

Public and Regulatory Comment

The Supreme Court sets doctrine and recognizes the right of interim civil servants to receive the career supplement retroactively

14th November 2019

Regarding of the Supreme Court's decision of 29 October 2019

The Supreme Court confirms that professional career is part of working conditions and that there is discrimination against interim civil servants because their participation in professional careers is conditioned by the fact that they have passed an entry process in its Judgment of 29 October 2019 (rec. no. 2237/2017), which is added to that of 6 March 2019 (rec. no. 2595/2017). In addition, the Court ditches the discussion on the moment in which the retributive complement coupled to the horizontal career should take effect and recognizes that the payment of the retributive concept is produced *"with effects since they were produced for the public employees who were recognized"*, that is, with retroactive character.

The judiciary has considered that the career system aims to encourage career progression and *"reward the quality of work, experience and knowledge acquired"*. The Supreme Court interprets that access to a career is not related to professional category but is directly linked to the nature of the services provided.

In the case in question, the High Court shows that the services provided by interim staff are the same as those provided by career civil servants and permanent staff. The only difference is the temporary nature of their service relationship. However, the Supreme Court indicates that temporariness does not constitute an objective reason justifying the difference in treatment, and therefore they must have access to the professional career and to the salary supplement under the same conditions as the other public employees to whom this right is granted.

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