



LEGAL NEWS

We create clarity.

FACTSHEET LABOUR LAW SPANISH LABOUR AND SOCIAL SECURITY REGULATIONS



JANUARY 2024

Spanish labour law

The core of Spanish labour law is the **Workers' Statute** (*Estatuto de los Trabajadores*), which was approved by Royal Decree-Law 2/2015 of 23 October.

A key feature of Spanish labour law is that important employment issues can be regulated by **collective bargaining agreements** (*convenios colectivos*), i.e. agreements between employee and employer representatives in a specific area (within a company, company-wide or industry-wide).

Employment contracts

Employment contracts can be concluded **verbally or in writing**, unless explicit provisions require a written contract (e.g. fixed-term contracts, part-time contracts and training contracts). If this formal requirement is not met, the contract is deemed to have been concluded for an indefinite period and as full-time employment, unless the contrary can be proven. The hiring of employees must be reported to the regional labour authorities (*Servicios Públicos de Empleo*) within ten days of the start of the contract. However, retroactive registration for social security purposes is not possible.

There are **different types of employment contracts**, including permanent, fixed-term, training and part-time contracts:

- **Fixed-term employment contracts:** Spanish law places specific, very strict requirements on the conclusion of fixed-term contracts. These must always be concluded in writing and the reason for the fixed term must be stated in sufficient detail. Otherwise, or if the reason for the fixed term does not correspond to any of the legally defined case groups, the contract is treated as indefinite.

Fixed-term employment contracts can only be concluded in the following cases: 1/ Due to **operational requirements** (e.g. a specific project, market circumstances or an accumulation of orders) and 2/ **To replace another employee**, e.g. in the event of illness. For operational reasons, the term may not exceed six months (extendable to 12 months by collective agreement in the relevant sector) or 90 days per calendar year for foreseeable circumstances. When fixed-term contracts are terminated, the employee is entitled to a severance payment of 12 days' salary for each year worked.

- There are two types of **training employment contracts**: 1/ "traineeship contracts" for university and other graduates or holders of vocational training qualifications (no more than 3 years may have passed since completion of the relevant studies) and 2/ "apprenticeship contracts" with the purpose of combining paid work activity with the relevant training processes (e.g. vocational training or university studies).



- An employment contract is deemed to be **part-time** if the working hours agreed with the employee per day, week, month or year are less than the working hours of a "comparable full-time employee" (usually 40 hours per week), i.e. a full-time employee in the same company and at the same workplace who performs identical or similar work. The employer may not offer a permanent part-time employee less than 10 hours per week (on an annualised basis).
- **Indefinite contracts for seasonal or intermittent work** may be used for the performance of work related to seasonal activities and for work that is not seasonal but which, due to its intermittent nature, has definite, fixed or indefinite periods of performance. The maximum period of inactivity is three months, unless otherwise stipulated in the collective labour agreement.
- **Remote work / home office:** If more than 30% of the work is carried out at the employee's homeoffice or at a location chosen by the employee, the provisions of Law 10/2021 of 9 July on remote work apply; a **teleworking agreement** must be concluded in writing before the start of remote work.

A **probationary period** may be agreed between employers and employees during which the employer or the employee may terminate the contract without having to state or prove a reason, without prior notice and without entitlement to compensation in favour of the employee or the employer. Collective agreements may stipulate the maximum duration of the probationary period, which, in the absence of a collective agreement, may not exceed **six months for skilled workers with a university or technical college degree** and two months for all other employees.

In general, the **maximum weekly working time is 40 hours** of actual work performed. The company must ensure that **daily working hours** are recorded. Employees have the right to **digital disconnection after hours** to ensure compliance with their rest periods, permits and holidays.

The official **minimum wage** is set each year by the government and for 2024 is € 15,876.00 per year for persons over 18 years of age (including 12 monthly salaries and 2 special payments; it is possible to make the extra payments pro rata). The minimum wages for the individual occupational groups are generally regulated in the relevant collective bargaining agreements.

There are **three main reasons** for **termination of employment** by the employer: **1/ collective dismissal**; **2/ objective reasons** and **3/ disciplinary reasons**. The statutory severance pay in the first two cases consists of 20 days' salary per year of employment, up to a maximum of 12 months' salary. In the event of dismissal for disciplinary reasons (serious and culpable offence by the employee), the employee is not entitled to severance pay.

An employee who has been dismissed for objective or disciplinary reasons may **appeal** against the employer's decision to the labour courts for protection against dismissal; this must be preceded by a **mediation hearing** before an arbitration tribunal between the employee and the employer.

The dismissal is classified by the court in one of the following three categories: 1/ justified, 2/ unjustified (the employer has the right to choose between reinstating the employee with back pay from the date of dismissal or paying a severance payment of 33 days' salary per year worked up to a maximum of 24 months' salary) or **3/ void** (reinstatement and back pay).



Social security contributions

In principle, all persons, whether employed or self-employed, who work in Spain must be registered with the Spanish social security system and pay contributions. There are various contribution programmes in the Spanish social security system, the two most important being the **general social security programme** (*Régimen General de la Seguridad Social*), to which all employees are generally subject, and the **special programme for the self-employed** (*Régimen Especial de Trabajadores Autónomos*) for all sole traders and freelancers (as well as for managing directors if they have control over the company, see below).

Social security contributions in the general social security programme are paid proportionately by the employer and the employee. Employees are categorised into a number of occupational and employment categories to determine the contributions. Each category has a maximum and minimum contribution base, which is usually adjusted annually. For 2024, **the maximum contribution base for all occupational groups and categories is €4,720.50 per month; the minimum contribution base is €1,260.00 per month.**

The **total contribution rates** that apply for the employers and employees under the general social insurance scheme in 2024 are as follows:

- Employer: 30,40 % (31,60 % for fixed-term contracts)
- Employees: 6,45 % (6,50 % for fixed-term contracts)

The employer's total contribution rate is increased by additional percentages for occupational accident and illness costs in accordance with the state budget law. Employers deduct the employee's contribution from the salary and pay it together with the employer's contribution to the social security authorities on a monthly basis.

For **directors and board members** of a company resident in Spain who receive remuneration, either the general social security programme applies (as for any other employee) or the same programme without unemployment protection (as so-called "assimilated persons" if they carry out other work activities) or the special programme for self-employed persons, depending on whether they have effective control over the company.



CONTACT

Fernando Lozano

Abogado, Asesor Fiscal, Managing Partner

+34 963 28 77 93

f.lozano@schindhelm.com

Axel Roth

Abogado, Rechtsanwalt, Partner

+34 932 00 37 88

a.roth@schindhelm.com

Bilbao

Barroeta Aldamar 7

E-48001 Bilbao

T +34 944 25 66 98

bilbao@schindhelm.com

Denia

Marqués de Campo 27

E-03700 Denia

T +34 965 78 27 54

denia@schindhelm.com

Madrid

Velázquez 126

E-28006 Madrid

T +34 915 47 51 25

madrid@schindhelm.com

Palma de Mallorca

Sindicat 7

E-07002 Palma de Mallorca

T +34 971 21 32 54

palma@schindhelm.com

Valencia

Conde de Salvatierra 21

E-46004 Valencia

T +34 963 28 77 93

valencia@schindhelm.com

This document is made available to you for information purposes only and is not a substitute for advice in your specific case by one of our firm's professionals, for which reason we do not assume any responsibility for its content. Publisher, media owner, editorial staff: Lozano Schindhelm, S.L.P | Conde de Salvatierra 21, E-46004 Valencia | VAT-NIF: ES897548135, registered in the Commercial Register of Valencia, T. 8034, L. 5327, H.V-101900 | Tel: +34 963 28 77 93 | valencia@schindhelm.com. Lozano Schindhelm, S.L.P. is a member of Saxinger Schindhelm Services SE, Alliance of European Business Law Firms.
