

# COUNTRY REPORT

# SPAIN

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## Introduction

Spain is a typical example for a **familist welfare regime**, where state engagement in the PHS sector is aimed at supporting the individual and the family at the same time. Thus, the implementation of the law on dependency and the establishment of publicly financed domestic support services at the local government level go along with informal and family care arrangements supported by state allowances and tax benefits. Although the various internal autonomy levels granted to sub-national governments throughout the territory imply that the different options are not always equally accessible, the overall system contains the possibility of choice.



## Factors supporting the growth and development of the field of PHS

Spain has seen significant aging of its population and an increase in the percentage of single-parent households to 10.7 per cent. A greater number of women participate in the employment market, their rate of employment having increased by 2.5 per cent in 2016. Around 27,000 men and 438,900 women are not active in the employment market due to family responsibilities, while 11,000 men and 258,000 women work part-time due to their care activities. The extension of PHS services could help these people to return to the employment market, as well as almost 1.5 million people, who are inactive due to other personal and family obligations.<sup>1</sup>

Spain further has one of the highest numbers of domestic workers among the industrialised countries.<sup>2</sup>



## Definition and development of PHS instruments

There is no unified national definition of PHS in Spain. However, there is a distinction between **care** and **non-care** activities. **Care and dependency jobs** are identified and defined under the **Dependency Act, Law 39/2006 (LAPAD)**, while non-care activities, that is **domestic jobs**, fall

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<sup>1</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>2</sup> *ibid.*

under the jurisdiction of the **Royal Decree 1620/2011**<sup>3</sup> and in the “Special System for Domestic Employees” of the Social Security System.<sup>4</sup>

These jobs are categorised according to the Eurostat NACE 97 nomenclature as: ‘activities of households as employers of domestic workers’.<sup>5</sup> However, there is no clear-cut separation in the legal status of care and non-care activities.

Domestic jobs fall under a special regime with regards to social contributions, considering that the employment relationship is established between two individuals. Employment agencies and intermediary companies (proxy model) also fall under this regime, as the employer remains the individual.

As far as **care** is concerned, **Law 39/2006**, also known as the law regarding the promotion of independent living and care for dependent persons (LAPAD), created the system for independent living and care of dependent persons, which provides in-kind and cash benefits to people needing long-term care. This can include care at home or in an establishment. This system therefore enables people to receive care/services within the SAAD –system (Sistema para la Autonomía y Atención a la Dependencia), a system set up at the local government level in order to prevent dependency. Given that Spain is characterized by a strong territorial **de-centralisation** of the legislative and management competencies in terms of employment and social services, the situation varies among autonomous communities. Indeed, LAPAD states that **service provision in kind** through the SAAD system should be given priority<sup>6</sup>. In autonomous communities unable to organize such services offer, target groups are offered economic benefits in the form of an **allowance**, which enables them to hire carers or to purchase the service directly.

As far as **non-care** is concerned, employers are mainly individuals, who employ workers directly. They benefit from a **reduction** of 20 per cent to 45 per cent for large families (3 children or more) **on their employees’ social contributions**, if the worker in case has worked more than a certain number of hours in the employer’s home.

In the case of **resident domestic workers** or live-in workers, an inter-professional minimum wage for resident domestic workers has been set by a general reform in 2018, that enabled to upgrade the minimum wage for everyone, including domestic workers.<sup>7</sup> The new regulation also applies to payment, stating that wages must be paid in cash and not in kind. Employers are therefore forbidden to deduct more than 30 per cent of the worker’s salary in order to cover accommodation and upkeep of resident domestic workers. The working week is fixed at 40 hours with a requirement of 12 rest hours between working days. Workers must also be included in the social security system. The reform also requires a written contract for employment relationships that last longer than four weeks.

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<sup>3</sup> MPR (2011).

<sup>4</sup> MISM (2017).

<sup>5</sup> Manoudi et al. (2018).

<sup>6</sup> See article 14 of LAPAD (MPR 2006).

<sup>7</sup> The Royal Decree 1462/2018 (MPR 2018a) has set the Minimum inter-professional salary at the following values:

- Minimum daily wage: € 30.00
- Minimum monthly salary: € 900.00
- Minimum annual salary: € 12,600.00 (14 payments)
- SMI Household Employees: € 7.04 per hour
- Temporary and temporary SMI: € 42.62 per day

While the care component of the sector is clearly structured by the Dependency Act, it remains difficult to find statistical data on the domestic employment side. In order to curb informal employment, **regional tax deductions** have been introduced on the level of autonomous communities. Three autonomous communities offer an income tax reduction to households hiring domestic workers. In Andalusia, a tax deduction for households with children corresponds to 15 per cent of the annual social security contribution for the domestic worker, up to a limit of 250€ per year. Castilla and León has a similar deduction of 15 per cent up to 300€ for households with a child under the age of four years and a household income under a certain threshold. Galicia offers a tax advantage of up to 30 per cent for families using a mother's help for a child under the age of 3. The annual limit is 400€ for one child and 600€ for two or more children.<sup>8</sup>



## Landscape of users

As far as the **care** component is concerned, 1,264,951 persons were entitled to SAAD benefits in 2017. 954,831 received cash benefits or services in kind, while the others were waiting to receive benefits.<sup>9</sup>

As far as the **non-care** component is concerned, there are 626,000 employer households<sup>10</sup>, but there is no tangible data about the users<sup>11</sup> (age, level of education, social status...).



## Financing of the main instruments and associated prices

The state remains the main actor in governing the various tools promoting the sector. As far as the **care** component is concerned, „dependency cheques” are financed by the governments of the autonomous communities.

As far as the **non-care** component is concerned, part of the social contributions for households employing domestic workers is financed by the central government.

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<sup>8</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>9</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>10</sup> MSCBS (2019a).

<sup>11</sup> MSCBS (2019b).



## Work arrangements

As far as the **non-care** component is concerned, Spain is among the European countries with the largest number of **households directly employing** domestic workers. Statistics published by the Ministry of health, Consumption and Social Welfare invoke 626,000 domestic workers in September 2019.<sup>12</sup>

As far as the **care** component is concerned, work arrangements are regulated by the **Dependency Act**. Long-term care may be provided directly through in-kind services provided by the public sector. If the public provision of long-term care services is not possible, users receive a cash allowance, which enables them to hire care providers privately.

In the sector, the standard Employment Law legislation is applicable (Estatuto de los trabajadores).

Care can also be provided by **non-professional family caregivers**.<sup>13</sup> To support caregiving within the family, the government has introduced a procedure by which it takes over the obligation to pay the **social contribution for non-professional family carers** in 2007. This measure was cancelled in 2012, but has been re-introduced recently.<sup>14</sup> However, this is not a contractual scheme, but a kind of recognition of the informal care work provided by family members, who are usually women. These women are never automatically considered domestic workers, because family members are excluded a priori from working relationships. The government's intention was to recognize the value of informal care, and to grant a unique service in the form of a contribution of any future benefits.



## Landscape of intermediaries and quality management

Different intermediaries are active in the country, such as private market-oriented companies, social enterprises, co-operatives and others. The employment service provider model is marginal, due to the fact that the amount paid per working hour is more expensive for families than directly hiring informal domestic workers. Private companies therefore act as proxies in most cases.

As far as the **care** component is concerned, according to the Dependency Act, **caregivers** hired for long-term care must have **professional qualifications** to be able to work as carers.<sup>15</sup>

**Non-professional family carers** must be registered with **social security**.<sup>16</sup> However, in these cases it must be taken into account that there is no legal employment relationship.

As far as the **non-care** component is concerned, there is specific **training** for domestic workers and **formal certification**, but it is not essential in order to get a job.

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<sup>12</sup> MSCBS (2019a).

<sup>13</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>14</sup> MITRAMISS (2007).

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.



## Landscape of employees and degree of professionalisation

With regards to **care**, the development of SAADs has created new jobs in social services. It is estimated that 184,216 jobs were created between 2006 and 2017 in this sector.<sup>17</sup> With regards to **non-care**, the Labour Force Survey<sup>18</sup> refers to around 400,000 declared domestic workers only. These figures remained stable between 2012 and the date when the Royal Decree came into force.

87.7 per cent of PHS employees are **women**, with a large proportion of **migrant women**, who make up 30.2 per cent of the labour force employed in the sector. 42.2 per cent of the migrant women working in the sector are employed as domestic workers. Many migrant women working in the informal care sector are part of the undeclared economy. Most women active in the PHS sector are between 25 and 49 years old.

The government has promoted education and training to improve the professionalisation of the care sector. Professional education and training programmes as well as evaluation and accreditation procedures have also been developed.<sup>19</sup> However, the coordination is complex and often challenging, because the competences are distributed among the various public authorities in the field of vocational training, with the autonomous communities being in charge of the vocational training, while the central state is responsible for unemployment benefits. As there are budgetary and management constraints on the level of the central state and the social partners and the autonomous communities as well, it might prove difficult e.g. for an unemployed person to access a training course.



## Wages

The minimum wage was 5.76€ per hour in 2018. However, the cost for non-care services was 6€ / hour in Madrid. The cost of care services for users varies according to the employment model. Direct employment costs 7€ per hour, service providers: 14.50€ and online platforms cost an average of 10.20€ per hour.

However, there are considerable regional differences in the sector. The collective agreement of the province of Bizkaia (agreement code number 48004565011997- BOB 94, MAY 20, 2014) sets an hourly rate for the home care sector of 22.14 euros. If we compare it with the National Agreement for dependent care services, the difference is 14 euros, the latter setting an hourly rate of 8.10 euros. On the other hand, the Collective Agreement for the Cleaning Sector of buildings and premises in Bizkaia (agreement code number 48001445011981- BOB 162,

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<sup>17</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>18</sup> La *Encuesta* de Población Activa [Labour Force Survey]

<sup>19</sup> Ibid.

AUGUST 26, 2013), sets a price of 9.52 euros per hour, which leads to much of the home care services to be negotiated “privately” under this agreement, instead of in the formal one.

The average cost of the undeclared workforce, according to online platforms, is 10€ for non-care services and 6€ for care services.<sup>20</sup>



## Social dialogue in the field of PHS

With regards to the **care** component, in some cases there is an established social dialogue with collective agreements. On the care side, collective bargaining works very well, since collective agreements exist between care workers and companies providing personal care. For the non-care side, there is no collective agreement because even if the domestic workers' associations are very powerful, they cannot act because there are no representatives of the employers' households. Companies do not want to represent private employers.

There is an additional complexity inherent in the Spanish system of articulation of agreements according to the bargaining unit (national, regional, business).<sup>21</sup> The sectoral agreements exist at a national level (depending on the Ministry of Labour), regional level (depending on the Autonomous Governments) or provincial level (dependent on the provincial governments). In the case of home care services, Spain has national and provincial agreements and this gives rise to many differences across provinces. It may occur for example that the price of care varies greatly from one province to another, depending on the collective agreement in place. In the province of Bizkaia, for instance, the care services are regulated by a provincial sector agreement, and this has led to large differences in the cost per hour which was adopted following the fixed price paid by municipalities. This cost per hour is, in opinion of many companies which privately offer these services, well above the market reality and differs greatly from what is being paid in neighbouring provinces or other regions.

Furthermore, there may be differences at the provincial level in the amount and form of support provided by the provincial government. For example, in the province of Gipuzkoa, home care assistance services are cheaper than in the neighbouring provinces, because they are not regulated by a provincial sectorial agreement. Additionally, there are financial incentives for personal assistance provided by the provincial government of Gipuzkoa, with the purpose of to promote the autonomy of the severely dependent persons. The financial benefit for the households is conditioned on hiring an accredited professional with a Certificate of professional qualification SSCS0108 “Social and Health Care for dependent people at home”, while in Bizkaia this support does not exist, although professional certification is also required.

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<sup>20</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>21</sup> MPR (2018b).



## Policy Process

As far as the **care** component is concerned, Spain set up a long-term care system in 2007 through **Law 39/2006** on the promotion of independent living and the care of people in situations of dependency (LAPAD)<sup>22</sup>, which created the SAADs. Municipalities are responsible for setting up the SAAD in collaboration with the central government.<sup>23</sup>

LAPAD's objective was to provide services that could be publicly administered rather than relying on cash benefits. However, in reality, many beneficiaries still receive cash benefits.<sup>24</sup>

As far as the **non-care** component is concerned, domestic workers often end up doing activities that should be managed by public SAAD institutions, because the system does not provide the care services families need. The administrative process is often too long and the financial resources insufficient. Some families do not have a level of resources low enough to get financial aid, yet they cannot afford to hire and declare a care worker.

Spain has not ratified ILO Convention 189 on domestic work, with – inter alia - the idea that the home is inviolable and therefore no employment inspectors can be brought in.<sup>25</sup> However, this situation is expected to change during the course of the year 2020.



## Commonalities across countries

Spain is a Mediterranean country sharing certain characteristics with Italy, like a large number of domestic workers, but also the idea of the central role of the family in society and the moral duty to support one's family members. The weight largely rests on women, either as informal family carers or as domestic workers, hired by families to provide both care and non-care services.



## Previous Instruments

To support caregiving within the family, the government has introduced a procedure by which it takes over the obligation to pay the **social contribution for non-professional family carers** in 2007. This measure was cancelled in 2012, but has been re-introduced again.

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<sup>22</sup> Ley de Promoción de la Autonomía Personal y Atención a las Personas en Situación de Dependencia [Law on the Promotion of Personal Autonomy and Care for Persons in the Situation of Dependency] (LAPAD)

<sup>23</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>24</sup> González Gago, Elvira/ Carrandi Cortina, Rubén (2018).

<sup>25</sup> Ibid.





## Promising practices

As far as the **care** component is concerned, the legal declaration of care workers is managed electronically and almost automatically. Service providers (enterprises) from a certain size have to provide a specific online tool. Concerning **non-care**, there is an online registration form for household employees. The employer must have an assigned Contribution Account Code, the domestic workers may be employed for a maximum of 60 hours per month, and the employees must have a valid social security number.<sup>26</sup>

Additionally, there are many good practices in the PHS sector, if we look at the **social and solidarity economy** side. An outstanding good practice is the creation of commercial companies in the social economy, whose main objective is the sustainability of employment. In the Basque Country, for example, elderly care sector Work Integration Social Enterprises (WISEs) have been created. These social enterprises are temporary learning structures aimed at the social inclusion of people with very low employability and at risk of social exclusion. They act as transition companies, where people with social and labour difficulties develop the needed skills during 3 years for the performance of an occupation through the formula of learning by working with suitable training itineraries of socio-labour insertion for people who had special difficulties.<sup>27</sup> Very successful in this area are the special social/employment insertion projects for employees in work and the unemployed with difficulties gaining access to or maintaining jobs by Lanbide (Basque Country), that pay close attention, inter alia, to project quality and coherence, achievement of training itineraries and job insertion percentages.<sup>28</sup>

Similar integrated measures also support the professionalisation of the sector, as they create opportunities for obtaining the professional certificates. Thus, the Lan Berri Program (Provincial Government of Bizkaia) promotes the employability and employment of people with very low employability and at risk of social exclusion. It enables the design and implementation of pilot projects on strategic sectors such as the elderly care sector. The program financially supports specific training actions including guiding, training and placement through adequate training itineraries.<sup>29</sup>

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<sup>26</sup> MISM (2020).

<sup>27</sup> See: <http://www.gizatea.net/>

<sup>28</sup> Lanbide (2018).

<sup>29</sup> Diputación Foral de Bizkaia (2019).

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