

Varieties of Industrial Relations in Aviation Lockdown

SPAIN

- Jesús Cruz Villalón
- Rafael Gómez Gordillo
- Magdalena Nogueira Guastavino
- Patrocinio Rodríguez Ramos



PART. I

GENERAL
OVERVIEW OF
INDUSTRIAL
RELATIONS
(PRE-COVID 19)



Introduction

The Spanish industrial relations model has been characterized, for many decades, by the following basic features:

- a) Preponderance of the **services sector** (78%) especially based on tourism and construction compared to the industrial sector (20%).
- b) Predominance of **small** and micro enterprises (67% employment if medium-sized enterprises are included)
- c) High rate of salaried workers (84% of the total number of employed persons).
- d) But highest temporary employment rate in Europe (26.1%)
- e) Significant presence of **immigration** (Moroccan and Latin American) in certain productive sectors and professions (construction, agriculture, domestic service, agriculture, hotel and catering and commerce)
- f) An unemployment rate above the European average (around 13.96%), particularly high among the young people (30.5 % among the under 25s)
- g) High **gender** wage gap (around 24%)
- h) A significant difference between Comunidades Autónomas, which is narrowing
- i) Tendency to control irregular employment

Spanish labor model: an overview

- Spain closed 2019 a six-year cycle of **continuous economic growth** (in terms of GDP).
- Increase in **employment** rate and reduction the unemployment rate: recovery of 75% of employment during the financial crisis.
- Economic recovery not accompanied by wage growth: loss of the weight of wages in total income and fall in workers' purchasing power. Particularly in some sectors and in the lowest categories of workers-> inequality (increase of 2 points in the GINI index).
- Labor reform of 2012: Conservative, non-consensual labor reform with several measures to reinforce business flexibility, including:
 - Preference to company collective bargaining agreements, specially in compensation matters,
 - The possibility of *non-application of the sectoral collective bargaining agreement* for business reasons with the agreement of the workers' representatives (opting out)
 - A maximum period of one year for renegotiation of the collective agreement. At the end of this period, the working conditions provided for in the collective agreement cease to apply
 - More permissive regime for dismissal for economic reasons (which generated intense job destruction).
- As a result of this reform, the power of trade unions was negatively affected, there was a significant wage devaluation and job destruction.



1. The main actors: 1.1. Business organizations

- Employers can form federations and confederations, if they wish (voluntary)
- The main **employer confederations are CEOE and CEPYME** (the latter represents mainly small- and medium-sized companies). Larger firms are more likely to be associated than smaller firms: 67% of companies employing at least 500 employees are associated.
- **CEOE**: represents the business community (as a whole): all productive sectors, all territories, and large and micro companies, **with the sole exception of the public sector**. It brings together more than <u>240 business organizations and more than two million companies</u>.
- CEPYME (Confederación Española de la Pequeña y mediana empresa) is associated with the CEOE and represents 57 sectoral organizations (those bring together more than 3000 local business organizations: 99% of SME associations are part of CEPYMEs
- ATA (Asociación de trabajadores autónomos) is the most important association of the selfemployed.
- **OTHER ORGANIZATIONS**: However, in some sectors there is a significant disparity of criteria between large, medium and small companies, which leads to the existence of **different representative business organizations** in these areas depending on the size of the companies concerned: *agriculture, commerce, construction, transport*. In any case, all of them **are within** the large general business organization (**CEOE**).

1.2. Employee representation (I)

- Al employees have freedom of association and the right to elect representatives to defend their interest
- Trade unions represent all workers at the level above the undertaking.
- Most representative unions: national level CCOO and UGT (the affiliates work in all sectors of economic activity):
 - **CCOO** (Confederación Sindical de Comisiones Obreras). It is the leading trade union in Spain in terms of both membership (976.910) and the number of works council members (97.086 or 35%).
 - **UGT** (Unión General de Trabajadores) is the second largest trade union in Spain, with 941.485 members and 87,663 members of works councils (32%).
- Most representative in certain areas/fields:
 - Territorial level: Most representative in the Autonomous Communities: at territorial level in País Vasco, Galicia and Navarra
 - Sectors: some sectors like public administrations, as well as in some professions like train drivers, airlines pilots, and air traffic controllers.



1.2. Employee representation (II)

Worker representation at company or workplace level.

General Workplace representation

Workers Delegates

(workplaces with 10-49 workers)

Work Councils (Workers'Committees)

Workplaces with more tan 50 workers

- No worker representation in microenterprises.
- The election of works councils and Delegates is carried out by personal, free, direct and secret ballot of the candidacies (union or non-unionized groups of workers).
- There is no difference in terms of rights and duties between the Shopstewards and the works council members.

Union Representation

Union Branches

(created by the employees affiliated to the same union in a particular workplace or undertaking)

Shopsteward

- Most representative unions
- Unions with "presence" in the general workers' representation bodies
 - Workplaces with 250 W

3. Prevalent employee representation

- Spain has a dual system of worker representation in the company (trade union representation and works councils).
- In general terms, there is a certain distribution of spaces:
 - At company level or below the representative activity is basically assumed by the works councils and shop stewards, although with a control by the trade union organizations (because the members of those bodies are heavily unionized)
 - At the supra-company level, the representation of the workers is carried out directly by the trade unions.

2. Degree of State intervention in Labor Relations

- Intense legal regulation of the labor relations system (individual contract and collective relations).
 - State legislation establishes basic working conditions (minimum wage, maximum daily and weekly working hours, minimum breaks and holidays, contracting modalities, dismissal regime).
- Collective bargaining has a wide margin to complete and regulate the system by allowing the adaptation of relations to sectoral, territorial, or professional particularities, especially in terms of wages.
- The negotiators are free to determine the scope of bargainig and the material content of the collective agreement
- Collective bargaining achieves a high rate of coverage (90% of the entire wage-earning population), mainly due to:
 - The general and normative effectiveness of collective bargaining agreements (when the parties involved meet the strict legal requirements).
 - The existence of a wide network of sectoral collective agreements
 - The guarantee of continuity of working conditions during renegotiation (ultractivity).

4.a. Union density

- **No official membership data** in Spain (union are not required to publish the number of members).
- Data obtained: from the Economic reports of the unions (fees paid). Not always 100% sure.
 - Easy to get the numbers only of the major unions
 - Difficult to know the Total number of affiliated workers in Spain (union pluralism)
 - Some *studies* rates the affiliation in Spain around 17%
- Secondary value of the union membership rate in Spain.
- Importance of the concept of trade union representativeness (most representative unions)-> The role of the different trade union organizations depends on the results obtained in works councils and shop stewards' elections.
 - The unions that obtain a certain percentage in these elections (10% at the state level; 15% and 1,500 representatives in the Autonomous Communities; 10% in a certain territorial or functional area):
 obtain better rights (leading role in collective bargaining and social dialogue and in the determination of working conditions in public administrations

4.B Employers' organizations rates in Spain

- No reliable data on membership rates among employers' organizations.
- Organizational unity of the business associations within the CEOE: means that it is considered fully representative for all purposes.
- The weight of companies within the CEOE is modulated both in terms of:
 - The number of affiliated companies (which gives greater value to small companies)
 - The *employment provided by each* of the affiliated companies (which gives greater value to medium and large companies)

4.C Collective bargaining rate in Spain

- No official data on the number of workers covered by collective agreements. Disputes about the coverage rates of Spanish collective bargaining are also frequent.
- Only source to get the information: a statistical sheet filled in by the negotiators.
 - Sometimes negotiators do not know the exact number of employed persons,
 - Sometimes this number changes significantly during the term of the collective agreement
 - Often there is a double counting of the persons affected by company collective agreements.
- Data published at European level: the coverage rate in Spain is between 70 % (ETUI) and 98 % (ECS)
- Some national studies place it at around 87 %, the most reliable estimate being above 90 %.

5. How strong are unions and employers' organizations vis-á-vis the state?

- Social dialogue in Spain has played a major role since the return to democracy (with periods of less or more intensity).
 - ✓ The design of the basic institutions of the democratic system of industrial relations, since the end of Franco's dictatorship, was built on an intensive an extensive process of social concertation between the government and the social partners.
 - ✓ For a long time, the most important milestones of labor reforms were preceded by intense processes of social dialogue, regardless of the fact that in some cases the intended consensus was not achieved, and the measures were adopted unilaterally.
- The **financial crisis interrupts** this long period of social dialogue: some labour law reforms were carried out without consultation processes and with the opposition of the most representative trade union organizations.
- Social dialogue begins to **recover** just before the COVID-19 pandemic because of the change of government.
- The recent labour reform of December 2021 (RDL 32/2021) culminates a process of social dialogue with consensus reached by all parties. Other minor reforms have been rejected by employers (i.e. the recent increase in the minimum interprofessional wage).
- In any case, it should be noted that Spanish legislation provides stable bodies for consultation on the management of public policies in a wide range of fields, including labour, economics and the management of certain public services.

6. The balance between social partners and the state

- The frequent agreements on labour legislation and social security disappeared during the years of the financial crisis in which the Partido Popular Government imposed a reformist agenda, based on the idea of austerity, promoted by the institutions of the European Union (European Central Bank)
- That plus the high rates of unemployment have led: led to a significant loss of trade union influence.

7. Legislation v. collective agreements in regulation of labor market

- Traditional model of **extensive interventionism of public power** in its triple expression: legislative, executive and judicial.
- Labor legislation covers almost all employment institutions:
 - The design of the functioning of the labor **market**
 - The framework of minimum working conditions or the regime of the termination of the employment contract
 - State legislation also regulates the basic institutions of collective law: freedom of association, participation and representation in the company, collective bargaining, strike and collective conflict measures, as well as mediation and arbitration procedures for the resolution of collective conflicts.

Collective bargaining:

- It is strongly encouraged by the public authorities
- Plays an important **complementary role** in managing and adapting legally established working conditions to the specific characteristics of sectors, companies, regions and occupations.
- Collective agreements can regulate any mater of interest to the workers as long as it does ot go against the applicable regulations
- Information and consultation procedures: important role in corporate restructuring processes and, therefore, in the control of corporate flexibility policies.

8. Structure of collective bargaining

- **Freedom** in the choice of bargaining levels. The most representative trade union and employers' organizations determine the structure of collective bargaining through **inter-federal collective** bargaining agreements.
- The current structure of collective bargaining maintains the historically dominant model, with the introduction of some changes.
- Initially, the system was characterized by a duality: a) a network of sectoral collective bargaining agreements at the provincial level, oriented towards small companies, b) and company agreements for large companies. A decentralized model of collective bargaining, with the aim of dispersing labor conflicts and fragmenting union activity.
- The democratic model of labor relations: without breaking with the previous design, produced **an evolution towards the centralization** of collective bargaining in two ways:
 - Through interconfederal agreements (AI) for all sectors signed by the most representative organizations (business and trade unions) to establish the bargaining guidelines for all bargaining levels.
 - Nowadays there are around 5,000 collective bargaining agreements in force in Spain, which determine a collective bargaining structure with a **high degree of decentralization**.
 - The 2012 labor law reform tried to give more weight to collective bargaining at the company level-> not been successful. After 10 years company-level collective bargaining agreements barely covers the 8% of workers, while sectoral (provincial or national) collective bargaining covers around 90%.
- In terms of balance the power between trade unions/employerse: the most relevant idea is that the majority of collective bargaining agreements are negotiated by the two major trade union organizations (CCOO and UGT), and in the sectoral bargaining there is almost always a business interlocutor who is part of the major employers' organization (CEOE). They also sign Interconfederal Collective Bargaining Agreements, which establish the guidelines that are subsequently transferred to the collective bargaining tables as a whole.

9. Leading branches

- There isn't any predominant or leader sector.
- Although there are sectors with better working conditions than others
- Interconfederal collective bargaining agreements assume the role of setting the guidelines for collective bargaining.
- However, on certain occasions the negotiation of some specific collective bargaining agreements is presented as *emblematic* or symbolic of what is later transferred to other collective bargaining agreements.
 - Insurance company 'Axa' has been the first in the Spanish market to take a step towards the regulation of digital disconnection and its regulation has been "extended" to other collective agreements.

10. Changes in the 10 years prior to COVID-19

1. Organizational and technological changes: impact:-- In the internal structure of unions and business associations

- On the structure of collective bargaining

Organizational changes: intensification of production decentralization processes in companies:

- Fragmentation of company workforces, weakening of certain collective
- bargaining agreementsAppearance of new collective bargaining agreements.

Technological changes (digitalization): emergence of companies that do not easily join the more traditional sectoral agreements:

- New collective agreements appear (at sectoral or company level).
 But there are companies that remain outside collective bargaining.
- Despite this, there has been no decline in the rate of collective bargaining.

2. New collective agreements at company level

- Significant reduction in the public business sector and new business opportunities in the private sector.
- 3. Certain weakness in the bargaining power of trade unions (financial crisis and labor reform 2012)

Part. II Industrial Relations in aviation pre-Covid 19



2019: record^{4.4% more than 2018}

- √ 275 million passengers
- ✓ 34.240 employed people (air transport)
- ✓ 33.329 In airlines transport



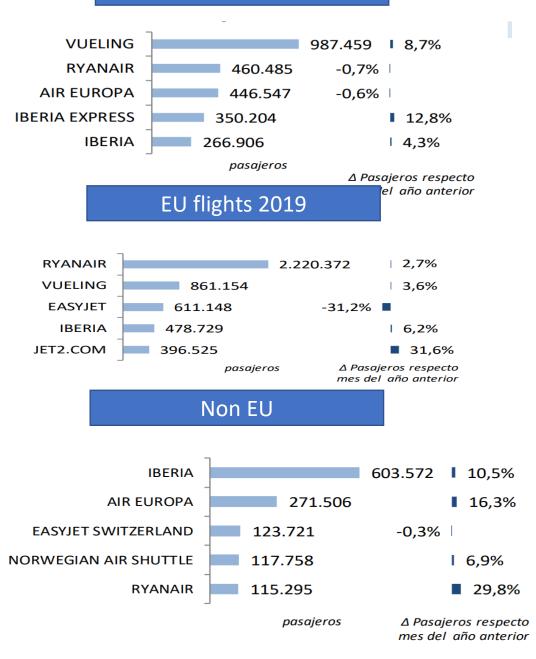
	TOTAL SECTOR SERVICIOS	51 Transporte aéreo	511 Transporte aéreo de pasajeros	512 Transporte aéreo de mercancías y transporte espacial
	2019	2019	2019	2019
Número de empresas				
Total	1.615.195	147	134	13
Cifra de negocios				
Total	566.119.029	12.983.274	12.740.032	243.242
Inversión en activos materiales				
Total	34.574.380	1.365.785	1.356.919	8.866
Gastos de personal				
Total	161.977.366	2.014.922	1.966.812	48.110
Personal ocupado				
Total	6.815.714	34.240	33.329	911
Personal remunerado				
Total	5.440.125	34.169	33.261	908

The main actors: Business representation

Plurality of the business structure in commercial aviation (airlines and companies in the sector's value chain: handling, air traffic control)

- Asociación de Líneas Aéreas (ALA): association that integrates all airlines (voluntary decision) Doesn't play a major role in the labor relations of the sector: there isn't an important sectoral negotiation (corporate collective bargaining predominates).
- Airlines: they design their own labor policies. Certain convergence between them because this is a sector with an important common reference standard, with important regulators and common challenges.
 - Most relevant Airlines ranked by passenger volume:
 - 1. RYANAIR (43.7 million),
 - 2. IBERIA (16.9 million +6.2 million from Iberia Express)
 - 3. VUELING (29 million),
 - 4. EASYJET (17.8 million)
 - 5. AIR EUROPA (13 million)
 - 6. TUI Group (10 million)
 - 7. Norwegian (8.3 million); Jest2.com (8 million)
- Handling: and common challenges.
 - **ASEATA** groups companies dedicated to providing handling services for third parties. IBERIA and GROUNDFORCE, the main companies in the sub-sector, are members of this association.
 - Other companies in the **low cost secto**r, such as RYANAIR and EASYJET, are the main self-handling operators.

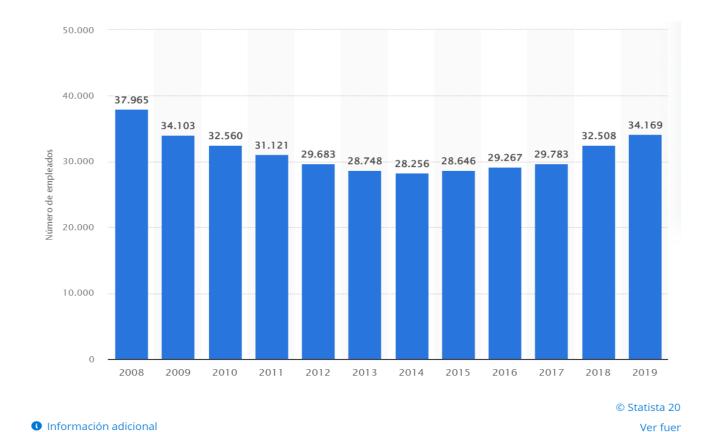
Domestic flights 2019



VUELING profits of 132 million euros in 2019 (149 m: 2018)

IBERIA profits of 497 million euros (60 m more than 2018)

RYANAIR last fiscal quarter (sep-dic) 88 m profits (4.2% higher than 2018))



2019 Pre Covid

The main actors: Trade Unions

- 1. Most representative unions (action in all sectors in Spain):
- CCOO and UGT, as the most representative unions at the state level, have a significant presence in the sector's value chain, although with little representation in the airlines themselves.
- USO (Unión Sindical Obrera), not a most representative union in the sector, but has obtained representatives in work councils among the ground staff
- **2. Craft unions**. Specific unions in the aviation sector representing certain professional categories.

Pilots

- SEPLA (Spanish airline pilots union), as the majority union in the airline pilots' collective, has union sections in all airlines.
- UPPA Unión Profesional de Pilotos de Aerolínea) formed in 2013 by a group of pilots of the company Air Europa, which is presented as an alternative to SEPLA.

· Flight crews.

- STAVLA, union of airline flight attendants more representative in some airlines such as Iberia and Vueling.
- SITCPLA, (Sindicato Independiente Tripulantes De Tripulantes De Cabina De Pasajeros) a specific union of those who provide services as Flight Attendants, has union sections in most of the airlines. The Iberia express cabin crew union ATPAM (Asociación de Tripulantes de Cabina por una Aviación Mejor), initially set up as a fringe union, has recently (September 2021) been integrated into the CCOO's Aerial sector of Tourist Services.
- Ground staff: ASETMA (Spanish Trade Union Association of Aeronautical Maintenance Technicians) I Union of greater representativeness and affiliation in the collective of Aeronautical Maintenance Technicians, in all the Companies of the sector operating in Spain.
- Air Trafic Controllers: This is a field very fragmented and there is a variety of unions (OCCA; SNCA; SPICA), but by far the most representative is USCA (Unión Sindical de Controladores Aéreos), both for the public company that manages most of the activity (ENAIRE), as well as for the privatized towers.



Prevalent workers' representation and union membership rates

- In the **sector** the prevailing **representation** is the **works councils**, with strong trade union influence.
 - Rate of union membership: higher than in other sectors-> within this sector there are specific groups of professionals who are highly unionized in corporate unions
- But professional or technicians prevails (craft) union representation (such as pilots, SEPLA; cabin crew, SITCPLA; STAVLA). Rate of union membership: incredibly high rate in some professional groups:
 - 100% of pilots in IBERIA
 - 63.55% of IBERIA ground staff
 - 33% IBERIA cabin crew

Bargaining and affiliation rates

Collective bargaining coverage rate

- **High degree of coverage** (100% of workers and companies) due to the specificity of the air passenger transport sector.
- Exception: Ryanair: constant conflicts with union representatives who refuse to negotiate (recently reached an agreement with pilots).
- Structure and coverage of collective bargaining
 - Almost exclusive predominance of **company** agreements.
 - Exceptions:
 - 1. At a **lower level** than the company: pilots and cabin crew are collectives with their own collective bargaining agreements.
 - 2. At a **higher level**: sectorial agreement in the handling activity and in the activity of air traffic control by private companies.

Employers' organizations rates in aviation

- The **structure** of collective bargaining in this sector is based mainly on **company** collective bargaining agreements. This reduces the relevance of sectoral business organizations.
- ALA (Asociacion de Lineas aéreas) is the leading air traffic organization (85% of air traffic in Spain), including the 10 airlines with the most traffic. There is more than 60 companies within this association.
- Exception:
 - Handling control: most of the companies are integrated in ASEATA (the Association of Airport Ground Handling Services Companies).
 - Private air traffic companies are associated with APTCA (Association of Civilian Suppliers for the Provision of Air Traffic Control Services).)

The role of the State in aviation. Regulation

- Intervention in the aviation (liberalization of passengers' air transport) had repercussions on labor relations
 - Progressive privatization of large public sector companies. IBERIA fully privatized and now integrated in IAG (International Airlines Group: holding anglo Spanish). No flag carrier airlines in Spain.
 - But **public aid** has had an important promotional function and has reached all companies in the sector, including low-cost airlines.
 - However: most of the air traffic control activities remain with the State, as well as the ownership and management of airports for commercial aviation.
- Other legal intervention in airlines sector: **general laws with specific impact** in this sector:
 - Occupational risk prevention and safety regulation;
 - Academic qualifications, with a significant impact on labor, especially with regard to pilots;
 - Compulsory retirement of pilots,
 - Regulation of working time
 - More intense and direct is the labor regulation regarding air traffic controllers, both public and private.
 - In general: the labor reform of 2012, of general application, has also facilitated the transformation of the aviation sector.



Collective bargaining in the aviation industry



- **Sectoral** collective bargaining in the field of air transport began in 1995, when the process of replacing the *Ordenanzas Laborales* began (because of the suppression of collective bargaining under Franco's dictatorial regime).
- UGT, representing the workers, and AECA, representing the employers, considered that it was not possible to negotiate a sectoral agreement, which led to an arbitration award of 12 March 1996 laying down rules governing certain matters.
- Currently:
- General rule: collective bargaining is mainly at the company level and a prominence of craft collective agreements (pilots and cabin crew collective agreements).
- Exceptions:
 - Handling: sectorial agreement
 - Air Traffic control by private companies; sectorial agreement

The list of agreements can be consulted in the Report



Balance of power

- The most significant changes: privatization of IBERIA and entry of low-cost companies.
 - Traditional companies: under the threat of disappearing, they reduce cost-> effect on working conditions.
 - IBERIA: reduction of working conditions, but the strong union affiliation has allowed the development of numerous negotiation processes to carry out restructuring processes without major conflicts.
 - **2. Emergence of new companies:** they take advantage of the lack of workers' representations and the high degree of decentralization of collective bargaining-> lower standards of working conditions .

Collective disputes

➤ The years prior to Covid-19 were "hot years"

• IBERIA:

- The most serious conflict in this company took place between November **2012 and March 2013**, in which the management proposed the collective dismissal of almost 4,000 people. The process ended with a **mediation agreement** that led to the termination of 3,141 contracts.
- Ground staff at El Prat airport (Barcelona) went on strike (December 2017, July and August 2018) claiming the stability of employment contracts and the regulation of working time. Similar problems were addressed in the strike processes that took place at Gran Canarias airport (March 2017).
- **VUELING**: (April and May 2018) pilots called a **strike**. In SEPLA's view, the company was in breach of the applicable collective agreement on pay.

RYAINAIR:

- Conflict with the cabin crew (summer of 2018, January 2019)-> people from this professional category requested the
 application of Spanish labour legislation.
- Conflict with pilots: (September 2019): Ryanair began a general restructuring process in which it decided to close four workplaces and made a collective layoff of 150 pilots. The SEPLA union responded by calling several days of strike action.
- > But the most important one: December 2010: A conflict that generates the first state of emerge in Spain (the second has been in 2020 because of the Covid):
 - The conflict was the response to the Spanish government's unilateral regulation of a large part of the working conditions
 of air traffic controllers by abruptly annulling the agreement between Aena and Spanish air traffic controllers.
 - Air traffic controllers walked off the job en masse, resulting in the closure of Spanish airspace. The government decreed
 the state of alarm which allowed the armyu to take control of the airports. 130 air controllers were criminally prosecuted



In aviation (pre Covid)

Strong particularity of this sector (Structure of collective bargaining):

- In terms of **evolution**: regulation by administrative rules long after the adoption of the Spanish Constitution of 1978 and late presence of sectoral conventional regulation.
- In terms of collective **bargaining structure**: clearly **decentralized** (only sectoral agreement for ground or handling personnel), mainly company agreements and lower-level agreements (only for certain professions such as pilots, cabin crew or air traffic controllers). Translated with
- The labor reform of 2012 based on the company agreement hasn't had a big repercussion in decentralization.

Many companies have disappeared in the sector (20 companies since 200)-> leaving more than 22.000 people unemployed. They have been absorbed by the new companies. At the beginning the absence of trade union representatives allowed lower conditions than IBERIA. Workers have progressively organized to try to replicate in these companies the structure of the collective bargaining from IBERIA.

Consequences:

- Loss of the intense bargaining power the trade unions used to have in this sector
- **Strikes: minimized** by the government (by imposing very high minimum services declared unlawful by the courts): has also contributed to trade union **weaknesses**

RYANAIR: it is always trying to avoid the application of Spanish labour regulations by locating its activity in Ireland and applying Irish legislation, But trade unions have made a strong opposition. In some cases, pilots' unions from different European countries have managed to sign some agreements (in Spain There is currently no collective bargaining agreement with this company. However, in September 2021, an agreement was reached with SEPLA on base changes and promotion to commander, a first strep towards the I Collective Agreement.

- **Stability** of the Spanish model of labor relations from 1980 to the present.
- **Subjects**: strong presence and representativeness of the two most representative trade unions (UGT/CCOO), which have always acted in a united manner and with little or almost no unity of action in recent times. CEOE still the largest business organization.
- Collective bargaining is complementary to state regulations
- Labor market: high rates of temporary work (women, young, immigrants and lower qualifications)



- The aviation sector in the last decade in Spain has been enjoying good health as a result of an economy mainly based on services and tourism. The number of passengers had reached a record high in 2019, demonstrating the growing importance of this sector.
- The liberalization of the sector, the privatization of IBERIA, and the emergence of low-cost airlines have led to a total transformation of the sector in this century.
- In contrast to the general model, the aviation sector is characterized by:
 - A Prevalent presence of pilots', air traffic controllers' and cabin crew unions as opposed to general unions whose scope of power is reduced to ground staff in a broad sense.
 - Union density in the sector is much higher than in other sectors, particularly among pilots and air traffic controllers.
 - - The structure of collective bargaining has pivoted around the company or below collective agreement.

