

Social Security and Migration: the Spanish Experience

Seguridad Social y migraciones: la experiencia española

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Abstract: Spain's social security system has served as a social tool that has adapted to the transformation of migration flows. From this perspective, it is clear how social security benefits have evolved from primarily supporting Spaniards returning to their country –through instruments such as old-age pensions, unemployment benefits, and extraordinary allowances– To the current approach, which focuses more on incentivising immigration flows. This article analyses this particular role of social security, using Spain as case study. This country is an exceptional example due to the large number of bilateral social security agreements signed with third countries and by the fact of being part of the Ibero-American Multilateral Agreement on Social Security, a pioneering experiment with the objective of guaranteeing the rights of migrant workers and their families.

Keywords: Social security, migration, coordination.

Resumen: El sistema de Seguridad Social español ha funcionado como un instrumento de adaptación a los flujos migratorios. Desde esta perspectiva, resulta evidente cómo las prestaciones de la Seguridad Social han evolucionado, pasando de apoyar principalmente a los españoles que regresaban a su país –mediante prestaciones como las pensiones de jubilación, los subsidios por desempleo y los subsidios extraordinarios– al enfoque actual, que se centra más en incentivar la inmigración. Este artículo analiza este papel particular de la Seguridad Social, tomando como caso de estudio a España. Este país constituye un ejemplo excepcional debido al elevado número de convenios bilaterales de Seguridad Social firmados con terceros países y a su participación en el Acuerdo Multilateral Iberoamericano de Seguridad Social, un experimento pionero cuyo objetivo es garantizar los derechos de los trabajadores migrantes y sus familias.

Palabras clave: Palabras clave: Seguridad Social, migración, coordinación.

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I. Introduction. Migration and social security: particularities of Spain

For most of its modern history, Spain was primarily a country of emigration.¹ Economic hardship, political instability, and periods of war drove millions of Spaniards to seek opportunities abroad. However, over the last few decades, Spain has undergone a profound transformation, becoming a major destination for migrants. This shift from being a country of emigration to one of immigration represents a significant socio-economic and demographic change.

During the 19th and early 20th centuries, Spain experienced waves of mass emigration, particularly to Latin America. Countries such as Argentina, Cuba, and Mexico welcomed large numbers of Spanish migrants who sought better economic conditions and political stability. The main drivers of emigration were poverty, land shortages, and limited industrialisation in Spain. Many Spanish emigrants integrated into the societies of their host countries, contributing to cultural and economic development abroad.

In addition to Latin America, some Spaniards moved to France, Belgium, and Germany, especially in the early 20th century. Political upheavals, such as the Spanish Civil War (1936–1939) and the subsequent dictatorship of Francisco Franco, prompted further emigration. Thousands of Spaniards, particularly Republicans fleeing repression, sought refuge in France, other European nations, and some countries in Latin America.

In the 1950s and 1960s, Spain continued to be a country of emigration, with many Spaniards moving to Western Europe. The economic recovery of countries such as Germany, Switzerland, and France created a demand for labour, attracting Spanish workers. The Franco regime even facilitated these migrations through agreements with host countries. Spanish emigrants sent remittances back home, which played a crucial role in supporting their families and contributing to Spain's economic stability.²

The late 20th century marked the beginning of a major shift in Spain's migration patterns. Economic modernisation, political democratisation, and European integration³ transformed Spain into an attractive destination for migrants. By the 1980s and 1990s, Spain's rapid economic growth, particularly in construction and services, created a high demand for labour.

Initially, migration flows consisted of returning Spaniards and Latin Americans with historical ties to Spain. However, by the 2000s, Spain was experiencing large-scale immigration from diverse regions, including North Africa, sub-Saharan Africa, and Eastern Europe. Moroccans, Ecuadorians, Colombians, and Romanians became some of the largest migrant communities in the country as it is explained below.

By the early 21st century, Spain had one of the highest immigration rates in Europe. The economic boom between 1996 and 2008 fuelled job creation, making Spain

¹ Bover, O. and Velilla, P., 'Migration in Spain: Historical Background and Current Trends' (IZA Discussion Papers 1999) Working Paper 88.

² Bentolila, S. and Dolado, J.J., 'Mismatch and Internal Migration in Spain, 1962-1986' [1990] Documentos de trabajo - Banco de España 1.

³ Perni, O., 'Migration Flows, Social Security and EU's Integration Process: The Spanish Case' [2002] Working Papers OBS 1.

an attractive destination for workers. The immigrant population grew significantly, contributing to economic growth but also raising challenges related to social integration, housing, and public services. Between 1998 and 2008, the immigrant population grew from 1.2 million to around 6 million.

Nevertheless, the financial crisis of 2008-2013 led to a sharp decline in immigration and even prompted some migrants to return to their home countries, but without the massive exodus that some experts forecasted. Consequently, Spain remained a key destination for migrants, particularly from Latin America and Africa with the economic recovery.⁴

In recent years, migration flows have been influenced by factors such as political instability in Latin America, conflicts in Africa, the war in Ukraine, and migration policies at the European level. Except for a temporary setback caused by the COVID-19 pandemic, flows have accelerated again. In fact, with 860,000 new arrivals in 2022, Spain is currently the second most important migratory destination in the EU, accounting for 17% of total arrivals, behind only Germany, which accounts for 31% of the total.⁵

Spain's social security system has served as a social tool that has adapted to the transformation of migration flows. From this perspective, it is clear how social security benefits have evolved from primarily supporting Spaniards returning to their country –through instruments such as old-age pensions, unemployment benefits, and extraordinary allowances– to the current approach, which focuses more on incentivising immigration flows. This is achieved by promoting social security coordination, thereby mitigating the social costs associated with working and contributing to social security in different countries.⁶

This article analyses this particular role of social security, using Spain as case study. This country is an exceptional example due to the large number of bilateral social security agreements signed with third countries⁷ and by the fact of being part of the Ibero-American Multilateral Agreement on Social Security, a pioneering experiment with the objective of guaranteeing the rights of migrant workers and their families.

To this aim, EU's social security coordination is side-lined⁸ in favour of focusing on Spain's own instruments. Particularly, it pays especial attention to the mentioned multilateral and the bilateral agreements ratified with other nations all over the world. This approach is also supported by the fact, explained below, that most migrant workers come outside the EU nowadays. The main purpose is analysing what countries are

⁴ Domínguez-Mujica, J., Guerra-Talavera, R., and Parreño-Castellano, J. M., 'Migration at a Time of Global Economic Crisis: The Situation in Spain' (2014) 52 *International Migration* 113.

⁵ Eurostat, 'Migration and Asylum in Europe' (Eurostat 2024) <<https://ec.europa.eu/eurostat/web/interactive-publications/migration-2024>> accessed 1 March 2025.

⁶ The only exception would be the Great Recession 2008-2013 as it is explained below (see point IV).

⁷ Sánchez Carrión, J. L., 'Los convenios bilaterales de Seguridad Social suscritos por España y su conexión con el Derecho comunitario' [2003] *Revista del Ministerio de Trabajo y Asuntos Sociales: Revista del Ministerio de Trabajo e Inmigración* 17.

⁸ In order to explore the interaction between Spain's social security system and EU coordination, vid. Martín-Pozuelo López, A., *La Seguridad Social de Los Trabajadores Migrantes En La Unión Europea: Ley Aplicable a Afiliación y Cotización* (Tirant lo Blanch 2022).

involved, what techniques are used, and which aims are pursued within the framework of the interrelationship between social security and migration policies.

The analysis is structured as follows. After this introduction, the next section provides a quantitative overview of the importance and characteristics of migration in the Spanish labour market. The subsequent section explores the relationship between social security and migration. This analysis is divided into two main approaches: on the one hand, how the legal framework covers migrants, considering their administrative status and the types of benefits available; on the other hand, the role of coordination mechanisms in guaranteeing social security rights for migrant workers. In this regard, special attention is given to the scope of these mechanisms and the principles governing their functioning and implementation. Building on these two sections, the relationship between social security and migration is explored, highlighting how Spain's social security have been adapted to migration flows. Finally, the article concludes by summarising the key findings from the previous sections.

II. Migrant Workers in the Spanish labour market

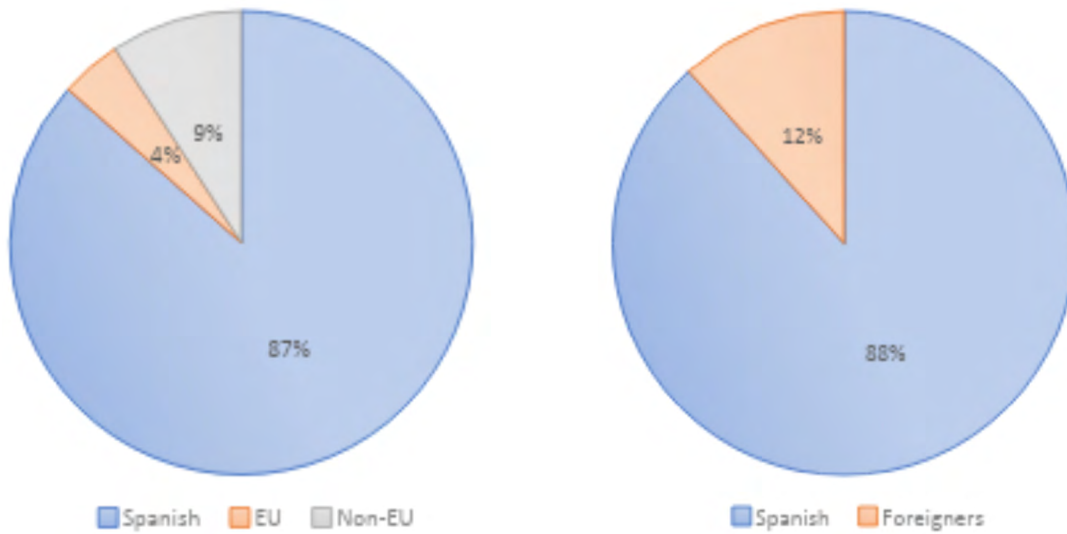
In order to properly assess the relationship between social security and migration, it is necessary to examine the labour market from the perspective of nationality and labour flows⁹. To this end, we begin by evaluating the significance of the migrant population within it. Two different data sources are available: on the one hand, administrative data provided by the National Social Security Institute; on the other hand, statistical data provided by the National Statistical Institute (INE, by its Spanish acronym), which follows the technical standards set by Eurostat as a common framework for all European countries.

According to Graph 1, which illustrates the percentage of registered workers in the social security system by nationality, 87% are Spaniards, while 13% are foreigners. It is important to keep in mind that this data represents nationals from different countries at a specific point in time and, as a result, does not reflect changes in nationality over time. Among non-Spaniards, 4% are EU workers, while the remaining 9% come from outside the EU. Consequently, despite the principle of free movement within the EU, workers from non-EU countries account for more than twice the number of EU foreign workers (61.5%).

Within this description, it is interesting to know in which extend the labour market differs from the overall composition of society. The Graph 2 focuses on the latter by mentioning the resident population and its nationality. As observed, there is no significant differences as 88% of people residing in Spain are Spaniards, whereas the rest of them are foreigners. This represents only a one-percentage-point difference compared to the labour market, as a consequence.

⁹ A veru complete analysis, can be found here: CES, *La realidad migratoria en España: prioridades para las políticas públicas*, Consejo Económico y Social de España, Madrid, 2025.

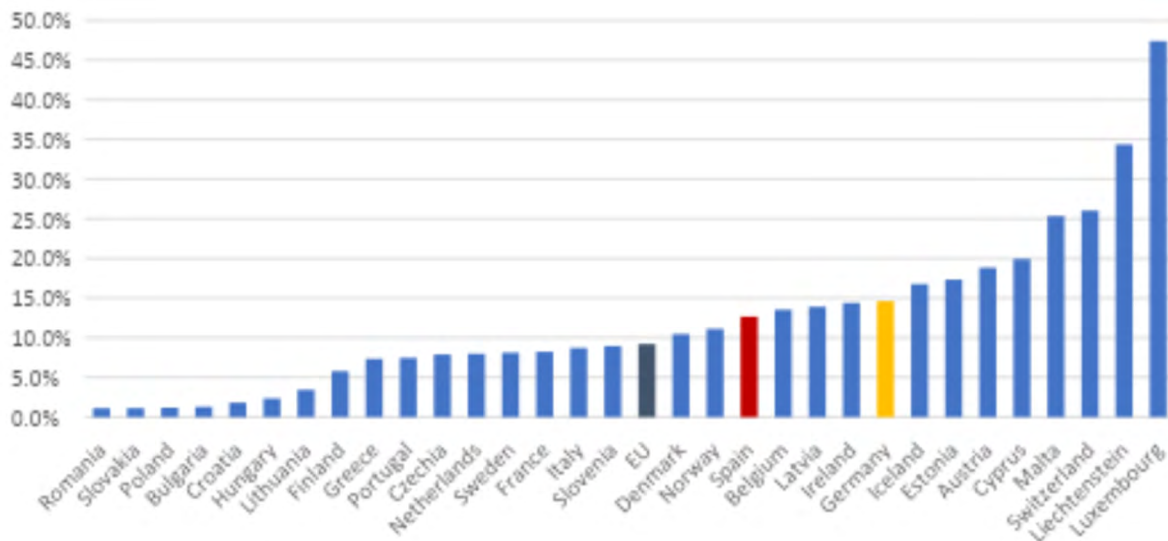
Graph 1. Resident population and nationality (%). **Graph 2.** Foreign Country and Stateless Persons (%).



Source: own elaboration based on National Statistical Institute's database (2024).

Source: Own elaboration based on Eurostat (2023).

Graph 3. Foreign Country and Stateless Persons (%).



Source: Own elaboration based on Eurostat (2023).

Compared to other European countries (Graph 3), Spain would occupy an intermediate position above the EU's average. Hence, as the EU registers a percentage of foreign and stateless persons that scarcely overcomes 9%, Spain surrounds 12%, more than one perceptual point higher than Norway or Denmark, and between one and two points less than Belgium, Latvia, Ireland or Germany. The countries with the highest percentages of foreign and stateless persons are micro countries such as Luxembourg (47.4%), Liechtenstein (34.4%) or Malta (25.3%), along with a small country, Switzerland (26%). On the other side, countries with the lowest levels of non-national population are mainly eastern states, such as Romania (1.1%), Slovakia (1.1%), Poland (1.2%), or Bulgaria (1.3%).

If other variables are used, the situation is even closer to other countries with a longer tradition in migration. Hence, at the beginning of 2024, the percentage of the foreign-born population (18.2%) was similar to countries that initiated their immigration flows since decades, such as Germany (20.2%), the Netherlands (16.2%) or Sweden (20.6%). Additionally, it is important to note that, in contrast to previous migration waves, the current one introduces the innovation of having a significant proportion of new inflows that come through the asylum channel. Also in this respect, Spain has become the second most important country in Europe, with 15% in 2023, again behind only Germany (31%).¹⁰

But, back to Spain, it is also necessary to analyse how the migrant population is, taking into consideration that, from social security perspective, nationality is key aspect, as it determines the application of bilateral or multilateral agreements. The following table shows migrant workers registered at the social security system by nationality. Particularly, the most important groups from a quantitative point of view. These groups can be classified by considering possible causes of their predominance in Spain.

First of all, the neighbours, such as Morocco and Portugal, whose geographical proximity partially explains their important number in Spain. Second, the Latin American countries, for which cultural and language connections help to incentivise migration to Spain (Colombia, Venezuela, Peru and Ecuador).¹¹ Italy can be added to this group, as some research studies has highlighted that these figures are probably covering an important group of Argentinians who have facilities to obtain the double nationality. Finally,

Table 1. Nationality of affiliated workers to social security (number and percentage)

Country	Soc Sec. Registered	% (Total Migrants)
Rumania	334.187	11,7%
Morocco	319.166	11,2%
Colombia	217.946	7,6%
Italy	199.127	7,0%
Venezuela	164.478	5,8%
China	119.078	4,2%
Perú	84.741	3,0%
Ecuador	73.901	2,6%
Ukraine	71.740	2,5%
Portugal	67.280	2,4%

Source: Own elaboration based on Social Security Data Base.

¹⁰ Eurostat (n 5).

¹¹ The strong increase in Latin American migrants was favoured in different periods by relatively open European (and thus Spanish) visa policies towards European (and therefore Spanish) visa policies relatively open towards Latin American countries. Latin American immigration is also favoured by the regulations on access to nationality, being able to apply for it on a preferential basis, i.e. after two years of legal and continuous residence instead of ten, as is the case for all other nationalities. Currently, around 47% of foreign-born residents in Spain come from Central or South America, 27% from other European countries (mainly EU countries), 17% from Africa (mainly North Africa) and 6% from Asia. Finotelli, C. and Rincken, S., 'La Realidad Migratoria Española y Su Gestión: Hechos y Percepciones' (FEDEA 2025) 4-5.

we can form a heterogeneous group formed by Rumania, EU country whose nationals seems to prefer Mediterranean countries whose language is close to theirs; Ukraine, whose migration is powered by the war and the political context; and China, which is exporting migrants all over the world since decades and that has a clear economic interest.¹²

As for the foreign population in an irregular administrative situation, available estimates range between 500,000¹³ and 700,000,¹⁴ figures which obviously only offer approximations subject inevitably to methodological caveats of great significance. By the end of 2023, just over 15,000 unaccompanied minors and former foster youth were living in Spain, that is to say 0.2% of the foreign population and, therefore, a minority presence despite the impact this group is causing in the media.¹⁵

In terms of age, the profile of migrants in Spain is that of a population that is still young or, in any case, mostly of working age. Consequently, their relative weight in the central bands of the working population is already very high. Thus, 62% of Latin American migrants and 77% of African migrants are of full working age (25-54 years). Among Europeans, the population in the same age bracket is lower (54%), a consequence of an older population in this group. In the particular case of EU citizens, the weight of migrants over 65 already represents 17% of the total and, if we add the Britons, who represent the majority of retired foreign residents in Spain, the percentage rises to 25%.¹⁶

Finally, it is also relevant to analyse the types of activities in which migrant workers are typically employed, as this not only determines the social security scheme under which they contribute (whether as employees or self-employed workers) but also affects the amount of their contributions, given the significant differences in salaries and benefits across sectors. Interestingly, as shown in the following table, there is a clear tendency for certain nationalities to be concentrated in specific industries. For instance, in the case of Romanian nationals, more than half are employed in agriculture, construction, hospitality, and trade. A similar trend is observed among Moroccan workers, although agriculture plays an even more significant role in this group, accounting for up to 33% of employment. Latin American migrants tend to be concentrated in the hospitality sector, facilitated by the shared language. For example, 19% of Colombians, 20% of Italians and Argentinians, 23% of Venezuelans, 16% of Peruvians, and 13% of Ecuadorians work in this sector. Construction is also relatively important for this group, particularly for Ecuadorians, with 17% employed in this field. Additionally, domestic work is notable among Peruvians (13%), a trend surpassed only by Ukrainians, for whom domestic

¹² Nevertheless, it seems that, in the case of the Europe, most of them are concentrated in Italy (70%), France, Germany, The Netherlands, Spain and the UK (23%). Plewa, P and Stermsek, M., 'Labour Migration from China to Europe: Scope and Potential' (ILO 2017) 4.

¹³ Gálvez-Iniesta, I., 'The Size, Socio-Economic Composition and Fiscal Implications of the Irregular Immigration in Spain' (2020) 8 Working Paper. Economics <<https://e-archivo.uc3m.es/bitstreams/1f19ed21-ac46-4007-9637-bd60e73bbc19/download>> accessed 1 March 2025.

¹⁴ FUNCAS, 'El número de extranjeros en situación irregular se aproximaba ya en 2023 a los 700.000' (FUNCAS 2024) <<https://www.funcas.es/prensa/el-numero-de-extranjeros-en-situacion-irregular-se-aproximaba-ya-en-2023-a-los-700-000/>>.

¹⁵ Finotelli, C. and Rincken, S. (n 10) 7.

¹⁶ *ibid.*

Table 2. Foreign workers and professional activity (%).

	Rumania	Morocco	Colombia	Italy	Venezuela	China	Peru	Ecuador	Ukraine	Portugal
Administrative Tasks	8%	7%	13%	9%	13%	1%	12%	12%	7%	7%
Arts and Culture	1%	0%	2%	3%	2%	0%	1%	1%	1%	2%
Science and Techniques	2%	1%	3%	11%	4%	2%	3%	2%	3%	7%
Finance	0%	0%	0%	2%	1%	0%	1%	0%	0%	2%
Housing and Real State	0%	0%	1%	1%	1%	0%	1%	0%	1%	1%
Health	4%	2%	7%	5%	6%	0%	8%	5%	3%	5%
Public Administrations	1%	1%	1%	1%	0%	0%	0%	1%	0%	1%
Agriculture	15%	33%	2%	0%	1%	0%	2%	13%	3%	4%
Trade	11%	13%	13%	16%	17%	47%	11%	11%	11%	15%
Construction	15%	15%	11%	4%	6%	1%	12%	17%	17%	12%
Education	1%	0%	1%	5%	1%	1%	1%	1%	2%	2%
Home	8%	4%	9%	1%	4%	0%	13%	6%	14%	2%
Hospitality	12%	10%	19%	20%	23%	37%	16%	13%	12%	12%
Mining	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Industry	10%	7%	7%	6%	5%	3%	5%	8%	9%	8%
Information and communication	1%	0%	2%	9%	3%	1%	3%	1%	5%	5%
International Organisms	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Water	0%	1%	0%	0%	0%	0%	0%	0%	0%	0%
Gaz and Energy	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Transport	11%	3%	6%	4%	9%	1%	8%	7%	5%	13%
Others	2%	2%	4%	3%	4%	5%	3%	2%	5%	2%

Source: Own elaboration based on El País & Social Security Data Base.

work accounts for 14% of employment. Among Ukrainian migrants, construction is the most significant sector (17%), followed by domestic work, hospitality (12%), administrative tasks (13%), and trade (12%). Portuguese workers show a similar pattern, with 15% employed in trade and 12% in both construction and hospitality. Finally, Chinese migrants exhibit a distinct and highly concentrated employment pattern: 47% work in trade, while 37% are engaged in hospitality.

III. Regulatory framework: the role of bilateral and the multilateral agreement

The picture provided by the data shows the results of migration policies developed by Spain, as well as the causes and origins of these measures, since migration flows are facilitated and shaped by them and also represent a response to their emergence. The use of social security as a migration policy is just one of these factors. Although it cannot

explain the phenomenon on its own, it contributes to making social security not an obstacle but an incentive to facilitate the movement of workers and their families between and among countries.

As a consequence, analysing the relationship between social security regulation and migration helps to understand the morphology of international worker mobility and, most importantly, how social security can be used to regulate its flow. From this perspective, as mentioned earlier, Spain's social security system is an exceptional case due to the large number of bilateral social security agreements signed with third countries and its participation in the Ibero-American Multilateral Agreement on Social Security, a pioneering initiative aimed at guaranteeing the rights of migrant workers and their families. The data analysed above clearly show a direct relationship between the countries covered by these agreements and the presence of their nationals in Spain.

But these international agreements are applied as part of the Spanish legal system,¹⁷ which is delimited by some crucial internal laws. In other words, the basic legal framework which determines who and how is going to be covered by the social security system is formed by the Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration¹⁸ -OL 4/2000, hereinafter-, the General Social Security Law -GSSL, hereinafter-¹⁹, besides the multilateral and bilateral international agreements on coordination of social security ratified by Spain, including the regulations on coordination of the EU and the EEA despite they are not studied here.

1. Legal framework

According to internal regulations, the coverage of foreign nationals by social security in Spain varies depending on the administrative status of the migrant worker in the country and the type of social risk. As a result, we can distinguish the following situations:

First, foreign nationals legally residing in Spain are entitled to both contributory and assistance benefits under the same conditions as Spanish citizens, including healthcare. Second, stateless persons and recognised refugees are also entitled to both contributory and assistance benefits under the same conditions as Spanish citizens, including healthcare. Finally, foreign nationals who are neither registered nor authorised as residents in Spain are only entitled to “basic assistance benefits and services.”²⁰

¹⁷ Article 96 of the Spanish Constitution sets that “validly concluded international treaties, once officially published in Spain, shall be part of the internal legal system. Their provisions may only be repealed, amended or suspended in the manner provided for in the treaties themselves or in accordance with the general rules of international law”.

¹⁸ Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social (Official Gazette 12 January, 2000, number 10). Elorza-Guerrero, F., *Migration Law in Spain* (Kluwer Law International 2019).

¹⁹ Royal Legislative Decree 8/2015, of 30 October, approving the revised text of the General Social Security Law (Real Decreto Legislativo 8/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley General de la Seguridad Social, Official Gazette 31 October 2015, number 261). Fully analysed by Guerrero Padrón, T. and Ribes Moreno, I. (eds), *Social Security Law in Spain* (Kluwer Law International BV 2023).

²⁰ Article 14(3) OL 4/2000.

The Spanish Supreme Court²¹ has ruled that “basic assistance and services” must be interpreted as not only the basic social assistance benefits referred by article 56 GSSL, but also other explicitly declared as basic by other laws, such as health assistance and services in the terms that are mentioned below and social assistance benefits provided by the Autonomous Communities outside the social security system. Additionally, the Court included benefits for professional risks when the worker is national of a country that has ratified ILO Convention 19.²² On the other hand, unemployment is expressly excluded.²³

Regarding the healthcare system, the regulations have changed on multiple occasions. Since 2018,²⁴ the Spanish healthcare system has been universal and free of charge, covering Spanish nationals, legally resident foreign nationals, and even those residing in Spain illegally. However, foreign nationals who are neither registered nor authorised as residents in Spain are entitled to healthcare and medical assistance funded by public resources, provided they are not required to be covered by other means or entities. These alternative means and entities refer to the availability of personal financial resources, private insurance, or obligations established primarily by EU regulations on social security coordination, as well as multilateral and bilateral social security agreements.²⁵

Finally, these limits may vary depending on the provisions of international agreements ratified by Spain, as well as regulations on the coordination of social security systems within the EU and the EEA. As European social security coordination derives from its membership of the EU, attention should instead be directed towards multilateral and bilateral agreements, particularly with regard to the extent of their subjective and objective scope and the principles underpinning them.

²¹ Judgment of the Supreme Court of 18 March 2008 (ECLI:ES:TS:2008:1864).

²² This interpretation was explicitly introduced in the Article 42(2) of the Royal Decree 84/1996, of 26 January 1996, approving the General Regulations on the registration of companies and affiliation, registration, deregistration and variations of workers' details in the Social Security system (Real Decreto 84/1996, de 26 de enero, por el que se aprueba el Reglamento General sobre inscripción de empresas y afiliación, altas, bajas y variaciones de datos de trabajadores en la Seguridad Social, Official Gazette 27 February 1996, number 50).

²³ Article 36(5) OL 4/2000. The above-mentioned Supreme Court Judgement is particularly focused on unemployment benefits, excluding any kind of exception from this prohibition. The main reason is incentivizing the registration of foreign workers: «the recognition of all Social Security benefits for irregular migrants, which is ultimately what the granting of unemployment benefits leads to, would mean full equality between resident foreigners and irregular or clandestine emigrants; with the logical disincentive for foreigners who have to go through the complex procedures necessary to obtain a residence permit or a residence and work permit, knowing that they can enjoy the same rights by entering the country clandestinely». (paragraph 7, own translation). Some authors have criticised this position on the grounds that the interpretation of the international conventions ratified by Spain would lead to the same treatment regardless of the administrative situation of the migrant worker and even if this meant discouraging regular recruitment. Monereo Pérez, J. L., ‘Los derechos de Seguridad Social de los trabajadores migrantes: inmigración laboral y refugiados’ [2016] *Revista de derecho migratorio y extranjería* 235, 235–289; González Ortega, S., ‘El derecho de los extranjeros extracomunitarios a prestaciones de Seguridad Social derivadas de contingencias comunes’ in González Ortega, S. (ed), *La protección social de los extranjeros en España* (2010) 241–278.

²⁴ Concretely, since the reform introduced by Royal Decree-Law 7/2018 of 27 July on universal access to the National Health System. (Real Decreto-ley 7/2018, de 27 de julio, sobre el acceso universal al Sistema Nacional de Salud, Official Gazette 30 July 2018, number 183).

²⁵ Articles 3 and 3 ter of the Law 16/2003, of 28 May, on the cohesion and quality of the National Health System (Ley 16/2003, de 28 de mayo, de cohesión y calidad del Sistema Nacional de Salud -Official Gazette 29 May 2003, number 128-).

2. Multilateral and bilateral agreements: subjective and objective scope

Regarding their subjective and objective scope, it should be noted that these rules apply to nationals of Member States; stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to their family members and survivors; and the survivors of persons who have been subject to the legislation of one or more Member States, regardless of the nationality of such persons, provided that their survivors are nationals of a Member State, stateless persons, or refugees residing in a Member State. Practically all benefits are covered, except for social and medical assistance and benefits for which Member States assume liability for damages and provide compensation, such as those granted to victims of war and military actions or their consequences; victims of crime, assassination, or terrorist acts; victims of harm caused by agents of a Member State in the course of their duties; or individuals who have suffered disadvantage for political or religious reasons or due to their descent.²⁶

Aside from the EU, the Multilateral Ibero-American Agreement on Social Security is a pioneering initiative aimed at guaranteeing the rights of migrant workers and their families –estimated at over 550 million people– across the thirteen countries of the Ibero-American Community: Argentina, Bolivia, Brazil, Chile, Colombia, the Dominican Republic, El Salvador, Ecuador, Paraguay, Peru, Portugal, Spain, and Uruguay. Additionally, Costa Rica, Honduras, and Venezuela have signed the agreement, but final ratification is still pending.

This agreement applies to individuals who are or have been subject to the legislation of one or more contracting states, as well as to their family members and beneficiaries. These individuals include both employed and self-employed workers. Furthermore, it applies to contributory benefits for disability, old age, survivors, and work-related accidents or occupational diseases. Conversely, healthcare benefits, as well as non-contributory or assistance benefits, are excluded from the scope of application of the agreement, without prejudice to the right of states to extend its material scope to these benefits on a bilateral or multilateral basis.²⁷

Table 3. Benefits covered by the Ibero-American Multilateral Agreement.

	Old-age	Invalidity	Survivors	Family	Professional Risks	Unemployment	Social Assistance	Health Assistance
IAMA	X	X	X		X			

Source: Own elaboration based on Social Security Institute.

Regarding Spain's Bilateral Agreements on Social Security, a distinction must be made between, on the one hand, countries that are also members of the Multilateral Ibero-American Agreement (Argentina, Brazil, Chile, Colombia, the Dominican Republic, Ecuador, Paraguay, Peru, and Uruguay) and, on the other hand, those for whom

²⁶ Articles 2 and 3 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems

²⁷ Articles 2 and 3 of the Multilateral Ibero-American Agreement on Social Security.

only a bilateral agreement has been ratified (Mexico, Panama, and Venezuela). Beyond the Ibero-American region, Spain has ratified other bilateral agreements with Andorra, Russia, Moldova, and Ukraine in Europe; Cape Verde, Morocco, Tunisia, and Senegal in Africa; Canada and the USA²⁸ in Americas; China, South Korea, Japan and the Philippines in Asia; and Australia in Oceania.

Not all bilateral agreements signed by the Spain have the same scope in terms of subjective and objective application, as some restrict it while others expand it.²⁹

Specifically, the subjective scope of certain agreements only covers nationals of the two signatory countries who carry out their professional activity in the territory of either state, including their family members.³⁰ Other agreements, in addition to extending personal coverage to nationals and their family members, also include refugees and stateless persons³¹. The remaining agreements include, within their subjective scope, workers and self-employed persons who have been subject to the legislation of both countries, regardless of their nationality, also covering family members and survivors.³²

Similarly, the objective scope may expand or contract depending on the will of the contracting states, meaning that not all agreements apply to all contingencies and benefits. Therefore, based on the coverage provided by the Spanish social security system, agreements can be classified as follows:

- a) Agreements that include all regimes and benefits.³³
- b) Agreements that include all regimes and benefits, except unemployment and family protection.³⁴
- c) Agreements that include all regimes and benefits, except unemployment.³⁵
- d) Agreements that include all regimes and pensions.³⁶

²⁸ The version of the agreement used in this research study is the one signed by the parties in 2024, that is being processed by the Spanish Congress and is not official published in the Official Gazette yet.

²⁹ García Muñoz, M., 'La protección social de los extranjeros extracomunitarios en situación irregular' in González Ortega, S. (ed), *La protección social de los extranjeros en España* (2010) 147–148.

³⁰ Article 1 Bilateral Agreement with Argentina; Article 3 Bilateral Agreement with Colombia; Article 2 Bilateral Agreement with Chile; Article 1 Bilateral Agreement with Ecuador; Article 2 Bilateral Agreement with Mexico; Article 3 Bilateral Agreement with Peru; Article 2 Bilateral Agreement with the Dominican Republic; and Article 2 Bilateral Agreement with Russia.

³¹ Article 3 Bilateral Agreement with Tunisia; Article 2 Bilateral Agreement with the Philippines (covering family members and refugees/stateless persons residing in one of the two States); Article 2 Bilateral Agreement with Morocco; Article 2 Bilateral Agreement with Ukraine; and Article 2 Bilateral Agreement with Venezuela.

³² This is explicitly stated in the agreements signed with Andorra (Article 2); Australia (Article 3); Brazil (Article 3); Canada (Article 2); Paraguay (Article 2); Senegal (Articles 2 and 3); the United States (Articles 2 and 3); and Uruguay (Article 2).

³³ Article 2 Bilateral Agreement with Australia (but not including health care), and Article 2 Bilateral Agreement with Chile.

³⁴ Article 3 Bilateral Agreement with Andorra, and Article 2 Bilateral Agreement with Ecuador.

³⁵ Article 3 Bilateral Agreement with Morocco; Article 3 Bilateral Agreement with Paraguay; Article 3 Bilateral Agreement with Russia; Article 3 Bilateral Agreement with Uruguay; Article 3 Bilateral Agreement with Venezuela.

³⁶ Article 3 Bilateral Agreement with Canada; Article 3 Bilateral Agreement with the United States; Article 3 Bilateral Agreement with the Philippines (also covering temporary incapacity due to common illness); Article 3 Bilateral Agreement with Ukraine (also covering temporary incapacity and maternity).

Table 4. Benefits covered by each type of bilateral agreement.

	Old-age	Invalidity	Survivors	Family	Professional Risks	Unemployment	Social Assistance	Health Assistance
Argentina	X	X	X	x	X			
Brazil	X	X	X	x	X			X
Chile	X	X	X	x	X	X	x	X
Colombia	X	X	X					
Dominican R.	X	X	X	x	X			
Ecuador	X	X	x	x	X			
Mexico	X	X	x		X			
Panamá					X			
Paraguay	X	X	x	x	X			
Peru	X	X	x	x	X			X
Uruguay	X	X	x	x	X		x	
Venezuela	X	X	x	x	X			
Andorra	X	X	x	x	X			X
Russia	X	X	x	x	X		x	
Ukraine	X	X	x	x	X		x	
Canada	X	X	x	x	X		x	
USA	X	X	x		X			
Verde Cape	X	X	x					
Morocco	X	X	x	x	X		x	x
Tunisia	X	X	x	x	X			x
Senegal	X	X	x		X			
Australia	X	X	x	x	X	x	x	
China	X	X	x	x	X	x		
Korea	X	X	x					
Philippines	X	X	x	x	X			
Japan	X	X	x					

Source: Own elaboration based on Social Security Institute.

- e) Agreement that includes all regimes, pensions, and benefits derived from work-related accidents and occupational diseases.³⁷
- f) Agreement that includes pensions, regardless of the nature of the risk causing them.³⁸
- g) Agreements that include all benefits and regimes, except for the civil and military civil servant regimes³⁹ and other special cases.⁴⁰

³⁷ Article 3 Bilateral Agreement with Mexico.

³⁸ Article 3 Bilateral Agreement with Colombia.

³⁹ Article 2 Bilateral Agreement with Peru; and Article 3 Bilateral Agreement with the Dominican Republic (also excluding healthcare and unemployment).

⁴⁰ Articles 2 and 3 Bilateral agreements with Senegal and the United States explicitly exclude special benefits for victims of the Spanish civil war or its consequences.

The Table 4 summarises the types of benefits covered by each type of bilateral agreement. Generally speaking, the main contributory benefits are included, seven bilateral agreements encompass assistance benefits, and only three cover unemployment benefits. These last two cases require further explanation: assistance benefits are usually determined by legal residence for a certain period of time, so coordination is less important; and unemployment benefits are often subject to administrative control regarding job searching, which explains their general exclusion.

3. Multilateral and bilateral agreements: principles of application

Apart from these rules regarding the subjective, objective, and temporal scope of application, the implementation of these agreements is based on broadly applicable legal principles. These principles complement, adjust, and refine Spanish domestic regulations and are related to each of the phases that enable individuals protected by the Social Security System to access benefits, determine their scope, and receive them appropriately. Specifically, they can be summarised in the following principles, or simply practical rules of application: a) Equal treatment; b) Single applicable law; c) Principle of totalisation or aggregation and preservation of rights in the process of acquisition; d) Exportation; and e) Administrative cooperation.

Concerning the principle of equal treatment, is implicitly or explicitly recognised in all international conventions,⁴¹ including the Multilateral Ibero-American Agreement,⁴² and, as mentioned above, in the Spanish domestic social security legislation, since foreign people legally residing in Spain are entitled to both contributory and assistance benefits in the same conditions as Spaniards. This principle means that the legal treatment provided, in this case, by the Spanish State to nationals of other countries who are legally residing in Spain does not differ from that provided to Spanish nationals. In any case, agreements usually include this conditionally, based on the rule of reciprocity.

As an international agreement, one of its most important purposes is to clarify the applicable law. According to the principle of a single applicable law, based on territoriality, the worker is subject to the legislation of the country where he or she performs the work for which he or she is covered by the social security system. This rule aligns with the principle of equal treatment as outlined above, as it is entirely consistent with the idea that foreign workers are protected by the social security system of the destination country where they work, in the same way that national workers are protected. Likewise, it is coherent with the principles that underpin social security systems, particularly those of a contributory nature, which state that workers should join the existing system in the place where they provide their professional services, paying contributions to it and benefiting from the entitlements it may generate.

⁴¹ García Muñoz, M. (n 28) 149.

⁴² Article 4.

Nevertheless, bilateral agreements and the multilateral agreement⁴³ frequently include some exceptions to this principle: first, the special relationship of subjection and other conditions that characterise the civil servants' regime justify that, in the event of being posted to other states, they maintain their protection under the social security system of the country of origin. Second, due to the transitory nature and variability of the area in which the professional activity is carried out, posted workers are not integrated into the social security systems of the states where the professional services are provided. Finally, the same rule applies to the so-called itinerant workers, who maintain their social security link with the system corresponding to the country in which the company has its headquarters for the period in question, and to seafarers, who are protected by the law applicable to the ship of the company that employs them.

On the other hand, one of the characteristics of contributory-based social security systems is the requirement that the protected individual must be able to prove a period –of varying length– of contribution to the financial sustainability of the system in order to qualify for the corresponding benefit. The accreditation of this period, particularly when it is relatively long, demands a personal effort in both professional and economic terms, which does not always depend solely on the will of the individual but also on external factors. These may include entering the labour market at a reasonably young age, providing full-time professional services continuously over time without excessive interruptions.

Furthermore, for migrant workers, an additional factor –though not in all cases– is the transition from at least one social security system to another due to their move from their country of origin to their country of destination. Consequently, the possibility of completing the required contribution period to the social security system in which the migrant worker is registered is, in principle and in practical terms, more difficult than for a national worker. The reason is that the migrant worker usually does not have sufficient time to meet the required qualifying period in their new country of residence, the country of destination.

However, as the migrant worker was part of the social security system of another state and paid financial contributions there, if these contributions were taken into account alongside those made to the social security scheme under which the worker is protected, they would allow the worker to qualify for the benefit more easily. Thus, the principle of the preservation of rights in the course of acquisition is intended to make it easier for foreign workers to meet the qualifying period requirement and, consequently, to access the benefit under specific conditions. This principle is therefore realised through the application of the rules on aggregation of contributions and the determination of the amount of the pension.

The application of the aggregation rule, which consists of accepting contributions made to the Spanish social security system as if they had been made to the systems of the countries that are signatories to the agreement, particularly affects benefits that require a specific qualifying period, such as, primarily, those provided in the form of a pension,

⁴³ Articles 9 and 10.

derived from common illness and unemployment. Furthermore, certain agreements even permit contribution periods made in the systems of third countries to be subject to aggregation, provided that the aggregation between the two systems of the countries concerned does not allow the pension to be obtained.⁴⁴

The implementation of aggregation rule varies depending on the agreement. There are four different formulas to configure the aggregation:⁴⁵ a) exclusive or single mode: all insurance periods are aggregated as the only possible way to obtain pensions or benefits,⁴⁶ b) optionally: the insurance periods are aggregated as long as the worker does not opt out of this mechanism. With regard to the option, the general rule is that the migrant worker, duly informed, renounces this mechanism or, in other words, opts for the separate application of both legislations. This is an old formula is being substituted by the 'pro-beneficiary' rule. c) alternatively: the aggregation of periods shall only be made when the person is not entitled to the benefit taking into account only the periods completed under one of the legislations.⁴⁷ d) lastly, the 'pro-beneficiary' system in which aggregation is applied only when it is in the best interests of the person concerned.⁴⁸ On the other hand, it is a sort of common rule that periods that are overlapped are not computed, and that it is required minimum period of contribution to be aggregated, usually one year.⁴⁹

When the contribution period is calculated using the aggregation rule, the benefit amount is determined by the simultaneous application of the 'pro rata temporis' principle. Once the competent body has determined, in accordance with its own legislation and taking into account the aggregation of periods, that the subject meets the necessary conditions for entitlement to the pension, the settlement of financial entitlements takes place in two stages: firstly, the managing body of each country determines the amount of the benefit as if all the periods of insurance which have been aggregated had been completed exclusively under its own legislation (theoretical benefit); secondly, once the theoretical benefit has been obtained, the amount to be paid by each State is that resulting from the application of the pro rata temporis rule, i.e. in proportion to the period of insurance, and the amount to be paid by each State.⁵⁰

Summing up, aggregation rule is usually applied for both long-term (retirement and invalidity) and short-term benefits (incapacity, maternity, paternity), but pro-rata rule is frequently used only in the first cases. In the latter, totalization is possible, but *lex loci laboris* set the country which pays the benefit.

Concerning exportation, this refers to the possibility of receiving a benefit when the person is residing in a country different from the one that grants the pension or be-

⁴⁴ For example, Article 20(4) Bilateral Agreement with Andorra.

⁴⁵ Álvarez Cortés, J. C., *La seguridad social de los trabajadores migrantes en el ámbito extracomunitario* (Tecnos 2001) 89.

⁴⁶ For example, Article 8 Bilateral Agreement with Philippines and Article 8 Bilateral Agreement with Morocco.

⁴⁷ For example, Article 5 Ibero-American Multilateral Agreement.

⁴⁸ For example, Article 20(5) Bilateral agreement with Andorra.

⁴⁹ Except for Article 11 Bilateral Agreement with Australia.

⁵⁰ Article 23 of the Bilateral Agreement with Morocco includes the possibility of dividing the pension between wives. The Supreme Court's Judgments of 24 January 2018 (ES:TS:2018:121) and 17 December 2019 (ES:TS:2019:4150) considered this rule constitutional and non-opposed to public order.

nefits. As a general rule, both the Ibero-American Agreement and bilateral agreements include this principle. On the one hand, the Multilateral Agreement allows for the export of economic benefits, as a Member State shall not reduce, modify, suspend, or withhold benefits due to the beneficiary residing in the territory of another Member State. Furthermore, benefits granted under this agreement to beneficiaries residing in a third country shall be paid under the same conditions and to the same extent as they would be to nationals residing in that third country (except for benefits for injuries and occupational diseases). On the other hand, bilateral conventions also follow some basic principles of benefit exportation, but exceptions are admissible. For example, the bilateral agreement with Australia not only permits a benefit to be paid outside Australia or Spain, where their legislation provides for or permits a benefit to be paid outside that country, but also allows payment in third countries, when that legislation admits it. Nevertheless, temporary incapacity, maternity and risk during pregnancy benefits, unemployment benefits, and non-contributory benefits from the Spanish social security system shall only be paid to beneficiaries while they reside in Spain.⁵¹

From these rules, it can be deduced that the beneficiary may receive benefits in a country other than the one in which they are paid. In other words, each state is responsible for paying its own share of the benefits, usually in its own currency. Although, as mentioned above, some conventions provide for the possibility of advance payments by the other contracting state, this is a practice not included in more recent conventions due to the high level of litigation. Nevertheless, in the case of health care, agreements that include it set out three formulas for cost compensation: a) payment of the actual cost of the service; b) payment of a quota or global payment, taking into consideration different variables; c) cost compensation between countries.⁵²

Finally, regarding administrative coordination, this principle establishes collaboration between the different social security administrations for the management of the rights and obligations of the subjects linked to the social security relationship. Although it is a formal principle that only affects the internal dimension of the different social security systems, its functioning, it also has some practical repercussions on the beneficiaries, insofar as they are the ones who relate to the administrative units that make up the social security systems. Therefore, even though it has no substantive effect on the rights of beneficiaries, it is an essential principle for guaranteeing the coverage of the social security benefits.

It consists, fundamentally, in the provision of information on all matters of interest to the social security systems;⁵³ in the reciprocal provision of technical

⁵¹ Article 5. Bilateral agreements usually include the prohibition of exporting this kind of benefits.

⁵² Álvarez Cortés, J. C. (n 44) 110–111.

⁵³ And the subjects included in them (workers, companies, beneficiaries, or any person who has a relationship with them). Article 20 Ibero-American Multilateral Agreement sets, concerning the interchange of information, that the competent authorities of the Contracting States shall inform each other about: a) The measures adopted for the implementation of this Agreement; and b) any amendments to their respective legislation that may affect the application of this Agreement. Additionally, the competent institutions, following the principle of good administration, shall respond to all requests within a reasonable period; and to provide interested parties with the necessary information to exercise

assistance,⁵⁴ through the so-called “liaison offices”;⁵⁵ in the compensation and reimbursement of the costs assumed, when they are borne by the social security system which does not have to bear the cost; in the establishment of mechanisms for the amicable conflicts resolution which may arise;⁵⁶ and finally -and this is perhaps the most important effect of all- to bring the social security administration closer to the beneficiaries so that they can, as a general rule, submit applications and documents to the social security system of the country of residence, even if it is not the competent body to recognize the benefit.⁵⁷

Thus, an application for benefits submitted to the social security system of one country is deemed to have been submitted to the social security system of the other country bound by the agreement, if the person concerned states that he/she has developed professional services in that country.⁵⁸ Some agreements add that, if not expressly stated, but deduced from the documentation submitted to the social security system of one State, it shall be deemed to have been submitted to the social security system of the other State.⁵⁹

But cooperation is not limited to the receipt of the documentation by the social security system administration of a state which is not competent to recognise the requested benefit with the same effects as if it had been submitted to the social security system administration of the competent state, but it extends to forwarding the documentation to the social security system of the state which is responsible for granting it, to providing the necessary information for this purpose and even to paying in advance during the processing of the file, if it verifies, as some agreements state, the possible right of the individual to the requested benefit.⁶⁰

Lastly, it is established that, if after recognition of the right to the benefit by the social security system of the competent State, the amount advanced exceeds the amount

the rights granted under the Agreement. From the beneficiaries' perspective, interested persons must inform the competent institution of the Contracting State and the institution of the State of residence as soon as possible about any changes in their personal or family situation that may affect their right to the benefits.

⁵⁴ Article 20(2) Ibero-American Multilateral Agreement calls, regarding, administrative assistance, to provide mutual assistance, acting as if they were applying their own legislation, and guarantees that it shall generally be provided free of charge.

⁵⁵ “Technical committee” is called by Articles 23 and 24 Ibero-American Multilateral Agreement.

⁵⁶ Article 28 Ibero-American Multilateral Agreement

⁵⁷ García Muñoz, M. (n 28) 161.

⁵⁸ Article 21(3) Ibero-American Multilateral Agreement; Article 22 (3) Bilateral Agreement with Australia; Article 30 Bilateral Agreement with Brazil; article 20(2) Bilateral Agreement with Canada; Article 22 Bilateral Agreement with Colombia; Article 20 Bilateral Agreement with Mexico Article 38 Bilateral Agreement with Morocco; Article 25 Bilateral Agreement with the Philippines; Article 28 Bilateral Agreement with Senegal; Article 29(2) Bilateral Agreement with the United States; Article 22(2) Bilateral Agreement with Uruguay.

⁵⁹ Article 37(29) Bilateral Agreement with Andorra; Article 20(2) Bilateral Agreement with Argentina; Article 35 Bilateral Agreement with Chile; Article 30(2) Bilateral Agreement with the Dominican Republic; Article 20(2) Bilateral Agreement with Mexico ;Article 26(2) Bilateral Agreement with Paraguay; Article 31 Bilateral Agreement with Peru; Article 20 Bilateral Agreement with Russia; Article 31(2) Bilateral Agreement with Peru; Article 20 Bilateral Agreement with the Philippines; Article 36 Bilateral Agreement with Tunisia; and Article 18(2) Bilateral Agreement with Ukraine.

⁶⁰ Article 27 C. with Andorra and Article 19 C. with Ecuador. In other agreements, this right is made conditional on the applicant being in a situation of need, and its dispensation is discretionary (Article 39 Bilateral Agreement with Morocco).

actually due to the beneficiary, the entity that has paid in advance the benefit may request the granting entity to withhold the aforementioned amount from the arrears of the benefit recognised in favour of the beneficiary.⁶¹ In any case, it is a common rule in most conventions to establish a provision on the recovery of undue payments, with the aim of guaranteeing the entity that has paid a benefit in excess of the amount due, its right to recover the amount, by means of the deduction made from the arrears of the benefit of the beneficiary.⁶²

IV. Social Security and Migration

By analysing this regulatory framework and some data, it is possible to see how Spain's social security have been adapted to the changes in migration flows. Obviously, there are different key factors that explain the agreements ratified by Spain and the evolution of its content, among historical-cultural and economic reasons must be highlighted⁶³. Driven by them, social security adapts to the evolution of migration flows, emerging some particular trends that may be highlighted:

From a static point of view, it is evident that Spain's socio-political focus is primarily directed towards Latin America. Historically, cultural and linguistic ties facilitated emigration decades ago; subsequently, these established frameworks were repurposed to manage contemporary immigration flows. Besides the Multi-Lateral agreement, 11 over 26 bilateral agreements have been ratified with countries of this region⁶⁴. Spain's bilateral social security framework demonstrates a marked orientation towards Ibero-American partners, which account for over two-fifths of all agreements currently in force. From a quantitative perspective, and as previously noted, while geographical proximity accounts for the significant presence of Moroccan and Portuguese nationals, the most substantial cohort originates from Latin American countries, specifically Colombia, Venezuela, Peru, and Ecuador. This also includes Argentinian citizens, whose statistical representation is often obscured by their possession of Italian nationality.

Agreements with Asia-Pacific countries have generally been concluded later and are fewer in number, but they are characterized by a targeted and technically precise scope. These treaties are less closely tied to large-scale migration flows and more closely aligned with economic diplomacy and the facilitation of specific labour-market needs. Similarly, Spain's agreements with North American partners demonstrate a high degree of institutional continuity, with recent updates aimed not at expanding coverage but at modernizing coordination rules in response to evolving forms of work.

⁶¹ Article 27 Bilateral Agreement with Andorra.

⁶² Article 24 Bilateral Agreement with Australia; Article 23 Bilateral Agreement with Colombia; Article 36 Bilateral Agreement with Chile; Article 26 Bilateral Agreement with Dominican Republic; Article 27 Bilateral Agreement with Paraguay; Article 27 Bilateral Agreement with Colombia; Article 36 Bilateral Agreement with Chile; Article 32 Bilateral Agreement with Peru; and Article 38 Bilateral Agreement with Tunisia.

⁶³ CES, *La realidad migratoria en España: prioridades para las políticas públicas*, cit., p. 85.

⁶⁴ Argentina, Brazil, Chile, Colombia, Dominican Republic, Ecuador Mexico, Paraguay, Peru, Uruguay, Venezuela

Finally, African countries display a pattern characterized by early engagement, limited territorial scope, and relative legal stability over time. Agreements with countries such as Morocco and Tunisia were concluded comparatively early, reflecting Spain's geographic proximity, historical ties, and the significance of cross-border and circular labour mobility, particularly in sectors such as agriculture, construction, and services. These agreements were primarily designed to ensure basic coordination of contributory periods and access to benefits for migrant workers, rather than to facilitate complex transnational careers. The later agreement with Cape Verde, concluded in the 2010s, corresponds to more recent and targeted migration dynamics, notably in relation to labour migration and social protection for emigrants. Overall, Spain's agreements with African countries have undergone fewer updates than those with Latin American partners, suggesting a preference for stable, foundational frameworks tailored to predictable mobility patterns rather than iterative legal expansion or modernization.

From a dynamic point of view, the evolution of Spain's bilateral social security agreements is best understood not only through their initial conclusion but, more decisively, through the pattern of their updates and revisions. In their earliest phase, from the late 1970s to the early 1990s, agreements were typically conceived as relatively static instruments. Treaties concluded with countries such as Morocco, Venezuela, and the United States were designed primarily to ensure the exportability and aggregation of pension rights for Spanish emigrants, and they remained largely unchanged for decades. The limited scope and durability of these early agreements reflect both the legal culture of the period and Spain's position as a net exporter of labour⁶⁵, in which social security coordination was considered a one-directional and stable requirement rather than a dynamic policy field.

A notable shift occurs from the mid-1990s onward, when the growing diversification of migration flows began to expose the functional limits of older agreements. During this period, Spain not only concluded new treaties but also started to update existing ones through protocols, replacements, or revised texts. These updates were particularly frequent in agreements with Latin American countries, where earlier conventions proved insufficient to address increasingly complex patterns of circular and return migration. Revisions typically broadened material scope, incorporating disability and sickness benefits, or refined administrative coordination mechanisms. The emphasis on updating rather than merely replacing agreements indicates an emerging awareness of bilateral treaties as living instruments requiring periodic adaptation.

From the 2010s, the update logic became even more pronounced, as Spain entered a phase of consolidation shaped by multilateral governance. The entry into force of the Ibero-American Multilateral Social Security Agreement in 2011 did not eliminate bilateral treaties, but it profoundly altered their function. Existing agreements were

⁶⁵ CALVO SALGADO, L. M.; LANGA-NUÑO, C.; PRIETO LÓPEZ, M., «El retorno de emigrantes españoles en Europa durante la Transición», 2022, Pontificia Universidad Católica Argentina: Instituto de Historia de España, pp. 157-175, fecha de consulta 29 enero 2026, en <https://hdl.handle.net/11441/141217>.

implicitly reinterpreted, selectively updated, or maintained as *lex specialis* where they provided more favourable conditions. In this context, the absence of updates became as analytically significant as their presence: some bilateral agreements remained technically in force but were effectively overshadowed by multilateral coordination regimes. Thus, updates increasingly served to clarify the hierarchy and interaction between bilateral and multilateral norms rather than to expand coverage.

In the 2020s, the trend toward targeted and high-impact updates have become especially evident. Rather than expanding the geographical reach of Spain's bilateral network, policy efforts have focused on modernising a small number of strategically important agreements. The revision of the Spain–United States social security agreement illustrates this shift. After more than three decades without substantive reform, the new text signed in 2024 addresses contemporary mobility patterns by extending posting periods and improving pension calculation methods. Here, updating functions as a response to structural changes in labour markets and career trajectories, particularly for highly skilled and internationally mobile workers.

Geographically, the intensity and nature of updates vary considerably. Latin American agreements display the highest frequency of revisions, reflecting both sustained migration flows and the need to harmonise pre-existing bilateral with multilateral Ibero-American rules. In contrast, agreements with African countries, notably Morocco, show a marked lack of updating despite their demographic significance. These treaties remain among the oldest in Spain's network, suggesting that political sensitivity and migration management concerns may inhibit technical renovation of social protection instruments. The stagnation of updates in this region highlights uneven institutional responsiveness across geographical contexts.

Agreements with Asia-Pacific and other high-income OECD countries exhibit a different update pattern. While revisions are infrequent, they tend to be technically dense and normatively significant when they do occur. The long intervals between updates reflect protracted negotiation processes and the stability of mature welfare systems, but also indicate that revisions are triggered primarily by structural shifts in professional mobility rather than changes in migration volume. In these cases, updates function less as incremental adjustments and more as comprehensive recalibrations of existing frameworks.

On balance, the pattern of updates reveals a clear transformation in the role of bilateral social security agreements within Spain's external social policy. Initially conceived as durable and largely immutable arrangements, these agreements have progressively been redefined as adaptable governance tools. The contemporary focus on updating (whether through protocols, replacement texts, or functional reinterpretation within multilateral frameworks) signals a shift from protection of emigrants toward the management of complex, transnational life courses. In this sense, the dynamics of revision and update provide a more accurate indicator of policy evolution than the mere chronology of original treaty signatures.

The adaptation of social security to migration flows is also shown by some particular reforms. In the case of unemployment⁶⁶, the subsidy for returned migrants was abolished by Royal Decree-Law 7/2023, of December 19, adopting urgent measures to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council of June 20, 2019, on the reconciliation of family and working life for parents and carers and repealing Council Directive 2010/18/EU, and for the simplification and improvement of the level of assistance of unemployment protection⁶⁷; and, then, rescued by the Royal Decree-Law 2/2024, of 21 May, adopting urgent measures for the simplification and improvement of unemployment benefit protection, and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council, of 20 June 2019, on work-life balance for parents and carers, and repealing Council Directive 2010/18/EU⁶⁸. The primary objective of the reform was to transition recipients toward the Minimum Vital Income (Ingreso Mínimo Vital or IMV), reflecting a strategic redistribution of social protection between these two schemes and acknowledging the declining number of beneficiaries. Although the subsidy was eventually reinstated (primarily because the IMV's eligibility criteria, such as the mandatory residency period, excluded certain individuals) the underlying legislative intent underscores the diminishing importance accorded to the original benefit. Data provided by the employment service reveals that by the conclusion of 2025, the number of beneficiaries had fallen to 2,217, representing a mere 0.3% of all assistance benefits. This signifies a marked decline from 2017, when the figure stood at 5,566 beneficiaries, accounting for 0.8% of the total provision⁶⁹.

Besides this reform, other punctual changes point in the same direction. As is being argued, in recent times social security is focused on receiving migration flows. The only exception would be the Great Recession 2008-2013 in which different programs of voluntary return was passed with the objective of diminishing the excess of labour demand and reducing unemployment. From social security's perspective, it must be highlighted the possibility of receiving an accumulated and early payment of the contributory unemployment benefit to non-EU foreign workers who voluntarily return to their countries of origin. Additionally, complementary programmes were introduced

⁶⁶ Regarding the role of unemployment, from the perspective of coordination, for managing migration flows, vid. ÁLVAREZ CORTÉS, J. C., «La perspectiva internacional en la protección por desempleo de los trabajadores migrantes: el derecho coordinador de las legislaciones de Seguridad Social», *Revista de derecho de la seguridad social. Laborum*, 23 (2º trimestre 2020), 2020, Laborum, pp. 193-222.

⁶⁷ Real Decreto-ley 7/2023, de 19 de diciembre, por el que se adoptan medidas urgentes, para completar la transposición de la Directiva (UE) 2019/1158, del Parlamento Europeo y del Consejo, de 20 de junio de 2019, relativa a la conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores, y por la que se deroga la Directiva 2010/18/UE del Consejo, y para la simplificación y mejora del nivel asistencial de la protección por desempleo. (Official Gazette 22 May 2024, number 124)

⁶⁸ Real Decreto-ley 2/2024, de 21 de mayo, por el que se adoptan medidas urgentes para la simplificación y mejora del nivel asistencial de la protección por desempleo, y para completar la transposición de la Directiva (UE) 2019/1158 del Parlamento Europeo y del Consejo, de 20 de junio de 2019, relativa a la conciliación de la vida familiar y la vida profesional de los progenitores y los cuidadores, y por la que se deroga la Directiva 2010/18/UE del Consejo. (Official Gazette 20 December 2023, number 303).

⁶⁹ <https://www.sepe.es/HomeSepe/que-es-el-sepe/estadisticas/estadisticas-prestaciones/informe-prestaciones.html>

in order to facilitate the voluntary return of non-EU foreigners from Spain to their countries of origin. There are three different types of programmes: a) voluntary return programme for social care: it is aimed at immigrants in an irregular or regular administrative situation who are in a situation of social deprivation and precariousness or belong to certain vulnerable groups; b) productive voluntary return programme: aimed at immigrants in an irregular or regular administrative situation who can prove their interest in participating in a business entrepreneurship project associated with their return; and c) programme of complementary aid for the accumulated and early payment of the contributory unemployment benefit to non-EU foreign workers who voluntarily return to their countries of origin: this is aimed at unemployed non-EU foreign workers who are legally in our country and who, having recognised their right to receive this unemployment benefit, voluntarily return to their country of origin; but only countries with which Spain has signed a bilateral Social Security agreement.

V. Conclusions

According to the analysis developed above, it can be concluded, firstly, that Spain's social security system has undergone a significant transformation in response to the country's shifting role in global migration patterns. Historically, Spain was a major exporter of migrants, particularly during the 19th and 20th centuries, as economic hardships and political instability pushed Spanish citizens to seek opportunities in Latin America and Europe mainly. During these periods, Spain's social security agreements were primarily designed to protect its nationals working abroad.

However, in recent decades, Spain has transitioned into a key destination country for migrants, largely due to its economic development, demographic changes, and membership in the European Union. The influx of migrants from Latin America, North Africa, and Eastern Europe has reshaped Spain's approach to social security protection. The focus has shifted from ensuring the welfare of Spanish citizens abroad to integrating and providing adequate coverage for the growing number of foreign workers residing in Spain.

Secondly, in this transition multilateral and bilateral social security agreements have played a key role. Spain has established one of the world's most extensive networks of social security agreements with other countries. This phenomenon can be attributed to multiple factors, including historical, cultural, and geographical ties, as well as the necessity to adapt its social security policies to the country's evolving migration profile.

Spain's colonial history and strong linguistic and cultural links with Latin America have facilitated agreements with numerous countries in the region. These agreements ensure that Spanish nationals and Latin American migrants receive reciprocal social security protection, allowing them to accumulate and transfer pension rights across borders. Additionally, Spain has entered into agreements with countries in North Africa, reflecting historical migration flows and neighbourhood ties with nations such as Mo-

rocco, but also with other countries all over the world, some of them characterized by materializing clear economic interest, such as China.

Beyond cultural, geographical and economic factors, the shift from being a migrant-sending country to a migrant-receiving one has played a crucial role in shaping Spain's social security diplomacy. As more foreign workers contribute to Spain's social security system, it has become imperative to establish agreements that prevent discrimination, ensure benefit portability, and facilitate labour mobility. These agreements not only serve humanitarian and economic purposes but also reinforce Spain's influence in international migration governance⁷⁰.

Furthermore, Spain's participation in multilateral frameworks, such as the Ibero-American Multilateral Agreement of Social Security, enhances cooperation between signatory states. These agreements promote social cohesion and economic stability by ensuring that migrants can access essential benefits and make informed decisions regarding their work and residency status.

Thirdly, both the multilateral agreement Spain's various bilateral social security agreements provide comprehensive protection for migrant workers. These agreements offer security and flexibility, allowing individuals to work and reside in different countries while maintaining their acquired social security rights.

One of the key advantages of these agreements is the principle of aggregation, which enables workers to combine periods of contributions made in different countries to qualify for benefits such as pensions and disability support. This system is particularly beneficial for migrant workers who spend their careers moving between Spain and their countries of origin. Without these agreements, many workers would struggle to meet the minimum contribution requirements necessary to access benefits.

In addition to ensuring continuity in social security rights, these agreements provide freedom of movement for workers. By reducing bureaucratic barriers and ensuring that social security rights are portable, these agreements enable individuals to make career decisions based on economic opportunities rather than concerns about losing accumulated benefits. This flexibility is particularly important in the context of globalization, where labour mobility is a key factor in economic development.

Furthermore, these agreements contribute to social stability by preventing the economic marginalization of migrants in their old age.⁷¹ By ensuring that workers receive pensions and healthcare benefits regardless of where they choose to retire, these agreements promote well-being and social cohesion. This aspect is particularly relevant for Spain, where many migrants return to their home countries after retirement,⁷² relying on the pension rights they accumulated while working in Spain.

Finally, although the numerous benefits provided by Spain's social security agreements, there are significant challenges that the country must address to ensure the system's

⁷⁰ Carracedo, P. and others, 'Sustainable Migration and Depopulation: A Methodological Proposal From the Perspective of the SDGs' (2025) n/a Sustainable Development.

⁷¹ Álvarez Cortés, J. C. (n 44) 315–318.

⁷² Finotelli, C. and Rincken, S. (n 10).

long-term sustainability. Two of the most pressing issues are the strain on the health system and the need to prevent strategic behaviours and abuse of social security benefits.

Concerning the first one, Spain's universal healthcare system is one of the cornerstones of its social protection model. However, the increasing number of migrants –many of whom require immediate access to healthcare services– has placed financial and logistical pressures on the system. Nevertheless, this would be a challenge to be dealt within the EU, as elder population usually requires more health assistance and this is much important in this migration flow than in the one that has been the protagonist in this research analysis. In other words, if GDP per capita and public health expenditure have a direct and significant relationship with the number of foreign immigrants in Spain, but aging index has an inverse relationship with foreigners⁷³, the impact of migration on the health service –and the measures to deal with it– cannot be homogeneous.

Regarding the risk of strategic behaviours and abuse in the social security system is another critical challenge. Some individuals may attempt to exploit social security agreements by claiming benefits in multiple countries without making adequate contributions. Others may engage in fraudulent practices, such as misreporting employment status or residency, to maximize social security pay-outs.

To address these concerns, Spain has implemented various control mechanisms, such as strengthening bilateral cooperation with partner countries to improve data-sharing and detect fraudulent claims; enhancing digital monitoring systems to track social security contributions and payments across borders; or implementing stricter eligibility requirements to ensure that benefits are only granted to individuals who have genuinely contributed to the system.

Balancing the need for inclusivity and social protection with the imperative to prevent abuse is a complex challenge. However, through coordinated efforts at the national and international levels, Spain can maintain the integrity and sustainability of its social security system while continuing to support migrant workers.

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⁷³ Gutiérrez Sanchis, A., Remoaldo, P., and Martínez-de-Ibarreta, C., 'Migrations in Spain: Econometric Models with Demographic and Economic Variables (1950–2021)' (2025) 74 *The Annals of Regional Science* 41.

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- Annex. Bilateral Social Security Agreements ratified of Spain.

Annex. Bilateral Social Security Agreements ratified of Spain.

Country	First Version (Signature or Entry into Force)	Latest Update (Protocol / New Convention / Ratification)
Andorra	Signed 9 Nov 2001 In force 1 Jan 2003	No later protocol published (original remains in force)
Argentina	Convention signed 28 Jan 1997 In force 1 Dec 2004	Complementary Protocol signed 21 Mar 2005 In force (provisional since Apr 2005)
Australia	Convention signed 31 Jan 2002 In force (ca. 1 Jan 2003)	No further update reported
Brazil	Convention signed 16 May 1991 In force 1 Dec 1995	Complementary Convention of 14 May 2002 (applied by Spain)
Cape Verde	Convention signed 23 Nov 2012 In force (ca. 1 Dec 2013)	No later update available
Canada	Convention signed 10 Nov 1986 In force 1 Jan 1988	No later update available
Chile	Convention signed 28 Jan 1997 In force 13 Mar 1998	Complementary Convention of 14 May 2002 (in force 14 Jun 2006)
China	Convention signed 19 May 2017 In force 20 Mar 2018	Latest published text 2018 ratification)
Colombia	Convention signed 6 Sep 2005 In force (ca. 1 Mar 2008)	No later update reported
Korea (South)	Convention signed 14 Jul 2011 In force (ca. 1 Apr 2013)	No later update available
Dominican Republic	Convention signed 1 Jul 2004 In force (ca. 1 Jun 2006)	No later update indicated
Ecuador	Convention signed 4 Dec 2009 In force (ca. 1 Jan 2011)	No later update published
Japan	Convention signed 12 Nov 2008 In force (likely 1 Dec 2010)	No later update available
Morocco	Convention signed 8 Nov 1979 In force 1 Oct 1982	No later update reported
Mexico	Convention signed 25 Apr 1994 In force 1 Jan 1995	Complementary Convention signed 8 Apr 2003 In force 1 Apr 2004
Paraguay	Convention signed 24 Jun 1998 In force (ca. 1 Mar 2006)	Latest administrative application protocol 15 Sep 2016
Philippines	Convention signed 12 Nov 2002 In force (date norm.)	No later update reported
Peru	Convention signed 16 Jun 2003 In force (ca. 1 Feb 2005)	Administrative Agreement 18 Apr 2007
Russia	Convention signed 11 Apr 1994 In force (ca. 22 Feb 1996)	Administrative Agreement 12 May 1995
Tunisia	Convention signed 26 Feb 2001 In force (date norm.)	Administrative Agreement 9 Sept 2004
Ukraine	Convention signed 7 Oct 1996 In force (ca. 27 Mar 1998)	Administrative Agreement 17 Jan 2001
Uruguay	Convention signed 1 Dec 1997 In force (date norm.)	Complementary Convention 8 Sep 2005
United States	Convention signed 30 Sep 1986 In force 1 Apr 1988	Recent new Social Security Agreement signed 8 Apr 2024 (modernizing protections)
Venezuela	Convention signed 12 May 1988 In force (date norm.)	Administrative Agreement 5 May 1989

Source: <https://www.seg-social.es/wps/portal/wss/internet/InformacionUtil/32078/32253>