

CASO PRÁCTICO: AUTORIZACIÓN DE UN NUEVO CENTRO PRIVADO DE FORMACIÓN PROFESIONAL Y SOLICITUD DE CONCIERTO EDUCATIVO.

CASE STUDY: AUTHORISATION OF A NEW PRIVATE VOCATIONAL TRAINING CENTRE AND APPLICATION FOR EDUCATIONAL AGREEMENT.

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Resumen

Se describen las actuaciones realizadas por el Servicio de Inspección de Educación ante la solicitud de autorización de un nuevo centro privado de Formación Profesional y la solicitud de concierto educativo para algunas de las enseñanzas que pretenden impartir. Se enumera el proceso llevado a cabo para informar la solicitud de autorización de enseñanzas, la petición de concierto educativo y la contestación a las alegaciones presentadas por la titularidad.

Palabras clave: *Centro privados, centros privados concertados, conciertos educativos, Formación Profesional, autorización de centros educativos.*

Abstract

The actions carried out by the Education Inspection Service are described in response to the request for authorization of a new private Vocational Training center and the application for an educational agreement for some of the courses they intend to offer. The process undertaken to report on the authorization request for the courses, the educational agreement petition, and the response to the allegations submitted by the ownership is outlined.

Keywords: *Private school, State-subsidized private schools / Charter schools, Public funding agreements, Vocational Education and Training (VET), Authorization of educational institutions.*

1.- INTRODUCTION

The case study presented here is based on several actions carried out by the Education Inspection Service in relation to a private VET school that wants to start its activities in the following school year. First of all, they submitted an application for the authorisation of the centre and of several Basic, Intermediate and Higher-Level Training Cycles, linked to the activities of exploitation of the rural environment. In this application, they have already expressed their wish to be covered by the system of educational subsidies. While this procedure is being processed, and coinciding with the open period for the request for the subscription of educational subsidies in Vocational Training, they submit an application for the subsidy of one Basic Level Training Cycle and three Intermediate Level Training Cycles. In this case, we describe the actions carried out in both procedures and conclude with the report issued in response to the allegations presented by the school owners.

Subsidised private education has always been very important in our country, currently accounting for 30% of the students enrolled in our education system. For the 2023/2024 academic year, of the total of 8,332,274 students enrolled in our education system, 5,571,517 (66.9%) were enrolled in public schools, 2,044,247 (24.5%) in subsidised private schools and 716,510 (8.6%) in non-subsidised private schools (source, Educabase, MEFP). According to Eurostat data, this is one of the highest percentages of this type of education in the European Union, along with Belgium and Malta.

In Spain, the current system of subsidised private education stems from article 27 of the Spanish Constitution, although it already had a tradition in earlier times. This article 27, included in Chapter Two, Rights and Freedoms, section 1, dedicated to fundamental rights and public freedoms, is especially protected for

its reform in the Constitutional text itself, which indicates the special importance given to it by the constituents.

In the precept, together with the recognition of the right to education, freedom of teaching and the compulsory and free nature of basic education, there are two fundamental points for the establishment of subsidised private education. Specifically, 27.6, which "recognises the freedom of individuals and legal entities to create educational centres, while respecting constitutional principles", and 27.9, which states that "the public authorities will help educational centres that meet the requirements established by law".

In development of the fundamental right to education, Organic Law 8/1985 of 3 July 1985, regulating the Right to Education, was enacted.

In its original wording of article 10, before being repealed by Organic Law 10/2002, of 23 December, on the Quality of Education, it established the duality of educational centres in our education system. It states that:

- "1. Educational centres may be public or private.
2. Public schools are those owned by a public authority. Private schools are those owned by a private natural or legal person.
3. Private centres supported with public funds shall be known as subsidised private centres and, without prejudice to the provisions of this title, they shall comply with the provisions of title four of this act".

At present, the typology of educational centres is regulated in Chapter I of Organic Law 2/2006, of 3 May, on Education, in the wording given by Organic Law 3/2020, of 29 December, which modifies Organic Law 2/2006, of 3 May, on Education.

Article 108 maintains the distinction between public and private schools, depending on their ownership, making it clear that both provide the public service of education. Thus, it indicates that "private schools are those whose owner is a private natural or legal person, and subsidised private schools are those private schools covered by the legally established system of subsidies".

In article 109, within the programming of the network of centres, both types of centres are taken into account, always bearing in mind the need for administrative authorisation of the subsidised private centres and the principle of economy and efficiency in the use of public resources.

Chapter IV of this Organic Law, which we will mention in depth later on, regulates subsidised private centres and educational subsidies. It should be pointed out that the government is given the power to establish the basic aspects to which the subsidies must be subject, such as the requirements to be met by the centres, the application procedure and the duration of the subsidy. Specifically, the educational subsidy will have a minimum duration of six years in the case of primary education, and four years in all other cases.

The Autonomous Communities are given the power to dictate the necessary rules for the development of the system of educational subsidies, always taking into account what is regulated in the basic State regulation.

It is this set of rules that must be taken into account in order to resolve the case before us.

2.- FACTS AND BACKGROUND

In December 2024, the owner submitted an application for authorisation to open and operate a newly created Vocational Training Centre. The application for authorisation was accompanied by an explanatory report on the new centre, as well as various technical documentation on the spaces available to teach the courses for which authorisation was requested and subsidies with various entities for the use of spaces and facilities.

The requested teachings, related to the rural world and its use, are grouped into three professional families: agriculture, transport and maintenance of vehicles and physical and sporting activities, and cover basic, intermediate and advanced cycles.

In the application form, they already state their intention to apply to the system of educational subsidy in those teachings susceptible of being subsidised according to the current legislation.

After supervising the documentation submitted, the applicable regulations in force were analysed in order to inform the application for authorisation.

Royal Decree 659/2023, of 18 July, which develops the organisation of the Vocational Training System, in article 198 regulates the authorisation of centres, indicating that "1. The authorisation of Vocational Training System centres corresponds to the competent administrations in matters of vocational training, in any of the on-site or virtual modalities and for each of the degrees. This authorisation shall be granted on the basis of compliance with the minimum requirements established in general for the centres of the Vocational Training System and the specific requirements associated with the training offers to be provided...".

Royal Decree 132/2010, of 12 February, which establishes the minimum requirements for centres that teach the second cycle of pre-school education, primary education and secondary education, sets out in article 3 the minimum requirements that their facilities must meet.

Royal Decree 62/2022, of 25 January, on making the requirements for the provision of vocational training leading to certificates of professionalism more flexible, as well as the provision of vocational training in centres of the education system and vocational training for employment, in article 2.1 establishes that "in addition to the requirements established in article 12 bis of Royal Decree 34/2008, of 18 January, which regulates certificates of professionalism, the requirements on training spaces established in article 46 of Royal Decree 1147/2011, of 29 July, which establishes the general organisation of vocational training in the education system, for the provision of certificates of professionalism and other vocational training actions for employment linked to the National Catalogue of Professional Qualifications, shall also be considered sufficient, alternatively". Both regulations are repealed by Royal Decree 659/2023, except for the above-mentioned sections on the requirements of the centres.

Royal Decree 1147/2011, of which only article 46 is in force, establishes the requirements for the centres where vocational training courses of the educational system are taught. Among other technical and space requirements, it states that they must "1.c) Comply with the space requirements established in the royal decrees regulating each qualification or specialisation course and with the equipment established by the education authorities to achieve the learning outcomes of each vocational module".

And in point 3 it states that "the training spaces defined for each training cycle may be used, non-simultaneously, for other training cycles or courses, provided that the required equipment is available".

In all the Royal Decrees mentioned above, it is indicated that the centres must have, in addition to the minimum spaces, the equipment required for the development of the courses and that these are contained in each of the Royal Decrees in which the specific Vocational Training qualification is established.

Royal Decree 332/1992, of 3 April 1992, on authorisations for private educational centres to provide non-university general education, establishes the procedure for authorisations for educational centres. Article 1 states that "1. The opening and operation of private educational centres which provide general education... shall be subject to the principle of administrative authorisation", and that "3. Authorisation shall be granted provided that the centres meet the minimum requirements established...".

Article 5 regulates the presentation and requirements of applications and article 6 establishes that: "1. The application, accompanied by the documentation indicated in the previous article, will be submitted to the Directorate General for Evaluation and Territorial Cooperation, which will issue a mandatory report, which will be preceded by the hearing of the interested party when appropriate in accordance with article 84 of Law 30/1992. In this report, the adequacy of the project of the works for the construction of the centre referred to in article 5.2.g. shall be assessed. In the case of existing facilities, the adequacy of the same, or where appropriate, of the works planned for their refurbishment to the minimum requirements of facilities shall be assessed. The report shall be issued within a maximum period of one month from the date on which the promoter of the centre submitted the application or, where appropriate, completed the documentation referred to in the previous article.

And Article 7 states that: "1. In the event that the existing facilities receive the favourable report referred to in the previous article, the interested party shall submit to the corresponding Provincial Directorate of the Ministry of Education a

list of the staff that the centre will have from the moment it begins its activity, with an indication of their respective qualifications. This list may be replaced by a commitment to provide it before the start of educational activities".

Although administrative authorisation to provide the requested teaching could be subject to the centre's presentation of the list of teaching staff and their qualifications prior to the start of educational activities, this cannot be interpreted in the same way as the minimum equipment, since it must be accredited that this is available before the relevant administrative authorisation can be granted.

In Annex III of each Royal Decree (Section 5.1 of the annexes corresponding to each title for Basic Level Training Cycles) that establishes the title of the courses that the applicant requests authorisation for, with the modification made by Royal Decrees 498, 499, and 500/2024, the requirements for the qualifications of the teaching staff to teach the professional modules that make up the title in privately-owned centres are set out, Annex IV (III in the case of the CFGB) of each Decree issued by the Regional Government of Castilla la Mancha which specifies the curriculum of the same qualification lists the minimum requirements, both in terms of space, which must be assessed by the Technical Unit of the Provincial Delegation, and the minimum equipment which must be available.

In the documentation received, nothing was said with regard to the minimum equipment for the teaching of the training cycles requested, so a report was issued indicating that the owner must accredit that they have it, prior to the authorisation of the courses they are requesting to be able to teach. They were sent, for each training cycle, the regulation that governs it and the minimum requirements established for each one.

In view of the facts described and their assessment in accordance with the regulations in force, the undersigned Inspector issued **an unfavourable** report on

the application for authorisation of the new Vocational Training Centre and the Vocational Training courses requested, as the centre did not have the minimum equipment required by the Decrees that establish the corresponding qualifications, requesting that they complete the documentation sent, having to justify that they have the minimum equipment required prior to the administrative authorisation.

In relation to the teaching staff requirements, the centre does not currently have any teachers who meet the qualification requirements to teach the modules of each of the requested cycles, although the administrative authorisation to teach these courses could be subject to the presentation by the centre of the list of teaching staff and their qualifications prior to the start of educational activities.

During the period established by the Resolution of the Regional Ministry of Education, Culture and Sports, by which the procedure for the subscription, renewal and modification of educational subsidies for the period between the school years 2025/2026 and 2028/2029 for these teachings in Castilla-La Mancha is announced, the owner of the centre submits an application for the subscription of an educational subsidy for one Basic Grade training cycle and three Intermediate Grade training cycles. Once the application has been received, it is assessed to ensure that it complies with the regulations in force.

Organic Law 8/1985, of 3 July 1985, which regulates the Right to Education, created the system of concerts in the development of article 27 of the EC. Although greatly altered by the successive modifications and repeals of articles, it continues to establish, in article 27.3, that "the specific programming of school places at compulsory and free levels must in all cases take into account the existing offer of public and subsidised centres".

Article 116 of Organic Law 2/2006, as amended by Organic Law 3/2020, in its article 116 regulates subsidised private schools, stating that:

"1. Private centres which offer education declared free of charge in this Law and which meet schooling needs, within the framework of the provisions of articles 108 and 109, may benefit from the system of educational subsidies under the terms established by law. Centres that access the system of educational subsidies shall formalise the corresponding agreement with the appropriate educational administration.

2. Among the centres that meet the requirements established in the previous section, preference shall be given to those that serve school populations with unfavourable economic conditions, those that carry out experiences of pedagogical interest for the educational system, those that promote local schooling and those that are constituted and operate under a cooperative system, whose specificity shall be recognised in the corresponding regulations...

6. The Education Administrations may grant preferential subsidies for the teaching of basic level training cycles which, in accordance with the provisions of this Act, the subsidised private compulsory secondary education centres provide for their pupils. Such agreements shall be of a general nature.

7. The subsidy for post-compulsory education shall be of a singular nature".

If we analyse what is stated in these articles in relation to the application submitted, Organic Law 2/2006 itself, in article 3.3, establishes that basic education is made up of primary education, compulsory secondary education and basic training cycles, which are compulsory and free of charge, according to article 4. Furthermore, in article 3.10, it states that basic vocational training cycles will be compulsory and free of charge.

On the other hand, in 3.4 it states that post-compulsory secondary education is made up of the upper secondary education, intermediate vocational training, professional artistic education in music and dance, as well as intermediate plastic arts and design, and intermediate sports education. It is voluntary and nothing is said about it being free of charge.

Therefore, strictly speaking, only free education could be subsidised, which would be the Basic Level Training Cycles in this case. What is more, point 6 indicates that these can be arranged on a preferential and general basis.

In section 7, it indicates that, for post-compulsory education, the subsidy will be of a singular nature.

But it adds that, in addition to complying with the aforementioned requirements, preference will be given to centres that "serve school populations with unfavourable economic conditions, those that carry out experiments of pedagogical interest for the education system, those that promote local schooling and those that are constituted and operate under a cooperative system".

Royal Decree 2377/1985, of 18 December 1985, which approves the Regulations of Basic Rules on Educational Subsidies, in article 5, establishes that: "1. In order to be eligible for the system of subsidies, private centres must fulfil the minimum requirements established in development of article 14 of the organic law regulating the Right to Education, be authorised to provide the teaching which constitutes the object of the subsidy, be subject to the rules established in Title IV of this organic law and assume the obligations derived from the subsidy in the terms established in these regulations".

Article 28 states that "newly created private centres which are to provide basic education and wish to be covered by the system of subsidies shall apply for it at the start of the administrative authorisation procedure. If they do not apply at that time, they may not benefit from the system until five years have elapsed from the date of their authorisation, as established in the fifth additional provision of the organic law regulating the Right to Education".

In the report accompanying the centre's application for authorisation, the owner already indicated its intention to apply to the system of educational subsidies for those courses of study that could be subsidised according to current legislation. However, at the time of the application, it did not yet have the administrative authorisation to teach the courses for which authorisation was requested.

Order 206/2024, of 28 November, of the Regional Ministry of Education, Culture and Sport, which approves the regulatory rules for the signing, renewal and modification of educational subsidies in the autonomous community of Castilla-La Mancha, for the period between the academic years 2025/2026 and 2028/2029 in Pre-school Education, Compulsory Secondary Education, Special Education, Vocational Training and Upper Secondary Education, establishes the bases for the signing of educational subsidies in the community of Castilla-La Mancha.

Article 1 states the purpose of the regulation, which is "the approval of the regulatory rules for the signing, renewal and modification of educational subsidies in the following cases:

- c) Signing, renewing and/or modifying educational subsidies for Basic Vocational Training courses.
- e) Renewing educational subsidies for post-compulsory Vocational Education and Training".

Therefore, it is only permitted to sign subsidies for Basic Vocational Training courses, but not for post-compulsory courses, such as Intermediate Level Cycles, which can only be renewed in cases in which they have already been signed and, in any case, to modify existing subsidies, without increasing the number of units that the centre has been granted, as established in the same regulation. Therefore, it is not possible to sign the subsidy for the requested Intermediate Level Training Cycles.

With regard to the Basic Level Training Cycle subsidy, article 2 of the aforementioned Order states that "private educational centres in Castilla-La Mancha that meet the following requirements may apply for the subscription, renewal and/or modification of educational subsidies:

a) Be authorised, on the date of publication of the annual call for applications, to teach at the educational levels of Pre-school Education, Compulsory Secondary Education, Special Education, Upper Secondary Education or Vocational Training.

b) If they are not authorised on the date indicated in the previous paragraph, they must have submitted an application for authorisation before 31 December of each year and be in a position to obtain authorisation before 15 April of the following year, the date set for the final resolution of each of the annual processes of educational subsidies referred to in Royal Decree 2377/1985, of 18 December, which approves the Regulations on Basic Rules on Educational Subsidies.

The owner's representative submitted an application for authorisation to teach vocational training before the aforementioned date, but it has still not been granted as of 15 April, and both the technical unit and the Inspection Service have requested justification of compliance with the minimum requirements for facilities and the minimum equipment that the centre must have in order to be authorised to teach the courses requested. At this stage of the procedure, it does not meet the necessary conditions to obtain administrative authorisation.

Article 7 of the aforementioned Order 206/2024 establishes the actions to be carried out in the procedure for educational subsidies in the Provincial Delegations of the Regional Ministry of Education, coordinated by the Planning Service, which must obtain, among others, a report from the Education Inspectorate. Its characteristics are listed in point 5:

"The Education Inspection Service shall gather the relevant information in order to draw up a report within ten working days in which the following is stated:

a) The identification data of the centre, indicating the legal configuration of authorised teaching.

b) Information on the educational area in which it is located, with an assessment of the schooling needs attended by the centre and the enrolment data for the school year for which the subsidy is requested, as well as the average ratio of pupils per school unit.

c) Assessment of the socio-economic conditions of the families of the pupils attending the school.

d) Assessment of the educational inclusion measures at centre and classroom level that are being implemented to eliminate the barriers to learning and participation existing in the educational context of the pupils attending the school.

e) Pedagogical experiences carried out.

f) Complementary school activities, complementary services and facilities of the centre.

g) Accreditation and assessment of the promotion of proximity schooling.

h) Any other information deemed of interest for a correct assessment of the application.

The report will end with the express pronouncement of the Head of the Education Inspectorate of the corresponding Provincial Delegation of Education, Culture and Sport".

The Inspector of reference proceeded to issue the corresponding report, including the sections listed above. The emphasis was placed on the Basic Level Training Cycle, as it is the only one that can be arranged.

The aspect on which most emphasis was placed was on determining the schooling needs that could be met by the centre, located in an eminently rural environment and whose economy revolves around activities derived from the primary sector and tourism linked to activities in the environment, as well as showing strong depopulation.

It is true that the training cycles requested are adapted to the training of students in the predominant economic sectors in its area of influence and could promote employability, fixing population. But in the area there is already a supply of other vocational training courses, with low demand and sufficient school places. In the same locality there is an offer of Intermediate Level Cycles and Basic Level education was discontinued some years ago due to lack of demand.

In the province, the few cycles offered in the same professional family have very low ratios, and are in danger of being suppressed.

In view of all of the above and its assessment in accordance with current regulations, the Inspector who drafted the report proposed not to sign the educational subsidy for the Basic Level Cycle of Agricultural Activities requested, both for not having administrative authorisation to provide these courses on the date established in the regulations and for not meeting schooling needs.

In addition, it was reported that the requested Intermediate Level cycles could not be arranged as these teachings could not be eligible for the subscription of new subsidies, in the current school year, according to the applicable regulations in force, given their singular nature.

The Provincial Commission for Educational Subsidies, constituted in accordance with the aforementioned Order, assessed the application and the reports issued, and decided in the same sense as indicated in the inspection report,

as it did not meet schooling needs in the CFGB and the new CFGM subsidy was not the object of the call for applications. The proposal was sent by the Provincial Delegation to the Vice-Ministry of Education, Universities and Research, which issued the corresponding Resolution proposal, against which allegations could be presented within a period of ten working days, before being elevated to final and putting an end to the administrative process.

3.- STUDY OF THE ALLEGATIONS

The owner exercised his right and presented allegations, which we will now analyse and issue the corresponding report.

The undersigned Inspector of Education, in relation to the allegations presented by the owner of the New Vocational Training Centre to the proposal of Provisional Resolution of the procedure announced by Resolution of 27/12/2024, of the Regional Ministry of Education, Culture and Sports, for the subscription, renewal and modification of educational subsidies for the period between the school years 2025/2026 and 2028/2029 in Pre-school Education, Special Education, Compulsory Secondary Education, Vocational Training and Upper Secondary Education in Castilla-La Mancha, hereby informs you that, in relation to the allegations presented by the owner of the New Vocational Training Centre, the following report has been issued.

REPORT

1. DESCRIPTION OF THE FACTS:

1.1. On 14 April 2025, this Inspection Service received a letter of allegations to the Provisional Resolution of the procedure for the subscription of educational subsidies called by Resolution of 27/12/2024, presented by the owner of the new Vocational Training Centre.

1.2. In the aforementioned Provisional Resolution, it is proposed not to subsidise any of the units requested for this centre, which were a Basic Level Training Cycle in Agricultural Activities and three Intermediate Level Training Cycles.

1.3. The Representation does not agree with the Resolution, alleging that:

In relation to the Basic Level Training Cycle in Agricultural Activities, they indicate that the teaching is not implemented in any centre in the province and that its subsidy would complete the educational offer.

They consider that the Administration's decision is not sufficiently reasoned. The only reason given for the rejection is that the requested unit does not meet schooling needs.

Furthermore, they point out that the basic training cycles constitute a part of basic education and that the purpose of the educational subsidies is to guarantee the provision of free compulsory basic education.

They argue that, according to article 21 of Royal Decree 2377/1985, not only private schools which meet schooling needs, but also those which cater for school populations with unfavourable socio-economic conditions or which, meeting any of the above requirements, carry out experiments of pedagogical interest for the education system, will be given preference in order to benefit from the system of subsidies.

They indicate that the locality where the centre is located is classified as "intermediate agricultural" and that the surrounding localities are of "intense depopulation", in which there is no educational offer oriented to the agricultural sector, which is the one with the greatest employability in the area.

They explain that school populations with unfavourable socio-economic conditions, with fewer opportunities, will be attended to and that experiences of pedagogical interest related to green employment in rural areas will be carried out.

They point out that there is no Basic Vocational Training on offer in the locality and that the intermediate level courses are of a completely different professional family.

In addition, they argue, the subsidy would favour the possibility for young people at risk of dropping out of school and exclusion to continue their studies. They consider that this CFGB would help students to continue their studies in a professional sector (agriculture) which is the main driver of the business fabric of the region and is in line with the strategy against depopulation and the maintenance of employment in rural areas in Castilla-La Mancha.

In relation to the proposal not to provide the units of intermediate level training cycles, they recognise that these courses are not included among the courses that can be subsidise, as established in article 1 of Order 206/2024, of 28 November and in the first section of the Resolution of 27/12/2024, but that one of them is not taught in the province, thus completing the educational offer of vocational training and others could have a strong impact on employment and the revitalisation of the area of influence of the centre.

1.4. For all of the above reasons, they request the subsidy for all the aforementioned Vocational Training Cycles.

2. APPLICABLE REGULATIONS:

- Organic Law 8/1985, of 3 July 1985, regulating the Right to Education.
- Organic Law 2/2006, of 3 May, on Education, modified by Organic Law 3/2020, of 29 December.
- Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.
- Royal Decree 2377/1985, of 18 December 1985, approving the Regulations on Basic Rules on Educational Subsidies.

- Order 206/2024, of 28 November, of the Regional Ministry of Education, Culture and Sports, approving the regulatory rules for the subscription, renewal and modification of educational subsidies in the Autonomous Community of Castilla-La Mancha, for the period between the academic years 2025/2026 and 2028/2029 in Pre-school Education, Compulsory Secondary Education, Special Education, Vocational Training and Upper Secondary Education.

3. ASSESSMENT OF THE FACTS IN ACCORDANCE WITH CURRENT LEGISLATION:

Organic Law 2/2006, in the wording given by Organic Law 3/2020, in its article 116 regulates concerts, stating that:

"1. Private centres which offer education declared free of charge in this Law and which meet schooling needs, within the framework of the provisions of articles 108 and 109, may avail themselves of the system of educational subsidies under the terms established by law. Centres that access the system of educational subsidies shall formalise the corresponding agreement with the appropriate educational administration.

2. Among the centres that meet the requirements established in the previous section, preference shall be given to those that serve school populations with unfavourable economic conditions, those that carry out experiences of pedagogical interest for the education system, those that promote local schooling and those that are constituted and operate under a cooperative system, whose specificity shall be recognised in the corresponding regulations.

6. The Education Administrations may grant preferential subsidies for the teaching of basic level training cycles which, in accordance with the provisions of this Act, the private grant-aided compulsory secondary education centres provide for their pupils. Such agreements shall be of a general nature.

7. The subsidy for post-compulsory education shall be of a singular nature".

Royal Decree 2377/1985, in article 5, establishes that: "1. In order to be eligible for the system of subsidies, private schools must fulfil the minimum requirements established in development of article 14 of the organic law regulating the Right to Education, be authorised to provide the teaching which constitutes the object of the agreement, be subject to the rules established in Title IV of the said organic law and assume the obligations derived from the subsidy under the terms established in these regulations".

Article 28 states that "newly created private centres which are to provide basic education and wish to be covered by the system of subsidies shall apply for it at the start of the administrative authorisation procedure. If they do not apply at that time, they may not benefit from the system until five years have elapsed from the date of their authorisation, as established in the fifth additional provision of the organic law regulating the Right to Education'.

The owner of the new vocational training centre applied to the Provincial Delegation of the Regional Ministry of Education, Culture and Sport for authorisation to open and operate the centre. In the report accompanying the application, they indicated their intention to make use of the system of educational concerts in those teachings susceptible of being concerted according to the legislation in force.

Order 206/2024 establishes the regulatory norms for the subscription of educational subsidies in the Community of Castilla-La Mancha. Article 1 states the purpose of the regulation, which is "the approval of the regulatory rules for the subscription, renewal and modification of educational subsidies in the following cases:

- c) Subscribing, renewing and/or modifying educational subsidies for Basic Vocational Training courses.

e) Renewing educational subsidies for post-compulsory vocational training courses".

Therefore, it is only allowed to sign subsidies for Basic Vocational Education and Training, but not for post-compulsory education, such as the Intermediate Level Cycles that they are requesting. For these, it is only permitted to modify existing subsidies, without increasing the number of units that the centre has.

Therefore, it is not possible to sign the subsidy for the requested Intermediate Level Training Cycles, and there are no special exceptions to this regulation.

As for the allegations regarding the subsidy for the Basic Level Training Cycle requested, article 2 of the aforementioned Order 206/2024 states that "private educational centres in Castilla-La Mancha that meet the following requirements may apply for the subscription, renewal and/or modification of educational subsidies:

a) Be authorised, on the date of publication of the annual call for applications, to teach at the educational levels of Infant Education, Compulsory Secondary Education, Special Education, Upper Secondary Education or Vocational Training.

b) If they are not authorised on the date indicated in the previous paragraph, they must have submitted an application for authorisation before 31 December of each year and be in a position to obtain authorisation before 15 April of the following year, the date set for the final resolution of each of the annual processes of educational subsidies referred to in Royal Decree 2377/1985, of 18 December, which approves the Regulations on Basic Rules on Educational subsidies".

The owner's representative submitted an application for authorisation to teach vocational training before the aforementioned date, but it has not yet been granted as of the date of signature of this report, and both the technical unit and the Inspection Service have requested justification of compliance with the minimum requirements and the minimum equipment that the centre must have in order to be authorised to teach the courses for which authorisation is requested. At this stage of the procedure, it is not in a position to be authorised to provide these courses, and therefore the subsidy cannot be signed.

If we go into the substance of the allegations, they indicate that the Resolution is not sufficiently reasoned.

Article 35 of Law 39/2015 establishes that a series of administrative acts, including acts that limit subjective rights or legitimate interests, as in the case in question, must be justified, with a succinct reference to the facts and legal grounds.

But it is also indicated in the same regulation, article 88.6, that the acceptance of reports or opinions will serve as grounds for the decision when they are incorporated into the text of the decision. The undersigned inspector issued a report, dated 6 February 2025, in which the proposal not to subscribe to the subsidy for this unit was suitably motivated.

In accordance with the Judgment of the Supreme Court, appeal 161/2009, of 11 February 2011, ECLI:ES:TS:2011:555, "...the statement of reasons may be contained in the act itself, or may be made by reference to reports or opinions, ex article 89.5 of Law 30/1992 [art. 88.6 of the LPAC], when they are incorporated into the text of the act. However, this requirement for the incorporation of reports, contained in the aforementioned article 89.5 in fine, has been qualified by the case law of this Supreme Court - judgments of 21 November 2005, 12 July 2004, 7 July 2003, 16 April 2001 and 14 March 2000 - in the sense of considering that if such

reports are included in the administrative file and the addressee has had full access to it, the statement of reasons by means of this technique in aliunde satisfies the requirements of the statement of reasons, "as it allows the recipient of the act to know the justification for the decision taken by the Administration".

Therefore, given that the file contains the reports on the grounds for the decision issued and the interested party has had access to them, the allegation of failure to state reasons for the decision should be rejected out of hand.

Even so, we reiterate the reasons for not justifying the schooling needs required by law in order to authorise the subsidy, as established in article 116 of Organic Law 2/2006. This requirement is a *sine qua non* condition for the conclusion of a basic education subsidy. The other requirements mentioned by the interested party in her allegations, such as serving school populations with unfavourable socio-economic conditions, carrying out experiences of pedagogical interest for the education system or promoting local schooling in a rural area with strong depopulation are only criteria of preference for the subsidy, but always complying with the requirement of satisfying schooling needs.

In the province, Basic Level Training Cycles are offered in 45 centres. In the last five years, although there have been no major variations, there has been a tendency towards a decrease in the number of CFGB students in all the counties, which has led to a reduction in the number of groups offered, with a ratio that has remained at around 12 students per unit. Therefore, there is sufficient supply to meet the demand for this type of education.

If we focus on the centres closest to the locality where the centre is located, we observe the same trend towards a decrease in the number of pupils in the CFGBs, with the ratio remaining at 10 pupils per classroom. Once again, it is

observed that the supply of vacancies is sufficient, as many of the places offered are not covered.

If we take into account the data of the Basic Grade cycle of the agricultural family, which is offered in four centres in the province, the ratio has also decreased, standing at 8.4 pupils per classroom. Moreover, in one case, the first year has already been discontinued due to a lack of student demand.

The Basic Level Training Cycle in Agricultural Activities is not currently offered either in the province or in the region, with the aim of the centre to respond to the need for specialised training in the agricultural and livestock sector, as well as in other activities related to maintaining employment in professions linked to the activities of the productive fabric of the area, promoting the employability of young people in this rural area and fixing the population, promoting generational change in the agricultural sector and related sectors. It was taught years ago in several centres in the region, but was discontinued due to lack of students.

In the locality where the centre is located, Intermediate Vocational Training courses are offered in other professional families, but not in Basic Vocational Training. Until the 2020-2021 academic year, the Basic Level Training Cycle in Computer Science and Communications was offered, but it was closed due to a lack of students. In the last academic year, there were only a few proposals from local students to join a CFGB.

In the nearby towns, where students from the locality go, Basic Level Training Cycles are offered, but they are in the families of Manufacturing and Assembly, Computer Science, Personal Image, Commerce, Hotel and Catering and Tourism, and Electricity and Electronics.

The ratios of pupils demanding these cycles are very low, many of them with less than 10 pupils per unit and none of them with more than 15.

Therefore, from the above data it can be concluded that the supply of CFGB places in the province and in the region is sufficient, since many of them remain vacant and units are being eliminated. Thus, the demand for a new CFGB does not meet schooling needs.

PROPOSAL

In view of all of the above and its assessment in accordance with the regulations in force, the undersigned Inspector proposes to **DISMISS** the allegations presented to the Provisional Resolution of the educational subsidy for the Basic Grade Cycle of Agricultural Activities, as it does not have administrative authorisation to teach these courses on the date of signing this report and does not meet schooling needs.

Likewise, it is proposed to **REJECT** the allegations presented to the Provisional Resolution of the educational subsidy for the aforementioned intermediate level training cycles, as these teachings are not eligible for the subscription of new subsidies, according to the applicable regulations in force.

REGULATIONS CITED

- Spanish Constitution of 1978
- Organic Law 8/1985, of 3 July 1985, regulating the Right to Education.
- Organic Law 2/2006 of 3 May on Education, as amended by Organic Law 3/2020 of 29 December, which modifies Organic Law 2/2006 of 3 May on Education.
- Organic Law 10/2002 of 23 December 2002 on the Quality of Education.
- Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.
- Royal Decree 2377/1985, of 18 December 1985, approving the Regulations on Basic Rules on Educational Subsidies.
- Royal Decree 332/1992, of 3 April 1992, on authorisations for private educational establishments to provide non-university general education.
- Royal Decree 132/2010, of 12 February, which establishes the minimum requirements for centres that teach the second cycle of pre-school education, primary education and secondary education.
- Royal Decree 1147/2011, of 29 July, establishing the general organisation of vocational training in the education system.
- Royal Decree 62/2022, of 25 January, on making the requirements for vocational training courses leading to certificates of professionalism more flexible, as well as vocational training courses in educational system centres and vocational training for employment.
- Royal Decree 659/2023, of 18 July, which develops the organisation of the Vocational Training System.
- Royal Decree 498/2024, of 21 May, amending certain royal decrees establishing basic vocational training diplomas and setting their minimum teaching requirements.

- Royal Decree 499/2024, of 21 May, which amends certain royal decrees establishing intermediate-level Vocational Training diplomas and setting out the minimum teaching requirements for teachers to teach the professional modules that make up the diploma in privately-owned centres.
- Royal Decree 500/2024, of 21 May, which amends certain royal decrees establishing higher-level vocational training qualifications and setting their minimum teaching requirements.
- Order 206/2024, of 28 November, of the Regional Ministry of Education, Culture and Sports, which approves the regulatory rules for the subscription, renewal and modification of educational subsidies in the autonomous community of Castilla-La Mancha, for the period between the academic years 2025/2026 and 2028/2029 in Pre-school Education, Compulsory Secondary Education, Special Education, Vocational Training and Upper Secondary Education.
- Resolution of 27/12/2024, of the Regional Ministry of Education, Culture and Sports, for the subscription, renewal and modification of educational subsidies for the period between the school years 2025/2026 and 2028/2029 in Pre-school Education, Special Education, Compulsory Secondary Education, Vocational Training and Upper Secondary Education in Castilla-La Mancha.