

Costa Rica. Migrant domestic workers

Legislation

- Labour Code and reforms (original text: 1943). (Law 2)
- Constitutive Law of the Costa Rican Social Insurance Fund (1943). (Law 17)
- ILO Convention 102 (1972, in force).
- Code of Children and Adolescents (1998). (Law 7.739).
- Worker's Protection Law (2001) (Law 7.983).
- General Law of Immigration and Foreigners (2009). (Law 8.764).
- Regulation of health insurance (CCSS)
- ILO Convention 102 (In force: Mar 1972)
- ILO Convention 189 (20 Jan 2014, in force starting Jan 2015)

Migrant domestic workers

Is there a difference between national and non-national domestic workers in terms of protection? No.

Is there a difference between resident and non-resident domestic workers in terms of protection? No.

Are there special provisions in the law for coverage of migrant domestic workers? No.

Distinction between de jure coverage and de facto coverage: Migrant domestic workers have legal coverage by social security, but only 27.0 per cent of workers are covered de facto. The other workers have coverage by alternative mechanisms, or do not have coverage.

Are there any agreements on portability with other countries? Yes.

Is coverage of migrant domestic workers working well? No, they have similar conditions as the rest of domestic workers (legal coverage, but lack of effective coverage).

Migrant domestic workers as % of domestic workers: 23,0

Female migrant domestic workers as % of migrant domestic workers: 94,4

Urban migrant domestic workers as % of migrant domestic workers: 77,1

% migrant domestic workers contributing to social security (salaried): 27,0

Contingencies covered

Covered Contingencies:

- Health care (CCSS)
- Sickness benefit, through social insurance institution (CCSS)
- Old-age benefits, through social insurance institution (CCSS)
- Employment Injury Insurance (Employer-liability system) (National Insurance Institute)
- Maternity benefits, through social insurance institution (CCSS)
- Invalidity benefits, through social insurance institution (CCSS)
- Survivors' benefits, through social insurance institution (CCSS)

The employment injury insurance affiliation is conditioned to the worker's coverage from social security (CCSS).

Are there provisions for maternity protection: pre, during and post natal care,

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income replacement during maternity leave? Yes, the benefits are granted for a period of 16 weeks; and if there is a no intentional abortion, the period is extended. (Art 81, 94-100, Labour Code; Art. 10 and 40. Regulation of health insurance (CCSS)).

Prescribed qualification procedure (maternity): Yes. For a domestic worker to qualify for cash subsidies for maternity leave, it is necessary that it be provided at least three consecutive instalments immediately preceding the license or birth, or six in the twelve months prior to the start of the license or birth (Art. 40 and 42. Regulation of health insurance (CCSS)).

Are the dependents of domestic workers covered? Yes. Persons under 22 years, and older than 22 to 25 if they are studying and are single (Art. 12. Regulation of health insurance (CCSS))

Complementary protection:

Domestic workers also contribute to a complementary and compulsory individual savings scheme (individual accounts, ROPC) that manage a complementary pension scheme, and the Labour Capitalization Fund (FCL). Only salaried employees and their employers must contribute to the complementary protection. (Art. 3 and Art. 9. Worker's Protection Law (Law 7.983))

Administration

Costa Rican Social Insurance Fund (CCSS)

Employment injury: National Insurance Institute (INS). Council of Occupational Health provides general supervision.

Individual accounts (pensions): Pension fund administrators (AFP) manage the individual accounts, and Superintendent of Pensions regulates and supervises.

Social security coverage

Coverage of migrant domestic workers as a % of employed domestic workers: 27.0 in 2013.

Type of coverage for migrant domestic workers

Type of insurance	Total	Sex		Zone	
		Female	Male	Urban	Rural
Total	100,0	100,0	100,0	100,0	100,0
Salaried	27,0	26,2	41,6	29,5	18,8
Volunteer	8,9	9,2	3,5	9,2	7,8
Family of insured	20,2	21,2	4,2	18,4	26,3
Other forms	2,5	2,6	-	3,2	-
Not covered	41,4	40,9	50,7	39,7	47,1

Note: 1/ Within the social insurance, it is referred to the category of "domestic service".

2/ These include also domestic workers who pretend to be independent workers.

3/ These include domestic workers who have insurance funded by the State, or workers who are retired.

Source: National Household Survey. INEC. 2013.

With information from 2013, the above table allows us to conclude the following:

- Coverage of migrant domestic workers is greater than the total coverage of

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domestic workers by about 1.8 times.

- One of the main reasons why migrant workers have higher coverage is that registration of the social insurance is a requirement to apply or update a residence permit or other similar management in the department of migration.
- By gender, the coverage is higher in men, and according to the area, most are concentrated in urban areas.
- 41.4 per cent of migrant workers do not have any coverage, which is much higher than the percentage of total domestic workers, which is about 24 per cent. One of the main causes is that migrant workers have legal barriers to opt for health insurance funded by the state or cannot affiliated themselves under voluntary coverage for independent workers for example.

Financing issues

Is the contribution rate differentiated? Yes, domestic workers and their employers do not contribute to some social sector institutions that do not represent direct benefits for workers. In particular, domestic workers do not contribute to institutions such as the IMAS (social welfare institute) and INA (vocational training institute).

Reference wage for contribution payments: Gross wage of the worker. Including in-kind salary (There are included: housing, meals, clothing and other articles intended for personal consumption. Art. 166. Labour Code).

Are there state subsidies for contributions? Yes, the State subsidies are applied to total wages reported.

Total contribution rate: 34 per cent of gross salary.

Social Contributions for domestic workers in Costa Rica

Detail	Total	Employer	Worker	State
Total	34.0	24.17	9.17	0.66
CCSS	23.0	14.7	8.17	0.66
Health	15.0	9.25	5.5	0.25
Pensions	8.0	4.92	2.67	0.41
Other institutions	11	10	1.0	0.0
FCL 1/	3.0	3.0	-	-
ROPC	1.5	1.5	-	-
Banco Popular	1.5	0.5	1.0	-
FODESAF	5.0	5.0	-	-

Note: 1/ According to Worker's Protection Law (Law 7.983), the Pension Fund Administrators must annually transfer 50% of the resources of Labour Capitalization Fund (1.5%) to the accounts of ROPC.

Source: CCSS.

2/ These contributions do not include employment Injury Insurance.

Domestic workers have legal employment injury insurance coverage, which is administered by the National Insurance Institute (INS). The contribution rate is not related with the worker salary, and it has a cost of 43,113 colones (US\$ 77.5).

Are there tax incentives for employers to pay contributions? Yes, but only when

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Registration practices

they contribute to the voluntary pension pillar (RVPC). These contributions can be considered deductible expenses for purposes of the calculation of the income tax.

Is the affiliation mandatory? Yes, for all contingencies described above (Art. 37. Constitutive Law of CCSS and Art. 104 of the Labour Code).

Registration procedure: The employer must enrol the employee no later than 8 business days after the beginning of the employment relationship (Art. 44 Constitutive Law of CCSS and Art. 104 of the Labour Code).

Whose is the accountability of registering the worker? The employer.

Which institutions are involved? CCSS and INS.

Registration of domestic workers: The same as to the other employees.

Is there a unique system of registration? Yes, except employment injury, which the INS is responsible for this management.

Is there portability in the contributions between the schemes? Yes, when domestic workers change their occupational category, they are still protected under the same social protection scheme.

Are there complaint mechanisms available (in case of non-compliance with social security legislation)? Yes, the worker can attend the Costa Rican Social Insurance Fund, the Labour Inspection Office of the Labour and Social Security Ministry, Constitutional Court or the Ombudsman's Office (Constitutive Law of the Costa Rican Social Insurance Fund).

Are there inspection mechanisms to enforce the compulsory coverage? Yes, under the inspection system of social security (Art. 20. Constitutive Law of the Costa Rican Social Insurance Fund). In 2013, there were about 5,908 private households with domestic workers, of which 8.9% (66,694) were the subject of an intervention (CCSS, 2013).

Are there rules for affiliation and payment of specific contributions to domestic workers working on a part time and/or multiple employers bases? No, CCSS and the INS does not have regulated this type of affiliation and payment of contributions.

Contributory minimum wage: Yes, it was equivalent to 131,760 colones (US\$ 239) in 2013. The employer must contribute on the contributory minimum wage established, but the employee must pay contributions just on wages reported on social insurance.

What is the process for registering domestic workers? The registration is under employer responsibility, at the social security offices or online.

What are the specific requirements for registering?

- Fill out an application, which must be signed by the employer.
- Identity of the employer: passport, residence permit or refugee card.
- Identity of the worker: passport, residence permit or refugee card.

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- Electricity bill corresponding to the house of the employer.

Are there any mechanisms in place to facilitate registration for domestic workers?

- Online administration:
The web platform link is available in: <https://sfa.ccss.sa.cr/afiliacion/> and <http://www.ins-cr.com/apps/web/servicios/frmCompreEnLinea.aspx>

Collection of contributions

Is there a single national system for the collection of contributions? Yes except for the employment injury programme, whose contributions are collected by the I.N.S.

Are there mechanisms to facilitate the payment of contributions? Yes.

- A web platform (E-services).
The web platform link is available in: <https://sfa.ccss.sa.cr/afiliacion/> and <http://www.ins-cr.com/apps/web/servicios/frmCompreEnLinea.aspx>
- Through the financial system.

Are there sanction mechanisms for employers? Yes. Sanction for omission of information or late submission of documents (same applicable for the rest of employers) security (Art. 44, 46-47. Constitutive Law of the Costa Rican Social Insurance Fund).

Specific provisions or agreements with regards to migrant domestic workers

According to the General Law of Immigration and Foreigners (Law 8.764), the processing of immigration permit must include certification of insurance with the Costa Rican Social Insurance Fund (CCSS).

In addition, when the worker performs a procedure in the Costa Rican Department of Immigration, the worker must submit, among other things, the social security card.

Good practices

- Rate of contribution reduced to domestic workers without affecting their benefits of the social security programmes.
- The contributions of migrant domestic workers are subsidized by the state.
- The affiliation to social security is a mandatory requirement for any management in the Immigration Department, in the case of migrant workers.
- The institutions develop different campaigns in the media, which are aimed to raise awareness among workers and employers.
- Single national and centralized system for the collection of contributions.
- E-services through a web platform for the registration, affiliation and payment of contributions.
- The inspection of social insurance in households with domestic workers.
- Sanction for the employers when they omitted information, when contributions are evaded and in case of late submission of documentation.
- The domestic worker pays contributions according to wages reported, in case of the real salary being less than the contributory minimum wage.
- The employer pays the difference in contributions from workers between the contributory minimum wage and the reported wage.

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Barriers	<ul style="list-style-type: none">• Migrant domestic workers working on an hourly basis are not effectible covered. There are no administrative mechanisms and technological mechanisms to register these workers.• It is necessary to incorporate mechanisms for affiliation and control for workers who are not registered.• There is not a link (coordination) with ministry of finance to control the evasion of employers of domestic workers.• Inspection service concentrated in urban areas.• Elevated contributions to social sector institutions (additional tax), which do not provide direct benefits to domestic workers. For example, 5 percentage points of the contributions are directed to fund some non-contributory programs. The existence of these contributions can lead to disincentives for the affiliation.
Challenges	<ul style="list-style-type: none">• Increase the coverage rate of social insurance (de facto coverage still very low).• Sensitize migrant domestic workers about their rights and obligations in social security.• Improving articulation between the inspection service of the social security, the Ministry of Labour and Department of Immigration.• Increase the social security coverage of migrant domestic workers.• Implement an insurance system for employees working for hours.• Implement a system of multi-employer insurance.
ILO standards ratification and application	<p>List of ratified ILO conventions related to domestic work/social security:</p> <ul style="list-style-type: none">• Social Security (Minimum Standards) Convention, 1952 (No. 102)• Medical Care and Sickness Benefits Convention, 1969 (No. 130)• Domestic Workers Convention, 2011 (No. 189). 20 January 2014, but the Convention will enter into force on 20 January 2015.
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