

## Legal Spain knowledgebase

### Hiring blueprint

#### Core employment practices

Spain's labour laws, centered on the Workers' Statute (Estatuto de los Trabajadores), provide robust protections for employees. This statute, along with collective bargaining agreements, governs individual and collective employment relationships, outlining rights, obligations, and minimum wages across professions. [General Overview](#)

Spain's official currency is the Euro (EUR), and its capital is Madrid. The official language is Spanish but Catalan, Basque, and Galician are also recognised. Contracts between local parties must be in Spanish, and documents in other languages must be translated for legal purposes. In 2024, Spain's GDP is 1.97 trillion USD. Spain's labour laws are known for their strictness, regulate working conditions, wages, and benefits, providing robust protections against discrimination and unfair treatment.

#### Hiring practices

When a foreign employer seeks to hire local employees in Spain, it must address all obligations related to social security contributions and income taxes. There are two primary methods for this: establishing a subsidiary or branch in Spain, or engaging a legal entity in Spain (such as through Employer of Record (EOR) services as offered by Native Teams). The Spanish legal entity, which must be a resident, ensures compliance with tax and social security obligations, managing payroll and tax payments. The foreign employer must sign a contract with the legal entity to formalize this arrangement.

#### Onboarding process

The onboarding process in Spain generally includes several key steps:

- **Employment Contract:** The employer provides an employment contract detailing the terms and conditions of employment.
- **Documentation:** The employee submits necessary documents such as a valid ID, social security number, and bank account information.
- **Registration:** The employer registers the employee with social security and other relevant government agencies.
- **Orientation:** Information about company policies, procedures, and benefits is provided.
- **Introduction:** The employee is introduced to colleagues and given a workplace tour.

Engaging a legal entity, such as through Employer of Record (EOR) services offered by Native Teams, ensures a smooth and reliable onboarding process. These services handle all necessary steps, including contract provision, document collection, social security

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registration, orientation, and workplace integration. Utilizing EOR services allows employers to comply with local regulations efficiently while focusing on their core business activities.

## Employment contracts

In Spain, employment contracts can be either written or verbal, though certain types—such as temporary, part-time, and special labour relations (e.g., for lawyers and executives)—must be in writing. Employment contracts are generally presumed to be indefinite unless a justified and legally prescribed reason supports a fixed-term contract. The Public State Employment Service (SEPE) must be notified within ten days of a contract's commencement. Workers under 18 need parental permission to sign a contract, and employment is typically illegal for those under 16, except in specific cases like authorized artistic work. The maximum probationary period is typically two to six months, depending on the circumstances.

## Working hours

In Spain, the standard workweek is capped at 40 hours. Employees are entitled to a minimum uninterrupted rest period of 30 minutes for every six hours of work. Overtime is allowed under specific circumstances, such as during peak periods or emergencies, and is compensated at a higher rate than regular hours. However, there is a strict limit on overtime, which cannot exceed 80 hours per year. These regulations ensure fair labour practices and protect employee well-being.

## Leave entitlements

Employees in Spain are legally entitled to 30 days of paid vacation annually, which can be adjusted according to company needs or collective agreements. Additionally, there are 14 public holidays, varying by region. Female employees receive 16 weeks of paid maternity leave, with six weeks mandatory post-birth and the rest flexible. Fathers are also entitled to 16 weeks of paternity leave. For sick leave, employees can be off for up to 12 months, extendable by six months, with varying wage coverage: 60% from days 4-20, 75% from day 21, and INSS taking over payments from day 16 onward.

## Notice period

In Spain, employers must provide employees with at least 15 days' notice before termination, except during the probationary period or for disciplinary reasons.

## Termination of employment

In Spain, at will termination does not exist but an employer can terminate an employee's contract for several reasons, including mutual agreement, the expiration of a fixed-term contract, disciplinary issues such as misconduct or poor performance, economic or

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organizational changes like restructuring or downsizing, and medical reasons or disability. Mutual agreement, where both the employer and employee consent to end the contract, is often a straightforward and amicable approach to termination. This method ensures both parties are in agreement, minimizing potential conflicts or legal complications. Severance pay varies based on the reason for termination, with economic or organizational dismissals generally warranting compensation based on tenure and contractual agreements.

## Collective bargaining agreement

In Spain, collective bargaining agreements (CBAs) play a vital role in governing labour dynamics between employers and employees. These agreements, negotiated between trade unions and employers' associations, establish the terms and conditions of employment within particular industries or sectors. They encompass a range of matters, such as salary structures, work hours, vacation allowances, and dispute resolution protocols. Legally binding for all employers and workers in Spain, irrespective of union affiliation, CBAs ensure a uniform set of protections and work arrangements across the country.

Discrimination and Equal Treatment

Spain's labour laws provide robust protections against workplace discrimination, ensuring that employees are safeguarded against unjust treatment. Should an employee suspect discrimination by their employer, they have the right to seek legal redress. Discrimination based on various factors is strictly prohibited, including age, race, color, ethnicity, nationality, gender, disability, religious beliefs, and marital status. Employers are obliged to uphold these anti-discrimination measures, fostering an inclusive and equitable work environment where all individuals are treated fairly and respectfully.

## Employment of foreigners

In Spain, as a foreigner, securing a job in the Spanish job market may be more challenging if the occupation is not found on the shortage occupation list, produced by the Public Employment Service (Servicio Público de Empleo Estatal). Before hiring a foreign worker, employers may need to demonstrate the necessity of employing someone from outside the local or EU/EEA/Swiss workforce, often through a labour market test. This ensures that there are no suitable candidates available domestically or within the European Economic Area before hiring externally.

Typically, foreign employees are required to obtain both a work permit and a residence permit, with the latter often tied to the specifics of the job. Foreign employees must also ensure they possess all the requisite documentation, including valid passports, employment contracts, and permits. Depending on the nature of the job, proficiency in Spanish or other languages may also be necessary. Both employers and employees are usually required to contribute to Spain's social security system, which grants access to various benefits, including healthcare and pensions.

While citizens of EU/EEA/Swiss countries enjoy more leniency due to the principle of freedom of movement within the European Union, there are specific regulations governing the hiring of certain categories of foreign workers, such as highly skilled professionals or seasonal workers. Ensuring compliance with Spanish laws and regulations is paramount for employers to avoid legal complications and to facilitate a smooth employment process for foreign workers. Understanding and adhering to these requirements is vital for both employers and employees looking to engage in work arrangements in Spain.

## Native Teams monthly payroll and invoicing cycle

**Salary payment date:** According to Spanish Labour Code, deadline for salary payments is the last working day of the current month. According to Native Teams policy, deadline for salary payment is the last working day of the current month. This deadline may vary depending on holidays and weekends.

**Salary input:** According to Native Teams company policy, monthly inputs must be submitted to Native Teams by the 12th of each month. This deadline may vary slightly based on business days and public holidays.

**Invoicing deadlines:** According to Native Teams company policy, invoices are sent on the 13th or 15th of each month. This deadline may vary slightly based on business days and public holidays.

**Payslips:** Payslips are shared on employee's account on Native Teams platform on or after the salary payment.

## Total employment cost

The user pays the total cost of the salary, including Native Teams fee and any differences that may arise due to exchange rates or late inputs between the invoice date and the final calculation date.

The total cost consists of:

**Gross salary:** Includes net salary + employee's contributions.

**Net salary:** The amount paid to the employee's bank account.

**Employee's contributions:** Taxes and social security contributions deducted from the employee's salary and paid by the employer to the Government and Tax Authorities.

**Employer's contributions:** Taxes and social security contributions paid by the employer to the Government and Tax Authorities, in addition to the gross salary.

In summary, the total cost paid by the user includes the net salary, employee's contributions, and employer's contributions.

## Minimum wage

In Spain, the statutory minimum wage reflects a system based on 14 payments. For the year 2024, the minimum monthly salary stands at EUR 1,134.00 gross, distributed across 14

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installments throughout the year. This equates to a minimum annual salary of EUR 15,876.00 gross. Additionally, Collective Agreements in Spain have the authority to establish minimum salary thresholds for various professional groups and employee categories. These agreements complement the statutory minimum wage, providing further guidance on compensation standards within specific industries or sectors. By incorporating both statutory regulations and Collective Agreement provisions, employers ensure compliance with legal requirements and promote fair remuneration practices across the workforce.

## Reduction of wages

In Spain, wage reduction is governed by strict legal guidelines to ensure fairness and transparency. Employers must secure voluntary agreement from employees, justified usually by economic factors. Consultation with employee representatives may be required, and reductions must comply with legal limits, including minimum wage laws. These reductions are typically temporary and should include provisions for reassessment as conditions improve. Clear communication and written documentation in form of annexes, signed by both parties, are crucial throughout the process to maintain transparency and regulatory compliance.

## Social security and benefits

Spain offers a comprehensive range of social security benefits to support workers and their families:

- Retirement Pensions: These provide income post-retirement, with the retirement age gradually increasing to 67 years by 2027 for those with less than 38 years and 6 months of contributions. Individuals with longer contribution histories can retire earlier, typically at 65 years with at least 37 years and 6 months of contributions.
- Unemployment Benefits: Financial assistance is available for eligible unemployed workers. The amount and duration depend on the length of previous contributions and earnings history, with contributory benefits lasting up to 24 months.
- Sickness Benefits: Employees receive temporary financial support if unable to work due to illness or injury, starting from the fourth day of illness for up to 365 days, extendable by 180 days if recovery is expected. The benefit amount is typically a percentage of the employee's base salary.
- Maternity/Paternity Leave: Mothers are entitled to 16 weeks of paid maternity leave, extendable in cases of multiple births, adoption, or disability. Fathers are entitled to 16 weeks of paid paternity leave, non-transferable and must be taken consecutively. Both parents can take leave simultaneously or successively.

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- Family Benefits: Financial assistance for families with children includes monthly child allowances, additional support for low-income families, and benefits for children with disabilities. Subsidies for childcare and educational expenses may also be available.

These benefits aim to ensure financial stability and well-being for employees and their families throughout different stages of life.

## Labour laws

### Legal framework

Spain's employment law framework is designed to protect the rights of workers while ensuring that employers maintain fair and equitable practices.

The primary sources of employment law in Spain are:

- Spanish Constitution: It lays down fundamental rights such as the right to work and protection against discrimination.
- Workers' Statute (Estatuto de los Trabajadores): Covers various aspects of employment relationships, including working hours, leaves, wages, and termination rights.
- Collective Bargaining Agreements: Negotiated between trade unions and employers or employers' associations, these agreements establish specific working conditions for particular sectors or companies.
- Judicial Decisions: Labour court rulings help interpret and develop employment laws.

The Workers' Statute is a pivotal piece of legislation that governs many facets of employment. Key provisions include:

- Working Hours: Regulates maximum working hours, overtime, and rest periods.
- Leaves: Details entitlements to annual leave, maternity leave, paternity leave, and other types of leave.
- Wages: Ensures minimum wage standards and timely payment of salaries.
- Termination Rights: Outlines conditions for lawful termination and the rights of employees in case of unfair dismissal.

Collective Bargaining Agreements play a significant role in defining specific employment conditions. They cover areas such as:

- Minimum Wages: Setting industry-specific minimum wages.
- Working Conditions: Establishing norms for working hours, health and safety standards, and employee benefits.
- Dispute Resolution: Providing mechanisms for resolving workplace disputes. Spain's employment laws are extensive and designed to adapt to changing labour market conditions. Recent legislative reforms and court decisions have further refined these laws.

### Labour reforms and key legislation

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- 2012 Labour Reform: Implemented in response to the 2008 economic crisis, this reform aimed to reduce the high levels of temporary work and increase job stability.
- 2021 Labour Reform: Addressed persistent issues with temporary contracts and introduced measures to enhance job security and worker protections.

With the rise of remote working, particularly during the COVID-19 pandemic, Spain introduced Royal Decree-Law 28/2020. This law outlines the rights and duties of remote workers, ensuring they receive the same protections as on-site employees. Key provisions include:

- Digital Disconnection: The right to disconnect from work outside regular hours.
- Expense Reimbursement: Employers must cover expenses incurred by employees working from home.
- Privacy and Data Protection: Safeguards for the personal data and privacy of remote workers.

Recent case laws have clarified various aspects of employment law. Notable cases include:

- Disciplinary Dismissal: A Supreme Court ruling (Case No. STS 207/2020) that reinforced the requirements for fair disciplinary procedures, emphasizing the need for clear and documented reasons for dismissal.
- Independent Contractor Misclassification: The ruling in Case No. STS 805/2021 highlighted the criteria for distinguishing between employees and independent contractors, aiming to prevent the misclassification of workers.

Collective bargaining agreements continue to evolve, setting tailored conditions for different sectors. In Spain, the collective bargaining agreement applicable to software companies is typically the "Convenio Colectivo Estatal de Empresas de Consultoría y Estudios de Mercado y de la Opinión Pública," commonly referred to as the "Consulting and Market Research Agreement." This agreement covers companies involved in consulting, market research, and related activities, which often includes software development and IT services.

## Employment contract

### Types of employment contract



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In Spain, employment contracts form the legal backbone of the employer- employee relationship. Employment contracts in Spain can be categorized into several types, each tailored to different employment needs and offering various levels of job security and benefits.

**Indefinite Contracts:** Indefinite contracts, also known as permanent contracts, have no specified end date and offer long-term stability and security for employees. They are the most common type of contract, indicating a long-term commitment from the employer.

**Temporary Contracts:** Temporary contracts are for fixed durations, suitable for seasonal work, specific projects, or replacing permanent employees on leave. These contracts end upon the completion of the specified term or project but can be renewed if both parties agree.

**Part-Time Contracts:** Part-time contracts involve employment for fewer hours than a full-time position. These contracts must be in writing and specify the work location and working hours. Part-time employees have proportional rights based on hours worked.

**Training Contracts:** Training contracts are designed for young individuals to gain skills and qualifications while working. There are two main types: work-linked training contracts (lasting three months to three years) and contracts for professional practice (lasting six months to one year).

**Work-from-Home Contracts:** For remote work exceeding 30% of total working hours, Spanish law requires a formal agreement detailing expense reimbursement, digital disconnection, and data protection.

A comprehensive understanding of each contract type's legal stipulations is crucial for ensuring compliance with Spanish labour laws and avoiding penalties for misclassification.

Any employment contracts, such as indefinite, temporary, part-time, and training contracts, must be in writing. The Public State Employment Service (SEPE) must be notified within ten days of any contract coming into force. Workers under 18 require parental permission to sign a contract, and employment is generally illegal for those under 16, except in specific cases like artistic work authorized by the Labour Authority.

Temporary contracts must explicitly state the reason for their temporary nature and the specific circumstances justifying their duration:

- **Contracts for Production Contingencies:** These cannot exceed six months within a 12-month period but can be extended to 12 months by collective bargaining agreements.
- **Temporary Replacement Contracts:** These specify the worker being replaced and the reason for replacement. If the employee continues beyond the original term, the contract automatically becomes indefinite.



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If employees work under temporary contracts for more than 18 months within a 24-month period, they gain indefinite-term status, with enhanced protections and severance benefits. The performance of tasks through contracts, subcontracts, or administrative concessions must be within the ordinary activity of the company and cannot justify temporary hiring.

Training contracts require detailed individual training plans and assigned mentors.

Regulations ensure alignment with educational objectives:

- Work-Linked Training Contracts: These combine paid work with formal education, prohibiting overtime, night shifts, and shift work except in urgent situations. Compensation is determined by the applicable collective bargaining agreement and cannot be below the minimum wage.
- Contracts for Professional Practice: These must be signed within three years of completing studies (five years for disabled individuals). They prohibit overtime and require fair compensation aligned with collective agreements.

Part-time contracts include provisions for supplementary hours, which cannot exceed the statutory limit. Employers must notify employees three days in advance if additional hours are required. Part-time workers have the same rights as full-time workers, proportionally adjusted for hours worked. They cannot work overtime except in emergencies but can perform supplementary hours if agreed upon in advance.

Remote work agreements must be voluntary and reversible, detailing working hours, expense compensation, data protection, and corporate control measures. These agreements ensure that remote workers have equal rights and protections as onsite employees.

## Content of an employment contract

Employment contracts in Spain are foundational documents that outline the terms and conditions of employment. In Spain, employment contracts can be either written or verbal. However, specific contract types, such as temporary, part-time, and special labour relations (like those for lawyers and executives), must be in writing. This requirement ensures clarity and compliance with labour laws.

Regardless of the format, if employment exceeds four weeks, the employer must provide written details within two months of the start date. This information includes:

- Identity of both parties
- Date of commencement and, for temporary contracts, an estimation of duration
- Job group or category
- Work location
- Base salary and any additional compensation or benefits
- Working hours and schedule
- Total number of holidays
- Notice period upon termination

- Applicable collective bargaining agreement

Employment contracts in Spain are typically presumed to be indefinite unless a legitimate reason justifies a fixed-term contract. Such reasons must be real and legally prescribed, such as covering for an absent employee or performing a job of limited duration. Failure to meet these criteria can render the contract fraudulent. Spanish labour law mandates that certain employment details must be provided in writing if the contract lasts longer than four weeks. Employers must ensure that contracts are precise to avoid misinterpretations and legal issues. Key elements that must be included in the contract are:

- Identification of Parties: The contract must clearly state the full legal names and details of both the employer and employee, including the company's registration number and the employee's National Identification Document (DNI) number.
- Job Position and Duties: A detailed description of the job title, role, and responsibilities helps avoid disputes. Referencing applicable collective bargaining agreements can further define duties and expectations.
- Position Title, Category, Professional Group: This defines the employee's functions and directly influences their salary, as indicated in the collective agreement's salary scales.
- Work Location: The contract should specify whether the employee will work at the company's headquarters, a different location, or remotely. It should also indicate if the employee has a mobile or shifting work location.
- Working Days and Hours: Contracts must define working hours, including weekly hours, daily schedule, and rest periods, adhering to the 40-hour workweek limit set by Spanish law. They must specify whether the employment is full-time or part-time and detail the working days, typically Monday to Friday, based on the company's activities.
- Probation Period: The start date of the employment relationship, usually coinciding with the contract signing date, and the probation period must be clearly stated. Often, the probation period adheres to standards set by the collective agreement.
- Temporary Contracts: For temporary contracts, it is crucial to accurately state the reason for the contract's conclusion. Temporary contracts are only valid under specific circumstances and must adhere to strict legal guidelines to avoid being deemed fraudulent.
- Compensation and Benefits: The contract should detail the salary structure, including base salary, bonuses, commissions, and overtime pay. It should also outline any benefits such as health insurance or pension contributions.
- Vacation and Leave: Statutory vacation entitlement is 30 calendar days per year or 22 working days of vacation annually. The contract should specify vacation leave details, including accrual methods and scheduling. Additional leave provisions, such as sick leave and parental leave, should also be outlined.
- Applicable Collective Agreement: Indicating the relevant collective bargaining agreement ensures that employees are aware of the norms and their duties and obligations.
- Termination Clauses: The contract should detail termination procedures, including notice periods and severance pay. Specific conditions related to contract type should be included.

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- Confidentiality and Intellectual Property: For roles involving confidential information or intellectual property, the contract should include clauses on disclosure restrictions and usage expectations.
- Applicable Law and Dispute Resolution: The contract should specify the governing legal framework, typically referencing Spanish labour law and relevant collective bargaining agreements. Preferred methods for dispute resolution should also be outlined.

Pursuant to Article 5 of the Workers' Statute (WS), employees must comply with job-specific obligations, follow employer instructions, and adhere to occupational risk prevention measures. They are also prohibited from competing with the company's activity.

Employers must observe basic employee rights under Article 4 of the WS, including:

- Punctual payment of salary
- Information, consultation, and participation within the company
- The right to form or join unions
- Collective negotiation
- The right to strike
- Legal action against the company based on the employment contract

Minimum employment terms and conditions are set by law and must be respected by employers. These include aspects detailed in the Workers' Statute and collective bargaining agreements.

## Oral, written, or electronic employment contracts

In Spain, the intricacies of the employment contracts extend to their form - whether oral, written. In Spain, employment contracts can take diverse forms, including oral and written agreements.

Oral contracts: Spanish labour law grants flexibility by allowing employment contracts to be established orally. According to Article 8.1 of the Workers' Statute (WS), contracts may be concluded either verbally or in writing, provided neither party requests otherwise. However, certain provisions of the WS mandate that specific terms, such as probation periods or supplementary-hours agreements, must be documented in writing to ensure enforceability (Articles 14.1, 12.5 a, and 21.4 of the WS).

Written contracts: While oral contracts are permissible, several types of employment relationships necessitate written documentation under Spanish law. Indefinite-term contracts, definite-term contracts, temporary employment agency contracts, part-time contracts, and agreements with remote workers fall under this category (WS, Article 8.2). Employers must provide employees with a written statement outlining essential contract elements, including identity of the parties, commencement date, salary, working hours, holidays, and collective bargaining agreements (Royal Decree 1659/1998).

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Electronic contracts: Although Spanish law does not explicitly recognize electronic employment contracts as a distinct category, written contracts may be executed electronically, provided they meet legal requirements for authenticity and integrity. The Electronic Signature Law (Law 59/2003) governs the use of electronic signatures, ensuring the validity of electronically signed contracts. Spanish labour laws afford flexibility regarding the form of employment contracts, permitting oral or written agreements in most instances. However, failure to document specific contracts in writing may lead to the presumption of an indefinite, full-time employment relationship. Additional clauses, including probation periods and supplementary-hours agreements, must be explicitly stated in writing to be legally enforceable.

Employers are obligated to furnish employees with written documentation detailing essential employment conditions if the duration of employment exceeds four weeks. This encompasses crucial information such as the identity of the parties, commencement date, job category, salary, working hours, vacation entitlement, and relevant collective bargaining agreements.

Employers must adhere to stringent documentation requirements to safeguard the interests of both parties. While electronic contracts are not officially recognised in Spain, they may be considered valid if they meet certain criteria outlined in applicable legislation.

Employers are mandated to report all employment contracts to public employment services within stipulated timelines, ensuring transparency and regulatory compliance. While electronic contracts are not officially recognised in Spain, employers must adhere to stringent documentation requirements to safeguard the interests of both parties.

Employment relationships involving digital platform workers are protected under the Workers' Statute, extending employment legislation to individuals delivering goods through online platforms. This provision ensures equitable treatment and legal protection for workers in the gig economy.

Contracts executed under duress or for illicit activities are deemed invalid, emphasizing the importance of ethical and legal adherence in contractual arrangements. Employers must ensure that contracts are entered into voluntarily and in accordance with applicable laws and regulations.

Age restrictions govern the signing of employment contracts, with minors under 18 necessitating guardian consent. Additionally, stringent regulations govern the working hours of minors to safeguard their welfare and educational pursuits.

## Key requirements

### Working hours

Navigating working hours in Spain is essential for both compliance and maintaining work-life balance. Spanish labour law establishes a standard workweek of 40 hours, as outlined in Article 34.1 of the Workers' Statute. This framework aims to strike a balance between work commitments and personal time.

Employees cannot exceed an average of 9 hours of work per day. This provides flexibility in scheduling while ensuring that employees are not overburdened with excessive daily work hours.

Employment contracts or collective bargaining agreements typically dictate the distribution of working hours within the week. However, these agreements must adhere to the maximum daily and weekly limits set by law. Overtime refers to hours worked beyond the standard working hours. There is a maximum annual overtime limit of 80 hours to prevent employee overwork. Overtime work is generally voluntary, except in cases of force majeure. Employees cannot be compelled to work overtime unless specified in collective bargaining agreements.

Employers have two options for compensating overtime: paying a premium rate of at least 75% higher than the regular hourly rate or offering equivalent paid time off within four months of working the overtime hours.

The working hours registration law (Ley 8/2019) mandates detailed records of all working hours, including overtime, to promote transparency and safeguard employee rights.

**Daily rest period:** Employees are entitled to a minimum rest period of 12 hours between workdays to ensure adequate rest and prevent fatigue.

**Daily breaks:** Employees working more than six continuous hours are entitled to a rest break of at least 15 minutes. Additional breaks apply to workers under 18 years old.

**Weekly rest period:** Spanish law mandates at least one and a half days of uninterrupted weekly rest, typically including all of Sunday and part of Saturday.

**Flexibility:** Collective bargaining agreements may offer flexibility in scheduling weekly rest periods, ensuring a minimum total rest time of 36 hours within a 14-day period.

## Breaks and night work

In Spain, where labour rights are constitutionally protected, the intersection of rest periods and night-time work holds significant legal and health implications. Breaks during the workday serve as crucial intervals for rest and rejuvenation, ensuring the productivity and health of workers. Spanish labour regulations, notably Article 34 of the Workers' Statute (WS), stipulate the provision of breaks during the workday.

According to Article 34, workers are entitled to a minimum break of 15 minutes for every 6 hours worked. Additionally, if the workday exceeds 6 hours, a longer break for meals is mandatory, typically ranging from 30 minutes to 1 hour. However, the exact duration of meal breaks may vary depending on collective agreements or specific industry practices.

Employers must adhere to these regulations to safeguard the well-being and rights of workers. Failure to provide adequate breaks can lead to legal repercussions and compromises the health and productivity of employees.

Night time work, defined as work performed between 10 PM and 6 AM, presents unique challenges due to its impact on workers' health and well-being. Spanish labour laws, including Article 36 of the WS, address the rights and protections afforded to night workers.

Under Article 36, night workers are entitled to specific safeguards, including limitations on working hours and mandatory health checks. Employers must ensure that night workers' schedules adhere to legal requirements and prioritize their safety and health.

Directive 2003/88/EC sets minimum health and safety standards for night work, emphasizing the importance of adequate rest periods and limitations on working hours. These regulations aim to mitigate the adverse effects of night time work on workers' health and well-being. Under Article 35 of the Spanish Constitution, labour is recognised as a fundamental right, setting the foundation for comprehensive legislation in this area. Act 31/1995 on Prevention of Occupational Risks (APOR) establishes regulations aimed at promoting worker safety and health, including provisions specific to breaks and night-time work.

Breaks during the workday serve as essential components of employee well-being and productivity. Beyond the basic legal requirements outlined in Article 34 of the Workers' Statute (WS), several nuanced facets shape the landscape of breaks in Spanish employment law. Collective agreements often establish specific provisions regarding breaks tailored to the needs of particular industries or workplaces. These agreements may address the duration, timing, and frequency of breaks, taking into account the nature of the work and the well-being of employees. Employers should familiarize themselves with relevant collective agreements to ensure compliance and foster positive labour relations.

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While Spanish labour law mandates minimum break periods, employers have the flexibility to accommodate individual employee needs and preferences where feasible. Implementing flexible break policies can enhance employee satisfaction and work-life balance, contributing to a more positive and productive work environment. Employers should adopt a proactive approach to addressing employee preferences while balancing operational requirements.

Breaks present opportune moments for employers to promote employee wellness and morale. Implementing wellness initiatives during breaks, such as offering healthy snacks, organizing brief relaxation activities, or providing access to mindfulness resources, can contribute to a healthier and more engaged workforce. By prioritizing employee well-being, employers can cultivate a culture of care and support within the workplace.

Night time work poses unique challenges and considerations for both employers and employees, necessitating a comprehensive understanding of legal regulations and health implications. Directive 2003/88/EC establishes minimum health and safety standards for night work, emphasizing the importance of adequate rest periods, limitations on working hours, and regular health checks for night workers. Employers must ensure compliance with these regulations to safeguard the health and well-being of employees working during night hours. Implementing robust health and safety protocols, such as ergonomic assessments and fatigue management strategies, can mitigate the risks associated with night time work and promote employee health.

Legal conflicts often arise concerning the rights and protections afforded to workers during night-time shifts. Landmark cases in Spanish and European courts have set precedents for equal treatment and protection in the workplace. For instance, the "Gabriele Habermann-Beltermann v. Arbeiterwohlfahrt" case highlighted the importance of safeguarding pregnant workers from discrimination, particularly regarding night work. Similarly, the "Silke-Karin Mahlburg v. Land Mecklenburg-Vorpommern" case underscored the need for equal treatment in access to employment and working conditions, especially for pregnant women. These cases have shaped legal interpretations and enforcement practices, emphasizing the importance of upholding labour rights and protections for all workers.

Night workers are entitled to specific rights and protections under Spanish labour law, including limitations on working hours and mandatory health checks. Employers must respect these rights and ensure that night workers' schedules adhere to legal requirements. Additionally, pregnant women, minors, and particularly sensitive workers require additional safeguards, with legal provisions prohibiting night work in certain cases. Employers should prioritize the well-being of vulnerable workers and implement appropriate accommodations and support mechanisms as needed.



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Providing comprehensive training and education on the health risks and implications of night time work is essential for both employers and employees. Educating workers about the potential health effects of night work, such as sleep disorders and increased risk of certain diseases, empowers them to make informed decisions about their work schedules and prioritize their health. Employers should invest in ongoing training and education programs to raise awareness and promote a culture of health and safety in the workplace.

## Annual leave

In Spain, annual holiday leave is a crucial aspect of employment law, providing workers with ample time for rest, rejuvenation, and personal pursuits. Annual holiday leave in Spain is notably generous, granting full-time workers 22 working days (equivalent to 30 calendar days) of paid vacation time per year. Employees have the flexibility to take their annual leave all at once or divide it throughout the year. However, Spanish labour laws mandate that at least one period of holiday leave must span a minimum of two weeks.

Spain observes a total of 14 public holidays each year, including nine national holidays and additional regional and local holidays. The number of public holidays may vary based on the employee's location within Spain, with local and regional authorities determining additional holidays beyond the national ones.

Employees, regardless of their employment status (full-time, part-time, or temporary), are entitled to vacation under the same conditions as full-time employees. If an employee is unable to utilise all of their vacation days due to the termination of their contract, the employer must compensate them for the remaining unused days. In Spain, the legal framework surrounding annual holiday entitlements is primarily governed by the Workers' Statute (Article 38), which establishes the minimum requirements for vacation time and pay. However, recent developments in case law and legislative amendments have introduced notable changes and interpretations affecting holiday entitlements.

For instance, a significant development in recent years has been the clarification of vacation entitlements for employees who are unable to take their full vacation due to illness or other circumstances. Legal amendments passed in February 2012 explicitly entitle such employees to utilise their accrued vacation time after their sick leave ends, within a maximum period of 18 months from the end of the relevant calendar year. This provision ensures that employees do not forfeit their vacation entitlements due to unforeseen circumstances beyond their control.

Beyond statutory requirements, collective agreements between employers and labour unions often play a crucial role in shaping annual holiday entitlements and benefits. These agreements may establish provisions that go beyond the minimum requirements set forth

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in the workers statute, providing employees with enhanced vacation benefits, flexible scheduling options, and additional compensation for working on public holidays.

Employers operating within sectors covered by collective agreements must carefully review and adhere to the provisions outlined in these agreements to ensure compliance with legal obligations and maintain positive labour relations. By offering competitive vacation benefits and accommodating employee preferences, employers can attract top talent and foster a supportive work environment conducive to productivity and employee satisfaction.

In response to evolving workplace dynamics and employee preferences, many employers are adopting flexible work arrangements to promote work-life balance and enhance employee well-being. Flexible scheduling options, remote work opportunities, and compressed workweeks are increasingly common practices aimed at accommodating diverse lifestyles and preferences.

Employers that prioritize work-life balance and offer flexible work arrangements often experience higher levels of employee engagement, retention, and productivity. By embracing a culture of flexibility and supporting employees' personal and professional needs, organizations can create a positive and inclusive work environment conducive to long-term success.

## Public holidays

Public holidays play a significant role in employment law across the globe, shaping work schedules, compensation policies, and employee entitlements.

The official holidays for 2025 for Spain are listed below:  
(National):

- January 1 (Wednesday) - New Year's Day
- January 6 (Monday) - Epiphany
- April 18 (Friday) - Good Friday
- August 15 (Friday) - Assumption of Mary
- October 12 (Sunday) - National Holiday of Spain (observed Monday, October 13)
- November 1 (Saturday) - All Saints' Day
- December 6 (Saturday) - Spanish Constitution Day (observed Monday, December 8)
- December 25 (Thursday) - Christmas Day

Regional Holidays in Spain:

- Shrove Tuesday (Extremadura)
- Andalusia Regional Holiday (Andalusia)
- Balearic Islands Regional Holiday (Balearic Islands)
- St Joseph's Day (Murcia & Valencia)
- Maundy Thursday (National except Catalonia & Valencia)

# Native Teams

- Easter Monday (Balearic Islands, Basque Country, Cantabria, Catalonia, La Rioja, Navarre & Valencia)
- Eid al-Fitr (Ceuta & Melilla)
- Aragon Regional Holiday (Aragon)
- Castile and León Regional Holiday (Castile and Leon)
- Madrid Regional Holiday (Madrid)
- San Isidro (community Festival) (Madrid)
- Galician Literature Day (Galicia)
- Corpus Christi (Castile-La Mancha)
- Canary Islands Regional Holiday (Canary Islands)
- Castile-La Mancha Regional Holiday (Castile-La Mancha)
- La Rioja Regional Holiday (La Rioja)
- Murcia Regional Holiday (Murcia)
- San Antonio (Ceuta)
- Eid al-Adha (Ceuta & Melilla)
- St John's Day (Catalonia & Valencia)
- National Day of Galicia (Galicia)
- Saint James' Day (Basque Country, Cantabria, Madrid & Navarre)
- Our Lady of Africa (Ceuta)
- Day of Ceuta (Ceuta)
- Extremadura Regional Holiday (Extremadura)
- Asturias Regional Holiday (Asturias)
- National Day of Catalonia (Catalonia)
- Day of Melilla (Melilla)
- Valencian Regional Holiday (Valencia)
- Virgin of Almudena \* (Madrid)
- Francisco Javier (Navarre)
- Mon Immaculate Conception Holiday (Andalusia, Aragon, Asturias, Castile and Leon, Extremadura, Melilla & Murcia)
- St Stephen's day (Catalonia)

## Salary

In Spain, salary refers to all economic benefits paid to workers, either in cash or in kind, in exchange for their professional services. This definition includes remuneration for actual work performed and periods of rest that count as working time. The legal framework governing salaries is primarily outlined in the Workers' Statute, specifically in Article 26.

As of January 1, 2025, the minimum wage in Spain is set at €1,184 per month when calculated over 14 payments per year or €1,381 per month when distributed across 12 payments per year. This wage applies to all workers and remains in effect as of February

2025. The minimum wage is reviewed periodically by the Spanish government to ensure fair compensation and maintain workers' purchasing power.

Additionally, collective agreements in Spain have the authority to establish minimum salary thresholds for various professional groups and employee categories. These agreements complement the statutory minimum wage, providing further guidance on compensation standards within specific industries or sectors. By incorporating both statutory regulations and Collective Agreement provisions, employers ensure compliance with legal requirements and promote fair remuneration practices across the workforce.

It's important to note that certain payments do not count as salary. These include compensation for expenses incurred due to professional activity, Social Security benefits, and indemnities for transfer, suspension, or dismissal. These exclusions are also detailed in Article 26 of the Workers' Statute.

Under Spanish labour law, salaries can be paid in both monetary and in-kind forms. However, the salary in kind cannot exceed 30% of the total salary, ensuring that the cash component is substantial enough to meet the minimum guaranteed interprofessional wage requirements.

The calculation of the minimum guaranteed interprofessional wage involves several factors, including the Consumer Prices Index, average national productivity, the share of labour in national income, and the overall economic outlook. These factors are regulated under Article 27 of the Workers' Statute.

Employers must pay employees at least once a month, in cash or through bank transfers. Payments must be accompanied by a payslip detailing the employer's name, employee's details, pay period, basic pay, additional payments, and deductions. These requirements ensure transparency and help in resolving any potential disputes over salary payments.

Spanish law mandates two extraordinary payments annually, typically in July and December, often referred to as "pagas extraordinarias." These bonuses are generally equivalent to one month's salary each, adding to the overall annual compensation and providing financial support during critical times of the year.

If an employee is asked to perform duties of a higher category than specified in their contract, they are entitled to receive the corresponding higher wage. Should the employee

perform these higher duties for more than six months in one year or eight months in two years, they are entitled to a promotion, according to legal provisions. If the company refuses, the employee can take legal action.

Recent amendments to the Workers' Statute have focused on ensuring that employees who are unable to take their paid vacation due to sick leave can use their vacation entitlement after their sick leave ends. They have up to 18 months from the end of the year when their entitlement accrued to do so. These changes emphasise the importance of fair treatment and flexibility in employee entitlements.

Few case laws at a glance:

Tribunal Supremo, Sala de lo Social, Sentencia 246/2014: An employee claimed that his employer had failed to pay the agreed salary in full, particularly contesting the legality of deductions made for company-provided accommodation and meals. The Supreme Court ruled that while deductions for benefits in kind are permissible, they cannot exceed 30% of the total salary. The employer was ordered to repay the excess amount deducted, reinforcing the statutory limits on in-kind compensation.

Tribunal Supremo, Sala de lo Social, Sentencia 392/2016: An employee who performed higher category duties for an extended period sued for a salary increase corresponding to those duties, claiming the right to a promotion and back pay. The Supreme Court upheld the employee's claim, stating that performing higher category duties for more than six months in a year or eight months in two years entitles the employee to the corresponding higher salary and a formal promotion, as per the Workers' Statute.

Tribunal Supremo, Sala de lo Social, Sentencia 314/2018: An employer failed to pay the statutory Christmas bonus, arguing financial difficulties as a reason for non-compliance. The Supreme Court ruled that financial difficulties do not exempt an employer from paying statutory bonuses. The employer was mandated to pay the owed Christmas bonus, emphasizing that statutory bonuses are non-negotiable and must be paid regardless of the employer's financial situation.

## Sick leave

In Spain, the framework for sick leave and related allowances is comprehensive, reflecting the country's commitment to social security and workers' health. When an employee in Spain becomes temporarily incapacitated due to sickness or injury, they can claim an allowance for temporary incapacity. This benefit is crucial for covering the loss of daily income during the period they are unable to work, in addition to receiving healthcare. The

amount and duration of paid sick leave vary depending on whether the illness or injury is work-related or non-work-related.

In the case of a non-work-related illness or accident, the employee does not receive any compensation for the first three days of leave. From the fourth to the twentieth day, they receive 60% of their contribution base, which increases to 75% from the twenty-first day onwards. Collective bargaining agreements (CBAs) can enhance these payments, sometimes recognizing up to 100% of the salary or contribution base. Additionally, some companies allow employees to take one day of sick leave without any salary deduction, though this depends on the company's professional activity.

For work-related accidents, employees are entitled to 75% of their contribution base from day one. The employee must promptly communicate the sick leave document to their employer upon receiving it. These provisions ensure that employees can recover without risking their financial stability, a policy especially pertinent during times of heightened health concerns, such as the ongoing pandemic. During sick leave due to ordinary (non-work-related) illness, the company bears the full cost of the employee's salary for the first three days. From the fourth to the fifteenth day, the employer pays an allowance amounting to 60% of the calculation base. From the sixteenth to the twentieth day, the social security system covers the 60% allowance, and from the twenty-first day onwards, the allowance increases to 75%, also covered by social security.

To receive this benefit, the employee must undergo a medical examination by a doctor from the Servicio Público de Salud (State Health Services), who can certify the illness. For employees, the employer is responsible for applying for the sick leave and covering the costs of the first 15 days of the allowance. After this period, the Sistema Nacional de la Seguridad Social (National Social Security System) assumes the financial responsibility.

For work-related accidents, the allowance is calculated at 75% of the daily calculation base starting from the day after the accident. This allowance is paid by either the Mutua (mutual insurance company) or the INSS (National Institute of Social Security). CBAs or individual agreements between the company and the worker may supplement this allowance at the company's expense.

Employers have several obligations during a Temporary Incapacity situation. They must pay the delegated payment benefit, electronically notify the INSS of sick leave, confirmation, and medical discharge reports within three working days, and report any accidents at work using the Delt@ System within five working days.

Workers, on the other hand, must submit the sick leave and confirmation reports to the company within three calendar days from the start of the Temporary Incapacity situation and submit the discharge report within 24 hours of its issuance. They are expected to return to work the day after the date on the discharge report.

Royal Decree 1060/2022, published on December 27, 2022, introduced key changes to the management and control of the first 365 days of temporary incapacity. Under the new rules, employees no longer need to submit sick leave and/or medical discharge certificates to their company. Instead, communication relating to medical certificates will occur directly between the administration and the company. Additionally, doctors may schedule medical checks in shorter periods than previously provided. These changes apply to any temporary incapacity that began before April 1, 2023, and has not exceeded 365 days in duration.

Also, effective from 1 June 2023, new temporary incapacity contingencies include leave for disabling menstruation, termination of pregnancy, and the late stages of pregnancy. These leaves are not paid, but the Social Security system provides benefits from the first day of incapacity.

## Maternity leave

The primary legislation addressing maternity leave includes the Workers' Statute (Estatuto de los Trabajadores) and the Organic Law for the Effective Equality of Women and Men (Ley Orgánica para la Igualdad Efectiva de Mujeres y Hombres). In Spain, employees are entitled to 16 weeks of maternity leave, with an additional two weeks for each additional child in the case of multiple births. This period must be taken consecutively and is separate from any leave for medical examinations or health risks during pregnancy. At least six weeks of this leave must be taken immediately following the birth, but the mother may choose to start her leave before the birth. If both parents work, the mother can transfer part of her leave to the father, provided she takes the minimum required six weeks post-partum and returning to work does not pose a health risk.

Employees on maternity leave generally do not receive their regular salary unless stipulated by their employment contract or a collective bargaining agreement (CBA). Instead, they qualify for a maternity allowance from the public social security system, equivalent to 100% of their regulatory base rate. To receive this allowance, employees must apply to the relevant social security authorities.



# Native Teams

Employers are required to reserve the employee's job position during maternity leave. After the leave period, the employee is entitled to return to the same position under the same employment conditions. This protection extends to those on leave due to adoption or foster care, who are also entitled to 16 weeks of leave under specific circumstances.

Parents or guardians of children under 12 may request a reduction in working hours by one-eighth to one-half for childcare reasons, with a corresponding reduction in salary. Employees caring for a disabled child or adult may also enjoy this reduction indefinitely. Additionally, employees can take up to three years of unpaid leave to care for their child, during which they are entitled to job protection for the first year and the right to return to a similar position thereafter. The Workers' Statute and the Organic Law for the Effective Equality of Women and Men provide detailed provisions to protect pregnant employees. These laws prohibit discrimination and dismissal based on pregnancy from the time the pregnancy is confirmed until the end of the maternity leave period. Employers must maintain employees' salary and employment conditions during maternity leave and ensure that employees can return to their previous position or an equivalent one if the original position is unavailable.

To be eligible for maternity leave, employees must have contributed to the social security system for a minimum of 180 days in the past seven years or a total of 360 days throughout their career. Employees should notify their employer in writing at least 15 days before the start of maternity leave and provide a medical certificate confirming the estimated date of delivery.

The maternity allowance is funded by the social security system and paid at 100% of the employee's base salary, up to a maximum limit set by the government. Pregnant employees are also entitled to healthcare benefits, including prenatal care and medical support, covered by the national healthcare system or the employer's private health insurance.

In cases of health complications during pregnancy, employees may be eligible for sick leave before giving birth, compensated at 100% of their salary for the first 15 days and 66% thereafter. After giving birth, employees can take additional unpaid leave, known as "excedencia sin sueldo," for up to three years, with the assurance of job protection for the first year.

If an employee faces dismissal due to pregnancy or while on maternity leave, they have the right to challenge it. The process involves initiating conciliation through the Labour Department's Mediation, Arbitration, and Conciliation Office. If conciliation fails, the employee can file a complaint with the labour court within 20 working days. The court will evaluate the dismissal's validity, and if found unfair, may order remedies such as reinstatement with back pay or financial compensation. Null and void dismissals require immediate reinstatement with full back pay.

## Paternity leave

Spain has made significant strides in promoting gender equality through progressive reforms in paternity leave policies. As of January 1, 2021, paternity leave in Spain has been extended to 16 weeks, aligning with maternity leave and positioning Spain among the leading countries for paternity leave duration within the OECD. This development is part of a broader legislative effort to ensure equal treatment and opportunities for men and women in the workplace, detailed in RD-Law 6/2019.

Prior to the reforms under RD-Law 6/2019, paternity leave in Spain was limited to five weeks. The phased approach to increasing paternity leave included several key milestones:

- March 7, 2019: The law took effect, providing eight weeks of paid paternity leave starting April 2019.
- January 1, 2020: The leave was extended to 12 weeks.
- January 1, 2021: Paternity leave was further extended to 16 weeks.

### Eligibility and application

Paternity leave applies exclusively to the parent who did not give birth. For adoptive or foster parents, they may choose which parent takes paternity leave. Part-time workers are eligible for the same leave duration as full-time workers. Single parents, however, cannot combine maternity and paternity leave. The 16 weeks of paternity leave must be used within the first year of the child's life, with the first six weeks being mandatory and taken immediately after the child's birth. In cases of multiple births, leave can be extended by two weeks. For adoption or foster care, each parent gets six weeks of leave immediately after the legal finalization, and they can share the remaining 16 weeks, ensuring neither parent takes more than 10 weeks.

Employees on paternity leave receive 100% of their salary, provided they have made the necessary contributions to Spain's social security system, the Instituto Nacional de la Seguridad Social. The social security office covers the paternity leave subsidy, while employers are responsible for social taxes and withholdings.

Research indicates that the increased length and non-transferable nature of paternity leave, along with the mandatory six-week period, have encouraged greater uptake among fathers. The option to split the leave after the mandatory period has led to diverse usage patterns. For instance, many fathers now take part of their leave simultaneously with the mother, followed by additional periods after the mother's leave ends, extending the overall time a parent is home with the child.

The adoption of split leave varies significantly across different regions and economic sectors. Regions like Navarre, La Rioja, and the Basque Country have higher rates of split leave compared to the Canary Islands, Andalusia, and Extremadura. Similarly, sectors such as information and communication, and financial activities see higher rates of leave splitting than agriculture and hospitality.

Spanish labour law mandates strict adherence to paternity leave policies, with significant protections against dismissal for employees on leave. Companies failing to comply with these regulations may face litigation. To navigate the complexities of Spanish employment law, businesses often seek assistance from employers of record or international PEOs with expertise in local regulations.

## Termination

### Methods of employment termination

Employment termination in Spain is governed by a robust legal framework designed to protect both employees and employers. Employment termination in Spain can occur through various means, each with specific legal implications. The primary types of termination include mutual agreement, resignation, dismissal, and expiration of the contract.

Mutual agreement involves both the employer and employee consenting to end the employment relationship. This method often includes a severance package, negotiated terms, and conditions agreed upon by both parties.

Resignation occurs when an employee decides to leave the job voluntarily. The employee must provide notice as stipulated in the employment contract or collective bargaining agreement (CBA). Failure to do so can result in the employee compensating the employer for the notice period.

Dismissal is the most complex form of termination and can be classified into disciplinary, objective, and collective dismissals:

- Disciplinary Dismissal: This type of dismissal occurs due to severe misconduct by the employee, such as repeated absenteeism, insubordination, or breach of contract.
- Objective Dismissal: This type of dismissal is based on objective reasons like economic, technical, organizational, or production-related causes.
- Collective Dismissal: When an employer dismisses a significant number of employees within a 90-day period due to economic, technical, organizational, or production-related reasons, it qualifies as a collective dismissal.

Contracts can also end upon their natural expiration, such as the completion of a fixed-term or specific project contract. The Spanish Workers' Statute (Estatuto de los Trabajadores) forms the cornerstone of employment law, outlining the rights and obligations of both employees and employers. Key sections relevant to termination include Articles 49-56, which detail the grounds and procedures for various types of dismissal.

# Native Teams

With the increasing prevalence of remote work, Spanish labour law has adapted to include specific provisions for terminating remote workers. According to recent legislative updates, remote workers are entitled to the same protections and rights as on-site employees. Employers must ensure that remote workers are notified of their dismissal in the same manner as other employees. Digital communication, such as email or electronic notice, is permissible provided it is mutually agreed upon and ensures the employee's receipt of the notice.

Employees can challenge dismissals deemed unfair or unlawful. If a court finds a dismissal unjustified, the employer must choose between reinstating the employee with back pay or providing compensation.

Recent legislative changes have introduced additional protections and requirements for employment termination:

- Notice Periods and Severance Pay: The notice periods and severance pay for objective and collective dismissals have been clarified and standardized to prevent disputes.
- Enhanced Employee Protections: Laws have strengthened protections for vulnerable groups, such as those on maternity leave, ensuring that dismissals in these cases are subject to stricter scrutiny under Article 55.5 of the Workers' Statute.
- Digital Notification: Employers are now permitted to notify employees of dismissal electronically, provided the employee has agreed to this method of communication. This is particularly relevant for remote workers, ensuring they receive timely and proper notice.
- Regulatory Developments: Ongoing reforms aim to balance flexibility for employers with job security for employees. The recent emphasis on remote work has also influenced termination procedures, particularly concerning notice periods and compensation.

## Ordinary dismissal by the employer

Dismissal is a significant aspect of employment law in Spain, governed by various regulations and statutes.

Dismissal is the most complex form of termination and can be classified into disciplinary, objective, and collective dismissals:

- Disciplinary Dismissal (Despido Disciplinario): This type of dismissal occurs due to severe misconduct by the employee, such as repeated absenteeism, insubordination, or breach of contract. The employer must provide written notice specifying the reasons for the dismissal as per Article 54 of the Workers' Statute (Estatuto de los Trabajadores). If the dismissal is deemed unfair, the employee may be entitled to compensation or reinstatement. Royal Decree 5/2011 outlines the legal framework for such dismissals.
- Objective Dismissal (Despido Objetivo): This type of dismissal is based on objective reasons like economic, technical, organizational, or production-related causes. According

to Article 52 of the Workers' Statute, the employer must provide notice and pay severance. Objective dismissals must be supported by valid evidence, failing which they can be challenged in court.

- Collective Dismissal (Despido Colectivo): When an employer dismisses a significant number of employees within a 90-day period due to economic, technical, organizational, or production-related reasons, it qualifies as a collective dismissal. This process is governed by Article 51 of the Workers' Statute and involves consultation with workers' representatives and notification to the labour authority. When a company dismissal significantly impacts the workforce, Law 14/2013 regarding collective dismissals comes into play.

In Spain, the employment relationship is not governed by at-will termination practices. Unlike in some other jurisdictions, employers do not have the unilateral right to terminate an employee for any reason once they are hired and under contract.

In Spain, termination of employment contracts can occur through various methods, including disciplinary dismissal, objective dismissal and collective dismissal, and expiration of fixed-term contracts. Each type of dismissal has specific legal requirements and procedural steps that must be followed to ensure legality and fairness.

The Spanish Workers' Statute (Estatuto de los Trabajadores) forms the cornerstone of employment law, outlining the rights and obligations of both employees and employers. Key sections relevant to termination include Articles 49-56, which detail the grounds and procedures for various types of dismissal.

## Procedural requirements

- Disciplinary dismissal: According to Article 54 of the Workers' Statute, provides for disciplinary dismissal, often the broadest grounds for termination, offers employers significant discretion. Various reasons can justify such action, including repeated absenteeism without valid excuses, insubordination, verbal or physical abuse, contract violations, intentional reduction in job performance, substance abuse affecting work, and harassment based on religious, sexual, or disability status. For this dismissal to stand legally, the employer must provide a written notice outlining the reasons and effective termination date. If the terminated employee is affiliated with a labour union or serves as a workers' representative, they are entitled to a prompt disciplinary procedure and hearing.

- Objective dismissal: Article 52 of the Workers' Statute provides the cases of individual layoffs, employers have a broader scope of authority, primarily based on employees' work abilities. Typical reasons for individual dismissal include employee incompetence or ineptitude, inability to adapt to job changes (provided training and a two-month grace period are given), and economic, technical, production-related, or organizational reasons.

Employers are required to provide at least 15 days' advance written notice or pay the equivalent salary.

- **Collective dismissal:** According to Article 51 of the Workers' Statute, even after a company has established grounds for collective action, there are specific steps that must be followed. Firstly, the employer must engage in a negotiation period with workers' representatives, the duration of which varies based on the size of the company. For larger companies, this negotiation period cannot exceed 30 calendar days, while for those with 50 or fewer employees, it is limited to 15 calendar days. Additionally, the employer must provide 7- to 15-day prior notice of layoff to employee representatives and individually notify and meet with affected workers. In cases where layoffs affect more than 50 employees, the company is expected to offer an outplacement plan lasting at least 180 days, providing guidance, training, and assistance with job searches.

Recent court rulings have further shaped the landscape of dismissals in Spain. Notable decisions include:

- **Disciplinary dismissal:** In a case before the Supreme Court on March 22, 2018 (STS 222/2018), an employee faced dismissal for serious and continued absenteeism. The employer presented thorough documentation detailing the absences and their impact on company operations. The court upheld the dismissal, emphasizing that the employer had substantiated the misconduct with compelling evidence, underscoring the importance of clear documentation in disciplinary actions.

- **Objective dismissal:** In another instance, the National Court delivered a judgment on June 5, 2019 (SAN 140/2019) involving a company's termination of several employees due to economic reasons stemming from a decline in revenue. However, the employees contested the dismissals, citing insufficient evidence of financial difficulties. The court sided with the employees, highlighting the necessity for transparent financial disclosures and comprehensive explanations when economic justifications are cited for termination.

- **Collective dismissal:** Lastly, in a case decided by the Supreme Court on February 13, 2020 (STS 261/2020), a large corporation conducted a collective dismissal affecting over 100 employees as part of organizational restructuring. Employees challenged the dismissals, alleging inadequate consultation with their representatives. The Supreme Court ruled in favor of the employees, annulling the dismissals due to the employer's failure to meet procedural requirements for collective dismissals, particularly the obligation to engage in meaningful consultation and negotiation with employee representatives. This case underscored the significance of procedural adherence in collective dismissal processes, emphasizing that procedural failures can render such dismissals void.

## Notice period and challenging the dismissal

Spanish employment law outlines specific notice periods for termination, varying depending on the type of dismissal. Spanish law mandates minimum notice periods for termination, with variations depending on the dismissal type:

- Disciplinary dismissal (Despido disciplinario): This occurs for serious employee misconduct, such as repeated absences, insubordination, or fraud. No notice period is required by law. However, collective bargaining agreements or individual employment contracts may stipulate otherwise.
- Objective dismissal (Despido objetivo): This dismissal is based on economic, technical, organizational, or production-related reasons beyond the employee's control. Employers must provide a written notice of termination at least 15 days before the dismissal takes effect (Article 53.1 c of the Workers' Statute).
- Collective dismissal (Despido colectivo): When a significant portion of the workforce is affected due to objective reasons, a more complex process applies. The employer must initiate consultations with employee representatives over a period ranging from 15 to 30 days, depending on the company size (Article 51 of the Workers' Statute).

Employees who believe their dismissal is unfair or unjustified can challenge it in a labour court within 20 working days of receiving notification. The notice period for dismissals in Spain varies depending on the type of dismissal. For disciplinary dismissals, there is no statutory requirement for a notice period, although collective bargaining agreements may stipulate otherwise. In the case of objective dismissals, employers must provide a 15-day notice period, during which the employee is entitled to six hours of paid leave per week to seek new employment. If the required notice is not given, the employer must compensate the employee accordingly.

Employees who believe their dismissal was unjustified have the right to challenge it in court. The challenge must be initiated within 20 working days of the dismissal through the "papeleta de conciliación," a mandatory conciliation procedure. If no agreement is reached, the employee can file a claim in the labour court. The court can declare the dismissal as appropriate, unfair, or null and void.

- Appropriate Dismissal: The court confirms that the dismissal was carried out legally and for valid reasons, with no further compensation due to the employee.
- Unfair Dismissal: The dismissal may be deemed unfair if the employer failed to meet legal requirements or if the reasons provided do not justify the dismissal. In such cases, the employer must either reinstate the employee with back pay or provide compensation of 33 days' salary per year of service, capped at 24 months' salary.
- Null and Void Dismissal: Dismissals are declared null and void if they violate fundamental rights or are discriminatory. In these instances, the employee must be reinstated immediately with back pay.



Certain categories of employees enjoy special protection against dismissal, including trade union representatives and employees on maternity or parental leave. These employees can only be dismissed under exceptional circumstances and with stringent procedural safeguards. For instance, dismissals of pregnant employees or those on parental leave are generally considered null and void unless the employer can prove a legitimate, unrelated reason for the dismissal.

The procedure for collective dismissal involves several stages:

- Constitution of a Worker Negotiating Committee: The employer must inform employees of the intention to initiate a collective dismissal, allowing them to form a negotiating committee.
- Notice of Commencement: The employer must notify the employee representatives and labour authorities, providing documentation that justifies the dismissal.
- Consultation Period: This period can last up to 30 days (15 days for smaller companies), during which the employer and employee representatives discuss measures to mitigate the impact of dismissals.
- Notification of Individual Dismissals: After the consultation period, individual employees can be dismissed with a minimum of 15 days' notice and the required severance pay.

## Rights and obligations of unemployed persons

Spain's unemployment benefits system is designed to support individuals of working age who find themselves out of work or facing reduced working hours. Unemployment protection in Spain caters to individuals who have lost their jobs, had their contracts end, or experienced a significant reduction in working hours. The system offers two levels of protection:

- Full protection: Provided to individuals who have ceased working entirely.
- Partial protection: Provided when an individual's working hours are reduced by 10% to 70%, with a corresponding reduction in salary.

### Levels of protection

- Contributory level: This level is available to workers who have paid into the Spanish social security system. To qualify, individuals must have contributed for at least 360 days over the six years prior to unemployment. The benefit amount and duration are directly related to the contributions made.
- Social care level: This level provides support to unemployed workers in specific situations, such as those who have exhausted their unemployment benefits and have family responsibilities or those over 45 years old without family responsibilities. It also covers Spanish migrant workers returning from non-European Economic Area countries and individuals over 52 years old who meet specific requirements.

To qualify for contributory unemployment benefits, individuals must meet the following criteria:

# Native Teams

- Be registered in the Spanish social security system and paying unemployment contributions.
  - Have contributed for at least 360 days over the past six years.
  - Be over 16 years old and not yet reached the normal retirement age.
  - Be registered as a jobseeker with the public employment service, actively seeking employment, and willing to accept suitable work. The amount of the unemployment benefit is calculated based on the assessment base, which is the average of the unemployment contribution bases for the last 180 days worked, excluding overtime pay. For full unemployment, the benefits are as follows:
    - First 180 days: 70% of the assessment base.
    - From the 181st day onwards: 50% of the assessment base.
- The benefit amount is subject to minimum and maximum thresholds, which vary based on the number of dependent family members.

The minimum threshold is as follows:

- Without children: 80% of IPREM, plus one sixth (EUR 501.98/month).
- With children: 107% of IPREM, plus one sixth (EUR 671.40/month).

The maximum threshold is as follows:

- Without children: 175% of IPREM, plus one sixth (EUR 1098.09/month).
- With one child: 200% of IPREM, plus one sixth (EUR 1254.96/month).
- With two children: 225% of IPREM, plus one sixth (EUR 1411.83/month).

For part-time unemployment, the benefit is calculated proportionally to the reduction in working hours.

The duration of unemployment benefits ranges from 120 to 720 days, depending on the period of social security contributions made during the six years prior to unemployment.

Unemployment benefits are managed by the State Public Employment Service (SEPE). Applications can be submitted online through the SEPE website or in person at a SEPE office, with prior appointment.

Various legal situations qualify individuals for unemployment benefits, provided they meet the eligibility requirements. These include:

- Dismissal: Including both individual and collective dismissals.
- Contract Completion: End of fixed-term contracts, project-based contracts, or training agreements.
- Employer circumstances: Termination due to employer's death, retirement, or permanent disability.
- ERTe and insolvency: Suspension or reduction of working hours through Temporary Employment Regulation Files (ERTE) or court judgments in insolvency proceedings.

- Gender violence: Victims forced to leave their jobs due to gender violence or sexual abuse.

Several conditions and legal precedents impact the administration of unemployment benefits:

- Notice period for dismissal: Typically, a 15-day notice period is required for dismissals based on objective reasons. Failure to provide notice requires employers to compensate the employee with an equivalent amount of salary.
- Severance pay: Employees dismissed for objective reasons are entitled to severance pay amounting to 20 days' salary per year of service, up to a maximum of 12 months' salary.
- Special considerations for Older Workers: Workers over 52 who meet specific criteria can access unemployment benefits under more favorable conditions, recognizing the challenges they face in re-entering the workforce.

The Spanish government has implemented various initiatives to improve support for unemployed individuals:

- Personalized Itineraries: Each unemployed person receives a customized plan to enhance their skills and employability, including training programs and job search assistance.
- Digital and personal attention: Jobseekers can choose between digital services and personal consultations with employment advisors.
- Focus on older workers: Special programs target individuals over 52 years old, providing additional training and employment opportunities.

## Severance pay

Severance pay in Spain serves as a financial cushion for employees transitioning out of their jobs. Types of Dismissal and Corresponding Severance Pay

- Unfair dismissal: Occurs when a dismissal is unjustified or does not follow proper legal procedures. Compensation is typically 33 days' salary per year worked, capped at 24 months' pay. For contracts before the 2012 labour reform, compensation is 45 days per year worked up to the reform date, and 33 days thereafter, with the same 24-month cap.
- Objective dismissal: Involves economic, technical, organizational, or production-related reasons. The compensation is 20 days' salary per year worked, with a maximum of 12 months' pay. Employers must provide a written notice explaining the reasons for dismissal and a 15-day notice period.
- Disciplinary dismissal: Based on serious employee misconduct. Generally, no severance pay is provided unless the dismissal is declared unfair by a court. In such cases, the compensation aligns with unfair dismissal terms.

Severance pay is calculated based on the employee's seniority and daily salary. The formula typically involves multiplying the number of days per year (20 for objective, 33 for unfair) by the years of service and daily salary. All salary components, including bonuses and incentives, are included in this calculation. The Spanish Workers Statute (Estatuto de los

Trabajadores) governs the termination of employment relationships. Employers must adhere to specific procedures to ensure lawful dismissals:

- Objective dismissals: Must be substantiated with clear evidence of the economic, technical, organizational, or production-related reasons. Employers are required to provide a 15-day notice and written communication detailing the causes of dismissal. Failure to comply can lead to legal challenges and increased compensation obligations.
- Disciplinary dismissals: Must be communicated in writing, stating the specific misconduct and the effective date of termination. Employees can contest these dismissals within 20 working days. If a court deems the dismissal unfair, the employer must provide compensation or reinstatement.
- Collective dismissals: When a significant portion of the workforce (e.g., at least 10% in companies with 100-299 employees) is dismissed within a 90-day period, it constitutes a collective dismissal. Employers must undergo a consultation period with employee representatives and notify the Employment Authorities. Severance pay is 20 days' salary per year worked, capped at 12 months, and employees can challenge dismissals in labour courts.

The Spanish labour law framework for severance pay is detailed and demands strict compliance from employers. Key regulations include:

- Written notice: Essential for both objective and disciplinary dismissals. The notice must outline the reasons for dismissal and the effective date.
- Consultation process: For collective dismissals, employers must engage in a consultation period with employee representatives to discuss the reasons and seek alternatives to dismissal.
- Documentation: Employers must maintain comprehensive records to justify the grounds for dismissal, especially in cases of objective dismissals.

The Spanish Supreme Court has ruled that stock options should be included in severance calculations if the dismissal is declared unfair. This applies even if the dismissal occurs shortly before the options could be exercised, ensuring employees are compensated for lost benefits.

In a landmark decision, the Spanish Supreme Court clarified the application of severance pay in cases of null and void dismissals. The Court ruled that employees are entitled to the same severance pay as for unfair dismissal if reinstatement is not feasible due to the employer's actions. This judgment reinforces the protection of employees against retaliatory dismissals and underscores the importance of proper dismissal procedures.

Employers must be diligent in several areas to ensure compliance and mitigate risks:

- Length of service: Seniority is a critical factor in calculating severance pay. Longer-serving employees typically receive higher compensation.
- Salary components: All aspects of remuneration, including base salary, bonuses, and benefits, are factored into severance calculations.

- Statutory limits: Be aware of the statutory limits on severance pay and tax exemptions to ensure accurate and lawful calculations.

## Restrictive covenants

### Prohibition of competition

Restrictive covenants in employment law serve as essential tools for employers to protect their business interests. Restrictive covenants are agreements between employers and employees that limit the employee's actions during and after their employment. These covenants are crucial in protecting the employer's business interests, especially when employees have access to sensitive information or are pivotal to the company's operations. Understanding the legal requirements and implications of these covenants is vital for both employers and employees to navigate employment relationships effectively.

Non-compete clauses prevent employees from working for competitors or engaging in activities that compete with the employer's business. In Spain, non-compete clauses can be divided into two categories: during employment and post-contractual.

-Non-Compete During Employment: This type of non-compete agreement restricts employees from engaging in activities that compete with their current employer. It must be explicitly agreed upon in the employment contract and adequately compensated. If the agreement lacks proper compensation, it may be deemed null and void.

- Post-Contractual Non-Compete: This clause extends the non-compete obligation beyond the termination of employment. According to Article 21 of the Workers' Statute, post-contractual non-compete agreements are valid only if:

- There is a legitimate industrial or commercial interest.
- Adequate financial compensation is provided.
- The duration does not exceed two years for technicians and six months for other employees.
- The compensation for post-contractual non-compete agreements typically ranges from 70% to 100% of the employee's fixed salary, depending on the restrictiveness of the covenant.

Non-solicitation clauses prevent employees from soliciting the employer's clients or staff after leaving the company. Spanish labour legislation does not specifically regulate non-solicitation of customers or employees, but these restrictions are generally considered valid within the scope of non-compete clauses.

Exclusivity agreements require employees to dedicate their full professional efforts to one employer. These agreements are enforceable during the term of employment and must be

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compensated appropriately, usually between 20-25% of the employee's salary. The legal foundation for restrictive covenants in Spain is outlined in the Workers' Statute. For a restrictive covenant to be enforceable, it must meet specific criteria, including the employer's industrial or commercial interest and the provision of adequate compensation. The following are key aspects of compliance:

- Effective industrial or commercial interest: Employers must demonstrate a legitimate need for the restrictive covenant. This interest should be clearly articulated and documented, ensuring that the covenant is not overly restrictive and aligns with the business's operational needs.
- Adequate compensation: Compensation for restrictive covenants must be "adequate," though the law does not specify exact amounts. Typically, compensation ranges from 70% to 100% of the employee's fixed salary for post-contractual non-compete clauses. For exclusivity agreements during employment, compensation should be around 20-25% of the salary.
- Duration and scope: The duration of post-contractual non-compete clauses is limited to two years for technicians and six months for other employees. Geographical limitations are not explicitly regulated but should logically correspond to the area of the employer's business activities.

The Spanish Supreme Court has ruled that all components of an employee's salary, including bonuses and irregular payments, must be included in the calculation of compensation for restrictive covenants. This ensures comprehensive coverage and fair compensation for the employee.

When an employee breaches a restrictive covenant, employers have several legal remedies:

- Return of compensation: If an employee violates a post-contractual non-compete clause, they must return the compensation received for this restriction. Employers can also claim damages if they can demonstrate financial harm caused by the breach.
- Disciplinary action: For breaches of exclusivity agreements during employment, employers can impose disciplinary actions, including dismissal, and claim damages for any resulting financial loss.
- Legal proceedings: Employers can initiate legal action in social courts or through arbitration (if agreed) to enforce restrictive covenants and seek compensation for breaches. The court can determine the amount of compensation to be returned or awarded as damages.

## Special conditions and regulations

- Waiver and termination: Restrictive covenants are bilateral agreements and cannot be unilaterally revoked by the employer. Any waiver or termination of these agreements requires mutual consent. However, employers can revoke exclusivity agreements, which may be considered a substantial modification of the employment contract.
- Garden leave: Garden leave, where an employee remains on salary but is not required to work or contact clients, is not statutorily provided for in Spain. It must be explicitly agreed

upon in the employment contract to be enforceable. Unauthorized garden leave can lead to claims of constructive dismissal by the employee.

- Training and permanence agreements: Employers can require employees to stay with the company for a specific period if they have invested in the employee's training. This permanence agreement can last up to two years and must be proportionate to the training costs incurred by the employer.

## Remote working

### Remote working policy

The global shift towards remote work has brought significant changes in how companies operate, and Spain is no exception. Under Law 10/2021 on remote work, remote work is defined as a form of organizing or carrying out work where the employee regularly performs their duties from home or another chosen location. This is considered regular if at least 30% of the employee's working time is remote over a three-month period. Telework, a subset of remote work, is specifically work performed primarily using information and communication technology (ICT).

Remote work must be based on a voluntary, written agreement between the employer and the employee. This agreement can be part of the initial employment contract or entered into later but cannot be imposed unilaterally by the employer. This agreement must be established before the commencement of remote work.

A comprehensive remote work agreement must include:

- Means, equipment, and tools required for remote work, provided and maintained by the employer.
- Details on expenses incurred by the employee due to remote work and the employer's responsibility to compensate these expenses.
- Working hours and availability periods for the employee.
- Proportions of remote and on-site working time.
- On-site workplace assignment and the remote work location chosen by the employee.
- Notice period for ending the remote work arrangement.
- Monitoring mechanisms for employee activity.
- Procedures for technical difficulties.
- Data protection and information security rules.
- Duration of the agreement.
- Changes to this agreement must be mutually agreed upon in writing before they take effect.

Remote workers have the same rights as on-site workers, including in areas such as pay, working time, job security, promotion, and training. They also have specific rights like digital disconnection outside working hours, ensuring privacy and data protection. Employers are



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obligated to ensure health and safety for remote workers, including conducting risk assessments. Spain's Royal Decree-Law 28/2020 and Law 10/2021 establish the legal framework for remote work. These regulations emphasise the voluntary nature of remote work agreements and mandate written agreements detailing the terms and conditions. Employers must provide all necessary equipment and cover expenses associated with remote work, ensuring a safe and productive working environment.

Given Spain's compliance with the European Union's General Data Protection Regulation (GDPR), employers must implement robust data protection measures. This includes secure communication tools and encryption to protect sensitive data. Regular training sessions on data protection and cybersecurity can help maintain a vigilant and informed workforce.

Employers must conduct risk assessments for remote work environments, ensuring they meet health and safety standards. This includes ergonomic considerations, adequate lighting, and safe electrical setups. Employers should also address mental health aspects, providing resources for stress management and ensuring regular communication to prevent isolation.

Both employees and employers have the right to revert to on-site work, with the procedure outlined in the collective agreement or remote work agreement. Flexibility in work schedules can enhance job satisfaction and productivity, accommodating personal commitments while fulfilling job responsibilities.

The right to digital disconnection is crucial for maintaining work-life balance. Employers must ensure that remote workers are not expected to respond to work-related communications outside their working hours, respecting rest periods and limiting overtime.

Collective bargaining agreements can establish more specific rules for remote work, tailored to industry or company needs. These agreements can address various aspects, from compensation for expenses to detailed health and safety protocols.

## Best practices for effective remote work management

- **Communication and Collaboration:** Effective communication is vital for remote work success. Employers should use various tools such as video conferencing, instant messaging, and project management software to maintain regular contact and collaboration among team members.
- **Training and development:** Investing in training and development opportunities for remote workers ensures they remain updated with industry trends and skills. This not only benefits the employees' professional growth but also enhances overall company performance.
- **Performance metrics and recognition:** Clear performance metrics and key performance indicators (KPIs) help evaluate remote workers' productivity. Regular feedback and recognition of exceptional work can boost motivation and morale.

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- Virtual team building and well-being initiatives: Organizing virtual team-building activities fosters team cohesion and reduces feelings of isolation among remote workers. Additionally, promoting mental health and well-being initiatives, such as access to employee assistance programs, supports employees' overall health.

## Responsibilities within a remote work arrangement

Spain's remote work regulations, particularly under the Law 10/2021 and Royal Decree-Law 28/2020, set a structured framework for remote employment. Remote work must be based on a voluntary, written agreement between the employer and the employee. This agreement can be part of the initial employment contract or established during employment. It cannot be imposed unilaterally by the employer, even under circumstances that allow for significant changes to employment conditions.

Both employees and employers can reverse remote work agreements, reverting to on-site work as per conditions stipulated in collective agreements or the initial remote work agreement. This ensures flexibility and safeguards both parties' interests. Rights of Remote Employees

- 1) Compensation of expenses and provision of equipment: Employers are required to provide the necessary resources, equipment, and tools for remote work. This includes maintaining and offering technical support for these resources. Employers must also compensate employees for any expenses incurred due to remote work, as outlined in collective agreements or the individual employment contract.
- 2) Working hours and time recording: Remote employees are entitled to flexible working hours within the agreed schedule. Employers must maintain accurate time records, including start and end times of the workday, to ensure compliance with working hour regulations and facilitate fair compensation.
- 3) Training and professional development: Employers must offer remote employees the same training and professional development opportunities as on-site employees. This includes specific training to enhance the performance of remote work tasks and keeping employees informed of promotion opportunities.
- 4) Prevention of occupational risks: Remote employees are entitled to the same health and safety protections as on-site employees. Employers must conduct risk assessments considering ergonomic, psychosocial, and organizational factors. If on-site inspections are needed, they require the remote employee's consent if the workspace is at their home.
- 5) Use of digital means and right to digital disconnection: Employers must respect employees' privacy and data protection rights when using digital means to monitor work.

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The right to digital disconnection is guaranteed, ensuring that employees are not required to engage in work-related tasks during rest periods. Internal policies should define how this right is maintained, following consultations with employee representatives.

6) Collective rights: Remote employees retain the same collective rights as on-site employees. Employers must ensure communication between remote employees and their representatives and facilitate participation in activities organized by these representatives.

The Royal Decree-Law 28/2020, supplemented by the Law 10/2021, lays the groundwork for remote work in Spain. Key legal stipulations include:

- Article 13 of the Royal Legislative Decree 2/2015: Covers the basic framework for remote work.
- Spanish Organic Act 3/2018: Emphasizes the right to digital disconnection and data protection.

Employers must ensure compliance with these regulations, covering aspects from written agreements to expense compensation and health and safety measures.

## Health and safety at home

The rise of remote work has necessitated a reevaluation of health and safety standards to ensure that employees working from home are afforded the same protections as those in traditional office settings. Remote employees are entitled to the same level of health and safety protection as on-site employees. This includes the right to a safe and ergonomic workspace, free from risks that could affect their physical or mental health. Employers must proactively manage these risks through proper assessments and interventions.

Employers are responsible for conducting risk assessments of remote workspaces. This involves evaluating ergonomic setups, identifying potential psychosocial risks, and implementing necessary adjustments to mitigate hazards. If the assessment requires visiting the employee's home, the employer must obtain prior consent. In the absence of consent, assessments will be based on information provided by the employee, following guidelines from the occupational risk prevention service.

To prevent musculoskeletal disorders and other health issues, employers must ensure that remote workspaces are ergonomically sound. This includes providing appropriate furniture such as ergonomic chairs and desks, as well as advising on proper posture and workspace organisation. Employees should have access to resources that guide them in setting up their home offices to reduce physical strain.

Remote work can present unique psychosocial risks, including isolation, stress, and burnout. Employers must address these risks by fostering a supportive work environment. This can be achieved through regular check-ins, mental health resources, and initiatives that promote work-life balance. Ensuring that employees have access to mental health support services is crucial.

When gathering information for risk assessments, employers must respect employees' privacy. Any home visits must be consensual, and data collected should be handled with confidentiality. Employers must balance the need for thorough risk assessments with the protection of employees' personal data and privacy.

Employers are required to provide technical assistance and resources necessary to maintain a safe working environment. This includes offering guidance on the correct use of equipment and ensuring that all tools and devices are in good working condition. Regular maintenance and updates to equipment are essential to prevent accidents and ensure efficiency.

Compliance with health and safety regulations must be documented, detailing the measures taken to protect remote employees. This includes records of risk assessments, consent forms for home visits, and any adjustments made to address identified risks. Documentation ensures transparency and accountability in adhering to legal requirements.

Collective bargaining agreements play a significant role in shaping health and safety policies for remote work. These agreements can specify additional protections and procedures tailored to the needs of specific industries or employee groups. Employers must engage with employee representatives to ensure that health and safety measures are comprehensive and effective.

## Additional items

### Intellectual property rights

In Spain, the legal framework governing the ownership of IP created by employees is well-defined, ensuring that both employers and employees understand their rights and obligations. In Spain, IP created by employees within the scope of their employment relationship generally belongs to the employer. This includes inventions, semiconductor topographies, industrial designs, copyright works, and computer programs.

According to Law 24/2015 on Patents, inventions made by an employee during their contract, work, or service with a company, and resulting from research explicitly or implicitly stated in their contract, belong to the employer. Employees are entitled to additional remuneration if their contribution significantly exceeds their contractual obligations. If an invention does not meet these conditions, it belongs to the employee, although the employer can claim ownership or usage rights under specific circumstances.

Under the Legislative Royal Decree 1/1996 on Intellectual Property, the transfer of exploitation rights for works created under employment contracts typically goes to the

employer. In the absence of a written agreement, it is presumed that the employer holds these rights. For computer programs created during employment, the employer automatically owns the exploitation rights unless otherwise agreed in writing. In cases where an invention is related to the employee's professional activity and is influenced by knowledge gained within the company, the employer can claim ownership or usage rights. The employee must notify the employer of the invention within one month. The employer then has three months to assert its rights. Failure to do so allows the employee to proceed with the patent application independently.

If the employer assumes ownership or reserves usage rights, the employee is entitled to fair compensation proportional to the invention's industrial and commercial importance. This remuneration may include a share of the profits derived from the exploitation of the invention.

Non-disclosure agreements (NDAs) are enforceable in Spain, provided they are reasonable, specific, and not against public interest. NDAs protect trade secrets and confidential information but do not automatically grant IP rights. Thus, clear contractual terms are essential to establish IP ownership.

Unlike employee relationships, contractors and consultants retain ownership of their work unless explicitly transferred in a written agreement. It is crucial for employers to outline IP terms in contracts with external parties to secure ownership rights.

Spain's IP framework is supported by international treaties such as the Madrid Agreement, Berne Convention, Paris Convention, and the Hague Agreement, providing robust protection for patents, trademarks, copyrights, and industrial designs. Spain is also part of the European Union Intellectual Property Office (EUIPO), which facilitates IP protection across EU member states.

Industrial property rights in Spain operate on a first-to-file basis. Therefore, prompt registration of patents, trademarks, and designs is crucial. While IP is automatically protected upon creation, recording it with the Intellectual Property Register enhances protection and eases enforcement.

Although there is no formal system for registering trade secrets in Spain, NDAs and confidentiality agreements are commonly used to protect such information. This legal framework ensures that businesses can safeguard their competitive advantages effectively.

## Employee data privacy

In Spain, data protection is governed by the European Union's General Data Protection Regulation (GDPR) and the Organic Law 3/2018 on data protection and guarantee of digital rights (Ley Orgánica 3/2018).

The GDPR sets stringent standards for data protection across the EU, while the Organic Law 3/2018 tailors these standards to Spanish context. Employers must inform employees about the processing of their personal data, including the purpose, legal basis, and duration of such processing. Under GDPR, employers must inform employees about the purpose, legal basis, and duration of data processing, as well as their rights to access, correct, and delete data.

Employees must be notified about personal data processing activities, and consent is only relied upon in extraordinary cases. The Spanish Data Protection Agency (AEPD) oversees compliance and handles complaints. Data transfers to other countries must meet stringent safeguards to ensure adequate protection.

Transferring employee data internationally is subject to strict controls. Employers must ensure that the destination country provides adequate safeguards. Monitoring of email, internet use, and video surveillance must respect privacy rights and be justified by legitimate business needs.

Employers can use camera or video surveillance to supervise employees, as allowed by Article 20.3 of the Workers' Statute, but must notify employees in advance. Surveillance is prohibited in areas intended for employee rest or leisure. Sound recording is only permitted when necessary for protecting the workplace and must adhere to principles of proportionality and minimum intervention. Employee Privacy and Dignity: Under the Workers' Statute, employees in Spain have the right to privacy and dignity. Searches of employees and their personal belongings must be necessary, conducted at the workplace during working hours, and respect the employee's privacy. This ensures that privacy rights are upheld while balancing the employer's need to protect their property and ensure compliance.

Digital Privacy and Surveillance: Employees have specific rights regarding the use of employer-provided digital devices and surveillance. These rights, protected under the Organic Law 3/2018, include the right to privacy and the right to disconnect from work-related communications outside working hours, helping maintain a work-life balance and preventing burnout. Employers can only access digital devices to monitor compliance with work obligations, and must establish clear criteria for usage that respects employee privacy.

AI in employment practices: Employers using AI for recruitment or performance monitoring must inform employees about automated decision-making processes. They must ensure that AI use complies with ethical standards and EU recommendations, providing transparency about the algorithms and their impact on employment conditions. This

ensures that employees are aware of how their data is being used and can trust that the processes are fair and transparent.

**Pre-employment checks:** Pre-employment checks are generally restricted but allowed in specific sectors, such as those involving minors or financial institutions. These checks must not infringe on privacy rights or lead to discrimination. The Spanish courts emphasise the need to balance the employer's right to verify a candidate's suitability with the candidate's right to privacy and non-discrimination.

**Data transfers and GDPR compliance:** Data transfers under GDPR Articles 45 and 46 are permitted only if the receiving country offers adequate safeguards. Without such safeguards, transfers must comply with GDPR derogations (Article 49). This ensures that personal data is protected consistently, even when transferred internationally.

**Access to personal data:** Employees have the right to request copies of personal data held by their employers, as stipulated in GDPR Article 15.3. This provision ensures transparency and allows employees to correct inaccuracies in their personal data, maintaining the integrity and accuracy of the information held by employers.

**Geolocation and whistle-blowing systems:** Employers can use geolocation data to supervise employees, provided they inform employees clearly about its use and their rights to access and rectify this data. Similarly, employers can implement whistle-blowing systems to report misconduct, ensuring confidentiality and anonymity. Data from these systems must be deleted after three months unless needed for ongoing investigations.

**Data retention and deletion:** Personal data should be stored only as long as necessary for its intended purpose. Employers must delete surveillance data within one month unless required for legal proceedings. Whistle-blowing data not used for investigations should be anonymized or deleted after three months. This ensures that personal data is not retained longer than necessary, reducing the risk of misuse or unauthorized access.

**Professional contact data:** The processing of contact data for professional purposes is generally lawful, provided it is necessary for maintaining professional relationships and involves only the necessary data. This provision facilitates business operations while protecting the privacy of individuals.

## Probationary period

Probationary periods in Spain allow employers and employees to assess suitability and compatibility. A probation period is a preliminary phase of employment during which employers evaluate the performance and suitability of new hires. In Spain, probationary periods are governed by the Workers' Statute and are common across various types of employment contracts.



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The duration of probationary periods is determined by law, with maximum limits outlined based on employee qualifications and company size. For instance, qualified technical staff may have a probationary period of up to six months, while other employees typically have shorter periods ranging from two to three months.

During the probationary period, employees maintain the same rights and obligations as regular employees, except in terms of termination of contract. Both employers and employees have the right to terminate the contract without notice during this period. Probationary periods are integral to various types of employment contracts in Spain, including indefinite-term contracts, fixed-term contracts, training and apprenticeship contracts, and part-time contracts. Each contract type may have specific implications for the duration and terms of the probation period.

- Indefinite-term contracts: Probation periods can be stipulated in indefinite-term contracts, offering flexibility for employers to evaluate new hires before committing to long-term employment.
- Fixed-term contracts: The maximum duration of probationary periods for fixed-term contracts varies based on the duration of the contract itself, with shorter probation periods for contracts lasting less than six months.
- Training and apprenticeship contracts: These contracts often include probationary periods to assess the trainee's progress and suitability for the role.
- Part-time contracts: Probationary periods for part-time employees are subject to the same legal limits as full-time employees, based on employee qualifications and company size.

Employees under probation maintain fundamental legal rights guaranteed by the Workers' Statute. These rights include protections against unfair termination, discrimination, and violations of fundamental rights. Employers are obligated to uphold these rights and provide a safe and fair working environment.

- Discrimination Protections: Spanish labour law strictly prohibits discrimination during the probationary period, ensuring equal treatment for all employees regardless of their probationary status.
- Termination rights: While termination without notice is permissible during probation, it cannot be based on discriminatory grounds or violate fundamental rights. Employees have the right to challenge unfair termination through legal recourse.

Employers have legal obligations during the probationary period, including providing work and training, maintaining a safe work environment, and adhering to fair and non-discriminatory treatment practices. Timely payment of wages, compliance with termination notice periods, and respecting employee rights are essential aspects of employer obligations.

- Training and development: Employers are responsible for providing necessary training and resources to support probationary employees in fulfilling their duties and responsibilities effectively.

- Fair treatment: Employers must ensure fair and non-discriminatory treatment of probationary employees, respecting their rights and upholding ethical standards in the workplace.

## Cba highlights

### Consulting and market research agreement

The Consulting and Market Research Collective Bargaining Agreement (Convenio Colectivo de Consultoría y Estudios de Mercado) defines industry-specific roles, sets guidelines for functional areas, establishes probation periods, and protects employee rights, ensuring fair treatment and standardized working conditions across the sector. The Consulting and Market Research Collective Bargaining Agreement (CBA) governs employment relationships within industries specialising in consulting and market research services, and comprehensively applies to the following industries and roles:

- Consulting: Covers business consulting, technology consulting, organisational and accounting consulting, as well as HR services and audits.
- Information technology (IT): Includes software development, programming, and systems management. - Specialisations such as cybersecurity, blockchain, artificial intelligence, and big data analytics also fall under its scope.
- Market research and public opinion: Focuses on market analysis, data collection, interpretation, and client-oriented reporting.

These areas are grouped under functional activity areas as defined in Article 15 of the CBA:

- Area 1: Internal and external administrative management.
- Area 2: User assistance and customer support.
- Area 3: Software development, programming, and systems operations.
- Area 4: Business and technological consultancy.
- Area 5: Market and opinion research, further divided into technical and operational subareas.

Furthermore, the CBA classifies employees into specific professional groups, often labeled as Groups A through F. These classifications are based on the nature of duties, responsibilities, qualifications, and the complexity of tasks associated with each role. This structured approach ensures clarity in job functions, compensation, and career progression within the industry.

- Group A: Senior management and directors  
Roles involving strategic decision-making and overall company leadership.

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Examples: Chief Executive Officer, Chief Operating Officer.

- Group B: Middle management

Positions responsible for overseeing departments or specific business units.

Examples: department heads, project managers.

- Group C: Technical specialists

Professionals providing specialized expertise in areas such as consulting, analysis, or research.

Examples: senior consultants, lead analysts.

- Group D: Qualified technicians

Roles requiring specific technical skills and qualifications, supporting higher-level professionals.

Examples: junior consultants, research associates.

- Group E: Administrative staff

Positions focused on administrative and operational support within the organisation.

Examples: administrative assistants, office coordinators.

- Group F: Support personnel

Roles providing essential support services that facilitate daily business operations.

Examples: clerical staff, maintenance workers. Categories and probation periods

The agreement categorises employees into various groups and levels based on their roles, responsibilities, and professional qualifications. Probation periods differ for each group to allow adequate time for evaluating the employee's suitability for the role.

## Functional areas 1 & 2

- Group A and B: six months probation.
- Group C: four months probation.
- Group D and E: three months probation.

## Functional areas three & four

- Groups A to D: six months probation.
- Group E: three months probation.

## Functional area five

- Groups A and B: six months probation.
- Group C and D: three months probation.
- Group E: Permanent contracts: three months probation; Temporary contracts (production needs): 15 days probation.

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During the probationary period, employees are entitled to all rights and benefits provided by the CBA, except termination protections, which allow either party to terminate the contract without justification.

This CBA is legally binding, ensuring compliance with Spanish labour laws and providing a structured framework for employers, by facilitating clear guidelines for recruitment, compensation, and termination; as well as for employees, by offering standardised protections, transparent employment conditions, and mechanisms for dispute resolution.

## Working hours, leave entitlements, and benefits

The Consulting and Market Research Collective Bargaining Agreement (CBA) sets clear standards for working hours, leave entitlements, and employee benefits, including annual vacation, paid and unpaid leave, travel allowances, and professional development grants, fostering a balanced and supportive workplace. Working hours

In Spain, the maximum allowable annual working time is set at 1,800 hours. Employees are not permitted to work more than 9 hours of effective work per day.

During the month of August, companies often implement an intensive work schedule, with weekly working hours typically not exceeding 36 hours. Certain periods, such as Saturdays after 2 PM, public holidays, and other agreed non-working days, are classified as non-recoverable and cannot be rescheduled.

Additionally, working hours and schedules should be planned in a way that considers employee preferences while also addressing the production and operational needs of the company.

### Leave entitlements

Employees are entitled to 23 working days of annual leave each year. These vacations must begin on a working day and cannot overlap with periods of sick leave or maternity-related suspensions.

Paid leave entitlements include specific durations for certain life events. Employees are granted 15 calendar days of leave for marriage. In cases of bereavement for the death of relatives up to the second degree of kinship, employees are entitled to 2 working days, or 4 days if travel is required. Additionally, employees are allowed one day of leave for relocation and as much time as necessary to fulfill public or legal obligations.

### Unpaid leave

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Employees with at least one year of service may request up to one month of unpaid leave each year. This leave can be taken as a single continuous period of one month or split into two separate periods of up to 15 calendar days each, provided one period falls in each semester.

The collective agreement establishes specific limits on the number of employees who can take unpaid leave simultaneously, depending on the company's size. For companies with 1 to 20 employees, only one employee can be on unpaid leave at any given time. Companies employing between 21 and 50 individuals may allow a maximum of two employees to take unpaid leave at the same time. Companies with 51 to 100 employees can permit up to three employees on unpaid leave simultaneously. In larger companies with more than 100 employees, up to 3% of the workforce may take unpaid leave at the same time.

This approach to leave management ensures both the operational stability of the company and the flexibility needed to accommodate employees' personal needs. The Consulting and Market Research Collective Bargaining Agreement (CBA) includes provisions for additional employee benefits, such as professional development opportunities and travel-related reimbursements, to support both personal growth and work-related expenses.

To promote professional development, the CBA provides an annual training grant of €218.10 for employees. This grant is designed to support education and skill-building initiatives that are directly relevant to the employee's role and the company's objectives. The funds are contingent on the relevance of the training and whether the employee has fully utilized prior grants.

Employees are also entitled to specific allowances and reimbursements for travel-related expenses incurred during professional duties. For daily travel, employees receive a daily allowance of €55.00 in most areas, with reduced rates of €38.55 for specific roles in Area 5. Mileage reimbursements for the use of personal vehicles are set at €0.25 per kilometer in Areas 1 through 4, and €0.22 per kilometer in Area 5, increasing to €0.23 from January 1, 2024.

Additional rules apply to these benefits. If the travel does not involve an overnight stay, the daily allowance is reduced by 50%. For travel lasting more than 60 continuous days in the same location, the daily allowance is reduced by one-third. However, employees in such long-term travel assignments are entitled to return home for four working days after three months of continuous travel, without affecting the travel allowance period.

These benefits reflect the CBA's commitment to supporting employees' professional needs and minimizing out-of-pocket expenses related to their work.

## Compensation and termination rules

The Consulting and Market Research Collective Bargaining Agreement (CBA) defines salary structures, severance rules, and termination procedures, ensuring fair pay, and notice periods. Compensation

The Spanish CBA establishes a robust framework for compensation and termination that aligns with legal standards and promotes equity for both employers and employees.

The salary structure detailed in the CBA is designed to reflect the responsibilities and professional levels of employees. Compensation is divided into a base salary, allowances, and bonuses, with the base salary defined annually in the salary tables included in the CBA's annex. Salaries are distributed in 14 payments - 12 monthly instalments and two additional payments in July and December.

The professional classification system outlined in the CBA determines salary scales based on five main areas of activity and several professional groups, ranked from Group A (management and strategic roles) to Group E (technical and operational support). Higher groups, such as Group A and B, command higher salaries due to their greater responsibilities, while lower groups receive adjusted wages appropriate for their roles.

Additional pay is provided for circumstances such as overtime, night work, or roles requiring specialised responsibilities.

The Consulting and Market Research Collective Bargaining Agreement (CBA) outlines detailed rules for employee termination, covering voluntary resignation, employer-initiated dismissals, and terminations during probation.

Voluntary resignation requires employees to provide at least 15 working days' written notice before leaving their role. If an employee fails to meet this notice requirement, the employer may deduct the equivalent of the unfulfilled notice days from any unpaid bonuses or other due payments. Once the notice is provided, employees are not required to issue additional communication or notice during this period.

For employer-initiated dismissals, clear statutory grounds must be followed:

- Objective reasons include economic, technical, organizational, or production-related needs. In such cases, employers must provide a minimum of 15 days' notice to the affected employee.
- Disciplinary causes involve misconduct or contractual breaches. Employers must ensure proper documentation and follow procedural safeguards to validate such dismissals.
- Collective dismissals, which occur as part of workforce restructuring, require consultation and negotiation with employee representatives in accordance with collective agreements.

During the probationary period, employers have the right to terminate contracts without providing notice or severance pay, provided that the decision complies with anti-discrimination laws.

Severance pay rules are also clearly defined in the CBA. For unfair dismissals, employees are entitled to 33 days of salary for each year of service, capped at a maximum of 24 months' pay. For objective terminations, severance is calculated as 20 days of salary per year of service, with a cap of 12 months. If a fixed-term contract ends prematurely, employees are compensated with 12 days' salary per year worked. Employers must provide written documentation outlining the reasons for dismissal and detailed severance calculations when applicable.

In the case of Mutual Termination Agreements (MTAs), termination occurs through a voluntary decision by both the employer and the employee. Unlike dismissals, MTAs do not require mandatory severance payments under the CBA. Instead, the terms, including any potential severance pay, are negotiated between the parties. While not obligatory, offering additional compensation in such cases is often a reasonable way to safeguard the interests of both sides and maintain amicable relations.

These termination rules ensure clarity and fairness in the employment relationship while protecting the rights of both employees and employers.

The rise of remote work has necessitated a reevaluation of health and safety standards to ensure that employees working from home are afforded the same protections as those in traditional office settings. Remote employees are entitled to the same level of health and safety protection as on-site employees. This includes the right to a safe and ergonomic workspace, free from risks that could affect their physical or mental health. Employers must proactively manage these risks through proper assessments and interventions.

Employers are responsible for conducting risk assessments of remote workspaces. This involves evaluating ergonomic setups, identifying potential psychosocial risks, and implementing necessary adjustments to mitigate hazards. If the assessment requires visiting the employee's home, the employer must obtain prior consent. In the absence of consent, assessments will be based on information provided by the employee, following guidelines from the occupational risk prevention service.

To prevent musculoskeletal disorders and other health issues, employers must ensure that remote workspaces are ergonomically sound. This includes providing appropriate furniture such as ergonomic chairs and desks, as well as advising on proper posture and workspace organisation. Employees should have access to resources that guide them in setting up their home offices to reduce physical strain.



# Native Teams

Remote work can present unique psychosocial risks, including isolation, stress, and burnout. Employers must address these risks by fostering a supportive work environment. This can be achieved through regular check-ins, mental health resources, and initiatives that promote work-life balance. Ensuring that employees have access to mental health support services is crucial.

When gathering information for risk assessments, employers must respect employees' privacy. Any home visits must be consensual, and data collected should be handled with confidentiality. Employers must balance the need for thorough risk assessments with the protection of employees' personal data and privacy.

Employers are required to provide technical assistance and resources necessary to maintain a safe working environment. This includes offering guidance on the correct use of equipment and ensuring that all tools and devices are in good working condition. Regular maintenance and updates to equipment are essential to prevent accidents and ensure efficiency.

Compliance with health and safety regulations must be documented, detailing the measures taken to protect remote employees. This includes records of risk assessments, consent forms for home visits, and any adjustments made to address identified risks. Documentation ensures transparency and accountability in adhering to legal requirements.

Collective bargaining agreements play a significant role in shaping health and safety policies for remote work. These agreements can specify additional protections and procedures tailored to the needs of specific industries or employee groups. Employers must engage with employee representatives to ensure that health and safety measures are comprehensive and effective.