INTERNATIONAL ASSOCIATION OF YOUNG LAWYERS

# WORKERS WITHOUT BORDERS

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## National Report regarding Spain


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# INTRODUCTION

Global mobility is on the rise. More and more companies increasingly operate on a cross-border scale. However, companies assigning their employees to another or multiple countries are often confronted with an increase of formalities and requirements affecting the cross-border employment. At first glance, only the work place of the employee temporarily changes. However, many other legal issues come into play and employees must comply with the rules and regulations governing immigration, employment and labour and social security laws of each of those countries.

The aim of the present questionnaire is to outline the legal aspects and issues affecting the temporary assignments of employees within and outside the European Economic Area (EEA).

1. Immigration

The first question employers should consider is whether the employee needs an authorization to work and reside in the country to which he/she is (temporarily) assigned.

Within the European Union, freedom of movement of persons is one of the main fundamental principles, guaranteeing EEA nationals the right to live and work freely in another EEA member state.

Non-EEA nationals in principle need an authorisation to work within the EEA. Does this obligation also apply to EEA nationals assigned by their employer outside the EEA?

2. Labour and employment law

Secondly, assuming the employee is allowed to work and reside in the relevant country, it is important to know which law is governing the employment relationship during the assignment period. Is it the law of the employer (home country) or the law of the country where the employee will be assigned (host country)?

Within the European Union, the Rome Convention and the Rome I Regulation of the EC are the two sources dealing with this matter. Do these sources also apply when a non-EEA national is assigned to an EEA country and when an EEA employee is assigned outside the EEA? Can the employer and employee choose the law applicable to their employment relationship? Which law applies in case no law has been chosen? Can the employee also invoke the protection of statutory provisions of the country where he/she will be assigned?

The labour and employment law part of this questionnaire also includes a part on the strict rules on the 'lease of personnel' in assignment situations. Finally, we will look into (the content of) the assignment letter and the early termination of the assignment and employment relationship.

3. Social Security

The third part of this questionnaire deals with the social security aspects linked to assignments, as it is relevant and important to know in which country the social security must be paid during the assignment.

4. Other obligations and formalities

We will look into possible other obligations and formalities to be complied with in your countries in case of assignments of employees to your countries (e.g., prior notifications, drafting and keeping of social documents, etc.).

5. Social inspection

The last part of this questionnaire is based on whether or not cross-border assignments are a priority for the social inspectorate.

# QUESTIONNAIRE

## 1. IMMIGRATION

### 1.1. Who needs a work permit to work in your country? Are there types of employees exempted (e.g., based on their nationality or type of work performed (business trips, etc.)?

According to Spanish and European law, all types of workers need a work and residence permit in order to be legally employed in Spain. Nevertheless, there are some exceptions that will be discussed.

Firstly, it is important to make a distinction between the two ways in which a person can be employed i.e. self-employment and salaried employment; despite the differences between the two types, both require a work and residence permit. Once this is determined, as a general rule a work permit will be needed for jobs that involve a stay of longer than three months: up to that threshold, no permit is needed, but a short stay visa will be required.

With regard to the self-employed we are referring to foreign individuals not permanently residing in Spain engaged in a lucrative activity on their own behalf. For salaried individuals, we are referring to foreign employees working in organizations established in Spain that satisfactorily comply with Spanish requirements.

The most relevant exceptions to this rule involve citizens of EU member countries, Schengen member countries and Swiss citizens whose rights are delineated in Article 45 of TFUE and who can work in Spain without restrictions. Other exceptions will be explained in the questions below.

### 1.2. Are there different types of work permits in your legal system? Are there work permits for highly educated/qualified employees? If so, what are the conditions and what is the procedure to be followed? Who needs to file for the application and where? Which information and documents are to be provided to the competent authorities? What is the timing? What is the duration of the work permit? Can it be renewed? Is it possible to apply for permanent status after a certain period of time under the work permit?

In addition to the self-employed/salaried employment differences, Spanish law takes into account the work permits that are explained below. All of them are regulated by Organic Law 4/2000 which regulates the rights and freedoms of foreign workers in Spain (hereinafter "LO 4/2000"). The rules established in the organic law are developed in Ministerial Order ESS/1/2012 which regulates the management of the collective hiring of foreign workers for 2012 and which has been extended until 31 December 2016. As all contracts have some similarities, the first permit explained is the most notable example, so all the general bases are covered for the other cases that follow:

- Work permits for high skilled workers: Is a work permit required for experienced employees doing skilled tasks? Apart from the general requirements, this depends on the kind of employee: regarding directors, the company must have staff comprising at least 500 employees three months prior to the hiring of the director, together with a minimum annual turnover of 200 million euros or a net worth of 100 million euros. A minimum level of foreign investment amounting to 1 million euros during the 3 years prior to the hiring is also required. In small and medium-sized companies the company's business must be in one of the following sectors: Information and Communications Technology, renewable energies, environmental sciences, water treatment, healthcare, pharmaceuticals or aeronautics and space.
  For technicians and scientists, the employer must be either a public authority or an organization whose objective is the promotion of the development of public research.
  For teachers, the hiring authority must be a Spanish University: this relates to researchers hired by universities or prestigious entities in the field of research.
  For artists or a group of artists, a relevant cultural contribution or an international artistic project is a requirement. The group shall include the personnel needed for the development of the activity.
  For directors apart from those previously mentioned, a public interest project is required such as the creation of several workplaces or a project that will have an extraordinary socioeconomic impact.
  The authority responsible processing applications will be the General Migration Department/Directorate, and the employer will be responsible for making the application. The documentation required is the official recognition of the activity developed as well as the status of the company if required.

- Work permits for seasonal work: These relate to workers satisfying the same criteria as any foreign worker, namely: not a citizen of a EU country, Schengen member country or Switzerland, not being in Spain

illegally, having no criminal record in Spain or previous countries of residence and not having been denied entry into Spain or any countries signatories to a treaty with Spain. Certain specific requirements for this contract must be apparent supported by translations of all types of contracts, such as having a stable residence in the home country of the company that is sending the worker, having professional experience of at least one year in the country of the company sending the worker, the person must have worked for at least one year for that company and the company must fulfil all the conditions stipulated in Spanish law concerning displaced workers (L 45/1999). The company will also have to meet all the requirements of a company according to Spanish law. The duration of the contract will be a maximum of 9 months and workers will be required to guarantee to return to their home country at the end of the contract. To apply for work permits, a copy of the passport is required, as is a verification of professional qualifications and a commitment to return to the home country signed by the worker. A copy of the official application form (Form EX-08) is also required, in addition to the employment contract and information regarding the hiring company. A certificate issued by the competent authority of the home country is required guaranteeing that the worker is subject to the tax system of that country. All documentation setting out the employment conditions of the worker, including accommodation, maintenance, travel tickets, etc. will be required. The employer will be responsible for submitting the application at least three months prior to the date that the worker arrives dates to the Foreign Office of the province where the services are going to be provided accompanied by the corresponding application fees. Once the application is submitted by the employer and has subsequently been approved, the worker must present all the documentation mentioned above within 1 month of receiving notice of the approval. The diplomatic mission will then have one month make their decision regarding the residence and work permits. The permit may be renewed during the 9 month period for as long as one year.

- Work permits for highly skilled workers of Peru and Chile: This is a work permit for experienced employees in skilled tasks with countries with whom an international agreement exists (Peru and Chile). Apart from the general requirements mentioned above, the employee shall have a contract with a salary at least 1.5 times the average salary and the occupation will fall within one of the following groups: executive or public employee in a legislative department, director of a public administrative body, director either of a company or a company department, a scientific specialist (mathematics, biology, computing, engineering…), educational specialist, legal or financial consulting, a

specialist in the field of arts or a cleric. Official Form EX-05 must be completed for the application, to be submitted accompanied by a copy of the applicant's passport, accreditation documentation from the company and the employment contract. Again, the application must be submitted by the employer, who will complete the same steps as in the previous case. A decision will be made 45 days after submitting the application and if approved, the employee will have one month to deliver the documentation required. Finally, if the permit is granted, the worker will have to enter the country within the next three months and register with the Spanish Social Security system. This work permit has no time limited associated with it.

- Temporary work and residence permit for research: This is an authorization for foreign individuals who wish to initiate a research program in Spain within the framework of a collaboration agreement. Apart from the general requirements, it will be necessary to pay the necessary fees, obtain approval for the project from an authorized organization and enter into a partnership agreement. With regard to documentation, the application must be submitted by the organization where the researcher will work, and the official document to be completed is Form EX-04. The partnership agreement and information regarding the organization and the researcher will be also be submitted. The application will be submitted to the Foreign Office and, if accepted, the duration of the permit will be for a minimum of 3 months and a maximum of 5 years. The researcher will have to register with the Spanish Social Security system.

- Mobility for foreign researchers admitted to other EU states: This is intended for researchers admitted to other EU countries who need to continue their research in Spain. Similar to the previous case, an authorized Spanish agency must assess the researcher, and the duration of the permit will be for a minimum of 3 months and as long as the original research project lasts.

- Temporary work and residence permit involving a transnational provision of services: Not exactly a displacement as per the above cases but with the same procedure to obtain the permits, it is an authorization for a foreign worker to come and work in an international company.

In all cases it will be possible to include an applicant's family in the application for a residence permit.

**1.3. Is a separate residence permit required/ granted via the work permit? Please explain.**

Generally a work permit is supplemented by a residence permit. Nevertheless in some cases residence permits may be granted for other reasons not related to an employment contract such as for investment ventures. These instances are:

Investors: Those who make a significant investment in Spain will receive residence permits. A significant investment is considered to be at least 2 million euros in public debt securities, 1 million euros into a bank account(s) or investment funds and at least EUR 500,000 for general interest projects in Spain or real estate investments.

Entrepreneurs: Foreigners wanting to develop innovative entrepreneurship, ventures of special economic interest to Spain.

Private or public corporations and other organisations wishing to hire researchers, scientific or technical personnel and university or business school professors to conduct training, research, development and innovation.

**1.4. Who can be sanctioned in case of illegal employment in your country (e.g., the employer, the employee, the host company, etc.)? What are the sanctions (civil and/or criminal) in case of illegal employment?**

As explained in previous questions, we have to distinguish between self-employed and salaried foreign workers.

In the first instance, if it is the worker who has not fulfilled the conditions established by Spanish law then that individual will be held liable and therefore punished. The severity of the punishment will range from minor to severe depending on whether the worker has a residence permit or not. Individuals holding residence permits but not work permits will receive minor sanctions, including a fine of up to EUR 500. If the worker does not have a residence permit or has not renewed the work permit, the sanction is severe and can involve fines ranging between EUR 501 and EUR 10.000. These sanctions are regulated by LO 4/2000 of the Foreign Workers' Rights and Freedoms Act.

At the same time we can find a double penalty system supported by Royal Legislative Decree 5/200 of 4 August 2000, approving the revised text of

sanctions regarding the social security system. This legal text contemplates the sanctions for faults in the communication of the displacements. The sanctions can be skilled as minor, severe or highly severe, with the correlative fines of EUR 60 to EUR 625 where the former takes place, EUR 626 to EUR 6,250 for the latter and finally from EUR 6,251 to EUR 187,515.

According to the same law and in the cases of salaried workers, sanctions levied are considered to be acutely severe. Hiring of employees without obtaining the required permits carry a fine of between EUR 10,001 and EUR 100,000. Without prejudice to what has been established above, according to Spanish Criminal Law an employer that repeatedly hires foreign workers without work permits shall be punished by a prison sentence ranging from 3 to 18 months or fines lasting for a period of over 12 to 30 months (Article 311 bis). If the hiring of foreign workers is done fraudulently, then the prison sentence will increase up to two to five years and fines lasting for a period of over 6 to 12 months (Article 312).

**1.5. Did your country implement the European Blue Card Directive 2009/50/EC? If so, please explain the scope, conditions, application process and validity of the blue card?**

Directive 2009/50/CE has been implemented into Spanish legislation by means of Articles 38 and 84 to 93 of Spanish Law 4/2000 concerning Foreign Workers' Rights and Freedoms. According to the legislation, foreign workers can obtain both a temporary residence permit and a work permit if they are highly skilled and skilled for performing superior education tasks. The permit is renewable and has an initial length of 1 year. Thus by accrediting skills, personal identification and an employment contract via an employer when authorization has been granted, a person has one month to present all the general documentation stated regarding other contracts in order to obtain a visa.

Foreign worker holders of a blue card obtained in other EU states can also move to Spain to work in a highly skilled job 18 months after the granting of the blue card in the other State.

The above Directive establishes three conditions in order to be able to apply for the blue card. The first condition has already been dealt with, and the individual in question does not have to be a citizen of an EU member state. Secondly, only individuals who complete high level studies may apply for it. Finally, the individual must already have an offer of a job in order to be able to apply for the blue card.

In order to come into line with the conditions surrounding the American Green Card, the EU has established a very simple online system of obtaining the blue card. Merely registering at https://www.apply.eu/es/ and providing the subsequent required information will suffice as long as all of the requirements have been satisfied.

The blue card is compatible with permanent residence: there are no temporary limits as its validity is related to the duration of the employment contract,. At the same time, the possibility of obtaining the permanent residence permit arises between 2 and 5 years after obtaining the blue card.

**1.6. Did your country implement the European Directive 2014/66/EU on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer? If so, please briefly describe and explain importance and impact?**

European Directive 2014/66/EU has been entirely adopted by means of Law 25/2015 of second chance mechanisms, a reduction in financial burdens and other social measures.

As the Directive has been implemented in its entirety, the effects are exactly the same as the measures established in the European legal text. This has facilitated the entry of highly-skilled non-member citizens into the European Economic Area. At the same time, it has reduced the difficulties for intra transfers of foreign employees between EU members with similar standards governing the granting of work and residence permits.

## 2. LABOUR AND EMPLOYMENT LAW

**2.1. In your country, how is the applicable law governing the employment contract during the assignment period determined?**

With the application of Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 (Rome I), Spain has adopted uniform criteria regarding the law applicable to employment contracts. As established in Article 8 of Rome I:

- An individual employment contract shall be governed by the law chosen by the parties.
- However, this choice of applicable law cannot deprive the employee of the protection afforded to him by provisions that cannot be derogated from by agreement under the law that, in the absence of choice, would have been applicable.
- If an agreement is not reached the applicable law will be that governing the country in which or, failing that, from which the employee habitually carries out his work in performance of the contract.

**2.2. Which local employment laws of your country are determined as mandatory minimum laws/minimum hardcore protective rules and working conditions? Please explain. Is there relevant case law?**

There is not a "numerus clausus" of binding articles of the Spanish Workers' Statute (the main applicable law in the employment area), but there are some aspects generally considered to be imperative in spite of what was established in Article 8 of Rome I. Pursuant to Article 8 of the Workers' Statute, these waived rights are:

- Work and free choice of profession or trade.
- Free association.
- Collective bargaining.
- Adoption of collective action.
- Strike.
- Meeting.
- Information, consultation and participation in the company.

Thus, if any of these aspects are chosen to be regulated by less protective legislation than Spanish legislation, the agreement will be null and Spanish law will be applied.

As the definitions mentioned in Workers' Statute are essentially generic in nature, it is necessary to look to Directive 96/71/CE from European Parliament that sets out in its Article 3 the minimum conditions that the States will have to apply regardless of the law applicable to the contract, which are as follows:

- Maximum work periods and minimum rest periods
- Minimum period of annual paid vacations.

- Minimum rates of pay, including overtime increases; this point does not apply to supplementary occupational retirement pension schemes.
- The terms of the supply of workers, in particular by temporary employment agencies.
- Health, safety and hygiene at work.
- Protective measures with regard to working conditions and employment of pregnant women or women who have recently given birth and of children and young people.
- Equality of treatment between men and women

Spanish law has implemented the abovementioned Directive in its Law 45/1999 governing workers temporarily posted to Spain within the framework of the transnational provision of services. The main issues addressed by the law are:

- Working conditions of posted workers.
- Minimum rates pay for posted workers.
- Communication of the displacement.
- Duty to appear and provide documentation.

The generality of the Law lies in its continuous referrals to the Workers' Statute, ergo Articles 26 et seq. (salary, minimum salary, equality of salary by gender, payment of the salary…), 34 to 38 (working day and vacations; maximum working day per week of 40 hours, break times, overtime…) 61 et seq. (collective rights and workers' representation) of the Statute will be applicable

**2.3. Does your country foresee specific rules on the 'lease of personnel'? Is there a prohibition of 'lease of personnel' on principle? Please explain and provide examples. What are the sanctions and penalties? Can this risk be reduced? Please explain. Is there relevant case law on this matter?**

Spanish law is governed here by Article 42 of the Workers' Statute concerning the subcontracting of workers. The main points regarding subcontracting are that the principal employer has to check that the subcontracted employee has fulfilled all social security duties and legal requirements. Finally, the principal employer becomes liable for the stated duties of the subcontracted staff with some limits.

Spanish regulations are quite restrictive in the area of "lease of personnel". This is dealt with by Article 43 of the Workers' Statute and is generally very limited. The only case when it is permitted is stated in Article 43.1 which states: "The

hiring of workers for temporary transfer to another company can only be done through employment agencies duly authorized under the terms legally established". These employment agencies, called ETT, have to be registered with the Employment Ministry. When leasing jobs is done illegally, the employers are jointly and severally liable, and the employee has the option of becoming a permanent employee of any of the companies involved.

**2.4. If you were asked by one of your clients to draft an assignment letter (secondment agreement between the original employer in the home country and the employee), which clauses would you include? What should the assignment letter cover? Is this foreseen by a specific law or based on case law? Please explain.**

Spanish regulations consider the possibility of a secondment agreement is not specifically regulated in Workers' Statute. Usually the movement of workers occurs between companies of the same group or workplaces in the same company. Nevertheless, secondment between two different companies is also permitted.

In any event the notice to the employee (the 'assignment agreement') will need to include:

- The job description in the new workplace.
- The agreement between the company and the employee or the justification of the circumstances explaining the decision.
- The procedure regarding the secondment.
- The duration of the secondment.
- The functions during the displacement.
- The retribution.
- The expenses borne by the employer.
- The working day distribution.
- The tax contributions.
- The applicable law.
- The jurisdiction in case of conflict.
- In the event of a transfer, specification of temporary suspension of the actual job until the return of the employee or termination of the employment relationship.
- If temporary suspension is chosen, it has to include the circumstances to prevail once the employee has returned.

**2.5. Please explain the applicable and most relevant rules of your country in case the employer wishes (1) to early terminate the assignment and (2) to terminate the employment relationship (e.g., is there a right to return? Should the assignment allowances be included in the calculation of the notice indemnity? Etc.). Is there relevant case law?**

For early termination of the contract, as the transfer is generally based on an agreement the first step will be a review of the agreement. If the termination of a transfer is dealt with in a clause of the agreement, then the clause will be applicable. If not addressed specifically by a clause in the employment contract, the termination will be regulated by the applicable law to the contract. If the Spanish law is applicable, the termination by initiative of the employee will be governed by the prior notice policies established under Spanish law and that correspond to 15 days for non-skilled employees and 30 days for skilled employees.

If the above is not applicable, the Collective Agreement in question should be checked in order to determine whether the termination of the agreement falls within a specific category and, if so, the consequences applicable to the termination.

In the second case, namely the termination of the employment relationship, the employer could decide upon early termination. If the causes of the termination are attributable to the employee (according to the causes laid down in Article 54 of the Workers' Statute), there will be no obligation to pay financial compensation. If the termination is caused by economic, technical or organizational reasons (Articles 52 and 53 of the Workers' Statute), the employer will have to pay financial compensation to the employee consisting in 20 days of salary per worked year. Finally, if the termination of the contract is held in court to be unfair, the amount of the compensation will rise up to 33 days per worked day.

For the calculation of such compensation, any notion considered to be salary will be used. With regard to this point, we must mention a ruling of the Superior Court of Justice of Madrid of 11 June 2007, Judgment 416/2007, applies a doctrine established by the Supreme Court in 1985 its Judgment 1985/686. Said doctrine establishes the necessity of inclusion of the expatriation package in the calculation of the compensation for the termination of the contract. According to the judgment, this retributive concept should be considered as salary and consequently increase the amount of the financial compensation for the termination of the contract.

## 3. SOCIAL SECURITY

### 3.1. Provide a short overview of the level of social security charges in your country. What are the employer social security contributions? What are the employee social security contributions? Is there a cap/ maximum? Please briefly explain.

The social security system in Spain has two levels or types of protection: the contributory system and the non-contributory system.

There are two types of contributory schemes in the Spanish social security system:

- a general scheme applicable to all employed persons who are not covered by special schemes, plus certain categories of civil servants; and
- three special schemes, for: the self-employed, coal miners and sea workers (sailors and fishermen).

Students are covered by a special protection plan (school insurance). There is also a special contributory scheme for civil servants.

The Spanish system provides for the possibility of concluding special voluntary agreements with the social security services for the purpose of maintaining, or in certain specific cases extending, an entitlement to social security benefits.

In certain situations this may mean subscribing to the corresponding social protection scheme, depending on the person's occupation. In such cases the insurance contribution is paid entirely by the subscriber.

In Spain, a person entering the labour market for the first time has to register with the social security service and join the insurance scheme for his or her type of occupation. This must be done within certain time limits. Self-employed persons must do this themselves; otherwise, it is the employer's responsibility.

As soon as a person begins to work he or she begins to pay social security contributions. They are calculated as a percentage (contribution rate) of the contribution base. These contribution bases and rates are determined by the government each year.

In the general insurance scheme, the contribution base corresponds roughly to the employee's real salary. There is, however, a floor rate, which is equivalent to the guaranteed minimum wage (SMI) increased by one sixth for full-time employment, and a ceiling, which is equivalent to a little more than five times the guaranteed minimum wage.

For the self-employed, there are fixed floor and ceiling contribution bases, and they have to pay contributions calculated on at least the minimum level. They can, however, choose a higher level, up to the prescribed maximum, and can later change it within the set limits. Under certain conditions, they can also voluntarily upgrade their protection in order to include insurance against accidents at work and occupational diseases.

Social security contributions are paid at various rates, depending on the different contingencies (for example, overtime, unemployment and occupational training) that are covered under the system. For common contingencies, the employer pays 23.60% of the employee's net taxable income and the employee pays 4.70% (this is deducted from the employee's salary). There is a minimum and a maximum contribution for all employees depending on its category within a range from EUR 764.34 to EUR 3,642.

**3.2. In case of assignments from outside the EEA to your country or from your country to non-EEA countries, with what countries has your country signed a social security agreement?**

There are certain Bilateral Agreements on Social Security between Spain and other countries, which regulate the effects on Spanish public benefits of periods of contribution to the Social Security Systems of other States. The Agreements also determine the State in which Social Security contributions are to be paid in cases of relocations and temporary or permanent assignments abroad.

Spain has Bilateral Agreements on Social Security with the following countries:

- Andorra.
- Argentina.
- Australia.
- Brasil.
- Cabo Verde.
- Canadá.
- Chile.
- Colombia.
- Corea.
- Ecuador.
- Estados Unidos.
- Filipinas.
- Japón.
- Marruecos.
- México.

- Paraguay.
- Perú.
- República Dominicana.
- Rusia.
- Túnez.
- Ucraina.
- Uruguay.
- Venezuela.

## 4. OTHER OBLIGATIONS AND FORMALITIES

### 4.1. Are there other relevant formalities and obligations in your country in case of assignments to your country (e.g., prior notification to the authorities, drafting and keeping social documents, etc.)?

As a country with a high rate of implementation of European Directives, Spain has few significant peculiarities. Nevertheless as a result of excessive bureaucracy, the process to obtain the work permit can seem far too cumbersome.

Having said that, the most significant formalities to address at the time of applying for work or residence permits have already been discussed in the earlier questions. The double system of application, where the employer both has to apply for the permit and also pay the corresponding fees and, once approved, the need for the employee to submit the required documentation in applying for the permits is perhaps the biggest point to note regarding the Spanish process.

### 4.2. What are the penalties and sanctions in case these formalities and obligations are not complied with? Who can be sanctioned? Is there relevant case law?

There are no sanctions for not complying with documentation requirements before starting to work as stated earlier. Nevertheless, if all the steps explained are not carried out and the employee has not started working in the position he or she was hired for, the penalties are the loss of fees payed by the employer. It would be also necessary to start the permit application process from scratch.

## 5. SOCIAL INSPECTION

### 5.1. Are cross-border assignments a priority in your country for the social inspection? Please explain.

Even this issue is not a priority for Spanish social security authorities as the administrative sanctions mentioned in point 1.4 correspond to those applied by the Investigative Section of the Department of Social Security. In that sense there are two ways of initiating an Inspection: firstly, the Employment and Social Security Ministry has a program of random inspections that is a part of the program to combat fraud in employment relationships; secondly, an employee can file a complaint with the Investigative Department of the Department of Social Security in order to initiate a sanction process against the employer. The entire procedure is regulated by Royal Legislative Decree 5/2000 of 4 August 2000, approving the revised text of the Law on Offences and Sanctions in the Social Security System.

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