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THE GERMAN AND SPANISH LABOUR MARKET



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THE GERMAN LABOUR MARKET

The Federal Republic of Germany is located in the heart of Europe, linking the west with the east, the north with the south. The most densely populated country in Europe, Germany has been flanked by nine neighbouring states since the unification of the two German states in 1990.

The Federal Republic of Germany covers an area of 357,022 square kilometres, and from west to east 640 kilometres. There are some 82.6 million people living in Germany; the country boasts a great cultural diversity and special region-specific qualities, charming towns and attractive landscapes.

Compared with other industrial nations, the German economy has an almost unprecedented international focus. Companies generate almost a third of their profits through exports, and almost one in four jobs are dependent on foreign trade. Ranking third in terms of total economic output, Germany is one of the world's leading nations.

In Germany, as in other countries, there has been a shift in the importance of individual business sectors over the past few years. The service sector has become considerably more relevant, and its role is by now almost on a par with that of

industry. The German IT and biotech sectors are both international leaders, as are technology for the use of renewable energies and environmental protection. The crafts trades continue to be an exceptional German feature and will in future remain at the core of the country's business life.

The German economy came to the end of a three-year stagnation phase in 2004 with an increase of 1.7% in gross domestic product (GDP), the first appreciable return to growth. The economic recovery, however, was not strong enough to have a beneficial impact on the labour market. Unemployment continued to rise. The average national unemployment rate for 2004 was about 10.5%. The considerable rise in the unemployment figures at the beginning of 2005 is largely due to the fact that former recipients of income support who now receive the new class-II unemployment benefit are registered as unemployed. This means that people who used to be numbered among the latent manpower reserve are now shown as registered unemployed persons. In February 2005, the unemployment rate stood at 12.6%. There are considerable regional differences in unemployment rates within Germany. The unemployment rate in eastern Germany is almost twice as high as the western figure.



TREND INDICATORS

UNMET LABOUR DEMAND

- Call Center (telemarketing)
- Retail trade
- Gastronomy
- Legal advice / Tax consultancy
- Nursing
- Construction
- Metal processing
- IT-sector

UNMET JOB DEMAND

Men:

- Trained Retail Salesman
- Vehicle Mechatronics Engineer

- Clerk
- Painter / Varnisher
- Cook
- Cabinet Maker
- Plant Fitter - sanitation, heating, plumbing
- Electronics Engineer
- IT-System Electronics Technician

Women:

- Clerk
- Doctor's Assistant
- Dentist's Assistant
- Trained Retail Saleswoman
- Hairdresser
- Hotel Manageress
- Paralegal

RECRUITMENT

In principle, all EU citizens have the right to work in the EU country of their choice. Freedom of movement, as it is known, is a right that is especially important within the EU, but also applies to other countries in the European Economic Area (EEA). The restriction of this right for citizens from the new Member States is a transitional arrangement for a limited period. Quite apart from this, however, implementing the principle of freely choosing where to work involves a number of practical obstacles: Anyone looking for a job in Germany needs to have sufficient knowledge of the language. Traditionally, both the public service and large companies require job applicants to submit certificates of academic and vocational qualifications.

Much more is involved in gaining access to professions or jobs that are regulated by law, including establishing oneself as a lawyer or working as a teacher in a State school, for example. In such cases, public institutions generally require applicants to take additional examinations besides proving their knowledge of German.

THE MEDIA

The most popular websites where job vacancies are provided:

www.arbeitsagentur.de
www.monster.de
www.jobpilot.de

www.meinestadt.de
www.jobstintown.de
www.jobrobot.de
www.jobs.de
www.jobscout24.de
www.backinjob.de
www.stellenboersen.de

APPLICATIONS

At present, job cuts and unemployment are making it difficult not only for Germans but also for foreign applicants to find work. What applicants need to do in this situation is to find a niche in the market or emphasise their particular skills.

It is just as difficult to give useful tips on applying for jobs as it is on looking for work. When your job application is considered, the content of your vocational training and your professional experience are just as important as your personality - which should also be reflected in what you write.

Detailed guidelines on how to write an application are generally unhelpful. They often lead people to follow a set format which is then obvious to the employer. So the following tips aim to encourage you to think for yourself and be creative:

- In a letter, state your reasons for applying specifically for this job.
- Avoid using set phrases.
- It is important to refer specifically to additional skills or activities that are not evident from

your vocational training or CV. Mentioning any honorary post you may hold or any demanding hobbies can say just as much about you as knowledge of languages, travel to unusual places and time spent abroad, and is a discreet way of demonstrating how you deal with stress, how open you are to new ideas, your social skills and your flexibility.

- Give the employer your exact contact details. As they are likely to have a large number of applications, they will probably only try to contact you once.
- Nowadays computer skills are a standard requirement.
- As a basic rule you should remember that what you say about your skills and abilities must be credible.

RECOGNITION OF DIPLOMAS AND QUALIFICATIONS

For most jobs it does not matter whether your vocational qualifications or higher education diploma are recognised in Germany. An employer will look at your application and decide on that basis whether your training and qualifications meet their requirements. However, you should assume that a prospective employer generally does not know precisely what your training has involved or what lies behind your job title. Letters of reference and confirmation that your qualifications are recognised may be useful in this respect.

So have your certificate translated into German by an approved translator. If necessary ask the experts for help. Such people can be found within the authorities or public institutions working on behalf of the State, e.g.:

- The Chambers of Industry and Commerce are responsible for all qualifications in the industrial/technical and commercial sector that come below a three-year higher education course.
- The Chambers of Crafts are responsible for qualifications in the crafts and trades.
- The Ministry of Agriculture or the Chambers of Agriculture are responsible for qualifications in agricultural professions.
- The Ministry of Education or the schools authority are responsible for educational professions.
- The Ministry of Health or authorities it commissions, e.g. medical associations, are responsible for health professions.
- The Ministry of Education or the higher education authority are responsible for higher education degrees (Bachelor and Masters degrees).

With the wide range of course content, the EU in Brussels is taking steps to improve mutual recognition by means of directives. The 'Euro-pass' for practical vocational training is a first step in this direction. A different approach will be taken for higher education establishments,

which in Germany, too, are increasingly offering Bachelor and Masters degrees.

CONCLUSION OF EMPLOYMENT CONTRACTS

While it is true that when someone enters permanent employment a verbal contract is also initially valid, nevertheless the essential terms of contract must be recorded in writing at the latest one month after the agreed start of the employment relationship. The employer must sign this written record and give it to the employee. Thus, from the start of the contractual relationship, you have a document that refers to collective and company agreements. The written record must also detail the nature of the job, amount of pay and agreed working hours, length of annual leave and

periods of notice for termination of employment. If you ever have a dispute with your employer, you can refer to this written record.

Rules have been laid down in legislation to protect employees as well as to make the labour market more flexible. Maternity cover and fixed-term employment for young people following vocational training fall within the scope of the legislation. It is designed to facilitate your entry into the world of work.

As a rule, your employer will agree with you on a probationary period, usually of six months. During this period, the employer can dismiss you with 14 days' notice without having to give a reason. Once you have successfully completed the probationary period, it becomes more difficult for both sides to ter-



minate the employment relationship. The longer you now stay with the company, the longer the period of notice to be given by either party.

NON-STANDARD TYPES OF EMPLOYMENT

Au pair

Staying in a family for a longer period is a very easy way of improving your knowledge of a foreign language, and for this a period as an au pair is ideal. Since the focus is on learning the language and getting to know the host country, such young people are not deemed to be in regular employment. Rather than wages, they receive pocket money of approx. EUR 205/month. In addition to this, the host family provides them with their own room and meals free of charge. To ensure an au pair has enough leisure time, the maximum number of working hours per week is 30 (five hours per day, i.e. one day off each week). Generally speaking, au pairs stay in families where both parents work and the children need to be looked after. They help with housework and look after the young children to relieve the burden on the parents.

Even though this type of 'employment' is not subject to compulsory social insurance, there are a number of formalities to be carried out, including for example:

- A written contract must be concluded between the au pair and the family

- The host family must take out insurance to cover sickness, pregnancy and birth, and accidents
- An application for an 'EC residence permit' must be made within the first three months.

Holiday jobs

There are special regulations protecting not only children but also young people between the ages of 15 and 18, and these must also be complied with when they work during the school holidays.

The following basic conditions apply to the working week:

- Five days' work (weekends off)
- Eight hours per day, i.e. 40 hours per week.
- Total breaks of 60 minutes per day, with a minimum break of 15 minutes at any one time.
- Work only between 6am and 8pm.

Since with few exceptions students are already 18 years old, these special regulations generally do not apply to them.

Holiday jobs offer a good opportunity to combine 'business' with pleasure: they give you a chance to get to know the country and its people and to earn some extra euros at the same time. School pupils and students should remember, however, to apply in good time for the necessary 'E forms' for social security.

REMUNERATION

The euro has made a number of things easier. Wages for blue-collar and salaries for white-collar workers are usually laid down in collective agreements. At regular intervals, the parties to the agreement, i.e. the employers' federations and the trade unions, adjust and renegotiate these agreements to take account of changes in working and living conditions. If your employer is a member of an employers' federation, there should be virtually no difficulty drawing up your employment contract or setting your wage or salary. Here, the collective agreement is the authoritative basis. It can only be modified if the works council and the employer agree on more favourable conditions for employees.

As a rule, collective agreements lay down not only remuneration but also the duties of employees in the different wage and salary brackets. This means you can check whether you are earning the correct amount. You will also find details of working hours, annual leave and special payments such as holiday and Christmas bonuses in the collective agreement. In some cases, it will also contain agreements on protection against rationalisation measures.

These collective agreements apply to specific branches of industry, clearly designated groups of professions or specific regions of Germany. In just a few instances, the Federal Minister for Economics and Labour may

CLARE a collective wage agreement to be generally binding. If so, the agreement applies to all employees and employers in that branch of industry, including those that are not organised. The validity of a national minimum wage in the construction industry has been especially important. But other sectors also have to implement such universally binding collective agreements, e.g. the security, hairdressing and industrial cleaning sectors. This is intended to guarantee a minimum income in these very low-paid areas.

WORKING TIME

Working hours - the scheduling and distribution of working time and breaks - are regulated by the Working Hours Act (*Arbeitszeitgesetz*). Further details are stipulated in collective agreements, which are often more favourable than statutory provisions.

In choosing where to work, it may be important to be covered by a collective agreement, but this will not be the decisive factor. It should be noted that full-time employees actually work around 40 hours per week.

There are a number of regulations protecting your health and capacity to work that you should be aware of:

- After six hours of work, you must take a break of 30 minutes. After working for nine hours, you are entitled to a total break time of 45 minutes.

- Your working day may be extended to up to 10 hours if over a period of six calendar months, you have not exceeded an average of eight hours' work per working day.
- If night work or shift work is customary in the company, this is permitted for both men and women. If there are medical reasons why you should not work at night, or if you are the sole carer of a child under 12 years of age or a relative in need of extensive care, your employer is obliged to transfer you to a suitable day job.

As a general rule, you can expect to work five days per week, i.e. with Saturday and Sunday off. Longer opening hours, more services available at the weekend and flexible wor-

king hours are increasingly eroding this rule.

The Working Hours Act allows 48 hours to be worked per week: spread over six working days, this means eight hours per day. As a consumer you may not, however, be willing to do without certain services. This applies in particular to services in the health and hotel and catering sectors, culture and transport. For these, then, there are specific regulations based on (EU) legislation and/or collective agreements.

ANNUAL LEAVE

The Federal Holidays Act (Bundesurlaubsgesetz) provides for leave of 24 working days. As Saturday is a working day, this amounts to four



weeks. This is the minimum entitlement for full and part-time workers, but certain categories of employees are entitled to more:

- Young people under 18 years of age have a statutory entitlement of between 25 (up to their 18th birthday) and 30 working days (up to their 16th birthday).
- The severely disabled receive an additional five days' leave, regardless of how much annual leave they have.

END OF EMPLOYMENT

Probationary period

It may be that at your interview you, or your employer, get it wrong. You will only know whether your new job is really as you imagined once you have worked there for some time. It may be that your colleagues have welcomed you and are delighted with your charming accent, but the job itself is not challenging enough. If this is the case, you need to take a rapid decision and hand in your notice during the probationary period - if you have found another job. Everyone is allowed to make a mistake: you must just admit to it quickly. During the probationary period - which often lasts six months - you or your employer can give two weeks' notice without needing to state the reason.

Fixed-term employment

Fixed-term employment with a written employment contract ends

automatically on expiry of the term. In this case, the employer does not need to give notice.

Periods of notice

Statutory periods of notice are set out in the German Civil Code, of which Article 622 regulates periods of notice for employment:

The employment relationship of a blue-collar or white-collar worker (employee) can be terminated with notice of four weeks up to the 15th or the end of a calendar month. Where notice is given by the employer, the periods of notice, where the employment relationship with the company has existed for

- two years = one month to the end of a calendar month;
- five years = two months to the end of a calendar month;
- eight years = three months to the end of a calendar month;
- 10 years = four months to the end of a calendar month;
- 12 years = five months to the end of a calendar month;
- 15 years = six months to the end of a calendar month;
- 20 years = seven months to the end of a calendar month.

If the situation becomes serious, do not hesitate to ask a lawyer to represent you. While this means it will be impossible to heal the rift with your employer, a settlement may be more favourable to you and avoid a period of ineligibility for unemployment benefit.

Scope of protection against dismissal

Protection against dismissal protects employees against socially unjustified dismissal. However, dismissal is justified if the employee or their conduct gives rise to criticism, or for urgent reasons connected with the company.

Smaller companies commonly recruit employees specifically for the completion of orders they have received. To render the labour market more flexible in this area and to ensure protection against dismissal does not hinder new recruitment, the Protection against Dismissal Act (Kündigungsschutzgesetz) was amended as of 1 January 2004. Since then, such protection against dismissal no longer applies to companies with up to 10 employees.

Redundancy

Any entrepreneur can decide to re-organise their company, which may be required, for instance, if the company balance sheet goes into the red. If there is a threat to jobs, the works council generally agrees to the necessary painful cuts. If orders and turnover are clearly falling, or losses cannot be stemmed by organisational and technical measures and it is not feasible to re-employ staff for less pay, then redundancies for reasons connected with the company may be necessary. It must be evident that the employer has not

taken the decision lightly. In addition, in agreement with the works council, candidates for dismissal must be selected on the basis of social criteria. Those who have long years of service, are older, have dependants or are disabled may to some extent be protected from dismissal. High performers whom the company is justified in retaining may also enjoy particular protection.

Dismissal for good cause

Dismissal for good cause is regulated by Article 626 of the German Civil Code. If the employee or their conduct gives cause for criticism, they can be dismissed without notice. However, the offences committed must be serious: obvious fraud or proven theft at work, for example. Nor should you defraud the tax authorities: for public-sector employers, this also represents grounds for dismissal.

The employee can also exercise the right to extraordinary termination of employment, i.e. without a period of notice, on the recognised grounds of serious slander, if the company pays them in arrears or stops paying their social insurance contributions.

Alcohol abuse at work and refusal to have treatment for alcoholism, despite repeated warnings, may constitute grounds for termination with notice.

Special protection against dismissal Members of the works council, employees on parental leave, pregnant women, the disabled, apprentices and those carrying out compulsory military or community service enjoy special protection against dismissal. In addition, employers can only dismiss employees with tenure, i.e. long-term employees, under certain conditions.

Letters of reference

When your employment ends, you are entitled to a reference. However, you will only be able to interpret it correctly if you are familiar with the usual way in which they are written and understand German extremely well. There will be additional difficulties if you wish to submit your reference for a job application in another country. If you encounter a serious problem, seek professional advice.

On termination of your employment, your employer must speedily return to you your tax card, social security documents, certificate of employment and E 301. Your certificate of employment and E 301 are essential if you want to claim unemployment benefit. If you encounter any problems in this regard, ask the staff of the employment office for help.

Works council involvement

When an employer wishes to give notice - to whomever, for whatever

reasons and in whatever way - they are well advised always to write to the works council for its agreement. The employer must not only state the name of the employee, but also the objective reasons for the notice of dismissal. If they fail to do so, the notice of dismissal may not have legal effect.

REPRESENTATION OF WORKERS

Trade Unions

One of the principal tasks of the trade unions is the autonomous conclusion of collective agreements with employers' federations and trade associations. Such collective agreements establish not only wages and salaries, but also working hours and working conditions. It is in the nature of this autonomous collective bargaining that the parties arrive at collective agreements without direct State involvement and sometimes after extremely laborious and controversial negotiations. In this context, both sides are entitled to take industrial action, although strikes and lock-outs are subject to strict rules.

This is not to say, however, that the two sides are in constant confrontation. Rather, it is in their interest to form a strong partnership. Only with a high degree of organisation is it possible, on the one hand, to conclude collective agreements for specific geographical areas and with a broad impact, and safeguard

industrial peace on the other. Where there is a highly developed strike culture with regular industrial action, members have to adopt a joint position. To do so, trade unions use the democratic method of the strike ballot. The visibly shrinking membership, not only of the 150 or so trade unions, but also of employers' organisations, is thus cause for concern. Obviously, you can join a trade union at any time. Membership has clear benefits - quite apart from free legal advice. Freedom of association, as it is called, is protected by the German Grundgesetz.

Besides a number of smaller trade unions, there are two umbrella organisations: the Deutscher Gewerkschaftsbund (German Federation of Trade Unions, DGB) and the Deutscher Beamtenbund (German Federation of Career Public Servants, DBB). A total of over nine million employees are members of trade unions. The DGB has 7.7 million members (2002), accounting for 27% of the workforce.

Works Council

The works council is a democratically elected body representing the employees of a company. The establishment, rights and duties of this body are laid down for companies in the Works Constitution Act (Betriebsverfassungsgesetz) and for staff associations in the public ser-

vice in the Federal Staff Associations Act (Bundespersonalvertretungsgesetz).

In addition, workplace representatives of the disabled, equal opportunities officers and youth representatives work to safeguard the interests of these groups.

A works council that functions with confidence will take up suggestions from the workforce and negotiate with the employer to ensure legitimate concerns are taken on board. The works council is usually involved in major personnel decisions and has in-depth knowledge and experience which you should draw on if in doubt. However, you should also realise that a works council will not always necessarily be on your side: if you give proven cause for summary dismissal, the works council will generally agree. In the final analysis, the works council is bound by the law and should also contribute to bringing about industrial peace within the company.

THE SPANISH LABOUR MARKET

OVERVIEW

The Spanish economy grew by 2.7% in 2004, up 0.3 percentage points on the previous year. This was mainly the result of internal demand, with high levels of private consumption and investment in construction.

Household final consumption expenditure in 2004 grew as a result of lower unemployment, low interest rates and increased investment in equipment, particularly in the second half of the year.

The Encuesta de Población Activa [Active Population Survey] shows a positive trend in the labour market in late 2004

Spain's resident population on 1 January 2004 was 43 197 684, of whom 3 034 326, or 7.02%, were foreigners. The autonomous communities with the largest absolute rises in the number of foreign residents were Cataluña, Valencia, Madrid and Andalucía. The biggest increase by nationality in 2004 was among Romanians (with over 100 000 recorded arrivals), followed by Moroccans (more than 80 000), UK citizens (50 000) and Bolivians (approximately 44 500).

The active population in the fourth quarter of 2004 was 19 330 400. The total number of employed was

17 323 300, while 2 007 100 were unemployed, a decrease of 120 000 on the previous year.

Of this figure, 41.65% were male and 58.35% female. Spanish rate of female unemployment is one of the highest in the UE.

The rate of unemployment in the fourth quarter of 2005 was 8,70.

The Servicio Público de Empleo Estatal [Public Employment Service] had 16 350 800 contracts registered in 2004, an 11.5% increase on 2003. Of these, 1 419 700 were indefinite and 14 931 100 were temporary.

In December 2004, 17 161 900 people were registered for social security, a 3.5% increase compared to the same period the previous year.

TREND INDICATORS

UNMET LABOUR DEMAND

- Farm-Hands And Labourers
- Heavy Truck And Lorry Drivers
- Domestic Helpers And Cleaners
- Building And Related Electricians
- Welders And Flamecutters
- Motor Vehicle Mechanics And Fitters
- Cooks

- Waiters, Waitresses And Bartenders
- Bricklayers And Stonemasons
- Carpenters And Joiners
- Technical And Commercial Sales Representatives

UNMET JOB DEMAND

- Secondary Education Teaching Professionals
- Primary Education Teaching Professionals
- Building Construction Labourers
- Assembling Labourers
- Freight Handlers
- Sewing-Machine Operators
- Helpers And Cleaners In Offices. Hotels And Other Establishments
- Child-Care Workers
- Institution-Based Personal Care Workers
- Shop Sales Persons And Demonstrators
- Gardeners Horticultural And Nursery Growers
- Cashiers And Ticket Clerks

RECRUITMENT

You are reminded that you must have a knowledge of Spanish in order to work in Spain. As well as the EURES network, the main search systems are:

PUBLIC EMPLOYMENT SERVICES

The Spanish State employment service (INEM) and that of the Autono-

mous Communities (regional) have a network of employment offices which offer services for all employees.

People over 16 years of age can register on presentation of a current identity document or passport, they have to evidence that they have an address in Spain. In order to enter an occupation requiring a specific qualification evidence must be provided that the requirements to access to the occupation in Spain are met.

Services provided include job vacancies, careers guidance, employment promotion measures, vocational training and handling of unemployment benefits.

Addresses of employment offices can be found in the telephone directory or on the INEM website which has links to all the public employment services of the Autonomous Communities. Some of their websites provide information on job vacancies. Many of them have useful information and addresses for finding work and guides to job-seeking.

TEMPORAY EMPLOYMENT COMPANIES

Unlike other labour market intermediaries, temporary employment firms recruit workers directly and assign them to the user company by means of placement contracts, delegating the management and control of the work to be carried out to the latter. They are particularly useful for seeking temporary employment.

THE MEDIA

All Spanish national, regional and provincial newspapers have a daily section of job vacancies, though most offers of work are published in the Sunday papers.

Internet: Company websites: More and more companies are setting up websites publicising themselves and include a human resources section. Look on their websites for a link entitled 'trabaja con nosotros' (work for us) or 'empleo' (recruitment).

Websites: These provide job vacancies classified by sector of activity or province, with a description of the position, the date of posting, and the address and a telephone number for the company that placed the advert. These are the most popular:

www.infojobs.net
www.infoempleo.com
www.monster.es
www.oficinaempleo.com
www.jobpilot.es
www.todotrabajo.com
www.redempleo.com
www.trabajos.com
www.laboris.net
www.ofertasempleo.com
www.servijob.com
www.canalcv.com
www.tecnoempleo.com
www.hacesfalta.org

PERSONAL APPLICATIONS

In Spain, people normally complete application forms provided by companies and also send a CV, together with a covering letter.

If you make personal applications you should select the type of company you target and try to find out about them before applying for a job. The covering letter and CV should clearly show what type of work you want and are qualified to do and what the company has to gain by accepting your application.

NETWORKING

Networking is very useful when looking for work. If you have friends or family in Spain it is a good idea to mention that you are looking for work, since many vacancies are filled by means of this type of contact and references.

EMPLOYMENT CONTRACTS

The employment contract is an agreement between employer and employee by means of which the latter undertakes to carry out particular services for an employer under his management, in exchange for a wage.

Formalisation

An employment contract can be entered into either orally or in writing. It must always be in writing when stipulated by a legal provision and in the following contracts:

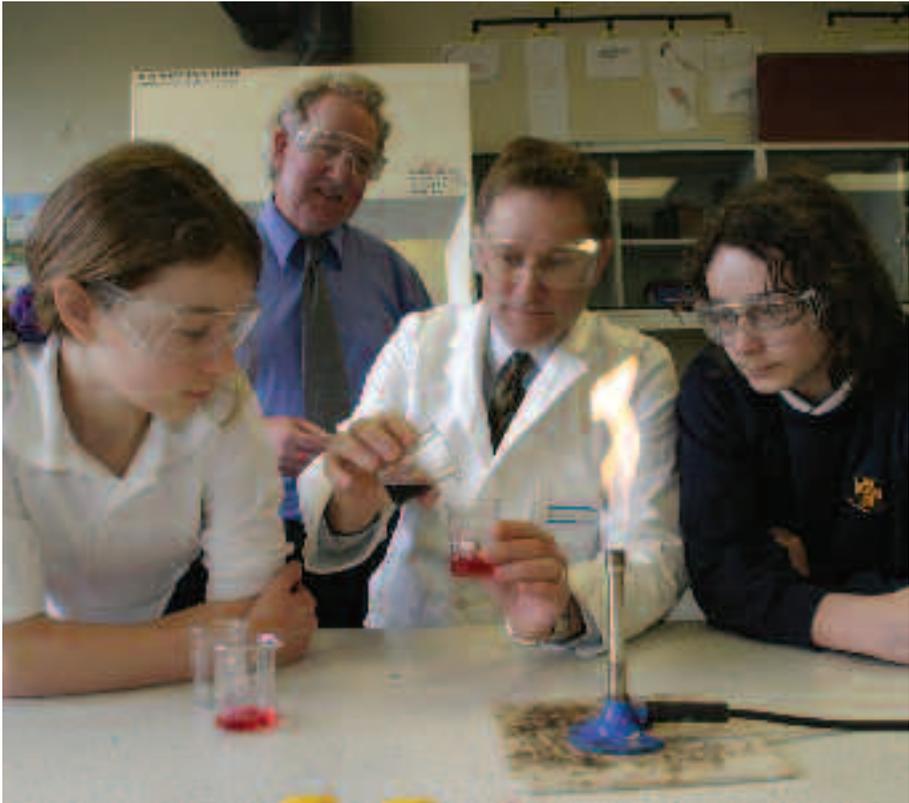
- Practical work experience;
- Training;
- For specific purposes;
- On a part-time, discontinuous, fixed and hand-over basis;
- Work at home;
- Workers hired in Spain for Spanish companies abroad;
- Fixed-term contracts for more than four weeks.

Each party may require the contract to be entered into in writing at any time during its validity. The employer must give a basic copy of the contract to the employees' representatives at the employment office.

Testing period

This is not obligatory. If it is established, it must be set down in writing. Maximum duration: six months for technical personnel and two months for other workers.

During the testing period the employment relationship can be terminated by either party, without citing a reason and without notice, unless agreed otherwise. The probationary period is included for the purposes of length of service, and during this period the same rights and obligations that apply to workers on the permanent staff apply.



Duration

Employment contracts may be indefinite (fixed), or may have a particular duration (temporary). Normally, all employment contracts are indefinite and full-time, unless otherwise stated.

Content of the employment contract
The employment contract must include the following minimum features:

- The identity of the signatories (employee and company).
- The date of commencement of the employment relationship and its likely duration, if temporary.
- The registered office of the company and/or workplace where the worker usually provides his services.
- The professional category or group of the job performed by the worker or a summary description allowing the specific content of the work to be ascertained.
- The amount of the initial basic wage and fringe benefits and frequency of payment.
- The duration and distribution of the ordinary working hours.
- The duration of holidays and, where applicable, the means for determining the dates of such holidays.
- The periods of notice which, where applicable, the employer and employee must respect in the case of terminating the con-

tract, or at least the form in which they are to be determined.

- The collective agreement applicable to the employment relationship, specifying the specific details enabling it to be identified.

Remuneration is established either through collective bargaining or in the individual contract, and involves two fundamental concepts:

- Basic payment;
- Benefits: profit-sharing, distance and transport bonuses, workplace bonuses (for difficulty, toxicity, hazardousness, shift work, night work, etc.), production bonuses for quality or quantity of work, maintenance, accommodation and residence in island provinces, Ceuta and Melilla, etc.

REMUNERATION

Remuneration must be paid for periods not exceeding one month; the employer must provide the employee with a payslip with a clear breakdown of the different amounts and corresponding deductions and referring to calendar months. The employee signs it after delivery of the corresponding sums; if paid by bank transfer the employer provides the employee with a copy.

The employer ensures that the statutory tax and social security contributions are deducted.

Workers are entitled to at least two extra payments every year: the amount is agreed by collective agreement or by agreement between the employer and the workers' representative; one is usually paid at Christmas and the other in the month established by collective agreement or by agreement between the employer and the workers' representative. They can also be paid on a monthly pro rata basis if agreed by collective agreement.

THE MINIMUM WAGE

The minimum wage (SMI) is regulated annually by the government, in consultation with trade unions and more representative business associations. For 2005, the minimum wage for any activity amounts to EUR 17.10 per day or EUR 513.00 per month for a full legal day; in the case of the daily salary it does not include the proportional part of Sundays and holidays. The annual amount for 2005, including extraordinary payments, is a minimum of EUR 7 182.00 for workers with a full legal day; if a shorter day is worked, the amount is the corresponding proportional part. The amounts indicated above increase in line with the corresponding fringe benefits.

WORKING TIME

The organisation of working time (maximum weekly or daily working hours, rest time during the latter, annual holidays, public holidays,

paid leave and overtime) is regulated by law (Statute of Workers' Rights); the working day is regulated by agreement between workers' and employers' organisations or in the contracts.

DURATION

The maximum duration of ordinary working time is an average of 40 hours per week of actual work, calculated on an annual basis.

The actual number of ordinary working hours may never exceed nine per day unless either a collective agreement or an agreement between the company and workers' representatives establishes another distribution of daily working time, which must in any event respect the rest time between working days.

Employees under 18 years have other working time requirements

REST TIME

A minimum of 12 hours must elapse between the end of one working day and the start of the following working day.

When the duration of the continuous working day exceeds six hours, a rest period of at least 15 minutes must be established during the day.

Workers are entitled to a minimum weekly rest time, accumulated for periods of up to 14 days, of one-

and-a-half uninterrupted days, which generally includes Saturday afternoon or, where applicable, Monday morning and the whole of Sunday.

Reduction of the working day for family reasons

Women workers are entitled to one hour off work for breast-feeding a child under nine months of age.

Workers are entitled to a reduction of at least one-third and no more than half of their working time, with a proportional reduction in wages, if they are directly responsible for a child under six years of age, people with disabilities or members of their family in particular circumstances.

OVERTIME

Overtime is considered to be hours of work carried out in excess of the maximum ordinary working time. Their provision is voluntary, except in the case of an individual or collective agreement.

It is prohibited to carry out overtime at night, except in duly specified and expressly authorised special activities. It is also prohibited for people under 18 years of age.

Overtime may be remunerated or compensated for with equivalent paid rest time.



VOCATIONAL TRAINING

Employees may participate in training schemes developed for companies or professionals and trade unions. Training is directed just as much towards improving skills and qualifications as to the re-qualification of workers, permanent adaptation to the development of professions and job content, thus improving the skills and qualifications necessary for strengthening the competitive situation of companies and of their employees. Continuous training is managed by the Tripartite Foundation for Training in Employment, which includes representatives of the administration and the trade unions and professional organisations.

Workers have the right to participate in training and improvement courses related to their job.

OCCUPATIONAL TRAINING FOR UNEMPLOYED WORKERS

This is developed through the National Plan for Training and Employability.

Its aim is to give unemployed workers the qualifications required for the productive system, with the goal of enabling them to find a job.

Courses are planned each year by the National Institute of Employment (INEM) or the Autonomous Communities with this competence.

This training is given directly or in Co-

laboration Centres (private training companies) whose training specialties have previously been officially authorised, as well as professional organisations or trade unions, public or private training organisations or companies with which a collaboration agreement has been signed, provided that the programmes are developed within their own authorised Collaboration Centres.

The courses include a practical part, which may be carried out in classrooms or workshops or in companies with which appropriate collaboration agreements have been made.

Grants and Aid: Unemployed students on these courses may have the right to various aid for transport, food, accommodation, assistance, in this case and in others.

ANNUAL LEAVE

Duration: Agreed individually or collectively, never less than 30 calendar days. Holidays cannot be replaced by financial compensation. When the legal minimum holidays cannot be taken because the time of working for the company does not coincide with holidays, workers with casual or temporary contracts will receive the proportional part corresponding to the holidays together with their wages.

Timing of leave: This is fixed by agreement between the employer and the worker in accordance with provisions established in collective



agreements on annual holiday planning, the date or dates of holidays being fixed. The holiday schedule is fixed in each company.

PAID LEAVE

Subject to notice and subsequent justification to the company, workers may take paid time off for some of the following reasons and for the following time:

- Marriage, 15 calendar days.
- Birth of a child or death, accident or serious illness or hospitalisation of blood relations or relations by marriage up to the second degree, two calendar days or four if required to travel;
- Moving house, one day.
- Fulfilment of an unavoidable public duty.
- Women are entitled to one hour off work for breast-feeding a child under nine months of age, which can be divided into two parts or the working day may be reduced for the same purpose. This time off may be taken either by the mother or the father if they both work.
- In cases of children born prematurely or those who must remain in hospital for any reason following the birth, the mother or father is entitled to one hour off. They are also entitled to reduce their working day by up to

a maximum of two hours, with a proportional reduction in wages.

- Anyone who, because they are the legal guardian, is directly responsible for a young person under six years of age or a physically or psychologically disabled or partially-sighted person or person with hearing difficulties who does not carry out paid work is entitled to a reduction in working time, with a proportional reduction in wages, of between at least one third and no more than half its duration.
- For the purposes of labour law, the performance of jury service is considered compliance with an unavoidable public and personal duty.
- The time used by members of works committees and company representatives can be considered to be monthly time-off rights for the performance of their duties.



LEAVE (SICKNESS, MATERNITY...)

This is the temporary interruption of the provision of labour without breaking the contractual link between company and employee. Suspension of the contract renders the obligations of both parties without effect: working and remunerating the work. Workers are entitled to be reinstated in the job they occupied once the causes underlying the suspension cease.

Causes of suspension: temporary invalidity, maternity or paternity, risk to women workers during pregnancy, adoption or pre adoptive or permanent fostering of children under six years of age, enforced leave of absence, exercise of a representative public position, exercise of the right to strike, suspension of employment and pay for disciplinary reasons.

Temporary invalidity: protects the situation of a worker who is unable to work and in need of medical assistance for any of the following reasons: a) common illness or work related illness b) accident, work-related or not c) periods of observation for occupational diseases. In order to receive the benefit for temporary invalidity, in the case of common illness, the worker must have paid 180 days' contributions during the five years immediately preceding the date of the medical leave.

Maternity and paternity: A woman's employment may be suspen-

ded on the grounds of maternity for 16 uninterrupted weeks, which may be extended by two weeks for multiple births for each child from the second child onwards. This period is distributed at the choice of the person concerned, provided that six weeks fall immediately subsequent to the birth. Independently of this obligatory post-birth time off for the mother, if both parents work the latter may opt for the father to take a particular uninterrupted part of the time off subsequent to the birth.

Adoption or fostering: In cases of adoption or fostering, whether pre-adoptive or permanent, of children of up to six years of age, the time off will last for 16 uninterrupted weeks, extendable in the case of multiple adoption or fostering by two weeks for each child from the second child onwards.

Extended leave of absence: Extended leave of absence means a situation where the employment contract is suspended at the employee's request, and may be:

Obligatory: The company must grant such leave and must keep the job open; the period concerned is considered to have been worked for the purposes of calculating length of service.

Causes: appointment or election to public office or the performance of provincial or broader trade union duties.

Voluntary: At least one year's length of service in the company is required. The right to keep the job is not recognised, but priority is given when there is a vacancy. The duration is between two and five years. This right may only be exercised again by the same worker if four years have elapsed since the end of the previous extended leave of absence.

Extended leave of absence to care for members of the family: Maximum duration of three years to care for each child, whether natural or by adoption or fostering, whether permanent or pre-adoptive, counting from the date of birth or, where applicable, from the legal or administrative judgment.

Employees will also be entitled to extended leave of absence of one year, which may be extended by mutual agreement, to care for a blood relation or relation by marriage up to the second degree, who for reasons of age, accident or illness cannot look after themselves and do not perform paid work.

END OF EMPLOYMENT

This means termination of the employment relationship between company and employee for any of the following causes:

a) Mutual agreement between the parties

- b) Causes set down validly in the contract
- c) Expiry of the time agreed or completion of the work or service covered by the contract
- d) resignation of the worker
- e) Death, serious invalidity or permanent, total or absolute invalidity of the worker
- f) Retirement of the worker
- g) Death, retirement or invalidity of the contractor or the end of their legal personality
- h) Force
- i) Collective dismissal based on economic, technical, organisational or production grounds
- j) Will of the worker on justified grounds
- k) Dismissal on disciplinary ground
- l) Legally admissible objective causes

At the end of the contract, on notifying employees accordingly or, where applicable, giving notice of its end, the employer must provide a draft of the document setting out payment of the amounts owed.

The employee may ask to be accompanied by their legal representative when signing the final discharge, recording on it the fact that his signature was witnessed by the workers' legal representative, or that the employee did not make use of that option. If the employer prevents the representative from attending at the time of signature, the employee may record this on the receipt itself for all due purposes.



Action in the event of dismissal: An employee whose employment relationship has been terminated unilaterally by the employer and who does not agree with this decision should proceed as follows:

Conciliation decision: This is a prerequisite for having any procedure for dismissal brought before the Social Court. A conciliation slip is submitted within 20 working days (excluding Sundays and public holidays) of the time of the dismissal before the Mediation, Arbitration and Conciliation Committee of the Autonomous Community to which this matter is transferred, ex-

cept Ceuta and Melilla. Procedures that require a prior administrative claim are derogated from this requirement.

Once the conciliation slip has been submitted, the Employment Authority calls upon the parties, which may be:

- An agreement:
- Claim before the Social Court: When the decision on conciliation without agreement has been signed or attempted, the worker must lodge the corresponding application to the Social Court within 20 working days of

the time of dismissal (counting the days from the date of dismissal to the submission of the conciliation slip, renewing the period for lodging the claim until the conciliation decision).

The worker may make a claim to the Social Court independently or represented by a lawyer, legal representative, employment consultant or trade union, as applicable. The competent court will generally be the court where the services are provided or where the respondent lives, at the choice of the appellant.

WORKERS' REPRESENTATION

All workers, with the exception of members of the Armed Forces and Armed Forces institutes, judges, magistrates and public prosecutors are freely entitled to join a trade union to defend their economic and social interests.

The most representative trade union organisations

— At national level

These make up 10% or more of the total of personnel represen-



tatives of the members of company works councils and public administration bodies.

— At Autonomous Community level

These trade unions account for at least 15% of personnel representatives, workers' representatives in company works councils and public administration bodies, provided they have a minimum of 1 500 representatives and are neither affiliated nor have formed a confederation with national trade union organisations.

Workers' participation in a company

A worker's right to participate in a company is coordinated by means of Personnel Representatives and Works Committees, without prejudice to other forms of participation. Personnel representatives: This is the representation of workers in a company or workplace, provided the latter have more than 10 and less than 50 workers. There may also be a personnel representative in companies or workplaces that have between six and 10 workers if a majority of the latter decides this.



Up to 30 workers will be represented by one personnel representative, and between 31 and 49 workers will be represented by three personnel representatives.

The Works Committee is the collegiate representative body of all workers in a company or workplace with 50 or more workers.

The constitution and operation of an inter workplace committee may be agreed by collective agreement, with a maximum of 13 members.

All national or foreign workers in a company or workplace who are over 16 years of age with at least one month's length of service may vote for representatives.

National or foreign workers of at least 18 years of age who have at least six months' length of service in a company, except in activities in which, due to staff mobility, a shorter period is agreed by collective agreement, with a minimum of three months' length of service, may be elected.



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