

LA INSPECCIÓN EDUCATIVA ANTE IRREGULARIDADES EN CENTRO PRIVADO EXTRANJERO

THE EDUCATIONAL INSPECTION OF IRREGULARITIES IN A FOREIGN PRIVATE CENTER

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Resumen

El caso práctico que se presenta está vinculado de manera directa con las funciones que lleva a cabo el Servicio de Inspección Educativa en el ámbito de supervisión de los centros extranjeros que imparten enseñanzas propias de diferentes sistemas educativos y enseñanzas del sistema educativo español.

En la práctica diaria de las actuaciones que acomete el inspector los centros extranjeros, quedan sometidos al control de las condiciones mínimas en base a las cuales, han sido autorizados como centros docentes en el ámbito de la Administración educativa de la comunidad autónoma en la cual se ubiquen y por tanto deberán cumplir con los preceptos normativos que la misma ha dictado.

Palabras clave: *Inspección de educación, educación obligatoria, visita de inspección, informes de inspección, derecho a la educación, centros extranjeros.*

Abstract

The practical case presented is directly linked to the functions carried out by the Educational Inspection Service in the field of supervision of foreign centers that teach different educational systems and teachings of the Spanish educational system.

In the daily practice of the actions undertaken by the Inspector, foreign schools are subject to the control of the minimum conditions based on which they have been authorized as educational centers within the scope of the educational administration of the autonomous community in which they are located and therefore must comply with the normative precepts that it has dictated.

Keywords: *Education inspection, compulsory education, inspection visit, inspection reports, right to education, foreign centers.*

INTRODUCTION

The action carried out in this practical case is based on the request for a Report to the Educational Inspection Service of the Director of Territorial Area through the administrative regulatory channels (Internal Note), about the conditions in which the new Foreign Private Educational Center XXXXXXXX, has been teaching since September 2022.

As established by Organic Law 8/1985, of July 3, regulating the Right to Education, establishes in its article 12, paragraph 2, (...) foreign centers in Spain will comply with what the Government determines by regulation. In application of this legal mandate, the legal regime of those centers that, regardless of the nationality of their owner, are characterized by teaching in Spain of non-university levels, corresponding to educational systems of other countries, is framed.

In this practical case and collation of the application received, it is intended to reflect a double objective:

- Inform the Director of Territorial Area about the operation of the center.
- Ensure that the rights of students and families are being respected.

Given the casuistry in which we find ourselves, the inspector who subscribes to this practical case, will take the opportunity to supervise the documentation required by the standard in the case of the supervision of the conditions of qualification of the teaching staff, the facilities of the center, the number of school places and the ratio of students per teacher.

As can be seen it is a practical case in which a report is requested from the Inspectorate of Education regarding the extremes marked by Royal Decree 806/1993, of May 28, on the regime of foreign educational centers in Spain which enables the Inspection of the different Spanish educational

administrations to carry out the actions he appropriate actions for the supervision of the centers.

The supervision of foreign centers is one of the tasks of the Educational Inspection Service that must be carried out within the framework of the action Supervision of the organization of centers Aa01Conditions foreseen in authorization collected in the *RESOLUTION of August 10, 2022, of the vice- Council of Government Ministry of Educational Organization, by which approves the Annual Plan of Action of the Educational Inspection for the course 2022-2023 for the field of the Community of Madrid.*

1. JUSTIFICATION

As established in Royal Decree 806/1993, of May 28, 1993, on the regime of foreign educational centers in Spain, foreign centers are classified as follows:

1. Centers which impart regulated teachings of levels equivalent to the compulsory levels of the educational system and which, in turn, may be:

a) Centers in which studies of a foreign educational system, teachings of Spanish language and culture and, where appropriate, teachings of the languages of the autonomous communities are studied.

b) Centers in which studies of a foreign educational system are exclusively studied.

2. Centers that provide regulated education equivalent to non-compulsory levels of the Spanish education system.

The educational center in which this practical case is developed, corresponds to the first group of centers, and therefore is subject to the supervision of the educational inspection, as stated in RD 806/93 in its article 9: "Foreign centers in Spain will be subject to the inspection of the corresponding Spanish educational Administrations, with regard to compliance with the provisions of articles 5, 6, 11, 12 and 16 of this Royal Decree, without prejudice to their inspection by the authorities of the respective countries".

Therefore, the Inspector of Education is fully competent to carry out the supervision of the conditions under which the educational activity is being developed, without forgetting that we are dealing with a privately owned center.

On March 21, Order 123/23 of March 20 of the vice-president, counselor of Education and Universities, was published, authorizing the XXXXXXXX Foreign Teaching Center. On April 13, this inspector received a Note from the Director of the Territorial Area requesting information regarding the opening and operation of this center.

2. REPORT

The undersigned inspector, in response to the request of the competent body, issues the following report:

Date: Madrid, April 16, 2023.

Originating Unit: Educational Inspection Service.

Subject: Irregularities of the Private Foreign Center XXXXXXXX.

Addressee: Territorial Area Director.

Ms. Silvia Santos Mariscal, Education Inspector of the Directorate of the Territorial Area of Madrid-North, in relation to the above-mentioned matter:

R E P O R T S

1. STATEMENT OF FACTS

First. - On April 13, 2023, the inspector received a Note from the Director of the Madrid Territorial Area in which she requested a report from the Inspection Service in relation to the opening and operation of the new foreign center XXXXXXXX.

Second. - On April 18, a visit was made to the center in order to verify in situ each of the conditions on which the Inspection Service had been requested to pronounce. During said visit, a meeting was held with the director of the center, the documentation in the center was supervised and the conditions established in the Authorization Order were reviewed.

Third. - The minutes of said visit were taken on April 18, 2023, signed by the undersigned inspector, and are attached to this Report as Annex I.

2. APPLICABLE REGULATION

The following normative references are applicable to the case at hand:

- Organic Law 2/2006, of May 3, on Education, as amended by Organic Law 3/2020, of December 29, amending Organic Law 2/2006, of May 3, on Education.
- Royal Decree 806/1993, of May 28, 1993, on the regime of foreign educational centers in Spain.

- Decree 19/2010, of March 25, 2010, of the Council of Government, which regulates the administrative procedure for the authorization of private educational centers to provide regulated non-university education.

- Order 732/2021, of March 24, of the Regional Ministry of Education and Youth, which develops Decree 61/2019, of July 9, of the Council of Government, which regulates the organization, structure, and operation of the Educational Inspection of the Community of Madrid,

- Order XXXXX, of March X, of the vice-president, councilor of Education and Universities, of authorization of the foreign teaching center XXXXXXXXX (Madrid).

- Order 130/2023, of January 23rd, of the vice-presidency, Regional Ministry of Education and Universities, regulating aspects of organization and operation, evaluation, and pedagogical autonomy in the Primary Education stage in the Community of Madrid.

3. ACTIONS

First. - As a previous action to the Inspection visit, it seems appropriate to analyze the Authorization Order for the start-up of the foreign educational center XXXXXXXXX in order to collect, know and compare the information gathered during the visit.

From the Order of authorization of the center, it should be pointed out that the teachings to be taught, corresponding to the U.S. educational system, are:

- Pre-school from 3 to 6 years old for a maximum of 10 school places.
- Elementary from 6 to 12 years old for a maximum of 15 school places.

Second. - On April 18, a visit to the center is carried out within the framework of the usual action Supervision of the organization of centers

Aa01Conditions foreseen in authorization contained in the RESOLUTION of August 10, 2022, of the vice-ministry of Educational Organization, which approves the Annual Plan of Action of the Educational Inspection for the 2022-2023 academic year, detecting the following irregularities.

2.1. - In relation to the qualifications of the teaching staff:

The qualifications of the teachers who are teaching at the center are requested, and the director shows the qualifications of the 3 teachers who are currently teaching at the center:

- XXXXX: Early Childhood Education Teacher and Degree in Psychopedagogy. She is the pedagogical coordinator.

- XXXXX: Bachelor's Degree in Journalism, and Master's Degree in Teacher Training for Compulsory Secondary Education and Baccalaureate, Vocational Training and Language Teaching.

- XXXXX: Teacher in Primary Education.

2.2. – Regarding the number of school places, the Authorization Order details that the school has obtained authorization in the NEASC accreditation process for the following categories:

a) Pre-School for a maximum of 10 students from 3 to 6 years old.

b) Elementary for a maximum of 15 students from 6 to 12 years old.

According to the director, there are currently 12 students enrolled in the center. There are only 8 students during the visit. They are not distributed in classrooms, nor are there any signs indicating age-differentiated classrooms. All students are placed in a single mixed group of students from 6 to 12 years old.

When asked about the subjects taught in this group, the director mentions that they teach the Castilian Curriculum outlined in Decree 61/22, with 50% of the schedule dedicated to the Foreign Language taught by Professor S.P.J., who holds a degree in Journalism.

The director explains that they follow the curriculum established for the Community of Madrid, as it is competency-based, and they offer subjects from that curriculum in a Foreign Language as part of their bilingual center approach. She adds that the New England Association of Schools and Colleges (NEASC) does not require them to have an American cultural curriculum, but they will be asked about this topic during a second visit by NEASC agents in May. The inspector emphasizes that as an American foreign school, they should promote content and culture specific to the United States, to which the director expresses surprise and states that they do not have any students of American nationality or dual citizenship.

She details the origin of the students: 2 come from a public center close to the area, 2 come from a private center in a nearby town, and the rest are from the town itself, with no American students, nor with dual nationality. Upon requesting the academic certification for the transfer of the students, the director comments that the centers have not sent them to her. The director is told that she must urgently request this certification and inform the Educational Inspection Service of the receipt of the same.

The inspector asks if the center celebrates American holidays, or if the center promotes the knowledge of the culture and the principal comments that they follow the Spanish calendar and holidays and that they only have one British student.

She also asks about the motivation for requesting authorization as a foreign center if there is no family with dual nationality and no American content or curriculum is taught, and the director states that the motivation has been "purely economic, since it was cheaper to request this authorization than to do it as a Spanish center".

She comments that the pedagogical activity developed in the center is much more adapted to that of the United States based on active pedagogies, work without books, by projects... She states that the ownership of the center belongs to the Group of families of the Locality and

that their intention is to move to another area when the demand of students of the center grows, to cover later stages such as Secondary School.

2.3. - Regarding the data communicated to the Educational Inspection Service, the importance of communicating student data through the computer application for the management of private schools SICEP is emphasized to the principal. The principal comments that she has the access codes, but that until now "she has been very lazy to fill it out". She is asked why the school does not have a sign identifying it as a school, nor signs to facilitate access. The school is in the chalet of a housing development in the town of XXXXXXXX, on the outskirts of the town, making it difficult to locate. In this sense, the director comments that for them the issue of identification as an educational center is "superfluous".

She was told that she was obliged to submit the Center Organization Document (DOC) to the Educational Inspection Service as soon as possible. The director states that "I think I remember that this document was already provided to the Administration when she requested the authorization of the center". She is informed that the DOC must be completed following the model established for foreign centers that teach kindergarten and primary education. It is also indicated that it must be sent to the SIE by electronic registration, completed and signed, and that the original DOC must be kept in paper format, with the corresponding signatures and to which any possible modifications that may occur during the course will be attached. This document will be at the disposal of the Inspector of the center.

On April 19, 2023, a written request is made to the Head of the center so that, within 10 days, the Educational Inspection Service is provided with the Document of Organization of Centers requested in the visit.

2.4. - Regarding the center's facilities, it is in a chalet in an urbanization that is difficult to access and is not identified as an educational center. The

locality in which it is located belongs to a rural area that has 2 schools of Infant and Primary Education of Public ownership and an institute of Compulsory Secondary Education that has a diversified and sufficient supply of school places giving response to the needs of schooling in the area.

The site where the XXXXXXXX educational center is located consists of a double elevated house with a garden area. On the first floor of the same, are located the rooms enabled as classrooms, and at the top a space called "The workspace converges" in which parents who want to are doing their working day in teleworking mode. And this space can also be found on the website.

The XXXXXXXX center is a workspace where the families of our students can work, facilitating work and family reconciliation. This space will allow us to work hand in hand with the family and school, allowing their continuous participation in the daily life of the center. The room has Internet connection and availability of computer equipment.

The director comments that there are some parents who use this space and they do not interfere with the daily operation of the center, although this is not what was observed during the visit. There are parents who come in and out of the working area and can go downstairs to see what their children are doing. Additionally, it should be noted that during the visit to the center, at the first moment of knocking on the door of the center, the person in charge of attending to the inspector is a mother who was working in the upper part of the chalet and who identifies herself as the mother of one of the students at the center. Likewise, the upper area (space for parents) and the lower area (classrooms) are connected through the open staircase and accessible to anyone who is in the room working and with total freedom of movement throughout the premises.

During the visit to the facilities, we found a student alone in the psychomotor skills room without adult supervision and 3 students in the outdoor sandbox area of the playground without supervision or supervision.

The inspector warns of the presence of a well in the playground and the danger of the same. The principal points out that it is sealed with a padlock. In addition, during the tour of the facilities, deteriorated areas, broken curbs, and material in poor condition were observed, which could be a potential danger to students, especially when the school encourages them to take off their sneakers and walk barefoot in the playground.

2.5. - Concerning the center's timetable, the director states that the students are at the center from 9:30 a.m. until 4:00 p.m., but there are many who go home for lunch and do not return in the afternoon, and therefore only work in the morning.

2.6.- In relation to the information provided to the families of the center, the Order by which authorization is granted to the center indicates that:

Regarding the possible homologation and validation of degrees and studies, the owner of the center must provide truthful and sufficient information to the families of the enrolled students. Likewise, the owner of the center must keep them adequately informed by means of a system that allows for a reliable record and can be accredited before the Educational Administration if the latter should so require.

On the center's website, it is not listed as a foreign center but as a center that "is inspired by active pedagogies that share freedom, experience, integration and respect for the times, evolutionary stages and interests of children, as well as for their physical and emotional well-being, as a basis for learning and teaching".

4. ASSESSMENTS AND CONCLUSIONS

First. - In relation to the qualifications of the teaching staff of the center, the Organic Law 2/2006, of May 3, on Education, modified by

Organic Law 3/2020, of December 29, establishes in article 93, Primary Education Teaching Staff.

1. In order to teach primary education, it shall be necessary to have the degree of Primary Education Teacher or the equivalent degree, without prejudice to the qualification of other university degrees that, for teaching purposes, may be established by the Government for certain areas, after consulting the autonomous communities.

2. Primary education shall be taught by teachers, who shall have competence in all areas of this level. The teaching of music, physical education, foreign languages, or such other teaching as may be determined by the Government, after consultation with the autonomous communities, shall be taught by teachers with the corresponding specialization or qualification.

From the analysis of the qualifications of the teaching staff it can be concluded that XXXX: Bachelor's Degree in Journalism with a Master's Degree in Teacher Training for Compulsory Secondary Education and Baccalaureate, and Vocational Training and Language Teaching does not meet the qualification requirements for teaching at the Primary Education stage.

Second. - Regarding the teachings that are being taught and for which the XXXXXXXXX center has been authorized, it should be noted that it is not in accordance with the provisions of the authorization, it does not work, nor does it promote American culture, nor is it linked to it, since there are no students or families with this nationality.

Third. - During the visit to the center, it was found that the facilities are deteriorated, there is potentially dangerous material for the students, such as raised tiles in bad condition, unprotected stairs, old facilities, as well as scarce fungible teaching material.

The center lacks a blackboard, chalk, sheets, posters, erasable markers, felt-tip pens, etc. It does not have computerized material: projectors, tablets, learning software, audiovisual sequences, online

encyclopedias, etc. There is only one laptop shared by teachers and students.

It has not been possible to verify what type of pedagogical material is used to work with the Spanish language, since the students do not have a support textbook, worksheets, or written work in each of the areas. There is no scientific laboratory material, experimental practices, innovation, research, and experimentation.

Fourth. - Regarding the data provided to the Administration, Decree 19/2010, of March 25, 2010, of the Council of Government, which regulates the administrative procedure for the authorization of private educational centers to provide regulated non-university education, establishes in the first additional provision:

1. Private schools must use the computer systems developed by the Educational Administration to provide the data to which the latter must have access for the exercise of its functions within the scope of its competences. 2.

2. All private schools shall provide the Educational Administration with the following information, duly updated, through the authorized computer systems:

a) The information necessary for the exercise of the functions of supervision, evaluation and control that correspond to the educational administration in accordance with the regulations in force regarding the educational centers, programs, and activities. This information will include the "nominal list of the students enrolled in the center, distributed by classes, courses and, where appropriate, groups, the general timetable of the center, that of each of the groups of students and teachers, the pedagogical tables and the information necessary to verify that the center meets the requirements of space and facilities, as well as staff, established in the current regulations for its operation (...)".

The XXXXXXXX center, in operation since September 2022, at the date of issuance of the report, has not completed the data requested in the computerized student management platform for private centers SICEP.

Fifth. - Regarding the requirement of the DOC as established in article 17, section 6 of ORDER 732/2021, of March 24, of the Regional Ministry of Education and Youth, which develops Decree 61/2019, of July 9, of the Council of Government, which regulates the organization, structure and operation of the Educational Inspection of the Community of Madrid, the failure to comply with the requirement carried out to the center on April 18 has not been executed and therefore may generate the consequent legal liability.

In the DOC, there should appear data identifying the center, facilities, timetable of the subjects (referring to Spanish language and Geography and History) data of the students' schooling, etc. None of these aspects could be certified through the documentation available at the Inspection Service.

Sixth. - Regarding the academic documentation of the students in the center, Order 130/23 in article 28. Student mobility states that: "In the case of transfer of the student to centers in Spain or abroad that do not offer the teachings of Primary Education of the Spanish educational system, in order to facilitate the incorporation to equivalent teachings, the center of origin will issue an academic certification of the years studied by the student, in which the reference to the norm that regulates the academic organization of the stage is stated. The model of academic certification is the one established in Annex XII of this order". It has been verified that the educational center does not have academic documentation of the students that allows to identify and facilitate their incorporation to the equivalent teachings that they are studying, without establishing the level in which each one of them is enrolled.

Seventh. - In relation to the information that is being provided to the families, the undersigned Inspector has not been able to confirm that the

families have been informed that the XXXXXXXX center is a foreign center that teaches in the American educational system, but that it is teaching the curriculum of the Community of Madrid, which could cause confusion in the families.

CONCLUSION

During the visit to the center carried out on April 18, 2023, the following points were verified:

First. - The personnel that attends to the students of the center does not meet the requirements of Qualification of the teaching staff.

Second. - In the facilities visited in which the center is located there are serious and dangerous deficiencies.

Third. - There is no evidence that the teachings for which they have been authorized are being taught.

Fourth. - The necessary information has not been provided through the computerized means available for the Educational Inspection Service to carry out its functions.

Fifth. - The requested Documents (DOC) have not been transferred to the Inspection Service and therefore it has not been possible to verify the schooling data of the students, who do not appear as enrolled in any educational center.

Sixth. - There is no supporting documentation (transfer certificates) that guarantees that the mobility and transfer of the students has been carried out in accordance with the regulations.

In view of the above, and as stated in article 16 of Decree 19/10 of March 25, of the Council of Government, which regulates the administrative procedure for the authorization of private educational centers to provide regulated non-university education, the Administration will proceed to revoke the authorization in the following cases:

(a) When the center does not meet any of the minimum requirements of facilities or number or qualifications of the teaching staff established in

the corresponding regulations or does not respect the maximum number of school places for which it obtained authorization.

b) When the teachings for which the center was authorized are not imparted in accordance with the corresponding programs and study plans and subject to the norms of academic organization.

On the other hand, Order 732/2021, of March 24, of the Regional Ministry of Education and Youth, which develops Decree 61/2019, of July 9, of the Council of Government, which regulates the organization, structure and operation of the Educational Inspection of the Community of Madrid, includes in its article 2 the following:

1. The Educational Inspection shall be carried out on all the elements and aspects of the educational system and, therefore, on the private centers that provide teachings of the Spanish Educational System such as the types of foreign centers that receive students of different nationalities and Spanish nationality.

2. The Educational Inspection must ensure compliance with the regulations, guarantee the rights and the observance of the duties of the members of the educational community, contributing to the quality and equity of education and to the improvement of the educational system. article 3 of the same Order 732/2021, of March 24, specifies the functions, attributions, and actions of the Educational Inspectorate.

1. The functions of the Educational Inspection of the Community of Madrid are the following:

a) To supervise, evaluate and control, from a pedagogical and organizational point of view, the operation of educational centers, as well as the projects and programs they develop, with respect for their framework of autonomy.

b) To supervise the teaching practice, the directive function and to collaborate in its continuous improvement.

c) To participate in the evaluation of the educational system and its components.

d) To ensure compliance, in educational centers, with the laws, regulations and other provisions in force that affect the educational system.

e) To watch over the fulfillment and application of the principles and values contained in the laws, including those destined to promote real equality between men and women.

f) To advise, guide and inform the different sectors of the educational community in the exercise of their rights and in the fulfillment of their obligations.

g) To issue the reports requested by the respective educational Administrations or that are derived from the knowledge of the reality proper of the educational inspection, through the regulatory channels.

The undersigned inspector, throughout the visit to the center, as well as the analysis of the information gathered up to the date of issuance of the Report, has been able to verify an irregular situation in relation to the conditions in which the XXXXXXXXX educational center is providing the teachings for which the center has been authorized and for all of the above mentioned reasons.

Education is a right that needs a fair budget; with appropriate facilities, designed to allow the mobility of students with special limitations; with centers equipped with the necessary resources, with an educational planning and intentionality that allows the maximum personal development of the students; it also needs for this a teaching work under professionals, trained, prepared, and updated for their performance.

The undersigned inspector, from the analysis of the supervised documents, and the findings of the visit carried out, can consider that the education being provided in the foreign educational center lacks the essential conditions on which a quality education must be based, and for all of the above mentioned reasons:

IT IS PROPOSED

To transfer to the Directorate General for Subsidized Education, Scholarships and Study Aids the assessment of initiating a REVOCATION PROCEDURE of the authorization of the Private Foreign Center XXXXXXXX in XXXXXXXX, given that the deficiencies detected are irremediable, and are due to the inability of the center for the proper educational and child protection exercise.

In order not to harm the rights of the students, it is proposed to maintain schooling in the center until the end date of the same in June 2023, as well as the transfer of the same to the local schooling support services in order to offer a school place for the 2023/24 school year in a public school in the locality to all students affected by the possible revocation and closure of the foreign school..

In XXXXXXXXX, on the date of digital signature

V° B°

The chief inspector of district X

The education inspector

S.D.: XXXXXXXXXXXXXXXXXXXXX

S.D.: Silvia Santos Mariscal