



INTERNATIONAL FEDERATION OF AIR TRAFFIC CONTROLLERS' ASSOCIATIONS

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AIR TRAFFIC CONTROL IN SPAIN

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The media has widely reported that air traffic controllers in Spain went on strike for pay and conditions. As it is not unusual in these situations, the reality may be different from what is reported. IFATCA is in contact with our Spanish member association (USCA) and will seek to provide factual updates as deemed necessary to all our 134 Member Associations. We are reliably informed that the controllers' union did not call for a strike, nor did air traffic controllers walk off the job. After air traffic controllers pointed out to AENA management that they had reached the maximum number of working hours according to the Royal Decree, AENA management systematically shut down the airspace in Spain even against the advice of air traffic control supervisors. Subsequently a new Royal Decree was issued on 3 December 2010, which cancelled the previous decree. This was followed by the "state of alarm" declared on 4 December under which controllers are now supervised by the military.

On the following pages, you can find a chronologic overview of the events that have led up to the current situation. You are encouraged to forward this overview to national media in your country. Should the situation escalate, it is possible media will contact your association, in which case the information below can be of use...

Media Campaign - SPAIN

Over the past days and months, the press has consistently reported wrong information on the situation of air traffic controllers in Spain. Member Associations have begun to address the national press in their respective countries. This information will allow you to give a more balanced and accurate picture of what is happening in Spain.

Executive Summary

- The current escalation involving Spanish air traffic controllers is **not due to a dispute on money**. In fact the controllers have undergone a significant pay cut since February this year. The current escalation is a simple consequence of miscalculations by AENA and the Spanish government on the working time limits.
- During the past years, **Aena tolerated and actively endorsed the use of overtime** within the company.
- The precarious financial situation of AENA is not directly caused by the (overtime) remunerations of the control staff.
- **A structural controller staff shortage exists at AENA**, certainly during peak periods. AENA appears to have completely misjudged the fact that these peak periods are no longer limited to the traditional summer period and that the rapidly increasing popularity of low costs flights has extended these peaks throughout most of the year¹.
- Contrary to what AENA and the Spanish government appear to believe, **a culture, which has evolved over decades, cannot be changed overnight by a Royal Decree** without any impact on motivation, commitment and safety.
- As any Human Factor specialist will ascertain: the strain the controllers have been placed under in the past 12 months is **detrimental to safety and is extremely likely to increase the number of safety events**. Initial indications already point in that direction.
- On top of these irrational threats of court martialing civilians by their own government is likely to destroy any chance of compromise. It's obvious that the illegal State of Alarm cannot be sustained, which begs the question of **what will happen when this State ends**.
- The possibility of **solidarity actions by air traffic controllers across Europe** is a very real one. Solidarity pact exists among several European Unions, which requires them to support each other in social conflicts.

Background on AENA

AENA is the Spanish state-owned company that owns and manages most airports in Spain, with the exceptions of Ciudad Real's and those owned by Aeroports de Catalunya in Catalonia.

AENA is also responsible for Air Traffic Control throughout Spain. The acronym AENA stands for Aeropuertos Españoles y Navegación Aérea, literally Spanish Airports and Air Navigation. It is the world's largest airport operator with 47 airports and two heliports in Spain and participation in airports in Mexico, the USA, Cuba, Colombia, Bolivia, Sweden and the UK.

AENA has been heavily investing in airport expansion program. A €1.7 billion new terminal of Madrid Barajas International Airport opened in 2006². Barcelona International Airport's new T1 terminal was completed in 2009, for €1.3 billion³. Alicante Airport is due to expand soon with a €570 million terminal expected to open in 2011⁴ and Málaga Airport is undergoing an expansion with various investments planned until 2013⁵ Other airports on the network will be expanded to accommodate the increasing air traffic demand.

The air traffic controllers

While the main business for AENA is airports (about 85% of their business), they are also the air navigation service provider for the Spanish airspace. In 2009, they reported to have about 2000 controllers⁶ out of a total of 15,200 staff in total⁷. Other figures state the actual number of operational controllers is closer to 1700; AENA could have cause to exaggerate the number for cost charge recovery (Route Charges).

A 5-year collective agreement made in 1999 ended on the 31 December 2004. Ever since, AENA and controller union USCA were in negotiations to create a new one. AENA wanted to drastically change the working conditions of the controllers: in the existing agreement they were required to work 1200 hours per year. Overtime was compensated at 2.65 the normal remuneration⁸. For years there has been a structural understaffing in the control centres. Controllers could and did accept to fill the staffing gaps by working (well-paid) overtime. Finding volunteers for this was no problem. While expensive, it suited AENA as well: in the past workload at a lot of airports, especially the smaller ones, was quite seasonal: busy in the summer months and quieter in the winter. This made it cheaper to pay controllers overtime when needed, rather than hire full time controllers, who would be surplus during the quieter months.

Needless to say, the negotiations were rather difficult with some 65 meetings over a 6-year period. AENA made 10 proposals while USCA made "only" 6 counterproposals. At the end of 2009, the deadlock was complete.

Problems for AENA

In addition to the difficulties in negotiating a new collective agreement for their controllers, the huge investments in airports around Spain backfired: they were based on a predicted traffic growth, such as the often heard 'traffic will double by 2020'. As a consequence of the financial and economic crisis, however, AENA was faced with substantial financial losses⁹ – 160 million Euro in 2008; 346 million Euro in 2009.

To finance the airport expansion among other things, AENA has borrowed some 12 billion Euro from various financial institutions¹⁰. These debts make them a very unattractive investment, which is troublesome for the government, as they had plans to privatize AENA or at least part of it. AENA was forced to sanitise their budget. Oddly, AENA and the government concluded that the controllers' wages, inflated due to the overtime payments, were the source of all problems.

Escalation

At the end of 2009 a number of reports on the working conditions of the Spanish air traffic controllers started to appear in the national and international press. Invariably these stories were brought out of context and a number of extreme situations were highlighted. Conveniently vital information was left out: wages before tax deduction were quoted, the fact that shift work was involved or that the staff shortage and overtime situation had been tolerated and even encouraged by AENA wasn't mentioned.

Everything points to an orchestrated press campaign in which only information, convenient to one party, was leaked¹¹. The information in the press created public indignation and AENA used this to force controllers to renegotiate their conditions of employment. The proposals of AENA included such radical changes that the controllers' union (USCA) could not accept. This led to a stand-off and negotiations broke down completely at the beginning of 2010.

Royal Decree #1¹²

Faced with negotiations that were leading nowhere and possible disruptions due to industrial actions from controllers, AENA convinced the Spanish government to issue a Royal Decree. Entirely conceived by AENA, without any consultation with controller representatives, this Royal Decree 1/2010 created a framework for AENA to force the controllers to:

- Work up to 1750 hours per year (from 1200 hours previously) in shifts of maximum 12 hours. According to AENA, the controllers were working those hours anyway and were being paid some 550 hours per year in overtime for it.
- Make overtime compulsory, limiting it to a maximum of 80 hours per year.
- It gave full and nearly unlimited flexibility to AENA to publish and change rosters, including cancelling leave with little or no advance notice.
- Fixed retirement age at 57 years.

This Royal Decree was meant as a temporary measure until a new collective agreement could be reached and was valid for three years.

Needless to say, it created a huge wave of unrest among the controller community in Spain. On average, a controllers' net income dropped overnight by 30 to 50% depending on the amount of overtime he or she performed before. In addition, as also pointed out by IFATCA in a first press release¹³, it wouldn't resolve the structural staff shortage, certainly not in the longer term.

In addition, because of the retirement provisions, it aggravated the staff shortage practically overnight. In Madrid Approach for example 15% of the staff had to retire with immediate effect. This increased the strain on remaining controllers who could now be forced to work consecutive shifts as AENA saw fit.

ATCOs however had public opinion against them and opted to try and negotiate with AENA on the practical implementation of the decree.

Royal Decree #2¹⁴ & compromise

Over the following months, USCA and AENA continued negotiation on 12 points. Those points were all of professional nature: revision of the working hours, following international practices and standards, stopping the stand-by duties system, earlier advance notice for duty changes, re-installation of the 57 years old controllers, and independent re-calculations of the sector capacities through the involvement of international bodies like ICAO, Eurocontrol and IATA.

While these negotiations were on-going, the strain on the controllers increased: the shortage created by sudden retirement caused remaining controllers to work harder and longer. More sickness resulted, which put even more strain on the healthy ones etc. Following the royal decree the ATCOs were in some facilities forced to work up to 60-80 hours with sometimes 3 shifts in 2 days with rest periods of less than 6 hours in between two shifts. Many ATCOs did not have the possibility to have an adequate family and social life, as AENA Human resources (not used to doing the roster) had to call them (with the menace of sanction if not followed) to work to make up for the rostering errors.

In August 2010, USCA issued a ballot to its members. 98% of the controllers responded and 92% voted in favour of a strike on August 2nd. During a major press event on August 4th, rather than immediately announcing a strike in peak season, USCA requested the government to mediate. Talks started on the same day, but less than 2 days later, AENA left the negotiations, stating that USCA "did not want to compromise".

At the same time, Royal Decree 1001/2010 was published. It refined the first one, defining maximum working time for controllers independent of the provider they work for.

Major points in this new decree included:

- 1670 hours working time per year plus 80 hours mandatory overtime at the complete discretion of AENA.
- Defined start and end times of shifts.
- Defined break times and standby duties.
- Allowance for deviations from the above in unforeseen circumstances, provided this was agreed by the regulator.

Already predicted earlier, this new maximum defined number of hours would not be sufficient to cover the year. Despite warnings, including again by IFATCA¹⁵, AENA firmly believed it would be enough¹⁶ and persisted.

Talks resumed and a pre-agreement was reached on 14th August 2010. Some more practicable arrangements for extra duties and short notice changes were agreed. Sector capacities would be reviewed by Eurocontrol specialists and older controllers would remain with the company albeit in non-operational duties.

On 19th August 2010 the majority of the USCA membership accepted the pre-agreement, though not with great enthusiasm. Talks were also continuing with the aim of reaching a final collective agreement by December 2010.

Crisis

As predicted, at the beginning of December, controllers started to exceed the maximum number of hours defined in the Royal Decrees (and could therefore no longer be scheduled). AENA and the Spanish government announced a clarification of the Royal Decree: the maximum number of hours would not include sickness days, special leave, training courses, etc. In addition, they planned to raise the maximum number of hours from the previous 1670 to 1844. As controllers increasingly raised questions about their ability to fulfil these new requirements, AENA systematically started closing the various airspace affected.

Government reaction: more Royal Decrees

Seemingly making good on earlier plans/threats, the government passed two Royal Decrees: one (RD 1611/2010¹⁷) allows military controllers to take over civil positions where needed.

The second one (RD 1673/2010¹⁸) declared a State of Alarm, arguing that an essential service to the Spanish population was being denied and effectively commandeering civil controllers to work: they were placed under military supervision (by the Ministry of Defence) and were told¹⁹ that failing to obey military commands would result in disciplinary or penal punishment under the military penal code.

There are suggestions that the use of the State of Alarm in these circumstances is unconstitutional, as the law actually excludes its use in times of social conflict²⁰.

Political consideration

The decision to change the current royal decree was taken ahead of a long holiday break. It affected in majority, Spanish travellers, therefore limiting the impact on income and the tourism industry; and it created a complete hostile climate against the air traffic controllers.

The declaration of the State of Alarm has been taken on board by the opposition parties as an arm to attack the current government (see El Pais 6.12.2010) due to the fact that the state of alarm was not introduced as foreseen by the constitution.

Strike? Walk-out? Neither!

The air traffic controllers on duty on December 3rd received an advance copy of a new royal decree, which radically altered conditions again. Many of them were so upset, that continuing to work would have been irresponsible. As required by AENA procedure, they handed in a declaration of unfitness to the supervisors. In Madrid ACC, the local AENA Management, against the advice of the operational supervisors, took the decision to close the airspace, after having tried to manage the traffic themselves. The ATCOs remained in the facilities until the end of their shifts.

Safety Compromised

The air traffic controllers, already strained by months of very tense relations with their employer, are now being forced to perform a safety critical function in completely new circumstances and with a very uncertain outlook of what will happen next.

We were informed of at least 2 stories of controllers suffering nervous breakdowns while on position. In one case, it appears to have caused a number of go-arounds (aborted landings). Others talk of controllers working under the influence of medicines (even tranquilizers). Controllers are afraid of repercussions (court martial) if they report sick. Safety is clearly compromised because of the situation AENA and the Spanish government have elicited.

USCA has made a proposal, which could resolve the current deadlock, which includes a freeze of the remuneration budget for the next 3 years. AENA's reaction to this is unclear at the moment. It appears unlikely though that any sort of working relation between air traffic controllers and the company can be restored to a normal level any time soon.

For additional information, consult our IFATCA website at <http://www.ifatca.org>, check out our Forum pages or visit the blog at <http://spain.atczone.com>

For specific questions, contact the Executive Vice-President Europe by e-mail: evpeur@ifatca.org

¹ The first Royal Decree (1/2010: <http://boe.es/boe/dias/2010/02/05-2/pdfs/BOE-A-2010-1916.pdf>) states in its rationale that, without overtime, the capacity on the mainland would have to be reduced by 40% and by 50% on the islands.

² <http://www.nytimes.com/2006/10/16/arts/16arts.html>

³ <http://europeforvisitors.com/europe/news/spain-barcelona-airport-terminal-t1.htm>

⁴ <http://www.euroweeklynews.com/news/costa-blanca-south/exemplary-services-at-el-altet.html>

⁵ <http://www.airport-technology.com/projects/malaga/>

⁶ Eurocontrol PPR page A-1:
http://www.eurocontrol.int/prc/gallery/content/public/Docs/PRR_2009.pdf

⁷ Consolidated Financial Statements – Aena Annual report 2009 – page 351:
http://www.aena.es/csee/ccurl/412/550/infoLegal_cuentas%202009_EN.pdf

⁸ The first Royal Decree states that the average wage of an Aena Air Traffic Controller is 305,000 Euro. This appears to be cost to Aena, i.e. before taxes. The net, basic salary (i.e. without allowances) according to USCA is between 42,000 euro (small tower controller) to 90,000 euro (senior controller ACC). The latter is roughly average among European service providers. As indicated in the main text, endorsed by Aena for years, controllers were able to roughly double this by working overtime.

⁹ Consolidated Financial Statements – Aena Annual report 2009 – page 293:
http://www.aena.es/csee/ccurl/412/550/infoLegal_cuentas%202009_EN.pdf

¹⁰ Consolidated Financial Statements – Aena Annual report 2009 – page 342:
http://www.aena.es/csee/ccurl/412/550/infoLegal_cuentas%202009_EN.pdf

¹¹ Similar press campaign took place recently in Ireland and the Netherlands. It is submitted that service provider management has started applying this tactic in a systemic way.

¹² RD 1/2010: <http://boe.es/boe/dias/2010/02/05-2/pdfs/BOE-A-2010-1916.pdf>

¹³ First IFATCA Press Release 06 February 2010: <http://www.ifatca.org/press/060210.pdf>

¹⁴ RD 1001/2010: <http://boe.es/boe/dias/2010/08/06/pdfs/BOE-A-2010-12620.pdf>

¹⁵ Second IFATCA Press Release 27 July 2010: <http://www.ifatca.org/press/270710.pdf>

¹⁶ Aena boss explaining 1670 hours will be enough:
<http://www.youtube.com/watch?v=OM4TC0XcPIQ>

¹⁷ RD 1611/2010: <http://boe.es/boe/dias/2010/12/04-1/pdfs/BOE-A-2010-18652.pdf>

¹⁸ RD 1673/2010: <http://boe.es/boe/dias/2010/12/04-2/pdfs/BOE-A-2010-18683.pdf>

¹⁹ Letter sent to controllers: <http://spain.atczone.com/?p=7>

²⁰ http://spain.atczone.com/wp-content/uploads/2010/12/Spain_stateAlarm.pdf