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

Second periodic reports submitted by States parties to the  
Covenant, in accordance with Council resolution 1988 (LX),  
concerning rights covered by articles 6-9

SPAIN\*

[30 September 1983]

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\* The initial report submitted by the Government of Spain concerning rights covered by articles 6 to 9 of the Covenant (E/1978/8/Add.26) was considered by the Sessional Working Group of Governmental Experts at its 1980 session (see E/1980/WG.1/SR.20).

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## INTRODUCTION

1. In the development of legislation to promote and safeguard the right to work a two-pronged approach has been taken: ratification of international conventions and approval of rules of various types promulgated for this purpose, as described below:

### A. Conventions ratified by Spain

#### 1.1 Conventions of the International Labour Organisation

- (a) Vocational guidance and training
  - (i) Convention No. 142 concerning vocational guidance and vocational training in the development of human resources (ratified on 13 April 1977 and published in the Official Gazette on 9 May 1978).
  - (ii) Convention No. 140 concerning paid educational leave (ratified on 16 August 1978 and published on 31 October 1979).
- (b) Rural workers
  - (i) Convention No. 141 concerning organizations of rural workers and their role in economic and social development (ratified on 10 April 1978 and published on 7 December 1979).
- (c) Working conditions of seafarers
  - (i) Convention No. 145 concerning continuity of employment of seafarers (ratified on 10 April 1978 and published on 2 December 1980).
  - (ii) Convention No. 146 concerning annual leave with pay for seafarers (ratified on 16 February 1979 and published on 20 April 1980).
- (d) Working conditions in merchant ships
  - (i) Convention No. 147 concerning minimum standards in merchant ships (ratified on 10 April 1978 and published on 18 January 1982).
- (e) Occupational safety and health
  - (i) Convention No. 148 concerning the protection of workers against occupational hazards in the working environment due to air pollution, noise and vibration (partially ratified on 20 November 1980 and published on 30 December 1981).
- (f) Labour administration
  - (i) Convention No. 150, concerning labour administration: role, functions and organization (ratified on 13 February 1982 and published on 10 December 1982).

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## 1.2 Instruments of the Council of Europe

### (a) Human rights and fundamental freedoms

- (i) Convention for the protection of human rights and fundamental freedoms (ratified on 26 September 1979 and published on 10 October 1979).

### (b) Fundamental labour rights

- (i) European Social Charter (ratified on 29 April 1980 and published on 26 June 1980).
- (ii) European Convention on the Legal Status of Migrant Workers (ratified on 6 May 1980 and published on 18 June 1983).

## B. Legislative developments

2. In the time between Spain's first report on the implementation of articles 6 to 9 inclusive of the International Covenant on Economic, Social and Cultural Rights and the preparation of the present report, many political events, of various kinds, have taken place which have been decisive in the history of our country. One of these was the promulgation of the Spanish Constitution, ratified by national referendum on 6 December 1978, approved on 27 December 1978 and published on 29 December 1978.

3. This fundamental law of the State, the foundation of our legal system, defines a new political order, a new socio-economic framework and a new State structure, by the establishment of autonomous communities, some of them with a distinguished historical tradition, which are closely linked to the configuration and dynamics of the regions.

4. With regard to labour matters, in pursuance of article 35, paragraph 2, of the Constitution, Act No. 8/1980, on the Workers' Charter, was enacted on 10 March 1980. It represented a substantial change in the spirit, legal governance and machinery of labour relations, assigning the leadership of collective bargaining to representatives of the workers, to employers and their organizations. All of these, through collective agreements and other inter-occupational agreements or agreements on specific matters (art. 83), agree upon conditions of employment and productivity, and measures to ensure industrial peace through mutual, voluntary obligations.

5. The most important of the precepts which have had a major impact on employment in the medium and long term are:

(a) The consolidation of equality of rights as between the sexes in the area of employment;

(b) The regulation of the fixed-term contract under the traditional assumptions (temporary replacement, production requirements, etc. [art. 15, para. 11]) or used as a means of promoting employment (art. 17, para. 3);

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(c) Implementation of the contract for the purpose of practical experience and training (art. 11);

(d) Legal regulation of part-time work (art. 12);

(e) Tendency towards a reduction in overtime by increasing its cost and the corresponding social security contribution.

6. Subsequently, and in accordance with article 40 of the Constitution, the Basic Employment Act, No. 51/1980 of 8 October, was adopted. Its provisions are divided into four chapters:

(a) Preliminary Part. Employment policy. Includes, in its sole chapter, three articles referring to the concept, purposes and implementation of employment policy which is described as a "body of decisions whose essential purpose is to achieve a balance in the short, medium and long term between labour supply and demand, in terms of both quantity and quality, and to provide protection in the event of unemployment".

(b) Part I. Employment promotion. Regulates, in general terms, in two chapters, the Government's employment promotion policy, which seeks to make the greatest possible use of available human and economical resources and is to be implemented through national employment programmes and other measures, such as assistance for the establishment of enterprises run by associations of workers or co-operatives, loans for self-employed workers and fiscal measures for promoting employment.

(c) Part II. Unemployment protection schemes. Regulates, in six chapters, all matters relating to protection against involuntary unemployment, extending insurance coverage to permanent employees covered by the special social security scheme for agriculture, and establishing a new system of graduated benefits based on periods of contributory employment. The maximum period, which is 18 months, may be extended to 24 months in cases in which that would complete the period required to qualify the person concerned for any kind of retirement pension.

In addition to the basic benefits, the Act establishes a system of supplementary benefits, which are allowances payable to workers over 18 and under 65 years who have exhausted their entitlements to the above-mentioned basic benefits, are registered as being unemployed, have no income of any kind exceeding the minimum wage and have family responsibilities. The right to these supplementary benefits is recognized for workers returning from abroad, on condition that their status is not deemed to be equivalent to that of discharged workers for the purposes of unemployment benefit and that they are registered with the employment office.

Various provisions have later been adopted which expand and supplement the coverage of unemployment insurance. These are fully described in the recent reports on Convention Nos. 44 on unemployment and 122 on employment policy submitted by the Government of Spain to the International Labour Organisation.

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In the campaign against unemployment, the adoption of Royal Decree-Law 1/1982 is worth noting. It establishes a special unemployment protection fund to which 15 billion pesetas were allocated for extraordinary and urgent measures to deal with unemployment, apart from those provided for in the Basic Employment Act and its supplementary provisions.

Finally, Act No. 4/1983 of 20 June 1983 should be noted. It established the maximum legal work week at 40 hours and annual leave at a minimum of 30 calendar days, partially modifying articles 34 and 38 of the Workers' Charter.

7. Independently of the legal developments described above, the recognition by all the country's social forces of the serious problems created by the world economic crisis prompted the adoption of a series of economic agreements between these social forces and, in some cases, joint agreements with the Government itself based primarily on a policy of co-operation and solidarity.

8. The first of these, known as the Moncloa Pact, was signed on 25 October 1977 by the Government and the political parties represented in Parliament. This important document dealt with the key elements in our economic recovery (new approach in educational policy, social security reform, financial and tax system reform, better control of public expenditure, energy policy, public enterprise statute, etc., as well as short-term recovery measures on three fronts: monetary policy, budget policy, and price and income policy).

9. In August 1979 the medium-term Programme for the Spanish economy was adopted; it gives special emphasis to employment policy and industrial restructuring.

10. On these same lines, and on the basis of a policy of solidarity, responsibility and moderation, the Inter-Federation Outline Agreement (AMI) was signed by the Spanish Federation and the General Workers' Union on 5 January 1980 and subsequently by the Workers' Trade Union (USO). Its main points were: moderation of raises in the wage scales, shortening of the maximum work week, limitation of overtime, adoption of [output] measuring systems with a view to increasing production, regulation of early retirement schemes and adoption of effective measures to reduce worker absenteeism.

11. This Agreement was revised in February 1981 in order to establish wage criteria for collective bargaining in 1981.

12. Another important event was the conclusion in June 1981, of the National Agreement on Employment (ANE) by the Government, CEOE and the Central Offices of the majority trade unions UGT and CC.OO.

13. This Agreement represents a tripartite compromise in the form of a special outline agreement which establishes goals to be reached in the short, medium and long term: to maintain the same overall volume of wage-earning, employed population, to curb inflation, to take new steps to promote employment, to improve unemployment benefits and establish a new system of early retirement, to be the subject of individual agreements, to supplement the retirement scheme already envisaged in the industrial redeployment plans, with a view to advancing the retirement age and thereby promoting the employment of young people.

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14. Finally, on 17 February 1983, the text of the Inter-Federation Agreement for 1983 (AI83) was adopted, the parties to it being the General Workers' Union (UGT), the Workers' Commissions (CC.OO), the Spanish Federation of Employers' Organizations (CEOE) and the Spanish Federation of Small and Medium-Sized Businesses (CEPYME); it provides for wage increases for 1983 of 9.5 per cent minimum and 12.5 per cent maximum, depending on the economic situation of the enterprises, for the implementation of the overall agreement on productivity and absenteeism under the AMI of 5 January 1980, for the shortening of the work week to 40 hours and for the improvement of employment incentive measures, using the experience gained since the introduction of these measures.

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15. After this brief look at the basic pattern of legislative activity from 1977 until the present, we will now turn to the individual paragraphs of articles 6 to 9 inclusive of the Covenant.

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ARTICLE 6: THE RIGHT TO WORK

B. Employment

1. The right of everyone to gain his living by work which he freely chooses or accepts, with particular reference to freedom from compulsion in the choice of employment and guarantees against discrimination in regard to access to employment

1. The right to work is enshrined in the Spanish Constitution of 27 December 1978 (Official Gazette, 29 December 1978), article 38.1 of which lays down that all Spaniards have the duty and the right to work, to free choice of occupation or trade, to advancement through their work and to sufficient remuneration for the satisfaction of their needs and those of their families, and that in no circumstances may there be discrimination by reason of sex.

2. Act No. 8/1980, of 10 March (Official Gazette, 14 March 1980) on the Worker's Charter (which has replaced the earlier Act No. 16/1976, of 8 April, on Labour Relations) also recognizes this principle of non-discrimination in stating the workers' basic right to work and freely to choose an occupation or trade and, as a party to an employment relationship, not to be subjected to discrimination in securing employment or, when in employment, on grounds of sex, marital status, age (within the limits specified in the Act), race, social status, religious or political ideas, membership or non-membership of a trade union, or language, within the Spanish State. Workers shall likewise not be subjected to discrimination on grounds of physical, mental or sensory handicap, provided they are capable of performing the work or job in question (art. 4.1 (a) and 4.2 (c)).

3. This principle of non-discrimination in labour relations is reiterated in article 17 of the above-mentioned Act No. 8/1980 of 10 March, on the Worker's Charter, which states that any regulations, provisions of collective agreements, individual contracts or unilateral decisions of an employer that embody discrimination by reason of age or that embody discrimination, whether favourable or adverse, in matters of employment, remuneration, hours of work or other conditions of employment by reason of sex, origin, marital status, race, social status, religious or political ideas, membership or non-membership of trade unions, or acceptance or non-acceptance of their decisions, family ties with fellow-workers or language shall be null and void within the Spanish State.

4. It provides that any exceptions, reservations or preferences permitting a worker to be recruited without regard to the foregoing must be provided for by law, and for the possibility, notwithstanding the foregoing, that the Government may institute measures concerning reservation of employment, the period of employment or preferential admission to employment for the purpose of facilitating the placement of workers who are elderly, have a reduced capacity for work, are unemployed or are taking up their first jobs.

5. Similarly, article 38.2 of Act No. 51/1980, of 8 October (Official Gazette, 17 October 1980), the Basic Employment Act, lays down that equality of opportunity and of treatment in employment, without any distinction, exclusion or preference

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based on race, sex, religion, political opinion, trade union membership or national or social origin shall be basic principles of recruitment policy. Article 10, however, on employment promotion programmes for specific groups of workers who have special difficulties in entering the labour market, makes provision for women with family responsibilities.

6. An assistance programme for women with family responsibilities was formerly governed by Royal Decree No. 723/1980, of 11 April (Official Gazette, 23 April 1980), on promoting the employment of women with family responsibilities, which has been replaced by Royal Decree No. 1445/1982, of 25 June (Official Gazette, 1 July 1982), dealing with various employment promotion measures, among them the said assistance programme.

7. Under the latter Royal Decree, a woman with family responsibilities is one who has a dependent spouse, or dependent children, parents or other relatives by blood or marriage up to and including the third degree and, if applicable, by adoption. It also establishes the following programmes:

(a) Vocational training programme;

(b) Programme for the promotion of labour co-operatives which provide services needed by women as a result of their incorporation into the work force;

(c) Programme for the promotion of self-employment of women with family responsibilities.

8. Act No. 8/1980, of 10 March, on the Worker's Charter, provides for voluntary unpaid leave for the birth of children, which in earlier legislation was an exclusive right of working women, to be a right of all workers, without distinction as to sex (art. 46.3).

9. Similarly, it provides for the right to a reduction in the working day of anyone who, as the legal guardian, is directly responsible for the care of a child under 6 years or of a physically or mentally handicapped person who does not engage in any form of gainful activity (art. 37.5).

10. The same anti-discriminatory line is also evident in Act No. 11/1981, of 13 May (Official Gazette, 19 May 1981), which amends the Civil Code with respect to filiation, parental authority and the matrimonial/property régime, and Act No. 30/1981, of 17 July (Official Gazette, 20 July 1981), which amends the marriage regulations in the Civil Code and sets forth the procedure to be followed for annulment, separation and divorce. Both are notable for the effects that equal treatment of the spouses produces with respect to work-related rights.

11. On the matter of age, articles 4.2 (c) and 17 of Act No. 8/1980, of 10 March, on the Worker's Charter, establish the right (cited above) of workers not to be discriminated against by reason of age in access to and retention of employment, even though within the framework of employment policy certain priorities are envisaged for groups which have special difficulty in entering the labour market, as in the case of young people applying for their first jobs and elderly workers.

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12. With respect to this point and the possible conflicts which may arise between individual rights, protected by the Constitution and by the Worker's Charter itself, and collective rights, in order to achieve a better balance between labour supply and demand and more equitable distribution of jobs, attention is drawn to the Constitutional Court's judgement of 2 July 1981 (Official Gazette, 20 July 1981), on Additional Provision Five of the Worker's Charter.

13. That legal precept stated that:

"The upper age limit for employment and for the dissolution of contracts of employment shall be that fixed by the Government by reference to the available resources of the Social Security scheme and of the labour market. It shall in any event not exceed 69 years, without prejudice to the opportunity of completing periods of qualifying service for pension purposes. Retirement ages may be freely fixed in the course of collective bargaining, without prejudice to the relevant provisions of the Social Security scheme on the subject."

14. Labour Court No. 9, Madrid, appealed against the latter provision on grounds of unconstitutionality, in the belief that the principle of equality of all Spaniards before the law, enshrined in article 14 of the Constitution, required that all Spaniards have the right to work without discrimination by reason of age.

15. This view was confirmed by the Constitutional Court, which ruled that Additional Provision Five of the Worker's Charter was unconstitutional when interpreted as a norm which lays down incapacity for work at the age of 69 and in providing directly and unconditionally for the dissolution of the employment relationship at that age.

16. For specific reasons arising out of the current situation of the labour market, the following early retirement systems have been established:

(a) Early retirement under Royal Decree-Law No. 14/1981, of 20 August (Official Gazette, 29 August 1981) and Royal Decree No. 2705/1981, of 19 October (Official Gazette, 20 November 1981), on special social security pension at age 64 for workers whose employers are required, by virtue of a collective agreement or covenant, to replace them at the time of their retirement by another worker who is entitled to any of the unemployment benefits or by a young person applying for his/her first job;

(b) Early retirement governed by the Royal Decrees approving redeployment plans established in pursuance of the provisions of Act No. 21/1982, of 9 June (Official Gazette, 19 June 1982), on measures for industrial deployment;

(c) Early retirement governed by the Order of 15 March 1982 (Official Gazette, 25 March 1982) for workers whose employers are not subject to industrial redeployment plans and who cease to work for them prior to reaching the age set for voluntary retirement.

17. With respect to the employment of aliens, attention is drawn to Spain's accession, by the instrument dated 22 July 1978 (Official Gazette, 21 October 1978) to the Convention of 28 July 1951 and the Protocol of 31 January 1967, on the Status of Refugees, with the consequent benefits for those who, having been

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recognized as having that status, propose to engage in Spain in a gainful occupation on their own behalf or on behalf of another, without the national employment situation having to be taken into consideration in the granting of the mandatory work permit, as had been laid down in article 11 (k) of Decree No. 1870/1968, of 27 July (Official Gazette, 14 August), which regulates, in a general way, the system of employment, work and settlement of aliens in Spain.

18. The extension of the right to work and the resultant benefits to prisoners deserves special mention. Article 25.2 of the Spanish Constitution of 1978 establishes that penalties involving deprivation of liberty and security measures shall be aimed at rehabilitation and social reintegration and may not consist of forced labour and that a person sentenced to imprisonment shall, while serving it, be entitled to paid employment and the related social security benefits, and to access to culture and the full development of his personality.

19. That provision of the Constitution is given effect in Organic Law No. 1/1979, of 26 September (Official Gazette, 5 October 1979) - General Act on Penitentiary Matters - which upholds and strengthens the primary aim of rehabilitation and social reintegration which must be met by correctional institutions, for both detained and released prisoners, granting pride of place to prisoners' rights to work and to social security.

20. Article 3.2 of that Act refers specifically to those rights, stating that the necessary measures shall be adopted to ensure that prisoners and their families retain their rights to social security benefits acquired prior to admission to prison.

21. Chapter IV of the Penitentiary Regulations, adopted by Royal Decree No. 1201/1981, of 8 May (Official Gazette, 23 June 1981), is devoted to the work of prisoners, dealing with both the right to work and the duty to work, in accordance with the physical and mental aptitudes of citizens deprived of liberty.

22. Act No. 8/1980, of 10 March, on the Worker's Charter, likewise deals with the work of prisoners in penitentiary establishments in the context of the employment relationships of a special nature governed by article 2 of that Act.

2. Policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms of the individual

23. With respect to this item, attention is drawn to the rules laid down in the Constitution, in Act No. 8/1980, of 10 March, on the Worker's Charter, in Act No. 51/1980, of 8 October, the Basic Employment Act, and in the provisions subsequently enacted on the promotion of employment.

24. Article 40.1 of the 1978 Spanish Constitution states that "the public authorities shall promote favourable conditions for social and economic progress and for a more equitable distribution of regional and personal income. They shall, in particular, carry out a policy directed towards full employment".

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25. Act No. 51/1980, of 8 October, the Basic Employment Act, lays down in article 1.2 that the employment policy measures provided for in the Act shall be adopted as part of the Government's economic policy in a way conducive to achieving and maintaining full employment, improving the occupational structure and contributing to better living and working conditions.

26. The employment promotion measures themselves have been centred on the implementation of the Basic Employment Act and the Worker's Charter; they can be divided into measures which affect recruitment procedures, measures which affect specific groups of unemployed workers, measures of a territorial nature and social co-operation schemes.

#### 2.1 Measures affecting recruitment procedures

27. In pursuance of article 15 of the Worker's Charter, which regulates certain types of fixed-term contracts, Royal Decree No. 2303/1980, of 17 October (Official Gazette, 29 October 1980), was adopted. It deals with the application of the Worker's Charter to fixed-term contracts, among them the following types of contracts, which are defined:

(a) Contracts for a specified project or service;

(b) Indeterminate contracts governed by production contingencies (maximum duration of six months in any twelve-month period), if market conditions, backlog of work, excess demand or seasonal reasons so warrant;

(c) Temporary contracts (to replace workers whose jobs have to be kept open);

(d) Contracts for specific, recurrent but discontinuous work.

28. Subsequently, Royal Decree No. 1445/1982, of 25 June, was adopted and amended by Royal Decree No. 3887/1982, of 29 December; the latter deals with various employment promotion measures and consolidates the provisions governing all types of contracts, as well as the rules on employment promotion incentives.

29. That Royal Decree establishes a flexible procedure for temporary contracts (in force up to 31 December 1982 and later extended to 31 December 1983), subject to limitations by reference to the number of permanent staff at the work centres, employing a scale which goes from 5 per cent for a staff exceeding 1,000 to 50 per cent - which can be raised to 100 per cent subject to advising the Provisional Directorate of INEM - for a permanent staff of from 1 to 25.

30. The duration of these contracts may be as much as two years, with a minimum of six months, except in the construction and hotel sectors, in which the maximum is three months.

31. Such contracts may not be used to cover vacancies resulting from the termination of another temporary contract, unlawful dismissal or an employment regulation measure during the year immediately prior to the date of the contract.

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32. In accordance with the provisions of article 12 and Transitional Provision Three of the Worker's Charter, rules are made for part-time employment which, as long as the present employment situation continues and in pursuance of the said Transitional Provision Three, may be granted only to:

(a) Workers drawing unemployment benefits. In this case, a part proportional to the time worked will be deducted from the said benefits;

(b) Workers who are still unemployed after exhausting their entitlement to unemployment benefits;

(c) Unemployed agricultural workers;

(d) Young persons under 25.

33. A contract shall be made in writing and shall indicate the number of days in the year, month or week, or the number of hours in the day, which shall in all cases be less than two thirds of the number considered to be customary in the activity concerned for the period of time in question.

34. A worker who is a party to a part-time contract of employment shall receive at least the same wage and other payments as a worker engaged full time and shall also enjoy, to a degree proportionate to the services that he performs, all rights compatible with the nature of his contract.

35. Social security contributions shall be paid in respect of the hours or days actually worked in the month considered, in accordance with the specific rules now set forth in the Order of 19 February 1983 (Official Gazette, 4 March 1983).

36. Pursuant to article 11 of the Workers' Charter, the above-mentioned Royal Decree No. 1445/1982 lays down regulations for contracts of employment concluded for purposes of practical experience and training.

37. A contract concluded for purposes of practical experience is a contract concluded between a person holding a duly recognized academic, vocational or occupational qualification and an employer, under which the person applies his skills in order to improve them and to bring them up to the level of his studies, while at the same time the enterprise uses his work.

38. Such a contract may be concluded within the two years immediately following the person's obtaining the qualification concerned. The computation of the two-year period shall be suspended for such time as the worker is performing compulsory or voluntary military service.

39. No such contract may be concluded for more than 12 or less than 3 months of actual employment, and at the end of the contract the worker shall be entitled to receive a certificate from the enterprise, stating the length of time for which he has been employed, a description of the work done by him and any system of rotation applicable to it, and the level of practical skill achieved.

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40. The contract shall lapse automatically on the expiry of the agreed period. Nevertheless, should the person immediately afterwards join the staff of the enterprise in which he served the period of skill training, that period shall be deducted from his period of probation and credited towards his seniority.

41. An on-the-job training contract is one concluded between a young person over 16 and under 18 years, who lives completely independently or does so with the consent of his legal representatives, and an employer who undertakes to provide him with full and systematic practical and technical training while using the learner's work and paying him for it.

42. An on-the-job training contract shall provide for a period of essentially theoretical instruction lasting not less than one third and not more than two thirds of the hours of work laid down in the relevant collective agreement; the instruction may be given in the enterprise itself or by arrangement with a recognized vocational training centre or through a training plan approved by the National Employment Institute.

43. The remuneration of a worker who is undergoing training shall be that specified in the individual contract and, where appropriate, in the collective labour agreement, to be computed on the basis of the relevant minimum inter-occupational wage and of the total hours of work agreed upon in the contract.

44. Contracts of employment for purposes of practical experience and on-the-job training contracts shall be incompatible with part-time employment contracts.

45. The basis for social security contributions shall be the wage actually received by the worker, provided that in the case of a contract of employment for purposes of practical experience, it shall not be less than the minimum inter-occupational wage in force at the time, irrespective of the number of hours worked per day.

46. Reference must be made in this connection to the General Agreement on the programme of contracts of employment for the purpose of practical experience and of on-the-job training, concluded by the National Employment Institute and the Spanish Federation of Employers' Organizations, which was approved and promulgated by the Order of 2 April 1982 (Official Gazette, 16 April 1982).

47. Apart from the general benefits granted in connection with the contracts for practical experience and for training, additional benefits are granted under this Agreement which are aimed at safeguarding the training aspects of such contracts by means of individual training plans for each worker which must be approved by the National Employment Institute.

## 2.2 Measures relating to certain groups of unemployed workers

48. Decree No. 1445/1982 grants abatements of the employers' social security contributions, in respect of all contingencies, according to the duration of the contracts concerned, to enterprises which engage unemployed workers who have exhausted their unemployment benefits or have family responsibilities.

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49. The abatements range from 50 per cent of the contribution in the case of contracts initially concluded for 12 months to 75 per cent of the contribution for the first two years in the case of contracts of indeterminate duration.

50. In the case of contracts concluded for more than three but not more than 12 months in the hotel and building trades, the abatement shall be 20 per cent of the contribution, given the special features of such contracts.

51. Royal Decree No. 1445 provides for a series of measures to facilitate the recruitment of handicapped workers; these have now been amended and replaced by the provisions of Royal Decree No. 1451/1983, of 11 May 1983 (Official Gazette, 4 June 1983) which, pursuant to Act No. 13/1982, of 7 April 1982, lays down rules for the selective employment of handicapped workers and measures to promote their employment (Official Gazette, 4 June 1983).

52. Chapter I of the latter Royal Decree sets forth selective employment measures concerning:

(a) The resumption of work by persons who are recognized as having a degree of permanent incapacity but who, whether because of its nature or of the occupational rehabilitation benefits they have received, still possess such capacity as to make it possible for them to resume work. In such cases provision is made for a 50-per-cent abatement in the employer's social security contributions for the standard contingencies for two years;

(b) The employment of handicapped persons in enterprises with fewer than 50 permanent workers, in accordance with the provisions of Act No. 13/1982 of 7 April on the social integration of the handicapped.

53. Chapter II sets forth measures to promote employment, among them the following benefits:

(a) A subsidy of 500,000 pesetas from the National Employment Institute for each full-time job created, with recruitment by contract of indeterminate duration;

(b) Vocational training or retraining of workers so recruited undertaken at the request of the employer by the National Employment Institute;

(c) An abatement for three years of the employers' social security contributions for each worker recruited, at the rate of 70 per cent if the worker is under 45 years and 90 per cent if he is older.

54. This set of employment promotion measures includes those concerning women with family responsibilities referred to in section 1 of this report.

### 2.3 Employment promotion measures for specified regions

55. Similar measures are provided for in Royal Decree No. 1445/1982 with a view to encouraging the creation of jobs in the occupational sectors and regions worst hit by unemployment; they take the form of granting specified benefits to employers engaging for an indefinite period unemployed workers who are registered with the employment offices.

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56. The benefits in question are:

(a) A subsidy of 300,000 pesetas from the National Employment Institute for each job created;

(b) If the employer so requests, vocational training provided by the National Employment Institution for workers so recruited;

(c) A 50-per-cent abatement of the employers' social security contributions for three years for each worker recruited.

2.4 Temporary employment in work of social utility

57. Royal Decree No. 1445/1982 regulates the employment by public authorities of workers who are drawing unemployment benefits, without their forfeiting the amounts that they receive on that account, for temporary work of social utility that meets the following requirements:

(a) That it is socially useful and of benefit to the community;

(b) That it lasts no longer than five months;

(c) That it is performed within the area served by the employment office with which the worker is registered;

(d) That it is suited to the unemployed worker's physical capacities and skills.

58. Workers drawing unemployment benefits shall be required to perform the socially useful work for which they have been selected. Refusing to do so without good reason shall cause their unemployment benefits to be suspended for six months, as provided in article 22.2 of the Basic Employment Act.

59. While the workers are so employed, the public authorities shall make up the amount of their benefits up to the total basic figure on which they are calculated.

60. Mention should be made, lastly, of the Order of 9 May 1983 (Official Gazette, 14 May 1983) implementing Royal Decree No. 1445/1982 of 25 June 1982, amended by Royal Decree No. 3887/1982 of 29 December 1982. Among other measures applying and implementing the Royal Decree in question, the Order extends the benefits applicable to specified regions to enterprises and co-operative labour associations which invest in the creation of permanent jobs and recruit unemployed workers registered with the employment offices.

61. Also worthy of note are the employment promotion programmes carried out under the Work Protection Investment Plans; they include some programmes which can be classified as employment promotion programmes and promotion of co-operatives and for which the following funds (in millions of pesetas) have been budgeted:

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<u>Year</u>	<u>Employment promotion programmes</u>	<u>Programmes for the promotion of co-operatives</u>
1978	5 096.5	2 283.0
1979	2 070.5	5 158.4
1980	2 050.0	6 430.0
1981	2 282.9	6 125.0
1982	14 250.0	6 100.0

62. To these must be added specific community employment measures intended to alleviate serious seasonal unemployment, which consist basically of providing work for unemployed agricultural workers in public works projects.

63. The funds allocated for that purpose in 1982 totalled 22,440 million pesetas.

3. Measures to ensure the best possible organization of the employment market, with particular reference to manpower planning procedures, the collection and analysis of employment statistics and the organization of an employment service

64. In this connection mention must be made of Royal Decree-Law No. 36/1978, of 16 November 1978 (Official Gazette, 18 November 1978), on the institutional management of social security, health and employment, which established the National Employment Institute as an autonomous administrative agency endowed with legal personality for carrying out its purposes and affiliated to the Ministry of Labour. The former Employment and Training Activities Service, Workers' Training Service and Vocational Training Unit of the Agency for Social and Vocational Services have been incorporated into the Institute.

65. Under the Royal Decree-Law, the functions of the National Employment Institute are: organizing the employment services with a view to securing, through free government action, optimum development and utilization of resources; assisting workers to find employment and employers to recruit suitable workers; promoting workers' training in close co-ordination with employment policy by providing suitable refresher and advanced occupational training and, when necessary, retraining; managing and supervising unemployment benefits and the subsidies and grants for employment promotion and protection and, in general, taking any measures conducive to an active employment policy.

66. Article 2(d) of Act No. 51/1980, the Basic Employment Act, of 8 October 1980, states that one of the aims of the employment policy is to bring about the greatest possible transparency of the labour market through proper management of the placement process and the adoption of measures to make available occupational information, guidance, training and advancement. Article 3 states that the implementation of the employment policy is the Government's duty, which will be performed through the co-ordinated work of the various ministerial departments and through the National Employment Institute, as the executing agency for the policy, whose advisory and, if appropriate, executive bodies shall include representatives of the employers' associations and trade union organizations.

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67. The National Employment Institute will thus become an essential instrument in carrying out placement policy, which covers schemes designed to provide workers with suitable employment and employers with the necessary manpower for the satisfactory conduct of their productive activities (Basic Act, art. 38(1)).

68. The aims of this placement policy are:

(a) To promote the access of workers to an occupational activity suited to their abilities;

(b) To reconcile labour supply and demand;

(c) To provide adequate and factual general information on employers' manpower needs and job opportunities for workers;

(d) To contribute to the designing and preparation of programmes to achieve the highest possible level of employment;

(e) To encourage the occupational mobility of workers by supporting plans for retraining, training and advanced training;

(f) To take part in the preparation of job-oriented vocational training programmes, taking account of the status and prospects of the labour market;

(g) To prepare statistics on the employment and unemployment situation;

(h) To co-operate in providing information, guidance, training and occupational classification for workers.

69. Lastly, the Basic Act provides that the National Employment Institute shall organize the placement of workers as a free national public service; it prohibits private placement agencies of any kind or functional scope having as their purpose the recruitment of labour in any form (art. 40(1) and (2) of the Act). This rule is, moreover, consistent with article 16(2) of the Workers' Charter.

70. With specific reference to employment services, article 43 of the Basic Employment Act provides that the National Employment Institute, as the executing agency for employment policy, shall have the following duties, among others:

(a) To organize the employment services with a view to securing, through free government action, optimum development and utilization of resources;

(b) To help workers to find employment and employers to recruit suitable workers.

71. Once the labour legislation - primarily the Workers' Charter and the Basic Employment Act - was in place, Royal Decree No. 1314/1982 of 18 June, on the organization and functions of the National Employment Institute, was enacted (Official Gazette, 29 June 1982). The Decree, having described the structure of the Institute's territorial services, identifies the employment offices as the executing agencies of its provincial departments, with the following functions:

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- (a) To register workers seeking employment;
- (b) To receive and respond to offers of and requests for employment;
- (c) To register and, where appropriate, approve contracts of employment;
- (d) To receive the documentation on unemployment benefits;
- (e) Such other functions as are specifically assigned to them.

#### 4. Technical and vocational guidance and training programmes

72. As regards this item, attention is drawn to the basic principle embodied in the 1978 Constitution of Spain, article 40, paragraph 2, of which establishes that the public authorities are to pursue a policy guaranteeing vocational training and retraining.

73. Basic Employment Act 51/1980 of 8 October reflects this wording in article 2(d) (cited earlier in this report) in describing the objectives of the employment policy, and it establishes specifically in article 14 that, as regards employment promotion programmes, the National Employment Institute is to draw up yearly a vocational training programme providing for suitable training to be given free of charge to persons wishing to enter the employment market or, although already in employment, wishing to undergo retraining or achieve a higher level of skill.

74. The National Employment Institute, acting in conjunction with the specialized institutes and agencies concerned, is authorized to draw up specific programmes to facilitate the guidance, training and employment of persons encountering special difficulties in finding work.

75. Workers registered as job-seekers with an employment office have a prior claim to take part in training schemes organized by the National Employment Institute and to avail themselves of assisted migration schemes.

76. The various training, further training and retraining programmes and schemes are carried out in the National Employment Institute's own centres and in duly authorized centres co-operating with it.

77. Among its functions, as enunciated in article 43 of the Act, the National Employment Institute is required to promote workers' training in close co-ordination with employment policy by providing suitable refresher, further training and, where appropriate, retraining schemes.

78. The above functions are also reflected in article 1.2.(c) of Royal Decree 1313/1982 of 18 June on the organization and functions of the Institute, which in addition to vocational training schemes, develops regulated training programmes.

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79. The regulated educational activities of the Institute have the specific purpose of training young people for an occupation and, as prescribed by General Education Act 14/1970 of 4 August (Official Gazette, 6 August 1970), they are geared in terms of organization and numbers of students to employment requirements and forecasts, providing courses which lead directly to the award of the necessary academic qualifications and complying with the general guidelines established in Decree 707/1976 on the regulation of training (Official Gazette, 12 April 1976).

80. These courses provide primarily a comprehensive education for young people over 14 years, preparing them for economic activity by dispensing training at the first and second levels and at technical engineering colleges, with a view to facilitating and ensuring their entry into employment and their advancement in the workplace.

81. In carrying out these activities, the National Employment Institute relies on 102 centres, at which 44,392 students took courses during the academic year 1980/81.

82. As regards vocational training, the Institute is concerned primarily with the need for further training and retraining courses. Its activities in this area are geared to specific groups with specific training requirements.

83. The programme of activities is drawn up once a year at the national level and is directed at workers who already possess some skills, thereby enhancing their job opportunities.

84. The activities consist of short courses and flexible programmes for the training and further training of operatives, with due regard for the requirements created by industrial expansion, the application of new technology and the rapid emergence of new specializations.

85. The types of courses provided are as follows:

(a) Initial training: for unskilled and semi-skilled workers, aimed at equipping them with an initial skill;

(b) Further training: aimed at updating and improving the occupational skills of skilled workers and facilitating their advancement to higher levels;

(c) Retraining: for workers who require training in an occupational field, an occupation or a craft;

(d) Adaptation: to facilitate the adaptation to the workplace of students already in possession of a regulated or general educational qualification or a training qualification;

(e) First-level training equivalency courses: the purpose of these courses is to have students complete the requirements for a first-level occupational training qualification, which implies the acquisition of both academic and job skills;

(f) Further training in specific skills: these courses cover all other skills whose nature or established level differs from those already described.

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86. For the conduct of the above activities the National Employment Institute relies on 61 established centres, at which 86,485 workers received training of the types described during 1982; of these workers, 54,320 attended initial training courses, 26,270 further training courses, 1,148 retraining courses, 674 adaptation courses and 4,073 further training courses in specific skills.

87. Before this section concludes, attention should be drawn to the continuation of the training performed by the schools of social work and in particular to the reorganization of the social work diploma courses established by Royal Decree 921/1980 of 3 May (Official Gazette, 17 May 1980), which renders the qualification equivalent to a university degree.

88. The number of students who attended courses at the various schools of social work was 11,092 in the academic year 1981/82.

89. As to the workers' colleges, Royal Decree-Law 36/78 of 16 November concerning the institutional administration of social security, health and employment declared that they should cease to function independently and should be integrated into the National Institute of Integrated Education, which under the terms of the same decree became an autonomous entity attached to the Ministry of Education and Science.

#### 5. Protection against arbitrary termination of employment

90. Protection against termination of employment is regulated in general by Act 8/1980 of 10 March on a Workers' Charter, which is developed and supplemented from a mainly procedural standpoint by Royal Decree 696/1980 of 14 April 1980 (Official Gazette, 17 and 28 April 1980) concerning procedures for substantial modifications of working conditions and the suspension and termination of employment relationships; that decree was amended by Royal Decree 2732/1981 of 30 October (Official Gazette, 26 November 1981) and by the Order of 6 October 1981 (Official Gazette, 17 October 1981) regulating the procedure to be followed in connection with unemployment benefits where the employment relationship is terminated by the death, retirement or incapacity of the employer.

91. As far as termination of employment in the narrow sense is concerned, dismissal on disciplinary grounds is governed by articles 54 to 56 of the Workers' Charter, which state that such dismissal is contingent on a serious and culpable breach of contract by the worker and enumerate the actions considered to be breaches of contract.

92. The Charter lays down the requirements to be met as regards the form and effects of dismissal on disciplinary grounds (notice of which must be conveyed in writing, with an indication of the reasons and the date on which the dismissal is to take effect) and such dismissal may be declared lawful, unlawful or null and void.

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93. It is deemed null and void if the employer fails to comply with the formal requirements, in which case the worker must be reinstated immediately, with payment of the wages he has forfeited.

94. It is deemed lawful if the breach of contract alleged by the employer is duly substantiated; in this case, the contract is terminated and the worker is not entitled either to compensation or to wages for the period of the proceedings.

95. If the dismissal is declared unlawful, the employer may either reinstate the worker or pay compensation equal to 45 days' wages for every year of service, up to a maximum of 42 months.

96. Should the employer fail to decide whether to reinstate the worker or pay compensation, he will be deemed to have opted for the former course of action. If the person dismissed is a legal representative of the workers, the option shall invariably be his, and the employer is obliged to reinstate him if he opts for reinstatement.

97. If the employer opts against reinstatement and the undertaking employs fewer than 25 workers, the compensation payable is reduced by 20 per cent, and 40 per cent of the remaining amount is paid by the Wage Guarantee Fund.

98. The system of guarantees outlined above is supplemented by the procedural norms contained in part II of the consolidated text of the Act concerning the procedure to be followed in labour suits, approved by Royal Legislative Decree 1568/1980 of 13 June (Official Gazette, 30 June 1980), which governs special procedures including dismissal.

99. The termination of the contract of employment for objective reasons, on the grounds stated in article 52 of the Workers' Charter, is treated in the same way as a decision to terminate the employment relationship, being subject to the same formal requirement that the worker must be notified in writing and the same obligation to pay compensation (in an amount equal to that provided for in the case of termination of the employment relationship for technological or economic reasons or reasons of force majeure), and the procedure to appeal the decision is the same as in the case of dismissal on disciplinary grounds, as are the main features of the characterization of the decision by the judicial authority.

100. Because of its resolutive effect on contracts, the possibility of terminating employment relationships for technological or economic reasons deserves special consideration. It is governed by article 51 of the Workers' Charter and by Royal Decree 696/1980 of 14 April. For such termination to have effect, the existence of the alleged force majeure must be confirmed by the labour authority, which must give permission for the termination of employment relationships on economic or technical grounds either at the request of the employer or, if it is reasonable to assume that the employer's failure to deal with the case is liable to cause harm that it would be impossible or difficult to remedy, at the request of the workers.

101. Before the case is examined, the employer is required to allow a period for discussion and consultation with the workers' representatives, who must be supplied with the information and documents relating to the case. The period of

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consultation may end in an agreement between the parties, which is communicated to the labour authority for a decision on the question, or it may fail to produce an agreement, in which case the employer must apply to the labour authority for permission to terminate the contracts.

102. The labour authority, after receiving a substantiated opinion from the labour inspectorate and such opinions from the public authorities as are considered necessary, must take a decision, against which an appeal may be lodged, thereby ending the administrative procedure.

103. It should be noted that, in the cases of termination outlined, the workers' legal representatives have a prior claim to remain in the employer's service and that the compensation payable, if permission for the termination is given, is at the rate of 20 days' wages for every year of service up to a maximum of 12 months and that, in cases of force majeure, compensation may be waived or reduced and is paid out of the Wage Guarantee Fund, without prejudice to the Fund's right to recover the amount from the employer.

104. Lastly, the Order of 6 October 1981 governs the procedure to be followed in cases where the employment relationship is terminated by the death, retirement or incapacity of the employer and it requires the labour authority to verify the situation or circumstances in which the decision to terminate the contracts of employment was taken.

#### 6. Protection against unemployment

105. One effect of the Basic Employment Act (51/1980, of 8 October), was to establish a new system of unemployment protection, the general character of which is developed in the Unemployment Benefit Regulations, approved by Royal Decree 920/1981 of 24 April (Official Gazette, 23 May 1981). The salient aspects of the system, as established by Part II of the Act, are as follows:

The extension of unemployment benefit to all employees covered by the general social security system and the special schemes which at the time of the promulgation of the Act provided protection against the contingency of unemployment.

106. This entitlement also extends to permanent employees covered by the special social security scheme for agriculture and was subsequently developed in specific terms by Royal Decree 1469/1981 of 19 June (Official Gazette, 21 July 1981) and the Order of 30 April 1982 (Official Gazette, 19 May 1982), which develops the decree and is based on the principle of providing protection equivalent to that afforded by the general system.

(a) Definition of the situations in which employees are legally deemed to be unemployed, all of which relate to the loss or lack of a job for reasons not the fault of the worker;

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(b) The coverage of unemployment, whether it is total unemployment (when the employment relationship is terminated or suspended, with the result that the worker ceases to engage in work and is deprived of income from employment) or partial unemployment (when a worker's normal day or the number of normal days and hours of work is reduced by at least one third and his income from employment is commensurately reduced);

(c) Establishment of the duration of the unemployment benefit, in proportion to the length of time spent in contributory employment over the four years immediately preceding the date on which the worker is legally deemed to be unemployed, according to a progressive scale which provides for periods of contributory employment ranging from more than 6 months to more than 36 months and under which the worker is entitled to the payment of benefit for a maximum period of between 3 and 18 months.

107. The maximum period can be extended to 24 months in cases where it would cover the (contributory) period required for the worker to be entitled to a retirement pension of any kind:

Establishment of a rate of benefit payable in respect of total unemployment which varies over the period of payment: during the first 180 days it is set at 80 per cent of the average contribution basis over the previous six months; from the sixth to the twelfth month of benefit it is set at 70 per cent of the average contribution basis and thereafter at 60 per cent. In no circumstances, however, may the rate of benefit exceed 220 per cent of the minimum inter-occupational wage or, in the case of workers with family responsibilities, be less than that minimum wage.

108. The rate of benefit payable in respect of partial unemployment, is calculated in the same way, but in proportion to the extent to which the person's employment is reduced.

109. The unemployment benefit also covers the payment of the employer's and worker's shares of the contribution to the appropriate social security scheme during the benefit period, it being provided that, where a worker's contract is suspended or his hours of work are reduced, social security contributions are payable by the employer concerned, although exceptions may be made by the labour authority in cases of force majeure.

Definition of the conditions which employees covered by the social security scheme and legally deemed to be unemployed must fulfil in order to qualify for unemployment benefit, it being required that they belong to the social security scheme and are active members or of equivalent status, that they have completed the prescribed contribution periods and that they are registered with the appropriate employment office.

110. This provision is supplemented by precise rules governing situations in which there are overlapping entitlements owing to a worker's declared total or partial disability and providing that workers do not forfeit their entitlements if an employer has failed to discharge his obligations in connection with their membership, coverage or contribution payments.

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Determination of the circumstances in which entitlement to receive cash unemployment benefit is acquired, is suspended or ceases, of special interest being the provisions concerning the refusal by the recipient of an offer of suitable employment or his refusal without a valid reason to undergo any training or upgrading ordered by the National Employment Institute or to take part in employment programmes sponsored by the Institute.

111. In such cases, entitlement to receive cash unemployment benefit may be suspended for six months; it may even cease, provided that the refusal of an offer of suitable employment or the refusal without a valid reason to undergo training or upgrading or to take part in an employment programme occurs during a period when the entitlement has been suspended for the same reasons.

112. The delineation of the system ends with the establishment of supplementary benefits as follows:

(a) Allowances payable to persons who are registered with an employment office as being unemployed, have not received an offer of suitable employment and fall into one of the following categories:

- (i) Are workers over 18 and under 65 years of age who have exhausted their entitlement to unemployment benefit and have not been offered employment within 30 days following the expiry of benefit, have no income of any kind exceeding the minimum wage and have family responsibilities. (This category was determined by the Order of 12 January 1982);
- (ii) Are workers who have returned from abroad, whose situation is not deemed equivalent to active membership for the purposes of unemployment benefit, who have registered with an employment office within 30 days following their return and who have not been offered employment within the next 60 days;

(b) Scholarships and other training grants, technical assistance necessary for the acquisition of qualifications or training, and loans towards the establishment or conversion of workers' co-operatives or companies, such benefits being available to workers over 16 and under 26 (article 25 of the Act).

113. The rate of the allowance is equal to 75 per cent of the minimum inter-occupational wage, plus the corresponding medical and pharmaceutical assistance benefits awarded by the social security system and, where appropriate, family allowances, such benefit being drawn for a period of six months, which may be extended by a further three months, subject to such conditions as may be specified by the General Council of the National Employment Institute (art. 26 of the Act).

114. Attention must be drawn to the medical and pharmaceutical benefits which, in addition to the supplementary ones just referred to, are established by article 23 of the Unemployment Benefit Regulations approved by Royal Decree 920/1981, of 24 April, for workers who have exhausted their entitlement to unemployment benefit or to any of the allowances provided for in those regulations or, where

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appropriate, the unemployment benefit established by article 173.1.(a) of the General Social Security Act (Consolidated Text approved by Decree 2065/1974 of 30 May 1974), available to them and their dependants, on the terms and for the period specified in the case of workers covered by the social security system, provided that they meet the following requirements:

(a) They remain registered with an employment office as seeking but unable to find employment;

(b) They have not refused an offer of suitable employment since the entitlement to any of the benefits ceased;

(c) Their income does not exceed the minimum inter-occupational wage;

(d) They are not entitled to medical and pharmaceutical benefits for any other reason.

115. It is necessary to review Royal Legislative Decree 1/1982, of 15 January 1982 (Official Gazette, 3 February 1982), a contingency measure, by which the Special Unemployment Protection Fund provided for in section 3.2 of the National Employment Agreement of 9 June 1981 was established.

116. The Fund is intended to cater for extraordinary and urgent situations not provided for under the Basic Employment Act and the Unemployment Benefit Regulations, by providing financial assistance, in particular a special allowance at a rate equal to 75 per cent of the minimum inter-occupational wage, to be drawn over a minimum period of one month and a maximum period of three months, which can be extended to six months.

117. The Fund was initially endowed with 15,000 million pesetas and was scheduled to cease operations on 31 December 1982; however, under the terms of Royal Legislative Decree 23/1982 of 29 December 1982 (Official Gazette, 31 December 1982), its existence was extended until such time as its assets are exhausted.

118. By Royal Decree 3064/1982 of 15 October 1982 (Official Gazette, 20 November 1982) entitlement to receive unemployment benefit was extended to certain workers included in group II of the General Regulations of the Seamen's Social Security Act who prior to that time had been ineligible.

119. Likewise, by Royal Decree 1167/1983, of 27 April 1983 (Official Gazette, 9 May 1983), unemployment protection was extended to temporary and permanent government employees.

120. Lastly, it should be stated that article 30 of the Basic Employment Act and article 29 of the Unemployment Benefit Regulations confer on the National Employment Institute administrative responsibility for the functions and services connected with the payment of unemployment benefit and the recognition of benefit entitlements.

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121. This administrative responsibility was developed in general terms by Royal Decree 1325/1981 of 19 June (Official Gazette, 8 July 1981), on the transfer of the functions and services connected with unemployment benefit, which were previously within the purview of the National Social Security Institute and have now been taken over by the National Employment Institute.

122. Unemployment benefits paid in the course of 1981, in terms of both cash payments to beneficiaries of unemployment insurance and social security contributions for the unemployed, amounted to a total of 402,846,586,856 pesetas.

123. The Ministry of Labour and Social Security intends to spend more than 30,000 million pesetas on promoting employment through seven separate programmes within the assistance scheme of the National Employment Protection Fund for the 1983 budgetary year (see annex IV, T.XXXIII). This expenditure will benefit various groups of workers, including, in particular, the handicapped, and will be supplemented by an amount of 7,040 million pesetas carried over from the 1982 budgetary year.

C. Statistical and other available information on the level of employment and extent of unemployment and underemployment in the country; difficulties affecting the degree of realization of the right to work and progress achieved in this field

124. The figures for the economically active population, the employed and the unemployed (thousands of persons) and the unemployment rate, estimated in relation to the economically active population, for the period 1978-1982 are as follows:

Year (Fourth quarter)	Economically active population	EMPLOYED				Unemployed	Unemployment rate as percentage of economically active population
		Fully	Marginally	Wage- earners	Non-wage earners		
1978	12 927.1	11 824.5	104.0	8 403.7	3 524.8	998.6	7.7
1979	12 926.7	11 578.0	113.7	8 197.1	3 494.6	1 235.0	9.6
1980	12 860.2	11 135.8	104.1	7 854.6	3 385.3	1 620.3	12.6
1981	12 918.9	10 848.0	82.6	7 658.5	3 272.1	1 988.2	15.4
1982	13 101.1	10 777.7	88.4	7 638.4	3 227.7	2 234.8	17.1

Source: National Statistical Institute. Survey of the economically active population.

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125. The figures for those fully employed, by sector of activity (thousands of persons), for the same period are as follows:

Year (Fourth quarter)	Agriculture	Industry	Construction	Services
1978	2 346.1	3 282.0	1 140.4	5 056.0
1979	2 218.9	3 160.8	1 067.7	5 130.6
1980	2 068.1	3 048.3	979.8	5 039.6
1981	1 947.0	2 875.4	945.7	5 079.9
1982	1 949.1	2 748.4	909.8	5 170.5

Source: National Statistical Institute. Survey of the economically active population.

126. The survey of the economically active population is carried out every quarter and refers to persons of 16 years and over living in family dwellings in the peninsula and on the islands.

127. The figures for registered unemployment, by sex, in thousands of persons (last day of every month) are as follows:

Year (Annual average)	Total	Men	Women
1978	818.5	611.6	206.9
1979	1 037.2	737.8	299.4
1980	1 277.3	888.8	388.5
1981	1 566.2	1 073.9	492.3
1982	1 872.6	1 247.6	625.5

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128. The figures for registered unemployment, by sector of activity, in thousands of persons (last day of every month) are as follows:

Year (Annual average)	Total	Agriculture	Industry	Construction	Services	Not previously employed
1978	818.5	78.4	222.0	247.4	169.9	200.8
1979	1 037.2	62.3	263.4	291.3	228.2	192.1
1980	1 277.3	71.5	316.3	337.1	303.5	248.9
1981	1 566.2	83.0	392.9	376.8	386.7	326.7
1982	1 872.6	80.2	480.3	401.3	466.5	444.3

Source: National Employment Institute.

129. The total number of registered unemployed rose in December 1982 to 2,150,947, yielding an unemployment rate of 16.53 per cent; the corresponding figures for the same month of 1981 were 1,743,789 unemployed and a rate of 13.50 per cent.

130. Disparities between the estimated unemployment figures of the National Statistical Institute and the registered unemployment figures of the National Employment Institute are the logical result of their different methodologies.

131. Whereas the National Statistical Institute arrives at its estimates through a survey (of the economically active population), the National Employment Institute uses the number of job applications filed with employment offices, which comprise applications filed by first-time job-seekers as well as by unemployed workers and persons seeking other employment.

132. The term "registered unemployment" denotes unemployed workers who have filed job applications but for whom work has not been found by the last day of the statistical period.

133. Thus the figure is obtained by subtracting from the job applications pending at the end of the statistical period the applications of those seeking a change of employment (not unemployed) in the files on the same date.

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134. The numbers of unemployment benefit recipients over the past five years are given in the following table:

Period	Unemployment benefit recipients
December 1978	472 935
December 1979	594 912
December 1980	738 784
June 1981 <u>a/</u>	731 900
December 1982	805 239

Source: National Employment Institute.

a/ Last month in 1981 for which statistics were recorded.

135. The rate of unemployment insurance coverage a/ over the same period was as follows:

Period	Coverage (percentage)
December 1978	48.0
December 1979	47.8
December 1980	46.0
June 1981	41.5
December 1982	27.1

Source: National Employment Institute.

$$\text{a/ Crude coverage rate} = \frac{\text{Total unemployment insurance recipients}}{\text{Registered unemployed}} \times 100$$

136. The fall in the coverage rate is the result of a combination of factors, notably the increase in registered unemployment (including first-time job-seekers) and the decline in the volume of benefit recipients, the latter decline being attributable to the entry into force of the Employment Act, under which the duration of the basic benefit is in proportion to the length of the prior contributory period.

137. In order to remedy this situation, an attempt will be made to increase coverage by various means, including the redistribution of unemployment funds through the provision of basic benefits to a larger number of persons and the extended duration of supplementary benefits.

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138. The result of individual employment promotion measures (number of contracts) is reflected in the following tables:

Year	Employment of young persons	Subsidized placement	Apprenticeships and on-the-job training	Workers assigned to public works, government departments and local corporations
1978	71 111	67 065	44 877	-
1979	167 912	195 770	27 476	220
1980	194 387	321 893	10 421	28 181
1981	126 684	235 419	8 402 <u>a/</u>	14 138
1982	-	-	28 434	22 148 <u>b/</u>

a/ Up to July 1981 the figures cover only on-the-job training contracts. From August 1981 onwards they cover apprenticeship and on-the-job training.

b/ Up to 1981 the figures cover workers assigned to public works, government departments and local corporations. In 1982 they cover social work and contracts based on agreements with government agencies and local corporations.

Year	Part-time	Temporary work	Specific groups of workers	Territorial
1978	-	-	-	-
1979	-	-	-	-
1980	-	-	-	-
1981	7 046	67 977	24 765	-
1982	27 749	253 183	105 655	7 423

Source: National Employment Institute.

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139. The programmes in the period 1978-1982 which have been mentioned were formulated to give effect to the following legislation: Royal Decree 41/1979 of 5 January concerning the promotion of the employment of young people, Royal Decree 42/1979 of 5 January on the recruitment of workers receiving unemployment insurance benefits, Royal Decree 2544/1979 of 19 October and Royal Decree 421/1980 of 8 February concerning workers assigned to public works, government departments, government agencies and local corporations, Royal Decree 1361/1981 of 3 July on apprenticeship and on-the-job training contracts for young workers, Royal Decree 1362/1981 of 3 July on part-time employment contracts, Royal Decree 1363/1981 of 3 July on temporary recruitment as a means of promoting employment and Royal Decree 1364/1981 of 3 July on guidelines for the promotion of employment for particular groups of unemployed workers. All these decrees have now been abrogated and replaced by the current Royal Decree 1445/1982 of 25 June, as amended by Royal Decree 3887/1982 of 29 December, concerning measures to promote employment.

140. In so far as the employment of aliens in Spain is concerned, the number of work permits issued in the period considered was as follows:

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<u>Year</u>	<u>Total work permits issued to foreigners</u>
1978	53 756
1979	50 409
1980	58 831
1981	61 194
1982	50 501

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Source: Ministry of Labour and Social Security.

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

A. Remuneration

1. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to fair remuneration in its various aspects as set out in article 7 (a)

1. In accordance with the general guidelines for periodic reports, we shall mention in this report only the new legislative measures and regulations enacted in our country and refer readers to the previous report (E/1978/8/Add.26, p. 21) for information on all the rest. It should, however, be noted that some of the provisions described in that report have been abrogated with the entry into force of the Worker's Charter Act, among them the Act on Employment Regulations of 16 October 1942; the Act on Contracts of Employment of 26 and 31 January 1944; Act 38/1973 of 19 December 1973 and the Order of 21 January 1974 on collective agreements; Part III of Royal Decree-Law 17/1977 of 4 March 1977; and the Industrial Relations Act of 8 April 1976.

- (a) Spanish Constitution of 27 December 1978;
- (b) Worker's Charter Act of 10 March 1980;
- (c) Inter-Federation Outline Agreement of 5 January 1980 (AMI);
- (d) National Employment Agreement of 9 June 1981 (ANE);
- (e) Inter-Federation Agreement of 15 January 1983 (AI);
- (f) Enterprise and Sectoral Collective Agreements;
- (g) Royal Decree 100/83 of 10 January 1983 setting the minimum interoccupational wage for 1983.

2. In Part I, chapter 2, section 2, of the Spanish Constitution, concerning the rights and duties of citizens, article 35, inter alia, recognizes that "all Spaniards have the right ... to sufficient remuneration for the satisfaction of their needs and those of their families; moreover, in no circumstances may they be discriminated against on grounds of sex".

3. The Worker's Charter Act, after recognizing, in article 4 (2) (f), the right of workers as parties to an employment relationship "to the punctual payment of the agreed or statutory remuneration" and, in article 25, the right to economic advancement according to the work performed, devotes section 4 of chapter II of Part I to "Wages and wage guarantees", which deals with the concept of wages (art. 26), the minimum interoccupational wage (art. 27), equal remuneration for both sexes (art. 28), rules governing the calculation and payment of wages (art. 29), the guarantee in the event of impossibility of a worker's performing his

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services (art. 30), and rules for the protection of wages and wage guarantees (art. 32). Finally, article 33 deals with the Wage Guarantee Fund, the purpose of which is to pay workers the amount of wages due to them in the event of insolvency, suspension of payments, bankruptcy or bankruptcy proceedings.

4. The above-mentioned legal text fully embodies the principle of the autonomous will of the parties. Part III is devoted to "collective bargaining". Article 82 defines collective agreements as the product of bargaining between representatives of workers and employers and the expression of agreement freely reached by them in exercise of their collective autonomy. Article 85 provides that "subject to compliance with the laws, collective agreements may regulate economic labour, trade union and welfare questions and, in general, any other questions connected with conditions of employment and the relations of workers and their representative organizations with employers and employers' organizations".

2. Principal methods used for fixing wages (minimum wage-fixing machinery, collective bargaining, statutory regulations etc.) in individual sectors, and numbers of workers involved; information on the categories and numbers of workers for whom wages are not yet set by such methods

5. The interoccupational minimum wage, which was introduced in Spain in 1963, is referred to in article 27 of the Worker's Charter in the following terms:

(a) The Government, after consulting trade union organizations and employers' organizations, shall each year fix a minimum interoccupational wage.

(b) In setting the level of the minimum interoccupational wage, the law requires that account be taken of the consumer price index, the average national level of productivity, the increased share of labour in the national income and the general economic situation.

6. There is also a provision requiring a mid-year revision of the minimum interoccupational wage if the projected consumer price index proves to be inaccurate, in order to preserve purchasing power.

7. A safeguard is also provided in the form of a stipulation that the amount represented by the minimum interoccupational wage is not liable to attachment.

8. In addition, as a legal safeguard in collective bargaining, it is provided that the revision of the minimum interoccupational wage shall not alter the structure or amount of the wages laid down for any occupation if, when taken as a whole for a period of one year, they exceed the minimum interoccupational wage.

9. At present, the minimum interoccupational wage for the year 1983 is set by Royal Decree 100/83 of 10 January 1983. This provides that the minimum wage for all activities in agriculture, industry and services sector, without distinction as to the sex of the worker, shall be 1,072 pesetas a day or 32,160 pesetas a month, according to whether daily or monthly rates are used, for workers aged 18 years and over; 657 pesetas a day or 19,770 pesetas a month for workers aged 17 years; and 415 pesetas a day or 12,500 pesetas a month for workers under 17 years.

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10. To these minimum wages, which serve as a module, are added the personal supplements for length of service (biennial, triennial or quinquennial), job-related supplements (differentials for shift work, night work, work which is arduous, dangerous or involves toxic substances, loading work or shipboard service), periodic supplements paid at intervals exceeding one month (special bonuses - at present a minimum of two - and profit-sharing), quantity and quality supplements (premiums, incentives, differentials for industry, punctuality, attendance, overtime or any other differential which is due to a worker for higher or better-quality output, whether or not associated with a piecework system), in accordance with the labour regulations or ordinance applicable to the sector.

11. In addition, the Royal Decree sets the minimum interoccupational wage of casual or temporary workers whose employment with the same employer does not exceed 120 days; they receive both the minimum wage and a pro rata share of Sundays and holidays and the two special bonuses which are their minimum entitlement.

(Statistical tables on the movement of the minimum interoccupational wage and the consumer price on cost-of-living index are annexed (see tables I and IV, annex II).

12. Without reference to the minimum interoccupational wage, wages for individual occupational sectors are now generally fixed through collective agreements, which are governed, as explained earlier, by Part III of the Worker's Charter Act.

(A table illustrating developments in collective bargaining in the past three years is annexed (see table in annex II)).

13. Lastly, it should be noted that at present, following the promulgation of the Worker's Charter, the employment ordinances and regulations, which have played a major role in this field in recent decades and are still in force wherever they have not been replaced by a collective agreement, have been phased out as far as wages are concerned inasmuch as only the Government has the power to regulate conditions of work by brand of activity for sectors of the economy and territorial divisions, where no collective agreement exists, after the necessary consultation with the most representative trade unions and employers' associations. Accordingly, such ordinances and regulations are merely residual.

14. In this section, and on the subject of collective bargaining, mention should be made of the interoccupational outline agreements which have been concluded between the major employers' associations and trade union organizations in recent years, particularly since 1980.

15. In addition to questions relating to conditions of work - hours of work, overtime, collective recruitment, mediation, conciliation and arbitration of disputes, collective representation and so forth -, wages and wage review are dealt with in these agreements. In the most recent agreement, for example (between the Spanish Federation of Employers' Organizations and the Spanish Federation of Small and Medium-Sized Enterprises, on the one hand, and the General Union of Workers and the Trade Union Federation of Workers' Commissions, on the other), chapter III deals with three aspects of the subject of wages: wage

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increases for 1983, review clauses and the guarantee clause in agreements concluded for periods that do not coincide with the calendar year 1983. (Copies of the agreements concluded in the period 1980-1983 are attached (see annex IV: T.IV and T.XXVIII)).

3. Information regarding components of workers' remuneration other than normal wages (such as bonuses, temporary cost-of-living differentials, etc.)

16. On this subject, we refer readers to the content of our previous report (E/1978/8/Add.26, p. 23), which gave a commentary on Decree 2330/73, of 17 August on the regulation of wages, and its implementing Order of 22 November 1978, which remain in force and which cover all wage components or supplements other than the basic wage.

4. Statistical data showing trends in levels of remuneration and in the cost of living

(Tables I to IV are attached, see annex II).

5. Provisions and methods designed to ensure respect for the right to equal pay for work of equal value and in particular to secure for women conditions of work not inferior to those enjoyed by men, with equal pay for equal work

17. Act 56/1961, of 22 July 1961 established equal treatment of men and women with respect to their political, occupational and employment rights; it was subsequently developed by Decree 258/62 of 1 February 1962, which was later superseded by Decree 2310/70 of 20 August 1970, article 1 of which provides that women are entitled to be employed on terms of full equality with men and to receive the same remuneration as men, and that any provision or stipulation in contract of employment that contravenes the provisions of that article is null and void.

18. Article 2 states that women may conclude any type of contract, participate in the negotiation of collective agreements and exercise all labour and trade union rights arising from the laws and from such agreements on the same terms as men. The regulations on this subject were supplemented by the 1956 Labour Relations Act, which has now been superseded by the Spanish Constitution of 1978 and the specific rules contained in the Worker's Charter and the Collective Agreements.

19. Thus, article 14 of the Spanish Constitution recognizes that all Spaniards are equal before the law and that no discrimination may be practised on the grounds of birth, race, sex, religion, opinion or any other personal or social condition or circumstance; and article 35, on the right and duty to work, specifically provides that "all Spaniards have the duty to work and the right to employment ... and to remuneration sufficient to satisfy their needs and those of their families, and in no case may they be discriminated against in this sphere on grounds of sex".

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20. In defining basic workers' rights in article 4, the Worker's Charter Act provides that "as a party to an employment relationship a worker shall have the right: ... (c) not to be subjected to discrimination in seeking employment or when employed on grounds of sex, marital status, ...".

21. Article 17 provides that "any regulations, provisions of collective agreements, individual contracts or unilateral decisions of an employer embodying unfavourable discrimination by reason of his age or favourable or injurious discrimination in matters of employment, remuneration, hours of work or other conditions of employment by reason of sex, origin, marital status ... shall be deemed to be null and void".

22. Article 28, to which reference has already been made, provides for equal remuneration for both sexes, stipulating that "an employer shall pay the same wage ... for equal work, with no discrimination whatsoever on grounds of sex".

23. In addition, in order to ensure that such principles are observed in collective bargaining, it should be noted that responsibility for monitoring the legality of agreements is assigned under the Worker's Charter Act to the relevant jurisdiction, in accordance with article 90.5, which states that "if the labour authority considers that an agreement conflicts with the laws in force or is seriously detrimental to the interests of third parties, it shall apply ex officio to the competent court [the labour court], which after hearing the parties, shall take the necessary action to remove the alleged irregularities".

24. As already indicated, the provisions relating to the minimum interoccupational wage govern the setting of minimum wages for all activities in agriculture, industry and the services sector, without distinction as to the sex of workers.

6. Difficulties encountered and progress made in extending to all workers measures designed to ensure that they receive fair remuneration providing a decent living for themselves and their families in accordance with the provisions of the Covenant

25. As indicated in the previous report (E/1978/8/Add.26, p. 24), it cannot be said that any difficulties have been encountered in applying the provisions of the Covenant since even before it was ratified by our country such principles were already embodied in our laws, as has been shown. However, it must be reported that the improvement of workers' economic conditions is being severely affected by the present economic crisis and the efforts of the entire society to reduce the high level of unemployment.

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B. Safe and healthy working conditions

1. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the right to safe and healthy working conditions generally and in particular sectors or occupations

26. Of the legal provisions described in the previous report, the following have been repealed:

- (a) The Decree of 10 August 1976 concerning the regulation of safety and health services and agencies;
- (b) The Order of 22 December 1959 on protection against radioactivity.

27. Since 1978 the following provisions have been enacted:

- (a) General
  - (i) The Constitution of 27 December 1978 (arts. 40.2, 43.1 and 45);
  - (ii) The Workers' Charter of 10 March 1980 (sects. 4.1 (b), 5 (b), 19, 62.2 and 64.1 (8) (b));
  - (iii) Royal Decree-Law No. 36 of 16 November on the institutional management of social security, health and employment (art. 5.4 establishes the National Occupational Health and Safety Institute and abolishes the service of the same name);
  - (iv) Royal Decree No. 577 of 17 March 1982, on the structure and competence of the National Occupational Safety and Health Institute;
  - (v) Ratification of 29 April 1980 of the European Social Charter of 18 October 1961 (arts. 2.4, 3, 7.1, 7.4, 7.8, 7.9, 7.10, 8.3, 8.4, 11);
  - (vi) Ratification on 24 November 1980 of International Labour Organisation Convention No. 148 concerning the Protection of Workers against Occupational Hazards in the Working Environment due to Air Pollution, Noise and Vibration;
  - (vii) Order of 28 October 1981 assigning competence and functions in connection with preventive occupational medicine.

It is interesting to note that, pursuant to the Order of 17 May 1974, 28 mandatory technical standards have been issued with a view to standardizing personal safety devices, such as helmets, hearing protectors, gloves, footwear, masks and filters, goggles, safety belts, and so forth.

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(b) Sectoral or specific provisions

- (i) Ratification on 13 February 1982 of International Labour Organisation Convention No. 152 concerning Occupational Safety and Health in Dock Work;
- (ii) Royal Decree of 25 August 1978 approving the general regulations for the mining industries;
- (iii) Royal Decree of 12 August 1982 approving the regulations on health protection against ionizing radiation;
- (iv) Order of 30 August 1982 approving the instruction relating to oil refineries and petrochemical plants, as a supplement to the Safety and Health Regulations for oil refineries and petroleum product storage depots;
- (v) Royal Decree of 4 April 1979 approving the regulations on pressurized containers;
- (vi) Royal Decree of 2 March 1978 approving the regulations on explosives, amended by the Royal Decrees of 18 April 1980 and 24 July 1981;
- (vii) Order of 19 July 1982 and the Resolution of 30 September 1982 on working conditions applicable to the handling of asbestos;
- (viii) Order of 28 January 1981 on the installation of cabs or bodywork on agricultural and forestry tractors;
- (ix) Royal Decree of 29 June 1979 approving national regulations on the carriage of dangerous goods by road;
- (x) Royal Decree of 5 March 1982 approving national regulations and the supplementary rules on the carriage of dangerous goods by rail.

28. Any rules laid down in labour ordinances and regulations that have not been replaced by collective agreements remain in force.

29. Without prejudice to the provisions of any collective agreements which are still being worked out, the Inter-Federation Agreement of 1983, "given the importance of occupational safety and health and their effect on workers' health", establishes for that purpose a Joint Committee on Labour with equal representation of employers and workers.

2. Principal arrangements and procedures to ensure that these provisions are effectively respected in individual workplaces

30. The Constitution recognizes the right to health protection; it states that the public authorities shall safeguard occupational safety and health, that everyone has the right to enjoy a satisfactory environment, and that to that end the public

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authorities shall ensure that all natural resources are utilized rationally in order to protect and improve the quality of life, with penalties being imposed when necessary.

31. The Workers' Charter likewise establishes with regard to the employment relationship, that workers have the right to physical safety and an adequate safety and health policy, and that it is the workers' fundamental duty to comply with such safety and health measures as are instituted. The Charter also provides for workers' participation in the inspection and monitoring of safety and health measures, through their legal representatives at the workplace, unless there are specialized agencies or centres competent in the matter, with workers being empowered to demand that the employer, in the event of genuine and serious probability of an accident, take the necessary measures to eliminate the hazard; the workers may, in the event of imminent danger of an accident, cause all work to be halted.

32. The standards for working conditions applicable to the handling of asbestos are consistent with the directives of the European Economic Community.

33. The promotion, monitoring and inspection of occupational safety and health are assigned to the following bodies:

(a) The Department of Labour, with its Occupational Safety and Health Service, has the functions of organizing, directing and developing safety and health measures and of formulating the regulations and standardizing personal protection devices;

(b) The Labour Inspectorate is responsible for ensuring compliance with the rules regarding occupational safety and health;

(c) The National Occupational Safety and Health Institute is the technical agency of the Ministry of Labour and Social Security responsible for studies, research, training and advisory services in connection with safety and health matters. One of its organs is a General Board with tripartite membership (public authorities, employers and workers) which reports to the Ministry of Labour and Social Security on the national plans of action on occupational safety and health;

(d) The autonomous communities are responsible for enforcing the rules on the declaration of any work which is toxic, hazardous, exceptionally arduous or of similar status and for the performance of those functions of the Occupational Safety and Health Institute which fall within the purview of the Autonomous Agency, through the relevant provincial technical offices, provided that the functions and services have been transferred from the State;

(e) The National Health Institute is responsible for the operations of the bodies dealing with preventive occupational medicine (the National Institute for Occupational Medicine and Safety, the Clinic for Occupational Diseases, the National School of Occupational Medicine and Industrial Medical Services).

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3. Excluded categories or sectors

34. There are no categories or sectors to which occupational safety and health measures are not applicable.

4. Statistical information

35. The trend in accident rates from 1978 to 1982 is shown in table VI (see annex II).

36. The accident rate index (incidence, frequency and gravity) for the year 1982 for the country as a whole, by basic sector (agriculture and fisheries, industry, construction and services) and by average period of incapacity for work is shown in table VII (see annex II).

C. Equal opportunity for promotion

37. This has been discussed in the section dealing with article 6.

D. Rest, leisure, limitation of working hours and holidays with pay

1. Principal laws, administrative regulations, collective agreements and court decisions designed to promote and safeguard the rights to rest, leisure, reasonable limitation of working hours and periodic holidays with pay

38. Of the legal provisions outlined in the previous report (E/1978/8/Add.26, pp. 27-29), the Labour Relations Act of 8 April 1976 and Royal Decree-Law No. 17/1977 of 4 March have been abrogated, except for Parts I and II of the latter relating to strikes and collective disputes. In addition, the following provisions have been enacted:

(1) Spanish Constitution of 27 December 1978;

(2) Workers' Charter Act of 10 March 1980;

(5) Royal Decree No. 281/1981 of 27 November, specifying which holidays are national holidays for the purpose of release from work; it has been amended in part by Royal Decree No. 3866/1982 of 29 December;

(6) Royal Decree No. 2820/1981 of 27 November, which establishes the work calendar for 1982-1983;

(8) Act No. 4/1983 of 29 June, which establishes the maximum legal 40-hour work week and minimum annual holidays of 30 days;

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- (2) Inter-Federation Outline Agreement of 5 January 1980;
- (4) National Employment Agreement of 9 June 1981;
- (7) Inter-Federation Agreement of 15 January 1983.

39. The Spanish Constitution of 1978 provides, in article 40.2, that "the public authorities ... shall guarantee adequate rest by limiting daily hours of work, by periodic paid holidays and by fostering suitable centres".

40. The Workers' Charter, in pursuance of this constitutional provision, refers to this subject in a number of provisions. In article 6.2, for instance, it prohibits the employment of persons under 18 years on night work, and, in article 6.3, their performing overtime; article 12, regarding part-time work, facilitates employment or makes it possible for groups which must reconcile work with other obligations, notably family obligations, and defines part-time employment as being when "a worker performs services for a specified number of days each year, month or week or for a specified number of hours, the number being less in either case than two thirds of the number considered customary for the said period in the activity concerned".

41. Furthermore, Part I, chapter II, section V, devoted entirely to hours of work, regulates matters relating to the working day (art. 34); overtime (art. 35); flexible working hours and shift work (art. 36); weekly rest, public holidays and time off (art. 37) and annual holidays (art. 38).

42. With regard to the working day, the Charter states that "the hours of work shall be fixed by collective agreement or individual contract of employment", and, as amended by Act No. 4/1983 of 29 June, sets the maximum normal working time at 40 hours of actual work each week, with a minimum interval of 12 continuous hours between working days.

43. It defines the single working day as being the maximum length of the normal working day, which may not exceed nine hours, defines actual hours of work and makes provision for the determination by collective agreement of the annual hours of work, with due regard in all cases to a ceiling on overtime worked in any day.

44. Rules are also laid down for night work, defined as work performed between 10 p.m. and 6 a.m. The Government is authorized to extend or reduce the hours of work by reference to the characteristics of certain activities (essential services, transpor, and so forth) or the arduous or hazardous nature of certain types of work (such as mines, construction sites, wells or tunnels). 1/

45. With regard to overtime, the Workers' Charter sets the maximum number of hours at 2 a day, 15 a month and 100 a year, save in extraordinary situations such as accidents, damage or emergencies. It guarantees remuneration for overtime, providing that in no case shall the excess over the hourly pay for normal work be less than 75 per cent. Lastly, it states that overtime must be worked voluntarily and not at night except in special cases and activities that have been duly substantiated and authorized by the Ministry of Labour.

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46. The concern of the spokesmen of social groups about employment matters has manifested itself in this connection. Accordingly, in all of the Inter-Federation Agreements concluded so far, and in the National Employment Agreement of 1981, to which the Government was also party, an effort is made to distinguish between extensions of the working day through overtime - the cost of which attracts a surcharge of 10 points on social security contributions, shared equally by employer and worker, unless the overtime was occasioned by force majeure - and structural extensions of the working day, meaning those necessitated by peak production periods, unexpected absences, changes of shift, maintenance, and so on (art. IV.4 of the National Employment Agreement).

47. Article 37 provides for an uninterrupted weekly rest of one and one half days which shall as a general rule include Saturday afternoon, or, if appropriate, Monday morning, and the whole of Sunday.

48. In addition, it establishes a maximum of 14 public holidays a year, two of them being local holidays. The public holidays are specified in Royal Decree No. 2819/1981 of 27 November, as amended in part by Royal Decree No. 3866/1982 of 29 December.

49. There are also regulations concerning paid absences or leave of workers: 15 calendar days in the event of marriage; two days on the birth of a child or the serious illness or death of a relative; one day in the event of a worker's change of habitual residence; and such time as may be necessary to discharge an unavoidable public duty, and to perform trade union duties or representative functions.

50. Article 38, as amended by Act No. 4/1983, sets the annual leave with pay, which may not be replaced by monetary compensation, at 30 calendar days, and provides that the leave period shall be fixed by agreement between the employer and the worker, who may also agree on dividing the leave into two periods, with the competent authority resolving any disagreements.

51. Most of the collective agreements deal with this question and introduce appropriate improvements.

52. Lastly, mention should be made of the leave granted by law to women: a one-hour break from work, which may be divided into two parts, for nursing a child under nine months; maternity leave during which the contract may be suspended for up to 14 weeks, to be distributed as the worker chooses; and, for those responsible, for the purpose of legal guardianship, for the care of a child under six years or of a physically or mentally handicapped person, the option of a reduction in the working day of from one third to one half, subject to a proportionate reduction in wages.

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ARTICLE 8. TRADE UNION RIGHTS

A. Principal laws, administrative regulations, collective agreements and court decisions designed to promote, safeguard or regulate trade union rights in their various aspects as defined in this article

1. In keeping with the general guidelines for the submission of periodic reports, we shall limit ourselves in this case to reporting new legislative measures, regulations, collective agreements, etc., enacted in our country; reference may be made, in regard to the remaining topics, to the previous report, E/1978/8/Add.26, pp. 33 and 34.

(a) Spanish Constitution of 27 December 1978;

(b) Act 8/1980 of 10 March, on the Workers' Charter;

(c) Royal Decree 2756/79 of 23 November, which provides that the Mediation, Arbitration and Conciliation Institute shall exercise certain functions assigned to it, including the deposit of the statutes of occupational associations, records of elections, agreements, etc.;

(d) Inter-Federation Outline Agreement (AMI) of 5 January 1980;

(e) National Employment Agreement (ANE) of 9 June 1981;

(f) Inter-Federation Agreement (AI) of 15 January 1983;

(g) Judgements of the Constitutional Court of 8 April 1981 and 23 November 1981.

B. Right to form and join trade unions

1. An indication of the legal or other provisions governing the right to join and form the trade union of one's choice. If no formal provisions exist, a description of how the right is ensured in practice

2. Article 28 of the Spanish Constitution of 1978 states that "Everyone has the right freely to join a trade union. ... Trade union freedom includes the right to found trade unions and to join the union of one's choice. ... No one may be compelled to join a trade union".

3. Prior to the promulgation of the Constitution Act No. 19/1977 of 1 April, on trade union membership, had been published, as mentioned in the previous report, and ILO Conventions Nos. 87 and 98 had been ratified, together with the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, by instruments dated 13 April 1977.

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4. That Act provides that "workers and employers may, in each branch of activity and at the territorial or national level, establish such occupational associations as they consider appropriate for the defence of their respective interests ... and shall have the right to join the aforementioned associations, subject only to compliance with their statutes. [They] shall draw up their own statutes ... and deposit them with the public office set up for the purpose [and shall] acquire legal personality and full capacity to act after the expiry of 20 days reckoned from such deposit, unless the competent judicial authority is requested within this period to declare that the statutes are not in accordance with the law. The judicial authority shall give a final decision on the subject".

5. On this subject, the following decrees should be noted: Royal Decree No. 873/77, of 22 April, which regulates the minimum content of statutes and their deposit and registration; Royal Decree No. 2756/79, of 23 November, which establishes that the Mediation, Arbitration and Conciliation Institute shall exercise the functions assigned to it by Royal Decree-Law No. 5/79, of 26 January, among them depositing the statutes of trade unions and employers' associations, records relating to elections, and the texts of collective agreements and other instruments; and Royal Decree No. 1048/77, of 13 May, amplifying the legal procedures established in Act No. 19/77, of 1 April.

6. Act No. 8/1980, of 10 March, on the Workers' Charter, in article 4, paragraph 1 (b), concerning workers' rights, recognizes "the right of freedom of association", and in paragraph 2 (c) of the same article, the right to "freedom from discrimination when seeking employment ... on grounds of ... membership or non-membership of a trade union".

7. Furthermore, the Inter-Federation Outline Agreement (AMI), concluded by the Spanish Federation of Employers' Organizations (CEOE) and the General Workers' Union (UGT), in 1980; the National Employment Agreement (ANE), concluded by the two above-mentioned organizations plus the Trade Union Federation of Workers' Commissions (CC.OO.) and the Government, in 1981; and the Inter-Federation Agreement of 1983, also concluded by the above-mentioned employers' and trade union organizations, all contain clauses concerning trade unions, specifically on the responsibilities of trade union delegates, guarantees for trade union representatives and rights to hold meetings, obtain information, collect dues, etc., at the employer's premises. In this respect, the right of collective representation and the right of the workers to hold meetings at the employer's premises are regulated, in a general way, in Part II of the Workers' Charter Act.

2. Any restrictions which are placed upon the exercise of this right with precise details of the legal provisions prescribing such restrictions

8. Royal Decree No. 1522/1977, of 17 June, regulates the right to associate in trade unions of "civil servants and contract personnel governed by administrative law employed in the civil service, local government or autonomous agencies reporting to either of them or in the agencies administering the social security scheme".

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9. Royal Decree No. 3624/77, of 16 December, regulates the right of association in trade unions of civil servants employed in the Department of Security - now the Department of State Security - among them the staff of the General Police Corps, but not the Armed Forces and Institutes - the Civil Guard and National Police - which, because of their military nature or discipline, are subject, with respect to the exercise of this right, and other trade union rights, to the relevant provisions of the Organic Law on Duties, basic principles of action and statutes. In any case, considering the essential services they perform, they must ensure the maintenance of these services according to the provisions of the Constitution.

10. The trade union rights of civil servants who are serving in the Military Administration are likewise the subject of special regulations in Royal Decree No. 500/78, of 3 March, in view of their peculiar features.

C. Right of trade unions to federate

11. Article 28.1 of the Constitution mentioned earlier, explicitly recognizes "... the right of trade unions to form federations and to found international trade union organizations or to become affiliated to them ..."; this recognition is reiterated in article 4 of the Trade Union Association Act, which states that "occupational associations may establish federations and confederations, subject to the requirements and consequences specified in [the Act] and may join existing federations and confederations".

D. Right of trade unions to function freely

12. Article 1.3 of the Trade Union Association Act explicitly provides that associations "shall draw up their own statutes, manage their affairs with complete autonomy and enjoy legal protection in order to guarantee their independence vis-à-vis the public authorities and [legal protection] against any act of interference by some with others".

13. Article 5 states that "organizations ... may be suspended or dissolved only by decision of a judicial authority, which shall be based on their engaging in unlawful activities or on other causes provided for by law or in their statutes"; this precept is perfectly consistent with the provisions of article 22.4 of the Constitution.

14. Note should be taken in this connection of the special protection of the above-mentioned rights embodied in our Constitution. Thus, article 53.1 and 2 of the Constitution establishes that "the rights and liberties recognized in Chapter Two of this Part" - among them the liberty referred to in the above-mentioned article 28 - "are binding on all public authorities. The exercise of such rights and liberties, which shall be protected in accordance with the provisions of article 161, 1 (a) and (b) may be regulated only by law, which shall in every case respect their essential content" - appeal on grounds of unconstitutionality. Moreover, "any citizen may apply for protection of the liberties and rights recognized in Article 14 and in Section 1 of Chapter Two"

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(concerning fundamental rights and public liberties, including the right to form trade unions and to strike) "to the ordinary courts by means of a priority and summary procedure and, if appropriate, through an application for amparo to the Constitutional Court".

(Attached is Judgement No. 189/81, of 23 November, of the Constitutional Court, on an application for amparo filed by a number of workers on the grounds of discrimination by reason of their membership of a trade union; see annex IV, text XVIII.)

#### E. Right to strike

15. Articles 28.2 and 35.2 of the Constitution state, respectively: "the right of workers to strike in defence of their interests is recognized. The Act regulating the exercise of this right shall establish specific guarantees for the maintenance of essential community services" and "the right of workers and employers to adopt collective dispute measures".

16. This right is also recognized in the Workers' Charter, specifically in article 4 (1), which lists among the "basic rights" in subparagraphs (a) and (b), the right "to adopt collective dispute measures" and "to strike".

17. The exercise of these rights, "in the field of labour relations" - article 1 - is regulated in Parts I and II of Royal Decree-Law No. 17/1977, of 4 March, on labour relations.

18. The essential content of this provision was described in our first national report - E/1978/8/Add.26, p. 34 - to which reference should be made; we shall confine ourselves to mentioning the very important judgement of 8 April 1981 of the Constitutional Court, issued in response to a claim which, on that occasion, challenged the validity of the above-mentioned legal text on the grounds of unconstitutionality. The Court in its ruling partially upheld the challenge, by declaring unconstitutional only one article - article 26 - and one paragraph each of articles 6, 10 and 11 of the Decree-Law. However, the legal principles expounded in the judgement constitute a body of doctrine of unquestionable value on strikes, in view of the authority of the body from which they emanate, whose rulings, whether declarative or interpretative, are binding in accordance with article 38 of its Organic Law and have the status of res judicata, binding all public powers and having general force as from the date of their publication.

(The text of this judgement is annexed; see annex IV, text X).

#### F. Any special restriction imposed upon the exercise of the rights to form trade unions and to strike by members of the armed forces, the police or the administration of the State

19. Article 28.1 of the Constitution, having recognized the right of everyone freely to join a trade union, states that "the law may limit the exercise of this right or make an exception to it in the case of the Armed Forces or Institutes or other bodies subject to military discipline and shall regulate the special features of its exercise by civil servants".

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20. Similarly, articles 103.3 and 104.2 state, respectively, that "the law shall regulate the status of civil servants ..., the special features of the exercise of their right to union membership ..." and that "an organic law shall determine the duties, basic principles of action and statutes of the Security Forces and Corps".
21. Prior to the promulgation of the Constitution, the following Royal Decrees were issued: No. 1522/77 of 17 July 1977, which regulates the right of civil servants to associate in trade unions; No. 3624/77 of 16 December, which regulates the right of civilian employees of the Department of Security - now the Department of State Security - to form and join trade unions; and No. 500/78, of 3 March, which regulates the right of civilian employees of the Military Administration to form and join trade unions.
22. The first of these decrees recognizes the right and its exercise for both public servants and contractual personnel governed by administrative law and employed by the civil service, local government, autonomous agencies reporting to either of the foregoing or the agencies administering the social security scheme.
23. These provisions do not apply to career personnel having the status of special supernumeraries who are appointed to a political position or position of trust of a non-permanent character, so that the acquisition of such status will require the temporary suspension of their membership.
24. Public servants may also form and join federations and confederations.
25. Civil servants and persons employed in the security services and prison institutions and, in general, any other personnel who, although not belonging to such services or institutions, use weapons in the performance of their duties shall have bodies to represent and defend their interests but shall not belong to the associations or organizations referred to in the foregoing paragraphs.
26. Royal Decree No. 3624/77 regulates the exercise of the right to join trade unions by civil servants employed in the Department of State Security, with the restriction that only civil servants belonging to the same corps, including the General Police Corps, may form an association, and that the individual association may not federate or confederate with any other association, except those of the civilian employees of the Department itself; finally, the associations so formed may in no case avail themselves of the right to strike.
27. In this section, reference must be made of the Order of 30 September 1981 which provides for the publication of the "Basic principles of action of the members of the State Security Forces and Corps". Principle 24 recognizes the right of staff members of the Higher Police Corps to form and join unions, repeating that they may not federate with trade union organizations outside the Corps; members of the Civil Guard and the National Police are excluded because of their military nature or discipline and remain subject, with respect to the exercise of this right, to the provisions of the Organic Law on duties, basic principles of action and statutes.
28. Principle 25, concerning members of the Security Forces and Corps, states that the exercise of the other trade union rights shall be subject to the provisions of the Act regulating them.

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29. The same restriction with respect to federation or confederation with other associations is contained in Royal Decree No. 500/78, which regulates the right of association of the civilian personnel of the Military Administration.

30. Finally, for none of the groups mentioned in this section has the exercise of the right to strike as yet been regulated, inasmuch as Royal Decree-Law No. 17/1977 of 4 March, referred to in section (E) hereof, specifically cites it as being within "the sphere of labour relations".

G. Factors and difficulties affecting the degree of realization of trade union rights in their various aspects, and progress achieved in this field

31. There are no special factors or difficulties to be reported with regard to the realization of trade union rights in the country since 1977. This was the beginning of a period of normalization in the exercise of these rights, especially because of their full endorsement by the Constitution and the Workers' Charter, and their protection by the courts.

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ARTICLE 9: RIGHT TO SOCIAL SECURITY

A. New legislative or other measures concerning social security adopted since the submission of the initial report

1. The Spanish Constitution attaches the utmost importance to the subject of social security (arts. 41, 50, 129 and 149, para. 17).
2. Although it has not been possible to carry out fully the constitutional mandate to establish a public social security system for all citizens which will guarantee adequate social assistance and benefits in needy situations, especially in cases of unemployment, both the Government and the social services authorities and agencies are committed to the task of conducting a thorough reform of the social security system.
3. As stated in the first report, the present social security system in Spain consists of a general scheme and a set of special schemes.
4. The general scheme has not undergone any fundamental structural changes since the initial report, and is composed basically of a series of regulations mentioned on page 35 of that report which are still in force (consolidated text of the General Social Security Act, approved by Decree No. 2065/1974 of 30 May; general regulations on benefits, approved by the Decree of 23 December 1966; Order of 18 January 1967 on old-age benefits, amended by the Decree of 6 July 1967; Order of 13 February 1967 on death and survivors' benefits; Decrees of 24 November 1966 and 1 September 1971 on protection of the family; Order of 13 October 1967 on temporary incapacity for work; Order of 15 April 1969 on disability benefits; and Decree of 17 November 1967 on health assistance).
5. Subsequently, but prior to the adoption of the Constitution, Royal Decree-Law No. 36/1978, of 10 November, on institutional management of social security, health and employment, defined social security, public health and employment, establishing a number of institutes, including the National Social Security Institute (responsible for the management and administration of social security benefits), the National Health Institute (responsible for the management and administration of health services), and the National Social Services Institute, for the management of services provided in addition to social security benefits.
6. Regulations adopted since the promulgation of the Spanish Constitution include the following: Act No. 40/1980, of 5 July, on inspection of the social security scheme and the recovery of contributions; Royal Decree No. 53/1980, of 11 January, revising the amount of benefits in some cases of temporary incapacity for work; Royal Decree-Law No. 10/1981, of 19 June, on inspection of the social security scheme and the recovery of contributions; Act No. 13/1982, of 7 April, on the social integration of the handicapped; Royal Decree No. 2609/1982, of 24 September, on the assessment and certification of disability status under the social security system; Royal Decree-Law No. 13/1981, of 20 August, on determining the base figure governing retirement pensions; Royal Decree-Law No. 14/1981, of 20 August, and Royal Decree No. 2705/1981, of 19 October, on special retirement benefits at age 64.

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7. With regard to the special schemes, additions and changes have been made to the legal provisions listed on pages 34-37 of the first report; however, there has been no fundamental modification of their implementing instruments.

8. The following provisions have been adopted with regard to the agricultural social security scheme: Royal Decree No. 1469/1981, of 19 June, concerning unemployment benefits for permanent employees covered by the special social security scheme for agriculture; Royal Decree-Law No. 9/1982, of 30 April, which modifies articles 25 and 31.2 of Decree No. 2123/1971, of 23 July, under which the consolidated text governing the agricultural social security scheme was adopted; Royal Decree No. 1135/1979, of 4 May, which makes the protective coverage for retirement, death and survivorship of self-employed persons equal to that of workers covered by the agricultural social security scheme; Act 1/1980, of 4 January, authorizing a widow's pension for widows of self-employed workers or of pensioners under the age of 50 in the event of death caused by ordinary disease or non-industrial accident.

9. Coverage under the special scheme for self-employed persons (governed by Decree No. 2530/1970, of 20 August, as amplified by Royal Decree No. 2504/1980, of 24 October) has been gradually broadened through the adoption of various regulations to include new occupational groups: self-employed chemists owning their own shops (Royal Decree No. 2649/1978, of 29 September); estate agents (Royal Decree No. 2830/1978, of 3 November); self-employed economists who are members of their professional association (Order of 17 July 1981); self-employed dentists and oral surgeons who are members of their professional association (Order of 15 September 1981); self-employed veterinary doctors who are members of their professional association (Order of 3 October 1981); self-employed industrial property agents who are members of their professional association (Order of 20 October 1981); members of religious orders of the Catholic Church (Royal Decree No. 3325/1981 of 29 December); self-employed graduates of advanced commercial institutions who are members of their professional association (Order of 18 January 1982); self-employed mining engineers and experts who are members of their professional association (Order of 1 April 1982), and self-employed chartered accountants who are members of their professional association (Order of 13 April 1982).

10. A major innovation is the inclusion of professional footballers, governed by Royal Decree No. 2806/1979, of 7 December, and the Order of 21 December 1979.

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B. Main features of the schemes in force for each of the branches of social security covered by article 9 of the International Covenant on Economic, Social and Cultural Rights, indicating in particular, for each branch, the percentage of the population covered, the nature and level of benefits and the method of financing the scheme

1. Medical care

11. Under the Royal Decree-Law of 16 November 1978, health assistance is administered by the National Health Institute (INSALUD), even though eligibility to receive this assistance is determined by the National Social Security Institute (INSS). The criterion for eligibility is loss of health, without reference to the patient's capacity for work; the risks covered by benefits are: ordinary or occupational illness; injuries resulting from an accident regardless of cause; and maternity, subdivided into pregnancy, childbirth and post-natal care.

12. Pharmaceutical benefits cover all types of medication, including magistral prescriptions and pharmaceutical products, articles or accessories prescribed by the practitioners of the social security system. The Order of 16 October 1979 governs the articles and accessories covered by pharmaceutical benefits. This pharmaceutical assistance may be provided free of charge or paid for by the recipient. There is no charge to pensioners and temporarily disabled workers; for treatments carried out in institutions run by or affiliated with the social security scheme; in cases of occupational accident or disease; or for emergency home care. In all other cases, the Decree of 31 July 1980 determines the amounts to be contributed by participants, which may reach 40 per cent of the cost of the medication. The proportion of pharmaceutical costs in Spain has decreased in recent years as a result of much of the cost being transferred to the recipient.

13. Health-related expenditures currently rank second among all public expenditures.

14. Health-related expenditures financed by the social security system cover approximately two thirds of the entire population. These expenditures are financed by the contributions of employers and workers, together with the State's contribution and transfers; the general scheme thus accounts for 85 per cent contributions, a percentage much higher than the percentage of persons covered under that scheme. In Spain, expenditures for health assistance, financed largely through the social security system, cause funds which might be allocated for economic benefits or social services to be utilized; accordingly, since 1978 a series of restrictive measures has been established which include: the freezing of manning tables; a drop in new investments; and an increase in the beneficiary's contribution towards the costs of medications. These measures are directed towards reaching a partial solution to the problem and preventing these benefits from growing excessively.

15. The number of persons covered by health insurance rose from 31,203,132 in 1980 to 31,883,201 in 1983.

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Trends in the number of persons covered by health insurance  
 (as of 31 December)

Year	Number of persons covered	Index 1967=100	Ratio of persons covered to total benefits (per cent)
1977			
1978			
1979			
1980	31 203 132	169.77	82.72
1981	31 598 212	171.92	83.50
1982	31 883 201	173.47	83.45

Source: National Health Institute (INSALUD) statistical report.

2. Cash sickness benefits

16. Monetary benefits for a worker who is temporarily unfit for work consist of a grant of 75 per cent of his assessable remuneration as of the date on which he is declared legally incapacitated. The figure of 75 per cent was reduced under Royal Decree No. 53/1980, of 11 January, which states that from the fourth to the twentieth day of absence from work the amount of the grant shall be 60 per cent. In cases of occupational accident or disease and maternity, the amount of 75 per cent shall be awarded as of the date on which entitlement starts. In some collective agreements it has been agreed that workers shall be awarded 25 per cent so that they can receive 100 per cent of their assessable remuneration.

17. Royal Decree No. 93/1983, of 19 January, on the revaluation, improvement and minimum amounts of social security pensions provided for an across-the-board increase of 2,420 pesetas in the benefits for temporary disability and long-term illness for this year, setting a monthly minimum of 17,520 pesetas, to be supplemented in cases where the increase does not bring the total benefit up to this amount.

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Trends in the number of workers on sick leave, days reimbursed  
 and payments for same (system-wide)

Year	Number of workers on sick leave (thousands)	Number of days reimbursed (thousands)	Worker-days per year	Expenditure for temporary incapacity for work (millions of pesetas)
1975	8 992	86 682	10	-
1976	8 835	102 242	12	-
1977	9 220	110 928	12	70 558
1978	9 113	127 613	14	96 370
1979	8 553	146 149	17	121 554
1980	8 685	137 420	16	115 429
1981	8 682	137 420	16	125 968
1982	9 082	146 497	16	157 300

Source: 1983 social security budgets; Social Security accounts.

Note: The other special schemes are not included in this table since only their total cost was known.

3. Maternity benefits

18. Article 126 (c) of the Social Security Act provides that maternity leave taken voluntarily or compulsorily for the period prescribed in regulations are deemed to be situations causing temporary incapacity for work. This period is set under article 48 of the Workers' Charter of 10 March 1980, at 14 weeks, to be distributed at the discretion of the worker concerned.

4. Invalidity benefits

19. Legal provisions of a general nature are to be found in articles 132 to 152 of the General Social Security Act; in articles 10 to 26 of the General Regulations on Benefits of 23 December 1966; in the Order of 15 April 1969; in Act No. 13/1982, of 7 April, on the social integration of the handicapped; in Royal Decree No. 2609/1982, of 21 September, on assessment and certification of disability status in the social security system, and in the Order of 23 November 1982, which sets forth the procedure to be followed by the National Social Security and Social Services Institutes in assessing and certifying disability status.

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1. Temporary disability

(The rules have not changed since the previous report.)

2. Permanent disability

20. Under article 132, paragraph 3, of the General Social Security Act, as amended by Final Provision No. 4 of Act No. 13/1982, of 7 April, disability shall be deemed to be permanent when "the worker, having undergone the prescribed treatment, has serious anatomical or functional deficiency that can be determined objectively, is expected to be permanent and diminishes or deprives him of his capacity to work. The diagnosis of permanent disability shall not exclude the possibility of recovery if such recovery is medically deemed to be uncertain or long-term". The amendment in Act No. 13 of 7 April 1982 consists of deleting the requirement regarding sick leave.

(a) Permanent partial incapacity for the customary occupation

(The rules have not change since the previous report.)

(b) Permanent total incapacity for the customary occupation

(The rules have not changed since the previous report.)

(c) Permanent total incapacity

(The rules have not changed since the previous report.)

(d) Major disability

21. Prior to being amended by Act No. 13/1982 of 7 April, the General Social Security Act defined this disability as being the condition of the complete invalid who, in addition, requires the help of another person to perform the most essential human actions, such as moving, dressing, eating and so on. Under provision 5 of Act No. 13/1982, major disability does not necessarily imply permanent total incapacity for all work.

22. An important innovation in the certification and review of disability has been introduced by Royal Decree No. 2609/1982, of 24 September, on assessment and certification of disability status in the social security system, and by the Order of 23 November 1982, on the procedure to be followed by the National Social Security and Social Services Institutes in assessing and certifying cases of disability.

23. The entry into force of these texts brings to an end the provisional arrangements in that area because, although Royal Decree-Law No. 36/1978, of 16 November, had in its first final provision declared the Certifying Technical Commissions to be defunct, it had nevertheless, in a transitory provision, provided for them to continue in existence until replaced by the competent administering agency or service.

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24. At present the National Social Security Institute is competent, regardless of which administering or co-operating agency covers the contingency in question, to certify permanent disability status in its various grades and the contingencies giving rise to that status; to certify, if necessary, the new grade of disability or its non-existence, in the light of reviews by reason of aggravation, improvement or diagnostic error; and to determine the proper economic benefits for such status. As a technical support body for such certifications, a Disability Evaluation Commission is established in each Provincial Directorate of the INSS, which will make non-binding proposals. The most notable difference between these Disability Evaluation Commissions and the former Certifying Technical Commissions is that the Evaluation Commissions will not deal with the effects which the proposed disabilities may produce.

25. Despite the foregoing, not all the responsibilities of the former Certifying Technical Commissions have been passed on to INSS, since the functions of the Medical Tribunals have been transferred to INSALUD and matters of rehabilitation to INSERSO.

26. Act No. 13/1982, of 7 April, on the social integration of the handicapped, has retained in its entirety the rehabilitation benefit of the General Act. Nevertheless, it should be noted that article 35, paragraph 2, of Act No. 13/1982 provides that "persons receiving the rehabilitation benefit under the Social Security system may also qualify for the supplementary measures referred to in the preceding paragraph". The measures referred to mean that the occupational rehabilitation benefits may be supplemented by other measures to assist the recipient to achieve the maximum level of personal development and promote his integration into society.

27. Disability benefits will be financed by the assessed contributions of employers and workers and contributions from the State. Between 1978 and 1982 the number of disability pensions rose from 713,107 to 1,215,361.

28. Royal Decree No. 13/1983, of 19 January, on the revaluation, improvement and minimum amounts of social security pensions, established a monthly across-the-board increase of 3,250 pesetas when the beneficiary is permanently incapacitated and is at least 65 years; for persons under that age the increment will be 2,845 pesetas. The amount of 3,250 pesetas will be increased by 1,625 pesetas for pensioners with major disability (unless they are confined in a social security welfare institution); those receiving a partial disability pension under the former occupational accident system who are aged 65 or over will have their benefits increased by 2,845 pesetas or, if they have not reached that age, by 2,495 pesetas.

29. The minimum monthly amounts laid down in this Decree for permanent disability pensions are: 35,345 for major disability; 23,565 for absolute and total disability, when the recipient is over 65 years, and 20,605 for partial disability under the occupational accident system, when the recipient is over 65 years.

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SYSTEM-WIDE EXPENDITURE FOR TEMPORARY DISABILITY

Year	Workers on sick leave (in thousands)	Expenditure (in millions)
1975	8 992	-
1976	8 835	-
1977	9 220	10 081
1978	9 113	14 625
1979	8 553	20 725
1980	8 685	32 468
1981	8 682	37 752
1982	8 692	41 423

Source: Social Security Accounts and Draft Balance Sheet, 1982.

5. Old age benefits

30. The general legislation in force in this field is to be found in articles 153 to 156 and in the second and third transitory provisions of the General Social Security Act; in articles 27 and 28 of the General Regulations on Benefits of 23 December 1966; in the Order of 18 January 1967 on old age benefits; in the Decree of 6 July 1967 governing the former old age and disability insurance; in the Order of 16 June 1981 on early retirement; and in Royal Decree-Law No. 14/1981, of 20 August, and Royal Decree 2705/1981, of 19 October, on special retirement at age 64.

31. Royal Decree No. 14/1981 grants entitlement to benefits to workers at age 64 whose employers have, under a collective agreement or covenant, undertakes to replace each worker on retirement by another worker who is entitled to unemployment benefits or by a young person applying for his first job, under a contract of the same type as the one that has expired.

32. The base figure for the calculation of the pension shall be the quotient arrived at by dividing by 28 the sum of the worker's pensionable remuneration for any period of 24 consecutive months chosen by him within the seven years immediately prior to the date on which the pension becomes due. Royal Decree No. 13/1981, of 20 August, provides that for the determination of the base figure for the social security retirement pension. No account is to be taken of increments in pensionable remuneration in the last two years resulting from wage increases which exceed the average mid-year increase under the applicable collective agreement, if any, or otherwise in the relevant sector: exempted are wage increases resulting from the strict application of the rules contained in legislation and agreements concerning the seniority and mandatory increments for occupational categories.

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33. Currently the minima for retirement pension in the General Scheme are:

Age 65 ... 23,565

Under age 65 ... 20,605.

34. Retirement pensions are subject to annual revaluation with a view to providing a greater proportional increase in minimum pensions. The number of pensioners is also increasing, steadily, so that the number of social security retirement pensions, which was 1,959,012 in 1976, was 2,306,933 in 1982.

35. This benefit is financed by the assessed contributions of employers and workers, the State's contributions and transfers from the General Scheme to special schemes.

36. Royal Decree No. 93/1983, of 19 January, on the revaluation, improvement and minimum amounts of social security pensions, provided for an across-the-board increase for that year of 3,250 pesetas monthly for a recipient aged 65 years and 2,845 for recipients under that age.

#### 6. Survivors' benefits

(There has been no change in the rules since the previous report).

##### (a) Death benefits

(There has been no change in the rules since the previous report).

##### (b) Surviving spouse's pension

37. The General Social Security Act provides that the following are entitled to a surviving spouse's pension: a widow who ordinarily lived with the deceased spouse or, if legally separated, had been recognized as innocent in the final settlement, provided that the deceased spouse had completed the required contribution period; and a widower who, in addition to satisfying the above requirements, was at the time of his spouse's death incapacitated and dependent on her.

38. The legislation just mentioned has been partly amended by Act No. 30/1981, of 7 July, which grants the former spouse's right to a surviving spouse's pension without reference to the new legal relationship between the spouses resulting from a separation or divorce decree, the amount of the pension being proportionate to the period of cohabitation with the deceased spouse, regardless of the grounds for the separation or divorce.

39. The situation of a widower who is not entitled to a surviving spouse's pension because he does not meet the above-mentioned requirements is currently being modified by the Spanish labour courts. Court No. 2 of Gijón, for instance, in its judgement of 20 April 1983, relied on article 14 of the Constitution of 1978 in awarding a surviving spouse's pension to such a widower. Furthermore, the

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Ministry of Labour and Social Security is in the process of drafting a pension bill for submission to the Cortes which deals with, among other questions, equal treatment of men and women, which would eliminate existing discrimination in connection with the surviving spouse's pension.

40. The minimum benefits established by Royal Decree No. 92/1983, of 19 January, vary according to whether the recipient is over or under 65 years, the amount being 17,925 pesetas per month in the former case and 15,465 pesetas per month in the latter.

(c) Orphan's pension

41. The orphan's pension has upper and lower limits. The minimum is 6,975 pesetas per recipient, rising to 15,465 pesetas, to be distributed among all those eligible, if both parents are dead. The upper limit arises from the provision that the sum of the surviving spouse's and orphan's pensions may not exceed 100 per cent of the assessable remuneration of the deceased. This limitation is applied when the surviving spouse's and orphan's benefits are initially determined, but does not affect improvements or adjustments which increase those benefits.

(d) Benefits for the family of the deceased

42. The minimum benefit in this category has been set, for 1983, at 6,975 pesetas, but when there is neither a surviving spouse nor an orphan, the minimum is 17,925 pesetas for a single recipient of 65 years or over and 15,465 pesetas for a single recipient under 65 years.

43. Royal Decree No. 93/1983, of 19 January, adjusted the death benefits and survivors' benefits upwards, with an across-the-board increase for each category. The increases were: the surviving spouse's pension, 2,495 pesetas per month for recipients 65 years or over and 2,145 pesetas for recipients under 65; orphan's pension, 975 pesetas per recipient; for orphans both of whose parents are dead, the figure per recipient will increase by the amount yielded by prorating 2,145 pesetas among all those eligible; for pensions for family members, 975 pesetas per recipient if no surviving spouse or orphan is receiving benefits, with the amount being increased as the figure yielded by prorating 1,170 pesetas among all eligible recipients. In the case of a single beneficiary, however, the amount granted will be 2,495 pesetas if he is 65 years or over and 2,145 pesetas if he is under 65.

44. These benefits are financed from the contributions of employers and workers, the State's contributions and transfers from the General Scheme to special schemes. The number of pensions for surviving spouses, orphans and family members of the deceased rose between 1976 and 1983 as follows:

	<u>1976</u>	<u>1982</u>
Surviving spouses	787 766	1 144 976
Orphans	109 380	149 099
Family members	14 476	20 970

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#### 7. Employment injury benefits

45. The list or table of occupational diseases is contained in Royal Decree No. 1995/1978, of 12 May, as amended by Royal Decree No. 2821/1981, of 27 November. The list is not closed, since the General Social Security Act provides that new occupational diseases may be added.

46. As part of the upward adjustment and improvement of social security pensions approved by Royal Decree No. 93/1983 of 19 January, article 16, paragraph 2, provides that the employers' occupational accident mutual funds shall participate in the cost of the upward adjustment, including supplements to minimum pensions, of the pensions for occupational accidents and diseases by making contributions set by the Ministry of Labour and Social Security.

47. Under the Decree, the minimum specified for permanent partial disability, covered by the occupational accidents scheme, is 20,605 pesetas, with an increase of 2,895 pesetas for recipients 65 years or over and 2,495 pesetas for recipients under 65.

48. The number of occupational accident pensions was 143,800 in 1976 and 161,047 in 1982, and the number of occupational disease pensions was 43,605 in 1976 and fell to 41,733 in 1982, as will be noted.

49. The average occupational accident pension was 5,978 pesetas in 1976 and 16,810 pesetas in 1982, and the average occupational disease pension was 8,765 pesetas in 1976 and 23,984 pesetas in 1982.

#### 8. Family benefits

50. Expenditure on family protection declined slightly from 1977 to 1983, so that while expenditure in 1977 was 59,563,000 pesetas, it came to 54,791,000 pesetas in 1983.

#### Expenditure on family protection

Year	Amount (in millions)
1977	59 563
1978	60 047
1979	62 504
1980	57 736
1981	52 811
1982	58 143
1983	54 791

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C. Factors and difficulties affecting the degree of realization of the right to social security; progress achieved as regards, in particular, the covering of new fields of social security, the extension of existing schemes to further groups of the population and improvements in the nature or level of benefits

51. The Spanish Constitution contains a specific and ambitious mandate for the future of social security in our country.

52. Article 41, as stated earlier, provides that "the public authorities shall maintain a public social security system for all citizens which will guarantee adequate social welfare and benefits in situations of need, especially in the event of unemployment. Supplementary assistance and benefits shall be free".

53. This article sets guidelines for a new social security system, to be organized at two levels: basic and supplementary. At the basic level the system will be universal, since it extends a social security scheme to all citizens, provides equal protection and is government-administered at the supplementary level, it will be based on the principles of moderate liberalism, respecting private enterprise as far as possible, and affiliation will, of course, be voluntary, with management by private and public organizations and financing by means of social security contributions and voluntary insurance premiums.

54. This challenging new orientation determines the future of Spanish social security, but the needed reform of our present system will have to be carried out in stages, after extensive research studies on the range of factors involved (demographic, sociological, legal, financial and administrative), without overlooking economic conditions in our country where, as elsewhere in Europe, population imbalances, the economic crisis and especially the steady rise in unemployment have reduced the available funds of the social security system, which has a considerable and growing deficit. Moreover, our increasing involvement at the international level in social security affairs and our forthcoming membership of the European Communities reinforce the need for social security reform.

55. It should be recalled that the "Moncloa Pacts", concluded in October 1977, and their implementing regulations (i.e. for social security, Royal Decree-Law No. 36/1978, of 16 November, on the institutional management of social security, health and employment, discussed earlier), opened up the road towards reform, anticipating the Constitution.

56. Subsequently, a number of provisions, likewise discussed earlier, were passed which, while not changing the system in any major way, did greatly improve it and dealt with short- and medium-term problems that had arisen. Foremost among them are: Basic Employment Act, No. 51/1980 of 8 October, and its supplementary provisions; Royal Decree No. 920/1981, of 24 April, approving the regulations on unemployment benefits; Royal Decree No. 1469/1981, of 19 June, concerning unemployment benefits for permanent employees covered by the special social security scheme for agricultural workers; Act No. 13/1982, of 7 April, on the social integration of handicapped persons; Act No. 1/1980, of 4 January, granting

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surviving spouse's pensions to widows of self-employed agricultural workers or of pensioners under 50 years in the event of death from ordinary disease or a non-occupational accident.

57. One of the short-term measures, intended to help employers to settle overdue payments to social security, was the adoption of Royal Decree No. 666/1983, of 25 March, governing a system of instalment and part payments towards social security and unemployment contributions, and the Wage Guarantee and Vocational Training Funds (see annex IV, T. XXX).

58. The subject of coverage of new workers by the social security system is dealt with by, among others, Degree No. 2806/1979, of 7 December, which set up the special scheme for professional footballers; Royal Decree No. 3325/1981, of 29 December (supplemented by the implementing Order of 19 April 1983), which placed members of Roman Catholic religious orders in the same category as self-employed workers; Royal Decree No. 2949/1978, of 29 September, which extended coverage under the special scheme for self-employed workers to chemists owning their own shops; the Order of 17 July 1981, which extended coverage to self-employed economists; the Order of 3 October extending coverage to self-employed veterinary practitioners and similar groups, which are discussed in greater detail in the section of this report dealing with article 9 of the Covenant.

59. Royal Decree No. 1167/1983, of 27 April, introduced an important innovation by extending unemployment coverage to civil servants and persons employed on short-term contracts in public administration.

60. The number of persons covered by Spanish social security has increased since the last report. From 31,203,132 in 1980, it rose to 31,883,281 in 1982, representing coverage indexes of 82.72 per cent and 83.45 per cent respectively.

61. The economically active population entitled to social security, which increased slightly in 1981 over 1980, declined once again in 1982, with coverage levels of 81.06 per cent in 1980, 81.89 per cent in 1981, and 80.38 per cent in 1982.

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Ratio of the population covered by the social security system to  
 the total population (monthly average)

	1980	1981	1982
Population (a)	37 721 346	37 843 402	38 207 093
Population covered	31 203 132	31 598 212	31 883 281
Percentage of total population covered	82.72	83.50	83.45

Source: Economic and Statistical Service of INSALUD.

(a) Data as of 1 July.

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

Year	Economically active population	Population entitled to Social Security	Coverage (%)
1980	12 860 200	10 424 885	81.06
1981	12 835 500	10 510 689	81.89
1982	12 953 711	10 412 685	80.38

Source: Social security budgets for the year 1983.

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62. The budget of the social security system for 1983 is as follows:

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	<u>Income</u> (millions of current pesetas)
Contributions .....	2 212 214
Income for services rendered .....	20 113
Fees .....	10 044
State subsidies .....	484 048
Income from assets .....	4 506
Sale of real investments .....	102
Capital transfers .....	330
Variation in financial assets .....	7 522
Variation in financial liabilities .....	588
<b>TOTAL</b>	<b>2 739 467</b>

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	<u>Expenditure</u> (millions of current pesetas)
Pensions .....	1 545 419
Temporary incapacity for work .....	144 805
Temporary disability .....	40 392
Family protection .....	54 791
Other monetary benefits .....	10 951
Health assistance .....	778 079
Social services .....	31 934
General administration .....	88 880
Real investments .....	39 824
Variation in financial assets .....	15 003
Variation in financial liabilities .....	96
Minus: allowance for depreciation .....	-10 707
<b>TOTAL</b>	<b>2 739 467</b>

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Source: Social Security Budgets, Ministry of Labor and Social Security.  
 Madrid, 1983.

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63. As can be seen from this table, the budget of income and expenditures is balanced. The relationship between social security expenditure and the gross domestic product is as follows:

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	1981	1982	1983
Social security expenditures (billions)	2 086.5	2 467.0	2 739.0
GDP (billions)	17 205.7	19 276.7	22 435.2

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64. The overall increase in the amount of retirement pensions, in both the general scheme and the special schemes, was over 150 per cent from 1976 to 1982 (see tables V-XXVII, annex III).

65. As regards the pension revision for 1983, Royal Decree No. 93/1983, of 19 January, on revision, improvement and minimum amount of social security pensions, attempted to index the absolute average increase in pensions to that of projected consumer prices for the same economic year, trying to offset the loss of value in the minimum pension and the near-minimum pension, resulting from the time-separation in 1982 of the increase in pensions and according to price rises. Hence there was a linear rise varying according to the class or group of pensions, with payments being increased by the amounts necessary to bring the pensions up to the minimum levels laid down in the Decree.

66. The State's contribution to social security has risen gradually and is expected to increase considerably in future. In 1979 State transfers amounted to 93.2 billion pesetas, and the figure rose to 484 billion pesetas in 1983.

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GLOBAL STATISTICAL DATA

1. General

Area in km<sup>2</sup>: 504,750

Length of coastline in km: 3,904

Density of population: 74.8

Total population: 37,746,260 (1981) (18,529,764 men and 19,216,496 women)

Gross domestic product in the past three years (at market prices, in millions of pesetas)

1979	13,226,637.7
1980	15,075,878.6
1981	17,175,869.7
1982 (projection)	19,726,000.0

2. Economically active population

(thousands of persons)

Economically active population: 13,101.1 (9,163.1 men, 3,938.0 women)

Economically active population over 25 years: 10,137.0 (7,490.6 men, 2,646.4 women)

Economically active population under 25 years: 2,964.0 (1,672.5 men, 1,291.5 women)

Unemployed: 2,234.8 (1,433.6 men, 801.2 women)

Unemployed over 25 years: 1,022.1 (772.2 men, 249.9 women)

Unemployed under 25 years: 1,212.7 (661.4 men, 551.3 women)

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Economically active population by economic sector

(16 years and over)

	<u>Men</u>	<u>Women</u>	<u>Total</u>
Agriculture	1 559.0	541.1	2 100.1
Industry	2 456.9	712.0	3 168.8
Construction	1 254.4	24.3	1 278.7
Services	3 457.7	2 209.8	5 667.5
Unclassified	<u>435.2</u>	<u>450.7</u>	<u>886.0</u>
TOTALS:	9 163.1	3 938.0	13 101.1

Source: International Statistics Institute: Survey of Economically Active Population (data referring to third quarter of 1982)

Unemployed population by economic sector

	<u>Men</u>	<u>Women</u>	<u>Total</u>
Agriculture	103.0	9.9	112.8
Industry	279.1	132.0	411.1
Construction	357.3	6.5	363.7
Services	259.0	202.1	461.1
Unclassified	<u>435.2</u>	<u>450.7</u>	<u>886.0</u>
TOTALS	1 433.6	801.2	2 234.8

Source: National Statistics Institute: Survey of Economically Active Population (data referring to fourth quarter of 1982).

Activity rates (economically active as a percentage of the population of 16 years and over)

<u>Year</u>	<u>Men</u>	<u>Women</u>	<u>Total</u>
1980	71.7	27.1	48.5
1981	71.4	26.9	48.3
1982	70.7	27.8	48.3

Source: Survey of Economically Active Population (data referring to the fourth quarters of each year).

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Unemployment rates (unemployed as a percentage of the economically active population)

<u>Year</u>	<u>Men</u>	<u>Women</u>	<u>Total</u>
1980	11.9	14.3	12.6
1981	14.3	18.1	15.4
1982	15.6	20.4	17.1

Source: Survey of Economically Active Population (data referring to the fourth quarters of each year).

3. Data relating to the paragraphs of article 6 of the Covenant

Number of persons recruited under employment promotion programmes in the past three years

1980	.....	554.882
1981	.....	479.475
1982	.....	444.592

Source: National Employment Institute (Ministry of Labour and Social Security).

Appropriations for the National Labour Protection Fund in the past three years (in thousands of pesetas, under the initial budget).

1980	.....	17 740.00
1981	.....	19 514.00
1982	.....	22 694.00

Rate of coverage of unemployment insurance in the past three years (data referring to the months of December of each year) a/

1980	.....	46.0 per cent
1981	.....	41.5 per cent
1982	.....	27.2 per cent

Source: Ministry of Labour and Social Security.

a/ 
$$\frac{\text{number of persons receiving total unemployment insurance}}{\text{number of unemployed persons registered}} \times 100$$

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4. Data relating to the paragraphs of articles 7 and 8 of the Covenant

Hours of work (hours/year), agreed upon in collective bargaining during the period 1981-1983.

<u>Year</u>	<u>Agreements with individual employers</u>	<u>Sectoral agreements</u>	<u>Total agreements</u>
1981	1 871.3	1 925.9	1 914.3
1982	1 846.4	1 882.4	1 876.9
1983 (Jan./July)	1 828.7	1 854.0	1 849.8

Statistics on occupational accidents in the past three years a/

<u>Year</u>	<u>No. of accidents</u>
1980	590 817
1981	550 076
1982	524 309

Source: Ministry of Labour and Social Security.

a/ Occupational accident rate, causing absence from work and occurring at the workplace. Includes occupational accidents and diseases.

Data on strikes in the past three years

<u>Year</u>	<u>Number</u>	<u>Workers affected</u>
1980	2 103	2 286 950
1981	1 993	1 944 855
1982	1 810	1 058 879

Source: Ministry of Labour and Social Security.

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Abrogations of the employment relationships in the past three years  
 (In thousands)

<u>Year</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Individual dismissals IMAC (with settlement)	195.4	206.9	164.9
Labour courts	<u>90.2</u>	<u>84.7</u>	<u>84.8</u> a/
Total, individual dismissals:	285.6	291.6	249.7
Company lay-offs	<u>60.2</u>	<u>57.5</u>	<u>50.4</u> a/
Grand total:	345.8	349.1	300.1

Source: Ministry of Labour and Social Security.

a/ Provisional figures.

5. Data relating to the paragraphs of article 9 of the Covenant

Figures used, in the initial estimates of the General State Budgets, for functionally classifying social and community activities (in the General State Budgets, the budgets for social security and autonomous agencies are not included)

(In millions of pesetas)

<u>Year</u>	<u>Social activities</u>	<u>Total budget</u>
1980	1 029 657	2 284 456
1981	1 298 283	2 823 200
1982	1 655 888	3 533 820

Appropriations in the General State Budgets for pensions, social security and social welfare services

(In millions of pesetas)

<u>Year</u>	<u>Pensions, social security and social welfare services</u>
1980 .....	458 634
1981 .....	633 791
1982 .....	911 129

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Social security budgets in the past four years

(In millions of pesetas)

<u>Years</u>	<u>Pensions</u>	<u>Total</u>
1980	882 528	1 787 689
1981	1 106 889	2 086 540
1982	1 317 739	2 466 956
1983	1 545 419	2 739 467

Notes

1/ Subsequently, Royal Decree No. 2001/1983 of 28 July, which regulates hours of work, special work days and rest periods, implements the first paragraph of Final Provision 4 of Act No. 8/1980, on the Workers' Charter, by consolidating in a single text the hitherto fragmented rules regarding what are known as special work days because their treatment departs in some respects from the norm. Moreover, taking a reformist approach to present-day social conditions, it abrogates the Decree-Law of 15 August 1927, on night rest periods for working women, and its implementing regulations.

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ANNEXES a/

- I. STATISTICAL DATA RELATING TO ARTICLE 6 OF THE COVENANT  
(in section C of the text of the report, concerning this article,  
paras. 125-141)
- II. STATISTICAL DATA RELATING TO ARTICLE 7 OF THE COVENANT
- Table I. Interoccupational minimum wage
- Table II. Workers covered by the interoccupational minimum wage
- Table III. Average monthly earnings, per capita and by occupational category
- Table IV. Trends in the general consumer price index
- Table V. Population covered by collective bargaining
- Table VI. Trends in occupational accidents
- Table VII. Accident rates
- III. STATISTICAL DATA RELATING TO ARTICLE 9 OF THE COVENANT
- Table I. Number of pensions - total, social security
- Table II. Amount of pensions, 1983
- Table III. Assessable remuneration for the purposes of the general social security scheme, from 1 January 1979
- Table IV. Rates of contribution to the general social security scheme
- Table V. Table of minimum pensions
- Tables VI - to XXVII. Average pensions and number of pensions in the general and special social security schemes

IV. TEXTS OF THE PRINCIPAL LEGAL AND ADMINISTRATIVE PROVISIONS AND COURT JUDGEMENTS IN AREAS DEALT WITH IN THE REPORT

(in chronological order of publication in the Official Gazette)  
Spanish Constitution (Official Gazette, 29 December 1978)

Text

- I. Act No. 19/77, of 1 April, which governs the right of trade union association; Decree No. 873/77, of 22 April, on deposit of statutes of the organizations established under the Act of 1 April; Decree No. 1048/77, of 13 May, which elaborates on the court procedures instituted by the Act of 1 April (Official Gazette, 4 and 28 April and 14 May 1977)
- II. Decree No. 1522/77, of 17 June, which governs the right of trade union association (Official Gazette, 2 July 1977)
- III. Decree No. 3624/77, of 16 December, which governs the right of trade union association of civilian personnel of the Department of Security (Official Gazette, 24 February 1978)
- III bis. Royal Decree Law No. 36/78, of 16 November, on institutional management of social security, health and employment (Official Gazette, 18 November 1978)
- IV. Resolution of 11 January 1980, on the Mediation, Arbitration and Conciliation Institute, containing the decision to publish, for the purposes of collective bargaining, the AMI, concluded by the UGT and the CEOE (Official Gazette, 24 January 1980)
- V. Act No. 8/80, of 10 March, on the Workers' Charter (Official Gazette, 14 March 1980)
- VI. Royal Decree No. 696/80, of 14 April, on the application of the Workers' Charter to instruments substantially modifying working conditions and the provisions on suspension and abrogation of the employment relationship (Official Gazette, 17 April 1980)
- VII. Supreme Court judgement of 5 May 1980, on non-discrimination in wages (Repertory of Jurisprudence, 1980)
- VIII. Act No. 51/80, of 8 October, the Basic Employment Act (Official Gazette, 17 October 1980)
- IX. Royal Decree No. 2303/80, of 17 October, on the application of the Workers' Charter to temporary recruitment (Official Gazette, 29 October 1980)

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Text

- X. Constitutional Court judgement, of 8 April 1981, on the appeal on grounds of unconstitutionality against various provisions of Royal Decree-Law No. 17/77, of 4 March, which governs the right to strike and collective labour disputes (Official Gazette, 25 April 1981)
- XI. Royal Decree No. 920/81, of 24 April, approving the Unemployment Benefits Regulations (Official Gazette, 23 May 1981)
- XII. Royal Decree No. 1489/81, of 19 June, on unemployment benefits for permanent employees covered by the Special Social Security Scheme for Agricultural Workers (Official Gazette, 21 July 1981)
- XIII. Royal Decree-Law No. 14/81, of 20 August, on special retirement at age 64 under the social security system (Official Gazette, 29 August 1981)
- XIV. Order of 6 October 1981, which regulates the procedure to be followed in relation to unemployment benefits, in cases of abrogation of the employment relationship owing to the death, retirement or incapacity of the employer (Official Gazette, 17 October 1981)
- XV. Royal Decree No. 2345/81, of 4 September, on supplementary unemployment benefits (Official Gazette, 21 October 1981)
- XVI. Royal Decree No. 2705/81, of 19 October, which elaborates on the sole article of Royal Decree-Law No. 14/81, of 20 August, on special retirement at age 64 (Official Gazette, 20 November 1981)
- XVII. Royal Decree No. 2732/81, of 30 October, which modifies Royal Decree No. 696/80, of 14 April, on suspension and abrogation of the employment relationship for technological or economic reasons or by force majeure (Official Gazette, 26 November 1981)
- XVIII. Constitutional Court judgement of 23 November 1981, declaring null and void the dismissal of workers for belonging to a trade union (Official Gazette, 22 December 1981)
- XIX. Order of 13 January 1982, which defines the concept of family responsibilities for purposes of supplementary unemployment benefits (Official Gazette, 30 January 1982)
- XX. Royal Decree-Law No. 1/82, of 15 January, which establishes the Special Employment Protection Fund (Official Gazette, 3 February 1982)
- XXI. Order of 22 January 1982, which approves the programmes to be conducted by the administrative unit of the National Labour Protection Fund (Official Gazette, 8 February 1982)
- XXII. Order of 15 March 1982, which institutes for the fiscal year 1982 a system of early retirement benefits for workers whose employers are not subject to redeployment plans (Official Gazette, 25 March 1982)

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Text

- XXIII. Act No. 13/82, of 7 April, on social integration of the handicapped (Official Gazette, 30 April 1982)
- XXIV. Royal Decree No. 1314/82 of 18 June, on organization and functions of the National Employment Institute (Official Gazette, 22 June 1982)
- XXV. Act No. 21/82, of 9 June, on measures for industrial deployment (Official Gazette, 19 June 1982)
- XXVI. Royal Decree No. 1445/82, of 25 June, which governs various employment promotion measures (Official Gazette, 1 July 1982)
- XXVII. Royal Decree No. 3887/82, of 29 December, amending Royal Decree No. 1445/82, of 25 June, regulating certain employment promotion measures (Official Gazette, 31 December 1982)
- XXVII bis. Royal Decree No. 92/83, of 19 January, on payments towards social security and unemployment contributions, and the Wage Guarantee and Vocational Training Funds during 1983 (Official Gazette, 22 January 1983)
- XXVIII. Resolution of 17 February 1983, of the Department of Labour, ordering registration and publication of the text of the Inter-Federation Agreement of 1983 (Official Gazette, 1 March 1983)
- XXIX. Order of 19 February 1983, which establishes the assessable remuneration for social security and unemployment contributions and the Wage Guarantee and Vocational Training Funds during 1983 for part-time workers (Official Gazette, 4 March 1983)
- XXX. Royal Decree No. 666/83, of 25 March which governs a system of instalment and part payments towards social security and unemployment contributions and the Wage Guarantee and Vocational Training Funds (Official Gazette, 30 March 1983)
- XXXI. Order of 9 May 1983, implementing Royal Decree No. 1445/82, of 25 June, as amended by Royal Decree No. 3887/82, of 29 December, on certain employment promotion measures (Official Gazette, 14 May 1983)
- XXXII. Royal Decree No. 1451/83, of 11 May, which, in pursuance of the provisions of Act No. 13/82, of 7 April, regulates selective employment and employment promotion measures for handicapped workers (Official Gazette, 4 June 1983)
- XXXIII. Act No. 4/83, of 29 June, which establishes the maximum legal working week at 40 hours and minimum annual holidays at 30 days (Official Gazette, 30 June 1983)

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Text

- XXXIV. Order of 6 July 1983, which establishes the work programmes of the administrative unit of the National Employment Protection Fund for the budgetary year 1983 (Official Gazette, 15 July 1983)
- XXXV. Royal Decree No. 2001/83, of 28 July, on regulation of the work week, special work days and rest periods (Official Gazette, 29 July 1983)

Notes

a/ These reference materials may be consulted in the archives of the Secretariat in their original language, as received from Spain.

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