

RocaJunyent

Inform

Labour Law Department

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Summary of relevant court rulings: developments in working conditions and workers' rights in 2024

In this information alert, we provide a summary of several recent court rulings, handed down between October and November 2024, which address key issues in the employment field. These decisions, issued by the Court of Justice of the European Union and the Supreme Court, address issues such as the procedure to be followed in the event of disciplinary dismissal, the information to be provided on the pay register, or the application of the Temporary Agency Workers Directive to companies that do not have this status under Spanish law. Through these rulings, important implications for employers and workers are outlined, as well as the current interpretations of the labour regulations in force in Spain.

New jurisprudential updates

[Ruling of the Supreme Court of 18 November 2024 \(rec. no. 4735/2024\)](#)

This Supreme Court ruling introduces a change in the formal requirements to be followed in disciplinary dismissals. Specifically, it assesses the case of a teacher who is disciplinarily dismissed for harassment of his female students. During the proceedings, the violation of article 7 of ILO Convention 158, which requires a prior hearing to be given to the employee when his or her contract is terminated for breach of contract. The Supreme Court understands in its Ruling that this Convention is directly applicable in Spain and, therefore, that the prior hearing must be respected even though it is not expressly provided for in national labour legislation. However, it classifies the dismissal as fair dismissal because it considers that the exception in Article 7 of ILO Convention 158 (ILO Convention 158) is met. Specifically, the application of the prior hearing may be avoided when it is not reasonable for the company to comply with this duty. The Supreme Court understands that, as long as the case law had not confirmed the obligatory nature of the prior hearing, it was not reasonable to require the company to comply with this procedure. In any case, the most relevant aspect of this Ruling is that the Supreme Court warns that dismissals occurring after the publication of this Ruling must formally comply with the prior hearing of the worker as provided for in Article 7 of ILO Convention No. 158, with the exception of those cases in which it is not reasonable to require the company to comply with this requirement. Therefore, from now on, disciplinary dismissals must comply with this procedure in order to avoid, at the very least, a declaration of unfairness.

Ruling of the Supreme Court of 21 November 2024 (rec. no. 218/2023)

The Supreme Court analyses whether, under the rules on the remuneration register (article 28.2 ET and Regulation 902/2020), there is an obligation to provide individualised remuneration information, so that the person behind the remuneration can be identified. The High Court understands that the regulations on the remuneration register do not provide for the obligation to provide individualised information, but rather to provide the average values broken down by sex according to the professional classification of the company. It also points out that providing individualised salary information on the basis of article 28.2 ET could violate data protection regulations, since there is no legal basis that expressly permits the provision of such information.

Ruling of the Supreme Court of 30 October 2024 (rec. no. 1271/2023)

The Supreme Court analyses whether the failure to simultaneously deliver a copy of the letter of objective dismissal of an employee to the workers' representatives means that the dismissal is considered unfair. In this case, the company had delivered a copy of the letter of objective dismissal to the works council 5 working days after the letter of dismissal had been delivered to the employee. In the appeal, this fact led the High Court of Justice of the Valencian Community to classify the dismissal as unfair. However, the Supreme Court, firstly, reconfirms that, despite the defective wording of article 53.1.c) ET, a copy of the letter of objective dismissal must be given to the employee's representatives. Secondly, it confirms that it is possible to comply with this delivery after the act of dismissal, provided that it is carried out within a reasonable period of time that does not frustrate the rights of the staff representatives. Therefore, the company complied with its obligation and the objective dismissal cannot be classified as unfair.

Ruling of the Supreme Court of 16 October 2024 (rec. no. 211/2022)

The Supreme Court analysed whether a radio and television company had infringed the right to strike by replacing the regular presenter of a radio programme who was exercising her

right to strike with another person of the same professional category who did not assume that responsibility on a regular basis, in what is known as internal scabbing. The Supreme Court understands that there has been a violation of the right to strike because this substitution did not obey any of the cases in which this is permitted: for minimum services and/or for security and maintenance services in the company. Therefore, it understands that the company should not have broadcast the programme, in such a way that by replacing the presenter with another person, the right to strike was violated.

Ruling of the Court of Justice of the European Union of 24 October 2024 (C441/23-)

The Court of Justice of the European Union (CJEU) has given preliminary rulings on questions referred for a preliminary ruling by the Tribunal Superior de Justicia de Madrid (High Court of Justice of Madrid) concerning Directive 2008/104 on temporary agency work. In this case, the question referred for a preliminary ruling concerns a worker who provided services for Microsoft and was formally hired by a contractor (not a temporary employment agency). In the first place, the CJEU states that the Directive applies to any natural or legal person who concludes an employment contract for the purpose of assigning the worker to a user undertaking, without the need for the administrative authorisation required under national law in order to be considered a temporary employment agency as such. Secondly, it specifies that a situation in which a worker is placed at the disposal of a user undertaking under the direction and control of that undertaking is to be regarded as "work through a temporary employment agency". Finally, it confirms that workers seconded by a temporary agency to a user undertaking must receive at least the same salary as if they had been employed directly by the user undertaking, in accordance with the principle of equality laid down in Directive 2008/104.

Legislative updates

Organic Law 5/2024, of 11 November, on the Right to Defence

This regulation includes an additional provision that develops the right of indemnity of workers and their families against the unfavourable consequences that they may suffer as a result of any claim they may make against the company regarding their labour rights.

If you have any questions or would like to further your knowledge on any of these subjects, please contact:



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