



ESPN Thematic Report on Retirement regimes for workers in arduous or hazardous jobs

Spain

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European Social Policy Network (ESPN)

**ESPN Thematic Report on
Retirement regimes for
workers in arduous or
hazardous jobs**

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Summary/Highlights

Since its 1963 reform, the Spanish Social Security system has regulated working conditions and retirement for workers in arduous or hazardous jobs (WAHJ). The retirement pension system for WAHJ is classified into two levels: a) WAHJ who are subject to a special status within Social Security: coal miners and sea workers; b) WAHJ who are subject to the general social security scheme: miners not included in the special scheme for Coal Mining, bullfighting professionals, technical flight personnel, railway workers and artists. Both groups are included in the PAYGO scheme. The WAHJ benefit from a reduction coefficient for retirement before the statutory retirement age; the coefficient varies according to the profession and the arduousness of the job.

As a way of extending the working life of these workers, retirement is often pushed back by improving working conditions as retirement approaches, reducing working hours, replacing hazardous or arduous jobs for less arduous working activities, or with partial retirement. The aim of these measures is to reconcile early retirement due to the hazard or arduousness of job with extending working life and improving working conditions. These policies are applied by sector, although not generally or systematically.

Evidence shows that, in Spain, the cost of early pensions for the two groups with special social protection has no bearing on the sustainability of the pensions system, nor is their retirement age particularly far from those in the general regime.

Since 2004, the aim of the Social Dialogue has been to modernise the social protection system and make the public pensions system sustainable. Subsequently, and as a result of an agreement in 2006 between trade unions, business organisations and the government, a new procedure was approved in 2011 to define hazardous or arduous jobs. New pension reduction coefficients for early retirement and some initiatives to extend working life where possible and to improve workplace risk prevention were also approved. In spite of this step forward, since 2011, Social Security has not adopted any initiatives for change and has not taken on the proposals of trade unions to harmonise the retirement system for hard jobs. The majority of these initiatives have been muted or shelved, despite the fact that these initiatives combine improved risk prevention with the extension of working life and early retirement.

Given the current Social Security regulation in this area, debates on reconciling arduous and hazardous jobs and retirement, and progress in the social dialogue, we recommend the following:

- a) Improved statistical information on the situation and conditions of early retirement for workers in the general regime performing arduous or hazardous jobs (retirement age and average pension of each group), and on the substitution rate between salaries of the last working years and the retirement pension.
- b) Effective application of the regulation approved in 2011 on this type of work in order to update the map of hazardous and arduous jobs. This means breaking the deadlock on the current rejection of the proposals made by trade unions and resuming an effective Social Dialogue.
- c) The Social Security system must adopt initiatives in this area for the implementation of the 2011 regulation, favouring agreements that encourage a greater balance between working conditions, extending working life and early retirement where necessary.

1 Overall description of the policy mix targeted at workers in arduous or hazardous jobs.

For a long time, the Spanish Social Security system has been recognising and regulating the working and retirement conditions of certain groups engaged in arduous or hazardous jobs, such as mining¹ and sea workers², as well as regulating the conditions for other groups that generally perform hazardous or arduous jobs, such as miners included in the Mining Statute (not included in the Special Scheme for Coal Mining), bullfighting professionals, technical flight personnel, railway workers and artists. In section 2 (and Annex, table 1) we perform a detailed analysis of retirement conditions for workers of the special regime and the general regime.

The number of workers making Social Security contributions in the sea workers regime (64,851) represents 0.39% of total contributors to the Social Security system, while coal mining workers (50,299) represent 0.03%. The number of WAHJ who are included in the general scheme is not specified.

Regulation policy for hazardous and arduous jobs has been characterised by three features. The first is its comprehensive coverage of various working conditions, spanning all arduous, hazardous, toxic and unhealthy activities. The second is early retirement due to occupational risk, reducing age or applying age-reducing coefficients to encourage sufficient income for retirement. And finally, often avoiding early retirement by improving the working conditions, wherever possible, as an attempt to delay early retirement and avoid added costs for the social protection system.

In spite of this, there have been no special innovations to extend working life in the majority of hazardous activities, although different options such as swapping hazardous activities for less hazardous ones, depending on circumstances (for instance, shifting work from inside a mine to open-air work) or partial retirement and reduction of working hours have been considered.

Since 2006, the importance and regulation of arduous and hazardous jobs has been part of the Social Dialogue. However, as we will see below, although progress in social agreements has been made, the practical improvements have been sparse.

The "Social Dialogue Declaration", signed between the government, trade unions and business associations in July 2004³, established the framework of socio-labour priorities for the 2004-2008 legislature. Two years later (13 July 2006) the same parties signed the "Agreement on Social Security measures"⁴, in which regulatory commitments were adopted to make the public pensions system sustainable and to support the extension of working life.

One of the fundamental commitments was to establish a general procedure to study the impact of hazardous and arduous jobs on working conditions and their modification⁵. In this way, early retirement and age-reducing coefficients are always an option when working conditions cannot be changed although, in any event, early retirement cannot take place before the age of 52, with the exception of special regimes (coal mining and fishing) which will progressively be adapted to this age.

This commitment was not immediately acted on, and it was not until 2011 that negotiations resumed and the regulations on conditions of arduous jobs were

¹ Royal Decree 384/1969. March 17, which regulates coal mining Special Social Security Scheme, updated by Decree 298/1973

² Royal Decree, April 21, which approves paragraph wording of Social Security Law 193/1963. Law 116, 1969, December 30, which regulates Sea Workers Special Social Security Scheme.

³ <http://goo.gl/ykhPVE>, annex VIII, pages 145-153.

⁴ <http://goo.gl/rz4Ptg>

⁵ This commitment was incorporated into the Social Security Act via an additional provision (45), via Act 40/2007, of 4 December, on Social Security measures.

established (and not without difficulty), with the implementation of early retirement in appropriate cases.

On 2 February 2011, in the context of profound economic depression, socio-economic agents and the government signed the "Socio-economic agreement for growth, employment and pensions guarantee"⁶, which adopts the reform of the pensions system and active employment programmes, approved by the government in 2011, as well as other industrial and innovation policies⁷. The Agreement resumes the commitment of the Social Dialogue in 2006 to establish a general procedure for approving age-reducing coefficients for arduous and hazardous jobs, and the study of these hazardous professions and activities.

As a result, a procedure was approved⁸ which can be initiated by the Social Security State Department or by businesses, unions and self-employed organisations. The procedure is split into two phases (article 11):

a) The first phase, once the procedure is launched, is a "compulsory study" of the situation of a production sector to analyse if there are hazardous, unhealthy or toxic working conditions, as well as levels of accidents, mortality and morbidity. The study takes the gender variable into account.

b) The second phase, "if working conditions cannot be changed", reduction coefficients are applied following analysis of the potential costs of application for the Social Security system. If new age-reducing coefficients are recognised for early retirement in a specific production sector, Social Security contributions will rise in order to maintain the balance of the financial system.

Accordingly, the 2011 regulation prioritises analysis and prevention from arduous and hazardous working conditions rather than early retirement. Early retirement is the last chosen option once improving working conditions becomes impossible.

How does this regulation function in practice? Available evidence shows that there have been no proposals from the Social Security Department to study working conditions in a production sector since 2011 (with some exceptions in the public sector⁹). In this situation of paralysis, the unions have filed lawsuits in recent years. Thus, in February 2016, the Madrid High Court of Justice¹⁰ ruled in favour of the UGT trade union and against the Government due to the request for information that Social Security already had (such as the identification of all affected or hazardous companies in a production sector) in the demand for recognition of sewerage and construction of galleries in industry and construction as hazardous jobs¹¹.

This *de facto* rejection of the application of a regulation which had previous support from the Social Dialogue halts the current study and recognition of arduous and hazardous working conditions. This then affects workers from these sectors who see their potential rights pushed aside in favour of the financial sustainability of Social Security. The Government's muting or shelving of requests from trade unions prevents the application of a regulation that, by its philosophy and content, reconciles workers' rights to early retirement with improved working conditions.

⁶ <http://goo.gl/aq2YfG> ; <http://goo.gl/oMHk8G>

⁷ Act 27/2011, 1st August, on the update, adjustment and modernisation of the Social Security system (BOE no. 184, 2.8.2011).

⁸ Royal Decree 1698/2011, of 18 November, regulating the legal regime and general procedure to establish reduction coefficients and bring forward the retirement age in the Social Security system.

⁹ Local or municipal policing is on the verge of being recognised as a hazardous job.

¹⁰ Judgment 118/16-FGde 23 February 2016.

¹¹ UGT, "Noticias", 10.12.2015. UGT Communications Department for Metalworkers, Construction Workers and Related Activities. Industry Federation (MCA-UGT). This trade union has asked the Government to recognise the following as hazardous and arduous jobs: forest fire fighting and prevention, sewerage and tunnelling works, heavy goods vehicle driving.

2 Pension rules for workers in arduous or hazardous jobs.

As we mentioned in the previous section, the Social Security system has a general scheme with specific pension rules within the general pension system for certain groups of WAHJ (miners included in the Mining Statute¹² not included in the Special Scheme for Coal Mining; bullfighting professionals, technical flight personnel, railway workers and artists), and a special regime for Coal Mining Workers and Sea Workers (Annex, table 1).

A) General Regime¹³

As a general rule, the statutory retirement pension is granted at 67 years of age, or 65 when 38.5 years of social security contributions have been made. The minimum contribution period for entitlement to a contributory pension is 15 years. Yet for certain WAHJ¹⁴ this statutory retirement age can be reduced to age 55 or 60 (in the case of bullfighters and artists) or reduced by the application of reduction coefficients (miners included in the Mining Statute, technical flight personnel or railway workers) provided that they have actually worked in these activities for the minimum 15 year period of contributions.

- Coefficients to reduce retirement age apply to miners included in the Mining Statute, technical flight personnel or railway workers. These coefficients mean that the real retirement age is below the statutory retirement age, although retirement will never be possible below the age of 52¹⁵. The coefficients meet the following requirements:
 - They are applied as soon as the impossibility of changing working conditions has been ascertained by Work and Social Security Inspectors.
 - The retirement age reduction is calculated by applying the coefficient corresponding to each group to the time actually worked in this activity¹⁶. The working period must be at least 15 years. The resulting reduction is then subtracted from the statutory retirement age.
 - Any absences from work are discounted from time worked, except for those due to temporary incapacity, maternity, paternity and parental leave, or specific leaves provided for in bargaining agreements.

These reduction coefficients are as follows: for miners included in the Mining Statute, between 0.05 and 0.5 according to the hazard level and toxicity of the work¹⁷; for technical flight personnel, between 0.40 for pilots and co-pilots and 0.30 for aircraft mechanics, aerial photography operator navigators, technological means operators, aerial photographers and aerial camera operators¹⁸. For railway workers, a scale of between 0.10 and 0.15 is applied¹⁹

- Artists (singers, dancers and trapeze artists) may retire from 60 years of age if they have worked in their profession for at least 8 of the 21 years prior to

¹² The Mining Statute was approved by Royal Decree 3255/1983, of 21 December, <https://goo.gl/pdQJ9m>

¹³ For details please see <http://goo.gl/tTCyYH>

¹⁴ Early retirement due to a job is legislated in article 206 of Royal Legislative Decree 8/2015, of 30 October, the consolidated text of the Social Security Act, <http://goo.gl/ThD2sC> .

¹⁵ Except for Coal Mining Workers and Sea Workers included in the Special Scheme for whom coefficients were already recognised prior to January 2008.

¹⁶ For instance, a miner with 20 years of effective work to whom a reducing coefficient of 0.30 is applied will have a 6-year reduction of retirement age (20 working years x 0.30 = 6 years) meaning that his retirement age would be 59 years (65 years less the 6 years of reduction). These 6 years will be considered as contributory, in order for a total of 26 years to be considered for pension calculation.

¹⁷ The scale is established in the appendix of Royal Decree 2366/1984, of 26 December, <http://goo.gl/srZu4o>

¹⁸ Scale established in Royal Decree 1559/1986, of 28 June, reducing the retirement age of technical flight personnel, <https://goo.gl/7e5lgV>

¹⁹ Scale established in Royal Decree 2621/1986, of 24 December, <https://goo.gl/JMbPhL>

retirement. In all other cases, retirement from 60 is possible, but with a reduction of pension of 8% for each year remaining until statutory retirement. In both cases, registration with Social Security at the time of retirement is compulsory.

- Bullfighting Professionals may retire at the age of 55 or 60 depending on the risk that each type of professional must assume in the bull show²⁰ and the number of bull shows performed (more details in Annex, table 1). All Bullfighting Professionals must be registered with Social Security at the time of their retirement.

B) Special Schemes²¹:

- Coal Mining Workers: Reduction coefficients of between 0.05 and 0.5 are applied to them according to the danger and toxicity of the job. Coal Mining Workers below the age of 60 may only retire if the sum of the real age and the premium for coefficients exceeds the statutory minimum retirement age. Specifically, early retirement is possible from age 60, applying the reduction coefficients, for Coal Mining Workers who have paid contributions to the Coal Workers' Mutual Societies prior to 31 March 1969, to any employee of the Mutual Societies prior to 1967 or who have belonged to this special regime since 1 April 1969.
- Sea Workers benefit from retirement age reduction coefficients of between 0.1 and 0.4 according to severity and hazardous working conditions or distance of work place. These coefficients allow retirement age to be reduced by up to 10 years from the statutory retirement age, meaning that retirement before 55 is not possible.
- Sea Workers who have paid contributions to mutual societies specific to their group before August 1970 may retire early from the age of 55 (or 60 for dockworkers). In these cases there is a benefits deduction of 7% for each year remaining until the age of 65 when voluntarily retiring or when contributions have been made for fewer than 38 years, and 6.5% or 6% when contributions have been made for more than 38 years and to the contract is terminated for reasons other than free will.

C) General considerations: In view of this description, we make the following general considerations:

- In general, there are no additional periods or supplements to increase benefits since the reduction period of years of contribution would be considered as contributory to determining the percentage applicable to the base pension (except for bullfighters and artists).
- For WAHJ there are no benefit deductions (reductions in pension amount) for bringing forward the statutory retirement age, except, as has been mentioned, in three situations:
 - For singers, dancers and trapeze artists who do not exceed the threshold of minimum years worked.
 - Bullfighting assistants who have not performed in a minimum number of events.
 - Sea Workers in the Special Scheme who have been mutual society members and take early retirement.

²⁰ For example, matadors have more risk than bullfighting assistants

²¹ Details can be found at <http://goo.gl/GqG4Xp>

3 Retirement patterns and retirement income of workers in arduous or hazardous jobs.

Social Security statistics²² consulted only provide detailed information on sea workers and coal miners. The remaining arduous and hazardous professions are included in the general regime, and the situation of those performing hazardous jobs cannot be distinguished from the rest of the group.

The number of contributors to the sea worker's regime has been dropping over time, while the 2014/2013 year-on-year variation was 1.65%. Conversely, coal miners dropped sharply in 2011, 2012 and 2013 due to the restructuring of the sector, while experiencing a slight increase in 2014 of 5.61%.

The total cost²³ of sea workers' pensions represents 1.48% of the total cost of pensions, while that of coal miners is 1.2%, showing that there is a higher percentage of pensioners (2.68%) than occupied workers (0.42%) in the total for each group.

The average monthly pension²⁴ for those currently retired in the sea workers' regime is €1,175.92 per month, while that of the coal miners' regime is €2,039.27. Comparing these pensions with that of general regime pensioners (€1,165.10 per month), it is clear that the pension of sea workers is practically the same as that of the general regime, yet the average pension for coal miners is 75% higher.

The 2014/2013 year-on-year variation of the number of retirement pensions for sea workers shows a drop of 13.83%, while the number for coal miners has risen 9.92%.

The average retirement pension in 2016²⁵ according to gender shows that women retire later than men. This is due to women holding the majority of administrative jobs, while men hold the more hazardous jobs. The average retirement age for male sea workers is 59.1 years, while that of women is 64. For miners, the average retirement age for men is 57.5 years, and that of women is 61.4. For the general regime, the average retirement age is 63.5 years for men, and 64.2 years for women. This means that, on average, men in the sea workers' regime retire 4.4 years earlier, and miners 6 years earlier.

The aggregate income substitution rate²⁶ of the elderly is more favourable to men. In 2014, the value of this indicator for men was 0.65 in Spain and 0.58 in the EU-28²⁷. For women, in the same year, the value in Spain was 0.5, and 0.55 in the EU-28. There are no statistics on aggregate substitution rates for groups of the different Social Security contribution regimes. Accordingly, there is no data on sea workers or coal miners.

Persons who perform hazardous jobs suffer a higher number of workplace accidents and illnesses. This makes the rate of disability pensions greater than that of general regime workers. Coal mining is the sector that proportionally, by far, has the highest occupational accident rate in Spain.

The number of disability pensions for miners rose in 2014 by 70.69% compared to the previous year, while the number of disability pensions of sea workers dropped by 0.86%. Miners have the highest proportion of persons with a "major disability" pension (6% of the total disability pensions), while sea workers have the lowest (1.38% of the total), even below that of the general regime (2.48%).

The average disability pension for those in the sea workers' regime is €874.70 per month, while that of the coal miners' regime is €1471.12. In relation to the average

²² Social Security. Projected General Budgets 2016. Appendix to the Economic-Financial Report Data from June 2015.

²³ Including retirement incapacity, widowhood, orphan pensions and those to family members.

²⁴ Social Security. Monthly progress of Social Security pensions. Data from April 2016.

²⁵ <http://datos.gob.es/catalogo/edad-de-jubilacion-acceso-prestacion-69>. Data from March 2016.

²⁶ Ratio of the median of retirement pensions (between 65 and 74 years) with respect to income in the last phase of working life (between 50 and 59 years).

²⁷ European Union Statistics on Income and Living Conditions. (EU-SILC) EUROSTAT.

pension for the general regime – €953.99 per month, it is plain to see that sea workers' disability pensions are 8.3% lower than those of the general regime, while those of the miners' regime are 54% higher.

The higher accident rate and arduous and hazardous activities for workers in both regimes, and particularly for the coal miners, justifies bringing forward the retirement age and the higher amount of retirement and incapacity pensions. The better economic conditions for miners' pensions (sea workers only see minor advantages) does not seem to affect the sustainability of the Social Security system, due to the negligent impact of these groups on the overall System.

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Annex

Table 1: Retirement age reduction and benefits deduction for WAHJ

Retirement age reduction			Benefits deductions
	Reduction coefficients (applied on time actually worked) ²⁸	Early retirement	
General Regime			
- Miners included in the Mining Statute	0.05 to 0.5 according to hazard and toxicity of the work		No
- Technical flight personnel	0.40 for the pilot and co-pilot and 0.30 for aircraft mechanic, aerial photography operator navigator, technological means operator, aerial photographer and aerial camera operator		No
- Railway workers	Between 0.10 and 0.15		No
- Artists (singers, dancers and trapeze artists)		At 60 with a minimum of 8 years worked out of the 21 prior to retirement. In the rest of cases, retirement is possible before 60 but with benefit deductions.	Yes: 8% for each pre-retired year after 60 if the worker has not worked for at least 8 years out of the 21 years prior to retirement.
- Bullfighting Professionals		Age 55 (matadors, mounted bullfighters and apprentice bullfighters: with a minimum of 150 shows; banderilleros, picadors and comedic bullfighters with 200) Age 60 (puntilleros with a minimum of 250 bull shows) From 60 (bullfighting assistants with a minimum of 250 shows, although with benefit deductions)	Yes: 8% of the pension for each pre-retired year from the age of 60.

²⁸ Following application of the reduction coefficient, retirement is not possible before age 52, except for Coal Mining Workers and Sea Workers included in the Special Scheme for whom coefficients were already recognised prior to January 2008.

Special Schemes			
<ul style="list-style-type: none"> Coal Mining Workers 	Between 0.05 and 0.5	Early retirement from age 60 for mutual society members prior to 1969 or 1967 as appropriate	No
<ul style="list-style-type: none"> Sea Workers 	Between 0.1 and 0.4 (not below age 55)	Early retirement from age 55 (60 for dockworkers) for mutual society members pre-dating August 1970 (although with benefit deductions)	Yes. As appropriate, 7%, 6.6% or 6% according to the cause of termination and years of contributions.

