

RocaJunyent Informs

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 November and December 2024, which address key issues in the field of employment. These decisions, issued by the Supreme Court and the High Courts of Justice of Madrid and Galicia, address issues such as supplementary compensation in cases of unfair dismissal, working hours and non-compliance with anti-harassment measures. 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. In addition, some legislative developments of great relevance in social matters are also introduced.

New jurisprudential developments

[Judgment of the Supreme Court of 19 December 2024 \(rec. no. 2961/2023\)](#)

In this judgment, the Supreme Court rules on whether in cases of unfair dismissal it is possible to recognise compensation in addition to that legally established in article 56 ET (33 days' salary per year of service), by virtue of article 10 of ILO Convention 158. This latter provision establishes that if a judicial body considers that the termination of an employment contract is unjustified and the reinstatement of the worker is not possible, the judicial body may order the payment of "*adequate compensation or such other relief as it deems appropriate*". In the case in question, the dismissal of the worker had been classified as unfair by the High Court of Catalonia, so that, the company having opted for the compensation option, it was entitled to compensation of €941.78 under Article 56 ET. The High Court held that this amount did not constitute "adequate compensation" within the meaning of Article 10 of ILO Convention 158, and therefore awarded additional compensation of €3,493.30 (€4,435.08 in total). In its judgment, the Supreme Court states that ILO Convention 158 allows domestic legislation to determine what it means by "adequate compensation". In this sense, the Supreme Court considers that the fixed severance pay of Article 56 ET is compatible with the "adequate severance pay" of ILO Convention 158. Therefore, it states that it is not possible, by virtue of that legislation, to recognise an additional compensation to that of unfair dismissal that takes into account other potential particular damages associated with the dismissal. In any event, the Supreme Court states that it has not taken into account the European Social Charter in order to rule on this appeal because it was ratified by Spain after the date of the worker's dismissal. That standard also recognises "*the right of workers dismissed without valid reason to adequate compensation or other appropriate redress*".

[Judgment of the Supreme Court of 21 November 2024 \(rec. no. 281/2022\)](#)

The Judgment further examines the issue of the Company's refusal to allow the accumulation of time credit to the unitary representatives of the FASGA Union, who belong to different workplaces of the Union, when other trade union organisations are allowed to accumulate such credit. Specifically, the Company only allows the accumulation of such time credit to the unitary representation of those Unions which are represented on the Intercentre Committee. The Chamber of the Supreme Court determines that neither article 68.a) of the ET, nor the applicable collective bargaining agreement, conditions the accumulation of time credits to those trade unions that are represented on the Intercentre Committee, nor does it limit its exercise to the unitary representation of the same Works Council of a given work centre. This confirms the judgment of the National High Court, which declared the violation of the fundamental

right to freedom of association and ordered the company to pay compensation of 6,000 euros.

 [Judgment of the Supreme Court of 27 November 2024 \(rec. no. 88/2023\)](#)

In the context of a collective dispute, the Labour Division of the Supreme Court ruled that the period spent by workers travelling from their homes to the first client for whom they provide services, as well as the time spent returning home from the last client for whom they have provided services, should be counted as working time. Faced with this conflict, the Supreme Court, after carrying out an exhaustive analysis of previous rulings in which it had analysed whether or not journeys to the first client and those returning from the last client should be counted as working time, established that, as a general rule, such periods should not be counted as working time, the fact that all the offices have been closed by the employer and previously the time spent travelling between the workplace and the client's workplace was counted as working time, or that the employer has to travel up to 100 kilometres to provide services at the workplace of the first client or to return from the last client, or that there is unjustified differential treatment between groups that provide the same services, so that for some they are counted and for others they are not.

 [Judgment of the Tribunal Superior de Justicia de Galicia of 8 November 2024 \(rec. núm. 4188/2024\)](#)

In this judgment, the High Court of Justice of Galicia analyses a damages award for non-compliance with the anti-harassment measures agreed after the application of a protocol. Specifically, it had been agreed to avoid the coincidence of the two workers. However, the SCJ understands that the protocol was misapplied. Firstly, because when the working timetables for the years 2022 and 2023 were sent to both persons, there were several overlaps on paper, and the harassed person was obliged to report the overlap and manage the situation to prevent it from occurring. Secondly, because there were two physical coincidences in the same shift, although without incident between the two persons. The SCJ understands that these two situations represent a violation of the moral integrity of the worker (article 15 EC) by the company for not respecting the agreed protocol and sentences the company to compensate the victim of harassment with €20,000.

📄 [Judgment of the High Court of Justice of Madrid of 4 December 2024 \(rec. no. 648/2024\)](#)

This judgment of the High Court of Justice of Madrid rules that there is an unlawful transfer of workers between Som Tec Consultants SL and Robert Bosch España SL, applying the doctrine of the Court of Justice of the European Union in [Case C-441/23 \(Omnitel case\)](#). In this case, the employees of Som Tec, led by a coordinator, provided technological assistance services on the premises of Robert Bosch. The Madrid Supreme Court held that the requirements of a "provision of services" were met between the two companies, since although Som Tec had some control over the workers (periodic reports, setting of timetables and holidays), it was Robert Bosch which effectively exercised the company's functions. In this sense, the relevance of the judgment focuses on the fact that the SCJ of Madrid understands that when it is a case of subcontracting where the added value is the workforce and there is a provision within the meaning of Directive 2008/104/EC, there is an illegal transfer within the meaning of article 43 ET, unless this provision is carried out by a temporary employment agency. Accordingly, in the present case, the Court finds that there has been an unlawful transfer and that the dismissal is unlawful, with the consequences arising therefrom.

Legislative developments

📄 [Royal Decree-Law 9/2024 of 23 December adopting urgent economic, tax, transport and social security measures and extending certain measures to address situations of social vulnerability.](#)

This regulation includes various measures in the social field with effect from 2025, including: (i) limits on the amount of public pensions of €3,267.60 (month) or €45.746.40 (year); (ii) revaluation of pensions in 2025 at 2.8% with respect to the amount in 2024; (iii) new maximum and minimum ceilings are established for Social Security contribution bases; (iv) the employment maintenance clause tied to exemptions from Social Security contributions in ERTE and/or RED Mechanism procedures is modified.

📄 [Royal Decree-Law 11/2024 of 23 December on improving the compatibility of retirement pensions and work](#)

This regulation introduces changes to the retirement pension for those who decide to extend their pension beyond the normal retirement age , as well as for those who decide to take active retirement or partial retirement.

📄 [Organic Law 1/2025 of 2 January on measures for the efficiency of the Public Justice Service](#)

A modification made to the Workers' Statute is rectified, recovering the objective nullity of the dismissal of anyone exercising rights related to care. With regard to social jurisdiction, among other aspects, this Organic Law introduces the following amendments: (i) cases in respect of which an appeal is lodged are no longer excluded from oral judgment; (ii) it clarifies that the time limits relating to the suspension of the limitation period for the filing of the request for conciliation are in working days; (iii) the minimum amount of the fine for reckless claims is modified; (iv) it will be possible to hold the act of judicial conciliation and the act of trial in two separate summons; (v) the parties will be required to provide electronically, 10 days before the trial, the documentary or expert evidence that they are going to use in the trial; (vi) advance evidence must be requested 10 days before the trial; (vii) the cases in which it is in the interest of the court to file an appeal for the unification of doctrine are specified.

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



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