RocaJunyent Informs

Labour Law Department
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Summary of relevant judicial decisions and legislative developments: working conditions and employees' rights (february 2026)

In this information alert, we provide a summary of several recent judicial decisions addressing key issues in the field of employment law.

These decisions, issued in late 2025 and early 2026, deal with matters relating to unpaid parental leave under Article 48 bis of the Workers' Statute (accrual of annual leave and use in weekly periods); the impact of situations of temporary incapacity or paid leave for work-life balance purposes on variable remuneration; the priority of application of the sectoral collective agreement over the company-level agreement in matters of pay; and the non-applicability of the substantial modification of working conditions procedure where changes are covered by a collective agreement.

Through these Supreme Court judgments, important implications for companies and workers are set out, as well as the current interpretations of employment legislation in Spain.

Case Law Developments

[Supreme Court Judgment of 26 January 2026 (Appeal No. 205/2024)]

The Supreme Court rules on the appeal on points of law against the judgment of the High Court of Justice of Catalonia No. 18/2024, of 30 April 2024, which held that, in the case of use of the unpaid parental leave regulated under Article 48 bis of the Workers' Statute, no annual leave accrued during that period, and that such leave must be taken in full weeks.

In response to that appeal, the Supreme Court confirms the criterion of the High Court of Justice of Catalonia to the effect that parental leave must be taken in full weeks, since, from the literal wording of the provision, it is clear that it is taken by weeks, and may not be taken in periods of less than one week.

That interpretation is not contrary to Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers, given that the Directive allows each Member State to determine whether it is expressed in days, weeks or other units of time.

However, the High Court does not dismiss the appeal in its entirety, but rather partially upholds the appeal on points of law, and establishes that, in the case of use of parental leave regulated under Article 48 bis of the Workers' Statute, even though it constitutes a suspension of the employment contract and is unpaid in nature, annual leave days do accrue during the period of use of such leave, which must be considered an exception to the general rule, and must therefore be classified as effective working time, with the same treatment as that established for birth and childcare leave.

[Supreme Court Judgment of 16 January 2026 (Appeal No. 2/2025)]

The Supreme Court rules on an appeal on points of law relating to a collective dispute, the purpose of which is to determine whether the employer's practice of discounting from the count of productive working days — for the purposes of variable remuneration — those days on which the employee was unable to provide services due to temporary incapacity, as well as those days on which services were not rendered due to the use of paid leave regulated under Article 37.3 of the Workers' Statute, is discriminatory.

The company applied a variable remuneration system that set out certain conditions the employee was required to meet in order to access the incentive, one of which was that the employee must have provided services on a certain number of "productive working days" during the incentive accrual period. The company did not count as productive working days, for the purposes of variable remuneration, periods of temporary incapacity or days on which the leave provided for under Article 37.3(b), (e) and (f) of the Workers' Statute was used.
The Social Chamber of the Supreme Court declares null and void the employer's decision to classify as non-productive, for the purposes of payment of variable

remuneration, those working days on which the employee was unable to provide services due to temporary incapacity, as well as those working days on which the employee did not provide services because they used the paid leave recognised under Article 37.3(b), (e) and (f) of the Workers' Statute.

Whilst the Court acknowledges that combating absenteeism constitutes a legitimate aim, absenteeism must be combated without breaching the legal order. This means that the absences which may be taken into account for these purposes cannot be caused by illness or by the aforementioned work-life balance measures, insofar as such conduct must be considered discriminatory and contrary to the legal order.

Unjustified absences may be counted, as may absences arising from leave that does not constitute prohibited discrimination. For example, absences due to a change of habitual residence or to sit examinations may be counted for these purposes, insofar as they do not cause discrimination.

Supreme Court Judgment of 18 December 2025 (Appeal No. 158/2024)

The Social Chamber of the Supreme Court has handed down a judgment of considerable importance, establishing — in a manner that is certainly open to question — a new interpretative criterion regarding the priority of application of collective agreements in matters of pay.

On this matter, Royal Decree-Law 32/2021, of 28 December, on urgent measures for labour reform, employment stability and labour market transformation, repealed Article 84.2(a) of the Workers' Statute, which had established the priority of application of the company-level collective agreement in matters of pay, regardless of whether it was subsequent to a collective agreement of another scope. In addition, an adaptation period was established for company-level collective agreements to align with sectoral collective agreements in matters of pay.

Following that regulatory change, the National High Court ruled on a claim seeking the annulment of a company-level collective agreement for establishing a salary below that of the sectoral collective agreement, despite the adaptation period having already expired. The National High Court declared that, since the challenged company-level collective agreement pre-dated the sectoral collective agreement, the company-level agreement should maintain its priority of application in matters of pay, given that, notwithstanding the amendment to Article 84.2 of the Workers' Statute, Article 84.1 of the same text remains in force, establishing the temporal priority of application of collective agreements, whereby priority is given to the agreement that was concluded first in time.

However, upon the filing of the relevant appeal, that judgment was overturned by the Supreme Court, which interpreted that the amendment to Article 84.2 of the Workers' Statute entails that, since no legal priority of application in matters of pay is established for company-level collective agreements, the priority of application in matters of pay belongs to the sectoral collective agreement.

It is true that this criterion is certainly open to question, particularly given that the Supreme Court acknowledges that the company-level collective agreement was concluded first in time, as it disregards the fact that the temporal priority of application provided for in Article 84.1 of the Workers' Statute remains in force. It will therefore be essential to ascertain whether the High Court consolidates this criterion in subsequent judicial pronouncements.

Supreme Court Judgment of 13 November 2025 (Appeal No. 174/2024)

The Supreme Court rules on the appeal on points of law brought by a trade union against the judgment of the High Court of Justice of the Basque Country (11 July 2023), handed down in collective dispute proceedings following a business succession (DISU taking over staff from Superberriak). The trade union maintained that the introduction, from February 2023, of Saturday afternoon working at the transferred establishments constituted a substantial modification of working conditions and required the procedure under Article 41 of the Workers' Statute (consultation period) to be followed, and further sought reinstatement of conditions, payment as overtime and compensation for moral damages on grounds of an alleged breach of trade union freedom/collective bargaining.

The Supreme Court upholds the dismissal because the key issue is not merely whether the change would "fall within" Article 41 of the Workers' Statute, but rather that there is a collective agreement concluded in the course of the succession negotiations themselves, under which the representatives of the transferred employees fully adhered to the collective conditions of DISU (by territory), rendering the previous collective conditions without effect (save for individual respect for salaries), and accepting that the organisation of working time (annual hours, calendars and distribution) would be governed by DISU's usual procedures, with gradual adaptation during a transitional period. Interpreting that agreement in accordance with the criteria applicable to its normative effectiveness, the Chamber considers it reasonable to conclude that the measure (Saturday afternoons) falls within the agreed framework.

Accordingly, the Court establishes that the substantial modification of working conditions procedure under Article 41 of the Workers' Statute is required where there is a unilateral employer decision altering working conditions; however, where the measure is provided for or authorised by a valid and unchallenged collective agreement, there is no substantial modification of working conditions, but rather the implementation of what has been agreed. Since the principal ground is not upheld, the claim of infringement of fundamental rights (breach of trade union freedom/collective bargaining), which was based on the foregoing, is likewise not upheld.

Consequently, the Supreme Court dismisses the appeal, upholding the judgment of the High Court of Justice of the Basque Country.

National High Court Judgment of 19 January 2026 (Appeal No. 291/2025)

The Social Chamber of the National High Court, in the context of collective dispute proceedings, has ruled on a matter of particular procedural significance, namely the interpretation of Article 82.5 of the Act Regulating Social Jurisdiction, which requires that documentary and expert evidence which the parties intend to rely upon be submitted at least ten working days before the hearing.

In the specific case, the hearing was scheduled for Tuesday 18 November 2025, with Monday 10 November 2025 being a public holiday in Madrid, and the evidence was submitted on 4 November at 18:36.

Given those facts, the National High Court interprets that the evidence was submitted out of time, since the ten-day period must not be calculated date-to-date but rather there must be ten full days between the date of the hearing and the date of submission; therefore, since 10 November 2025 was a public holiday, the ten-day period expired on Monday 3 November 2025, meaning the last day for submission of evidence was Friday 31 October 2025. Thus, although the grace period provided for under Article 45 of the Act Regulating Social Jurisdiction is applicable to this time limit — thereby allowing submission on the following day until 15:00 — the deadline expired on 3 November 2025 at the time indicated, so that the evidence was submitted out of time and must accordingly be declared inadmissible.

It will be essential to ascertain whether the High Court confirms or rejects this criterion, which is not yet settled.

High Court of Justice of Catalonia Judgment of 28 November 2025 (Appeal No. 30/2025)

The High Court of Justice of Catalonia rules on a collective dispute brought by UGT against Parc Sanitari Sant Joan de Déu, concerning the interpretation of two paid leave entitlements following the reform introduced by Royal Decree-Law 5/2023 of 28 June, adopting and extending certain measures in response to the economic and social consequences of the war in Ukraine, supporting the reconstruction of the island of La Palma and other situations of vulnerability, transposing European Union Directives on structural modifications of commercial companies and work-life balance for parents and carers, and implementing and complying with European Union law; specifically, hospitalisation leave for a family member and force majeure leave.

Regarding hospitalisation leave, the Court holds that "hospital discharge" does not automatically extinguish the leave if it is not accompanied by "medical discharge", as it is the latter that marks the disappearance of the causative event that gave rise to the leave. Accordingly, following hospital discharge the employee will only retain the leave entitlement if prescribed home rest for the hospitalised family member. As regards the force majeure leave regulated under Article 37.9 of the Workers' Statute, the Court declares that the exercise of this right does not require the employee to have already started their working day, and is equally valid where the family emergency arises before the employee has actually reported for work.

Legislative Developments

Royal Decree 126/2026, of 18 February, setting the national minimum wage for 2026

The national minimum wage for 2026 is set at €40.70 gross per day or, equivalently, €1,221 gross per month across the 14 statutory pay periods (€17,094 gross per year). This amount, which constitutes the minimum applicable to any employment activity, refers exclusively to monetary remuneration and does not include remuneration in kind. The revision of the national minimum wage does not affect the structure or amount of salaries already being received by employees where such salaries, taken as a whole and calculated on an annual basis, exceed the national minimum wage, and the rules on offsetting and absorption established under Article 26.5 of the Workers' Statute remain unaltered.

Specific provisions are also made for employees with fixed-term employment contracts whose services to the same employer do not exceed one hundred and twenty days, and for household employees.

Other Developments of Interest

Management Criterion 5/2026 of the Sub-Directorate General for Social Security Benefits Organisation and Legal Assistance of the INSS

This criterion concerns the simultaneous exercise of employment activity in Spain and in one or more other States within the scope of application of the Community Regulations on the coordination of social security systems, and the treatment — for the purposes of the recognition and calculation of social security benefits — to be given to Spanish contributions that overlap with insurance periods certified by another State.

The starting point is the following premise: Article 13 of Regulation (EC) 883/2024 determines which legislation is applicable to a person who simultaneously exercises activities in two or more Member States, and this will be the legislation of a single Member State. Accordingly, compulsory double insurance coverage gives rise to a duplication that is not permitted.

This Criterion establishes that, if the General Social Security Treasury determines that Spanish legislation was not the applicable one, the contributions made in Spain during the overlapping period must not be taken into account either for the calculation of the national pension or for calculating the pro-rata percentage chargeable to Spain, since they were paid in breach of Community rules. That period will be counted as covered under the legislation of the other Member State; and this applies regardless of whether or not the contributions paid into the Spanish social security system can be refunded, and regardless of whether or not the Treasury considers them valid within the scope of its competencies.

Should you wish to resolve any queries or expand your knowledge on any of these matters, please contact:

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