



Health workers for all - CASE STUDY

SPAIN

**The experience of non-EU member MIR in
the Navarra Community: Labour inequity**

Federación de Asociaciones Medicus Mundi en España (FAMME)

C/Lanuza 9, local,

28028 Madrid

<http://www.medicusmundi.es/>

Email: federacion@medicusmundi.es

Phone: +34 913195849

European HW4All project

<http://www.healthworkers4all.eu/home/>

Contact

Carlos Mediano, Spanish coordinator HW4All

federacion2@medicusmundi.es

This document has been produced in the framework of the project “Health Workers for all and all for health workers” DCI-NSAED/2011/106, with the financial assistance of the European Union. The contents of this document are the sole responsibility of the project partners and can under no circumstances be regarded as reflecting the position of the European Union.



Contents

1) The National /regional context of the case	4
2) Description of the practice	4
3) What can we learn from this experience	6

WHO Code* correspondence:

Article 4.5. Member States should ensure that, subject to applicable laws, including relevant international legal instruments to which they are a party, migrant health personnel enjoy the same legal rights and responsibilities as the domestically trained health workforce in all terms of employment and conditions of work.

Article 4.7. Recruiters and employers should understand that the Code applies equally to those recruited to work on a temporary or permanent basis.

** WHO Global Code of Practice on the International Recruitment of Health Personnel*

1) The national/regional context of the case

Until recently, the main gateway for international doctors in Spain has been the specialised residency programme called MIR (*Médico Interno Residente*; there are also specialised residency programmes for pharmacists and nurses). Since 1978, the completion of this programme has been mandatory to be able to work in the Spanish public health system. In Navarra, as well as all other Autonomous Communities in Spain, MIRs are educated in the different health institutions of their territory. Every year, the national health authorities publish a new official announcement of vacancies in the health system, for which there is a quota for non-EU health workers. This has decreased in recent years, from 20 percent in 2009-2010 to 4 percent in 2013-2014. The reason for this reduction is the socioeconomic situation of the country.

Between 2006 and 2009, there was an increase in the demand for health workers in Spain due to the decentralisation of and a consistent increase in health services; an increase in the population, primarily the result of an increase in the migrant population; and the retirement of a massive number of health workers who began work in the 1970s when the current Spanish public health system was created. As a consequence, there was also an increase in MIR places. For a number of years, the number of vacancies for MIR candidates was higher than the number of MIR graduates and this favoured the recruitment of international health workers coming from both EU and non-EU countries.

The economic crisis and the end of demographic growth led to the end of this practice: the Ministry of Education has since reduced the number of vacancies in the health system for both university and MIR graduates, which explains part of the decrease in the current number of vacancies for non-EU personnel. We should keep in mind that training each specialised doctor costs around EUR 200,000. However, as we saw above, the percentage of non-EU MIR candidates has also been reduced, which can only be explained as a political decision.

2) Description of the practice

Every MIR is a trainee employee and provides medical health care services. Once they have been given a position, non-EU MIR students who do not already have a study permit or a residency and employment permit, must apply for a visa through the Spanish consulate in their country of origin. Instead of a work permit, they will be granted a visa for Study Purposes only, legally endorsed by the Real Decreto 557/2011 del 20 April, Article 43.¹ Once they arrive at the hospital to start their MIR period they must sign a similar employment contract to that signed by other new medical residents (nationals, EU members and non-EU members with residency and employment permits), regardless of their different status.

Before 2013, and once the requirements that the law demanded were fulfilled, personnel in an MIR programme who wished to change their residency status (from stay for study purposes to residence and

¹ <https://www.boe.es/buscar/pdf/2011/BOE-A-2011-7703-consolidado.pdf>

employment) could do so. In 2013, a group in Navarra that fulfilled these requirements applied to change their status, directed by the personnel department of the hospital in Navarra. However, the Aliens Office refused to grant the change in status because of guidelines stipulated by the Health Services of Navarra (the health authority in this Autonomous Community). Thus, it appeared that the health authorities now wanted to apply the regulation under the Real Decreto 557/2011 in a more strict way.

The group of international doctors subsequently spoke with political representatives, and this case was discussed in the Navarra Parliament at the end of 2013. During the first term of parliament in 2014, the majority of the parliamentary parties supported the motion to return to the previous interpretation of employment status (except two, who abstained). However, the motion was not carried because the main political party did not support it.

The change seems unlikely to be reversed. While the non-EU member MIR employees (with a student card) have had social security contributions subtracted from their salary, as do all employees, including the contribution to unemployment benefits, in their salary for April 2014 the entire amount subtracted and related to unemployment benefits since the beginning of their MIR contract was returned. This means that they do not have any rights to unemployment benefits, unlike other MIR participants, including non-EU MIR who changed their residency status in previous years.

Although non-EU member MIR participants are in a special situation with regard to Spanish employment legislation and do not need a work permit to be able to work in the Spanish health care system, this case of the application of the legislation implies clear discrimination, since not having a work permit directly impacts on the rights of MIR employees from non-EU countries. In comparison with Spanish nationals and others who hold work permits:

1. They do not have a right to unemployment benefits.
2. It 'forces' them to leave Spanish territory once their studies are finalised and their student card expires, since to change their residency status, at least a one-year contract is required and it is not possible to obtain a temporary work permit as a migrant.
3. They face inequality of opportunity in finding a job.

This discrimination has a direct impact related to two aspects of the Global Code of Practice on the International Recruitment of Health Personnel signed by Spain in 2010, and in particular:

Article 4.5.: Member States should ensure that, subject to applicable laws, including relevant international legal instruments to which they are a party, migrant health personnel enjoy the same legal rights and responsibilities as the domestically trained health workforce in all terms of employment and conditions of work.

Article 4.7.: Recruiters and employers should understand that the Code applies equally to those recruited to work on a temporary or permanent basis.

3) What can we learn from this experience

An MIR is a health professional who works while receiving training. For this reason he/she should have equal legal working conditions as health workers with Spanish nationality. To comply with the WHO Code it is therefore necessary that laws and rules that could interfere with the equality of rights between non-EU and EU health workers and community health workers are revised.

Furthermore, in a country with highly decentralised health services such as Spain, it is important to ensure that every authority that is involved in the recruitment of health care workers is aware of the WHO Code of Practice and supports its implementation.

Unfortunately, we do not have the data necessary to precisely determine the impact of these restricted policies on non-EU health workers and in turn the health of the population. In fact, we have no accurate data on how many health workers (including doctors) are working in Spain (migrant or not), or how many of them are leaving the country. However, estimations suggest that due to the economic crisis in Spain, an increasing number of Spanish doctors want to work abroad, and by 2025 there will be a 14 percent deficit in the optimal number of doctors.²

² [https://www.mssi.gob.es/profesionales/formacion/necesidadEspecialistas/doc/13-NecesidadesMEspecialistas\(2008-2025\).pdf](https://www.mssi.gob.es/profesionales/formacion/necesidadEspecialistas/doc/13-NecesidadesMEspecialistas(2008-2025).pdf)