



## ▶ Social Protection in Action: Building Social Protection Floors for All

2022

### *Mexico: Mexican Social Security Institute pilot programme for domestic workers*

#### Summary

In May 2019, the Mexican Federal Labor Law was adapted to mandate the affiliation of domestic workers into the Mexican Social Security Institute (IMSS) (art. 337). The reform of the Social Security Law to include domestic workers in the mandatory regime of the IMSS is currently under approval by the Chamber of Deputies.

The reform is expected to end the historical discrimination faced by domestic workers, who could only voluntarily enrol in social security. Mexico has one of the lowest formalization rates in Latin America among domestic workers, ranging from 2.5 to 5 per cent over the past 20 years (ILO 2017). The recent legislative and executive changes, as well as Mexico's ratification of the Domestic Workers Convention, 2011 (No. 189) in 2019, have been major drivers of these reforms. The reform efforts were preceded by the launch, in April 2019, of an IMSS pilot programme for the formalization of domestic workers in Mexico.

#### Main lessons learned

- ▶ The inclusion of domestic workers into the national contributory social protection system can be realized

even without subsidies of the social security contributions.

- ▶ Domestic work has unique characteristics, in which a single employee may have several employers. It is important to account for such specific features in the design and operations of a scheme.
- ▶ Thanks to the intense mobilization of trade unions and civil society actors representing domestic workers, their rights to social security were recognized and established by law.
- ▶ The Constitutional Court, by enforcing the constitutional right to social security, can be a strong driver of policy change and the promotion of universal social protection.
- ▶ Despite Mexico's efforts to increase the legal coverage of domestic workers and the effective implementation of a pilot scheme, further efforts are required to increase effective coverage, including awareness-raising campaigns among domestic workers and their employers and the implementation of adapted control, complaints and appeals mechanisms.

#### Social Protection Floors Recommendation, 2012 (No. 202)

SDG 1.3 aims to implement nationally appropriate social protection systems and measures for all, including floors, and by 2030, achieve substantial coverage of the poor and the vulnerable.

Social protection floors (SPFs) guarantee access to essential health care and basic income security for children, persons of working age and older persons. 187 countries have adopted the Social Protection Floors Recommendation, 2012 (No. 202), to achieve universal social protection.

Mexico's pilot programme for domestic workers is based on the key principles of Recommendation No. 202. It promotes the universality of social protection, solidarity in financing and social inclusion, including for those in the informal economy, and was established after consultations with representatives of domestic workers as well as non-governmental organizations advocating for the rights of these workers.

- Despite Mexico's efforts to increase the legal coverage of domestic workers and the effective implementation of a pilot scheme, further efforts are required to increase effective coverage, including awareness-raising campaigns among domestic workers and their employers and the implementation of adapted control, complaints and appeals mechanisms.

## Context

In Mexico, there are more than 2.2 million domestic workers, of whom only 4.75 per cent have access to social health protection. In addition, more than 90 per cent of these workers are female).<sup>1</sup> Domestic work is regulated by the Federal Labour Law.

The adaptation of the Federal Labour Law in May 2019 was mandated by a ruling of the Second Chamber of the Supreme Court of Justice (SCJN) on 5 December 2018, who ruled in favour of a domestic worker who sued her employers in a labour lawsuit. The Court deemed that the exclusion of domestic workers from the social security regime was unconstitutional.

The SCJN ruling also ordered the IMSS to implement a "pilot programme" for providing access to social security for domestic workers in the first half of 2019. The SCJN mandated that the pilot should establish effective administrative procedures for the enrolment of domestic workers and the collection of their contributions, taking into account the unique characteristics of the sector, such as a single worker having several employers. According to the SCJN, the pilot programme was to be implemented for 18 months, during which the administrative procedures should be established and shown to function well.

## Description of the initiative

On 30 March 2019, the IMSS launched a pilot programme for the enrolment of domestic workers in social security on the same terms granted to other workers.<sup>2</sup> It provides domestic workers and their dependants, including their spouses or cohabitants, children (up to the age of 16 or 25 if studying) and parents (when living in the same household as the domestic worker) with access to all IMSS benefits.

The IMSS was advised by international institutions such as the ILO in the design and development of its pilot

programme. In addition, the IMSS organized discussion forums with representatives of the National Union of Domestic Workers (SINACTRAHO), employers, civil society associations, academics and other government institutions, such as the Federal Labor Secretariat, the National Council for the Prevention of Discrimination and local institutions. Core elements of the programme's design were shaped through social dialogue and coordination with key stakeholders.

The IMSS pilot programme was presented on the occasion of International Domestic Workers Day (30 March 2019) and includes some innovative aspects based on international experiences. Domestic workers can affiliate either online or at IMSS subdelegations, through a simplified administrative procedure in which only minimal data must be submitted, such as workers' details and place of employment, employers' details and the salary paid. The system also allows a worker to declare more than one employer, recognizing this unique feature of domestic work. Recording all employers enables IMSS to collect contributions of the different employers and allows workers to enjoy higher pension entitlements.

Contributions to the pilot programme are calculated on the basis of workers' salaries and the number of days worked and were shared between the employer(s) and the worker, the former paying a more significant share. The payment of contributions must be made before the 20th day of each month in order to secure benefit entitlements for the subsequent month. If contributions payments are not made on time, workers automatically lose their entitlements for the following month.

In a second phase of the pilot programme, which began in November 2020, the responsibility for the registration and payment of contributions was transferred to employers exclusively. In other words, each employer must pay the corresponding contribution directly to IMSS, based on the days worked by the worker and the salary reported in the online system of the pilot programme.

## Impact of the initiative

The pilot programme led to a sharp increase in the number of domestic workers registered with IMSS. As of January 2022, 43,158 domestic workers were affiliated in

<sup>1</sup> National Occupation and Employment Survey and National Institute of Statistics and Geography (INEGI).

<sup>2</sup> The five insurance policies included in the Social Security Law cover: (1) occupational illness; (2) disability and life insurance; (3) illness and maternity; (4) retirement; and (5) childcare and social services.

the pilot programme – a number 11 times greater than the number of domestic workers who were registered under the previous voluntary scheme. Their registration provides them with access to social security and thereby supports them on their path towards formalization.

In addition, the pilot programme had a positive impact on the coverage of dependants of domestic workers. An estimated 27,500 dependants of affiliated domestic workers are covered under the pilot programme, who may have otherwise been left without social security coverage.

The need for domestic workers to record their work and wages has improved data availability. The IMSS finds that the average daily wage of domestic workers affiliated to the pilot programme is 230.05 Mexican pesos, which is above Mexico's official minimum wage for domestic workers, at 187.92 pesos per day.

However, uptake remains low. While registration figures for the first three years of the pilot programme show a growth in affiliation, overall, only 2 per cent of all domestic workers in Mexico are affiliated with the pilot programme.

According to data from the National Institute of Statistics and Geography of Mexico (INEGI), between the third quarter of 2019 and the third quarter of 2020 almost 500,000 domestic workers lost their jobs – roughly one fifth of total employment in the sector. Nearly all of those laid off were female (98 per cent). The Government did not implement an income support measure for the domestic workers who lost their jobs due to the pandemic. The only measure implemented was a credit facility for domestic workers registered in the pilot programme.<sup>3</sup>

## Way forward

The pilot programme has some areas for further improvement. Although the multi-employer system is recognized, domestic workers who work part-time and therefore do not reach the minimum wage are unable to register as, at the moment, this is a prerequisite of the programme. Also, the fact that benefits are only provided for the month following the payment of contributions may be problematic for some workers and is not in line with the general system, under which entitlement to benefits starts when registration is completed.

A final point of improvement is ensuring consistency between the benefits offered to domestic workers and those offered to formal workers. For example, domestic workers do not have access to the Institute of the National Housing Fund for Workers' Housing Savings Insurance, a scheme that is otherwise accessible to all formal workers in Mexico.

The ratification of Convention No. 189 by Mexico on 13 December 2019 supported the further extension of social protection coverage to domestic workers and their progressive inclusion in the general social security system. The remaining highest-priority challenge is to enforce the desired mandatory affiliation of domestic workers in social security. This will require policies for communicating workers' obligations and incentives, in which trade unions should play an integral role, as well as the enactment of inspection measures.

Another challenge for the future is the transition of domestic workers from the pilot programme to the general regime. While this is desirable, it is important that the possibility for a domestic worker to be linked to several employers remains in place.

<sup>3</sup> In 2020, the IMSS offered a credit for domestic workers of 25,000 pesos (around US\$1,250), which they had to repay over the next three years at an interest rate of about 6 per cent. Approximately 5,000 domestic workers enrolled in the IMSS pilot programme benefited from this credit.

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