



European Platform
tackling undeclared work



Undeclared work in Personal and household services (PHS) – Investigation Campaign

Spain

	Summary <p>Since 2018 the Spanish Labour Inspectorate (ITSS) has been investigating the personal and household services (PHS) sector within the collaborative economy to combat undeclared work and facilitate the transition of PHS workers to the formal economy.</p>
Title of the practice in original language	<i>Actuación de la Inspección para hacer frente al trabajo no declarado en los servicios personales y domésticos</i>
Name(s) of authorities/bodies/organisations involved	<ul style="list-style-type: none"> ► The Labour and Social Security Inspectorate (Inspección de Trabajo y de la Seguridad Social, ITSS).
Sectors	<p>Maintenance and cleaning</p>
Target groups	<ul style="list-style-type: none"> ► Collaborative economy intermediaries (or collaborative platforms) in the PHS sector acting as proxies (directly targeted); ► Households employing domestic workers (directly targeted); ► PHS workers involved in undeclared work (directly targeted).
Purpose of measure	<p>Regularising undeclared work</p>

	Aims and objectives <p>The Spanish Labour Inspectorate is focusing on PHS collaborative platforms to detect undeclared work and promote regularisation. National laws have also been revised to ensure appropriate labour protection for PHS workers. The Labour Inspectorate provides the human and technical resources to carry out these activities while Spain's Ministry of Labour and Social Economy funds the measure.</p>
Background context	<ul style="list-style-type: none"> ► The term personal and household services (PHS) covers services carried out to support households including personal care activities and non-care activities (cleaning, laundry, meal preparation, etc.);ⁱ

	<ul style="list-style-type: none"> ▶ Spain has one of the highest numbers of PHS workers among industrialised countries.ⁱⁱ This sector supports 615 479 jobs and represents 3.3% of total employment.ⁱⁱⁱ Undeclared work is present throughout the sector and migrant women make up 42.2% of the PHS labour force;^{iv} ▶ Hiring of PHS workers on an informal basis directly by families tends to be the norm. Frequently, collaborative economy intermediaries (private companies, social enterprises, co-operatives, and others) act as proxies. Such collaborative platforms generally involve PHS workers taking on a bogus self-employed status which offers them very little protection; ▶ Since 2018 inspection activities on PHS collaborative platforms have been carried out at a national level and are ongoing.
Key objectives of the measure	<p>General Objective:</p> <ul style="list-style-type: none"> ▶ To improve the working conditions of workers in the PHS sector in line with ILO Convention No. 189; ▶ To facilitate the transition of PHS workers from the informal to the formal economy; ▶ To establish and maintain minimum levels of labour and social protection in the PHS sector. <p>Specific Objectives:</p> <ul style="list-style-type: none"> ▶ To investigate PHS collaborative platforms to combat (a) undeclared or under-declared social security contributions; (b) under-declared wages or working hours; (c) non-declaration of employer status; and/or (d) bogus employment contracts; ▶ To establish an appropriate legislative and regulatory framework for PHS. This means revising national laws to ensure appropriate coverage and labour protection, taking into account the gender dimension and the close connection of PHS work with international migration.
Main activities	<ul style="list-style-type: none"> ▶ Since 2018 the Labour Inspectorate has been investigating complaints and developing specific activities focused on PHS collaborative platforms. These activities are aimed at detecting undeclared work and at promoting regularisation of employment in the sector;^v ▶ The inviolability of the private home guaranteed by the Spanish Constitution means that households cannot be visited by labour inspectors. Thus, verification activities are carried out by analysing a range of commercial and labour documentation,

	<p>including: (a) invoices issued to persons providing PHS services; (b) commercial contracts; (c) corporate declarations to the Tax Agency; and (d) legal documentation on working hours;^{vi}</p> <ul style="list-style-type: none"> ► Interviews are also conducted at the Labour Inspectorate headquarters with workers and representatives of the collaborative platforms concerned; ► These investigations have shown that collaborative economy intermediaries: (a) contact clients and organise the provision of services; (b) set prices for the services to customers; (c) set the wages of the PHS workers; (d) are responsible to the clients for service quality. These characteristics are essential to an employment relationship yet PHS workers are generally not declared or registered as bogus self-employed workers. ► At the same time, national laws have been reviewed to identify differences in treatment and revised to ensure appropriate coverage and labour protection for PHS workers. Among other measures, unemployment protection has been extended to PHS workers; ► Finally, Spain has sought to conclude bilateral agreements to ensure appropriate coverage for migrant PHS workers and to allow the portability of contributory periods and/or acquired benefits. Agreements concluded with United States and Morocco explicitly include domestic workers.^{vii}
Funding/organisational resources	<p>The Spanish Labour Inspectorate provides the human and technical resources to develop the activities. The measure is financed by the Spanish Ministry of Labour and Social Economy.</p>
	<p>Outcomes</p> <p>At present, platform work plays a significant role in expanding precarious working conditions in PHS in Spain. The Labour Inspectorate is developing on-going activities to tackle this problem resulting in 2021 in significant numbers of PHS workers registering in the Social Security system for the first time and significant sums of unpaid Social Security contributions clawed back. Moreover, recent Spanish legal reforms have placed the rights of PHS workers at the same level as those of other workers.</p>
Achievement of objectives	<ul style="list-style-type: none"> ► In 2021 just over 1 500 PHS workers, previously in the informal economy, were registered in the Social Security, some were registered in the system for the first time and some were registered in the correct Social Security regime. The

	<p>Labour Inspection intervention resulted in fines for the employers while almost EUR 3 million in unpaid Social Security contributions were recovered;^{viii}</p> <ul style="list-style-type: none"> ▶ The measure is achieving its objectives with its activities reaching "hard-to-reach" groups, such as the bogus self-employed, workers in the informal economy, and migrant workers. Such workers are less likely to be inspected and are often more vulnerable to poor working conditions; ▶ The Labour Inspectorate has dealt with some of the greatest challenges that the PHS sector presents, overcoming (a) the difficulty of gathering information, mostly because of the informality of the employment relationship; (b) difficulties in gaining access to the workplace; Legislative measures have also achieved their objectives. The rights of PHS workers are gradually being set at the same level as those of other workers, and at present, domestic workers have access to all types of Social Security benefits.
Lessons learnt and success factors	<ul style="list-style-type: none"> ▶ PHS workers' undeclared status is often linked to the unaffordability of PHS in countries where little public financial support is given to the sector. In such a context, platform work plays an important role in expanding precariousness in PHS; ▶ There is also a direct positive correlation between PHS workers' working conditions and the quality of services; ▶ Formalising PHS also tackles the historical devaluation of female-dominated occupations (women make up 95.53% of the PHS labour force in Spain) and contributes to the erosion of gender stereotyping and the gender gap. If employers complied with minimum wage levels for PHS workers, wage inequality could fall by as much as 8.8% in Spain.^{ix}
Transferability	<p>The measure is transferable. In order for another Member State to implement it, relevant legislation needs to be in place to support the regularisation of PHS work, by equating PHS workers' rights to those of other workers. Besides, sufficient resources need to be allocated for effective implementation of the measure.</p>

Further information

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Useful sources and resources	<p>Labour and Social Security Inspectorate Strategic Plan 2021-23</p> <p>https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-20005</p> <p>Royal Decree-Law 16/2022 for the improvement of working conditions and Social Security of domestic workers.</p> <p>https://www.boe.es/buscar/act.php?id=BOE-A-2022-14680</p> <p>Practical guide to PHS employment in Spain</p> <p>https://portal.seg-social.gob.es/wps/portal/importass/importass/Colectivos/guias</p>
Metadata and key words for online search	<p>Spain; regular employment; legislative reform; bogus employment; collaborative economy; digital platforms; social security contributions; domestic workers; PHS sector; gender gap; migrant workers</p>

ⁱ European Commission Employment, Social Affairs & Inclusion. Personal and household services. <https://ec.europa.eu/social/main.jsp?catId=1427&langId=en> [Accessed 27/10/2022].

ⁱⁱ European Commission, Directorate-General for Employment, Social Affairs and Inclusion (2018). European Centre of Expertise (ECE) in the field of labour law, employment and labour market policy. Labour Market Policy Thematic Review 2018. Spain, p. 10. Available at the European Commission Employment, Social Affairs & Inclusion website. Personal and household services. National information by country: Spain. <https://ec.europa.eu/social/main.jsp?catId=1427&langId=en&> [Accessed 29/12/2022].

ⁱⁱⁱ International Labour Organization (2021). *Making decent work a reality for domestic workers*. p.35. https://www.ilo.org/global/publications/books/WCMS_802551/lang--en/index.htm [Accessed 29/12/2022].

^{iv} European Commission, Directorate-General for Employment, Social Affairs and Inclusion (2018), op.cit., p. 28.

^v *Plan Estratégico de la Inspección de Trabajo y Seguridad Social 2021-2023. Actuación 1.6. Trabajo doméstico*.

^{vi} Spanish presentation. Platform seminar on tackling undeclared work in the PHS sector, 10.3. 2022. Unpublished.

^{vii} *Convenio Seguridad Social España y los EEUU, BOE 29.3.1988; Convenio con Marruecos, BOE 13.10.1982*.

^{viii} Spanish presentation. Platform seminar, op.cit..

^{ix} International Labour Organization (2021), op.cit., p. 159.