

Employment Update

The incidence of the minimum interprofessional wage in the wage tables of collective agreements

21st June 2019

Regarding the High Court Sentence dated 24th May 2019

The entry into force, on December 28, 2018, of Royal Decree 1462/2018 of December 21, came to establish the new economic amount that will make up the minimum interprofessional wage (MIW) to be applied, from January 1, 2019, both to permanent workers and temporary, seasonal and domestic employees.

In this regard, and in accordance with the guidelines established by the aforementioned Royal Decree, for fiscal year 2019, the MIW was set at the amount of 900 euros per month, to be received through the payment of 14 payments, which in annual calculation represents a remuneration of 12,600 euros.

Beyond the socially generalized knowledge that, as of 2019, no worker who rendered his or her professional services, fulfilling the maximum annual workday that legally or conventionally corresponds in each case, could be paid a salary lower than that referred to, doubts began to arise, with the arrival of the new year, regarding the way of preparing and structuring the emoluments to be received by the workers.

Thus, while on the one hand there was an aspect that maintained that the salary of 12,600 euros set by government mandate already included all the remuneration concepts to be received by the worker in annual measurement - with minimum exceptions such as overtime and complementary hours - on the other hand, a current arose that defended that in no case could such amount absorb or compensate certain salary complements that had been received prior to the validity of the new minimum interprofessional salary.

In this way, as was expected to happen sooner or later, the conflicts related to the way of interpreting the application of the new MIW have not taken long to arrive which, as is evident, has resulted in the judicialization of this type of disputes to the effect that it is our courts that give an answer to the doubts that in this sense have been increasing.

In this regard, on May 24, 2019, the Employment Chamber of the High Court, in its Judgment number 71/2019, resolved a collective conflict promoted by the UGT union, with the support of CCOO and USO, where the issue to be debated was intimately related to the possibility or impossibility of certain salary concepts being compensated and absorbed within the framework of the limits established by the new minimum interprofessional salary.

The assumption in fact came to analyse the situation within a company dedicated to the reading and installation of energy and water consumption meters in which a company's own agreement had been applied, and in which the workers, in addition to a basic salary, received monthly certain complements agreed in agreement, such as extra work, plus maintenance of clothing, plus transport and production premium, reaching an average annual salary of 13,300 euros for all fields.

In this way, while the employment section understood that to the minimum wage of 12,600 euros should be added, in any case, the amount of the wage supplements and the production premium that



the workers had been receiving, by the employer it was interpreted that such concepts should be subsumed within those 12,600 euros when applying on them the formula of compensation and absorption.

Well, the National Court, through the referred resolution has come to settle, at least provisionally, the debate, understanding that the acceptance of the thesis maintained by the shareholder unions would distort the purpose of the MIW that would assume the functions inherent to the base salary in the cases of those workers who in that concept came receiving a lower amount than the minimum interprofessional salary, leaving also empty of content the faculties, that within the salary sphere, is granted to the collective negotiation.

Finally, the aforementioned Judgment states, as an additional supporting argument, that the claim of the plaintiffs, consisting of adding to the minimum annual salary of 12,600 euros, the salary complements and the production premium that the workers had been receiving, would contravene the content of article 27.1 of the Worker's Statute, which makes it impossible for the revision of the minimum interprofessional salary to affect the structure and the amount of professional salaries when as a whole and in annual calculation they were higher than the minimum interprofessional salary.

In short, it is evident that this will not be the only judicial pronouncement in matters of application and structuring of the minimum interprofessional salary to emerge over the next few months, so it will be necessary to be attentive to the way in which such questions are interpreted in order to analyse whether they follow the line marked by the National High Court or, on the contrary, open new lines of debate.

You can read the [full sentence](#) for more information

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