representation.

List of Employer's Associations which have signed agreements or have the right to negotiate at a national level:

SUBSECTOR	EMPLOYER	TYPE OF ENTITIES REPRESENTED	SUBSECTOR	EMPLOYER	TYPE OF ENTITIES REPRESENTED
Elderly People /Dependency	FED	For-profit	Infancy/Minors and Reform	FEPJJ	Not-for-profit
	LARES	Not-for-profit		AEEISSS	Not-for-profit
	AESTE	For-profit		AEFYME	Not-for-profit
People with Disabilities/ Dependency	AEDIS	Not-for-profit	Social Action and Intervention	FAIS	For-profit
	FEACEM	For-profit		OEIS	Not-for-profit
	CONACEE	For-profit		AEEISSS	Not-for-profit
	EyG	For-profit		AESAP	For-profit
	CECE	For-profit		FAIS	For-profit
			APAES	Not-for-profit	
			AEFYME	Not-for-profit	

There are territorial associations which negotiate and sign autonomous and provincial agreements, most of them are part of national organizations or are in some way linked to them through federations.

Thus, the employers which have signed the existing Social Action and Intervention Agreements are:

SOCIAL ACTION AND INTERVENTION	AUTONOMOUS CATALONIA	PROVINCIAL BIZKAIA	PROVINCIAL GIPUZKOA
		AEISC	Gizardat
	AESAP		

It is relevant to mention these three Agreements, especially the Catalonia one, as they are the reference for the present negotiation of the national one.

### 3.5. Issues dealt with in collective bargaining

Obviously the issues to be dealt with in collective bargaining are labour ones; the following is a list of all of the issues dealt with in collective bargaining:

1. The organization of work.
2. Personnel structuring.
3. Hiring.
4. Trial period, vacancies and personnel termination.
5. Subrogation.
6. Retribution system.
7. Work day, overtime, vacations, recycling and on-going training.
8. Time off, permits and leaves.
9. Travel and diets.
10. Absences and sanctions.
11. Union rights.
12. Social improvements.
13. Safety, Hygiene and work-related illnesses.

Within these categories there are more detailed issues, which vary depending on the agreement and its scope.

For example, the Social Action and Intervention provincial agreements in the Basque Country make reference to linguistic normalization, a clause that does not appear in any other social sector agreement included in the present report.

Regarding the Elderly People/Dependency, there is a special mention made in the agreement to the preservation of employment and development of personal autonomy, (2008, BOE number 79, 04/01/2008, p.18254)

*"Measures against age discrimination. The signing parties commit themselves to supporting access and preservation of employment to those over the age of 45"*

### 3.6. Strengths and weaknesses of the existing agreements

The present section will deal with the strengths and weaknesses of the existing agreements in each of the subsectors of the report.

The data on the strengths and weaknesses has been obtained through the analysis of the in-depth interviews made to the key informants and stakeholders.

#### Elderly/Dependency:

The greatest strength in collective bargaining in this subsector would be: *"A collective agreement provides stability and provides a framework for actions which allows the organization to calculate costs."* (Informant 2)

The greatest weakness lies in the lack of flexibility within the bargaining itself, explained by the lack of trust on both sides.

In addition *"the for-profit position of mercantile companies, which do not blend in well in this area"* (Informant 2)

#### People with Disabilities/ Dependency

Within this subsector a strength in collective bargaining is *"being a social entity gives a vision of the collective agreement more favourable to the social that it was just business ... right?"* (informant 7)

Therefore all the the different subsectors, which dominate the non-profit entities, are similar in this way.

#### Social Action and Intervention:

The lack of a collective agreement to provide the sector with a global framework has given rise to the breakdown into small collective agreements, which is considered a weakness, and, at the same time, a strength, since this part of the sector is regulated, defined and the organizations and workers protected by the existence of a basic standard.

One weakness, at a national level, comes about by the relatively recent start of this type of negotiation with employers and an incipient knowledge of the sector on the part of the Unions which sign.

#### Social Action and Intervention Collective Bargaining Nationwide:

The Social Action and Intervention Sector has no agreement signed on a national level, which is, in itself, the greatest weakness, according to our key informants. The issues that would be strengthened with the signing of a collective agreement would be:

- ◆ A specific framework of the sector: with all of the organizations providing the foundations of a structure through which to go by.
- ◆ A definition of the social intervention sector which will bring about a delimiting of the scope and functions of social intervention.

An "a priori" strength would be the sector's own values.

The employers interviewed, representing not-for-profit and for-profit organizations, the approach to collective bargaining has the following features, depending on the type of employer:

#### 1. Not-for-profit Organization employers:

- ◆ All agree in avoiding the atomization of the sector into subsectors, but differ in the territorial area in which to start:
  - i. From general to specific agreements: Starting with a national agreement and ending with specific ones.
  - ii. From specific agreements to general ones: Start with the small agreements, the smaller the better, because negotiations are more direct, in order to reach agreements at higher levels.

#### 2. For-profit Organization employers:

- ◆ The priority is to provide the sector with a reference framework, regardless of the subsectors created, which are due to the existing regulations, and the territorial nature of the Agreement.

The predominant opinion at present is for the subsectorization of the sector and to start by Agreements with a lower territorial scope.

Analysis of the interviews with unions shows how one of the drawbacks they find for the signing of a National Collective Agreement is the difference in approach taken by the different employers when negotiating:

*"Most of the problems we have faced when negotiating, because we the unions have not had any problem whatsoever, has been to get the employers to agree among themselves on their representativity."* (Informant 5):

In addition to the present economic situation, this being a sector whose financing is largely dependent on public funds, which is reducing the funding. The union's approach to collective bargaining, in Social Action and Intervention, is to unify, not divide, the sector. This is also seen as the greatest strength. However, at the union level, in the different unions, social services are associated to different federations; so even in the union sense, the situation is complex.

Another strength they see is that organizations previously did not belong to an employer's organization (essential legal figure to sign a collective agreement) and now they are organizing themselves in employer's associations specific to the sector.

*"the fact that here was an agreement made the existing institutions group together in employer's associations, which gave the sector some degree of organization, even if it was to challenge collective agreements."* (Informant 5)

Regarding the territorial scope, the choice is from general, to specific.

It is a low-unionized sector, according to the unions because it is a young one, in comparison to others.

The analysis of the interviews to unions sees as a drawback, when signing a national collective agreement, the different approach to negotiating from the different employer's organizations in the sector.

It is confirmed through all of the interviews, that although everyone agrees in not subsectoring the sector, in some areas, such as Minors, it has been subdivided.

#### Autonomous and provincial levels

The main strength found in these collective agreements is the involvement of workers from the sector in the negotiations themselves, Specially in the provincial ones.

In addition, the Autonomous one (Catalonia) is being used as a reference in the negotiation of the national one.

The strength of the signed collective agreement, for the unions, lies in *"work conditions are regulated and dignified...for the workers in this sector where many...in other places are, I would say, at risk"* (Informant 3)

The main weakness is the expectancy generated by the new labour reform, regarding the application of the collective agreements to those who haven't signed them, the introduction of mercantile competition in the sector, and due to the fact that between 80 to 85 % of the expenses in these entities are for personnel, and employees can negotiate collective agreement downgrades for individual entities the services provided for these people might be compromised in terms of quality as in efficiency and effectiveness.

### 3.7. Existing agreements which cover part of the sector

Since the sector is so structured into subsectors there are no collective agreements which cover the whole of the sector. In fact the basic regulation covering the sector is the Labour Law exactly the same as the other sectors of economic activity. Listed in the following table Existing Agreements in the Sector, the main Collective Agreements for the sector:

Subsector	Agreement name	Signing date	Validity
Elderly People/ Dependency	VI National Framework Agreement for Assistance Services to Dependent People and Development of the promotion of Personal Autonomy	16/03/2012	01/01/2010 to 31/12/2013
People with Disabilities/ Dependency	XIII Collective Agreement for Centres and Assistance Services to people with Disabilities	23/06/2010	31/12/2010 The XIV is under negotiation
Social Action and Intervention	National Collective Agreement for Social Action and Intervention for the years 2012-2013*	Under negotiation	Under negotiation
	Catalonia (Autonomous): Collective Agreement for Social Action with children, youths, families and others at risk of exclusion	23/09/2011	31/12/2012
	Bizkaia (Provincial) Collective Agreement for the Social Intervention Sector in Bizkaia	10/07/2009	31/12/2011 Under negotiation
	Gipuzkoa (Provincial) Collective Agreement for Social Intervention in Gipuzkoa	01/06/2011	31/12/2014
Juvenile Reform and Protection of Minors	I National Collective Agreement for Juvenile Reform and Protection to Minors	17/02/2010	31/12/2010 Challenged

\*Social Intervention and Development Cooperation

National:

For the Social Intervention collective agreement, at a national level, under negotiation at present, the negotiation process is being complex, as has been seen from the interviews with the stakeholders.

On the one side the negotiation has taken place within the sector employer's organizations , or at least those present at the negotiations, and more representative, according to the setting up act of the negotiation.

The employers involved in the negotiation are:

- ◆ OEIS, AEEISSS and AESAP, with a representation percentage, admitted by them of 27.5% of the sector each.
- ◆ FAIS and APAES: with a 7% admitted representation.
- ◆ AEFYME: with a 3.5%.

The data regarding the number of entities present and the number of employees they represent is not very clear, as admitted by the entities themselves. Therefore this is the most reliable data of representation available.

One of the reasons for the lack of information is, in fact, the lack of structure in the sector. This is the great strength this collective agreement provides, a set of common rules to follow.

### 3.8. Approach to the main labour issues in the social services sector.

Regarding the main labour issues or the most intense, in the negotiation, there are two main ones mentioned in all of the subsectors with whom we have talked:

- ◆ Salary.
- ◆ Work hours.

This are crucial points, both for the employers as for the unions, for opposite reasons, that is, employers want more hours for less pay and the unions want the opposite.

The work hours in this sector are peculiar; we are talking about assisting people 24 hours a day, so the work hours are divided into shifts.

At the same time there are significant differences, both in the salary and work schedules, depending on the territory one works in.

Unions want a national minimum, but, for some employer's organizations, this may lead to a loss in the rights of the collective agreements made in smaller territories, should the entity embrace the national one.

In addition, the difference between Autonomous Communities is a key factor in this issue, for example: the per capita income in the Autonomous Community of the Basque Country is 31,288 Euros whereas in Extremadura it is 16,149 Euros.

In addition to these "to be expected" issues, other factors are mentioned:

- ◆ Subrogation.
- ◆ Temporary Disability or Sick Leave (absenteeism)

#### Subrogation

The legal definition of subrogation is "putting something or someone in the place occupied by another"<sup>3</sup>, for the purposes of this report the "thing" would be the entity which provides the service, but keeping all or part of the employees, according to the Labour Law, the existing collective agreement or the details of the contract or bid for tenders or subvention.

The reason for Subrogation, mentioned by the union members interviewed, is to provide workers with stability, in an event they have no control over.

The main objection of the employers to this is that the intervention model chosen by each organization may differ, depending on the organization, therefore affecting the service provided, in addition to the investment required to have the workers adapt to their model.

Another point of disagreement between employers and unions regarding subrogation is primarily economic, very related to the organization in question, and whether it is for-profit or not-for-profit.

The current collectives bargaining stand for:

#### Elderly People/ Dependency

All workers shall be subrogated, regardless of the type of contract they have, with a seniority of at least three months in the company that leaves.

#### People with Disabilities/Dependency

Subrogation clause in the Labour Law, section 2 Guarantees due to a change in company, article 44.

#### Social Action and Intervention

##### Juvenile Reform and Protection of Minors

All workers shall be subrogated, regardless of the type of contract, with seniority of at least six months in the company that leaves.

##### Social Action and Intervention

##### Autonomous: Catalonia

Subrogation of all workers

##### Provincial: Bizkaia and Gipuzkoa

All steady workers

Gipuzkoa: all steady workers except partners, people in management positions and others who may represent the company.

##### Educational Leisure and Sociocultural animation:

Generally speaking all of the mentioned collective agreements have a 100% subrogation of steady workers, except management.

---

<sup>3</sup> Tranlated from <http://lexjuridica.com/diccionario.php>

Temporary disability

Temporary disability is another of the issues stemming from the analysis of the interviews, and is directly related to the salary perceived by workers at the time of a temporary disability or sick leave, since the State pays for part of this leave the collective agreements establish the percentage the company or the entity must cover.

Temporary disability is regulated by the General Social Security Law, with a minimum guarantee, that if not improved by the collective agreement, is usually not even mentioned.

Therefore, in national collective agreements the situation would be illustrated in the following table:

TABLE 13: TEMPORARY DISABILITY						
	Elderly People/ Dependency		People with Disabilities/ Dependency		Social Action and Intervention	
	% salary	Days	% salary	Days	% salary	Days
<b>Work accident or work-related illness</b>	100	21	100	Full	100	Full
<b>Non-work accident or common illness</b>			100	30	60%	4-21

Conciliation and social benefits are considered a plus to compensate the not very high salaries in the sector.

3.9. Issues that would be better addressed at EU level

When discussing which issues would be better addressed at a European level, it is worth mentioning that none of the employers' organizations have European links of any kind, and that at an internal level in the employer's organizations it is something which has not even been discussed, since the priority is to provide a structure to the sector at a national level, above all in Social Action and Intervention.

Therefore the replies received in this area are of an individual nature, as experts in negotiations and not as representatives of their employers' organizations.

The issues arising from the interviews are:

- ◆ Maximum work hours
- ◆ Maternity/Paternity leave

Stemming from a very sceptical position, there would be an interest in the fostering of a dialogue among employers' organizations in the sector at a European level, starting from the recognition of the sector as such at an institutional level. Especially in the Social Action and Intervention Sector.

We must point that The FED (Federation of Assistance to Dependencies) is associated to E.C.H.O. (European Confederation of Care Home Organizations)

However if we mention specific legislation for all of the member countries, more specifically issues related to VAT, which in the case of the major not-for-profit organizations in the social Action and Intervention Sector are exempt from charging it but do support it.

Another issue which can come from EU is that of developing a model of "European Social Institution." Applying this from Europe "with intensity of non-discrimination legislation" (Informant 7), will mean progress in this area, especially in the sense of actions that result in non-discriminatory.

Unions do have European level structures, but for them, any initiative should arise from the European Union and be financed by it. They feel that the ones that exist at present, since they are recommendations, are not very effective.

Another issue to safeguard activity, regulate it, in agreement with employers' organizations: recognition of the sector

The unions see the "ideal" legal measures to be taken by the European Union:

- ◆ 35-hour work week
- ◆ Subrogation of all workers in all of the Public Services that are outsourced

#### 4. Agreements in Social Dialogue/Collective Bargaining.

This section attempts to address the following issues:

Organizations which sign the agreements, issues covered, duration, when they have to be reviewed and the main terms included in the Agreements.

As previously mentioned, regarding social dialogue specific to the sector, we can only refer to Consulting Committees which focus on issues of the groups which they assist, so we will focus on Collective Bargaining and the Agreements signed or in the process of signing.

In this way, the issues dealt with as the main terms used in the Agreements, are given by the very nature of the collective bargaining and its formal structure, which is regulated.

With the other issues and for a more overall view we have drawn up the following table:

TABLE 14: COLLECTIVE AGREEMENTS				
SUBSECTOR	AGREEMENT	ORGANIZATIONS	DURATION IN YEARS	REVIEW
Elderly People/ Dependency	VI National Framework Agreement for Assistance Services to Dependent People and Development of the promotion of Personal Autonomy	FED	2012-2013	2013-2014
		LARES		
		AESTE		
People with Disabilities/ Dependency	XIII Collective Agreement for Centres and Assistance Services to people with Disabilities	AEDIS	2010 with extensions	Under negotiation
		FEACEM		
		CONACEE		
		EyG		
Infancy/Minors and Reform	I National Collective agreement for Juvenile Reform and Protection to Minors	CECE	2010 with extensions	Challenged and under negotiation
		FEPJJ		
		AEISSS		
		AEFYME		
Social Action and Intervention	I National General Agreement for the Social intervention Sector	FAIS	Under negotiation	Under negotiation
		OEIS		
		AEEISSS		
		AESAP		
		APAES		
	AEFYME			

## 5. Conclusions.

Overall, the Social Services sector encompasses some 10,000 entities, for-profit and not-for-profit, and employs over 400,000 people in Spain. It assists over 1,000,000 people with needs of different nature and is 1.17% of Spain's GDP, and rising.

- ◆ Strengths:
  - *The structure of the Elderly People and People with Disabilities sectors.*
  - *Social Action and Intervention. The will by all parts, employers and unions to structure the sector within a legal framework to protect the entities as well as their workers.*
  - *The culture of participation and consensus among the not-for-profit sector organizations.*
- ◆ Weaknesses
  - *Division of the sector into subsectors or microsectors due to specific legislation.*
  - *The absence, for the time being, of speakers and interlocutors common to the State and the not-for-profit organizations in the Social Intervention Sector.*
- ◆ Opportunities
  - *The structuring of the Social Action and Intervention Third Sector, providing it with institutional visibility.*
- ◆ Threats
  - *The uncertainty in the current economic situation and the recent Labour Reform.*

Issues to be dealt with at a European Union level:

- ◆ Through Collective Bargaining:
  - *Maximum work hours*
  - *Maternity/paternity leave*
- ◆ Through legislation:
  - *A defining of the sector at EU level*
    - *"European Social Organization Status."*
  - *Active policies regarding taxes. Especially VAT.*
  - *Specific policies regarding work laws.*

## Annexes

## Annex I. Bibliography

1. Bizkaia Official Gazette, (2009) RESOLUTION 29 September 2009, Territorial Delegate in Bizkaia of the Department of Employment and Social Services, by which it is resolved to register and publish the Collective Agreement for the Bizkaia Social Intervention Sector. BOB n° 195 (13/10/2009) Available from: [http://www.bizkaia.net/lehendakaritza/Bao\\_bob/2009/10/20091013a195.pdf#page=72](http://www.bizkaia.net/lehendakaritza/Bao_bob/2009/10/20091013a195.pdf#page=72) (Accessed 22 February 2012)
2. Gipuzkoa Official Gazette, (2011) RESOLUCIÓN del Delegado Territorial Delegate in Gipuzkoa of the Department of Employment and Social Services, by which it is resolved to register, publish and deposit the Collective Agreement for the Gipuzkoa Social Intervention Sector for 2011-14, B.O. of Gipuzkoa n° 145 (01/08/2011). Available from: <https://ssl4.gipuzkoa.net/boletin/asp/ViewRoot.asp?Action=Html&Item=4&X=509085637> (Accessed 22 February 2012)
3. Official State Gazette, (2010) Resolution 2 of 8 July 2010, by the General Labour Directorate, by which is registered and published the XIII General Collective Agreement for Centres and Assistance Services to people with disabilities. BOE n° 198. Available from: <http://www.boe.es/boe/dias/2010/08/16/pdfs/BOE-A-2010-13197.pdf> (Accessed 22 February 2012)
4. Official State Gazette, (2012) Royal Decree-Law 3/2012, 10 February, of urgent measures to reform the labour market, BOE 36 (11/02/2012) Available from: <http://www.boe.es/boe/dias/2012/02/11/pdfs/BOE-A-2012-2076.pdf> (Accessed 1 March 2012)
5. Official State Gazette, (2012) VI National Framework Agreement for services to people with dependency and development of personal autonomy, (in press)
6. Comisiones Obreras (Union), 2012, Union Action, Social Dialogue. Available from: [http://www.ccoo.es/cscceo/menu.do?Areas:Accion\\_Sindical:Dialogo\\_social](http://www.ccoo.es/cscceo/menu.do?Areas:Accion_Sindical:Dialogo_social) (Accessed 15 March 2012)
7. Official Gazette of the Catalonia Government (2011) EMO/2629/2011, 18 October, by which the registration and inscription of the Collective Agreement for Social Action with children, youths, families and other groups at risk, for the years 2010.2011 and 2012 is ordered. DOGC n° 6002 (10/11/2011) Available from: [http://www20.gencat.cat/portal/site/portaldogc/menuitem.175f6f96e658ffc3e4492d92b0c0e1a0/?vgnextoid=641a7e48f7b6e210VgnVCM1000000b0c1e0aRCRD&appInstanceName=default&newLang=es\\_ES](http://www20.gencat.cat/portal/site/portaldogc/menuitem.175f6f96e658ffc3e4492d92b0c0e1a0/?vgnextoid=641a7e48f7b6e210VgnVCM1000000b0c1e0aRCRD&appInstanceName=default&newLang=es_ES) (Accessed 22 February 2012)

8. EDIS.(2010) Social Action Third Sector Yearly (on line) Madrid, Fundación Luis Vives, Available from: <http://www.fundacionluisvives.org/servicios/publicaciones/detalle/54589.html> (Accessed 16 February 2012)
9. FUNDACION FOESSA, (2012) Exclusion and Social Development in Spain. Analysis and Outlook 2012 (on line) Madrid Fundación FOESSA. Available from: <http://www.caritas.es/imagesrepository/CapitulosPublicaciones/4314/EXCLUSION%20Y%20DESARROLLO%20SOCIAL.%20Versi%C3%B3n%20digital.pdf> [Accessed: 16 February 2012].
10. García Delgado, José Luis (2009), The accounts of Social Economy: magnitudes and financing of the Third Sector in Spain, 2005. (on line) Editorial Aranzadi, SA, Navarra Available from: <http://www.fundaciononce.es/ES/Publicaciones/editorialFO/Paginas/Buscador.aspx?TSMEIdPub=162> (Accessed 16 February 2012)
11. Insitute for the Elderly and Social Services(2012) Elderly webpage, Social Resources, (on line) Madrid IMSERSO Available from: <http://www.imsersodependencia.csic.es/recursos/index.html> [Accessed: 27 March 2012]
12. Ministry of Health, Social Services and Equality (2012) National Council of Non-Governmental Social Action Organizations (on line) Available from <http://www.msps.es/politicaSocial/ongVoluntariado/consejos.htm> (Accesed 22 February 2012)
13. Monzón Campos, José Luis (2010), The total economic figures of social economy in Spain. (on line) Madrid, © CIRIEC-España Centro Internacional de Investigación e Información sobre la Economía Pública, Social y Cooperativa Available from: [http://www.ciriec.es/CIRIEC\\_Grandes\\_Cifras\\_Economia\\_Social.pdf](http://www.ciriec.es/CIRIEC_Grandes_Cifras_Economia_Social.pdf) (Accesed 16 February 2012)
14. Pérez Infante, J. I., (2009) Agreements and Social Dialogue in Spain, 1977-2007. Journal of the Ministry of Labour and Immigration. (on line).Available from <http://libros-revistas-derecho.vlex.es/vid/concertacion-dialogo-social-73048587#secc0> [Accessed: 21 February 2012].
15. Royall Patronage for Disability (2012) Functions.(on line) Available from <http://www.rpd.es/funciones.html> (Accessed 21 February 2012)

## Annex II. List of the Social Dialogue Agreements in Spain: 2004-2011

Social Dialogue agreements<sup>4</sup>, in the Labour sense of it, ranging from 2004-2007:

- ◆ Regularising of illegal immigration.
- ◆ Trade learning for work.
- ◆ The increase of minimum wage.
- ◆ Regulating self-employment
- ◆ Out-of court settlement of collective conflicts.
- ◆ The updating of minimum pensions.
- ◆ Strategic plan for work safety and health.
- ◆ Measures pertaining to Social Security.
- ◆ Agreement for the Improvement of Growth and Employment. (AMCE).
- ◆ Protective actions for dependency situations.
- ◆ Gender equality.

From 2008 to 2011, the social dialogue agreements reached have been varied, following is a list of them<sup>5</sup>:

- ◆ Agreement among the Comisiones Obreras Union Confederation, CCOO, the General Worker's Union (UGT) and the Spanish Government for the inclusion in the general regime of social security of the domestic help.
- ◆ Economic and Social Agreement for growth, employment and the guaranteeing of pensions.
- ◆ Agreements signed by the General Board for Social Dialogue in Galicia, 30 July 2010.
  1. Agreements pertaining to active employment policies.
  2. Agreements pertaining to the prevention of work hazards.
  3. Agreements pertaining to improvements in business competition.
  4. Agreements pertaining to infrastructures and sustainable growth.
  5. Agreements regarding social cohesion and welfare.
- ◆ Pact for the Fostering of Employment in Murcia.
- ◆ II Framework Agreement for Industrial Competitiveness and Innovation in Castilla y León.
- ◆ 30 Commitments for Social Employment, Economy and Unemployment in Catalonia.
- ◆ VII Agreement for Social Harmonization in Andalucía.

<sup>4</sup> Agreements and Social Dialogue in Spain: 1977-2007, Journal of the Ministry of Labour and Immigration, Issue 81, September 2009. Studies. Author: José Ignacio Pérez Infante

<sup>5</sup> List obtained from the Comisiones Obreras website: [http://www.ccoo.es/csccoo/menu.do?Areas:Accion\\_Sindical:Dialogo-social](http://www.ccoo.es/csccoo/menu.do?Areas:Accion_Sindical:Dialogo-social)

- ◆ Government-Union Agreement for Public Service in the Framework of Social Dialogue 2010–2012.
- ◆ PACT FOR CASTILLA-LA MANCHA. Unity, Efforts and Commitment.
- ◆ Union Proposals towards an Agreement for employment and social protection.
- ◆ Declaration for the Launching of the Economy, Employment, Competitiveness and Social Progress.

### Annex III. List of Informants/Stakeholders/Collaborators

List of the Project's Informants/Stakeholders and Collaborators

ENTITY	INFORMANT/STAKEHOLDERS/ COLLABORATORS	SUBSECTOR / AGENT	POST
OEIS	Fernando Urgoiti Guijarro (Cruz Roja),	AIS / Employers' Organization	Legal Advisor
FAIS	Carlos Cortés	AIS / Employers' Organization	Collective Bargaining
CCOO	José Luis Rodríguez García	All/Unions	Secretary of Social Action and Collective Bargaining
AEEISS	Gonzalo Rodríguez Aguirregoitia (AEEISS - Gizardatz)	AIS / Employers' Organization	Secretary
LARES	Antonio Molina	Elderly People/ Dependency / Employers' Organization	Legal Advisor
UGT	María del Carmen Barrera	All / Unions	Secretary of Social Action
CERMI	Luis Cayo	People with Disabilities / Organizations	President
Cáritas Española	Víctor Renes	Social Sector Expert	Volunteer
Fundación ONCE	Rafael de Lorenzo	General Board	Secretary General

## Annex IV. Index of Tables

TABLE NAME	PAGE
TABLE 1: CORRESPONDENCE: AREAS OF THE STUDY/AREAS OF THE STUDY IN SPAIN	3
TABLE 2: HOMES	8
TABLE 3: DAY CENTRES	9
TABLE 4: EMPLOYEES	14
TABLE 5: EMPLOYEES BY GENDER	14
TABLE 6: EMPLOYED BY AGE GROUP AND AREA OF ACTIVITY (2011)	14
TABLE 7: EMPLOYED BY AGE GROUP AND AREA OF ACTIVITY (2011)	15
TABLE 8: COMPANIES BY LEGAL STATUS, MAIN ACTIVITY (NACE GROUPS 2009)	16
TABLE 9: EMPLOYEES BY MAIN ACTIVITY AND COMPANY SIZE	18
TABLE 10: EMPLOYERS' ORGANIZATIONS SIGNING COLLECTIVE AGREEMENTS	24
TABLE 11: EMPLOYERS' ORGANIZATIONS SIGNING COLLECTIVE AGREEMENTS IN SOCIAL ACTION AND INTERVENTION, OTHER LEVELS.	24
TABLE 12: EXISTING AGREEMENTS IN THE SECTOR	28
TABLE 13: TEMPORARY DISABILITY	31
TABLE 14: COLLECTIVE AGREEMENTS	33