



PRESS RELEASE No 206/24

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Judgment of the Court in Case C-531/23 | [Loredas] ¹

Organisation of working time: domestic employers must establish a system enabling the duration of the daily working time of each domestic worker to be measured

A full-time domestic worker challenged her dismissal before the Spanish courts. As her dismissal was declared unfair, her employers were ordered to pay her sums in respect of days of leave not taken and extra payments. By contrast, the Spanish court held that she had proved neither the hours worked nor the pay claimed. It took the view that the worker could not rely solely on the fact that her employers did not produce daily records of the time she worked, since the Spanish legislation exempts certain employers, including households, from the obligation to record the actual time worked by their employees.

The Spanish court before which the worker's action against that decision has been brought has doubts as to the compatibility of the national legislation with EU law. It therefore referred the matter to the Court of Justice.

The Court recalls that, in the judgment in *CCOO*, ² it held that the Spanish legislation then in force and the interpretation thereof by the national courts to the effect that employers were not required to establish a system enabling the duration of time worked each day by each worker to be measured was contrary to the **directive on the organisation of working time**. ³

Following that judgment, the Spanish legislature imposed an obligation on employers to establish such a system.

The Court also recalls that all the authorities of the Member States, including the courts, are required to contribute to achieving the result envisaged by the directives. **The interpretation by judges of a national provision or administrative practice exempting employers from the obligation to establish that system in respect of domestic workers clearly does not comply with the directive**. ⁴ Those **employees** are thus **deprived** of the possibility of **determining objectively and reliably** the number of **hours worked and their distribution over time**.

By contrast, it is possible to lay down specific features because of the sector of activity concerned or because of the specific characteristics of certain employers, such as their size, provided that the maximum weekly working time is actually guaranteed. Thus, on account of the **specific features of the domestic work sector, derogations may be provided for** in respect of overtime and part-time work, **provided that those derogations do not render the legislation in question devoid of substance**, which it will be for the Spanish court to determine.

Since domestic workers are a clearly female-dominated group of workers, it cannot be ruled out that, in the present case, there is **indirect discrimination on grounds of sex, unless that situation is objectively justified**, which the Spanish court will also have to determine.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

² Judgment of 14 May 2019, CCOO, [C-55/18](#) (see also Press Release No [61/19](#)).

³ [Directive 2003/88/EC](#) of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

⁴ More specifically, the rights of workers to daily and weekly rest periods and to the limitation of maximum working hours (Articles 3, 5 and 6 of the directive), also expressly enshrined in the Charter of Fundamental Rights of the European Union (Article 31(2)).