**Title**

**THE PROTECTION OF THE SPANISH SOCIAL SECURITY TO THE EMIGRANT WORKERS**

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**中国-欧盟社会保护改革项目**

**Spanish Constitution:** article 42: “The State shall specially care for the safeguard of the economic and social rights of the Spanish workers abroad and shall guide its policy towards their return”.

1. Posted workers –Workers at the service of Spanish enterprises or with their head office in Spain, that send their workers to lend their services in another State, but keeping their labour link with the referred enterprises.

Ways to protect these workers:

1. Through bilateral and multilateral Social Security Conventions, through which the coverage of the Spanish Social Security is kept.

In the field of the European Union, the European Economic Area and Switzerland, Community Regulations 883/2004 and 987/2009. These coordination rules establish a posting period of 24 months that may be extended by means of exceptional agreements for categories of workers.

* Outside the European field, the protection is carried out through bilateral and multilateral Social Security agreements.
* Bilateral agreements: Andorra, Argentine, Australia, Brazil, Cabo Verde, Canada, Chile, Colombia, Korea, Ecuador, United States, Philippines, Japan, Morocco, Mexico, Paraguay, Peru, Dominican Republic, Russia, Tunisia, Ukraine, Uruguay and Venezuela.
* Bilateral agreements:

Ibero American, Spain, Bolivia, Brazil, Chile, El Salvador, Ecuador, Paraguay and Uruguay.

European Social Security Agreement: Austria, Belgium, Spain, Italy, Luxembourg, Netherlands, Portugal and Turkey.

1. Once the posting period of these workers has elapsed, under the bilateral agreement and if they keep their labour relation with the Spanish enterprise, they start being covered by the Social Security of the country where the activity is performed. In order to avoid the double contribution, the agreements maintain expectations of right to benefits, totalization of contributions.

Regardless of this, the workers may voluntarily subscribe:

* An ordinary agreement
* An emigrants’ agreement.
1. Workers posted to countries with which Spain has not subscribed Social Security agreements. The employed workers in situations of assimilated to registered with the General Scheme of Social Security are covered by the Spanish Social Security for the contingencies of this scheme. The enterprise is obliged to contribute for these workers during the whole period of posting.
2. Emigrant workers who perform their work in States not dependent from Spanish enterprises or located in Spain.
3. Through bilateral or multilateral agreements, Community Regulations or bilateral Social Security agreements, the workers are subject to the Social Security of the country where they perform their activity, but they may voluntarily subscribe an ordinary special agreement or an emigrants’ agreement.
4. If they work in countries with which Spain has not subscribed any agreement, these workers may be kept or included in the Spanish Social Security.
* Ordinary special agreement
* Agreement for emigrants or their children