



MINISTERIO
DE EMPLEO
Y SEGURIDAD SOCIAL

SECRETARÍA GENERAL DE
INMIGRACIÓN Y EMIGRACIÓN

SUBDIRECCIÓN GENERAL DE
RÉGIMEN JURÍDICO

Migrant access to social security and healthcare: policies and practice in Spain







Executive Summary

This study, conducted under the specifications of the European Migration Network, offers a detailed and structured description of access to the Spanish Social Security system by third-country nationals. This system is a pivotal element for ensuring the social cohesion of Spain by covering the basic requirements of citizens in situations of need.

The systematised approach of the report gives the reader a useful overview, necessary for any process of reflection on the Social Security system and the possible need to adapt it to the challenges of the twenty-first century.

Chapter 2 offers a general overview of the Spanish Social Security system based on its regulatory framework, first of all identifying the structure and principles of the Spanish system before moving on to describe the chief responsibilities for its management and coordination. We should briefly refer to the strong contributory component of the Spanish Social Security system: most Social Security benefits are linked to labour contingencies and funded through contributions made by employers and employees. Alongside these stands a series of welfare benefits not subject to minimum contribution periods that are intended to cover the lack of sufficient means of support for oneself and residence in Spain (also not subject to minimum residence periods). The requirements for access to these benefits are the same for Spaniards as they are for third-country nationals.

The system is managed by state agencies under the direction and coordination of the Ministry of Employment and Social Security and the Ministry of Health, Social Services and Equality. In this regard, it is possible to observe the growing link between social security and immigration policy constructed by the Spanish Government. One of the aims of immigration policy in Spain is to establish an orderly migration model in which foreign nationals are integrated into the job market and make a real contribution to the Spanish Social Security system. The elements of this link include the health reforms of 2012 and 2013, which have linked insured status to legal and effective residence.

Chapter 3 explores the conditions of access by third-country nationals to specific benefits, namely: healthcare, sickness cash benefits, maternity and paternity benefits, old-age pensions and benefits, family benefits, unemployment benefits and guaranteed minimum resources.

Chapter 4 describes the administrative practices affecting access by third-country nationals to the Social Security system.

Chapter 5 identifies the bilateral agreements signed by Spain and third countries on Social Security and underlines the importance of these agreements for the coordination of the various systems. These agreements tend mainly to guarantee rights to Social Security and to establish the legal framework for the protection of foreigners.



Chapter 6 contains three case studies. Their resolution allows for an understanding of how Spain's Social Security system works in the diverse situations proposed by the European Migration Network.

Chapter 7 contains statistical information on Social Security and third-country nationals. Specifically, statistical data are provided on employment, unemployment and inactivity, broken down by origin (Spanish nationals, EU citizens and third-country nationals) and gender.

Lastly, Chapter 8 presents the main findings of the study and identifies the key areas for adapting the Social Security system to future challenges.



1. INTRODUCTION, OBJECTIVES, METHODOLOGY AND DEFINITIONS

1.1. Objectives

The main objectives of the study are:

- To provide an overview of the structure, composition and principles of the Spanish Social Security system and the agencies primarily responsible for its management and coordination.
- To identify the main rules determining access by third-country nationals to the benefits of the Spanish Social Security system.
- To set out the requirements governing access by third-country nationals to the benefits of the Spanish Social Security system.
- To detect, if any, the differences in access to Social Security benefits between third-country nationals and Spanish nationals.
- To analyse whether there are any administrative practices, including discretionary criteria, that could affect access by third-country nationals to the benefits of the Spanish Social Security system.
- To identify the bilateral agreements signed by Spain on Social Security and to analyse the principles upheld by these agreements that ensure improved coordination between the Social Security systems of the signatory states.

1.2. Definitions

Where possible, this study has used the terminology and definitions of the EU acquis and the EMN Glossary. It is not therefore considered necessary to describe any new terms.

1.3. Methodology

This study was made possible by the active participation of the Undersecretariat, State Secretariat for Social Security, and the General Secretariat for Immigration and Emigration, all of which form part of the Ministry of Employment and Social Security.

The information contained herein is public and available on the Social Security website (<http://www.seg-social.es>) of the Public State Employment Service (<http://www.sepe.es/>) and the Ministry of Employment and Social Security (<http://www.empleo.gob.es/>). In all events, the regulations are the main source of the information published on electronic sites and in this study. Indeed, the Spanish Social Security system is a system governed by regulations; hence, any study of the latter must be based on an analysis of the diverse regulatory instruments that shape it. These are:

- Royal Legislative Decree 1/1994, of 20 June 1994, approving the revised text of the General Social Security Act (hereinafter, LGSS).



- The Rights, Freedoms and Social Integration of Foreign Nationals in Spain Act (*Ley Orgánica 4/2000*) of 11 January 2000, (hereinafter, LOEX), particularly Articles 10 and 35, which establish the link between Social Security and immigration.
- The National Health System Cohesion and Quality Act (*Ley 16/2003*) of 28 May 2003 (modified by Royal Decree-Law 16/2012, of 20 April 2012, on urgent measures to ensure the sustainability of the National Health System and to improve the quality and security of its services, and by the General State Budget Act – *Ley 22/2013* – of 23 December 2014).
- The Social Security Measures Act (*Ley 40/2007*) of 4 December 2007.
- The Social Security Modernisation Act (*Ley 27/2011*) of 1 August 2011.
- The Social Jurisdiction Act (*Ley 36/2011*) of 10 October 2011.
- The Pensions Sustainability Factor and Revaluation Index Act (*Ley 23/2013*) of 23 December 2013.

In addition to the above legislation, there are implementing regulations and bilateral agreements on Social Security signed by Spain.

Another set of documents has also been used, which include the National Reform Plan for 2013.

The source of the data presented in section 7 is EUROSTAT. There are no data available on use of the Social Security system broken down by national group.

Although this study uses public information, by presenting it in a structured way, we obtain a clear vision of access by third-country nationals to social security benefits, despite the many regulations governing this area. The systematised approach of the report gives the reader a useful overview, necessary for any process of reflection on the Social Security system and the possible need to adapt it to the challenges of the twenty-first century.



2. OVERVIEW OF THE NATIONAL SOCIAL SECURITY SYSTEM AND HOW IT APPLIES TO MIGRANTS FROM THIRD COUNTRIES

2.1. Overview of social security benefits and programmes and their financing mechanisms

2.1.1. Please provide a narrative overview of the social security system in your Member States including a description of the institutional framework, key institutions involved, their main responsibilities and how they are coordinated.

Any overview of the Spanish Social Security system must begin by referring to its regulatory framework. This regulatory framework also provides an understanding of the structure and principles of the Spanish system and allows us to ultimately identify primary responsibilities for its management and coordination.

1. The regulatory system.

The series of regulations governing the Social Security system is a complex acquis composed of many regulations. Nonetheless, we can highlight the following **regulations of reference** for the Spanish Social Security system.

Firstly, the Spanish Social Security system is based on the **Spanish Constitution**. Article 41 of the Constitution provides that the public authorities shall maintain a public system of social security guaranteeing all citizens adequate welfare and benefits in case of need, particularly in the event of unemployment, specifying that the supplementary welfare and benefits shall be free. Articles 148 and 149 define the powers of the State Government and the Autonomous Communities. The Autonomous Communities, through their respective Statutes of Autonomy, may only assume exclusive powers in welfare, in addition to healthcare. Lastly, Article 129.1 establishes participation in the system as outlined in Article 4 of the General Social Security Act.

Secondly, the system can be outlined **from a legal approach**. Diverse regulatory instruments set out the basic characteristics of the system and its schemes, benefits, organisation and funding.

At regulatory level, we can cite the following provisions:

- Royal Legislative Decree 1/1994, of 20 June 1994, approving the revised text of the General Social Security Act (hereinafter, LGSS).
- The Rights, Freedoms and Social Integration of Foreign Nationals in Spain Act (*Ley Orgánica 4/2000*) of 11 January 2000, (hereinafter, LOEX), particularly Articles 10 and 35, which establish the link between Social Security and immigration.
- The National Health System Cohesion and Quality Act (*Ley 16/2003*) of 28 May 2003 (modified by Royal Decree-Law 16/2012, of 20 April 2012, on urgent measures to ensure the sustainability of the National Health System and to



improve the quality and security of its services, and by the General State Budget Act – *Ley 22/2013* – of 23 December 2014).

- The Social Security Measures Act (*Ley 40/2007*) of 4 December 2007.
- The Social Security Modernisation Act (*Ley 27/2011*) of 1 August 2011.
- The Social Jurisdiction Act (*Ley 36/2011*) of 10 October 2011.
- The Pensions Sustainability Factor and Revaluation Index Act (*Ley 23/2013*) of 23 December 2013.

As can be observed in the above list, a number changes have been made to the Social Security system in recent years in an attempt to uphold the financial stability and future benefits of the Social Security system, among other aims, based on the recommendations set out in the Toledo Pact and the guidelines of the European social agenda.

This legislation is subsequently developed in **regulations**. Each implementing regulation specifies the aspects, benefits and organisational procedures of the Social Security system.

The acquis is completed by **collective agreements** that can improve on the legal or regulatory minimums and the internal **circulars and instructions** that can determine the criteria applied to specific Social Security issues.

Spain has also signed **international conventions and treaties** aimed primarily at safeguarding the Social Security rights of Spanish emigrants abroad and setting out the legal framework for the protection of migrants in Spain (without prejudice to the principle of equality set out in the LOEX between foreign nationals working in Spain and Spanish nationals, which principle will be discussed further in section 3 of this study).

2. Structure and principles of the Spanish Social Security system.

The protection provided by the Spanish Social Security system is structured into **levels of protection** based mainly on the source of **financing**.

Under Article 41 of the Constitution, a distinction is made between a public level of protection and a complementary and free level which can optionally be set in motion by entrepreneurs and interested individuals. With reference to this public level, the following points should be noted.

The Spanish Social Security system is a **contributory professional system**: it is financed by contributions from employers and employees and provides benefits linked to labour contingencies. Alongside this contributory aspect, and based on the reference to "all citizens" in Article 41 of the Constitution, there is also a welfare level that provides minimum benefits to persons residing in Spain without sufficient means of support, regardless of the contributions they have made or their professional situation. This welfare level encompasses non-contributory retirement and invalidity pensions, social services and welfare benefits for specific groups, and pharmaceutical



care and healthcare and unemployment benefits, all of which are financed by State contributions.

The basic principles guiding the development of our Social Security system are:

- **Contributory:** proportionality between what is paid and what is contributed.
- **Universality:** maximum extent of the protective action.
- **Intergenerational solidarity:** the Spanish system is not a system that capitalises contributions.
- **Equity and equal rights,** regardless of the time and place of residence of the insured.
- **Sufficiency:** coverage and improvement of levels of well-being through adequate benefits.
- **Separation of sources of funding:** allows for a more stable system.
- **Cash unit:** the State is the sole owner of all the resources, obligations and benefits of the Social Security system.

In addition, the Spanish Social Security system has been continually adapted to protect emerging needs (changes in the job market, greater employment mobility, incorporation of women into the workplace, etc.) and the incorporation of **new technologies**.

3. **Main agencies responsible for its management and coordination.**

The main characteristics of the managing entity of the Spanish Social Security system include:

- **The public nature of its managing bodies.**

The management and administration of the Social Security system are assigned to State agencies, Managing Bodies of Social Security, with their own legal personality, assisted and complemented by the "Common Services" (Social Security Fund¹, Social Security IT Department², etc.). The public nature of the system's management is without prejudice to the collaboration of business and Mutual Societies of Occupational Disease and Accidents of the Social Security system in this task.

- **Streamlined management due to the specialised nature of the organisations.**

¹ The Social Security Fund is assigned the task of managing the financial resources and financial administration of the Social Security system through application of the principles of financial solidarity and single till, and holds ownership of the assets of the entire system

² The Social Security IT Department competent in all areas relating to the use and application of new information and communication technologies in Social Security matters.



The Spanish Social Security system is managed by the following specialised organisations:

- Instituto Nacional de la Seguridad Social (National Institute of Social Security): reporting to the Ministry of Employment and Social Security through the State Secretariat for Social Security, this managing body is responsible for the management and administration of the financial benefits of the Social Security system, except for those managed by IMSERSO or the competent services of the Autonomous Communities, and for recognition of the right to healthcare, regardless of whether the applicable law is of national or international scope.
- Instituto Social de la Marina (Social Marine Institute): attached to the Ministry of Employment and Social Security through the State Secretariat for Social Security, this managing body deals with the social problems of the maritime and fisheries industry and manages the Special Social Security Scheme for Seafarers.
- Instituto de Mayores y Servicios Sociales (Institute for the Elderly and Social Services, IMSERSO): attached to the Ministry of Health, Social Services and Equality through the State Secretariat for Social Services and Equality, this managing entity is responsible for management of the social services that complement the Social Security system and plans, programmes and services rolled out across Spain for elderly people and dependants, without prejudice to the management transferred to the Autonomous Communities.
- Instituto Nacional de Gestión Sanitaria (National Institute of Healthcare Management): attached to the Ministry of Health, Social Services and Equality, this body manages the healthcare benefits of Social Security in the autonomous cities of Ceuta and Melilla, since these powers have been transferred in the case of the Autonomous Communities.
- National Public Employment Service: this autonomous Central Government agency, currently attached to the Ministry of Employment and Social Security, is responsible for the management, development and monitoring of Employment Policy programmes and measures, under the provisions of the Employment Act (*Ley 56/2003*) of 16 December 2003. Specifically, it manages and controls unemployment benefits.

- **Development of management activity under geographical decentralisation.**

The managing bodies operate on a decentralised basis in the diverse geographical areas in order to extend the efficiency of their actions.

- **Participation of stakeholders under Article 129.1 of the Constitution.**

The control and oversight of the Managing Bodies and Public State Employment Service are conducted from central to local level with the participation of agencies with representatives of trade unions, employer organisations and Central Government. This promotes the transparency and streamlining of the system.



- **Absence of profit-making.**

This is set out in Article 4 of the LGSS: "*In no event may the management of Social Security be used as a basis for profit-making operations*".

- **Direction and coordination of management**

The Managing Bodies carry out their duties under the direction and supervision of the relevant ministry. Specifically, the State Secretariat for Social Security, under the higher authority of the current Minister of Employment and Social Security, performs the duties of direction and supervision of the Managing Bodies and Common Services of Social Security, the promotion and direction of the legal organisation of the Social Security system, the **direction and coordination of the management** of the financial resources and expenditure of Social Security, and the **planning** and supervision of the management performed by agencies collaborating with the Social Security system. Notwithstanding the above, and as is apparent from the earlier description, some managing bodies are dependent on other State Secretariats and Ministries, such as the Public State Employment Service.

Lastly, the description of the organisation of Social Security in Spain concludes with a reference to the following three bodies attached to the State Secretariat for Social Security:

- Directorate General for Social Security Organisation: responsible for developing the legal and economic/financial functions of Social Security, planning and implementation of legal, economic, financial and demographic studies, preparation of the preliminary draft budget of Social Security, economic and fiscal monitoring of the Managing Bodies and Common Services, etc.
- General Social Security Agency: internal control body responsible for management of Social Security accounting.
- Legal Service of the Social Security Administration: a common service that performs functions and powers related to legal advice and legal defence and representation of the Managing Bodies and Common Services of Social Security.

Following this brief description of the Spanish Social Security system in which we have presented the main features of its structure and operation, we will now outline the Social Security benefits (following the European Commission's *Mutual Information System on Social Protection (MISSOC)*), how they are financed and their recognition in the case of third-country nationals. This information is set out in Table 2.1. below.



Table 2.1. Overview of the social security system presented in the MISSOC national guides, as applicable to third-country nationals (benefits and available programmes, funding mechanisms and accessibility).

'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
I. Healthcare	Healthcare (and pharmaceutical care) in accordance with the Portfolio of Services of the National Health System (Royal Decree 1030/2006, of 15 September 2006) and its respective updates.	Non-contributory	<p>Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers on unemployment benefit and allowances, or unemployed persons whose benefit or allowance has run out and who are residing in Spain. • Family. • Other categories: <ul style="list-style-type: none"> • Pensioners and recipients of other regular Social Security benefits. • Residents with an income below EUR 100,000 without mandatory coverage by any other means.
II. Sickness cash benefits			
	Temporary incapacity	Contributory	Yes, when they hold a long-term residence permit or



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers receiving contributory unemployment benefits.
	Care of children with cancer or other serious illnesses.	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons.
III. Maternity and paternity benefits			
	Maternity	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers receiving contributory unemployment benefits.
	Maternity	Non-contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons.
	Paternity	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers receiving contributory unemployment benefits.
	Risk during pregnancy	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed women.
	Risk during breastfeeding	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed women.
IV. Invalidity benefits	From common contingencies.		
	Permanent partial incapacity	Contributory	Yes, when they hold a long-term residence permit or



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<p>a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre. <p>Self-employed workers are not protected (regardless of their nationality).</p>
	Permanent total incapacity for one's usual occupation	Contributory	<p>Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre.
	Permanent absolute incapacity	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre.
	Major invalidity	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories :



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre.
V. Old-age pensions and benefits			
	Ordinary retirement	Contributory	<p>Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<p>out, providing that said individual remains signed on with this status at the job centre.</p> <ul style="list-style-type: none"> • Individuals who have signed on and meet the legally established age requirements and have completed the minimum contribution period.
	Early retirement	Contributory	<p>Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons in certain cases. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre.
	Partial retirement	Contributory	<p>Yes, when they hold a long-term residence permit or a temporary</p>



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<p>residence permit and fall into any of the following categories: Salaried workers.</p>
VI. Survivors' benefits			
	Death grant	Contributory	<p>Yes, when the deceased hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre. • Pensioners and benefit recipients.
	Temporary widow's/widower's allowance	Contributory	<p>Yes, when the deceased hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<p>persons.</p> <ul style="list-style-type: none"> • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre. • Pensioners and benefit recipients. • Non-registered individuals (if they can provide proof that they have completed a minimum contribution period of 15 years).
	Widowhood pension	Contributory	<ul style="list-style-type: none"> • Yes, when the deceased hold a long-term residence permit or a temporary residence permit and fall into any of the following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<p>those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre.</p> <ul style="list-style-type: none"> • Pensioners and benefit recipients. • Non-registered individuals (if they can provide proof that they have completed a minimum contribution period of 15 years).
	Orphan's benefit	Contributory	<p>Yes, when the deceased hold a long-term residence permit or temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			<p>remains signed on with this status at the job centre.</p> <ul style="list-style-type: none"> • Pensioners and benefit recipients. • Non-registered individuals (if they can provide proof that they have completed a minimum contribution period of 15 years).
	Family benefits	Contributory	<p>Yes, when the deceased hold a long-term residence permit or temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons. • Jobseekers in a legally recognised situation of total unemployment receiving an allowance, and those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre. • Pensioners and benefit recipients. • Non-registered individuals (if they can provide proof that they have



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			completed a minimum contribution period of 15 years)
VII. Benefits in respect of accidents at work and occupational diseases			
	Temporary incapacity, permanent incapacity and death due to an accident at work and occupational disease	Contributory	<p>Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories:</p> <ul style="list-style-type: none"> • Salaried workers (including those for whom the employer has breached its affiliation and registration obligations under Article 125.3 of the General Security Act, whose revised text was approved by Royal Legislative Decree 1/1994 of 20 June 1994, without prejudice to the applicable employer liability resulting therefrom). • Self-employed workers whose professional contingencies are met.
	Risk during pregnancy and risk during breastfeeding (professional contingencies). See section III of this	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
	Table.		following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed women.
	Compensation for death by accident or occupational disease	Contributory	Yes, when the deceased hold a long-term residence permit or a temporary residence permit and fall into any of the following categories: <ul style="list-style-type: none"> • Female employees (including those for whom the employer has breached its affiliation and registration obligations under Article 125.3 of the General Security Act, whose revised text was approved by Royal Legislative Decree 1/1994 of 20 June 1994, without prejudice to the applicable employer liability resulting therefrom). • Self-employed women.
	Compensation for permanent non-incapacitating injury	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories: <ul style="list-style-type: none"> • Salaried workers. • Self-employed workers whose professional contingencies are met.



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
VIII. Family benefits			Yes.
	Allowance for dependent or foster children	Non-contributory	Both the recipient and subject of this benefit must be resident in Spain (dependent child or foster child), regardless of whether they are Spanish or foreign-born (Article 182.1.b) of the General Social Security Act).
	Multiple birth or adoption allowance	Non-contributory	In order to claim this benefit, the recipient must be resident in Spain and the birth or adoption must have taken place in Spain (Article 187 of the General Social Security Act). For these purposes, the birth or adoption will be deemed to have taken place in Spain when proof is provided of the child's being immediately integrated into a family unit residing in Spain (Article 24 of Royal Decree 1335/2005, of 11 November 2005).
	Birth or adoption allowance for large families, single-parent families and disabled mothers	Non-contributory	In order to claim this benefit, the recipient must be resident in Spain and the birth or adoption must have taken place in Spain (Article 185.2 of the General Social Security Act). For these purposes, the birth or adoption will



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
			be deemed to have taken place in Spain when proof is provided of the child's being immediately integrated into a family unit residing in Spain (Article 24 of Royal Decree 1335/2005, of 11 November 2005).
IX. Unemployment benefits			
	Unemployment benefit	Contributory	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Self-employed persons (in this case, the benefit is for termination of business, rather than for unemployment).
	Unemployment allowance	Hybrid category: rated as "welfare level" but requires prior contributions.	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Jobseekers.
	Active Insertion Income	Linked to an employment scheme. Specific in nature and distinct from the contributory and welfare level.	Yes, when they hold a long-term residence permit or a temporary residence permit and fall into any of the following categories : <ul style="list-style-type: none"> • Salaried workers. • Jobseekers.



'Branch' of social security	Benefits and programmes included in each branch	Financing mechanisms	Accessibility by third-country nationals
X. Guaranteed Minimum Resources			Yes.
	Non-contributory retirement pension	Non-contributory	Legal residence of ten years between the age of 16 years and the maturity of the pension, two of which must be consecutive and immediately prior to the application for the benefit (Article 167 of the General Social Security Act), applicable to both Spanish nationals and those of other countries.
	Non-contributory invalidity pension	Non-contributory	Legal residence of five years, two of which must be immediately prior to the date of application for the pension (Article 144 of the General Social Security Act), applicable to both Spanish nationals and those of other countries.
	Unemployment allowance. See section IX of this Table.		
XI. Long-term care			
	Dependant benefits		Yes, with the legal requirements.

2.2. Has a link or nexus between policies in relation to social security and to immigration been established by policymakers in your (Member) State?

Yes, there is a growing link between immigration and Social Security policy.



One of the aims of Spanish immigration policy is to establish an orderly migration model in which foreign nationals are integrated into the job market and make a real contribution to the Spanish Social Security system (which is configured primarily around the contributory component).

Hence, registration with the Social Security system is essential for residence and work permits. Initial permits do not take full effect until the individual is registered with the Social Security system; in the case of renewals, the contribution period is checked. Renewal is also possible when the third-country national is the recipient of a public cash welfare payment for his/her social or labour market integration, or has been granted contributory unemployment benefit.

The recent health reforms, introduced in 2012 and 2013 (which will be discussed in greater detail later in this study), are a prime example of the link between Spain's social security and immigration policy, since insured status is linked to legal and effective residence.

2.3. Are there recent/planned changes to the eligibility rules for any of the social security benefits and programmes listed in the second column of the table above that may have an effect on access by third-country nationals?

Yes.

As briefly discussed in the previous question, relatively recent **changes** have been made relating to **access to the right to healthcare**, with the approval of Royal Decree-Law 16/2012 of 20 April 2012, on urgent measures to ensure the sustainability of the National Health System and to improve the quality and security of its services, and Royal Decree 1192/2012, of 3 August 2012, regulating insured and beneficiary status for healthcare purposes in Spain, charged to public funds, through the National Health System. As stated in the preamble to Royal Decree-Law, the **catalyst** for the reform was ensuring the sustainability of the Spanish National Health System since *"based on reports issued by the Court of Auditors," it was "vital to regulate, without delay, insured status in order to avoid certain situations of the provision of healthcare that are currently occurring and which are seriously undermining the sustainability of the National Health System"*.

In a similar vein, and based on the same reasoning, the 2014 State Budget Act (*Ley 22/2013*) of 23 December 2013 has further outlined the concept of the insured and **requires** Spanish citizens and third-country nationals whose unemployment allowance, benefit or similar has run out and who are unemployed to be resident in Spain in order to gain access to healthcare.

The result of these two amendments is the **new definition of the concept of the insured**, which includes persons covered by any of the cases provided for in Article 3.2 of the National Health System Cohesion and Quality Act (*Ley 16/2003*) of 28 May 2003, in its new wording as drafted in the 2014 State Budget Act (*Ley 22/2013*) of 23



December 2013. Thus, Spaniards and third-country nationals in any of the following circumstances meet the requirements for insured status:

- Salaried workers or self-employed persons who are affiliated with the Social Security system and have undergone registration or a similar procedure in the latter.
- Pensioners of the Social Security system.
- Recipients of any other regular Social Security benefit, such as unemployment allowance and benefits or similar.
- Unemployed persons whose unemployment benefit or allowance or equivalent benefits have run out and whose insured status is not accredited in any other way, and who are **resident in Spain**³. This possibility does not apply to the individuals referred to in Article 3c) of the National Health System Cohesion and Quality Act (*Ley 16/2003*) of 28 May 2003.

Persons not covered by any of the above situations or by Article 3 of the Royal Decree will be insured if their annual income is no higher than one hundred thousand Euros, they do not have mandatory healthcare coverage through any other means, and they fall into one of the following categories:

- Spanish nationals resident in Spain.
- Nationals of a Member State of the European Union, the European Economic Area or of Switzerland registered with the Central Register of Foreign Nationals.
- **Nationals of a country other** than those mentioned in the previous sections, or stateless persons, **holding a permit to reside in Spain**, so long as the latter remains in force under the terms of its specific legislation.

Minors under administrative supervision will always be classed as insured, except as provided for in Article 3c) of the National Health System Cohesion and Quality Act (*Ley 16/2003* of 28 May 2003).

Total income from earned income, business activities and capital gains are taken into account for means testing. If a Personal Income Tax return applicable within Spain has been filed, the sum of the bases for this tax is considered. In any event, the income threshold is considered not to have been exceeded when the taxpayer is not required to file returns for this tax, in accordance with Personal Income Tax regulations.

The link to Spain's National Reform Plan 2013 as published on the European Commission website follows. Its health sections contain data and estimates to support the measures of Royal Decree-Law 16/2012

http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm

³ Under the notion of "residence in Spain", after three months outside the country, the citizen will depend on the health system of the country in which he/she resides.



3. NATIONAL RULES ON ACCESS TO SOCIAL SECURITY BY THIRD-COUNTRY NATIONALS

In the case of Spain, any detailed analysis of the conditions applicable to third-country nationals for access to the Social Security benefits described must be based on the **principle of equality with nationals**, enshrined in both the LGSS and the LOEX.

Under Article 7 of the LGSS, for the purposes of contributory benefits, regardless of sex, marital status and occupation, the Social Security system covers Spaniards residing in Spain and foreign nationals who reside in or are legally in Spain, provided that, in both cases, they carry out their activity within Spain and fall into one of the following categories:

- Salaried workers providing services under the conditions of Article 1.1 of the Statute of Workers' Rights in the various branches of economic activity or similar, regardless of whether such work is temporary, seasonal or permanent, or even intermittent, including teleworkers, and, in all events, irrespective of the professional category of the worker, the form and amount of remuneration received and the common or special nature of their employment relationship.
- Self-employed workers, regardless of whether they own individual or family businesses, aged over eighteen years who meet the specific requirements set out in the regulations.
- Working members of Associated Worker Cooperatives.
- Students.
- Public, civil and military officials.

Section 1 of Article 10 of the LOEX enshrines the right of foreign residents to the pursuit of gainful employment and access to the Social Security system, in accordance with current legislation. In all cases, such access takes place under the same conditions as for Spaniards (Article 14 of the LOEX).

With reference to the non-contributory level, as Article 7 of the LGSS continues, all Spanish residents in the country fall under the scope of the Social Security system. With regard to foreign nationals, section 5 of the same article states that *“Hispanic American, Portuguese, Brazilian, Andorran and Filipino nationals residing in Spain shall have equivalent status to Spaniards for the purposes of point 3 of this Article. Nationals of other countries are subject to the treaties, conventions, agreements or instruments ratified, signed or approved to this effect, or as applicable to them under implied or expressly recognised reciprocity”*.



3.1. Is a minimum residence period attached to any of the benefits that are accessible by third-country nationals under the seven categories listed above?

I. Healthcare.

Healthcare in Spain (mentioned briefly in the preceding section of this study) is recognised for individuals with insured or beneficiary status under current regulations. In all events, the requirements for this status are the same for Spaniards and third-country nationals.

The recognition of healthcare **is not subject to a minimum** residence period for third-country nationals in any of the following circumstances:

- Salaried **workers** or **self-employed persons** who are affiliated with the Social Security system and have undergone registration or a similar procedure in the latter.
- **Pensioners of the** Social Security system.
- Recipients of any other regular Social Security benefit, including **unemployment allowance** and benefits or similar.
- Unemployed persons whose unemployment benefit or allowance or equivalent benefits have run out and whose insured status is not accredited in any other way, and who are resident in Spain (residence must be continued although there is no minimum residence period).

Families of insured third-country nationals are granted beneficiary status if they have authorised and effective residence in Spain, except in the case of individuals who temporarily move to Spain and are dependant on workers transferred by their companies outside Spain, provided that they are in an equivalent situation to registration and contribute to the relevant Spanish Social Security scheme.

Maintenance of the residence requirement.

For maintenance of the right to healthcare where residence in Spain is required, the beneficiary of such services is understood to have his/her habitual residence in Spain even when visits abroad are made, provided that these do not total more than 90 days in each calendar year (sixty-fifth additional provision of the LGSS incorporated by the fourth final provision, seven, of the 2014 State Budget Act – *Ley 22/2013* – of 23 December 2013).

II. Sickness cash benefits: Temporary Incapacity in Spain.

In the Spanish system, access by third-country nationals to sickness cash benefits is not subject to minimum residence periods.



Such access is also not subject to minimum residence periods for Spanish nationals.

III. Maternity and paternity benefits.

Access by third-country nationals to maternity benefits, whether contributory or non-contributory, and paternity benefits is not subject to minimum residence periods.

Spanish nationals do not require a minimum residence period either.

IV. Old-age pensions and benefits.

Access by third-country nationals to old-age pensions and benefits is not subject to minimum residence periods.

Nor is such residence period required for Spanish nationals.

v. Family benefits.

Access by third-country nationals to the family benefits offered by the Spanish Social Security system is not subject to minimum residence periods.

Nor is such residence period required for Spanish nationals.

VI. Unemployment benefit.

Access by third-country nationals to unemployment benefit (contributory mode) or allowance (hybrid mode between the contributory and non-contributory levels) is not subject to a minimum residence period.

Nationals are also not subject to such a requirement.

VII. Guaranteed Minimum Resources.

Access to this type of welfare benefits is subject to a minimum residence period.

3.2. Are any of the benefits that are accessible by third-country nationals under the seven categories listed above exportable once the third country national returns to his/her country of origin?

Yes.

Of the seven categories listed above, the following are exportable:

Old-age pensions and benefits.

For both Spaniards and third-country nationals.

Unemployment benefit: contributory benefits.

In Voluntary Return Programmes, third-country nationals who voluntarily return to their country of origin receive a cumulative advance payment of their contributory unemployment benefit (Royal Decree-Law 4/2008, of 29 September 2008).

There are three such programmes:



- Voluntary welfare return programme. Addressed to third-country nationals in situations of particular vulnerability certified by the Social Services of his/her area of residence or specialised NGOs.
- Voluntary productive return programme. Addressed to third-country nationals not subject to the obligation to return and who wish to embark on a business project associated with their return.
- Aid programme complementing the cumulative and advance payment of contributory unemployment benefit to non-EU workers who voluntarily return to their country of origin (APRE). It provides aid to fund the return journey back to their home countries of third-country nationals who have been recognised the right to receive their contributory unemployment benefit as an advance lump sum.

The third-country nationals should meet the following requirements to ensure that, in the event of their return, they receive their unemployment benefit as an advance lump sum:

- Be a national of a country with a bilateral Social Security agreement with Spain (Andorra, Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Ecuador, United States, Russia, the Philippines, Japan, Morocco, Mexico, Paraguay, Peru, Dominican Republic, Tunisia, Ukraine, Uruguay, Venezuela, El Salvador, the Republic of Korea and Cape Verde) and be legally resident in Spain.
- Be unemployed and registered as a jobseeker.
- Be eligible to contributory unemployment benefit without making it compatible with part-time work.
- Make a commitment to return to his/her country of origin within 30 calendar days from the date of the first payment in Spain and to not return to Spain within three years.
- Not be subject to the prohibitions for leaving Spain under the legislation.
- The unemployment benefit is paid in Euros or, if applicable, in the currency in which the Social Security Fund pays out the benefit in the relevant country. It is paid in two instalments: 40 per cent in Spain once entitlement to the benefit has been recognised and 60 per cent in the country of origin, between thirty and ninety days of the date of the first benefit payment.

3.3. Is a minimum employment period/minimum contribution period attached to any of the benefits that are accessible by third-country nationals under the seven categories listed above?

I. Healthcare.



Access to Spanish healthcare is not subject to a minimum contribution period.

II. Sickness cash benefits; Temporary Incapacity in Spain.

Entitlement to sickness cash benefits is subject to a series of requirements, including: the requirement of minimum contribution periods. These minimum contribution periods nonetheless differ according to the cause determining the temporary incapacity.

While they receive healthcare from Social Security and are unable to work, third-country nationals receive Temporary Incapacity benefit in any of the following statuses:

- salaried worker;
- self-employed person;
- jobseeker receiving contributory unemployment benefit.

These categories require a 180-day contribution period during the 5 years immediately prior to the contingency in the case of common illness. No prior contribution period is required in the event of accident – at work or otherwise – and occupational disease.

The same requirements apply for access by nationals to sickness cash benefits.

III. Maternity and paternity benefits.

The Spanish Social Security system provides two types of maternity benefits: contributory and non-contributory.

Contributory maternity benefit.

Third-country nationals receive this benefit if they meet a series of requirements, including minimum contribution periods that vary according to the age of the beneficiary.

Hence, third-country nationals, regardless of gender, who are

- salaried workers;
- self-employed;
- jobseekers in a legally recognised situation of total unemployment, for which they receive contributory unemployment benefit;

may qualify for benefits in the following events: They have completed a contribution period of:

- *If the worker is under the age of 21* on the date of the birth or on the date of the administrative or judicial decision on foster care or the resolution authorising the adoption, no minimum contribution period is required.



- *If the worker is aged between 21 and 26* on the date of the birth or on the date of the administrative or judicial decision on foster care or the resolution authorising the adoption: 90 days during the 7 years immediately prior to the start date of leave or, alternatively, 180 days of contributions throughout their working life prior to that date.
- *If the worker is over 26 years of age* on the date of the birth or on the date of the administrative or judicial decision on foster care or the resolution authorising the adoption: 180 days during the 7 years immediately prior to the start date of leave or, alternatively, 360 days of contributions throughout their working life prior to that date.

These same requirements apply to nationals.

Non-contributory maternity benefit.

Recognised to mothers in the case of births that meet all the requirements for access to maternity benefit but have not completed the minimum contribution period indicated above. In this case, the Spanish Social Security system provides a non-contributory maternity benefit, which is not therefore subject to a minimum contribution period. Third-country nationals in salaried or self-employment may also access this benefit. The unemployed are not eligible.

This allowance is also provided for nationals under the same requirements.

Paternity benefit.

Third-country nationals receive this benefit if they meet a series of requirements, including the requirement of minimum contribution periods.

Thus, third-country nationals who are

- salaried workers;
- self-employed;
- jobseekers in a legally recognised situation of total unemployment, for which they receive contributory unemployment benefit;

may qualify for benefits in the following events: they have completed a 180-day contribution period during the 7 years immediately prior to the start date of suspension or leave, or, alternatively, 360 days throughout their working life prior to that date.

These requirements are the same as for nationals in the Spanish Social Security system.

IV. Old-age pensions and benefits. Retirement.

Ordinary retirement.

Third-country nationals receive this benefit if they are:



- Salaried workers who have undergone registration or a similar procedure.
- Jobseekers in a legally recognised situation of total unemployment and receiving an allowance, or those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, providing that said individual remains signed on with this status at the job centre.

They must also meet the legal requirements for age, minimum contribution period and the event giving rise to entitlement. Persons who are not registered or in an equivalent situation at the time of the event giving rise to entitlement are also recognised as beneficiaries, provided that they meet the age and contribution requirements.

The age and contribution requirements for relating the pension to the event giving rise to entitlement are as follows:

Firstly, **a minimum contribution period of 15 years** (5,475 days) is set, of which at least 2 must be within the 15 immediately prior to the start of entitlement.

Secondly, retirement age is linked to the contribution periods of the beneficiary (without prejudice to any voluntary extensions). As a general rule, the individual should have reached the age of 67, or 65 in the event of 38 years and 6 months of contributions. Retirement ages and contribution periods are nonetheless applied according to a scale, as shown in the following table:

Year	Contribution periods	Required age
2013	35 years and 3 months or more Less than 35 years and 3 months	65 years 65 years and 1 month
2014	35 years and 6 months or more Less than 35 years and 6 months	65 years 65 years and 2 months
2015	35 years and 9 months or more Less than 35 years and 9 months	65 years 65 years and 3 months
2016	36 years or more Less than 36 years	65 years 65 years and 4 months
2017	36 years and 3 months or more Less than 36 years and 3 months	65 years 65 years and 5 months
2018	36 years and 6 months or more Less than 36 years and 6 months	65 years 65 years and 6 months
2019	36 years and 9 months or more Less than 36 years and 9 months	65 years 65 years and 8 months



Year	Contribution periods	Required age
2020	37 years or more Less than 37 years	65 years 65 years and 10 months
2021	37 years and 3 months or more Less than 37 years and 3 months	65 years 66 years
2022	37 years and 6 months or more Less than 37 years and 6 months	65 years 66 years and 2 months
2023	37 years and 9 months or more Less than 37 years and 9 months	65 years 66 years and 4 months
2024	38 years or more Less than 38 year	65 years 66 years and 6 months
2025	38 years and 3 months or more Less than 38 years and 3 months	65 years 66 years and 8 months
2026	38 years and 3 months or more Less than 38 years and 3 months	65 years 66 years and 10 months
As of 2027	38 years and 6 months or more Less than 38 years and 6 months	65 years 67 years

For **self-employed persons**, the benefit is recognised under the same terms and conditions as for salaried workers, with a number of specific features.

These same requirements apply for access to ordinary retirement by nationals.

Partial retirement.

Third-country nationals engaged in **salaried work** may access partial retirement in the following circumstances, among others, relating to minimum contribution periods depending on whether or not a bridging contract is signed.

No bridging contract.

- *Minimum contribution period:* 15 years, of which 2 must be during the 15 years prior to the start of entitlement.
- *Minimum age:* the ordinary retirement age applicable to each case.

With bridging contract.

- *Minimum contribution period* (as a general rule): 33 years of effective contributions, not including the proportional part of extraordinary wage payments. For persons with a disability equal to or greater than 33%, the minimum contribution period is 24 years.



- *Minimum age*: if they have the status of mutual society membership, 60 years in actual age; if they do not have membership status, this age requirement is applied in stages, from 2013 to 2027, based on the contribution periods.
- *Seniority*: for access to partial retirement with a bridging contract, proven seniority of at least six years immediately prior to the partial retirement date is required.

Year of the event giving rise to entitlement	Age required based on contribution periods at the time of the event giving rise to entitlement		Age required with 33 years of contributions at the time of the event giving rise to entitlement
2013	61 and 1 month	33 years and 3 months or more	61 and 2 months
2014	61 and 2 months	33 years and 6 months or more	61 and 4 months
2015	61 and 3 months	33 years and 9 months or more	61 and 6 months
2016	61 and 4 months	34 years or more	61 and 8 months
2017	61 and 5 months	34 years and 3 months or more	61 and 10 months
2018	61 and 6 months	34 years and 6 months or more	62 years
2019	61 and 8 months	34 years and 9 months or more	62 and 4 months
2020	61 and 10 months	35 years or more	62 and 8 months
2021	62 years	35 years and 3 months or more	63 years
2022	62 and 2 months	35 years and 6 months or more	63 and 4 months
2023	62 and 4 months	35 years and 9 months or more	63 and 8 months
2024	62 and 6 months	36 years or more	64 years
2025	62 and 8 months	36 years and 3 months or more	64 and 4 months
2026	62 and 10 months	36 years and 3 months or more	64 and 8 months
2027 and onwards	63 years	36 years and 6 months	65 years

In all events, for access to partial retirement, a reduction in working hours is required of at least 25% and up to 50% (or 75% if the substitute employee is hired for the full working day on an open-ended contract).

These same requirements apply to access to partial retirement by nationals.

Flexible retirement.

Flexible retirement is considered, both for salaried workers and self-employed persons, as the situation arising from the possibility of combining, following entitlement, a retirement pension with a part-time contract (25% to 50% reduction in working hours), with the subsequent reduction in the pension inversely proportional to the reduction applicable to the working hours of the pensioner, in relation to a comparable full-time worker.



Early retirement.

Third-country nationals engaged in **salaried work** or **jobseekers** in a legally recognised situation of total unemployment and receiving an allowance, or those who are involuntarily without employment after their contributory benefit or welfare allowance has run out, provided that the individual remains signed on with this status at the job centre, may access early retirement pensions in certain situations if the requirements for access to the various modes of advances are met.

For **self-employed persons**, early retirement **does not apply** unless mutual society membership status is held⁴ or in cases of early retirement due to termination of work for causes not attributable to the free will of the worker (involuntary). All other modes of early retirement are possible.

The age and contribution requirements for two cases are outlined below: early retirement in accordance with the wishes of the person concerned and early retirement for reasons not attributable to the free will of the worker.

- Early access to retirement in accordance with the wishes of the person concerned (**for workers**):
 - To have reached an age no more than two years below the age applicable in each case.
 - Minimum effective contribution period of 35 years.
- Early retirement derived from the termination of work for reasons not attributable to the free will of the worker (**for jobseekers who have been salaried workers; the self-employed do not receive protection**):
 - To have reached an age no more than four years above the age applicable in each case.
 - To have been signed on as a jobseeker at a job centre for at least 6 months.
 - Minimum effective contribution period of 33 years.
 - The worker's employment must have been terminated as a result of a corporate restructuring that prevented the continuation of the employment relationship.

These same requirements apply to early retirement access by nationals.

V. Family benefits.

Family cash benefits under the Spanish Social Security system are non-contributory. As a result, their access by third-country nationals is not subject to a minimum contribution period.

Similarly, access to these benefits by nationals is not subject to minimum contribution periods.

⁴ Mutual society membership status only applies to workers covered by any Mutual Society of Salaried Workers on 1 January 1967 or any date prior to this (transitional provision 3, point 1, rule 2 of the General Social Security Act, transitional provision 1, point 9 of the Ministerial Order dated 18 January 1967.



VI. Unemployment benefit.

Access by third-country nationals⁵ to unemployment benefits is subject to the same conditions as Spanish nationals.

The Spanish Social Security system distinguishes between several types of unemployment benefit: unemployment benefit (contributory), unemployment allowance (non-contributory and hence, welfare-oriented) and Active Insertion Income (also welfare-oriented).

Unemployment benefit (contributory level).

Access by third-country nationals engaged in **salaried employment** in any of the **legally recognised unemployment situations** must meet certain requirements, including that of **completing a minimum contribution period** of three hundred and sixty days (365) during the six (6) years prior to the legally recognised unemployment situation or the time at which the obligation to contribute ended. When one or more part-time contracts are held during a legally recognised unemployment situation, only contribution periods in jobs that have been temporarily or permanently been lost or whose ordinary working hours have been reduced are considered.

The contribution periods of third-country nationals with authorisation for seasonal work or for students are not taken into account for unemployment benefit purposes.

The duration of the benefit is also linked to the contribution period during the six years immediately prior to the legally recognised unemployment situation.

Protection for termination of work for self-employed persons.

Third-country nationals engaged in **self-employment** may obtain access to protection for the termination of work, which applies to workers covered by the protection afforded

⁵ The workers from third countries may gain access to unemployment benefits (whether contributory or welfare) if they provide evidence of:

- A valid initial temporary residence and work permit for salaried employment.
- A valid renewed temporary residence and work permit for salaried employment.
- An expired initial or renewed temporary residence and work permit for salaried employment, together with the renewal application.
- Valid temporary residence permits due to exceptional circumstances, when coupled with or allowing for the possibility of obtaining a work permit, as provided in Article 45.7 of the Implementing Regulations of *Ley Orgánica 4/2000*, approved by Royal Decree 2393/2004.
- The status of "foreign nationals exempt from obtaining work permits" under Article 68 of the Implementing Regulations of *Ley Orgánica 4/2000*, approved by Royal Decree 2394/2004, who, following termination of the employment relationship have a valid residence permit.
- Permanent residence permit.
- Authorisation to reside/stay in Spain for refugees or stateless persons, together with the application for a valid temporary residence permit due to exceptional circumstances, or the expired permit and its renewal application.



for contingencies arising from accidents at work and occupational diseases. The requirements for access to this protection include **a minimum contribution period of 12 months for termination of activity.**

As in the previous case, the duration of the benefit depends on the contribution periods during the 48 months prior to the legally recognised situation of termination of activity, at least 12 of which must be continuous and immediately prior to the situation in accordance with the following schedule:

Contribution period Months	Protection period Months
12 to 17	2
18 to 23	3
24 to 29	4
30 to 35	5
36 to 42	6
43 to 47	8
48 onwards	12

Unemployment allowance (non-contributory or welfare level).

Third-country nationals who are signed on as jobseekers and whose income is below a certain level may access an unemployment allowance if their unemployment benefit has run out and they have family responsibilities; in this case, the minimum contribution periods do **not** apply.

Individuals who do not complete the minimum 360-day contribution period to access contributory benefit can also access the allowance when the legally recognised unemployment situation commences; in this case, a minimum contribution of three months is required if the individual has family responsibilities and six otherwise.

Active Insertion Income.

Access by Spanish and third-country nationals to the Active Insertion Income programme is not subject to the requirement of a minimum contribution period.

VII. Guaranteed Minimum Resources.



Given that these are welfare benefits, their access is no subject to minimum contribution periods.

3.4. Are migration-specific conditions (e.g. requirement to hold a particular residence permit, authorisation of stay or visa, a fixed domicile, requirement to participate in an integration course, etc.) attached to any of the benefits that are accessible by third-country nationals under the seven categories listed above?

Yes.

Third-country nationals must hold a valid permit to reside in Spain under the terms provided in the specific national regulations. However, once the third-country national holds legal residence in Spain accredited through any of the residence permits under our legal system, access to the benefits of the Spanish Social Security system is not subject to specific conditions.



4. ADMINISTRATIVE PRACTICES THAT AFFECT THIRD-COUNTRY NATIONALS' ACCESS TO SOCIAL SECURITY

4.1. Are discretionary criteria applied within the administrative law/rules when assessing an individual claim for social security in any of the seven branches of social security in your Member State?

Discretionary criteria are not applied to determine whether third-country nationals are entitled to benefits under the seven branches of Social Security outlined in the previous section.

In this regard and in the event of access to unemployment benefits, a residence test is not required but legal residence in Spain is necessary (as described in general terms in section 3.4), which is checked by the Public Employment Service of the Autonomous Community when the citizen registers as a jobseeker.

4.2. Please identify the factors which a deciding officer must take into account when judging whether an applicant has met the above-listed discretionary criteria (e.g. habitual residence test). If these factors differ for individual benefits, please specify.

Given that discretionary criteria are not applied, there are no factors considered by officials to judge whether or not the applicant meets these criteria.

4.3. Please describe any written circulars or guidelines that deciding officers receive in order to ensure the consistent implementation of the discretionary criteria (e.g. 'habitual residence test') to individual claimants within your (Member) State. Please also state whether deciding officers receive specific training to support their work.

No circulars or guidelines have been issued in this regard.

4.4 Might claiming social security affect a third-country national's access to a residence permit renewal, application for naturalisation, or for family reunification, where these aspects are dependant on an individual's ability to be self-supporting?

The Spanish system regards contributing to the Social Security system as positive (based on an employment contract). The demand for services is not an obstacle to permit renewal or family reunification since it is based on a previous contribution to the system.

With regard to the **renewal of permits** for temporary residence and gainful employment, Article 38.6 b) and c) of the LOEX in conjunction with Article 71.2 b) of the Implementing Regulations of *Ley Orgánica 4/2000*, approved by Royal Decree 557/2011 of 20 April 2011, states that in order to renew such permits, one of the circumstances it lists must apply:

- Continuation of the employment relationship that gave rise to the granting of the permit whose renewal is sought.



- Having worked for at least six months per year and:
 - Having signed a new employment contract and undergone registration or a similar procedure at the time of the application, or
 - Having a new contract guaranteeing the employment of the worker, the effect of which is conditional upon renewal being granted.
- Having carried out the activity for at least three months of the year provided that:
 - The employment relationship giving rise to the permit was terminated for reasons beyond the control of the worker.
 - The individual has actively sought employment by registering with the relevant Public Employment Service as a jobseeker.
 - The individual has a valid employment contract.
- **Having been awarded contributory unemployment benefit.**
- **Being the beneficiary of a public welfare allowance aimed at achieving social integration or employment.**
- Having suspended or terminated the employment due to the worker being a victim of domestic violence.
- Having been working and registered with the Social Security for at least nine months over a twelve-month period, or eighteen months over a twenty-four-month period, provided that:
 - The previous employment was terminated for reasons beyond the control of the worker.
 - The individual has actively looked for work.
- The spouse or co-habiting partner of the worker has sufficient economic means to regroup the worker.

Hence, residence permit renewal may be positively affected by the applicant's social security claim. For example, if the applicant is granted contributory unemployment benefit or is the recipient of a public welfare cash payment for his/her social integration or employment – and meets the other requirements – his/her residence permit may be renewed.

With regard to **applications for a temporary residence permit for family reunification**, Article 18 of the LOEX identifies the requirements for exercising the right to family reunification. Section 2 states that “*Under the terms of the regulation, the applicant must certify that he/she has adequate housing and sufficient financial means to cover his/her own needs and those of his/her family, once reunified*”. Therefore, the reunification application depends on the “*financial circumstances of the applicant*”. Moreover, **means testing** “*will not take into account income obtained from the welfare system*”.



Hence, in this event, the amounts received by the applicant in respect of welfare (from the State or the Autonomous Communities) will not be considered in the calculation of the minimum amounts required by Spanish legislation. Notwithstanding the above, any amounts received as contributory unemployment benefit are considered.

The requirements of the various methods of **acquiring Spanish citizenship** do not include express reference to the individual's ability to support his or herself.

4.5. Please indicate whether translation, interpretation or other forms of support are available to third-country nationals wishing to access a social security benefit or programme in your country.

Virtually all of the information on the Social Security website concerning rights of access and maintenance of benefits, procedures, processes, arrangements and regulations has been translated into English and French.



5. EXTERNAL DIMENSION OF SOCIAL SECURITY

5.1. Have bilateral agreements on the co-ordination of social security been reached by your (Member) State with any third countries?

Yes.

Spain has signed several bilateral agreements on social security with third countries. The following are currently in effect:

- Andorra. Signed on 9/11/2001. In effect since 1/1/2003
- Argentina. Signed on 28/1/1997. In effect since 1/12/2004
- Australia. Signed on 31/1/2002. In effect since 1/1/2003
- Brazil. Signed on 16/5/1991. In effect since 1/12/1995
- Cape Verde. Signed on 23/11/2012. In effect since 1/12/2013.
- Canada. Signed on 10/11/1986. In effect since 1/1/1988
- Chile. Signed on 28/1/1997. In effect since 13/3/1998
- Colombia. Signed on 6/9/2005. In effect since 1/3/2008
- Korea. Signed on 14/7/2011. In effect since 1/4/2013
- Ecuador. Signed on 4/12/2009. In effect since 1/1/2011
- United States. Signed on 30/9/1986. In effect since 1/4/1988
- Philippines. Signed on 12/11/2002. In effect since 1/8/2012
- Japan. Signed on 12/11/2008. In effect since 1/12/2010
- Morocco. Signed on 8/11/1979. In effect since 1/10/1982
- Mexico. Signed on 25/4/1994. In effect since 1/1/1995
- Paraguay. Signed on 24/6/1998. In effect since 1/3/2006
- Peru. Signed on 16/6/2003. In effect since 1/2/2005
- Dominican Republic. Signed on 1/7/2004. In effect since 1/6/2006
- Russia. Signed on 11/4/1994. In effect since 22/2/1996
- Tunisia. Signed on 26/2/2001. In effect since 1/1/2002
- Ukraine. Signed on 7/10/1996. In effect since 27/3/1998



- Uruguay. Signed on 1/12/1997. In effect since 1/4/2000
- Venezuela. Signed on 12/5/1988. In effect since 1/7/1990

While not bilateral, the Ibero-American Multilateral Convention on Social Security may be mentioned at this point. This agreement is now ratified and being implemented by Spain, Bolivia, Brazil, Chile, El Salvador, Paraguay and Uruguay. Its content is similar to the content of the bilateral agreements listed above. Spain has also ratified the European Convention on Social Security which will affect its relations with Turkey.

5.2. Please provide more information about the bilateral social security agreements that have been concluded by your (Member) State, indicating whether the agreements:

i) allow a worker from a third-country to work in your (Member) State while remaining subject to the social security legislation of the sending state;

Yes.

All bilateral agreements signed by Spain include a clause under which employees working in the territory of the other party who are temporarily posted to Spain by their employer for work purposes may remain subject to the Social Security legislation of the sending State for a period of time that varies according to circumstances (usually two, three or five years), which can be extended in most cases where there are reasons for the posted worker to stay longer in Spain.

The vast majority of agreements signed include a clause with similar content, this time with regard to self-employed individuals who normally work in the territory of the other party, where they are insured, and who start working in Spain. These workers remain subject to the legislation of the first party provided that the expected duration of the work is no greater than the limit provided in each case, which, as with salaried workers, can usually be extended.

ii) guarantee equal treatment in the system of the host state in respect of particular benefits (e.g. reciprocal healthcare arrangements);

Yes.

All the bilateral agreements referred to above uphold the principle of equal treatment. Hence, national workers of the other party who legally carry out salaried work or self-employment in Spain are subject to and benefit from Social Security under the same conditions as Spanish salaried or self-employed workers. The above relates to benefits included in the material scope of the Convention and is without prejudice to any special provisions that may be contained by the latter.

iii) allow social security benefits (e.g. state pensions) to be exported to the territory of the other state;

Yes.



The agreements signed by Spain allow export of the social security benefits included within its material scope to the territory of another State.

This is made possible by a clause stating that the benefits covered by the agreement shall not be subject to reduction, modification, suspension, withdrawal or retention because the person concerned is located or residing in the territory of the other party, and that such benefits will be paid in the latter.

Benefits payable to nationals of the other party resident in a third country, as recognised under the convention in question, are made effective under the same conditions and to the same extent as for Spaniards residing in this third country.

However, these rules generally only apply to contributory pensions.

Spanish pensions are paid free of charge through a financial institution chosen by public tender. The pensions may be paid by cheque, or by bank transfer to the bank chosen by the pensioner. Pensions may be paid on a monthly, quarterly or half-yearly basis, as preferred.

Unemployment benefit may only be aggregated and exported under the regulations for social security coordination applicable in the European Economic Area, Switzerland and Australia (in the latter case, only aggregation is permitted).

iv) contain any other provisions of relevance to the coordination of social security systems with third countries.

Yes.

Besides the provisions mentioned above, the agreements signed by Spain contain a number of clauses to improve the coordination of social security systems with third countries. The most significant of these are:

Firstly, the principle of aggregation of contributions is one of the most important rules for the coordination of systems. The agreements often include the possibility of aggregating the contributions applicable in the territory of both parties for those who work in the two signatory States. Nonetheless, some agreements are currently being negotiated to avoid the double contribution not taken into account by aggregation.

It is generally established that where the legislation of a party subordinates the acquisition, maintenance or recovery of the right to any of the benefits within the scope of the Agreement to the completion of certain insurance periods (either of residence or work), the competent institution shall, where necessary (i.e. when entitlement is not based solely on the periods completed under its legislation), take into account the insurance periods completed under the legislation of the other party as if they had been completed under its own legislation, provided that they do not overlap in time.

Secondly, and directly linked to aggregation, is the principle of *pro rata temporis* according to which, when insurance periods must be aggregated for entitlement to a benefit based on a bilateral agreement, each State shall pay the proportional amount of the cost thereof based on the period of contributions made in each.



5.4. Please explain how your (Member) State organises the payment of social security benefits to citizens of its own country living in a third country with which the (Member) State has not signed a bilateral agreement.

Spain pays the contributory benefits to which beneficiaries residing in other countries are entitled irrespective of whether it has signed a social security agreement with that country.

Spanish pensions are paid free of charge through a financial institution selected by public tender. Pensions may be paid by cheque, or by bank transfer to the bank chosen by the pensioner. Pensions may be paid on a monthly, quarterly or half-yearly basis, as preferred.



6. CASE-STUDIES

Case-study 1: Tho and Lien, a married couple holding Vietnamese citizenship, aged 28 and 30, moved to your (Member) State 10 years ago. They hold long-term residence permits. Tho has worked in a car manufacturing company for the last 8 years, paying obligatory insurance contributions throughout this time. Lien has worked as a chef in the restaurant of a large hotel, also paying obligatory insurance contributions, for the last 2 years. Tho and Lien are expecting the birth of their first child in 6 weeks' time. Last week, the car manufacturing company where Tho works announced that they were making him redundant. Faced with the loss of Tho's income at a time when Lien would need to take time off work, following the birth of their child, Tho decided to apply for unemployment benefits while Lien applied for maternity benefits.

The Social Security benefits to which Lien is entitled for maternity are:

- **Contributory maternity benefit**, if she is **registered** with the company and fulfils the **minimum contribution period** for entitlement. As she will be 26 years of age at the time of the birth (Lien is 28), the minimum contribution period is 180 days during the seven years immediately prior to the start date of leave. This requirement is also considered met if she has contributed 360 days during her working life, prior to that date.

Lien has worked at the hotel restaurant and contributed during the past two years. She is therefore registered and fulfils the minimum contribution period required for entitlement to maternity benefit.

The maternity benefit will be payable for sixteen continuous weeks, which duration can be extended in the case of multiple births by two weeks for each child after the second; this period may be distributed as the worker chooses provided that six weeks are taken immediately after delivery.

There is also the option of taking part-time maternity leave, in which case the allowance is compatible with a work activity without affecting the type of contract (in the case of childbirth, mothers are not eligible for this type of leave during the six weeks immediately afterwards, which are classed as mandatory leave). During periods of leave with part-time work, the calculation basis for the allowance is reduced in inverse proportion to the reduction in working hours.

The amount of maternity benefit is an allowance of 100 per cent of the calculation basis (or contribution basis of the month prior to the leave).

The benefits of the Social Security system to which Tho is entitled for unemployment and parently are:

- Tho is eligible for **contributory unemployment benefit**, so long as he is affiliated and registered or in a similar situation to registration in a scheme



covering this contingency, is legally recognised as unemployed, has contributed for 360 days during the past 6 years, and has not reached the age for entitlement to a contributory retirement pension, unless the worker is not entitled to this.

Since he has worked at the car manufacturing company for the past 8 years, Tho meets the eligibility requirements for this right.

The duration of benefit payment depends on the contribution period in the six years prior to the legally recognised unemployment situation or the moment that contribution was no longer mandatory, based on a schedule ranging from 360 contribution days (which would entitle him to 120 days of benefits) to 2,160 days or more of contributions (in which case, the benefits would be extended to 720 days). Given that he has contributed for the past 8 years (2,920 days), Tho is entitled to 720 days of benefits.

The amount of unemployment benefit is determined according to a calculation basis, which consists of the average of the contribution basis for the contingency of unemployment (excluding overtime) during the 180 days prior to the legally recognised unemployment situation or the moment that contribution was no longer mandatory.

The amount payable is as follows:

*For the first 180 days, 70% of the calculation basis.

*From day 181, 50% of the calculation basis.

The amounts calculated in this way may not exceed the maximum or be lower than the minimum threshold. The benefit amount cannot be less than 107% of the IPREM (public income index), increased by 1/6 (proportional part of extraordinary wage payments) when the worker has at least one dependent child, or more than 200% of the IPREM increased by 1/6 (proportional part of extraordinary wage payments) when the worker has a child under the age of 26 in his/her care.

- Once his contributory unemployment benefit has run out, Tho could be entitled to a **non-contributory unemployment allowance** if he signs on as a jobseeker for a one-month period, has not rejected a suitable job offer or refused to take part, except where justified, in promotion, training or retraining activities, his income, calculated on a monthly basis, is less than 75 per cent of the minimum wage, excluding the proportional part of extraordinary wage payments, and his contributory unemployment benefit has run out and he has family responsibilities.
- Tho may be eligible for **paternity benefit** if he receives total unemployment benefit.



In order to do so, he must have completed a minimum contribution period of 180 days during the seven years immediately prior to the start date of the protected situation, or 360 days throughout his working life prior to this date. He will therefore be entitled to this benefit, which he will receive for a continuous period of thirteen days, extended in the case of multiple births by two days for each child after the second.

When the worker is receiving total unemployment benefit and begins to receive paternity benefit, he will receive the applicable amount of this allowance (100% of the calculation basis). In this case, the worker's unemployment benefit and Social Security contributions are suspended and he begins to receive paternity benefit, managed directly by the Managing Body. When the paternity benefits run out, the unemployment benefit is resumed for the time remaining and for the applicable amount at the time it was stopped.

Case-study 2: Jasmine is a single parent, aged 29, holding Filipino citizenship, who moved to your (Member) State 2 and a half years ago. She has a 2-year old child (also holding Filipino citizenship) that lives with her and another child aged five that lives in the Philippines with Jasmine's mother. She holds a temporary/salaried worker residence permit that has been renewed once. Jasmine has worked as a nurse in a residential day-care unit in your (Member) State for 2 and a half years. She sends a small amount of money every month to the Philippines to help support her daughter. Last month, Jasmine's employer announced significant cuts in staff salaries in response to budget reductions. Faced with a significantly reduced income, Jasmine has moved into a hostel as she can no longer afford to rent private accommodation. She has also been forced to halve the amount of money she sends to her family in the Philippines every month. She has decided to apply for family benefits and guaranteed minimum resources.

The Social Security benefits to which Jasmine is entitled base on her situation are:

- **Family protection** benefits, specifically the financial allowance for dependent or foster children, for her 2-year-old son who resides in Spain. To access the allowance in this case, the dependent child or the child giving right to the allowance must be under the age of 18 or, if older, have a disability to a degree equal to or over 65%, regardless of the legal nature of his/her affiliation, provided that he/she lives with and is financially dependent on the beneficiary or holder of the allowance.

To receive these non-contributory benefits, both the recipient of the benefit and the individual giving right to the allowance (child or foster child) must be resident in Spain, regardless of whether they are Spanish or foreign.

The parents, adoptive parents or, where applicable, carers of the child must also not be entitled to benefits of this type in any other public welfare scheme, and not receive annual income of any nature above a certain limit, which is not applicable in the case of disabled children or foster children.



The amount of the allowance is EUR 291 for the year, except in certain circumstances in which the child or foster child is disabled.

- With regard to **family protection benefits for her 5-year-old child** residing in the Philippines with Jasmine's mother, family benefit is not included in the scope of the Bilateral Agreement signed between Spain and the Philippines. In this case, family benefit is granted, maintained and ended exclusively under Spanish law. Therefore, because the child does not reside in Spain, Jasmine is not entitled to the allowance for a dependent child or foster child.
- With regard to **benefits for guaranteed minimum resources**, Jasmine does not meet the requirements for access to non-contributory invalidity or retirement pensions, nor is she unemployed and hence is not eligible for non-contributory unemployment benefit.

Case 3: Senghor is a high-skilled worker from Senegal. He arrived in your (Member) State six years ago with a temporary residence permit arranged through the IT company that employed him. Senghor is single and does not have children, but has recently succeeded in bringing his elderly mother to the country on the basis of family reunification. Aged 80, his mother is entirely dependent on Senghor's income. Last week, Senghor suffered an accident at work that left him incapable of carrying out the work for which he was employed for a period of 3 years. He decided to apply for invalidity benefits, sickness benefits and family benefits.

The Social Security benefits to which Senghor is entitled as a result of the work accident are:

- Firstly, he is entitled to a **temporary disability allowance** while he receives care from Social Security and is unable to work, for a maximum of 365 days, which may be extended for a further 180 days if it appears likely that the worker will recover within that time, as certified by the physician (545 days in total).

To be eligible for the allowance, the beneficiary must be affiliated and have undergone registration or a similar procedure to registration in any of the schemes of the System. Senghor meets this requirement because he has been hired by a company for a 3-year period

Being a work accident, there is no requirement for a prior contribution period.

The allowance is a daily benefit that involves applying a percentage of 75% to the basic wage of the individual (contribution basis for professional contingencies in the month prior to the event giving rise to entitlement, without overtime, divided by the number of days for this contribution, plus any overtime worked in the previous year divided by 365 days). It is payable from the day after the date of sick leave.



Eligibility for the allowance ends when the maximum period expires, when a physician certifies that the employee can return to work, with or without declaration of permanent disability, unjustified failure to attend any medical examinations requested by the National Institute of Social Security or the Mutual Society of Work Accidents and Occupational Disease of the Social Security, or in the event of death.

If the temporary disability status is terminated due to expiry of the 545-day period, Senghor's status must be examined within 3 months in order to assign the degree of permanent disability.

However, in the event of a continuing need for medical treatment due to the expectation of his recovery or improved health status allowing his return to work, Senghor's clinical condition advises postponing the above classification, it may be delayed by the exact period, which may not in any case exceed 730 days from the start date of the temporary disability.

- If Senghor's status constitutes a **permanent disability** because after following the prescribed treatment he presents with serious anatomical or functional impairments that can be determined objectively and are expected to be permanent, and which diminish or nullify his ability to work, he will be eligible for permanent disability benefit based on the degree of his disability and provided that he meets the necessary requirements:

To have undergone registration or a similar situation to registration. In the event of disability due to a work accident, the worker is assumed to be registered.

Minimum contribution periods are not required for this benefit because it is the result of an accident.

Permanent incapacity is classified into the following degrees and the benefits take the form of a compensation payment or pension, depending on the degree of disability assigned:

- **Permanent partial incapacity** for one's usual occupation, which does not reach the level of total incapacity but causes a reduction of not less than 33% in the worker's normal performance in that job without preventing performance of the basic tasks of the same.

The financial allowance for permanent partial disability consists of a lump sum of 24 monthly payments using the same calculation basis as temporary incapacity.

- **Permanent total incapacity** for one's usual occupation, which prevents the worker from performing any or all of the basic tasks of the job, provided that he/she can engage in another type of work.

The financial allowance for permanent total incapacity consists of a pension equal to 55% of the calculation basis of the worker (real wages earned in the



previous year), which may exceptionally be replaced by a lump sum compensation payment if the beneficiary is under the age of 60.

The pension could be increased by 20% as of the age of 55, when difficulties in securing employment in an activity other than the former regular one are expected as a result of age, lack of general or specialised training and the social and employment circumstances of the place of residence.

- Permanent absolute incapacity for all work, completely incapacitating the worker for the exercise of any profession or trade.

The financial allowance consists of a pension, the amount of which is equal to 100% of the calculation basis.

- Major invalidity is the status of a disabled worker who, as a result of anatomical or functional loss, requires the assistance of another person to perform basic activities of living, such as dressing, moving around, eating and similar.

It entitles the individual to a pension under the same terms as permanent total incapacity or, if appropriate, permanent absolute incapacity. The amount is increased by a supplement allowing the disabled person to pay the person who helps him/her.

This supplement will be equivalent to the sum of 45 per cent of the minimum contribution basis applicable at the time of the event giving rise to entitlement and 30 percent of the worker's last contribution basis for the contingency resulting in the situation of permanent incapacity. In no event may the supplement be less than 45 per cent of the pension received.

- Senghor may also be eligible to a **financial allowance for non-disabling permanent injuries** when, as a result of the work accident, he suffers a permanent injury, mutilation or deformity that does not constitute permanent incapacity but does alter or diminish his physical integrity.

The benefit consists of a single, lump sum payment whose amount is fixed according to a schedule drawn up for this purpose. Compensation is only payable for the injuries, mutilations and deformities expressly figuring in the schedule, which cannot be applied to circumstances not included therein.

Allowances for permanent incapacity or, where applicable, permanent non-incapacitating injuries to which Senghor may be eligible, when these take place as a result of a work accident for which the company is responsible due to breach of occupational health and safety measures, will be increased by 30-50%, and this extra amount will be payable directly by the offending employer.

To finish off, the only System benefits that Senghor's mother could be eligible for are **healthcare** benefits, through the National Health System, in her capacity as beneficiary, provided that her permit to reside in Spanish territory remains in force and she does not earn an annual income above one hundred thousand Euros.



7. STATISTICS ON SOCIAL SECURITY PAYMENTS RELATED TO MIGRATION.

7.1. Please present any available data on numbers employed, unemployed and inactive by national group.

Employment

The employment statistics in the tables and charts below refer to the age bracket 15-64.

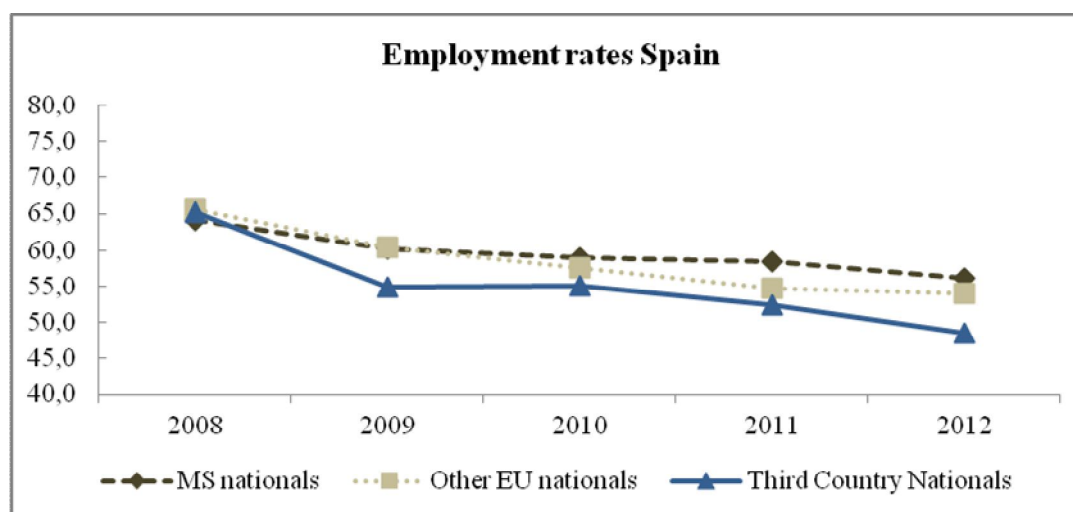
Table 1 Employment rates for Member State nationals, other EU countries and Third Country Nationals by sex, 2008-2012 (%)

	2008	2009	2010	2011	2012
MS nationals	64.2	60.3	59.0	58.4	56.2
MS nationals - Males	73.7	67.8	65.7	64.4	61.3
MS nationals - Females	54.4	52.7	52.2	52.3	51.0
Other EU nationals	65.5	60.4	57.5	54.8	54.1
Other EU nationals - Males	75.5	65.2	62.7	59.7	58.2
Other EU nationals - Females	55.6	55.6	52.4	50.4	50.5
Third Country Nationals	65.1	54.9	55.0	52.5	48.6
Third Country Nationals - Males	71.0	57.0	56.9	54.7	50.7
Third Country Nationals - Females	59.0	52.8	53.2	50.3	46.7

Source: Eurostat, Labour Force Survey (lfsq_egan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database

Figure 1 Trends in employment rates for Member State nationals, other EU nationals and Third Country Nationals, 2008-2012 (%)

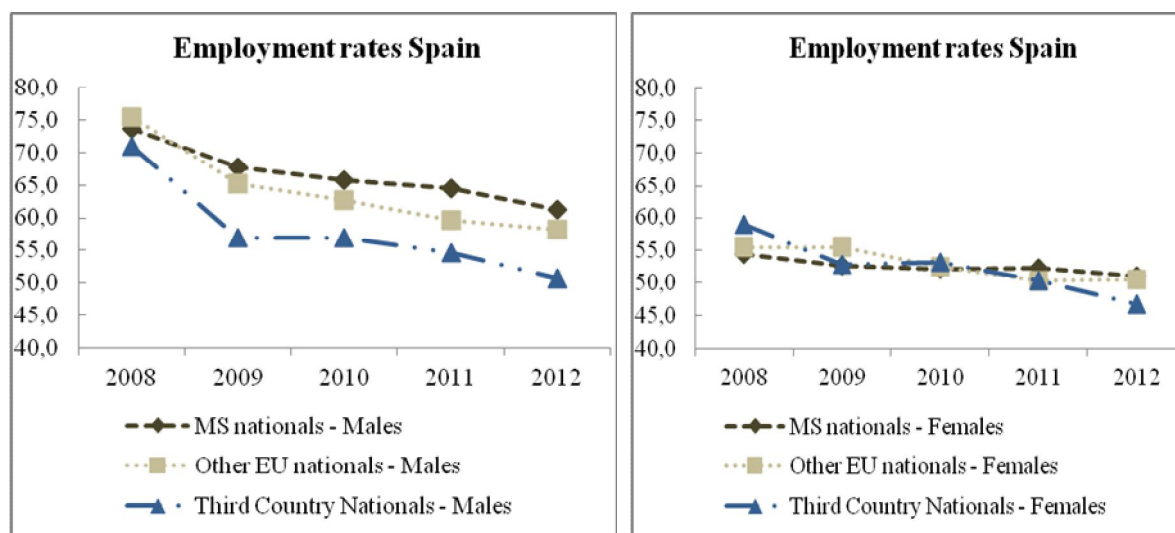


Source: Eurostat, Labour Force Survey (lfsq_egan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database



Figure 2 Trends in employment rates for Member State nationals, other EU nationals and Third Country Nationals by sex, 2008-2012 (%)



Source: Eurostat, Labour Force Survey (lfsq_egan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database

Unemployment

The unemployment statistics in the tables and charts below refer to the age bracket 15-64.

Table 2 Unemployment rates for Member State nationals, other EU countries and Third Country Nationals by sex, 2008-2012 (%)

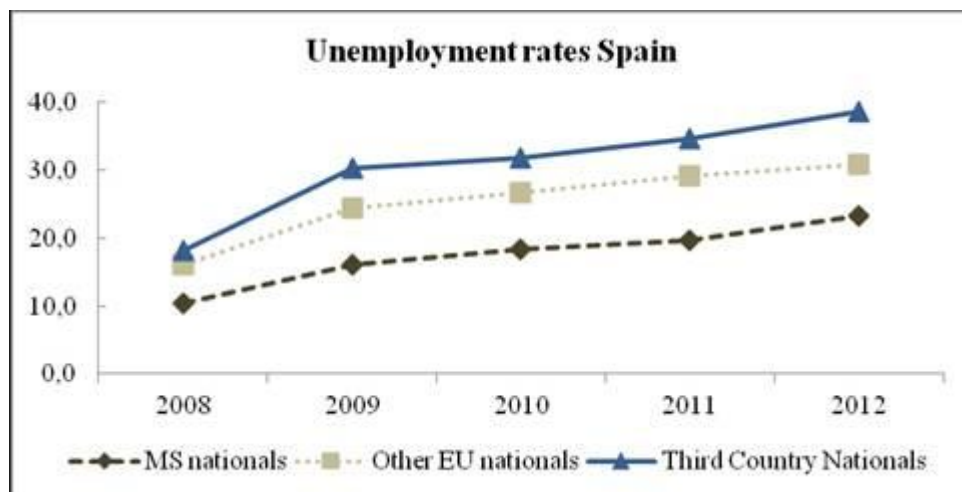
	2008	2009	2010	2011	2012
MS nationals	10.3	16.1	18.3	19.7	23.3
MS nationals - Males	8.8	15.3	17.5	19.0	22.6
MS nationals - Females	12.2	17.3	19.3	20.6	24.0
Other EU nationals	16.1	24.4	26.7	29.2	30.9
Other EU nationals - Males	13.9	25.6	27.0	28.7	31.4
Other EU nationals - Females	18.9	22.9	26.5	29.7	30.3
Third Country Nationals	18.1	30.2	31.8	34.6	38.6
Third Country Nationals - Males	18.7	33.9	35.1	37.2	41.4
Third Country Nationals - Females	17.4	25.6	27.9	31.6	35.5

Source: Eurostat, Labour Force Survey (lfsq_egan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database



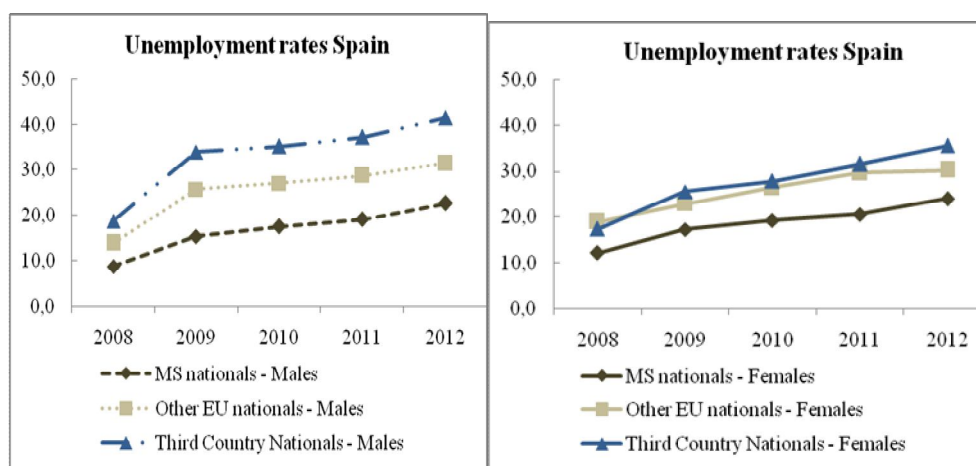
Figure 3 Trends in unemployment rates for Member State nationals, other EU nationals and Third Country Nationals 2008-2012 (%)



Source: Eurostat, Labour Force Survey (lfsq_egan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database

Figure 4 Trends in unemployment rates for Member State nationals, other EU nationals and Third Country Nationals by sex, 2008-2012 (%)



Source: Eurostat, Labour Force Survey (lfsq_egan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database

Inactivity

This section provides statistics on inactivity for Member State nationals, other EU countries and Third Country Nationals, for the age bracket 15-64. It measures inactivity as a share of the respective group of the population (Table 3 and Figures 5 and 6). A person is economically inactive, as defined by Eurostat, if he or she is not part of the labour force and is not looking for a job. The inactive population can include pre-school children, schoolchildren, students, pensioners and housewives or -men, for example,



provided that they are not working at all and not available or looking for work either; as some individuals of these categories may be of working-age.⁶

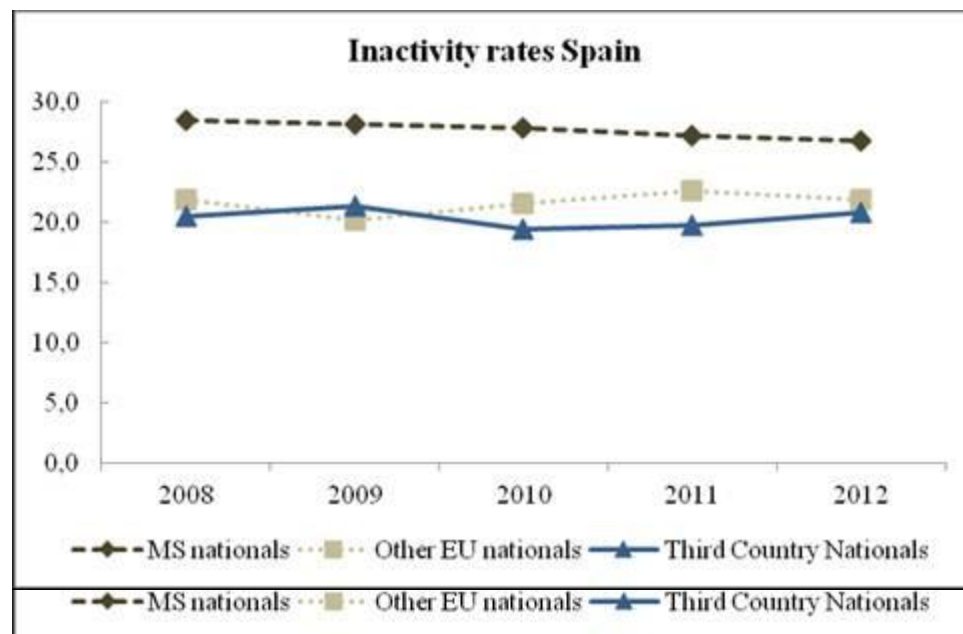
Table 3 Inactivity rates for Member State nationals, other EU countries and Third Country Nationals, as a share of the population of the respective group, 2008-2012 (%)

	2008	2009	2010	2011	2012
MS nationals	28.5	28.1	27.8	27.2	26.7
MS nationals - Males	19.2	20.0	20.4	20.5	20.8
MS nationals - Females	38.0	36.4	35.3	34.1	32.8
Other EU nationals	21.9	20.1	21.5	22.6	21.8
Other EU nationals - Males	12.4	12.3	14.1	16.3	15.3
Other EU nationals - Females	31.4	27.8	28.7	28.2	27.6
Third Country Nationals	20.5	21.3	19.4	19.7	20.8
Third Country Nationals - Males	12.6	13.8	12.3	12.8	13.6
Third Country Nationals - Females	28.6	29.0	26.3	26.5	27.5

Source: Eurostat, Labour Force Survey (lfsq_igan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database

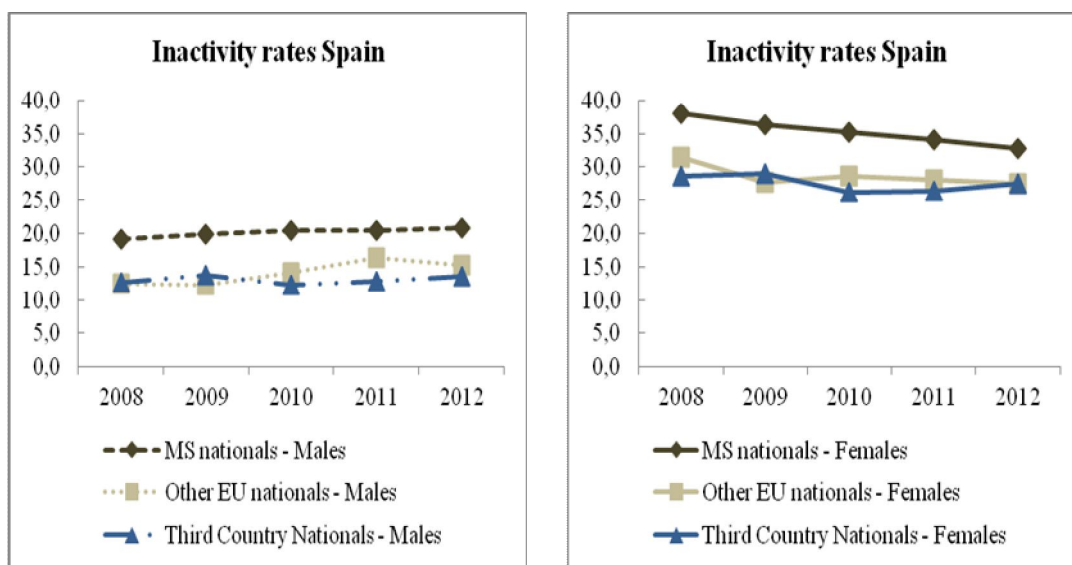
Figure 5 Trends in inactivity rates for Member State nationals, other EU nationals and Third Country Nationals, as a share of the population of the respective group, 2008-2012 (%)



⁶ Eurostat, Glossary of terms http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Glossary:Inactive



Figure 6 Trends in inactivity rates for Member State nationals, other EU nationals and Third Country Nationals, aged 16 and over, as a share of the population of the respective group, by sex, 2008-2012 (%)



Source: Eurostat, Labour Force Survey (lfsq_igan)

http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_unemployment_lfs/data/database



8. KEY FINDINGS

The main conclusions of this study should consider the configuration of the Spanish Social Security system as a **contributory professional system** financed by contributions from employers and employees and providing benefits linked to labour contingencies. Alongside this contributory aspect, and based on the reference to "all citizens" in Article 41 of the Constitution, there is also **welfare level** that provides minimum benefits to persons residing in Spain without sufficient means of support, regardless of the contributions they have made or their professional situation. This welfare level encompasses non-contributory retirement and invalidity pensions, social services and welfare benefits for specific groups, and pharmaceutical care and healthcare and unemployment benefits, all of which are financed by State contributions. Despite requiring residence in the country, this level of welfare does not call for minimum residence periods for access thereto.

Secondly, the study reveals the **growing link between immigration and Social Security policy**. One of the aims of Spanish immigration policy is to establish an orderly migration model in which foreign nationals are integrated into the job market and make a real contribution to the Spanish Social Security system (which is configured primarily around the contributory component, as explained earlier). Hence, registration with the Social Security system is essential for residence and work permits. Initial permits do not take full effect until the individual is registered with the Social Security system; in the case of renewals, the contribution period is checked. Renewal is also possible when the third-country national is the recipient of a public cash welfare payment for his/her social or labour market integration, or has been granted contributory unemployment benefit.

The recent **health reforms** of 2012 and 2013 exemplify the link between Spanish social security and immigration policy, given that insured status is linked to **legal and effective residence**. Specifically, for citizens – Spanish or third-country nationals – whose unemployment benefit or allowance or similar benefits have run out and who are unemployed are required to reside in Spain. The recipient of these benefits is understood to be habitually resident in Spain even when visits abroad are made, provided that these do not total more than 90 days in each calendar year (sixty-fifth additional provision of the LGSS incorporated by the fourth final provision, seven, of the 2014 State Budget Act – *Ley 22/2013* – of 23 December 2013).