



**Desk Research: Spanish Scenario of Indicators that Can  
Generate Conflicts in SMEs**

**WP 2: Diagnosis of conflict's typology, their sources and  
ways of solution in SMEs sector**

**Authors:** IEGD and INVESLAN

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## I. INTRODUCTION

The Beyond Diversity project will be developed under Leonardo da Vinci TOI call for proposals 2009. Disagreements and conflicts created on the basis of different backgrounds arise even in the best of teams. The ability to manage conflicts positively is a fundamental skill, essential in the multicultural world. The project is based on a tool elaborated within the framework of a past project called PODICIMA- Positive Conflict Difference Management. The general purpose of the project was to provide beneficiaries with efficient instruments dedicated to the constructive management of conflicts and differences using technology and training. Within the framework of the current project, the developed tool based on MUST method will be improved and adapted to the SME sector. Four main objective of the project can be identified as follows:

- To give beneficiaries (mostly managers and employees) a positive tool for the effective management of conflicts occurring in the SME sector;
- To change attitudes regarding cultural diversity and reduce the prevalence of negative attitudes towards other cultures;
- To enable the further development of knowledge and skills in managing conflicts;
- To create an e-learning platform which will allow the placement of materials, tools and provide a forum for discussion and experience exchange.

The partnership is made up of five European partners coming from UK, Spain and Poland. Building on a previous project gives the partnership the possibility of improving the developed tool through an updated analysis of the changing environment and changing behaviour of stakeholders. Therefore the desk research analysis is essential to better understand the diversities that are confirming the scenario.

The partners from Spain: European Institute for Managing Diversity (Barcelona) and Inveslan XXI (Bilbao) have established a close working relationship to optimize information, expertise and innovation capacity in favour of the project output.

The desk research consists of 6 major parts: typology of the Spanish business community; statistics in Spain of conflict indicators; legal framework; institutions dealing with the immigration policy; cultural conflicts within the company (good practices) and conclusion remarks. As follows, the topics will be analyzed and discussed respectively.

## II. OBJECTIVE

The desk research has a far-reaching objective to guarantee the quality output of the project CD training tool for SMEs.

To understand the scenario in which SMEs in the European Union must develop, SMEs, regardless their size must develop policies which improve the efficiency in order to be sustainable in today's environment and beyond.

The SMEs represent the fundamentals of the socio-economy in Europe and therefore have a critical role as major employers. They are also responsible for the quality in work of the labour force that is of the majority of European citizens. As well as instrumental and creating an environment which fosters work/life balance; a determining factor in present and future capacity of companies to attract and retain best talent for their organizations.

In terms of diversity, as highlighted by the European Commission, *“Diversity is one of the founding principles of the European Union and was one of the driving forces behind the process of European integration. It refers to a set of conscious practices which acknowledge and tolerate difference. Today, the values of the European Union promote a better public understanding of the benefits of diversity and the fight against discrimination in society. The European Commission’s key objectives are to prevent people from being discriminated against in any way due to their racial or ethnic origin, religion or belief, disability, age or sexual orientation”*<sup>1</sup>.

This desk research is focused on identifying the state of indicators what can cause loses to SMEs through a lack of efficiency generated by conflicts caused by defined diversity indicators: conflicts whether internal among employees and external created with clients, suppliers and other stakeholders.

In order to help the project experts to create the most actual and effective training program on CD support for SMEs throughout Europe, the present research aims at detecting the indicators which have the highest impact in the creation of conflicts. Managing conflicts is cornerstone ability for

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<sup>1</sup> Resources, For Diversity against Discrimination, retrieved from:  
[http://ec.europa.eu/employment\\_social/fdad/cms/stopdiscrimination/resources/glossary/?langid=en#D](http://ec.europa.eu/employment_social/fdad/cms/stopdiscrimination/resources/glossary/?langid=en#D)

managers, executives and employees must develop in order to foster creativity, innovation and business results.

Another skill which must be developed is that of creating an inclusive environment in order to operate within the principle of equality and equity promoted by the European Directives. To respect the right which all citizens of Europe have to access, promotion, salary and work/life support, regardless their diverse profiles of gender, age, ethnicity, disability, nationality of origin, sexual orientation, religion / belief, cultural level and any other diversity trait that differences the person from the stereotype of the company's employee profile.

Developing antidiscrimination skills depend on the knowledge and understanding the typology of the present human community in the country.

The ultimate goal is to give valuable information that may be used in learning how to leverage diversities as indicators that generate creativity, innovation and therefore sustainability of SMEs in Spain.

### III. TYPOLOGY OF SPANISH BUSINESS COMMUNITY

In Spain, regarding the size of companies, we can state that a company can be micro – where its owners work and the total number of employees do not exceed 10 persons. Small enterprises are those in which the owners do not necessarily work and the total number of employees does not exceed 20 persons. Then we have the middle sized enterprises which have under 100 employees, while the big companies exceed that number (*See Table 1 for details*).

**Table 1: Companies by legal status, main activity (groups CNAE93) and salary levels**

	Without wage - earners*	From 1 to 2*	From 3 to 5*	From 6 to 9*	From 10 to 19*	From 20 to 49*	From 50 to 99*	From 100 to 199*	From 200 on*	From 500 to 999*	From 1000 to 4999*	From 5000 on*
	2009	2009	2009	2009	2009	2009	2009	2009	2009	2009	2009	2009
Total groups	176747	919092	332671	151233	101601	55641	15075	7672	3578	1008	678	111

Source: Central directory of companies, Data on enterprises

The three sectors of production, also known as sectors - creators of employment, can be divided in sub -sectors according to their area of activity.

Primary sectors: sectors with products coming directly from nature

- agriculture (vegetal origin)
- cattle and aviculture (animal origin)
- fishery (sea origin)
- mining (land origin)
- forest (lumber origin)

Secondary sectors: those which transform raw materials into finished products or semi-elaborated

- industrial
- energy
- mining (it is also considered secondary as minimum can create derivative products)
- construction

Tertiary sector or services: which do not produce products but services

- transport
- communications
- commerce
- tourism
- health care
- education
- financial
- administration

Fourth sector: produce highly intellectual services such as research, development, innovation and information

**Table 2: Types of business societies**

Type	N. of partners	Capital	Responsibility	Code CIF
<b>Physical persons</b>				
Individual entrepreneur (EI)	1	Without legal minimum	Unlimited	O
Community of good (CB)	Minimum 2	Without legal minimum	Unlimited	E
Civil society(SC)	Minimum 2	Without legal minimum	Unlimited	G
<b>Commercial society</b>				
Collective society (SC)	Minimum 2	Without legal minimum	Unlimited	C
Society of limited responsibility (SRL)	Minimum 1	Minimum 3.005,06 €	Limited to capital registered	B
Limited society New company (SLNE)	Maximum 5	Minimum 3.012 € Maximum 120.202	Limited to capital registered	B
Anonymous society (SA)	Minimum 1	Minimum 60.101,21€	Limited to capital registered	A
Limited partnership Society (SCA)	Minimum 2	Minimum 60.101,21€	Collective partners Shared responsibility: Limited	D
Simple partnership society (SCS)	Minimum 2	No legal minimum	Collective partnership Unlimited	D
<b>Special commercial societies</b>				
Labour society (SL)	Minimum 3	Minimum 60.101,21 € (SAL) 3.005,06 € (SLL)	Limited capital contributed	A or B
Cooperative society (SC)	Minimum 3	Minimum set in statutes	Limited to capital contributed	F
Society of reciprocal guarantee (SGR)	Minimum 150	Minimum 1.803.036,30 €	Limited	G
Entity of risk capital (EC-R)	Board of directors minimum 3	Risk capital Minimum: 1.202.024,20 € Capital contributed Minimum 1.652.783,30 €	Limited	A
Group of economic interest (AIE)	Minimum 2	No legal minimum	Limited to capital contributed	G
Financial society (SIM)	No minimum	Minimum fixed by Statutes	Limited	A

Source: Ministerio de industria, turismo y comercio

### ***Main definitions<sup>2</sup>:***

*Individual entrepreneurs* (EI): Physical persons who develop in own name and through a company a commercial, industrial or professional activity.

*Community of good* (CB): Contract by which the ownership of a business is shared equally by several persons.

*Civil society*: Contract between two or more persons who deposit a common capital with the purpose of distributing benefits in an equal way.

*Collective Society*: Commercial society in which all partners collectively, and under a registered society, commit to participate, in the proportion in which they invest capital, in the duties and obligations as well as personal subsidiary of all debts of the society as well as of all benefits.

*Society of Limited Responsibility*: Is the response to the aspiration of individual entrepreneurs to exercise their industrial or commercial profession with limited responsibility towards its creditors. Two types of Limited Responsibility can be established:

- 1- Constituted by one owner (physical or legal person);
- 2- Constituted by 2 or more partners when all the participations are owned by a sole partner

*Limited Society – New Company*: Is a variety of the Limited Responsibility Society (SRL). The capital of the society is divided in societal participations and the responsibility towards third parties is limited to the capital deposited to start the society. The maximum number of partners in the moment of the constitution is limited to 5, who must be physical persons. The New Company as a Limited Society is allowed with a sole owner.

*Anonymous Society*: Society of commercial characteristic in which the social capital – which is divided in shares – is made up by the contributions of all partners, who do not respond personally to the debts of the society.

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<sup>2</sup> Ministry of industry, tourism and commerce

*Limited Partnership Society for actions:* Society of commercial characteristic which social capital is divided in shares – which is made up by the contribution of partners - one of which at least, is in charge of the administration of the society and will personally responds for all debts of the society as collective partner, whereas the partnership partners do not have that responsibility.

*Simple Partnership Society:* Commercial society with personal characteristic which is defined by the existence of collective partners who contribute with capital and work, as well as with subsidiary responsibility, personal and solidarity in the debts of the society and of the partnership who only contribute capital and whose responsibility is limited to their monetary contribution.

*Labour Society:* Anonymous societies and limited responsibility societies in which the majority of the capital is owned by the workers who work in the company and receive a personal salary for their direct work. Their work contract is indefinite.

*Cooperative Society:* Society constituted by persons who become partners in terms of free adhesion and voluntary retirement from the society, to carry on entrepreneurial activities with the objectives of satisfying their needs and aspirations (both monetary and social), with a democratic structure and operation.

*Society of Reciprocal Guarantee:* Commercial society which societal objective is to provide guarantees to others, or through any other mechanism admitted by the law which is different from the insurance coverage, in favour of its partners for the operations which they engage into or for companies which they are partners of.

*Entities of risk capital:* Are anonymous societies dedicated basically to facilitate temporal financial resources to companies which are not financial institutions and which are not in the stock market, and which have difficulties to access to other financial sources. They act as administrators and fund managers of risk capital and societal assets of risk respectively. As complementary activity they assess the companies and become financially engaged in.

*Group of economic interest:* Commercial society, non-for-profit, which has the objective of facilitating the development of improving results of the activities of their partners. Its objective will be limited, exclusively to support economic activities which their partners develop - who will respond in a subsidiary way (personal and solidarity) among each other in front of the debts of the group. In the community level they perform the same function as the status of the European Groups of

Economic Interest, regulated by the Regulation (CEE) 2137/1985 of the Council on July 25<sup>th</sup>, which in different point remits or relates to the legislations of the member states for the development and concession of its own provisions.

*Society of financial investment:* Anonymous societies of fixed or variable capital, which exclusive objectives are the acquisition, ownership, use, administration in general and selling the financial value and those financial assets, in order to buy through an adequate composition of its assets, the risks and the type of investments they consider necessary – without holding economic or political majority participation in the companies they invest in.

**Table 3: Companies by type of employees and legal status**

	Anonymous Societies	Active Societies	Limited partnership societies	Community of good	Cooperative Societies	Associations of all types	Autonomous entities and others	Physical persons – Autonomous
	2009	2009	2009	2009	2009	2009	2009	2009
<b>Total</b>	109330	306	85	114831	23483	164284	8794	1793897

Source: Centre data back of Companies, data of companies

86% companies in Spain (2.871.000) have less 10 workers. Of companies registered in Spain 52% (1.800.000) have the legal status of Autonomous without workers in the payroll, followed by Companies of Limited Responsibility. This accounts to the fact that the labour laws are not flexible and the cost of firing a worker is so high that managers and company owners tend to keep economic activities small and with as little structure as possible. In moments of crises and lack of demand, when companies have to downsize to survive the labour structure makes it very difficult which accounts for so many companies closing, merging and outsourcing production.

Entrepreneurs try to keep companies with less than 50 workers, to avoid having a trade union delegate in the organization, which the company has to pay the salary (liberalized), even if they do not actually work, but dedicate their time to “mediating” between the company and the workers.

## IV. STATISTICS IN SPAIN OF CONFLICT INDICATORS

Given the objective of the Beyond Diversity project the following indicators have been selected to contribute having a broad analysis of the present scenario and beyond.

The changing behaviour of these indicators in creating an entirely new paradigm for companies of all sizes – particularly for SMEs – in their need to respond to external diversities as well as to internal differences of available talent today in the markets.

- Migration (*legal framework and statistics*)
- Gender
- Ethnicity and nationality of origin
- Age
- Disability
- Sexual orientation
- Religion
- Language
- Level of education

## 1. Migration

Immigration as a phenomenon is relatively new in Spain. In 1985 Spain hosted around 250.000 legal immigrants. Since the last two decades Spain had to face a steady increase in immigrant population shaping a new demographic situation (*See Table 4*). 2000 was a turning point for Spain, while from then on, immigration has been on the political agenda, together with the newly established institutions for immigration management. What is more, immigration is perceived as “*the important socio – economic change that has taken place in Spain in recent years, putting an end to Spain’s demographic stagnation and energizing its economy*” (Bezurnatea: 2009). During 2001 – 2005, 50% of GDP growth – is a positive effect that immigration had on per capita income. According to the UN data<sup>3</sup>, in 2010 it is estimated of 6.377.524 of international migrants and refugees residing in Spain, constituting 14.1% of total population.

**Table 4. International migrants and refugees in Spain**

Indicator	1990	1995	2000	2005	2010
Estimated number of international migrants at mid-year	829 705	1 041 191	1 752 869	4 607 936	6 377 524
Estimated number of refugees at mid-year	8 490	5 607	6 851	5 530	5 211
Population at mid-year (thousands)	38 839	39 391	40 264	43 060	45 317
Estimated number of female migrants at mid-year	433 032	536 997	878 353	2 197 082	3 056 070
Estimated number of male migrants at mid-year	396 673	504 194	874 516	2 410 854	3 321 454
International migrants as a percentage of the population	2.1	2.6	4.4	10.7	14.1
Female migrants as percentage of all international migrants	52.2	51.6	50.1	47.7	47.9
Refugees as a percentage of international migrants	1.0	0.5	0.4	0.1	0.1

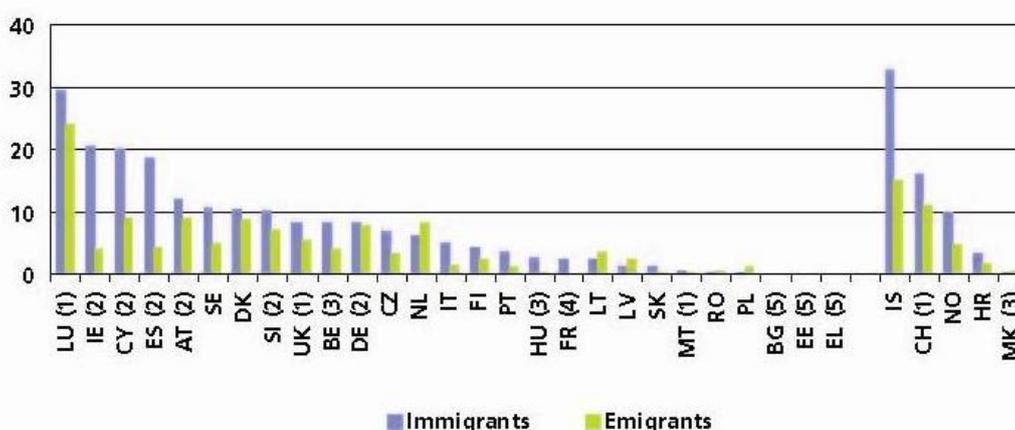
*Source:* United Nations, Department of Economic and Social Affairs, Population Division (2009)

What is more, it is interesting to note that Spain holds (together with Ireland) the largest differences between the rates of immigration and emigration. Thus, in 2007 Spain was among the highest ranking (in EU) concerning *net migration*, reaching the number of 748.6 for 1.000<sup>4</sup>.

<sup>3</sup> United Nations, Department of Economic and Social Affairs, Population Division (2009)

<sup>4</sup> Net migration represents the net balance between immigration to and emigration from an area, expressed as a number of persons. Italy represents 491 for 1.000, on the contrary we have Czech Republic 83.9 for 1.000, Sweden 54.1 and Germany 47.8 for 1.000 (Evaluación del racismo y la xenofobia en España, Informe 2009, Ministerio de trabajo e inmigración).

*Figure 1: Immigration and emigration (2006, proc.)*



Source: EUROSTAT Statistical books, 2008

The immigrant flows and concentration to certain regions such, as Madrid, Catalonia, Andalusia, Murcia, Valencia, the Balearic Islands and the Canary Islands is another remarkable feature about Spanish immigration<sup>5</sup> (see Table 5 for details).

*Table 5: Immigration rate<sup>6</sup> in different regions*

	2006	2007	2008
<b>Total</b>	1,82	1,72	1,31
<b>North-west</b>	1,31	1,4	1,14
<b>North-east</b>	1,71	1,47	1,14
<b>Madrid</b>	1,63	1,43	1,74
<b>Centre</b>	1,88	2,01	1,25
<b>East</b>	2,39	2,11	1,39
<b>South</b>	1,38	1,47	0,93
<b>Canary Islands</b>	2,03	1,64	2,13

Source: INE, own elaboration

As far as *legal framework and migration policy* are concerned, as outlined in the “Comparative Study of the Laws in the 27 EU Member States for legal immigration: including an assessment of the

<sup>5</sup> Immigrant flows in Spain concentrates in 5 regions. The Mediterranean Coast accounts primarily for the main Spanish tourist resorts and attracts a diverse flow immigrants from EU countries and also economic migrants from low wage countries. The area includes Barcelona, Valencia, Alicante and Tarragona - one of the most populated and economically dynamic areas of industry and services, at the same time the area includes the most intensive export-oriented agricultural areas (Murcia and Almeria). Another area hosting a large immigrant population is the Balearic Islands and the Canary Islands, attracting foreigners from Northern and Western European: retirees, business people and working students included. The Madrid Metropolitan Area is one of the most populated territories where service sector and construction industry have generated an increasing demand for immigrant labor. The Ebro River Valley attracts foreign labor because of its wine production and a diversity of fruits crops, together with a growing industrial and service sector. Western and South-Western Spain’s agricultural enclaves attract foreign migrants by agricultural prospects. Huelva and Cáceres are among the favorite destinations in this area (Vieytez: 2009)

<sup>6</sup> Immigration rate: a number of incoming immigrants for 1.000 inhabitants

conditions and formalities imposed by each member state for newcomers” (2008)<sup>7</sup>, “*Spain’s recent immigration policy is characterized by continued regularization process*” (2008: p. 430). Due to a sudden and steady increase of immigrant population, the adapted immigration policy was centred on the successive Spanish government attempts to regulate migration flows in order to respond to the needs of national labour market by establishing immigrant worker quotas. Besides, illegal immigration and human trafficking have also been put on the priority agenda<sup>8</sup>. The development and evolution of Spanish immigration policy and regulations encompass 4 different phases with the corresponding major legislative events (Vieytez: 2009). During the initial phase, first Aliens Act (Law on the Rights and Freedoms of Foreigners in Spain) was enacted in 1985 (*a year before Spain joined the European Communities*) which build a framework for legal support for foreigners in Spain, however at the same time, establishing opportunities to restrict entrance<sup>9</sup>. As Vieytez puts it forward (2008), “*As a whole, this bundle of first –generation legislation puts clear-cut emphasis of formal requirements for foreigners to enter and stay in Spain. After 1985, most foreigners were obliged to conform to new, concrete legal stipulations and the illegal presence of immigrants became reality*” (2009). A shift of migration policies in the early nineties marks the beginning of the second phase. In 1994 the Law on Asylum entered into force, as well as Royal Decree (in 1996) aimed at social integration of immigrants and as follows, specific regulations concerning family reunification, unaccompanied minor immigrants and some basic social rights. 1999 marks the start of the third phase, seen as positive turning point, with the second Foreigners Law (entering into force in 2000) including basic social aspects as access to education, public health, social benefits and assistance<sup>10</sup>. In 2000 GRECO (Global Program of Regulation and Coordination of Immigration in Spain) was approved focusing on the integration issues. What is more, in 2004 a new regulation of the Foreigners Law was adapted, as well as several migration agreements with many countries have been signed. “Plan Africa” came into force in 2006 aiming at controlling the southern border. Ultimately, the Asylum Act and the Aliens Act are under the modification process. The modifications introduced in the Aliens Act mainly aim at adapting several EU directives and ensuring bigger border control, as well as promoting a more selective control of entry and developing the devolution of powers to Autonomous communities.

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<sup>7</sup> “Comparative Study of the Laws in the 27 EU Member States for legal immigration: including an assessment of the conditions and formalities imposed by each member state for newcomers” (Study, Directorate General Internal Policies of the Union, Civil liberties, justice and home affairs, February 2008, PE 393.281). Retrieved from: [http://www.venice.coe.int/docs/2009/CDL-UDT\(2009\)017-e.pdf](http://www.venice.coe.int/docs/2009/CDL-UDT(2009)017-e.pdf)

<sup>8</sup> Ibid.

<sup>9</sup> In order to employ non-EU workers, employers had to demonstrate that the employment of citizens or residents of a country was not possible. In 1993 a quota system was launched (Vieytez: 2009).

<sup>10</sup> In terms of employment, the quota system has been modified by signing bilateral agreements with the countries and by adapting the annual quota to the labour market requirements and needs. Once PSOE (Spanish socialists workers party) came back in power (in 2004), the general regime concerning the immigration was restored (ibid.)

Under the current legislation (*referring to the Constitutional Law 4/2000, 11<sup>th</sup> January, on the rights and freedoms of the foreigners in Spain and their social integration, amended by the Constitutional Laws, 8/2000, 11/2003 and 14/2003 and its Regulation, approved by Real Decreto 2393/2001, 30<sup>th</sup> December*) foreigners in Spain may encounter 4 legal situations, as follows<sup>11</sup>:

- Transit situation (entering to Spain for a period of less than 5 days, with destination to another country);
- Short stay (for less than 90 days);
- Temporary residence (within the period of more than 90 days and less than 5 years);
- Permanent residence (staying in Spain indefinitely).

In order to stay in Spain for a period of more than 90 days, an initial authorization of non-lucrative residence valid for one year must be obtained, as well as a visa of non-lucrative residence at the Spanish Diplomatic Mission or Consular Office has to be applied for. The permanent residence status authorizes to remain indefinitely in Spain as well as to work in the same conditions as Spanish citizens<sup>12</sup>. The right to permanent residence in Spain can be obtained, if one of following cases is fulfilled:

- You have legally lived in Spain without interruption for 5 years;
- You are resident and receive a Spanish State Retirement pension (or an absolute permanent disability or major disability pension);
- You were born in Spain and have a legal residence of 3 consecutive years immediately before your age of majority;
- You are of Spanish origin and lost your Spanish citizenship;
- You have been under tutelage by a Spanish public institution for 5 years before the age of majority;
- You have remarkably contributed to the progress of Spain and this has been acknowledged by the Ministry of Labour and Social Affairs.

Specific situations are defined for special regime for students, residence of stateless persons, undocumented people and refugees and residence of minors.

Concerning the requirements for employment, in order to work self – employed or as an employee, previous administrative authorization is required. The applications for work authorization are

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<sup>11</sup> “Legal status of foreigners in Spain”, folletos informativos, Secretaría de Estado de Inmigración y emigración

<sup>12</sup> The card that authorizes permanent residence must be renewed every five years

submitted to the *Oficinas de Extranjeros*. Two types of authorization may be applied for: initial work authorization and renewal of work authorization<sup>13</sup>. Once receiving the working authorization, it is obligatory to register into the Social Security System. Within a comparative perspective, according to the “Study on the Social and Labour Market Integration of Ethnic Minorities” (2008)<sup>14</sup>, concerning the labour market integration and the removal of barriers, Spain (together with Sweden) is among the most advanced in EU providing chances for non-EU citizens to change jobs or become self-employed. It is important to note, that as far as EU citizens<sup>15</sup> are concerned, the provisions of Royal Decree 240/2007, on the entry, free movement and residence in Spain of nationals of Member States of the EU, came into force on the 2<sup>nd</sup> of April 2007. In terms of employment, except from the access to employment in the Public Sector<sup>16</sup>, the same legislation and equal conditions as for Spanish citizens are applied<sup>17</sup>.

On the other hand, as far as the public attitudes are concerned towards the *immigration policy*, the majority of the Spanish welcome the immigrants “*as long as jobs available*” (Table 6).

**Table 6: Public attitudes towards immigrant policy**

Immigration policy					
Weight	Frequency	Percent	Cumulative Percent	Valid percent	Cumulative valid percent
<b>Let anyone come</b>	193	16.0 %	16.0 %	16.5 %	16.5 %
<b>As long as jobs available</b>	696	57.6 %	73.6 %	59.6 %	76.1 %
<b>Strict limits</b>	251	20.7 %	94.3 %	21.4 %	97.5 %
<b>Prohibit people from coming</b>	29	2.4 %	96.7 %	2.5 %	100.0 %
<b>Don't know</b>	40	3.3 %	100.0 %	-	-

Source: Values Surveys Databank (2000)

<sup>13</sup> For employees, 2 types of authorization may be applied for, in succession: 1. Initial work authorization that is valid for one year and must be applied by employer; 2. Renewal of work authorization that is applied at the end of the validity term of initial authorization that is valid for two years and is applied by employee. In case of self-employment, the following authorizations are applied in person: 1. Initial work authorization (valid for one year); 2. Renewal of work authorization (valid for two years).

<sup>14</sup> IZA Research Report, February 2008

<sup>15</sup> Citizens of the Member Status of the EU or the EEA, as well as nationals of Swiss Confederation

<sup>16</sup> The provisions of article 39.4 of the Treaty Establishing the European Community

<sup>17</sup> “Regulations governing EU citizens in Spain”, Ministerio de Trabajo y Asuntos Sociales, Secretaría de Estado de Inmigración y Emigración.

The current situation and economical crisis might have turned the public attitudes more sensitive towards the immigrants. According to the recent survey on the active population (EPA<sup>18</sup>), during third quarter of 2009, unemployment among the Spanish have increased in 18.000 persons while among the foreigners it decreased in 32.000. The unemployment rate of Spanish population was 16.12%, whilst among the foreigners the unemployment reached 27.51%.

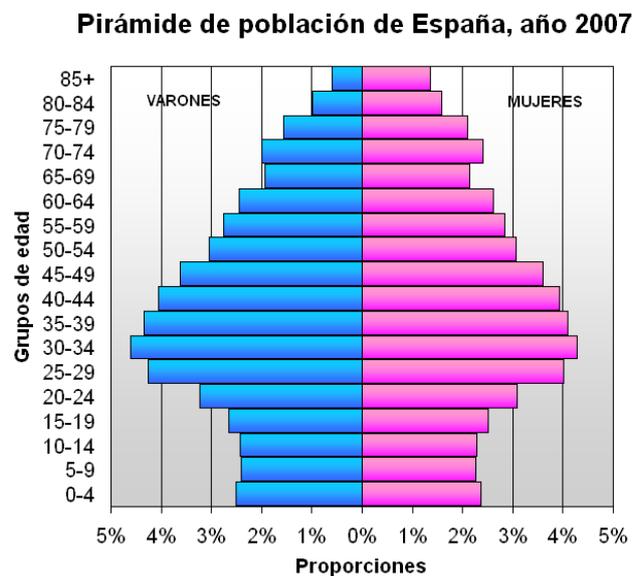
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<sup>18</sup> Encuesta de Población Activa (EPA), INE, Tercer trimestre de 2009, Notas de Prensa, 23 de Octubre de 2009

## 2. Gender

In 2009, according to the Spanish National Institute of Statistics, in terms of gender, in Spain there were 23.116.988 men and 23.628.819 women. *Population Pyramid in Spain (2007)* shows that there are more personas over 60 years old than under 18 which has an enormous impact on the social security system, the work market, the types of products and services consumers need, the knowledge gaps and the interface between shrinking generations.

*Figure 2: Population pyramid (2007)*



Fuente: Instituto Nacional de Estadística. Censo a 1 de enero de 2007

Source: INE

A research carried out by the faculty of applied economics of the Virtual University of Barcelona (UAB) directed by Josep Oliver showed that in 2010, 45% of unemployed are women whereas in the year 2001 that percentage was of 56%.

- The primary reason for this development is that women have a higher level of education and training which reduce their vulnerability in times of crisis;
- The second reason is that there are more women than men in the service sector (85% women employed) which is the less affected sector in this moment of crisis;
- This data is compatible with the traditional leave of women from the work market at the age of 30 to 35 for maternity reasons.

The change in trends also reflects in the unemployment rate. According to the EPA (Research of Active Population), in 2009 there were 18.7% of unemployed men against 19.2% of women. This distance is insignificant comparing with the 15 years ago when the unemployment gap between men and women was of 31%.

The research proves that women employment expands more and falls less in times of crisis:

- Of every 100 women that come into the workforce only 2% go into construction, the highest rate is that of the service sector;
- One of the reasons why men have lost more jobs as in the construction sector has been the one which has had the highest level of companies closing.

Prof. Oliver states that there has been a silent revolution in the incorporation of women in the work market since 1978. This process has maintained the trend in period of crisis as in the 70s and 90s and presently.

- Only 13% of men do not receive a salary which 20% of men are receiving in that position of autonomous workers;
- There has been an incorporation of women into active working because of the crisis;
- Women earn less (average of 30% less than men) and are more efficient, thus companies are hiring or retaining more women than men;
- Another reason is that 100.000 housewives have left their household tasks to go to work to compensate the loss of salary of men to sustain the family. 42.000 men have lost their jobs and are now doing domestic care tasks.

This situation sets a precedent and it is expected for women to stay in the work market now that many have become the sole income provider of the family.

The labour legislation in Spain is being debated by social, entrepreneurial and political agents. The Bank of Spain is claiming for a more flexible working legislation that may allow companies to re-structure.

### 3. Ethnicity and nationality

According to the data provided by the Permanent Observatory of Immigration (*Observatorio permanente de la inmigración*), the trimester report of December 2009, indicated 4.791.232 foreigners (*holding a residence card or certificate of register*) residing in Spain that represents the increase of 1.6% (75.475 persons) comparing to the last trimester and 7.10% (317.733 persons) comparing with December 2008. As far as gender of the foreigners is concerned, we have 53.42% of men and 46.58% of women foreigners. When it comes to nationalities, Spain hosts the biggest group of Moroccans, Romanians, Ecuadoreans and Colombians. People from UK, Italy, Germany, and Portugal also form big foreigner groups residing Spain. Having a large number of foreigners coming from Latin America and relatively smaller number of foreigners coming from Muslim countries (compared to other Western Countries, as France for example), makes the integration process different in Spain (*See Table 7*).

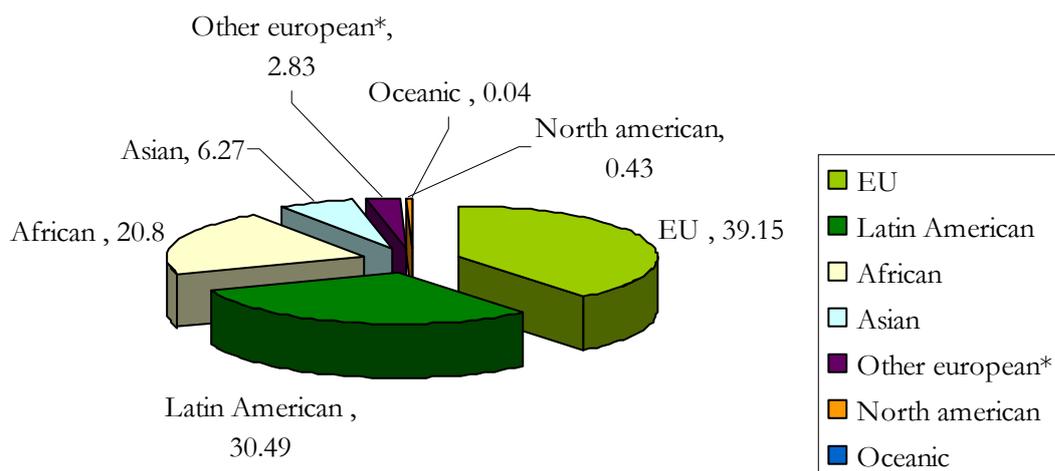
**Table 7: Foreigners with certificate of register or residence card, main nationalities**

	31/12/2009	Variation (proc.)	
		Trimester: 30-09-2009	Annual: 31-12-2008
TOTAL	4.791.232	1.6	7.1
Morocco	767.784	1.27	7.02
Romania	751.688	3.17	4.57
Ecuador	440.304	-0.26	4.45
Colombia	287.205	-0.36	4.5
UK	222.039	0.44	1.05
China	151.547	0.79	9.37
Italy	150.667	2.55	8.29
Bulgaria	147.08	3.04	1.86
Peru	144.62	0.85	10.48
Portugal	126.928	1.2	4.11
Bolivia	117.106	4.9	37.08
Germany	109.438	2.2	7.08
Argentina	103.171	0.44	6.06
Dominican Republic	87.201	1.39	7.69
Poland	86.314	0.59	-0.78
Rest of the countries	1.089.897	2.03	10.56
Other	8.243	3.39	8.63

Source: Informe trimestral, 31 de diciembre 2009, Observatorio permanente de Inmigración

All together, foreigners from EU countries comprise the majority group within the foreigners (39.15% of total immigrant population), followed by the people coming from Latin American countries (30.49%). Concerning the population coming from EU, a significant part corresponds to the migration of pensioners coming from North-Western Europe, together with a significant new immigration flows from Central and Eastern Europe (mainly Romania and Bulgaria) (*See Figure 3*).

**Figure 3: Foreigners regarding the nationalities (continents) (proc.)**



Source: Informe trimestral, 31 de diciembre 2009, Observatorio permanente de Inmigración

Concerning the civil status of the immigrants, in 2008 we had 34.5% of married immigrants that forms one third of all immigrant population. There is no a significant variation in terms of gender.

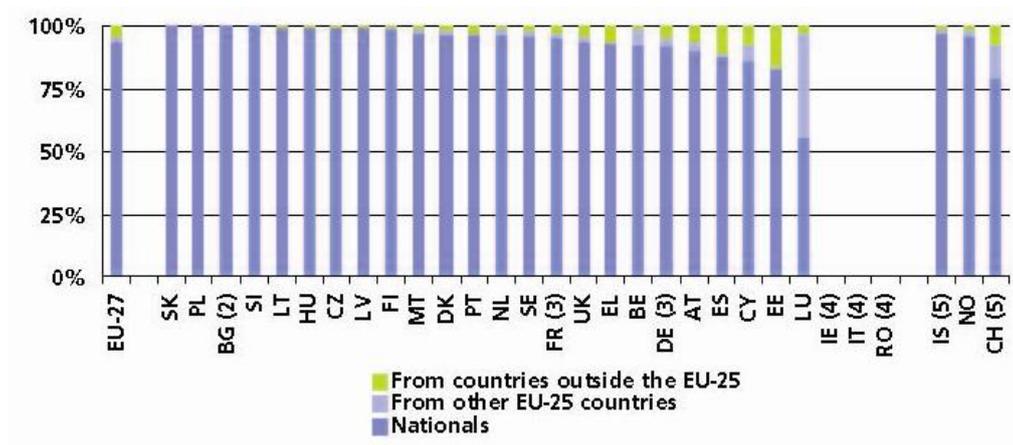
**Table 8: Immigrants by sex and civil status**

	Total	Men	Women
	Percentage	Percentage	Percentage
<b>2006</b>			
Total	100	100	100
Married	37	39.7	34.6
Single	63	60.3	65.4
<b>2007</b>			
Total	100	100	100
Married	37.8	36	39.5
Single	62.2	64	60.5
<b>2008</b>			
Total	100	100	100
Married	34.3	32.5	35.9
Single	65.7	67.5	64.1

Source: INE, Migrations survey 2006-2008, own elaboration

As has been discussed in the previous section (*Migration*), unemployment rates due the recent economical crisis significantly affected the immigrant population. Nevertheless, within the comparative perspective, across the EU, Spain, together with Estonia, Cyprus, Austria and Germany employ between 16.9% to 8.4% of non-nationals.

**Figure 4: Employment by nationality (proc)**



Source: EUROSTAT Statistical books, 2008

Analysing unemployment rates according to the nationality, to be more precise, having a defined indicator: foreigners from EU and non – EU countries, we find that the foreigners coming from non - EU countries are more likely to be unemployed.

**Table 9: Unemployment rates of foreigners due to nationality**

Year	Foreigner population				
	Total	Gender		Nationality	
		Men	Women	EU	Other countries
1999	14,2	11,9	17,3	10,4	16,0
2000	15,0	12,6	18,2	9,3	17,2
2001	14,0	11,8	17,3	8,9	15,4
2002	14,5	12,8	16,8	10,3	15,4
2003	15,4	12,9	18,8	9,8	16,3
2004	13,5	11,1	16,9	9,1	14,1
2005	11,4	9,5	14,0	11,8	11,2
2006	11,8	9,3	14,9	13,4	10,9
2007	12,2	10,4	14,4	11,1	12,6
2008	17,5	17,3	17,8	16,0	18,1

Source: Boletín de estadísticas laborales, 16 de abril 2010

In terms of discrimination trends, we will have a different kind of picture. The National Health Survey data (2006) revealed the ethnicity factor to be one of the most prevailing causes of discrimination (*See Table 10*).

**Table 10: Causes of discrimination (proc.)**

	Total	Gender	Ethnicity or country	Level of education	Sexual preferences	Religion
<b>Both</b>	100	31,69	46,45	26,8	4,19	5,13
<b>MEN</b>	100	9,19	54,35	30,6	5,18	7,49
<b>WOMEN</b>	100	45,96	41,4	24,37	3,55	3,61

Source: Encuesta Nacional de Salud (2006)

European Values Survey reveals another significant tendency - people of a different race, Muslims and immigrant/foreigner workers are not very welcomed and wanted as neighbours (*See Table 11 for details*).

**Table 11: People that respondent would not like to have as neighbours**

Neighbours: would not like to have as neighbours	Mentioned, proc.
People of a different race	11.5
Muslims	15.4
Immigrants/foreign workers	10.8

Source: EVS (Spain: 2000)

## 4. Age

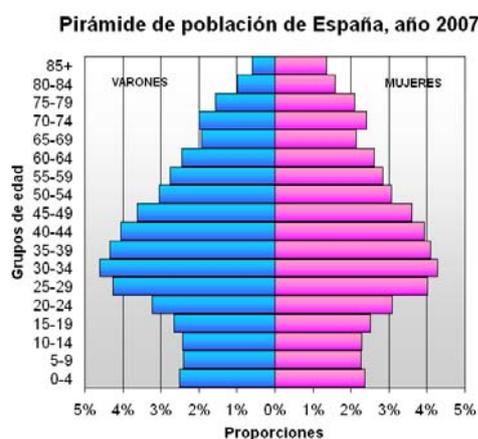
The average age of the Spanish population in 2006 was of 40.2% year; of which 38.9% were men and 41.6% were women. 14.3% of the population was under 15 years old, and 69.0% was between 15 and 64 years old; which 16.7% of the population was over 65 year of age. The Spanish society was menaced by an exponential aging of the population. The high immigration since 1990 has stopped that process. The average age of the foreign resident population in Spain was of 32.8 years in 2004, against the 41.0 average years old of the national citizens.

Distribution of population of over 65 years old citizens in Spain in 2005: The autonomic communities which have the highest age average with residents over 65 years were (according to the INE in 2006): Castilla y Leon (22.60%), Asturias (21.96%), Galicia (21.48%) and Aragon (20.47%). On the other had, the regions where the age brackets has lesser weight were Melilla y Ceuta, Canaries (12.35 %), Murcia (13.80%), Balearic Islands (13.84%), Madrid (14.48%) and Andalusia (14.70%). According to the National Institute of Statistics, in 2005 life expectancy in Spain was of 80.2 years: 77.0 for men and 83.5 years for women.

**Table 12: Spanish Population by age (2007)**

Distribution by age of the Spanish Population	
Age Group	%
0 to 14 years	14,34%
15 to 29 years	19,74%
30 to 44 years	25,30%
45 to 59 years	18,92%
60 to 74 years	13,53%
75 years or more	8,18%

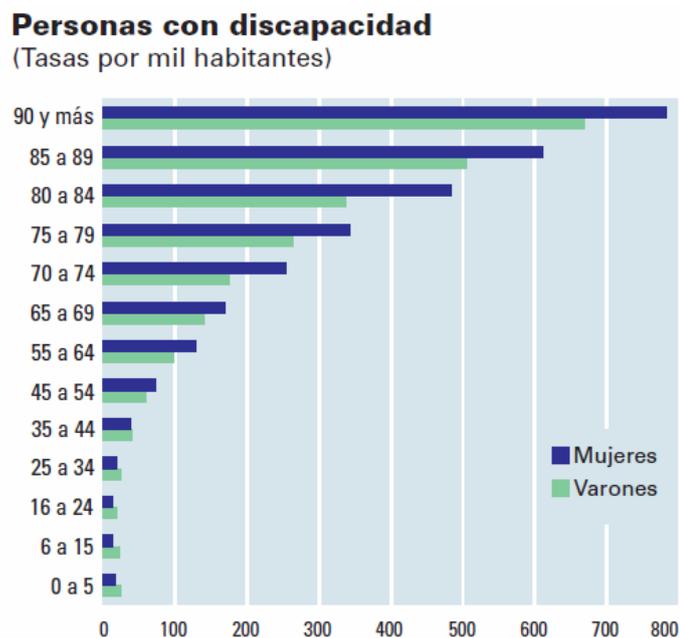
Source: INE



**Figure 5: Pyramid of Age of Spanish Population, 2007**

## 5. Disability

In 2008 there were 3.85 million homes which responded having a disabled person living with the family. This supposes a rate of 12% of homes with disabled persons. The research made to classify the characteristic of disability of the disabled population was centred in the community over 6 years old. It is considered that children under 6 years old can have disfunctionalities which can be overcome with age and treatment. For persons over 6 years old the rate of disability is of 89.7 per 1000 of inhabitants in 2008.



*Figure 6. Persons with disabilities (rate per 1000 inhabitants) due to gender*

### *Age and Sex influence*

59.8% of disabled persons are women. The rate of disability by age, are slightly superior for men up to 44 years and over 45 years old the curve inverts and there are more women gradually as they advance in time. A factor explaining this is the fact that over 65 years old there are 145 women for every 100 men in Spain. Therefore there are more disabled women in elderly ages.

### *Galicia has the highest rate*

The highest rate of disabled persons is in Galicia (112.9 per thousand habitants), followed by Extremadura (109.9). La Rioja presents the same rate as Cantabria (61.6 y 70.0 per thousand inhabitants respectively)

*The concept of “multiple diversity”* must be taken into account when addressing the issue of discrimination. A person can be discriminated for more than one of its different profiles. That is, a woman who is black, disabled and has 4 children can be discriminated for all or one of the different profiles.

## 6. Sexual orientation

There is no accurate statistics on LGBT<sup>19</sup>, however, we can find a number of studies and researches carried out that focuses on discrimination trends. The major efforts in this field can be observed from associations or trade unions<sup>20</sup>. A recent survey carried out by the Danish Institute for Human Rights (2009)<sup>21</sup> revealed that 65% of LGBT students have experienced a kind of abuse. Nevertheless, in terms of public support for the same-sex marriage: 66% of the respondents agreed about the right for lesbian and gay couples to marry (in 2004).

A new law permitting the marriage has been an important step empowering same-sex relationship in public. The amendment of the Civil Code granting the same-sex couples a right to marry came into force in 2005. The same-sex couples were granted all the rights of marriage (social benefits, designation as spouses, possibility of adoption etc.). According to the above mentioned survey: *“The only pending legal problem is the lack of automatic recognition of parenthood in lesbian couples where one is the biological mother, as well as the prohibition on adoption for same-sex unmarried couple”* (2009, p.6). In 2006 we had 4.575 of same-sex marriages, among them 3.190 males, that in total make 2% of the total number of marriages.

Another positive step toward the equal treatment has been the “The Law on Fiscal, Administrative and Social Measures” launched in 2003. The law implements the Directive 2000/78/EC – non – discrimination at the work place: *“Positive measures are allowed to guarantee the principle of equal treatment and non-discrimination in access to employment, membership or involvement in organisations of workers or employers, working conditions, professional promotion, vocational training and continuing professional development. Positive measures may also protect access to self-employment, the exercise of a profession and membership or involvement in professional organisations”* (2009, P.6).

Nevertheless the positive improvements, according to the data provided by the trade unions, there is a lack of the trustworthy research about the conditions of LGBT persons at work, as well as their

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<sup>19</sup> LGBT: Lesbian, gay, bisexual and transgender

<sup>20</sup> Guía sobre diversidad sexual y empleo: la FELGTB presenta, junto a CCOO y UGT, una guía virtual sobre diversidad y empleo (2010), retrieved from: <http://www.felgtb.org/es/noticias-felgtb/guia-sobre-diversidad-sexual-y-empleo>

<sup>21</sup> The social situation concerning homophobia and discrimination on grounds of sexual orientation in Spain, Danish Institute for Human Rights (2009), retrieved from: [http://fra.europa.eu/fraWebsite/attachments/FRA-hdgso-part2-NR\\_ES.pdf](http://fra.europa.eu/fraWebsite/attachments/FRA-hdgso-part2-NR_ES.pdf)

working conditions in terms of discrimination matters. Very few complains by employers have been received, therefore no precise evaluations on homophobia at the work place has been carried out.

A study carried out by 100 interviewed transsexual persons by the *Unidad española de Trastorno de Identidad de Género* (Hospital Carlos Haya de Málaga), defined that 54 % of the transsexual persons have been unemployed and only 35% had a full part –time job and a third of them had an employment history of less than one year at the workplace. More than 55% of them had experienced discrimination at work or during the job search<sup>22</sup>.

As far recognition of the equality and the right to marry to the same-sex couples are concerned, the majority of the Spanish (until the 70% of the population) express a support according to sociological studies. However, when asked about acceptance of homosexuality in case of any family members (daughter or son) or even about having a gay or lesbian neighbour, favourable acceptance changes significantly. A respect for sexual diversity is very solid when it comes to distant assumptions, though it is indeed not very favourable when it comes to the daily situations. This data point at that there is homophobia in the living/everyday environment (workplace included) with varying degrees of intensity<sup>23</sup>.

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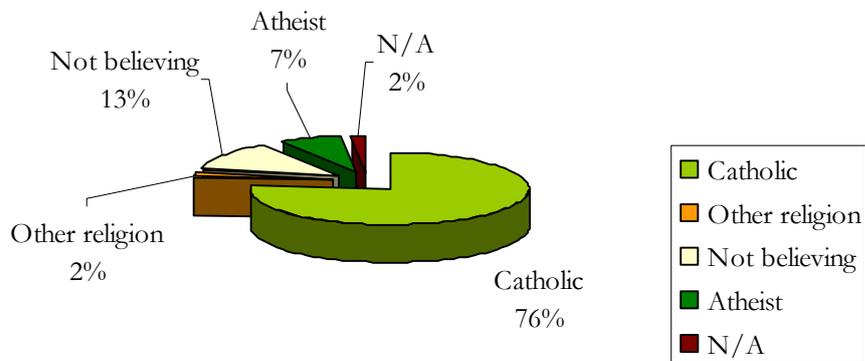
<sup>22</sup> Guía sobre diversidad sexual y empleo

<sup>23</sup> *ibid*

## 7. Religion

Generally, corresponding with the prevailing trends in EU, Spanish society is becoming more secularized. Even though, the latest statistics (July 2009) shows 76% of population belonging to the Catholic Church (See Figure 7).

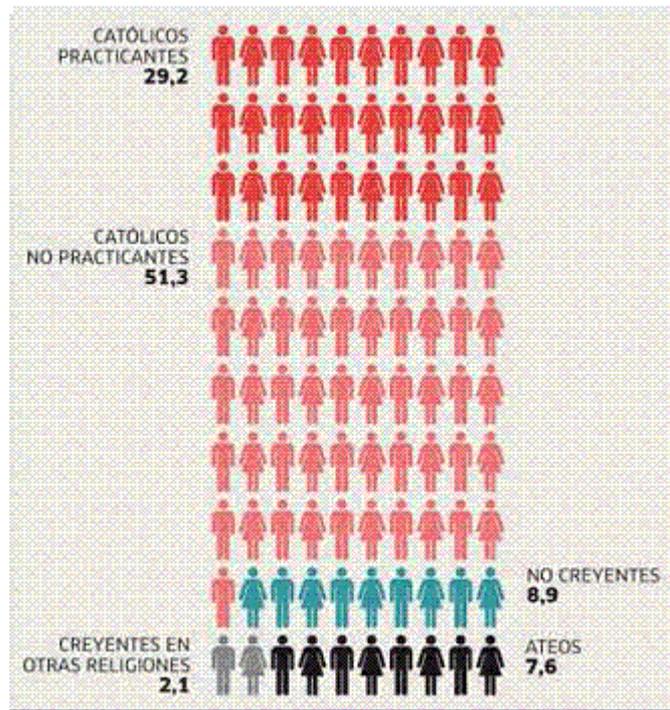
*Figure 7: Self – identification of religion*



Source: CIS, Estudio n. 2.811, barómetro de Julio 2009

At the same, when it comes to practice, only 29.2% of Spaniards are practicing on a regular basis, while 51.3% are not practicing believers (See Figure 8). What is more, according to the Special Barometer (n. 59) religion is considered as a value only by 3% of the Spaniards, while peace is perceived as a value by 45%, respect to life – by 42% and human rights – by 38%.

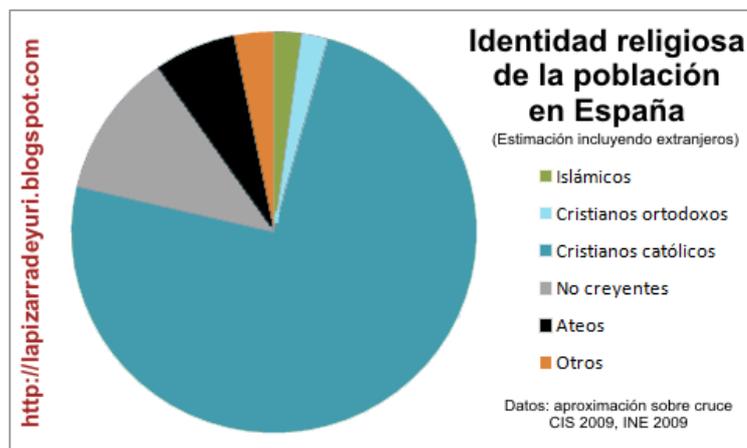
**Figure 8: Religious practice (proc.)**



Source: “El estado de la religión en España” (2009)

It is important to note, that the above quoted data on religious denominations provided by CIS (*Centro de Investigaciones Sociológicas*) do not include foreigners. Taking into account that in Spain we have more than 5mln of immigrant population, from them, approximately we could count on one million of persons coming from Muslim tradition, another million from orthodox Christian tradition, and the rest from catholic either protestant traditions. Thus, all together, we will have a slightly different picture on religious denominations in Spain. An approximation is reflected in the Figure 9.

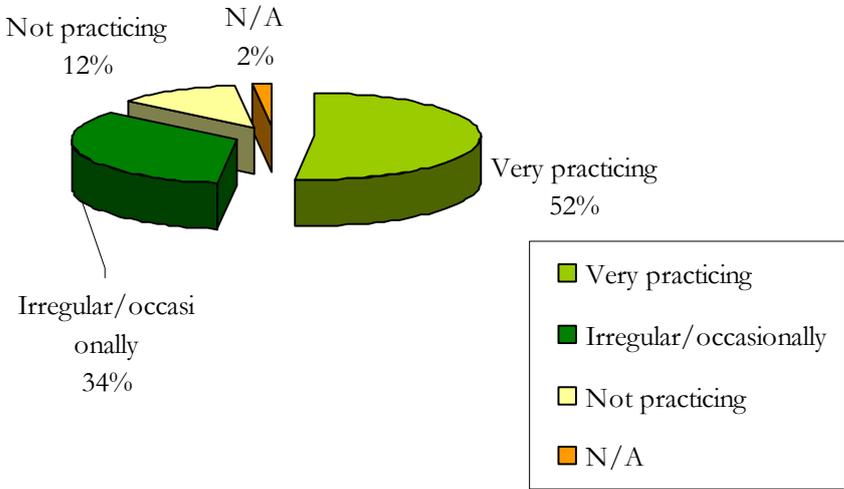
**Figure 9: Religious identification (approximation, foreigner population included)**



Source: “El estado de la religión en España” (2009)

In contrast, as far as the practice of religion by Muslims is concerned, we have opposite tendencies: 52% of Muslims identify themselves as very practicing believers, while we have 34% of occasionally practicing and 12% of non –practicing Muslims.

*Figure 10: Muslim religious practice*



Source: “La Comunidad Musulmana de origen inmigrante en España”, Abril 2010<sup>24</sup>

<sup>24</sup> Ministerio de Trabajo e Inmigración, retrieved from: [http://www.pnac.es/NR/rdonlyres/54B32BCD-7DB3-42D5-BD30-EE8BADDC50A73/108320/estudiio\\_com\\_musulmana\\_20091.pdf](http://www.pnac.es/NR/rdonlyres/54B32BCD-7DB3-42D5-BD30-EE8BADDC50A73/108320/estudiio_com_musulmana_20091.pdf)

## 8. Language

In Spain there are 4 co-official languages spoken in the respective autonomic regions. These are: Castilian, Catalan, Basque and Galician. Spanish or Castilian is the main official mother tongue of Spain. It is tough as a second language in those autonomic regions which have a native language of their own. 6 of the 17 autonomic regions of Spain have besides Castilian other co-official languages. Being bilingual is a normal practice in the different regions and provinces which have another local language.

The regions where Catalan is spoken are 4 Catalan provinces, and dialects of Catalan are spoken in the Balearic Islands, Castellon, Valencia and Murcia. Euskera is the Basque language which is spoken in the Basque country region. Galician is spoken in the 4 provinces of Galicia. Asturian spoken in Asturias is not considered a co-official language but a dialect.

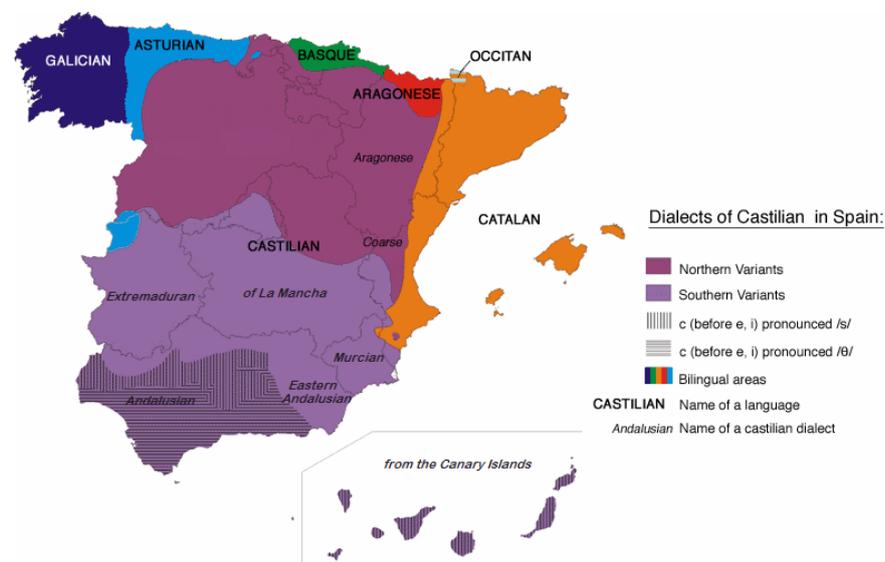
According to a research carried out in 2005, Castilian is the mother tongue of 89% the Spanish population, Catalan/Valencian 9%, Galician the 5% and Euskera 1%, while 3% has a mother tongue plus a foreign language. It is important to note the persons that answered the research could mark several options simultaneously if they considered having two languages as mother tongue that is why the total is over 100%.

It is compulsory to speak, write and read the local official languages in the regions that have one, when accessing to jobs in the administration, legal institutions and education. Most companies are “asked” to train their employees in the local language. One of the conditions to give working permits to immigrants is their knowledge of the local language or at least the fact that they are registered in local language classes facilitated by the City Council or other institutions that take care of migrant population

*Table 13: Mother tongues in autonomic bilingual regions in Spain (% over total population)*

Position	Autonomous Region	Co-official Language	Population Spanish	Population co-official language	Bilingual	Others
1°	Galicia	Galician	30,1%	52,0%	16,3%	1,6%
2°	Balearic Islands	Catalan	47,7%	42,6%	1,8%	7,9%
3°	Catalonia	Catalan	55,0%	31,6%	3,8%	9,6%
4°	Valencia region	Catalan	55,7%	39,6%	1,1%	3,7%
5°	Asturias	Asturian	58,6%	17,7%	20,1%	3,6%
	(no official)					
6°	Basque country	Basque	76,1%	18,8%	5,1%	n/d
7°	Navarra	Basque	89,0%	7,0%	2,0%	2,0%

*Figure 11: Map of Languages (Spanish, Catalan, Basque, and Galician) and dialects in Spain*



Source: Wikipedia<sup>25</sup>

<sup>25</sup> Retrieved from: [http://en.wikipedia.org/wiki/File:Castillian\\_dialects\\_in\\_spain.png](http://en.wikipedia.org/wiki/File:Castillian_dialects_in_spain.png)

## 9. Level of education

Education in Spain is obligatory and financed by the state for youth under 16 years old. At that point students choose to follow regulated studies to access secondary studies and later upper university tuition; or pass on to professional training.

Since 1995 more women than men finished university studies. Men leave regulated studies earlier to learn a profession and work at earlier time. There are more women and men as judges, doctors and administration employees than men. There are more women than men setting up their own companies or professional activity. Nevertheless, women still are not present in boards (2%) or on upper management in large companies (6%). Talent and high education does not equate to positions of responsibility in the economic world yet when it comes to the rate of men and women in positions of decision making.

The education system in Spain is very theoretically oriented as students stay for long in the system. The result is a lack of entrepreneurial spirit and lack of working knowledge and ability. The Bologna education system will help the education system in Spain to update men and women to be more dynamic in the work arena and therefore contribute in a more efficient way to companies and institutions.

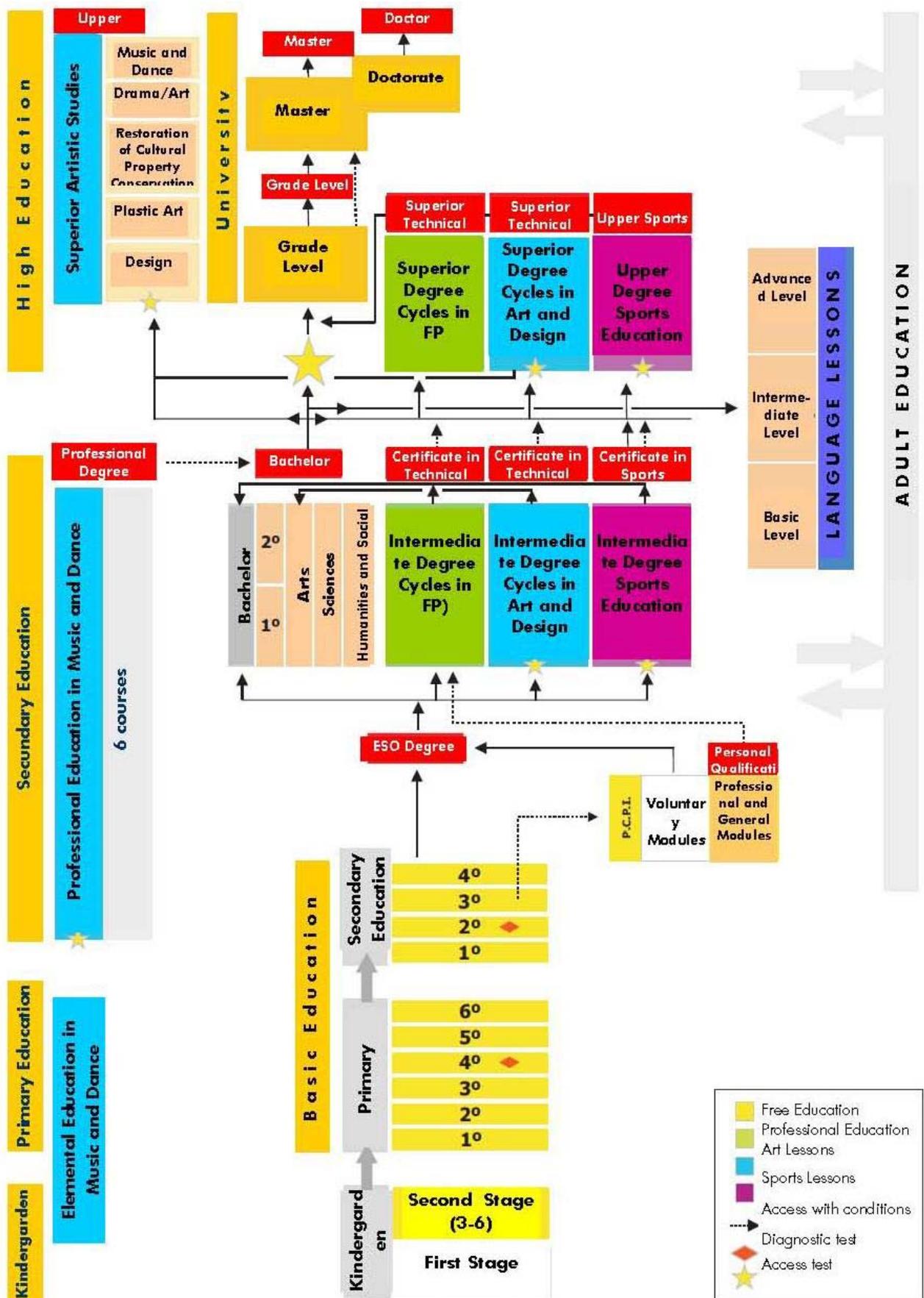
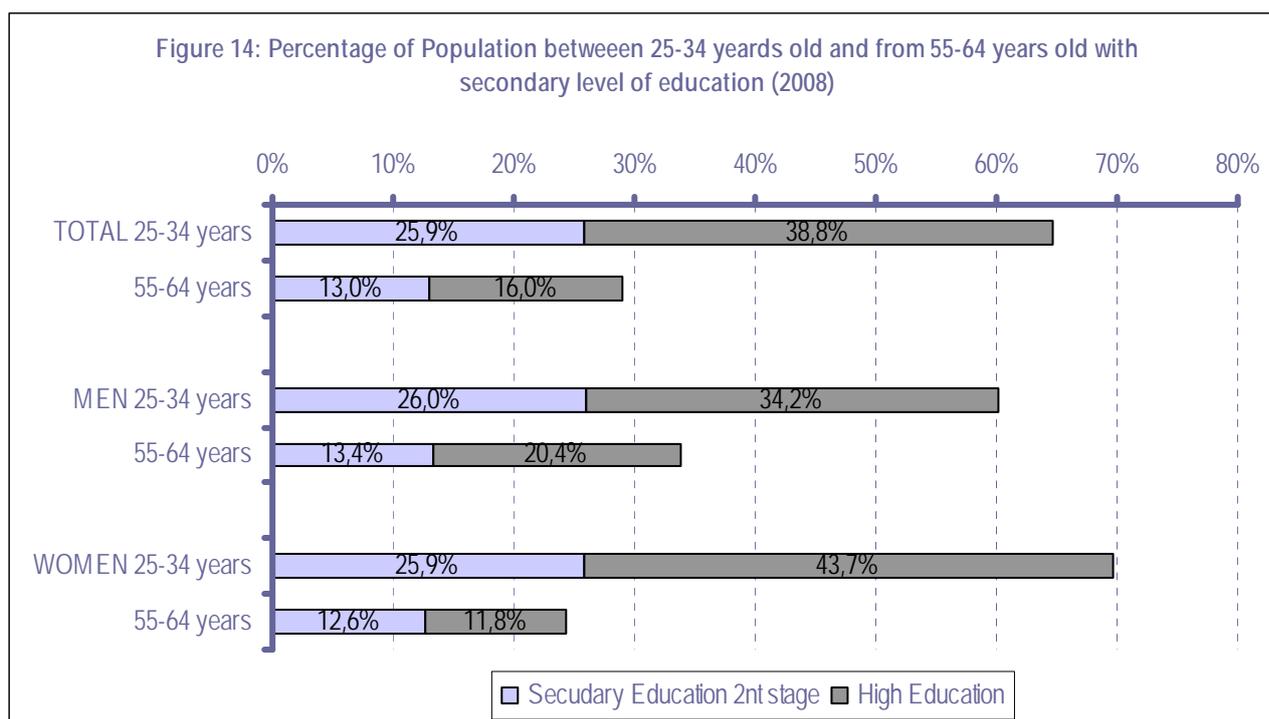


Figure 12: Spanish education system

**Table 14: Percentage of population between 25- 34 years old that have reached high level education (2008)**

	Total	Men	Women
EU (27)	30.9	27.2	34.7
Germany	23.9	23.0	24.8
Belgium	42.3	36.1	48.5
Spain	38.8	34.2	43.7
Finland	38.3	28.8	48.2
France	40.7	36.2	45.2
Greece	27.5	23.7	31.5
Italy	19.9	15.5	24.4
Netherlands	39.8	37.1	42.4
Poland	32.1	25.6	38.7
Portugal	23.2	16.8	29.7
UK	38.6	37.0	40.3
Sweden	40.8	35.	46.4

Source: INE



Source: INE

*Table 15: Rate of activity and employment of the population between 25-29 years old, according to their level of education*

	Activity rate		Unemployment rate		
	2009	2008	2009	2008	Increase 2009/08
<b>TOTAL</b>	86.2	86.4	21.2	21.1	9.1
<b>Secondary (1st stage)</b>	83.8	84.7	29.5	16.9	12.7
<b>Secondary (2nd stage)</b>	85.5	86.4	20.4	10.9	9.5
<b>Higher education</b>	89.0	88.1	13.8	8.8	5.1

Source: Encuesta de Población Activa, 2º trimestre, INE

It is significant to note that the rate of activity between 2008 and 2009 is practically equal in all levels of education. Unemployment increased exponentially in 2009 as the crisis started.

*Table 16: Index of salaries per hour, according to the level of education, 2007*

	Total wage-earners			Total wage - earners of 25-34 y.o.		
	Total	Men	Women	Total	Men	Women
<b>Total</b>	100	105.6	92.4	100	102.8	96.4
<b>Elementary/primary</b>	78.6	84.1	67.4	83.5	88	72.9
<b>Secondary (1st stage)</b>	76.7	82.2	66.4	81.9	86.9	69.6
<b>Secondary (2nd stage)</b>	91.2	100.7	79.6	88.4	97	78.1
<b>Higher education</b>	130.1	140.6	119.3	117.4	121.4	113.8

Source: Encuesta de Condiciones de Vida, INE

Analyzing the total number of workers who earn a salary (not entrepreneurs or autonomous) there is a high gap as women are still the new - comers in the work force. The gap is closer when analyzing the working population between 25 and 34 years old. Particularly between men and women with higher education, as more women than men finish university and high level studies. This will become evident in the future search for talent.

## V. LEGAL FRAMEWORK

It is important for companies and institutions to be more aware of the EU Directives as they set the pace for future local legislation in the EU member states. The Directives of the 2000 of the Commission has defined the scenario of equal rights for all citizens of Europe to access as well as the right to conciliate professional, family and personal times; regardless the diverse profiles of the persons; gender, ethnicity, nationality of origin, age, disability, sexual orientation, educations level - as well as diversity in personal skills as professional abilities. Equal opportunities have been redefined by antidiscrimination and diversity and inclusion as a corporate policy which should inspire governance in the XX st century in Europe. It highlights the contribution of diversity to create a more efficient business environment as well as to generate creativity and innovation to make the socio-economy of Europe more competitive and sustainable in the new global balance of powers.

Before getting into details concerning the legal framework, it is of crucial important to define the key concepts of diversity - definitions of discrimination:

*Direct Discrimination:* Occurs when an employee or prospective employee is less favourably treated because of their race, gender, disability, religion/belief, sexual orientation or gender reassignment (Example: a female candidate who matches the required competences of a role and the essential experience does not get an interview, but a male candidate with less experience and qualifications does).

*Indirect Discrimination:* Occurs when certain requirements, conditions or practices are imposed on everyone by an employer but they have a disproportionately adverse impact on one group than on another. Furthermore, the requirement, condition or practice is not required for the safe and effective performance of the job (Example: an Asian woman applies for a job as a receptionist; she gets the job but is then told that the uniform for the job includes a skirt. She cannot do this as in her culture she has to keep her legs covered, so she cannot take the job).

*Positive Discrimination:* Is a policy or a practice providing advantages for people of a minority group who are seen to have traditionally been discriminated against, with the aim of creating a more equal society. This consists of preferential access to education, employment, health care, or social welfare.

It is not a competency-based method of recruitment. It is unlawful in England and Wales and is seen as a “box-ticking” exercise.

*Positive Action:* Activity intended to improve the representation in a workforce where monitoring has shown a particular group to be under-represented, either in proportion to the profile of the total workforce or of the local population. (Example: to provide facilities to meet the special needs of people from particular groups in relation to their training, education or welfare; to target job training at people from groups that are under-represented in a particular area of work, or encourage them to apply for such work).

## EU DIRECTIVES

The current legislation comprises two directives, the **Racial Equality Directive** and the **Employment Equality Directive** which were agreed by the then 15 EU Member States in 2000.

### I. Equal treatment in employment and occupation<sup>26</sup>

Directive 2000/78/EC of 27 November 2000 establishes a general framework for equal treatment of individuals in the European Union, regardless of their religion or belief, disability, age or sexual orientation, as regards access to employment or occupation and membership of certain organizations.

Employment and occupation are crucial to ensuring equal opportunities for all and in large measure contribute to the full participation of citizens in economic, social and culture life. The scope<sup>27</sup> of the directive concerns the following areas:

- conditions of access to employed or self-employed activities, including promotion; vocational training;
- employment and working conditions (including pay and dismissals);
- membership and involvement in an organisation of employers or workers or any other organisation whose members carry out a particular profession.

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<sup>26</sup> Summaries of EU legislation:

[http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/employment\\_rights\\_and\\_work\\_or\\_ganisation/c10823\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/employment_rights_and_work_or_ganisation/c10823_en.htm)

<sup>27</sup> Applies to the public sector as well as to the private including public bodies as well as for paid and unpaid work.

As far as the concept of discrimination is concerned, the directive aims to combat both direct discrimination (differential treatment based on a specific characteristic) and indirect discrimination (any provision, criterion or practice which is neutral on its face but is liable to adversely affect one or more specific individuals). Harassment, which creates a hostile environment, is deemed to be discrimination. Reasonable arrangements must be made to guarantee the principle of equal treatment for disabled persons, limiting it to cases which do not involve unjustified difficulties<sup>28</sup>.

The directive defines different particular cases, in which differences in treatment are authorized: genuine occupational qualifications, differences in treatment on grounds of age and positive action.

## **II. The Racial Equality Directive 2000/43/EC**

The Racial Equality Directive implements the principle of equal treatment between people irrespective of racial or ethnic origin. Among the key principles:

- Gives protection against discrimination in employment and training, education, social security, healthcare and access to goods and services;
- Contains definitions of direct and indirect discrimination, harassment and victimization;
- Gives victims of discrimination a right to make a complaint through a judicial or administrative procedure, associated with appropriate penalties for those who discriminate;
- Shares the burden of proof between the complainant and the respondent in civil and administrative cases;
- Provides for the establishment in each Member State of an organization to promote equal treatment and provide independent assistance to victims of racial discrimination.

The scope of discrimination within the framework of the Directive comprises both “direct” and “indirect” discrimination. The inclusion of “indirect” discrimination, a broad swath of discriminatory policies and actions is reached.

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<sup>28</sup> Equal treatment in employment and occupation, retrieved from:  
[http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/employment\\_rights\\_and\\_work\\_organisation/c10823\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/employment_rights_and_work_organisation/c10823_en.htm)

## SPANISH LEGAL FRAMEWORK

- **1978 – Spanish Constitution. Article 14:**

*“All Spaniards are equal by law, which does not allow any sort of discrimination for reasons of birth, ethnicity, sex, religion, opinion or any other personal or social condition or circumstance”*

- **1982 –Law for the integration of disabled persons 13/1982 - LISMI**

*“The law for disabled persons establishes that 2% of employees in companies with over 50 workers must have some degree of disability. The alternative for the integration of disabled persons inside the structure of the company is to subcontract suppliers of products or services from companies and institutions (centres of professional training) that employ disabled persons”*

- **1995 - Royal Decree of Legislation 1/1995, that approves the text of the Law of the Status of Workers. Article 4:**

*“Right not to be discriminated directly or indirectly for access to a job, or once employed, for reasons of sex, civil status, age within the limits established by the Law, ethnicity, social condition, religion / believe, political ideology, sexual orientation, affiliation or not to a trade union, as well as for reasons of language, within the State of Spain”*

- **2003 – 2007 Conciliation. Support to persons and families:**

- Help of 100 euros per child under 3 years during 3 years
- Maternity and paternity leave as set by the law – 3 months for mother and 15 days for father
  - with 15 days extension
- Help of 2.500 euros per child born

- **2005** – Spain is one of the countries in Europe with most advanced legislation in the area of sexual orientation: marriage of homosexuals and full rights for pension inheritance. Right to adoption is being handled on a one on one basis

- **2006** – Public administration has adopted the **Plan Concilia** (*Conciliation Plan*) to allow employees of the administration to balance professional, family and personal time.

- There is still a lack of clear regulation to allow immigrants to work legally in the country
- The *Real Equality Law* between men and women has recently been approved. Nevertheless there are still pending issues to be approved; such as parity of 40/60% men/women in positions of decision making. Another pending issue is of salaries. Women earn an average of 30% less than men – which varies according to the functions and responsibilities. The law also establishes the need for companies to implement an equality plan and antidiscrimination policies to integrate women in all companies. Companies of over 250 workers must negotiate with trade unions plans of equal opportunities for men and women. The equality plan as part of labour conservation must also establish plans that guarantee access of women to jobs, training; conciliation. Organize the work time – all within the framework of the “law of equality” which is still under debate to meet the propositions of the EU Directives of the 2000.

## VI. INSTITUTIONS DEALING WITH IMMIGRATION POLICY

As far as infrastructure designed to implement immigrant policy is concerned, the following institutions at national, regional and local levels have been created over the last several years as a response to the recent immigration challenges:

- Comisión Interministerial de Extranjería (*Interministerial Commission for Foreign Affairs*);
- Foro para la Integración Social de los Inmigrantes (*Forum for the Social Integration of Immigrants*);
- Observatorio Permanente de la Inmigración (*Permanent Immigration Observatory*);
- Consejo Superior de Política de Inmigración (*High Council for Immigration Policy*);
- Fundación Pluralismo y Convivencia (*Pluralism and Co-existence Foundation*)

What is more, the Spanish Government approved the *2007–10 Strategic Plan for Citizenship and Integration*. The plan follows the directives of the European Commission and seeks for more suitable management of migratory flows and integration processes. It is considered the framework plan for cooperation among all stakeholders, its principles being equality and non-discrimination, citizenship and interculturality. The main areas of action are reception, education, employment, housing, social services, health, children and youth, equality, women, participation, awareness-raising and co-development.

With the intention of developing an integrated policy for immigration, the government has created the Spanish Observatory for Racism and Xenophobia, within the Ministry of Labour and Social Affairs – depending of the Secretary of State for Immigration and Migration. The Directorate General of Immigrants to which the issues of migration has been assigned, have to overlook the promotion and equal opportunities policies and equal treatment and antidiscrimination to all persons for reasons of their origin and ethnicity. In the framework of its competences, the Observatory for Racism and Xenophobia was created by the disposition of articles 17 of the Organic Lay 4/2000, on January 11<sup>th</sup> 2000. Law of Rights and Freedom for Foreigners in Spain, and with the capacity to present proposals for actions in matter of fight against racism and xenophobia.

The Observatory is also a tool that allows a better knowledge of the dimension that has to be taken into account when addressing the issue of migration and how it can affect in a direct way, equal

treatment for immigrant persons, and avoid discrimination to this community for reason of their nationality of origin, race or ethnicity. The Observatory must also provide a focus for the entire of Spain regarding the situation of racism and xenophobia, creating systematic information at national and local level to coordinate the different initiatives in this area, favouring the cooperation and synergies as well as the transfer of best practice among the different actors in the area fighting against racism and xenophobia.

Ultimately, it is important to note the initiatives and actions undertaken by Cruz Roja, Caritas and other NGOs dedicated to foster social and labour integration of the immigrants.

## VII. CULTURAL CONFLICTS WITHIN COMPANIES – GOOD PRACTICES

As follows, will be presented 6 particular cases - good practices of cultural inclusion in companies.

### 1. Wine company<sup>29</sup>

Spain is largely agricultural. And there are several types of crops that particularly need qualified hand labour to collect the crops. The vintage is one of them. Native population no longer wants to work in the fields to do this type of very manual job. So it is compulsory for companies to access immigrant populations in times of vintage in order to collect the grape on time, and with the care it requires. Generally wine companies reach agreements with governments in order to recruit workers in origin, bring them in officially for a limited time and return them to the country of origin.

The presence of large numbers of population from very different countries, mainly from Africa always brings conflicts in everyday life with the local population. Because of differences of ways of life, of religions, of language and altogether, of culture.

A wine company in the province of Tarragona has developed a very successful policy to reduce that conflict. The company studied the fact that 30% of the homes in the area had a person with some sort of disability which is a great problem for these families and for the community. So the company has developed a program by which it commits to hire in directly or indirectly all disabled persons of the territory. Directly means that disabled persons have come into the payroll of the company. Indirect means that the company has fostered working centres in which most of the employees are disable, form which the company subcontracts services or products such as printing, IT, catering etc.

Presently there is no social conflict in the company, the rate of absenteeism has gone down, there are excellent relations with trade unions, and is a preferred company to work for. The company does not advertise their policy as they assume this strategy not only as a social responsibility of as a business case.

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<sup>29</sup> Not allowed to disclose name of the company

## **2. Metropolitan transport system - Transport Company**

The Metropolitan Transport System is partly subsidised by the local city council as well as by the local administration. Given the large number of immigrants and the urgent need to create working opportunities for this community, the city council requested the transport company to hire drivers of Pakistani origin.

The company committed to hire 45 drivers of Pakistani origin. To do this the company established the immigrant candidates have to meet the standards of certification required for native candidates in order to apply for the job. As the first step was to cover the costs of training the Pakistani candidates for driver jobs, in order to attain the level of capacity to guarantee the quality of conduction established by the company.

The second area was that of training the candidate drivers in local linguistic capability and beyond. Trained the candidate drivers in how to interact with users of the transport system: welcome clients into the bus, keeping a positive dialogue with users whenever when the occasion aroused, Candidates received cross cultural training in order to understand the culture of the local population; that is of the 1M persons that use every day the transport system.

On the other hand the company adapted the routes that the Pakistani drivers have to make in order to allow them to reach the stations in time to respect their times of prayer.

This of course brought an added task for the company; giving awareness training to the national drivers of the stations, for them to understand, accept and respect the considerations that the company was having with this group of immigrants. This strategy not only saved the company from having serious conflicts in the bus stations, but achieved a very important aim; creating a climate of inclusion among all drivers.

The company is presently introducing women drivers. 25 women drivers last year as a pilot. And the objective is to hire and include 75 this year. In the case of including women the company has had to adapt installations at stations for women needs and privacy. The awareness training program the station drivers have gone through to foster the process of acceptance and inclusion of women in a professional sector which has been prevailing masculine: It is interesting to note the very positive acceptance that the users are giving women as bus drivers, which as something that had worried the company in the process of taking this decision of hiring women drivers.

The Metropolitan transport system has displayed a perfect process of inclusion as best practice in introducing two major collectives in risk of exclusion: immigrants and women. And have one so managing all aspects that could have created conflicts with local and traditional drivers' profile.

### **3. PROEXPORT – association of leading companies in agricultural sector**

Proexport – is an association of fruit and vegetable producers and exporters of Murcia Region, uniting the leading companies in the agricultural sector.

To respond to the diversity challenges within the companies, the association is dedicated to promote special activities in order to facilitate social integration. Examples of developed activities:

- Drawing Contest, "*Together for Integration*", for children of workers<sup>30</sup>
- Days of coexistence<sup>31</sup>

In terms of raising awareness companies, the following examples are noteworthy:

- "*We are all equal, all are necessary*": the campaign consisted of the distribution of thousands of leaflets and posters among the workers of the companies, as well as placement in large warehouses to increase the visibility and, as a result, the communicative performance of the nuclear message of campaign;

- "*Plan Responsibility, Harvest Integration*": the campaign aimed at raising awareness of the role of immigrant workers in the agriculture sector, at the same time pointed at the mutual responsibility of the company and the immigrant worker when achieving full integration. Hoardings located in the municipalities where the companies are developing their businesses were the chosen mediums.

Proexport companies as well as various workers had collaborated in the initiative. Council of Social Policy, Woman and Immigration of Murcia and the Ministry of Work and Immigration collaborated in both initiatives.

The association administrates a website highlighting various aspects of diversity management: news, memories, integration activities, services for workers etc.

More information: <http://www.agrointegra.es>

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<sup>30</sup> Retrieved from:

<http://www.agrointegra.es/accion/galeria.aspx?frmid=27&nom=II%20CONCURSO%20DE%20DIBUJO%20JUNTOS%20POR%20LA%20INTEGRACION>

<sup>31</sup> Retrieved from: <http://www.agrointegra.es/accion/ficha.aspx?frmid=23>

#### **4. TODAS LAS MANOS – initiative among Spanish Federation of hotel industry and Higher Council of Chamber of Commerce**

In June 2008 Spanish Federation of hotel industry and Higher Council of Chambers of Commerce signed a cooperation agreement with the Department of Immigrant Integration of State Secretary for Immigration co-financed by the European Social Fund aiming at facilitating integration and adaptation of immigrant groups to the Spanish socio- economic environment, encouraging the innovation spirit and self- employment and improving diversity management at the work –place.

The above cite agreement, known as “Todas las manos” (*all hands*) is embodied to the design and implementation of three main projects: training for socio-occupational integration of immigrant workers, support for self –employment and new companies run by immigrants, business awareness on immigration.

Diversity management in the company is an important priority within the policies of human resources. One of the factors that significantly contribute to diversity in the labour force is precisely immigration and subsequent cultural difference it brings. Thus, it is of crucial importance to advance in analysing the courses of action in diversity management, not only resolving what has been problematic up to date, but to convert it in a positive factor for the company. Consequently, 10-11 December was launched I Congress of Immigration and Diversity Management in the company which treated to give an overview how to manage migration and cultural phenomena within companies. For the same purpose, has been launched various workshops for diversity management in the company, as well as A Guide of Good Practices has been issued.

More information: <http://www.todaslasmanos.com>

#### **5. ACCENTURE – Great place to work for women**

Aiming at promoting gender equality, Accenture launched a programme promoting the development and progress of women that form part of the team. Women are 37% of staff - in balance with the percentage of women who study the proper careers for Accenture business - the same for the 26% of executive staff.

In fact, being aware of the difficulties that women face in the professional field, Accenture has created special programmes (under the initiative “Great Place to Work for Women) in order to facilitate the development and reconciliation with personal life.

- Accompanying Programme: facilitating special meetings with the professionals after the maternity leave in order to accommodate to new situation, considering professional and personal preferences and projects assigned,
- Accumulation of hours for breastfeeding: Motherhood is a unique moment in our lives, thus mothers with children younger than 9 months can accumulate paid leave for breastfeeding provided by law by one daily hour, enjoying 3 natural weeks counting from the first working day after the maternity leave,
- Flexible entrance and leaving office hours together with the recently launched pilot teleworking programme,
- Accenture Care programme: aimed at helping with daily tasks. The programme offers over 21 different services, such as search for domestic worker, collection of official documents, telecare for elderly, teachers for home etc,
- Special training programmes, as “Developing High Performance Women Course”,
- Communication channels and public forums about the women of Accenture providing with access to all the employees: women achievements in Accenture, newsletter with special news for women etc,
- International Women’s day, 8 of March: Accenture celebrates International Women’s day by organizing a series of activities dedicated to all the professionals and clients of Accenture offering them the opportunity to reflect on the integration, professional success and life –work balance of women today.

More information: <http://careers3.accenture.com/Careers/Spain/Que-Ofrecemos/Entorno-Laboral/Tu-Carrera-Accenture-Mujer.htm>

## **6. ONCE – Spanish National Organization for the blind**

ONCE is a non-profit corporate organization that focuses its activities on the improvement of the quality of life of people with blindness or severe visual impairment all over Spain. Its activities are based on the ideals of equality and participation, and the company is committed to reaching its social goals day by day and observing the principles of democracy. ONCE achieves all these goals with the

invaluable support of the Spanish Finance and Inland Revenue, Labour and Social Affairs, and Internal Affairs Departments.

Social responsibility materialises via the activities carried out by the ONCE Foundation for Cooperation and Social Integration of the Disabled, which receives secured financial support of 3% of the Organisation's gross sales of lottery products. Currently, the ONCE, along with its Foundation and ONCE Business Corporation (CEOSA) generates over 123.000 job positions, whether directly or indirectly, and independently takes care of the specialised care activities required for more than 70.000 members with blindness or severe visual impairment.

The main reason at first behind the creation of the ONCE was to provide decent jobs to individuals with blindness or severe visual impairment. Later on, once this goal was completely achieved, its current fundamental philosophy —apart from maintaining the employment levels reached steady — focuses on providing specialised services to their over 70,000 members.

Since its creation, ONCE has always stood out for being an institution committed to all sectors of the Spanish society and, specifically, to all the different organisations for the disabled. However, it wasn't until the mid eighties (1985-87) that an important process of integration of the non-blind disabled as sales agents of the popular Cupón lotto ticket, which involved 10,000 people, was started. This process was followed in 1988 by the creation of the ONCE Foundation for Cooperation and the Social Inclusion of People with Disabilities (ONCE Foundation), as a result of the decision reached by the Governing Board of the Organisation.

The Foundation was thus conceived as a tool for cooperation and social responsibility of the Spanish blind with all other disabled people. The purpose of the ONCE Foundation is to achieve direct or officially approved implementation of social and labour integration programmes.

More information: <http://www.once.es>

## VIII. CONCLUSION REMARKS

Spain is a highly diverse country in itself. 4 co-official languages, different ethnic origin, different religious identities, inculcating roma population, with a very significant group of over 60, at the same time with important advances in homosexual equality legislation, historically very active in the inclusion of the disabled thanks to the existence of the ONCE organization which funds itself from the national lottery and which was created to care for the blind population, though now cares, trains and includes all types of disabled collectives.

Yet Spain has become aware of diversity when massive immigration from Asia, South America and Africa became an evidence in 2003- 2004. The fact that peoples from other areas of the world came to work, live and establish in Spain has become a new paradigm to the Spanish population and stakeholders. The fact that the historical, autochthonous highly diverse population that has always made up Spain has always been assumed as the nature of Spain, and the impact of their differences in the behaviour of people, companies and institutions that has never been considered as indicator in the creation of conflicts leading to losses and waste of time, quality and business profits. And of course has never been measured to analyze the corporate consequences of these conflicts derived from existing diversities.

Now that diversity is a major factor to address, analyze and manage; companies and institutions are starting to address the issue of differences. The two major factors of differences the business world has awoken to are: immigration and women in the workplace. Age, which is a critical factor that impacts the social security system and therefore the sustainability of the present welfare state, is in danger. The social environment lacks infrastructure to face an aging population without health and social care in place. The double income families have a lack of support for children schooling. Yet these issues are still to become part of the agenda.

Only major corporations which have been active multi-nationally have had to face multiculturalism some time ago. And have developed diversity and inclusion policies to control conflicts, which they rightly had identified as a major source of corporate losses. SMEs have not had this multinational experience and now face multiculturalism for the first time with lack of references, knowledge and resources. SMEs are part of the global economy with highly diverse clients and suppliers every day

with the possibility of purchasing and selling – operating virtually and interacting with the rest of the world to survive in very competitive and innovative scenarios.

The need for SMEs to access tools such as the Beyond Diversity CD training and exchange platform is critical for the social and economic development, considering that SMEs are the real base of the EU economy and the creators of over 70% of jobs.

Managing conflicts originated by the new typology of the European scenario is critical to make companies of all sizes more efficient, create more and new types of jobs; and stop outsourcing production and services to other parts of the world in search of lower costs. Managing conflicts bring down the operations costs of companies and improve the quality in work and life of the European citizens.

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