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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

Reports submitted in accordance with Council
resolution 1988 (LX) by States parties to the
Covenant concerning rights covered by
articles 6 to 9

SPAIN

ARTICLE 6: THE RIGHT TO WORK

A. Legislative advances intended to further and safeguard the right to work have proceeded along two lines, as described below:

(a) ILO Conventions have been ratified by Spain in the following areas:

Employment and placement: Placing of Seamen, No. 9, ratified on 23 February 1931 and published on 11 March 1931; Fee-charging Employment Agencies Convention, No. 34, ratified on 29 March 1935 and published on 31 March 1935; Employment Service Convention, No. 88, ratified on 14 January 1960 and published on 11 January 1961 and No. 96 (Fee-Charging Employment Agencies Convention (revised)) ratified on 29 March 1971 and published on 23 April 1972; Employment Policy Convention, No. 122, ratified on 29 December 1969 and published on 24 May 1972.

Unemployment: Unemployment Convention, No. 2, ratified on 13 July 1922 and published on 15 July 1922; Unemployment Indemnity (Shipwreck) Convention, No. 8, ratified on 29 April 1924 and published on 13 May 1924; Convention Ensuring Benefit Allowances to the Involuntarily Unemployed, No. 44, ratified on 16 February 1971 and published on 18 April 1972.

Emigration: Migration for Employment Convention (Revised 1949), No. 97, ratified on 23 February 1967 and published on 7 June 1967.

Equality of treatment: Convention concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents, No. 19, ratified on 24 May 1928 and published on 26 May 1928; Convention concerning Equal Remuneration for Manual Women Workers for Work of Equal Value, No. 100, ratified on 26 October 1967 and published on 13 December 1968; Discrimination (Employment and Occupation) Convention, No. 111, ratified on 26 October 1967 and published on 4 December 1968.

Forced labour: Convention concerning Forced or Compulsory Labour, No. 29, ratified on 8 April 1932 and published on 14 April 1932; Abolition of Forced Labour Convention, No. 105, ratified on 26 October 1967 and published on 4 December 1968.

General, relating to employment: Convention No. 80, ratified on 12 June 1958 and published on 13 October 1958; Convention No. 116, ratified on 28 June 1962 and published on 14 August 1962; Convention No. 117, ratified on 19 February 1973 and published on 5 July 1974.

None of these Conventions ratified by Spain has been denounced by the International Labour Office, no instance having been found of faulty fulfilment or of inconsistency between the principles they lay down and the internal law of Spain.

(b) Legislation

Evident progress has been made in legislation concerning employment. This progress began a year before the crisis of 1973, with the promulgation of Decree 3090/72 respecting employment policy, covering employment, placement and social advancement of workers, brought up to date by Decree-Law 1/1975 of 22 March 1975 respecting the organization of employment services and Decree 2357/75 of 12 September 1975, which further elaborates the latter.

In 1972, the General Directorate of Employment was established by Decree 1579/72 of 15 June 1972 which restructured the Ministry of Labour. This was the beginning of an active manpower policy concerned with unemployed workers, exigrants and young people seeking their first job.

Decree 535/1975 of 21 March 1975 respecting the reorganization of the Ministry of Labour was a further step aimed at updating the functioning of the General Directorate of Employment, which thereafter became merged with the General Directorate of Social Advancement. This provision was supplemented by Royal Decree 2132/1976, of 10 August 1976, amending Decree 3090/72 of 2 November 1972 respecting employment policy and Decree 535/75 of 21 March 1975 respecting the reorganization of the Ministry of Labour.

The Placement Services which, by delegation of State authority, had functioned within the framework of the now abolished official Trade Union Organization, were placed in their entirety under the responsibility of the State by Decree-Law 1/75 of 22 March 1975 respecting the organization of the Employment Services. This is the most important legal provision on the question, since it completely changes the former organization of the Placement Services, which are now definitively and

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exclusively the responsibility of the State, under the supervision of the Ministry of Labour. In addition the various State bodies concerned with employment, which had been dispersed in different government agencies, have been brought together under the management of the Ministry of Labour.

This important initiative to unify services concerned with employment is intended, inter alia, to fulfil the provisions of ILO Convention No. 88, the Employment Service Convention, ratified by Spain on 14 January 1960 (Boletín Oficial del Estado) of 11 January 1961).

B.

(1) The right to work cannot be considered an absolute and strict principle of labour law; rather, it is a fundamental legal and political commitment assumed by Governments, one which needs to be supplemented by protection against involuntary unemployment.

"Guarantee of employment" is governed by division V (arts. 11 and 12) of Act No. 16, respecting employment relationships, of 8 April 1976; "Guarantees of stability of employment" are governed by division VI (arts. 14 to 21) of the same Act.

The manner in which this principle of the "right to work" is applied in Spain, as in most free countries, may be outlined as follows: when they attain 16 years of age, the legal age of admission to employment (as laid down in art. 6 of the Act respecting employment relationships), all Spaniards may apply to the Employment and Vocational Training Services either to obtain their first employment or because they are unemployed.

Obviously, in our country, as in the other countries of Western Europe (it must be borne in mind that the countries of the OECD area have approximately 20 million unemployed) the fact of applying at a Placement Office (a prerequisite for the conclusion of formal contracts of employment, as provided by art. 12 of the Act respecting employment relationships) does not of itself produce employment; however, unemployed persons registered as such with a Placement Office, if they fulfil certain legal requirements, are entitled to unemployment insurance. Moreover, employers are required to apply to the Employment Offices for the workers they require (art. 12, para. 3, of the above-mentioned Act).

With respect to guarantees against discrimination in employment, our internal legislation is absolutely in accord with the principles laid down in ILO Conventions No. 111, Discrimination (Employment and Occupation) Convention; No. 122, Employment Policy Convention; No. 100, Equal Remuneration Convention; and No. 105, Abolition of Forced Labour Convention, all of which have been ratified by our country, as mentioned above.

With respect to discrimination by reason of sex, Act 16/76 of 8 April 1976, respecting employment relationships states that women shall have the same employment rights as men, save that a woman may be debarred from work of a particularly dangerous, unhealthy or arduous nature or from work which may affect her pregnancy or maternity.

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Article 25, paragraph 6, provides that any worker of either sex who is directly responsible for the care of a child under six years old or of a physically or mentally handicapped person shall be entitled, on condition that he does not engage in any other form of remunerated activity, to a reduction of at least one third in his working day, subject to a proportionate reduction in the corresponding wage. Only one of the parents may exercise this right.

This provision contemplates, for the first time, the problem of workers with family responsibilities without drawing distinctions according to sex. As has been done in other industrially advanced countries, it enables either the father or the mother, whichever may be in the interests of the family, to remain at home in order to care for children under six years of age.

Since the adoption of the Act of 22 July 1961 concerning the political vocational and employment rights of women, and by virtue of successive provisions both in the domain of labour law proper and in the area of civil and commercial law (e.g. the Act of 2 May amending certain articles of the Civil Code and the Commercial Code which relate to the legal status of married women and the rights and duties of spouses (Boletín oficial del Estado of 5 May 1975) the instances of discrimination which existed in the past are gradually being eliminated, especially as regards the status of married women, who can, since the adoption of the Act respecting employment relationships, conclude any type of contract of employment on the same condition as men and are entitled to receive the same remuneration for work of the same kind and productivity.

With respect to married women, article 32 of the Royal Decree-Law of 4 March 1977 respecting labour relations provides that marital status may in no circumstances be deemed to constitute just cause for dismissal.

This establishment of equal rights between the sexes has exerted a decisive influence on the level of employment of women, as may be seen in the fact that, although the active population as a whole has been declining over the past two years owing to diminished investment capacity and the aggravation of the economic crisis, the active population of women has increased over the same period.

As regards discrimination by reason of age, various measures were taken, before the current economic crisis, to eliminate the difficulties encountered by workers over 40 years of age in finding and keeping a job, granting them priority in cases of dismissal resulting from retrenchment of staff and preference with respect to vocational training courses. As an incentive to employ them, employers are granted reductions of employers' contributions to social security, which range from 40 to 100 per cent, according to the age of the workers.

Articles 25 to 29 of Act 50/77, of 14 November 1977 concerning urgent measures of fiscal reform, define a policy for employment growth by means of tax relief measures for undertakings which create new jobs.

Royal Decree 3280/77 of 9 December 1977 grants reductions of social security contributions to undertakings, which provide jobs for unemployed workers.

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Royal Decree 3281/77 of 16 December 1977 promotes the employment of young persons by significant benefits to workers and undertakings and a 50 per cent reduction in social security contributions for undertakings which employ young persons.

In connexion with the above, our labour legislation also contains provisions to promote the employment of handicapped workers, establishing a mandatory reserve fund of 2 per cent for undertakings employing more than 50 workers and granting contracting undertakings reductions of between 40 and 100 per cent in their social security contributions in respect of handicapped workers in their employ.

With regard to the prevention of discrimination by reason of association or trade union activities, article 13 of the Act respecting employment relationships grants protection to trade union representatives in connexion with dismissals occurring when permission is given for the retrenchment of staff.

Article 32 of the Royal Decree-Law of 4 March respecting labour relations provides that membership of a trade union, participation in its lawful activities, status as a workers' representative or activities in that capacity, subject to compliance with the law, shall in no circumstances be deemed to constitute just cause for dismissal.

Non-discrimination for political, religious and social motives is dealt with in the above-mentioned article 32 of the Royal Decree-Law of 4 March 1977, which provides that religion, political opinion and social origin shall likewise not be deemed just cause for dismissal.

When a worker voluntarily terminates his contract of employment he has a legally recognized right to demand a "certificate" from the undertaking which may not lawfully make any mention of or reference to his social, political or trade-union activity, public or private; it may state only "the duration of the employment in the undertaking and the nature of the work or services performed by the employee", as laid down in article 75, paragraph 5, of the Decree respecting contract of employment (consolidation), approved by the Decree of 26 January 1944.

With respect to discrimination by reason of race, article 32 of the Royal Decree-Law of 4 March also provides that race and colour shall in no circumstances be deemed just cause for dismissal.

In reality, it has never been necessary to take measures against racial discrimination because of the ethnic unity of our country and because of the traditional absence of racial prejudice from Spanish society.

With respect to aliens, our legislation is quite generous, since despite the high level of unemployment prevailing in our country and the fall in emigration in recent years - emigration is currently accounted for largely by seasonal work in agriculture, the hotel trade and the like - no policy restricting the employment of aliens has been adopted to date.

The legislation now in force does not restrict the employment of aliens unless there are Spanish applicants for the jobs such aliens are seeking who also have the necessary qualifications for those jobs.

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In practice, this requirement does not actually restrict the exercise of occupations by aliens, who are merely required, as in other European countries, to ensure that their sojourn in the country is legalized by police authorities dealing with the entry and residence of aliens, to renew their work permits yearly, and to pay the fees fixed by the Ministry of Finance, which are payable by the worker only in the case of self-employed persons. Workers employed by another person pay only a small sum, which corresponds to 10 per cent of the amount paid by the employer.

Spanish-American, Portuguese, Brazilians, Andorrans and Filipinos have the same rights as Spaniards with respect to employment, in that they are only required to have valid residence permits. In practice, this equality of rights betokens a generous attitude on the part of the Spanish State, amounting to a "free circulation" of workers from those countries in Spain, altogether independently of the national level of unemployment.

(2-3) The regulation, direction and study of employment, and labour inspection, are now carried out by the Ministry of Labour, in collaboration with the Spanish Institute of Emigration and the administrative bodies of the social security system. The official Trade Union Organization has ceased to perform the functions formerly assigned to it in this domain.

Decree 2357/75 of 12 September 1975 respecting the Employment Services amplified the guidelines for unified management laid down by Decree-Law 1/75 of 22 March 1975 respecting the Employment Services.

The Employment and Training Service (Servicio de Empleo y Accion Formativa-SEAF), as developed under Decree 2357/75 of 12 September 1975, takes the view that employment and training are two topics which must not be dissociated, both because of the need for employment policy to plan and forecast employment, striking a balance between employment supply and demand and between major employment objectives, and because of the fact that employment requires greater social and vocational advancement, i.e. the need to improve "the quality of work" with a view to the speediest possible reduction in unskilled labour and increase in skilled labour. With a view to the attainment of that objective, governmental activity and policy implementation in the areas of employment and vocational training have been united through common management and co-ordination.

The employment and vocational training services have been endowed with new and modern structures as regards both skilled staff and the technical resources, facilities, and so on with which they operate, all of which has required no mean effort and sacrifice.

Policy and administrative activities in the field of employment and training have been given high priority by the Ministry of Labour. Similarly, recent statements by His Majesty's Government have laid marked stress on the problem of employment and training.

Prior to 1973, the right to emigrate freely, recognized by Spain (art. 3 of Act No. 33, respecting emigration, of 21 July 1971), and the incentive provided by the large demand for labour in the host countries led the State to give particular attention to its migration policy, improving the assistance and protection provided to emigrants by the Spanish Institute of Emigration.

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Spain ratified ILO Convention No. 97 (Migration for Employment Convention), on 23 February 1967 (Boletín Oficial del Estado of 7 June 1967) and has negotiated with countries of Western Europe bilateral emigration agreements which have been successively updated and revised, improved and refined, up to the limit accepted by the host countries receiving our emigrants.

In recent years (since 1973) the drastic restrictive measures taken by the principal host countries receiving Spanish workers, culminating in a total blockade, have been partially responsible for a serious disruption of our national employment policy and have led to a steep rise in national unemployment.

It should be borne in mind that many of these countries have used emigration as a cyclical instrument to solve the grave problems they have faced during periods of manpower scarcity. Currently, these host countries have adopted strong and continuing restrictive policies, amounting to an "exporting of unemployment" to Spain, seriously affecting its labour market and national employment situation. This point must be stressed because such restrictive policies act as "factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant" (document G/SO 22/912), since it is obvious that they aggravate the difficulty of improving guarantees of the right to work in Spain.

It is also necessary to refer to the important work done by the National Labour Protection Fund, an effective instrument for the implementation of social policy. The Fund was established by Act No. 45/1960 of 21 July 1960 as an important instrument for the redistribution of national income, and the Board which administers it has been endeavouring, since its establishment, to keep the assistance provided up to date through a continuous process of adaptation to changing social and labour realities within the scope of its activities.

The Board carries out these activities through annual investment plans and general guidelines for the application of those plans, which are submitted for the approval of the Government through its Chairman who is the Minister of Labour).

The annual investment plans - the 1977 plan being the sixteenth (Ministerial Orders of 22 January 1977 and 3 June 1977) - cover far-ranging aspects of the activity of the Ministry and regulate the action of the functional organs of the Fund (General Directorate of Employment and Social Advancement, General Directorate of Labour, General Directorate of Co-operatives and Community Undertakings, Spanish Institute of Emigration, etc.).

In 1976 the activity of the Fund entailed the processing of 6,365 dossiers involving 1,117,662 cases of assistance, some provided directly to individuals and the rest provided through centres, amounting to a total of 15,871,931,011 pesetas.

Funds earmarked for this activity have grown from 3,552,000,000 pesetas in 1969 to 16,089,490,018 pesetas in 1977.

The National Labour Protection Fund is also responsible for carrying out a very important policy for the social advancement of workers by creating jobs or consolidating many already existing, jobs through co-operatives, whose

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establishment or development is facilitated by assistance granted by the Fund. The co-operatives in question are associated labour co-operatives in the fields of industry, fishing, agriculture or crafts, whether established or about to be established, and communal labour farming co-operatives. Under this budget heading loans are granted totalling from 350,000 to 500,000 pesetas per worker, interest-free or with a maximum interest of 3 per cent per year and a maximum term of 10 years.

The fact that in 1976 loans to co-operative members totalled 1,104,502,041 pesetas gives some idea of the extent of such assistance. The sixteenth plan earmarks a total 964 million pesetas for such loans.

Similar assistance is provided for the creation of jobs through the establishment of associative labour undertakings, or the promotion of existing undertakings of this nature. In 1976, loans totalling 303,493,106 pesetas were granted to workers involved in such undertakings and the sixteenth investment plan earmarks 376 million pesetas for this purpose.

The National Labour Protection Fund is not limited, however, to providing financial assistance to co-operatives and associative labour undertakings. It also provides the necessary technical assistance to both existing and future co-operatives and associative labour undertakings. Such technical assistance is given in the form of advice on enterprise organization and labour rationalization, advice on the technical management of production, and accounting, economic, financial, commercial and legal advice. Assistance is provided on a grant basis and involves a maximum of 25,000 pesetas per worker.

In 1976, technical assistance to the value of 46,890,100 pesetas was provided, and the sixteenth investment plan earmarks a total 29 million pesetas for this purpose.

The National Labour Protection Fund also provides assistance to workers employed by another person who wish to become self-employed within their occupation or trade by setting themselves up in business at their own risk and without being under contract to any undertaking. In such cases, the National Labour Protection Fund's activities are much less effective, since they are limited to enabling workers to obtain loans from savings and other banks. This is done by guaranteeing repayment and by providing a subsidy in an amount equivalent to the total interest, or to the difference between an annual interest rate of 3 per cent and the interest established by the savings or other banks which provide the loans. In 1976, 15,154,200 pesetas were allocated for the purpose of facilitating such loans, and the sixteenth investment plan earmarks 15 million pesetas for this purpose.

In addition to the above-mentioned activities designed to promote the social advancement of workers, the National Labour Protection Fund also subsidizes worker training activities in the following ways:

Provision of fellowships, travel grants and other subsidies; organization of preferential courses, provision of wage incentives for workers over 40 years of age and training of teaching staff appointed for those purposes (in 1976, 1,004,025,553 pesetas were invested for this purpose and 980 million were earmarked for 1977);

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Subsidies to the Employment and Training Service (PPO) to help cover the cost of vocational advancement for workers in general, and to pay wage incentives to workers over 40 years of age (in 1976, 600 million pesetas were invested for this purpose, and 678 million were earmarked for 1977);

Subsidies or loans for the construction and equipment of experimental training centres for social advancement (in 1976, 150,606,124 pesetas were invested for this purpose, and 175 million were earmarked for 1977);

Subsidies to educational institutions operated by the Ministry of Labour, to help cover the cost of social, labour and managerial training for workers, their children and members of co-operatives and associative labour undertakings (in 1976, 34,442,797 pesetas were invested for this purpose and 30 million were earmarked for 1977);

Financial assistance to workers over 25 years of age, to enable them to enter university and technical high schools pursuant to the General Education Act and to cover the cost of courses to prepare them for such university or high school entrance (in 1976, 11,329,860 pesetas were invested for this purpose and 20 million pesetas were earmarked for 1977).

Finally, provision is made for other subsidies, fellowships, travel grants and similar assistance, which facilitate the community training of workers and persons treated as such who wish to establish associative labour undertakings (280,000 pesetas were invested for this purpose in 1976 and 1,500,000 were provided for 1977).

In the case of co-operatives there are specific fellowships, travel grants and other forms of assistance which facilitate the co-operative and technical training of workers and persons treated as such and their children (in 1976, 13,471,323 pesetas were invested for this purpose and 12,500,000 were earmarked in 1977).

(4) Spain ratified ILO Convention No. 142 on Human Resources Development on 15 March last, although it has not yet been published in the Boletín Oficial del Estado. The Convention will enter into force in Spain and become part of Spanish law on 16 May 1978. In the past, measures adopted by various Spanish Governments and legislation enacted for that purpose have taken into account the general substance of Recommendations of the International Labour Conference Nos. 117 concerning Vocational Training, 101 concerning Vocational Training in Agriculture, 126 concerning the Vocational Training of Fishermen, 137 concerning the Vocational Training of Seafarers, 87 concerning Vocational Guidance and 99 concerning Vocational Rehabilitation of the Disabled.

In order to ensure co-ordination with over-all national educational policy, there is a General Directorate of Employment and Social Advancement within the Ministry of Labour which is responsible for the technical programming and supervision of training, advanced training and vocational retraining activities and the social and managerial training of workers.

The measures adopted as part of Spain's social advancement policy in recent years are designed to achieve two main objectives: to guarantee the right of

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workers to genuine and effective access to culture and education at all levels, and to guarantee their right to a genuine and effective share in the profits of their undertaking.

Social advancement activities have therefore been carried out at two levels: on the one hand through workers' colleges, escuelas sociales (extension schools) and social training schools and the National Plan for the Vocational Training of Adults, and on the other, through action to promote co-operatives and to create, promote, and provide technical assistance to associative labour undertakings.

Articles 8 and 9 of Act 16/1976 of 8 April 1976 respecting employment relationships are devoted to regulating contracts of employment for the purposes of practical experience, advancement and continuing vocational training.

For the first time in our country, the contract of employment for purposes of practical experience was introduced for those registered as following a second- or third-degree vocational training course or course of university study (in their various cycles); this contract must be appropriate to the purpose of enabling the person concerned to acquire practical experience in the occupation and to the level of his studies and must be so conceived as to be compatible with such studies; it must be concluded exclusively with an undertaking that has previously been approved as being suitable for the provision of such practical experience. It is provided that the Government may apply the legal provisions governing such contracts to the various classes of persons holding academic qualifications, with the object of enabling them to conclude such contracts for a single period falling within the two years immediately following the award of their diplomas.

Article 9 recommends the provision, by collective agreement, of measures to facilitate the vocational and social advancement of workers over 16 years of age, and lays down minimum guarantees regarding leave, work shifts, a reduced working day, rebates to any undertaking which organizes or assists in training activities, and so on.

I. WORKERS' COLLEGES

In the area of education, and more specifically of vocational training as a means of performing an educational social function, mention must be made of work being done by the workers' colleges which article 1 of the Act of 11 May 1959 defines as teaching institutions designed to provide vocational and technical training to Spanish workers and to raise their over-all level of cultural and social preparations, so as to enable them to gain access to any position in society.

The educational and training activities carried out by the workers' colleges during the period covered by this document can be summarized under two main headings:

1. Education for young people: Regulated education, which young people on scholarships receive either in centres operated by the service, or in other centres as supervised students, according to university district.

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1.1 Education provided in centres run by the service: This comprises basic general education, courses leading to the Bachillerato Unificado Polivalente, (unified comprehensive secondary certificate), university entrance course, first and second level vocational training, and university studies at the levels of technical engineering and university diplomas.

1.2 Education provided under the supervision system according to university district: This comprises university courses corresponding to the three cycles of university education established by article 31 of the General Education Act. It also includes courses leading to the Bachillerato (secondary certificate), second level vocational training and other courses for those requiring the Bachillerato Superior (upper secondary certificate) or equivalent.

2. Adult education: The main purpose of the workers' colleges, as defined by the Act of 11 May 1959, is to provide education designed to facilitate the educational, vocational and social advancement of both young and adult Spanish workers. With regard to adult workers, a distinction can be made between:

2.1 Regulated education: This is education provided in accordance with a teaching plan established by the Ministry of Education and Science for the direct purpose of securing academic qualifications. It covers courses leading to school graduation, first level vocational training, primary education certificates, courses leading to examinations to qualify as a skilled industrial worker, and literacy education.

2.2 Occupational training for adults: Without following a teaching plan established by the Ministry of Education and Science, this training is designed generally to provide greater technical preparation for various kinds of work.

3. Number of persons covered:

Academic year 1975/76

Total number of young people enrolled in centres operated by the system: 30,190 (young men 23,722; young women 6,468).

Number of young people enrolled under the supervision system: 4,106 (young men 2,737; young women 1,396).

Adults: Regulated courses - 2,618; non-regulated courses - 9,213 (in 477 courses).

Academic year 1976/77

Total number of young people following regulated courses: 30,843

Number of adults following regulated courses: 2,253

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Total number of students (young people, adults) following regulated courses: 33,096 (men 24,824; women 8,272)

Number of students enrolled under the supervision system who are following university courses under the workers' colleges scholarship system in the various university districts of Spain: 5,548

Number of students (young people and adults) following non-regulated courses: second semester of 1976: 5,317 students in 290 courses; first semester of 1977: 3,584 students in 200 courses

Special courses 1976/77: 1,928 students in 87 courses.

Finally, it should be noted that, for the academic year 1976/77, pursuant to a resolution of the General Directorate of Social Services dated 7 January 1976, 14,700 new scholarships were awarded in the workers' colleges to cover vacant places. These were in addition to those carried over from the previous academic year.

II. EMPLOYMENT AND TRAINING SERVICE

This Service is concerned with the placement and vocational and social advancement of workers: its origins go back to the Workers' Vocational Advancement Programme (PPO) which was introduced established by the Ministry of Labour in 1964 for a period of four years. The purpose of the Programme was to bring about the social advancement of workers (over 18 years of age) through vocational training (acquisition of skills, retraining and further training).

The Programme was extended for two further four-year periods, and, under Decree 3206/1973, of 21 December 1973, it was transformed into a Training Service (SAF). Then, when the Employment Services were transferred to the Ministry of Labour (under Decree-Law 1/1975, of 22 March 1975, which was given effect by Decree 2357/1975, of 12 September 1975) and in order to ensure adequate co-ordination between employment policy and vocational training, job placement became the responsibility of the Employment and Training Service (SEAF), which is attached to the General Directorate of Employment and Social Advancement.

The objectives established in the sphere of training may be summarized as follows:

Initiating, promoting, monitoring and supervising all the activities for which the Service is responsible in the areas of:

Vocational and labour guidance;

Employment;

Job placement.

In the sphere of vocational and labour guidance, SEAF-PPO operates vocational guidance centres whose work is co-ordinated with that of the employment offices.

There are centres of this type in Madrid, La Coruña, Bilbao, Alicante, Valencia and Malaga, and new centres are to be set up in other provinces. These centres are staffed by specialized technical and auxiliary personnel.

The principal objective of the training activities is to promote the vocational advancement of workers through vocational training courses.

In quantitative terms, the progress made towards attaining this objective has been reflected in the training of 1,631,094 workers since the training activities were initiated in 1964; at present over 200,000 students are receiving training every year. As to the results achieved in respect of promoting the advancement of workers, it may be noted that, according to a survey carried out among all students who had completed industrial and service courses, within three months of completing the courses about 70 per cent of these students were employed in jobs related to those for which they were trained.

Students who received training from 1964 to 1976

SEAF-PPO	569,275
PPO-E	178,110
PPT	<u>883,709</u>
Total	1,631,094

Teaching is provided through the centres, which may be permanent, semi-permanent, mobile or auxiliary. The first three types of centre are organized by SEAF-PPO. The auxiliary centres are attached to various bodies, institutions or undertakings which, with assistance provided by the National Labour Protection Fund, organize workers' vocational training courses in accordance with plans and objectives established in advance.

Number of centres

Permanent centres	35
In operation	21
Constructed	3
Under construction	1
At the stage of awarding contracts	10
Semi-permanent centres	112
(39 are at the stage of being assembled)	
Mobile centres	1,483
Auxiliary centres	1,241

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Lastly, it may be noted that the future plans are:

To maintain a steady rate of training, and ensure continuous co-ordination between training activities and employment requirements;

During the current year, 1977, to develop and organize vocational training for highly skilled workers, under a special plan in this field: the Advanced Vocational Training Programme (PPAC);

In the course of this year, 1977, to develop a technical assistance service to enable undertakings to provide vocational training for their employees on a permanent basis;

To strengthen training programmes for instructors.

III. ESCUELAS SOCIALES (EXTENSION SCHOOLS)

These schools were established by the Ministry of Labour from 1925 onwards; they are mainly associated with university centres and their work is closely related to the educational extension policy. They initiate within the framework of the Spanish educational system, the work of extending and disseminating vocational and social knowledge and techniques, through regular courses, short courses on special subjects, lecture series and publications.

The growth and increasing specialization of these schools over the years is indicated by the number of schools established to date - 12 - and by their curricula, the most recent of which, approved under an Order of 7 April 1967, shows these schools to be specialized teaching centres which analyse the subject of work and its complex human and material environment (through a coherent and progressive cycle of three academic years) from the standpoints of history, law, medicine, sociology, economics and administration. Thus, alongside adult workers seeking general self-improvement, true professionals have been trained who have been able to meet the increasing demand on the part of undertakings and the labour market in general for a broad range of professional skills within which their ability and knowledge are appreciated and sought after; they have become the social science graduates of today, whose functions and professional category have, in successive normative stages, been defined in such a way as to enable them to work either as employees of undertakings or as self-employed professionals organized in official associations.

Recently, under an Order of 30 November 1973, the studies in these colleges have been reorganized.

The statistics on the student population of the 12 centres are summarized in the following table:

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	<u>Admitted</u>	<u>Registered</u>	<u>Completed studies</u>	<u>Diplomas awarded</u>
1974/75	1,255	9,984	959	1,394
1975/76	1,752	10,515	1,688	1,078

Another teaching centre attached to the Ministry of Labour is the Escuela de Capacitación Social de Trabajadores (Workers' Training School) established under an order of 7 February 1942 for the purpose of disseminating among workers essential knowledge about social legislation, instilling in them the social concept of work, teaching them what is the position of the worker in the national community and providing guidance to enable them to have access to the world of culture.

The following types of course are currently provided in this school:

(a) Social training; (b) Labour and management training; (c) Co-operative training; (d) Training for intermediate, administrative and industrial positions of responsibility; (e) Methodology and time management; (f) Production planning and control, (g) Grading of posts and wages; (h) Leadership; (i) Marketing.

The number of students who have taken these courses is as follows: 1,426 in 1975; 1,422 in 1976; and 794 in 1977 (January to October only).

(5) Spain has established, and is maintaining, strong protection against individual dismissal and against collective dismissals in circumstances of economic crisis, legally described as "measures for the regulation of employment".

Dismissal is currently regulated by the provisions of Royal Decree-Law 17/77, of 4 March 1977, respecting labour relations.

If any case of individual dismissal is declared unlawful by the Labour Court, the worker has the right to be reinstated by the undertaking and if the latter refuses to reinstate him he is entitled to compensation determined by the judge in his discretion, taking into account such factors as length of service, family situation, age and possibilities of finding other employment; such compensation may not be less than two months' wages for every year of service or more than five years' wages.

In the case of an undertaking employing less than 25 permanent workers, the labour judge may in his discretion reduce the minimum rate in the light of all the circumstances.

A worker who receives such compensation may also draw unemployment insurance.

If the worker is a trade union representative, reinstatement in his former employment shall be at his option.

In the case of collective dismissals due to circumstances of economic crisis, the procedure is different from that applicable in the case of individual dismissal, although the principles that the procedure applied should be free of

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charge, speedy, and readily accessible to the parties concerned remain the same. In any event, the undertaking must apply to the labour authority (at the provincial or national level, according to the circumstances), which is the only authority competent to approve or disallow such dismissal, on the basis of full information obtained from the undertaking, the trade unions, the employment bodies and public or private economic institutions; as a last resort, the parties concerned may have recourse to the Labour Court to request it to fix compensation at the appropriate rates.

In recent years, undertakings have taken a stand against rigidity in cases of redundancy, criticizing the adverse and burdensome effects of legislation which affords so much protection against dismissal. The workers, on the other hand, want at all costs to preserve this legislation which protects their rights and interests.

The Government intends to draft appropriate legal provisions to regulate the situation in respect of the right to strike and of lockout, and to submit them to the Cortes Parliament for approval.

It should be noted that the Royal Decree-Law 17-1977, of 4 March 1977, respecting labour relations (concerned with redundancy, the right to strike and lockout), has been criticized by both employers and workers, although it is being applied with great flexibility, to the benefit of both sides.

While there is increasing flexibility in cases of redundancy and it is becoming easier to dismiss individual workers when such dismissal seems justified, facilities and possibilities for having recourse to strikes have also developed considerably, and an attitude of greater tolerance towards the exercise of the right to strike is being adopted. This is shown by the following figures on the number of strikes occurring in recent years: in 1973 there were 931 labour conflicts, involving 357,523 workers; in 1974, 2,290, involving 685,100 workers; in 1975, 3,156, involving 647,100 workers; and in 1976, 40,179, involving 2,463,500 workers.

In 1977 there was a significant decline in the incidence of labour conflicts; in December 1977, the number of conflicts was estimated to be approximately half of the number which had occurred in the same month of 1976.

(6) Legislation providing for protection against unemployment has undergone successive revisions which have resulted in significant progress.

Unemployment insurance benefits are regulated by Decree-Law 15/1976 of 10 August 1976, which alters the contribution base and improves the coverage of the unemployment insurance system and by the Order of 7 September 1976 to amend the Order of 5 May 1967, laying down rules for the provision and development of unemployment benefits under the general social security system.

These provisions represent progress both in providing guarantees for the worker faced with the loss of his wages as a result of involuntary unemployment and in strengthening the measures designed to eliminate cases in which unemployment insurance benefits are drawn in error by workers who are not entitled to them.

They alter the contribution bases on which the amount of the benefit is calculated so as to bring them into line with the wages actually received by workers. They also extend the period of entitlement to the benefit (it was formerly six months, which could be extended by a further six months by establishing a second extension, thus providing for a total period of entitlement of 18 months.

The amount of benefit payable during the initial period and the first extension is 75 per cent of the contribution base, but it may under no circumstances be less than the minimum interoccupational wage which is determined and periodically revised in accordance with variations in the cost-of-living index. The amount of the benefit payable during the second extension, however, is only 60 per cent of the contribution base.

The conditions for entitlement to benefit are as follows: (1) The applicant must be affiliated to the social security system and have coverage for the period in question or be in an analogous situation, such situations including that of persons who, after completing military service, are unable to return to the undertakings where they formerly worked because the closing of such undertakings has been authorized, and persons suffering from temporary incapacity for work if, through no fault of their own, their contracts of employment have been terminated or suspended; (2) The applicant must have completed a minimum contribution period of six months within the 18 months immediately preceding the date of the termination or temporary suspension of employment or of reduction in the normal working day or number of working days; (3) The applicant must have been expressly declared to be legally in a situation of involuntary unemployment, by a decision of the competent labour authority, in a document on the initiative of workers or of undertakings (in the case of collective dismissal as a result of economic crisis), or through a definitive declaration of unlawful dismissal.

To offset the increase in the amount of the benefit and the extension of its duration, the new provisions introduce greater control to prevent possible fraud in the form of the illegal drawing of any benefits, on the part of both workers and employers.

If a worker who has the legal status of an unemployed person turns down a suitable offer of employment, i.e. an offer which corresponds to his physical capacity and occupational skills, this is sufficient reason to deny him the right to draw the benefit.

In addition, an employer who provides employment to a worker who is drawing unemployment benefits or receiving assistance granted because of unemployment is guilty of a serious offence which is punishable with a fine of between 5,001 and 100,000 pesetas. Similarly, if the beneficiary draws unemployment benefits fraudulently, he forfeits his entitlement to them.

The argument is being put forward that the unemployment benefit provides an adequate solution only to the problem of so-called "frictional" or "seasonal" unemployment, but is not so successful in the case of "technological" or "cyclical" unemployment. To help remedy this situation, provision has been made for certain supplementary State measures, as in other countries, although at present they are

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not sufficiently co-ordinated. Accordingly, the legislation in force also allows for "other supplementary benefits and indirect benefits" which are closely linked with the protection afforded by the unemployment benefit referred to above.

Thus, in addition to the assistance provided to unemployed workers through unemployment insurance, 3,611,900,000 pesetas were allocated for general protection against unemployment under the fifteenth investment plan of the National Labour Protection Fund (for the year 1976), and a further 3,178,100,000 pesetas were made available for the same purpose in the supplementary plan approved that year and implemented for the same purpose by the National Fund. The two budgetary allocations amount to a total of 6,790 million pesetas for the financial year in question.

Moreover, in the current year, under the sixteenth investment plan of the National Labour Protection Fund, 4,712 million pesetas have been allocated to general protection against unemployment, and there is a special further allocation of 6,207 million pesetas for the same purpose under the supplementary plan of this same year, making an over-all total of 10,919 million pesetas.

In short, the total amount allocated in the past two years has been 17,709 million pesetas, 13,454 million pesetas being allocated for assistance to unemployed workers entitled to receive the unemployment benefit provided under the social security system.

Recently, through the Council of Ministers, the Government approved an emergency budget of 70 billion pesetas to combat unemployment; so far, 31 billion pesetas have been distributed among the provinces which have been most seriously affected by unemployment.

The Ministry of Labour, taking the same selective approach, has allocated 93 million pesetas for projects to alleviate unemployment in various provinces.

Naturally, the measures designed to alleviate unemployment in Spain, like those introduced in other countries, do not allow for excessive delay at either the stage of corrective planning or that of practical implementation, which makes clear the seriousness of the problem both in Spain and in Western Europe in general.

At all events, it is important to bear in mind that in the medium term, and even more so in the long term, the volume of actual employment and, consequently, the level of unemployment, is directly linked not only with the maintenance of the rate of economic activity but also with a varied range of factors, both external (economic situation, trade and migratory flows from other countries etc.) and internal (population movements, demographic trends, changes brought about by the development of progressive social norms etc.).

C. According to figures of the National Statistical Institute, the total active population, in the first quarter of 1976, was 13,251,272, while in the same period in 1977 it was 13,154,100, which represents a decline in absolute figures of 197,172 (or 1.5 per cent). During the same period, however, the female active

population rose from 3,720,574 to 3,787,700, an increase in absolute figures of 67,126 (which represents an increase of 1.8 per cent).

Estimated unemployment over the last three years was, at 31 December, 248,792 workers in 1974 (42,229 in agriculture, 74,754 in industry, 89,709 in construction and 42,100 in the service sector); in 1975, 382,025 workers (48,921 in agriculture, 82,553 in industry, 196,597 in construction, and 53,954 in the service sector). In 1976, this figure reached a total of 553,789 workers (51,595 in agriculture, 157,244 in industry, 210,041 in construction and 134,909 in the service sector).

Registered unemployment, that is, the number of unemployed workers who sought assistance in finding a job from the employment offices and registered themselves as unemployed, reached a total of 447,507 as of 31 December 1976.

The number of persons entitled to benefit, that is, workers in a situation of involuntary unemployment and meeting the legal requirements, who drew the unemployment benefit was 95,525 on 31 December 1974, 186,235 in 1975 and 246,750 in 1976.

If these figures are correlated, the following conclusion is reached: since in December 1976 the number of persons drawing unemployment benefits was 246,750, and the number of workers who were registered in the employment offices as unemployed was 447,507, there was, in approximate terms, a coverage of well over 50 per cent, especially considering that not all those registered in the employment offices as requesting work were entitled to receive unemployment benefits and that a significant number of unemployed workers who were entitled to draw benefits did not receive them because they did not apply for them either through negligence or through lack of information.

In addition to the foregoing, it should be noted that there were 59,459 aliens working in the country in 1975, and 63,738 in 1976.

The social security system has spent the following amounts (in millions of pesetas) in the form of unemployment benefits: in 1970, 3,826.3; in 1971, 6,588.6; in 1972, 6,556.1; in 1973, 8,432.5; in 1974, 11,675.1; in 1975, 29,001.5 and in 1976, 33,695.0.

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The following amounts have been allocated to social advancement activities:

<u>Allocated for 1977</u>	<u>Invested in 1976</u>	
PPT course	1,004,025,553	980,000,000
Employment and training service (PPO - Workers' Vocational Advancement Programme)	600,000,000	678,000,000
Experimental centres	150,606,134	175,000,000
Management and social training	34,442,797	30,000,000
Admission to universities and higher technical schools	11,329,860	20,000,000
Technical assistance	46,893,100	29,000,000
Self-employed workers	15,154,200	15,000,000
Associative labour undertakings:		
Training	280,000	1,500,000
Associative labour undertakings:		
loans	303,493,106	376,000,000
Co-operative courses. "National Co-operative Federation"	11,000,000	10,000,000
Co-operative courses. "Institute of the Ministry of Labour"	2,471,323	2,500,000
Co-operative loans	1,104,502,041	964,000,000
TOTAL	<u>3,284,198,104.</u>	<u>3,281,000,000</u>

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ARTICLE 7: THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

A.

1. Most important provisions

Act on Employment Regulations of 16 October 1942, giving rise to:

The elaboration of Labour Regulations and Ordinances for all sectors of production;

The compulsory drafting of internal work rules for undertakings with more than 50 permanent workers.

Act on Contracts of Employment of 26 January 1944

Legislation on Collective Trade Union Employment Agreements:

Act 38/1973, of 19 December 1973, together with Ministerial Order of 21 January 1974, laying down standards for its application and development;

Royal Decree-Law 17/1977 [Title III only] of 4 March 1977.

Decree 2310/1970, of 20 August 1970, on the political, vocational and labour rights of women

Decree 2380/1973, of 18 August 1973, on wage provisions

Order of 22 November 1973, developing the previous Decree

Decree of 20 December 1974 on harmonization of wage conditions established in Employment Ordinances and Collective Agreements

Act 16/1976 of 8 April 1976 respecting employment relationships

Royal Decree-Law 17/1977, of 4 March 1977, respecting labour relations

Royal Decree 2499/1977, of 23 September 1977, revising the minimum interoccupational wage for the period between 1 October 1977 and 31 March 1978

2. The current act respecting employment relationships provides in article 28, paragraph 1, that the State shall guarantee minimum interoccupational wage which shall be directly related to the national level of economic development, and which in any event enables a worker and his family to lead an honest and decent life.

Paragraph 2 of that article provides that the minimum interoccupational wage shall be determined annually, due allowance being made, inter alia, for the official cost-of-living indices, the average national level of productivity, the increased share of labour in the national income and the general economic situation. The said wage is to be revised after six months if the general cost-of-living index increases by at least 5 per cent.

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In other words, under this Act, there will be a revision at least once a year, taking effect on 1 April, and when the cost-of-living index increases by 5 per cent in six months, there will be another revision on 1 October.

The minimum interoccupational wage is simply a guaranteed wage, independent of any wage levels that may be fixed through regulation, ordinance or agreement. The wage revisions in agreements are not to be linked to increases in the minimum wage.

At the present time, the minimum interoccupational wage has been fixed by the Royal Decree of 23 September 1977 at 500 pesetas a day, or 15,000 pesetas a month, and applies to about 300,000 workers.

The procedure generally followed for the establishment of remuneration is that of agreement between the economic and social partners, embodied in collective labour agreements, in accordance with the provisions of Act 38/1973, of 19 December 1973, and the Ministerial Order of 21 January 1974.

The basic guidelines followed by this legislation in regard to wages are as follows:

(a) Freedom of negotiation regarding the percentage by which wages are to be increased;

(b) Minimum duration of one year;

(c) Prohibition of wage revisions during the life of the agreement other than those provided for in it.

Spain's economic situation prompted the promulgation of Decree-Law 43/77 of 25 November 1977, in which criteria were laid down to ensure that in 1978 aggregate wages would increase by no more than 22 per cent as compared with 1977, and that more favourable treatment would be accorded to the lowest wages, so that 50 per cent of the said increase would be distributed linearly. This criterion for wage limitation may be revised on 1 July 1978, if by June of that year consumer prices have increased more than 11.5 per cent as compared with December 1977. The limitations laid down in the Decree-Law are binding on the Administration and on public undertakings and financial institutions, and are to be used as a guideline by private undertakings, which must comply with the provisions of the Decree-Law if they wish to enjoy its benefits.

In the economic sectors of production and territorial divisions that are not covered by collective labour agreements, remuneration may be fixed through action by the Administration, by means of the corresponding Labour Ordinance, in accordance with the provisions of the Act on Employment Regulations of 16 October 1942 (art. 28 of Royal Decree-Law respecting labour relations of 4 March 1977).

The Labour Ordinances, thus embody sectoral wage regulations which, in practice constitute simply a secondary guarantee in marginal areas of the sector not covered by a collective agreement.

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Wage revisions effected by means of this procedure are not carried out at fixed intervals and usually take as a module the weighted average of the agreements in force in the sector.

3. The components of remuneration distinct from the ordinary wage are regulated in general by Decree 2380/73 of 17 August 1973 on the regulation of wages and specifically in the various collective employment agreements.

It should be noted that according to the provisions of the Act respecting employment relationships, workers are entitled to at least two annual bonuses equal to 21 days' wages, payable in July and December, although it must be observed that in general each of these bonuses amounts to the equivalent of 30 days' wages.

Wage supplements include the seniority supplement, which consists of a variable percentage increase over the basic wage, according to whether the system adopted is biennial, triennial or quinquennial.

— There is also the personal supplement, which is granted in recognition of special skills or qualities possessed by the worker, such as vocational diplomas, languages, and so on.

Similarly, attention should be drawn to the supplements for work that is particularly hard, toxic, dangerous and so on, consisting of an increment over the worker's basic wage, and to the night shift supplement for work done between 10 p.m. and 6 a.m., which amounts to a minimum of 20 per cent of the basic wage.

There are also quantity and quality supplements (premiums and incentive bonuses) which are paid for higher or better quality output.

Workers who are required to produce more than is normally required under systems where work is remunerated on a time basis must receive a sum larger than that established for the time wage, the latter being increased by at least the proportion laid down in the employment regulations or ordinances or in the collective agreements, that is, usually by a minimum of about 25 per cent.

In the provinces outside mainland Spain, workers are entitled to receive a residence allowance.

4. The following statistical data concerning the evolution of the minimum wage are particularly significant:

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Entry into force	Pesetas	Increase	Increase in cost of living
1/1/63	60	-	-
10/1/66	84	40.0	32.8
10/1/67	96	14.3	7.1
1/1/69	102	6.3	5.4
4/1/70	120	17.6	4.3
4/1/71	136	13.3	8.0
4/1/72	156	14.7	8.5
4/1/73	186	19.2	8.1
4/1/74	225	21.0	15.7
4/1/75	280	24.4	17.8
4/1/76	345	23.2	15.9
10/1/76	380	10.1	9.6
4/1/77	440	15.8	11.9
10/1/77	500	13.6	

5. The Decree of 20 August 1970 on the labour rights of working women provides that women shall be entitled to work in employment in full equality with men for all legal purposes, and to receive the same remuneration as men. The Act of 8 April 1976 respecting employment relationships provides that irrespective of her civil status a woman may conclude any type of contract of employment and exercise the corresponding rights on the same conditions as a man, including the right to receive remuneration, and that for equal work she shall receive the same remuneration.

The Act of 19 December 1973 provides that the introduction of clauses implying any wage discrimination on grounds of sex shall constitute grounds for refusing to ratify collective agreements.

6. It cannot be said that any difficulties have been encountered in applying the provisions of the Covenant, since even before it was signed Spanish legislation had already guaranteed workers the remuneration to which it refers, as indicated above.

B.

1. Principal provisions on occupational safety and health

General provisions:

General Occupational Safety and Health Ordinance, approved by the Order of 9 March 1971 (amendments to this Ordinance are currently being considered);

Royal Decree of 10 August 1976 to lay down rules for occupational safety and health services and institutions;

Decree of 11 March 1971 on occupational safety and health committees;

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Order of 9 December 1975 on relations between industrial boards and safety committees;

Regulation of employments prohibited to women and young persons on account of their dangerous or unhealthy nature, approved by the Decree of 26 July 1957;

Order of 26 August 1940 on the lighting of workplaces;

Order of 28 January 1958 on the prohibition of work of persons under 18 years of age in mines;

Order of 2 February 1961 to prohibit the manual carrying of loads of more than 80 kilogrammes;

Order of 2 August 1900, drawing up a list of employment accident-prevention systems.

Sectoral or specific provisions:

Regulations for mining inspection and supervision, approved by the Decree of 23 August 1934;

Order of 14 September 1959 and Resolution of 15 February 1977 on the manufacture and use of benzene and benzene compounds;

Decree of 19 February 1926 and Act of 28 May 1931 to prohibit the use of white lead and lead compounds in the interior painting of buildings;

Order of 22 December 1959 concerning protection against radioactivity;

Order of 19 September 1945 on the protection of health in the esparto industry;

Safety regulations for work in caissons and pressure chambers, approved by the Order of 20 May 1965;

Regulations for the safety, health and welfare of dockers of 6 February 1971;

Labour regulations or ordinances for each sector or activity, which set forth specific standards for the sector, for example, chapter XVI of the Labour Ordinance of 28 August 1970 on building and construction, glass and ceramics;

Collective agreements which elaborate on existing labour regulations or ordinances, in accordance with the Act of 19 December 1973 and title III of the Royal Decree-Law of 4 March 1977;

The chapter relating to safety and health in the Regulations on the internal management of undertakings.

2. The promotion, supervision or inspection of occupational safety and health have been entrusted to the following bodies:

The Supreme Occupational Safety and Health Council, which provides advice, impetus and encouragement at the highest level and sets the general guidelines for safety and health;

The General Directorate of Labour, which is responsible for co-ordinating, directing and expanding activities related to safety and health;

The General Safety and Health Section of the General Directorate of Labour, which formulates provisions regulating occupational safety and health, approves worker protection measures and sets forth the conditions which must be met in work places with a view to preventing occupational hazards;

The Labour Inspectorate, which supervises compliance with regulations concerning occupational safety and health;

The Social Service for Occupational Health and Safety, which is the technical body responsible for conducting surveys, research and training, offering advice and carrying out the activities recommended in the fields of industrial medicine and occupational safety and health, with the assistance and collaboration of the General Occupational Safety Section of the General Directorate of Labour and of the Inspectorate of Labour;

The National Institute for Industrial Medicine and Safety, which is part of the Social Service for Occupational Health and Safety;

The Organization of Industrial Medical Services, which is also part of the Social Service for Occupational Health and Safety;

The territorial institutes of the Social Service for Occupational Health and Safety, which are advisory and training centres within their respective areas;

The provincial occupational safety and health councils, which are consultative bodies for the promotion and co-ordination of health and safety activities at the provincial level;

The provincial technical boards, which are working groups of the provincial councils, responsible, at the provincial level, for activities recommended by the Social Service and, in particular, for assistance and technical co-operation with the Labour Inspectorate;

The industrial medical services within each undertaking, which deal with the protection and improvement of the workers' health and with the prevention of general and specific occupational hazards and of foreseeable occupational diseases;

The occupational safety and health committees, which are responsible for promoting compliance with legislation on safety and health in each undertaking, and for studying and proposing measures they deem appropriate in that connexion.

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3. The measures in question are fully applicable to all workers in all industries.
4. The trend with regard to employment accidents and occupational diseases from 1972 to 1976 is shown in annex I.

Employment accidents and occupational diseases for the first half of 1977 and the weighted estimate for all of 1977 based on these figures are shown in annex II.

Lastly, indices for employment accidents and occupational diseases (incidence, frequency and severity) for the country as a whole and by basic sector (agriculture and fisheries, manufacturing, construction and services) for 1976 are contained in annex III.

C. This section is covered by the information given previously.

D.

1. The principal provisions concerning rest, leisure, reasonable limitation of working hours and holidays with pay are the following:

Act of 4 July 1918 respecting the daily hours of work in commercial undertakings;

Regulations governing the application of the Act of 4 July 1918, approved by the Royal Order of 16 October 1918;

Decree-Law of 15 August 1927 respecting nightly rest for women workers;

Regulations governing the application of the Decree-Law respecting nightly rest for women workers, approved by the Royal Decree of 6 September 1927;

Act of 13 July 1940 respecting Sunday rest;

Regulations governing the application of the Act respecting Sunday rest, approved by the Decree of 25 January 1941;

Act respecting employment relationships of 8 April 1976;

Decree 860/1976, of 23 April 1976, respecting employment relationships for undertakings working shifts and for commercial undertakings;

Royal Decree 1095/76, of 7 May 1976, respecting overtime in certain services and jobs in the transport industry;

Royal Decree 1622/1976 of 18 June 1976, respecting rest periods in the continuous working day;

Royal Decree 2279/1976 of 16 September 1976 making temporary provision for hours of work and rest in the mercantile marine and the maritime fishing industry;

Royal Decree-Law of 4 March 1977 respecting labour relations.

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2. Article 25 of the Act respecting employment relationships of 8 April 1976 stipulates that a worker shall be entitled to an uninterrupted weekly rest of at least one-and-a-half days which, as a general rule, shall include Saturday afternoon or Monday morning and the whole of Sunday.

Article 23 of the same Act stipulates that the maximum length of the normal working week is 44 hours, which shall be distributed in such a way that no worker is employed on any day for more than nine hours.

In practice, the rest period in many types of work is two consecutive days: Saturday and Sunday.

Generally speaking, in practice the working week is less than 44 hours long, the majority of workers being employed 42 hours, and 40 hours in underground mining.

The number of hours of overtime may not exceed two hours a day or 120 hours a year and must be remunerated at 50 per cent more than the wage corresponding to a normal hour of work (art. 23 of Act respecting employment relationships of 8 April 1976).

Every worker is entitled to an annual period of at least 21 calendar days' leave with pay (art. 27 of the Act respecting employment relationships of 8 April 1976), but, in practice, the annual vacation period is longer and has been set at 30 calendar days in many collective employment agreements.

It should be noted that, in addition to the vacation period, every worker is entitled to 14 holidays a year, which are remunerated by undertakings in accordance with article 25 of the Act respecting employment relationships of 8 April 1976.

In addition to such periods of leave, a worker may be absent from work with pay for 10 calendar days in the event of marriage; for two days, which may be extended by not more than three further days, in connexion with his wife's confinement or the serious illness or death of his spouse or any child, parent, parent-in-law, grandchild, grandparent, brother or sister; for one day in the event of his removal from his normal home; and for such time as may be necessary to discharge any absolute public and personal duty and for the exercise of the right to general education or vocational training.

A woman worker is, in addition, entitled to a minimum rest period of six weeks before her confinement and eight weeks after, in addition to a one-hour break in the course of her work to enable her to nurse her child if it is under nine months old.

Sundays and holidays are remunerated in the same manner as any other working day, and persons who, because of the type of work they do, are employed on those days receive one day of compensatory leave during the following week, and, in the event such compensatory leave is not possible, the Sunday or holiday worked is remunerated at 140 per cent of the normal wage, in accordance with the Act respecting Sunday rest of 13 July 1940 and the regulations governing its application of 25 January 1941;

3. The Decree of 23 April 1976 stipulates that in undertakings in which work is performed by teams in shifts, the 12-hour rest periods between consecutive working days and the one-and-a-half days of rest per week may be computed by periods of up to four weeks, when the organization of work so requires. In commercial undertakings the weekly rest period of one-and-a-half days may be divided in such a way that, in addition to Sunday, each worker rests either for half a working day each week or for one complete working day every two weeks.

Article 23, paragraph (b), of the Act respecting employment relationships stipulates that where the normal working day is continuous, a rest period of at least 15 minutes shall be observed and shall be paid for as time worked, except that no wage increases shall be due in respect of quality or quantity, and it shall be reckoned for all purposes as part of the working day. This provision was amplified in the Decree of 18 June 1976.

The Royal Decrees 1095/1976 of 7 May 1976 and 2279/1976 of 16 September 1976 contain special regulations for hours of work and rest in the transport industry and in the mercantile marine and maritime fishing industry.

4. In practice, no difficulties have arisen with respect to compliance with the above-mentioned provisions, many of which have in fact been superseded by collective employment agreements concerning working days, vacations and rest.

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ANNEX I

TREND WITH REGARD TO EMPLOYMENT ACCIDENTS AND OCCUPATIONAL DISEASES

	1972	1973	1974	1975	1976	Percentage movement compared with previous year
Minor	1 098 873	1 160 762	1 168 137	1 079 368	1 044 273	-3.3
Major	13 889	14 415	14 475	15 797	13 255	-16.1
Employment accidents	2 993	3 351	3 481	4 239	3 594	-15.2
Accidents sustained on the way to or from work	143	231	646	706	458	-35.1
Occupational diseases	17 025	17 997	18 602	20 742	17 307	-16.6
TOTAL	1 468	1 758	1 695	1 585	1 600	0.9
Fatal	651	698	718	642	628	-2.2
Accidents sustained on the way to or from work	-	3	5	4	1	-
Occupational diseases	2 119	2 459	2 418	2 231	2 229	-0.1
TOTAL	1 118 017	1 181 218	1 189 157	1 102 341	1 063 809	-3.5
GRAND TOTAL						

SCOPE: NATION-WIDE
 PERIODICITY: ANNUAL

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ANNEX II
 STATISTICS FOR 1977

		First six months	Estimated total for 1977 (figures for first six months multiplied by 2)	Percentage movement compared with 1976
Minor		507 316	1 014 632	-2.8
Major	Employment accidents	6 099	12 198	-7.9
	Accidents sustained on the way to or from work	1 684	3 368	-6.3
	Occupational diseases	173	346	-24.4
	TOTAL	7 956	15 912	-8.07
Fatal	Employment accidents	717	1 434	-10.38
	Accidents sustained on the way to or from work	290	580	-7.6
	Occupational diseases	-	-	-
	TOTAL	1 007	2 014	-9.6
GRAND TOTAL		516 279	1 032 558	-2.9

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ANNEX III

INDICES FOR EMPLOYMENT ACCIDENTS AND OCCUPATIONAL DISEASES
 FOR 1976

The following indices have been worked out for the country as a whole and for the major economic sectors:

$$I = \text{Incidence} = \frac{\text{Number of work-place accidents resulting in injury} \times 100}{\text{Number of workers}}$$

$$I_F = \text{Frequency} = \frac{\text{Number of work-place accidents resulting in injury} \times 1,000,000}{\text{Number of hours worked}}$$

$$I_G = \text{Severity} = \frac{\text{Number of days lost} \times 1,000}{\text{Number of hours worked}}$$

	Incidence I	Frequency I _F	Gravity I _G
Country total	8.8	31.6	1.5
Agriculture and fishery sector	3.9	17.8	1.0
Industrial sector	12.3	57.5	2.5
Construction sector	14.4	63.5	3.6
Service sector	2.9	13.4	0.6

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ARTICLE 8: TRADE UNION RIGHTS

A. The political and trade union evolution that has been taking place in Spain since the end of 1975 has led to the disappearance of the vertical Trade Union Organization and its replacement by freely constituted workers' and employers' associations.

In the present transition period and pending the approval of a new constitution by the Cortes which will cover trade union rights, the main provisions governing the subject are: Act 19/77 to regulate the right to associate in trade unions, of 1 April 1977; Royal Decree-Law of 4 March 1977 respecting labour relations; Royal Decree-Law 31/77 of 2 June 1977 repealing compulsory trade union membership and reorganizing trade union structures; Royal Decree 3148/77 of 6 December 1977 on the election of workers' representatives at work places; and the ratification on 13 April 1977 of ILO Convention Nos. 67 and 68.

B. Right to form and to join trade unions

1. In accordance with article 1 of Act 19/77 of 1 April 1977, workers and employers may establish such occupational associations as they consider appropriate for the defence of their respective interests. Such associations must draw up their own rules and manage their affairs with complete autonomy, enjoying legal protection to guarantee their independence of the public authorities and to safeguard them against any act of interference by each other.

2. Associations established under the aforesaid Act must deposit their rules with the appropriate public office and acquire legal personality and full capacity to act after the expiry of 20 days reckoned from the aforesaid deposit, unless the competent judicial authority is requested within that period to declare that such rules are not in accordance with the law; in that case judicial authority must take the appropriate decision.

C. Right of trade unions to establish federations

Article 4 of Act 19/77 of 1 April 1977 authorizes occupational associations to establish federations and confederations which are to be governed by their own rules; the latter must be deposited with the public office set up for that purpose.

D. Right of trade unions to function freely

1. According to article 2 of the aforesaid Act 19/77 of 1 April 1977, workers and employers have the right to join occupational associations, subject only to compliance with their rules, and enjoy legal protection against any act of anti-union discrimination in respect of their employment or activities.

2. According to article 5 of the Act, such associations may be suspended or dissolved only by decision of a judicial authority, which shall be based on the fact that they have engaged in unlawful activities or be motivated by other reasons provided for by law.

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E. Right to strike

The right to strike is governed by title I of Royal Decree-Law 17/77 of 4 March 1977 respecting labour relations.

Notice of a strike must be communicated to the employer and to the labour authority by the workers in writing five days in advance, and where a strike affects public services at least 10 days' notice must be given.

While a strike is in progress, the employer may not replace the strikers by workers who were not connected with the undertaking when notice of the strike was given.

The strike committee must guarantee that the necessary services are maintained during the strike to ensure the security of persons and property, the upkeep of premises, machinery, plant and so on.

From the date on which notice of a strike is given and throughout the period for which it is in progress, the strike committee and the employer and, where appropriate, the representatives appointed by the various strike committees and the employers concerned must negotiate with a view to reaching agreement. The agreement whereby a strike is brought to a conclusion has the same force and effect as a collective agreement.

F. The additional provision of Act 19/77 of 1 April 1977 states that it does not apply to members of the armed forces and that the exercise by public servants and by civilians working in the service of the military authorities of the right to associate in trade unions shall be governed by special provisions. Decree 1522/77 of 17 June 1977 established regulations governing the exercise of the right of association by public servants.

G. It is clear that outstanding progress with regard to the recognition of trade union rights was made in 1977 with the publication of Act 19/77 to regulate the right to associate in trade unions, of 1 April, Royal Decree-Law 31/77 of 2 June 1977 repealing compulsory trade union membership, and Royal Decree 3149/77 of 6 December 1977 on the election of workers' representatives in work places. The election of those representatives is currently proceeding with the participation of all the trade union organizations, and the workers are freely electing their representatives by direct and secret ballot.

ARTICLE 9: THE RIGHT TO SOCIAL SECURITY

1. The Principal Acts, administrative regulations, collective agreements, judicial decisions and other types of agreement relating to the social security system, including social insurance schemes

The present social security system in Spain consists of a general scheme and a set of special schemes and came into force on 1 January 1967.

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The basis of the rules governing the system is Act 193/1963 of 28 December 1963 and the series of articles of that Act approved by Decree 907/1966 of 21 April 1966.

The publication of various legal provisions subsequent to the entry into force of the Social Security Act, including Decree-Law 10/66 of 10 December 1966, Act 30/68 of 20 June 1968, Decree-Law 13/71 of 22 July 1971, Act 118/69 of 30 December 1969, Act 14/70 of 4 August 1970, Act 25/71 of 19 June 1971, Act 33/71 of 21 July 1971, all of which affected the Social Security Act, and in particular Act 24/72 of 21 June 1972, on the amendment and perfecting of the protective action of the general social security scheme, which entailed a fundamental transformation of that scheme, as well as Decrees 1465/72 of 23 June 1972 and 1646/72 of 23 June 1972 which developed it, led to the publication, in accordance with the third final provision of the above-mentioned Act 24/72 of 21 June 1972, of the consolidated text of the General Social Security Act, which was approved by Decree 2065/1974 of 30 May 1974 and is still in force.

Many provisions have been adopted to develop and implement the General Social Security Act, the most important of which include the general regulations on benefits, approved by the Decree of 23 December 1966, the Order of 13 January 1967 on old-age benefits, amended by the Decree of 6 July 1967, the Order of 13 February 1967 on death and survivors' benefits, the Decree of 24 November 1966 and Decree 55 of 1 September 1971 on protection of the family, the Order of 13 October 1967 on temporary incapacity for work, which amplifies the Decree of 23 December 1966, the Order of 5 May 1967 on unemployment, the Royal Decree-Law of 15 August 1976 which improves unemployment protection, Royal Decree-Law 44/77 of 21 December 1977, which increases the duration of entitlement to unemployment benefits, the Decree of 23 December 1966 on pharmaceutical assistance benefits, amended by Decree 3104 of 14 November 1975, Decree 383/77 of 18 February 1977 on pharmaceutical restructuring, Decree 2766/67 of 17 November 1967 on medical assistance and the Order of 15 April 1969 on disability benefits.

The special social security schemes are as follows:

The agricultural social security scheme, governed by Decree 2123/71 of 23 July 1971, which approved the consolidated text of Acts 38/66 of 31 May 1966 and 41/70 of 22 December 1970, and the general regulations for its implementation, approved by Decree 3772/72 of 23 December 1972. The above-mentioned consolidated text was amended by Act 20/75 of 2 May 1975, which extended the health insurance benefits to self-employed persons.

This special scheme covers agricultural workers employed by another person and small holders owning farms whose value for tax purposes does not exceed specified limits.

The special scheme for seafarers.

This scheme is governed by Decree 2860/74 of 30 August 1974, which approves the consolidated text of Acts 116/69 and 24/72.

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This special scheme covers seamen employed by another person and owners of small vessels.

The special scheme for self-employed persons, established by Decree 2530/70 of 20 August 1970 and completed by other decrees, including Decree 1118/75 of 2 May 1975, 2398/76 of 1 October 1976 and 1074/77 of 23 April 1977, and the Order of 10 November 1976 which amends that of 24 September 1970.

The special scheme for domestic employees. The most important provisions governing this scheme include Decree 2346/69 of 25 September 1969 and Decree 825/76 of 22 April 1976.

The special scheme for students. This scheme was established under the Act of 17 July 1953 and the Decrees of 14 September 1956 and 11 January 1957, its field of application having been extended to cover almost all students by various decrees adopted subsequently.

The special scheme for commercial representatives.

This scheme was established by Decree 2130/67 of 19 August 1967 and repealed by Decree 2409/75 of 23 August 1975, which is currently still in force.

The special scheme for coal-miners.

This scheme is regulated by Decree 298/78 of 3 February 1978 and the Order of 3 April 1973, amended by the Order of 10 March 1977.

The special scheme for railway workers.

This scheme is governed by the consolidated text approved by Decree 2824/74 of 9 August 1974.

Artists

This scheme was established by Decree 635/70 of 12 March 1970. The latter was repealed by Decree 2133/75 of 24 July 1975, which is at present in force.

Authors

This scheme was established by Decree 3262/70 of 29 October 1970.

Bullfighters

This scheme was established by Decree 1600/72 of 8 June 1972.

Working members of production co-operatives

This scheme is provisionally governed by Decree 2566/71 of 13 August 1971.

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Public servants

This scheme is governed by Act 29/75 of 27 June 1975 and Decree 843/76 of 18 March 1976.

Armed forces

Members of the armed forces are covered by Act 28/75 of 27 June 1975.

Civilian employees of military establishments other than public servants.

These employees are covered by Decree 2528/70 of 27 August 1970.

It should be noted that the social security of the clergy is governed by Royal Decree 2398/77 of 27 August 1977.

2. Principal characteristics of the schemes in force for each branch of social security listed below, with an indication in each case of the percentage of the population covered, the quantitative aspects of benefits and the method of financing the scheme

(a) Medical services

Medical assistance is governed by articles 103 et seq. of the consolidated text of the Social Security Act. This assistance is provided to the insured and their beneficiaries whether they are being treated at home, at out-patient units or through hospitalization.

The risks covered by this system are: ordinary illness or occupational disease, maternity, and accidents no matter what their cause.

The beneficiaries are workers, recipients of social security pensions and their dependants.

The beneficiary has the right to free medicines for treatment given at social security institutions as well as for treatments necessitated by employment accidents or occupational diseases and treatment required by recipients of pensions. In other cases, the beneficiaries participate by paying a fixed amount per prescription, which is fixed by the Ministry.

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**Evolution of the population covered by the health care fund
from 1967 to 1975 (number of persons covered, variation index
and cumulative average annual growth rate)**

Year	Persons covered <u>a/</u>	Index 1967 = 100	Cumulative average annual growth rate
1967	18,379,863	100	-
1971	27,374,426	149	10.47 per cent
1975	29,965,654	163	2.29 per cent
1976	30,109,405	164	-

a/ Includes persons actively employed and persons treated as such, their dependants, pensioners and their dependants.

The fund is financed by the contributions paid by employers and workers, State contributions and transfers.

**Income of the health care fund administered by the National Social
Insurance Institute in 1967, 1971, 1975 and 1976**

(in millions of pesetas at 1975 constant prices)

Resources	Year			
	1967	1971	1975	1976
(a) Contributions	36,438.7	73,255.1	158,501.6	154,390.6
(b) State contribution	53.5	1,552.3	-	1,200.6
(c) Transfers:	6,680.2	16,245.9	27,798.0	23,702.3
From the special agricultural scheme	6,506.6	13,109.5	21,674.4	22,305.6
Others	173.6	3,136.4	6,123.6	1,396.7
(d) Other resources	1.6	233.3	0.9	2,686.7
(e) Deficit <u>9/</u>	1,338.1	1,422.5	-	7,334.2
Total income	44,512.1	92,709.1	186,300.5	189,314.4

9/ In 1975 there was a surplus of 10,049,000 pesetas.

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The social security system also covers permanently fitted surgical prostheses and permanent or temporary orthopaedic devices and their replacement, if necessary, and invalid vehicles. Financial assistance is also given for dental and other special prostheses specified by the regulations.

(b) Cash benefits for sickness

A worker temporarily incapacitated for work by ordinary illness, occupational disease or accident receives medical assistance for a period of up to 12 months, with possible extension for a further six months, and an allowance of 75 per cent of assessable remuneration, payable from the fourth day of absence.

Many collective labour agreements make provision for payment to a sick worker of 25 per cent of his wages, so that such persons receive 100 per cent of their wages, but it must be pointed out that opinions are divided on the advisability of such an arrangement, since it may encourage absenteeism.

In order to receive temporary incapacity benefits a person must be affiliated to the social security system, must be covered or in an analogous situation, and must have made contributions for 180 days during the five years immediately preceding the occurrence of the incapacity, except in case of accident, for which no qualifying period is required.

Temporary incapacity for work owing to ordinary illness: cases handled

Year	Number of cases	Number of days for which payments were made	Average duration (days)
1970	2,164,673	59,308,699	27.4
1971	2,714,530	75,647,544	27.9
1972	2,799,911	79,190,277	28.3
1973	3,105,467	82,566,491	26.6
1974	3,189,435	85,673,242	26.9

Expenditure on temporary incapacity payments made by the National
Social Insurance Institute (general scheme)

(in millions of pesetas)

Year	Expenditure on cash benefits for temporary incapacity
1967	3,005.6
1968	3,783.4
1969	4,812.2
1970	5,812.3
1971	6,998.5
1972	9,316.9
1973	17,310.3
1974	21,401.2
1975	28,137

Funding comes from employers' and workers' contributions, the State's contribution and transfers.

Temporary disability should be included under this heading, since there is no practical justification for maintaining the artificial distinction in the treatment of temporary incapacity for work and temporary disability. The next step would be to institute a single category and to adjust the period of payment of benefits, which would be treated as a preliminary stage towards a declaration of permanent disability.

In accordance with article 132 of the Social Security Act, disability is deemed to be temporary where the worker, on the expiry of the maximum period fixed for temporary incapacity for work, still continues to require medical assistance and is unable to return to work, but where it is believed that his disability will not be permanent. The maximum duration is a period of six years from the date on which he was found to be temporarily incapacitated for work.

Temporary disability: cases handled

Year	Number of cases	Number of days for which payments were made	Average duration (days)
1971	7,536	5,362,180	711.5
1972	11,684	7,475,016	639.8
1973	14,380	13,611,949	946.6
1974	22,035	20,247,148	918.9

Expenditure on temporary disability by the National Social Insurance Institute (general scheme)

(in millions of pesetas)

Year	Expenditure on cash benefits for temporary disability
1967	958.8
1968	698.1
1969	639.6
1970	819.9
1971	916.6
1972	1,119
1973	1,715.9
1974	2,833.0
1975	4,202.7

(c) Maternity benefit

Article 126 (c) of the Social Security Act provides that periods of maternity leave taken voluntarily or compulsorily for the duration prescribed in regulations, which must in no case be less than that prescribed for such periods in the Act respecting contracts of employment, are to be deemed to be situations causing temporary incapacity for work.

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Article 25, paragraph (4), of Act 16/76 of 8 April 1976 respecting employment relationships provides that a woman worker shall be entitled to a minimum rest period of six weeks before her confinement and eight weeks after. Every woman is obliged to take the post-natal rest period which may, where a woman so requests, be combined with any period not taken before her confinement.

For the periods in question, the woman worker is entitled to medical assistance during pregnancy, hospital care for the delivery and a cash benefit of 75 per cent of assessable wages.

In order to qualify for these benefits, the woman worker must have been affiliated to the social security system for at least nine months prior to delivery and have made contributions for 180 days during the previous year.

These benefits are funded on the same basis as those for temporary incapacity for work and are treated as such.

(d) Disability benefits

The primary or proximate causes of the reduction or loss of earning capacity occasioning the need for the benefit are deemed to be permanent incapacity for work of pathological origin, and secondary causes or causal risks are deemed to be employment accident, occupational disease, ordinary illness and ordinary accident.

Since occupational disease and employment accident are considered in another section, reference is made here only to disability caused by ordinary illness or ordinary accident.

Article 135 of the Social Security Act lays down the following degrees of permanent disability:

- (a) Permanent partial incapacity to engage in the usual occupation;
- (b) Permanent total incapacity to engage in the usual occupation;
- (c) Permanent total incapacity for all work;
- (d) Maximum disability.

To these degrees legal doctrine has recently added a further one, termed "Certified total incapacity to engage in the usual occupation" and established by article 11, paragraph 4, of the Social Security Improvement Act 24/72 and by article 6 of Decree 1946/72; it has been incorporated in article 136, paragraph 2, of the consolidated text of the General Social Security Act.

Permanent partial incapacity to engage in the usual occupation

Under the Act, this means any incapacity that, without being total, has reduced the worker's earning capacity in the said occupation by at least

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33 per cent, where the worker remains capable of performing the basic tasks involved in that occupation.

The cash benefit for such incapacity is a lump sum equivalent to 24 monthly payments of the base figure used to determine the cash benefit for the temporary incapacity for work giving rise to the disability.

Permanent total incapacity to engage in the usual occupation

This degree of incapacity is defined as that which renders the worker incapable of performing all the tasks involved in his occupation or the basic ones but does not prevent him from exercising some other activity. Judicial practice supplements the legal definition by certain qualifications: even if the worker can perform "less important and secondary" tasks in the same occupation or jobs which are secondary or complementary to it, the incapacity is total if he cannot continue to perform the basic tasks of the usual occupation "with a minimum of safety and efficiency".

The cash benefits for permanent total incapacity to engage in the usual occupation are:

(a) A life pension of 55 per cent of the base figure;

(b) The life pension may be replaced by a lump-sum benefit if the beneficiary is under 60 years of age. When such replacement has been authorized, the beneficiary, on reaching the age of 60, receives the pension previously authorized, with any applicable adjustments.

Certified permanent total incapacity to engage in the usual occupation

A person is considered to be suffering from such incapacity when because of his age or lack of general or specialized training and the social and working conditions of his place of residence, it is believed to be difficult for him to obtain employment in an activity other than that in which he was previously engaged.

In such cases the pension of 55 per cent applicable to permanent total incapacity to engage in the usual occupation is increased by 20 per cent.

Permanent total incapacity for all work

Such incapacity is defined as that which renders the injured person absolutely incapable of performing any work or accepting any employment whatsoever.

The cash benefit for permanent total incapacity for all work consists of a life pension of 100 per cent of the base figure.

Maximum disability

"Maximum disability" means the condition of a worker suffering from permanent total incapacity who, as a result of an anatomical or functional loss, is incapable of performing the most elementary acts such as dressing himself, moving around, eating and so on, without the assistance of another person.

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A worker who is declared to be suffering from a "maximum disability" is entitled to the pension for total incapacity for all work together with a 50 per cent increase to enable him to pay the person attending him. At his request this increase may be replaced by hospitalization and care at the expense of the social security system.

In order to qualify for permanent disability benefits, a worker must be affiliated to the social security system, be covered or in an analogous situation at the time when the contingency insured against occurs and have paid contributions over a period of 1,800 days in the 10 years preceding the date of expiry of the temporary incapacity for work giving rise to permanent disability, unless the latter condition is due to an employment or ordinary accident or to an occupational disease, in which case no preliminary contribution period will be required.

Prior to 1969, the classification of conditions of disability was carried out by medical boards, subject to the agreement of the governing body of the administrative body, but since that date this responsibility has lain with the technical assessment boards which are headed at the provincial level by a technical labour inspector. Their decisions may be appealed to the Central Assessment Board, headed by a labour judge, whose decision may be appealed by the person concerned to the Labour Court, as provided for in articles 118 and 120 of Decree 2381/73 of 17 August 1973.

Declarations of permanent disability may be revised on the following grounds:

- (a) Worsening or improvement of the condition;
- (b) Inaccurate diagnosis.

It should be noted that, in practice, applications for revision are received only from people claiming that their disability has become worse, for the purpose of obtaining a higher pension.

Articles 146 et seq. of the Social Security Act govern rehabilitation benefits for the disabled, but they have not achieved the desired result because the appropriate complex machinery to operate the system is lacking and because, through poor judgement, the workers concerned prefer a life pension to functional and occupational rehabilitation.

The foregoing refers entirely to the general social security scheme. Whereas the special schemes overlap or coincide with it as far as the definitions of degrees of disability are concerned, some of them have specific provisions, such as the special scheme for authors, which covers only permanent total incapacity and maximum disability, or the special schemes for self-employed workers and bullfighters, which do not cover partial disability to engage in the usual occupation.

The extensive work being done by the Social Recuperation and Rehabilitation Service for the handicapped to integrate the physically and mentally handicapped into society, pursuant to the powers conferred on it by Decree 731/74 of 21 February 1974, must be stressed.

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A person may receive a permanent disability pension while doing work suitable for the disabled at the same or another undertaking.

The benefits are financed from employers' and workers' contributions, and from State appropriations.

During the period 1972 to 1975, the average number of disability pensions approved almost doubled, going from 2,543 per month to around 4,700, an increase of 85 per cent.

Social security disability pensioners for the year 1977

General scheme + special schemes + Naval Social Institute + SOVI

Total disability - over age 65	41,907
Maximum disability	6,600
Total disability	285,556
SOVI disability	9,248

Special agricultural workers' scheme + Special scheme for domestic employees + Special scheme for self-employed workers

Maximum disability	2,128
Total disability - over age 65	55,307
Total disability	95,165

In 1977 the cost of pensions for disability caused by ordinary illness or accidents other than employment accidents amounted to:

Naval Social Institute	112,290,324 pesetas
General scheme	37,893,761,616 "
Special schemes	5,428,295,952 "
SOVI	709,911,192 "

(e) Old-age pensions

Retirement pensions are politically and economically the most significant and important part of the social security system.

Although the Act establishing the social security system envisaged a unified system governed by principles common to all schemes, in practice, failure to proceed with some of the special schemes - some of which are provided for in the Act and some not - encompassing major sectors leads to differing eligibility requirements for protection of old age under social security.

Under the general social security scheme, old-age benefits are governed by articles 153 to 156 and by the second and third transitory provisions of the Social Security Act relating to Decrees 3158/66 of 23 December 1966 and 6 July 1967, and to the Ministerial Orders of 18 January 1967 and 17 September 1976.

There is a single cash benefit for old-age pensioners, in the form of a life pension, the amount of which varies according to the number of years a person has contributed and the size of the contribution.

The minimum retirement age is 65, notwithstanding the fact that, under the Order of 17 September 1976, workers who became affiliated to the social security system prior to 1 January 1967 may apply to retire at age 60, although the amount of the pension they would receive on the basis of the number of years of contribution is reduced by factors ranging from 0.60 at age 60 to 0.92 at age 64.

It should be underlined that early retirement of workers before they reach the age of 65 also occurs as a measure to regulate employment authorized by the Labour Board and made possible by financial contributions from the undertakings concerned and from the National Labour Protection Fund which provide the capital necessary for payment of such pensions.

Under certain special schemes, such as those for coal-miners and seafarers, deduction factors are applied to reduce the length of qualifying service. To that end, a special computation is made of the work performed, which is rated according to the degree of danger, severity of environmental conditions, etc.

Under the special scheme for railway workers, specific provision is made for early retirement in the form of special powers vested in the company to rule that a worker has become redundant.

To qualify for the receipt of a retirement pension, a person must fulfil the age requirement, must be affiliated to the social security system, must be covered or in an analogous situation and must have completed a minimum contribution period of 10 years, of which not less than 700 days must have been completed during the seven years immediately preceding the date on which he becomes entitled.

The base figure for the retirement pension is the amount yielded by dividing by 28 the sum of the contributions paid by the worker over any consecutive period of 24 months, selected by the person concerned, which must fall within the seven years immediately prior to the date on which he becomes entitled to the pension.

The amount of the pension is calculated according to the number of years of contribution and the base figure, on a scale running from 50 per cent for a contribution period of 10 years and increasing gradually with the number of years of contribution to the maximum, 100 per cent of the base figure, when contributions have been paid for 35 years.

A pensioner in receipt of the old-age pension may not engage on his or anyone else's account in any work which falls within the scope of the social security scheme. However, under the special agricultural workers' scheme, an exemption is made for sporadic or casual agricultural work, so long as it is for periods not exceeding six consecutive working days in duration and does not total more than three months in any one year. Under the special scheme for railway workers, some permanent workers of RENFE, FEVE and concessionary railway companies serving the public may combine receipt of their retirement pensions with any other type of paid employment other than with the railway company by which they were formerly employed.

The pensioner and dependent members of his family are entitled to free medical care and prescription drugs.

Retirement pensions are constantly increasing, in terms of both the number of pensioners and the pension amount. While the latter differs, efforts are being made to institute uniform minimum pensions.

Persons drawing retirement pensions, 1977

General scheme + special schemes + Naval Social
Institute + SOVI

Retirement after age 65	864,703
Retirement under age 65	58,401
Old age, SOVI	334,903

Special scheme for agricultural workers, special
scheme for domestic employees and special scheme
for self-employed workers

Retirement after age 65	703,940
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The excess of the number of pensions paid each year over those which expire and their successive upward adjustments are the chief reasons why expenditure on retirement pensions, which was about 28,000 million pesetas in 1970, rose to 116,492 million pesetas in the financial year 1975 and to 181,776 million pesetas for the financial year 1977; the figure will again rise substantially in 1978 because of the adjustment to be applied from January onwards.

Attention should be drawn in this connexion to the provisions of Decree 85/78 of 24 January 1978 and the implementing Order of the same date, which call for an adjustment of retirement pensions on 1 January 1978 and another on 1 July this year; they also equalize existing differences in the minimum pensions paid under the general scheme, on the one hand, and the special schemes, and those applicable to coal-miners, railway workers, commercial representatives, artists, bullfighters, workers employed by another person in the special scheme for agricultural workers and seafarers on the other. The minimum old-age pension will be 10,800 pesetas a month as from 1 January 1978 and 12,600 pesetas from 1 July

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this year. For the special schemes for authors, self-employed workers and domestic employees, the minimum old-age benefit is 9,900 pesetas as from 1 January 1978 and 12,600 pesetas from 1 July this year.

These benefits are financed by the contributions of employers and workers, State appropriations and transfers from the general scheme to the special schemes.

(f) Survivors' benefits

Article 157 of the general Social Security Act provides that: "In the case of death from any cause, one or more of the following benefits, as appropriate, shall be awarded:

- (a) A funeral grant;
- (b) A widow's pension, payable for life;
- (c) An orphan's pension;
- (d) A life pension or as appropriate, a temporary benefit allowance, for family dependants".

In the case of death due to an employment accident or occupational disease, lump-sum compensation is granted, together with the accident insurance pension.

The funeral grant is a lump-sum payment of 5,000 pesetas and is paid to the person who has borne the funeral expenses of the deceased.

The widow's life pension is paid to a widow who habitually lived with her deceased spouse.

A widower is entitled to a pension only if at the time of his wife's death he was incapacitated for work and maintained by her.

For a surviving spouse to be entitled to the benefit, the deceased spouse must have completed a contribution period of 500 days in the five years prior to death, save where the cause of death is an employment accident or occupational disease, and must have been affiliated to the social security system and must have been covered or in an analogous situation at the time of death.

The widow's pension is 45 per cent of the base figure.

If the deceased was in receipt of an old-age or disability pension, the percentage may be increased to 60 per cent of the pension amount, provided that the resulting amount is not higher than would have been the case if the deceased had not been a pensioner.

In the case of death caused by employment accident or occupational disease, the widow or widower satisfying the requirements for receipt of survivor's benefits would be entitled to a lump-sum compensation equal to six times the base figure used in calculating the pension.

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An orphan's pension is awarded to each of the deceased worker's children regardless of the legal nature of their relationship on condition that at the time of the death of the worker they were under 18 years of age or were incapacitated for work.

The contribution period required is the same as for the widow's benefit, and the amount of the pension is 20 per cent of the base figure for each orphan.

The term "benefits for the deceased's family dependants" covers the following group of grants and pensions:

A pension for life for grandchildren, brothers and sisters, and relatives in the ascending line who satisfy the requirements, and for children and brothers and sisters of old age and disability pensioners subject to certain requirements;

A temporary allowance for daughters and brothers and sisters who satisfy various requirements. The maximum duration is 24 months and the amount is 20 per cent of the base figure.

The widow's pension is payable without regard to earned income.

All the periodically paid death benefits are abrogated by the death of the recipient, misrepresentation, a final conviction of guilt of the death of the insured person, remarriage or taking religious orders, and, in the case of orphan's benefits on reaching the age limit.

The estimated number of persons at present receiving widow's pensions is 780,000. As far as orphan's pensions are concerned, the available figures suggest about 115,000 pensions, giving a total of some 245,000 orphans protected by the social security system.

Decree 85/78 of 24 January 1978 and the implementing Order of the same date provided for an adjustment of widow's and orphan's pensions and benefits for the deceased's family dependants on 1 January 1978 and another on 1 July this year. Most minimum pensions have been increased and pensions under the general scheme and under the special schemes have been equalized. The new amounts under the general scheme and the special schemes for coal-miners, railway workers, commercial representatives, artists and bullfighters, workers employed by another person in the special scheme for agricultural workers, and seafarers are 6,900 pesetas for widow's pensions, 3,100 pesetas for orphan's pensions, and 3,100 pesetas for each recipient of a pension for the deceased's family dependants as from 1 January 1978, and from July of the current year, 8,200 pesetas for widow's pensions, 3,700 pesetas for each recipient of an orphan's pension and 3,700 pesetas for each recipient of a pension for the deceased's family dependants. Under the special schemes for authors, self-employed workers and domestic employees, the widow's pension is 6,300 pesetas, the orphan's pension 1,900 pesetas for each recipient and the pension for the deceased's family dependants 1,900 pesetas for each recipient, as from 1 January 1978; from July this year, they will rise to 8,200 pesetas

for the widow's pension, 3,700 pesetas for each recipient of an orphan's pension and 3,700 pesetas for each recipient of a pension for the deceased's family dependants.

These amounts are increased if the widow is over 65 years of age and where the recipient of an allowance for the deceased's family dependants is the sole remaining relative and there is no widow or orphan receiving a pension.

The pensions are paid monthly, with two bonuses in June and December, and pensioners are entitled to free medical and pharmaceutical assistance.

These benefits are financed by employers' and workers' contributions, a State appropriation and transfers from the general scheme to the special schemes.

(g) Benefits for employment accidents

The legislation governing employment accidents is found in articles 83, 84, 95, 93, 186-192, 213, 214 and 215 and chapters VI, VII and IX of the Social Security Act, supplemented by the Industrial Accident Regulations of 22 June 1956, the Decree of 13 April 1961 on occupational diseases and the Regulations of 9 May 1962 made under it, as amended by the Orders of 5 April 1964, 8 May 1965 and 29 September 1966.

Under Spanish legislation employment accident means any bodily injury suffered by the worker in the course of or as a consequence of the work he performs in the employment of another person.

The definition of employment accident includes accidents sustained by the worker on his way to or from work (in itinere) which, since many workers live in major population centres may result in a large number of injuries.

Under article 85 of the Social Security Act, occupational disease means any disease contracted as a result of the work performed for another while carrying out any activity specified in the schedule drawn up for that purpose.

Workers affected by employment accident or occupational disease are entitled to the medical assistance and incapacity benefits provided for in the Social Security Act (arts. 100 et seq. and chap. V) and, if permanent disability results from such accident or disease, to the pensions corresponding to the degree of disability certified and rehabilitation benefits (arts. 155-157 of the Social Security Act).

In the case of death from employment accident or occupational disease, the beneficiaries of the insured person are entitled to the funeral grant and to the widow's, orphan's and family dependant's pensions, plus the lump-sum compensation payable to widows and orphans.

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The base figure for the calculation of benefits is the real wage of the worker up to a certain ceiling for contribution purposes.

The degrees of disability are classified by the technical assessment boards, which are also responsible for revising them. Any disputes concerning employment accident or occupational disease that may arise between the worker and the administrative bodies are settled by the Labour Court.

Attention should be drawn to the increase in benefits provided for in article 93 of the Social Security Act, of 30 to 50 per cent of the cash benefit when the accident was the result of failure to observe security and health measures, the penalty falling directly on the offending employer.

The recipient of a pension for employment accident may engage in any type of work.

The employment accident scheme is financed solely from employers' contributions through insurance arranged with the Workers' Mutual Provident Fund or Employers' Mutual Fund.

All pensions for employment accident and occupational disease have been adjusted upwards and minimum rates have been established with effect from 1 January 1978, with a further adjustment on 1 July this year, under Decree 85/78 of 24 January 1978 and the implementing Order of the same date.

Because of the special nature of employment accident insurance, the worker is not required to have made contributions for any specific period in order to qualify for benefits, but only for the period during which he worked for the employer.

(h) Unemployment benefits

Unemployment benefits are governed by articles 172 et seq. of the Social Security Act, the Order of 5 May 1977, Royal Decree-Law 15/76 of 10 August 1976 improving protection against unemployment, the Order of 7 September 1976 implementing that Decree, the 1977 sixteenth investment plan of the National Labour Protection Fund, and Royal Decree-Law 44/77 of 21 December 1977, extending the period of benefit.

Article 172 of the Social Security Act defines the expression "unemployment" as meaning any case where a worker who is able and willing to work loses his employment through no fault of his own where such person's normal working hours are reduced on similar grounds by at least one third.

Certain groups of workers, such as agricultural workers, self-employed workers, commercial representatives, domestic employees, authors, bullfighters and students, are excluded from unemployment insurance benefits.

It should be noted, however, that the exclusion from unemployment insurance of agricultural workers is mitigated by the application of the subsidies for public works, on which these workers are employed at certain times of the year.

The requirements for receiving unemployment benefits are that the worker should be covered by the social security scheme and have contributed for six of the preceding 18 months, and that the loss of his employment cannot be held to be his fault.

If the worker was not affiliated to the social security system although entitled to be, the benefits will be granted to him without prejudice to any action which the administrative bodies may take against the offending employer.

The amount of the benefit is 75 per cent of the base pay for contributions purposes, as in the case of employment accident and occupational disease.

This 75 per cent is brought up to 100 per cent of base pay in many instances by the National Labour Protection Fund, and by employment regulation measures taken by the employers concerned. The period of entitlement to this benefit is six months, which may be extended for a further six months (art. 176 of Social Security Act); under the provisions of article 1 of Royal Decree-Law 15/76 of 10 August 1976, there may be a second extension of six months if the circumstances that gave rise to the original benefit still subsist, in which case the amount of the benefit is 60 per cent of the base figure.

Under Royal Decree-Law 44/77 of 21 December 1977, the maximum period for the payment of unemployment insurance benefits was extended by a further six months during 1978 for subsidized workers in certain circumstances, particularly relating to age.

Royal Decree-Law 15/76 of 10 August 1976 and the Order of 7 September 1976 laid down specific regulations for cases of suspension of the right to benefits and for penalties against employers and workers in breach of the legal rules.

Up to 1975 unemployment figures in Spain were very low, and consequently the cost of unemployment insurance was not high. Since 1975 and 1976, the continuing rise in unemployment has made it necessary to increase contributions in order to fund the scheme, and the rate is now 2.7 per cent, payable by the employer and the worker.

By way of example, in August 1977, 270,665 workers were collecting unemployment insurance and the benefits paid totalled 6,586.6 million pesetas.

It is of interest to note that in 1977 the National Labour Protection Fund provided supplementary assistance to a total of 4,100 million pesetas to striking workers whose entitlement to unemployment benefit was recognized.

Average unemployment benefit per worker covered

Years	Total benefits (in millions of pesetas)	Number of recipients (monthly average)	Average yearly benefit granted (in pesetas)
1970	4.551,5	75,823	60.020
1971	7.879,2	100.892	73.130
1972	7.522,9	85.415	88.074
1973	8.091,5	61.871	130.780
1974	11.174,1	70.183	159.213
1975	27.684	167.563	161.130
1976	32.635	246.750	132.262
1977	68.785	289.519	237.200

Financial situation in terms of risks covered

Year	Contributions	Benefits	Difference
1970	8.018,8	4,551,5	3.467,3
1971	6.892,4	7.379,2	-486,3
1972	9.434,1	7.522,9	1.911,2
1973	11.313,2	8.091,5	3.221,7
1974	11.972,7	11.174,1	793,6
1975	18.000,0	27.684,0	7.671,0
1976 <u>a/</u>	-	32.635,0	

a/ Estimate in accordance with the budget approved for 1976.

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(i) Family benefits

The protection of the family is governed by chapter X of the Social Security Act (arts. 167-171) and of the Fourth Supplementary Provision of that Act.

The present system has replaced the earlier systems of family benefits and bonuses, has standardized wives' and children's benefits and has removed the inequalities which arose under the former family bonus scheme. Although, in order to avoid prejudicing acquired rights, the cash benefit payable in that respect, workers' entitlement to which was recognized when the Act entered into force, has been maintained; entitlement to that benefit will gradually expire as changes in the family situation occur (attainment of age of majority, death, ec.) and the new situations will be governed by the provisions of the Act in force.

Allowances are periodic or payable as a lump sum; thus, a worker receives monthly payments of 375 pesetas in respect of his wife and of 250 pesetas in respect of each child who is under 18 years of age or is incapacitated for work; upon marriage he receives a lump-sum grant of 6,000 pesetas and on the birth of a child he receives a lump-sum grant of 6,000 pesetas.

Where the wife works, she is not entitled to receive the assistance which would otherwise be payable to her.

Family allowances may not be drawn simultaneously with other allowances of a similar nature.

Under the special agricultural workers' scheme, payments are lower: 275 pesetas in respect of the wife and 200 pesetas in respect of each child.

The conditions required are that the couple shall be married, that they should live together and that the wife shall not be employed.

The allowance in respect of children is payable on condition that they live with the person to whom the allowance is paid, and regardless of the legal status of their filiation, including that of adopted children.

Persons in receipt of large-family allowances are entitled to an increase in benefits of 25 per cent, 30 per cent or 35 per cent depending on whether the family is classified in category 1, 2 or the honour category, respectively.

The number of persons receiving periodic payments under the general scheme has risen from 3,575,031 in 1970 to 4,782,299 in 1975 and is still increasing.

Under the special agricultural workers' scheme, the number of persons in receipt of benefit has fallen slightly, so that, while in 1970 it was 1,158,921, in 1975 it was 1,075,901.

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3. Factors and difficulties affecting the extent to which the right to social security is implemented and progress made, particularly progress in respect of the inclusion of new areas in the social security system, the extension of existing plans to new population groups and quantitative and qualitative improvements in benefits.

The promulgation of the Social Security (Basic Principles) Act, of 28 December 1973, ushered in far-reaching changes in the system which have been carried out in accordance with the statement in the introductory section of the Act to the effect that while the reform as a whole is unquestionably a necessity, this is fully compatible with its gradual and progressive introduction.

The system has developed on the basis of that position and in accordance with the process of improvement indicated thereby. On the one hand, entitlement to new technical benefits has been opened up, in the form of social services, assistance to pensioners, the Occupational Health and Safety Service, the Retraining and Rehabilitation Service for the Disabled etc., while on the other hand Act No. 24/72 revised and improved certain benefits and laid down regulations for the social security contributory scheme and benefits under that scheme with the purpose, which has not as yet been fully achieved, of co-ordinating benefits with workers' actual wages.

In addition, the most important special schemes, such as the agricultural workers' scheme and the seafarers' scheme, have undergone substantial changes and improvements with the promulgation of Decrees 2123/71, of 23 July 1971, 3772/72, of 23 December 1972, and 2860/74, and Act 20/75, of 2 March 1975.

The population covered by social security has increased significantly since 1967, as indicated in the following statistical tables.

Relationship between the economically active population and
affiliation to the social security system a/

(Total figures)

Year	Economically active population	Social security system	Coverage (percentage)
1967	12,344,000	8,623,806	69.8
1968	12,520,100	8,644,227	69.0
1969	12,592,800	8,792,127	69.8
1970	12,732,200	8,920,443	70.0
1971	12,864,700	9,256,959	71.9
1972	13,006,000	9,632,729	74.0
1973	13,161,800	9,932,554	75.4
1974	13,332,000	10,134,109	76.0
1975	13,350,800	10,780,382	80.7

a/ Excluding students.

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Social security system

(Population covered)

Year	Total population	Total population covered	Coverage under the social security system (percentage)
1971	34,003,000	27,971,310	82.26
1972	34,364,500	28,749,998	83.66
1973	34,729,800	29,119,781	83.85
1974	35,098,900	30,211,678	86.07
1975	35,471,800	31,146,080	87.80
1976	35,848,800	31,475,099	87.80

The profound changes undergone by Spanish society and the political and trade union changes which have occurred since the end of 1975 are among the factors giving rise to the reform of the social security system, the importance and necessity of which was recognized in the Moncloa Pacts concluded between the national Government and the representatives of the Parliamentary opposition.

Certain legislative measures adopted recently should be emphasized as constituting the beginnings of the future reform.

These include: Royal Decree 1558/77, of 4 July 1977, to establish the Ministry of Health and Social Security, the structure of which was specified in Decree 1918/77, of 29 July 1977;

Royal Decree 2398/77, of 27 August 1977, to make regulations governing social security for the clergy;

Royal Decree 2564/77, of 6 October 1977, concerning the new management structure for workers' mutual benefit societies and the rationalization of spheres of competence in certain special schemes;

Royal Decree 85/78, of 24 January 1978, concerning the revision of pensions, which applied the principle of granting larger increases to the lowest pensions and of standardizing the minimum pensions under the general scheme and the other special schemes as from 1 July of the current year.

By Act 1/78, of 19 January 1978, the Summary Budget for the Social Security system for 1978 was approved; the projected expenditure in respect of obligations under both the general scheme and the special schemes was given as 1,285,350,000,000 pesetas and the projected resources for the financial year totalled the same amount.
