### Spain. Migrant domestic workers

• Legislative Decree 1/1995. Workers’ Bylaw.  
• Legislative Decree 1620/2011. It regulates the labor relation as special nature of the house-family services.  
• Legislative Decree – Law 29/2012. Performance management and social protection in the Special Systems for Housekeepers and other measures in the economic and social fields. |
| --- | --- |
| Migrant domestic workers | **Is there a difference between national and non-national domestic workers in terms of regime of protection?** No. Non-national domestic workers have the same rights to social security as national domestic workers (Art. 2(i), Art 10 and Art. 14. Law 4/2000, On rights and freedoms of foreigners in Spain and their social integration). However, all migrant domestic workers must have a work permit and have Tax Identification Number.  

**Is there a difference between resident and non-resident domestic workers in terms of regime of protection?** Yes.  

**Are there special provisions in the law for coverage of migrant domestic workers?** No. The equivalence of rights to social security is enshrined in Law 4/2000.  

**Distinction between de jure coverage and de facto coverage:** Domestic workers have legal coverage by social security.  

**Are there any agreements on portability with other countries?** Spain has community agreements (EU) and bilateral social security agreements. In the latter, the country has agreements with Andorra, Colombia, Mexico, Uruguay, Argentina, Korea, Paraguay, Venezuela, Australia, Ecuador, Peru, Brazil, United States, Dominican Republic, Cape Verde, the Philippines, Russia, Canada, Japan, Tunisia, Chile, Morocco and Ukraine.  

**Is coverage of migrant domestic workers working well?** No, they have similar conditions for the rest of domestic workers (legal coverage but lack of effective coverage).  

**Migrant (foreigners) domestic workers as % of domestic workers:** 59.6 (2013) (INE, 2013).  

**Female migrant domestic workers as % of migrant domestic workers:**  

**Urban migrant domestic workers as % of migrant domestic workers:**  

**% migrant domestic workers contributing to social security (salaried):**
Spain. Migrant domestic workers

Coverage through the Special System for Domestic Workers is administrated by the National Institute of Social Security (Seg-Social). It is a Special System integrated to the Social Security Regime.

The definition of domestic work is contained in the Royal Decree 1620/2011 and it is the same used by the social security.

Scope of coverage, according to the C.189

<table>
<thead>
<tr>
<th>Convention 189</th>
<th>Real Decreto Código de Trabajo 1620/2011</th>
<th>Social security</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooking</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Cleaning</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Taking care of children, the elderly, others</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Gardeners</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Guardians</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Family chauffeurs</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Covered Contingencies:
- Health care
- Sickness benefit, through social insurance institution (INSS).
- Old-age benefits, through social insurance institution (INSS).
- Employment injury benefit, through social insurance institution (INSS).
- Family benefits, through social insurance institution (INSS).
- Maternity benefits, through social insurance institution (INSS).
- Invalidity benefits, through social insurance institution (INSS).
- Survivors' benefits, through social insurance institution (INSS).

The workers have the same rights than the workers that belong to the General Social Security Regime, but excluding the benefits for unemployment, and some changes in the benefits due to temporary disability.

Are there provisions for maternity protection: pre, during and post natal care, income replacement during maternity leave? Yes, the maternity subsidy lasts 16 weeks, with the possibility of extending it in case of hospitalization (Law 3/1989).

Prescribed qualification procedure (maternity): Yes. The requisites of access depend on the age of the employee. If the worker is under 21 years, no minimum contribution period is required; if the worker is between 21 and 26 years, it is necessary to contribute at least 180 days during their working life before that date or within 90 days immediately prior to the time of onset of the contingency-seven years; and if the worker is over 26, it is necessary to contribute at least 360 days during their working life prior to this date or within 180 days immediately preceding seven years at the time of contingency- (Art 133. Royal Decree legislative 1/1994).

Are the dependents of domestic workers covered? Yes. It includes the spouse, people younger than 21 years old and younger than 25 years old in case the dependent is still studying.
Spain. Migrant domestic workers

Administration
The National Institute of Social Security under the Ministry of Employment and Social Affairs administers and pays cash benefits.

General Treasury of Social Security administers the economic resources of the social security system, registers employers and insured people, and collects contributions. Source: issa.int

Social security coverage
Coverage of migrant domestic workers as a % of migrant domestic workers (employed): 59.6 (2013).

Source: Information calculated from INE (2013) and Seg-Social (2013).

Financing issues
Is the contribution rate differentiated? Yes. The domestic workers have a special affiliation system that contains a lower contribution rate than the general scheme.

Reference wage for contribution payments: Gross wage of the worker. It defines eight (8) reference wages that are updated in the same proportion to the increase of the inter-professional minimum salary, every year (Royal Decree- Law 27/2011).

Are there state subsidies for contributions? No.

Total contribution rate: 23.8 per cent. 19.85 per cent is paid by the employer and 3.95 per cent by the employee (2014). From 2014-2018, the contribution rate will increase annually by 0.9 percentage points (Royal Decree-Law 29/2012 and Royal Decree-Law 27/2011). (Royal Decree. Law 29/2012 and Royal Decree- Law 27/2011).

Social security contribution for domestic workers. 2014

<table>
<thead>
<tr>
<th>Range</th>
<th>Monthly Income Euros/month</th>
<th>Amount Euros/month</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Up to 172.05</td>
<td>147.86</td>
</tr>
<tr>
<td>2</td>
<td>From 172.06 up to 268.80</td>
<td>244.62</td>
</tr>
<tr>
<td>3</td>
<td>From 268.81 up to 365.60</td>
<td>341.40</td>
</tr>
<tr>
<td>4</td>
<td>From 365.61 up to 462.40</td>
<td>438.17</td>
</tr>
<tr>
<td>5</td>
<td>From 462.41 up to 559.10</td>
<td>534.95</td>
</tr>
<tr>
<td>6</td>
<td>From 559.11 up to 655.90</td>
<td>631.73</td>
</tr>
<tr>
<td>7</td>
<td>From 655.91 up to 753.00</td>
<td>753.00</td>
</tr>
<tr>
<td>8</td>
<td>From 753.01</td>
<td>790.65</td>
</tr>
</tbody>
</table>

Source: Royal Decree- Law 29/2012.

The contribution rate for benefits for accidents is 1.1 per cent of the contribution base. It is borne exclusively by the employer.

Are there tax incentives for employers to pay contributions? Yes. Employers have a reduction of 20 per cent on corporate contribution for common contingencies. As a requirement, employers must have hired the domestic worker for a full-time since 2012, and the employer must have registered the worker in the new special system.

Is the affiliation mandatory? Yes, for all contingencies described above (Royal Decree- Law 29/2012 and Royal Decree 1415/2004).

Registration procedure: The employer or the employee must register before the beginning of the employment relationship. Changes on data may be registered within 6 natural days.

Whose is the accountability of registering the worker? The employer. When the
**Spain. Migrant domestic workers**

Worker provides services for less than 60 hours per month for each employer, the employee must manage changes in the data, which have been agreed with employers. However, all applications must be signed by their employers (Art. 3. Royal Decree-Law 29/2012).

**Entities involved:** General Treasury of the Social Security (TGSS).

**Registration of domestic workers:** It is the employer's responsibility, and in some cases, of the employee.

**Is there a unique system of registration?** Yes, it is in charge of the General Treasury of the Social Security (Art. 18. Royal Legislative Decree 1/1994).

**Is there portability in the contributions between the schemes?** Yes, when domestic workers change their occupational category, they are still protected under the same social protection scheme.

**Are there complaining mechanisms available (in case of non-compliance with social security legislation)?** Yes, the worker can complain to the Social Security and Labour Inspection (Art. 5 (d). Royal Legislative Decree 1/1994). In case that the salary of reference for contribution payment is wrong, the employee can comply to the Social Jurisdiction (Juridicción Social).

**Are there inspection mechanisms to enforce the compulsory coverage?** Yes, through the Social Security and Labour Inspection (Royal Legislative Decree 1/1994).

**Are there rules for affiliation and payment of specific contributions to domestic workers working on a part time and/or multiple employers bases?** Yes.

**Contributory minimum wage:** Yes, it was equivalent to EUR 147.86 (US$ 184) in 2014.

**What is the process for registering domestic workers?** The registration is under the employer’s responsibility, at the offices or online.

**What are the specific requirements for registering?**
- Fill out an application form, which must be signed by the employer.
- Identity of the employer and Tax Identification Number (Número de Identificación Fiscal, NIF)
- Identity of the worker.
- Beginning of the date of the activity
- Employee address and the one of the employer.

**Are there any mechanisms in place to facilitate registration for domestic workers?**
- Online administration: https://sede.seg-social.gob.es/Sede_1/OficinadeRegistro/oficinaderegistro/index.htm?ssUserText=160883

**Collection of contributions**

**Is there a single national system for the collection of contributions?** Yes. Collection is done by the General Treasury of Social Security, through the collection boards and its collaborators. Collection is performed per month (Art 1. Royal Legislative Decree 29/2012).

**Are there measures to facilitate the payment of contributions?** Yes.
- Through the financial system
- Automatic deduction;
### Spain. Migrant domestic workers

- Post office;
- Commercial establishments authorized by the Ministry of Employment and Social Security.

#### Are there sanction mechanisms for employers? Yes. Once the deadline has expired to pay contributions, the employer must pay 20 per cent of the unpaid contributions. In addition, the employer shall pay interest for delay of 5 per cent, following the deadline day (Art. 27 y 28. Royal Legislative Decree 1/1994).

#### Are there special provisions in the law for women domestic workers? N.A.

#### Does the state subsidize contributions of (women) domestic workers? No.

#### Are there problems of discrimination against women? What are these problems? No documentation / no evidence.

If the worker is a citizen of the European Union can work on the same conditions as Spanish. Only they must apply for registration in the Central Register of Foreigners, after three months of living in Spain.

If the worker is a citizen of a country outside the European Union, the worker needs a temporary residence permit and a work permit. After you have these permissions, the worker must be enrolled, equally, in the Central Register of Foreigners.

Also regardless of nationality, the worker must have the Tax Identification Number, because if you have not, the worker will be considered as illegal worker in Spain and may not be registered with social security.

#### Good practices

- Lower contribution rate for domestic workers.
- Fiscal incentives for employers that hire full-time domestic workers.
- E-services through a web platform for the registration, affiliation and payment of contributions.
- Single national and centralized system for the collection of contributions.
- A unique system for affiliate’s registration.
- Sanction for the employers when they omit information or in case of late submission of documentation.
- Insurance system for employees working for hours.
- Management system for multi-employer insurance
- The requirement that the migrant worker is registered in a single register of foreigners.
- The equivalence of rights of a non-national worker and a national worker.

#### Barriers

- It is necessary to incorporate mechanisms for affiliation and contributory control for workers who are not registered.
- Inspection services concentrated in urban areas.
## Spain. Migrant domestic workers

### Challenges
- Improve mechanisms of control and inspection to ensure labour regulations.
- Strengthen denunciate mechanisms, such as free telephone call.
- Improve information campaigns, mainly in the framework of the new legislation on housework.
- Strengthen mechanisms for inspection brokerage agencies to prevent abusive practices.
- The institutions develop different campaigns in the media, which are aimed to raise awareness among workers and employers.
- Allocate resources through associations, unions and official training centers, to ensure adequate and accredited training people in the industry (Arango and et., 2013)
- Define a professional category on domestic work, to ensure adequate remuneration of workers (Arango and et., 2013).

### ILO standards ratification and application
List of ratified ILO conventions related to domestic work/social security:
- Social Security (Minimum Standards) Convention, 1952 (No. 102)
- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- Maintenance of Social Security Rights Convention, 1982 (No. 157)
- Migration for Employment Convention (Revised), 1949 (No. 97)

### Bibliography