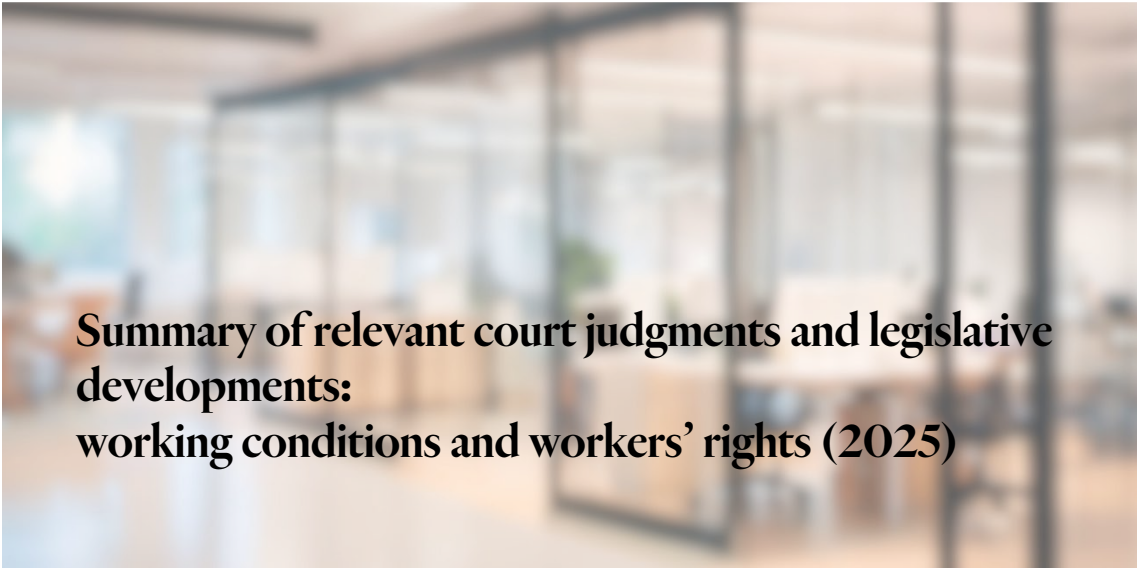


RocaJunyent Informs

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Summary of relevant court judgments and legislative developments: working conditions and workers' rights (2025)

In this informational alert, we provide a summary of several recent court judgments that address key issues in the labour field. These decisions, issued by the Supreme Court and the High Court of Justice of Madrid in January 2025, cover topics such as incentives to combat absenteeism, the scope of the duty of care in relation to liability for surcharge of benefits in cases of outsourcing activities, the applicable collective agreement in cases of subcontracting and the classification of dismissal during a period of temporary incapacity. These judgments outline significant implications for companies and workers, as well as current interpretations of the labour regulations in force in Spain.

Recent jurisprudential developments

[Judgement of the Supreme Court of 20 January 2025 \(appeal no. 99/2024\)](#)

The judgement examines the potential partial nullity of Article 49 of the collective bargaining agreement applicable to a company in the glass manufacturing sector. This article establishes an improvement incentive based on productivity and quality results obtained at various workplaces, taking into account individual absences recorded monthly for employees, excluding holidays, time differences, union leave and bereavement leave. The claim filed by the trade union CGT challenging this incentive was upheld by the National Court, which declared the nullity of Article 49 of the collective bargaining agreement concerning the individualisation of the bonus for each worker based on their absences from work. This annulment means that, regardless of the reason for the absence, all workers are entitled to 100% of the bonus amount applicable to the workplace.

The Supreme Court upheld the appeal filed by the company and annulled the National Court's judgement. The Supreme Court concluded that it was not appropriate to declare the nullity of the said conventional article, although it introduced significant qualifications in its practical application, raising questions about its usefulness and suitability. The Supreme Court considers that combating absenteeism is a legitimate cause aimed at addressing a serious problem. However, absenteeism must be combated without violating the Constitution, nor the Comprehensive Law 15/2022 for equal treatment and non-discrimination, nor the Organic Law 3/2007, of 22 March, for the effective equality of women and men.

This means that absences that can be counted for these purposes cannot be caused by illness, measures for reconciling family and work life, nor should they cause discrimination by association of the worker whose incentive is reduced for having used leave to care for the sick. Unjustified absences, as well as absences due to leave that do not constitute prohibited discrimination, may be counted. For example, absences due to a change of habitual residence or to attend exams could be counted for these purposes, as long as they do not cause discrimination.

Consequently, the Supreme Court rules that it is not appropriate to declare the nullity of the conventional provision, because it is lawful to establish a salary bonus to combat absenteeism that takes into account unjustified absences from work or those that do not constitute one of the discrimination factors, but rather to make an integrative interpretation of that conventional norm in which, by applying Article 14 of the Spanish Constitution and the laws that develop it, those absences are not counted.

Judgement of the Supreme Court of 20 January 2025 (appeal no. 2396/2022)

A worker suffered a workplace accident on 6 November 2017 while carrying out forestry logging tasks, being struck by a log. The worker suffered severe injuries in the accident, resulting in total permanent incapacity. The incident occurred on a plot operated by the company Central Forestal SAU, but executed by a contracting company. Prior to his employment, the worker received specific training in occupational risk prevention and was declared “fit” in the medical health surveillance examination. The labour court sentenced both companies to jointly pay a surcharge of 40% on the worker’s economic benefits. This judgement was appealed by Central Forestal, SAU to the High Court of Justice of the Basque Country, which decided to absolve Central Forestal, SAU from the surcharge, arguing that it had no control over the worker’s labour activity. In response to this decision, the worker filed an appeal for the unification of doctrine, seeking to determine whether Central Forestal, SAU (the main company) should be jointly liable for the surcharge on the economic benefits imposed on the contractor for failing to comply with safety measures. The Supreme Court confirms that the main company should not be considered responsible for the lack of safety measures, as the accident occurred at a site where there were no own workers nor was business coordination required. Under these circumstances, where the workplace accident occurs in a field where the main company has no personal or human resources, it is not possible to impose a benefit surcharge on the main company derived from the duty to monitor safety regulations at work.

It concludes that, in this case, the responsibility for the benefit surcharge falls solely on the contracting company, the employer of the injured worker.

Judgement of the Supreme Court of 28 January 2025 (appeal no. 45/2023)

A company applying a collective agreement in ultra-activity makes a substantial modification to the working conditions (SMWC) of a collective nature, which concludes with a majority agreement from the social party. Specifically, professional categories, holidays, remuneration, etc., which are provided for in the collective agreement in ultra-activity, are modified. Two of the unions that did not sign the SMWC agreement challenged it, arguing that the procedure for opting out (Article 82.3 of the Workers’ Statute (WS) should have been followed instead of the SMWC procedure (Article 41 WS). The High Court of Justice of Castilla-La Mancha upheld the collective dispute claim at the initial stage. In ordinary cassation, the Supreme Court confirmed this judgement. The main grounds for cassation were: (i) that the collective agreement was non-statutory; (ii) that the agreement was in ultra-activity. The Supreme Court confirms that the agreement was statutory, and therefore the opting-out procedure should have been followed.

Judgement of the Supreme Court of 29 January 2025 (appeal no. 202/2024)

The judgement examines whether a court ruling that declares a collective dismissal as unfair can also determine which collective agreement is applicable for calculating the severance payments of the dismissed workers. In the case analysed, the company had its own collective agreement with lower wages than the sectoral agreement, with the controversy centered on which of these agreements should be applied to calculate the severance payments. Initially, the High Court of Justice of the Basque Country considered that the severance payments should be based on the sectoral agreement. The company challenged this decision, arguing that its company agreement should be applied. Several applicable sectoral agreements had succeeded each other with significant gaps between the end of one and the signing of the next, which had led to periods without a sectoral agreement in force. During these intervals, company agreements were signed. It should be considered that, although the sixth transitional provision of Royal Decree-Law 32/2021, in force at the time of the collective dismissal in October 2023, eliminated the priority of company agreements regarding wages, the company agreement remained in force, applying the rule of priority in time. The application of Article 42.6 in relation to Article 84 of the Workers' Statute implies that the company collective agreement has priority over the sectoral agreement when it precedes the subsequent concurrent collective norm in time.

Essentially, the Supreme Court determines that Article 84 of the Workers' Statute allows for the negotiation of a company agreement in the absence of a sectoral agreement or when sectoral negotiation is not active, even if some of its conditions are inferior to those of the sectoral reference agreement, as is the case here. Therefore, it considers that the salary was as stipulated in the company collective agreement.

Judgement of the High Court of Justice of Madrid of 16 January 2025 (appeal no. 714/2024)

The High Court of Justice of Madrid declared the dismissal of a worker null, who, while on medical leave and in the days leading up to being dismissed, received a call from his superior, who acknowledged that he could not be dismissed due to his temporary incapacity and asked him to accept an agreement "amicably". Although the labour court in Madrid declared the dismissal as unfair, the High Court confirms in appeal the violation of fundamental rights, understanding that, with reference to Article 55.5 of the Workers' Statute, a dismissal motivated solely by the worker's illness inevitably leads to a declaration of nullity.

If you wish to resolve any queries or expand your knowledge on any of these subjects, you can contact:



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