



**“NEW FORMS OF EMPLOYMENT IN SPAIN
AFTER LABOUR REFORM 2012”**

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NEW FORMS OF EMPLOYMENT IN SPAIN

- **NATIONAL LEGAL REGULATION: the Workers' Statute (WS): art. 13**

Labour Reform in 2012, with the **Act No. 3 of 6th July**, on Urgent Measures to Reform the Labour Market.

- In general, negative reform.
- But existence of a new regulation about 'distance' work:

at first, positively evaluated

- 1. Obsolescence of the old article 13 WS
- 2. Need to reinforce the implementation of the European Framework Agreement
- 3. Current economic crisis

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This new form of employment: a new case of precariousness for employees?

- **Legal concept:** ‘distance’ work is “work mostly undertaken at home or at a place chosen by the worker, alternative to that performed, at the employer’s premises”.
- This definition covers **both**:
 - traditional homework and
 - new telework
- This definition is accompanied by
 - Written agreement
 - Same rights for all employees

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○ **3 distinctive traits:**

- 1) It is undertaken outside the business premises;
- 2) It is predominantly performed outside the company;
- 3) It is regarded as an alternative to work carried out at the employer's premises.

○ **Points to generate vulnerability of teleworkers:**

○ **1. Voluntary nature?:**

- It refers to the moment the worker enters telework and to the time that he/she returns to work at the employer's premises: "reversibility".
- Parties have the freedom to conclude agreements to perform work away from the company.
- Are parties on an equal footing? Not always...

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- **2. Regulation of rights: general and ambiguous**
- **Same rights:** to avoid discrimination of off-site employees: they have same rights as those working within the company.
 - Distance employees are entitled to a minimum wage, which is calculated considering one's sector and working tasks.
 - 2. Access to vocational training, favouring career advancement.
 - 3. Adequate health and safety rules.
 - Vulnerability derived from ambiguity: many problems without solution!

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- **3. Silence of lawmakers on some key aspects of distance work**, such as:
 - 1. The organization of working hours and the distribution of work and rest periods
 - Time aspect is very important
 - Advantages: flexibility
 - Drawbacks: blurring of times: permanent connectivity
 - Problems
 - Employer duty of care:
 - From perspective of labour-risk prevention
 - From perspective of working time legislation
 - Control of working time by employer

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- 2. IT work equipment
 - The costs of such equipment should be met by the employer
- 3. Worker's privacy and supervision by the employer
- 4. No specific regulation on collective rights

- **4. Gender perspective:**
 - **Indirect discrimination?**

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- THANK YOU VERY MUCH FOR YOUR ATTENTION