



Andersen Update Employment Law News

REGULATIONS

Law 1/2026 of 8 April, on Comprehensive Social Economy Promotion.

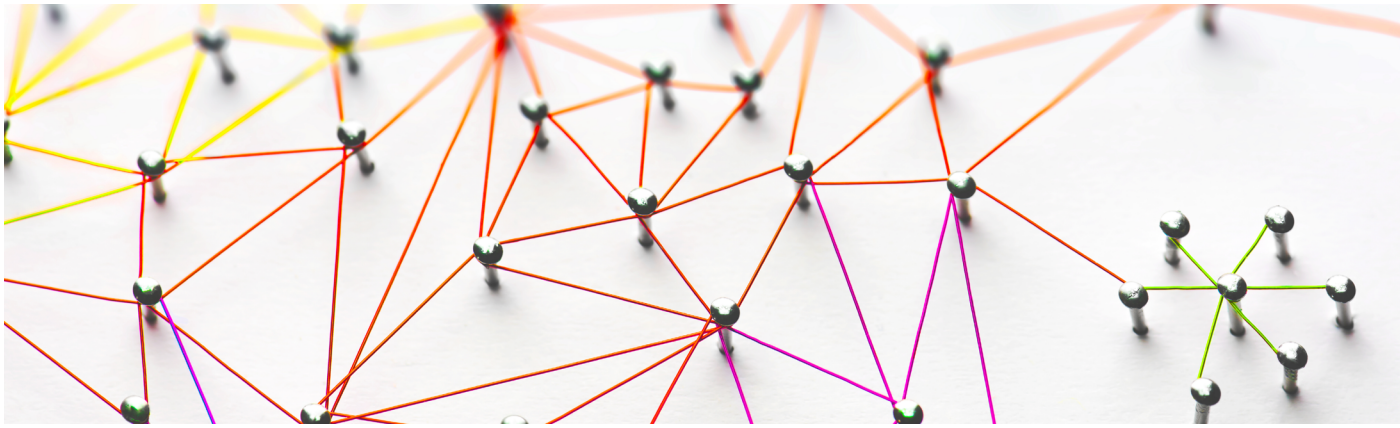
> This law was published in the Official State Gazette on 9 April, 2026, and updates the legal framework for cooperatives, social integration companies, and social economy entities, with a focus on labor issues, anti-fraud measures, equality, and public procurement.

The law entered into force on 10 April, 2026, with various transitional provisions, and amends the Cooperatives Act, the Integration Enterprises Act, the Social Economy Act, and the Act on the Tax Regime for Cooperatives.

In this regard, and within the framework of this law, the concept of the “social company” is established—an entity with a social purpose that allocates at least 95% of its profits to its objectives and qualifies for the benefits of the social economy—and the Ministry of Employment is required to submit, within six months, a regulatory proposal to promote the transformation of conventional companies into cooperatives, -owned companies, or other forms of the social economy.

The main changes introduced by this regulation are as follows:

- **Employee cooperatives:** The law introduces significant changes to Law 27/1999 on Cooperatives, particularly relevant for employee cooperatives and companies that subcontract with them, while also adopting inclusive language. The most notable changes concern the right to admission as a member and equal treatment with salaried employees, the establishment of an Equality Commission for cooperatives with 50 or more members, and a specific equality plan for employee cooperatives, applicable exclusively to working members.
- **Social integration companies:** Law 1/2026 amends Law 44/2007, strengthening the social component of social integration enterprises and redefining part of their labor framework. It is worth noting that existing social integration companies have one year to adapt, and current contracts will be governed by the regulations in effect at the time they were entered into.
- **Public procurement and contract reservation:** The law amends Additional Provision 4 of the LCSP (Public Sector Procurement Act), establishing minimum contract reservation percentages for special employment centers of social initiative and integration enterprises.



RULINGS OF INTEREST

Supreme Court Ruling of 14 April 2026 (Social Chamber) No. 1582/2026, (Appeal No. 3188/2025).

- > This ruling examines whether the entry of the Employment and Social Security Inspectorate, accompanied by the National Police, into a company's registered office without judicial authorization or the owner's consent violates the fundamental right to the inviolability of the home. The case arose following a raid on an industrial warehouse that served simultaneously as a workplace and registered office, without any search or seizure of documents taking place.

The Court concludes that the mere entry into a constitutionally protected domicile, even without a search, requires prior judicial authorization. It considers that the right under Article 18.2 of the Spanish Constitution also protects legal entities and that its violation cannot be contingent upon the existence of subsequent actions. Consequently, it upholds the appeal, overturns the previous judgment, and declares that the administrative action constituted an unlawful act and violated said fundamental right.

Supreme Court Ruling of 24 March 2026 (Social Chamber) No. 1464/2026, (Appeal No. 13/2025). Payslips must meet the requirements of clarity and transparency.

- > The judgment resolves the appeal filed by Grupo Renfe against the judgment of the National High Court, which upheld the collective dispute claim filed by the ALFERRO union.

The dispute centered on determining whether the payslip template used by Grupo Renfe met the requirements of clarity and transparency set forth in Article 29.1 of the Labor Act (LA).

The Court confirms that, although the company identified the pay items, the system did not adequately detail the elements necessary to understand the calculation of certain variable salary payments, back pay, and special circumstances (such as temporary disability, strikes, or unpaid leave) nor did it precisely specify the accrual periods or the days actually paid, which prevented the employee from correctly verifying the payment method.

Supreme Court Ruling of 24 March 2026 (Social Chamber) No. 290/2026, (Case No. 249/2025). Nullity of the mass collective dismissal due to untimely notification of the start of the consultation period to the labor authority and due to a violation of the right to information of the employees' legal representatives.

- > The ruling dismisses the appeal by the Spanish Red Cross and confirms the nullity of its collective dismissal, finding that the company failed to comply with essential procedural safeguards.

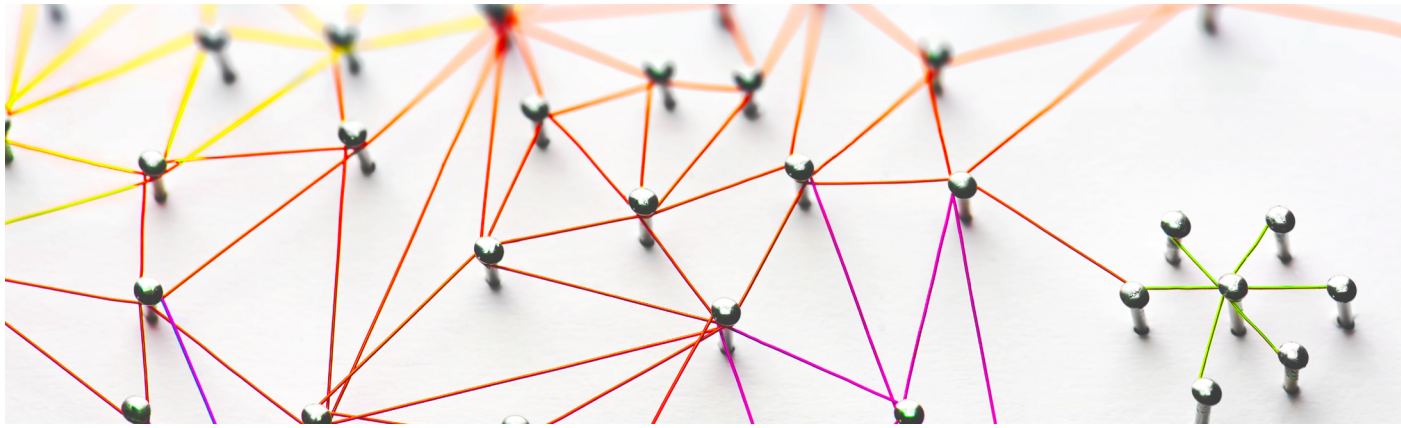
This is because, on the one hand, it notified the labor authority of the start of the consultation period too late, preventing the authority from exercising its oversight and mediation functions. On the other hand, it violated the right to information of the employees' representatives by providing a massive amount of disorganized documentation without sufficient explanation, hindering genuine and effective negotiation.

Consequently, the National Court's prior decision ordering the reinstatement of the affected employees is upheld.

Supreme Court Ruling of 11 March 2026 (Social Chamber) No. 1363/2026, (Case No. 1726/2025). Nullity of the mandatory retirement clause in an individual contract due to age discrimination.

- > The judgment analyzes the appeal filed by the Vigo Port Authority regarding the termination of an employee's contract upon reaching retirement age. The case revolves around whether the contractual clause establishing mandatory retirement—initially at age 65, later adjusted to age 67—was valid or constituted a null and void dismissal due to age discrimination. While the Labor Court upheld the termination of the contract, the High Court of Justice of Galicia overturned that decision and declared the dismissal null and void, finding that there was no objective and reasonable justification for imposing mandatory retirement on the employee, especially since it fell outside the scope of the collective bargaining agreement.

The Supreme Court upholds the ruling of the High Court of Justice and concludes that the individually agreed mandatory retirement clause in the contract is void on grounds of discrimination. It notes that,



unlike clauses provided for in collective bargaining agreements—which may be valid if they meet certain requirements such as being linked to employment policies—in this case there was no such justification or sufficient express reference.

Therefore, the termination of the contract is classified as a null and void dismissal, with the corresponding legal consequences, including the reinstatement of the employee and the payment of wages since the termination date, in addition to the imposition of costs on the defendant entity.

Supreme Court Ruling of 10 March 2026 (Social Chamber) No. 235/2026, (Case No. 4575/2023). The collective dispute process interrupts the statute of limitations for an individual action for the protection of fundamental rights seeking compensation for moral damages when there is a connection to the subject matter of the collective dispute.

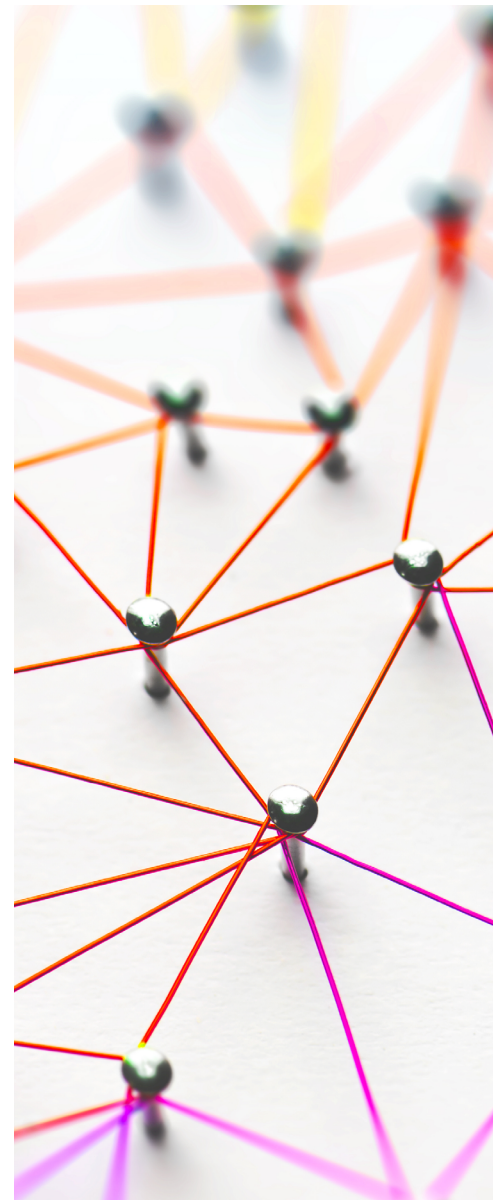
- > The judgment analyzes whether the filing of a collective dispute interrupts the statute of limitations for an individual action for breach of fundamental rights, concluding that it does so when there is a connection between the two proceedings.

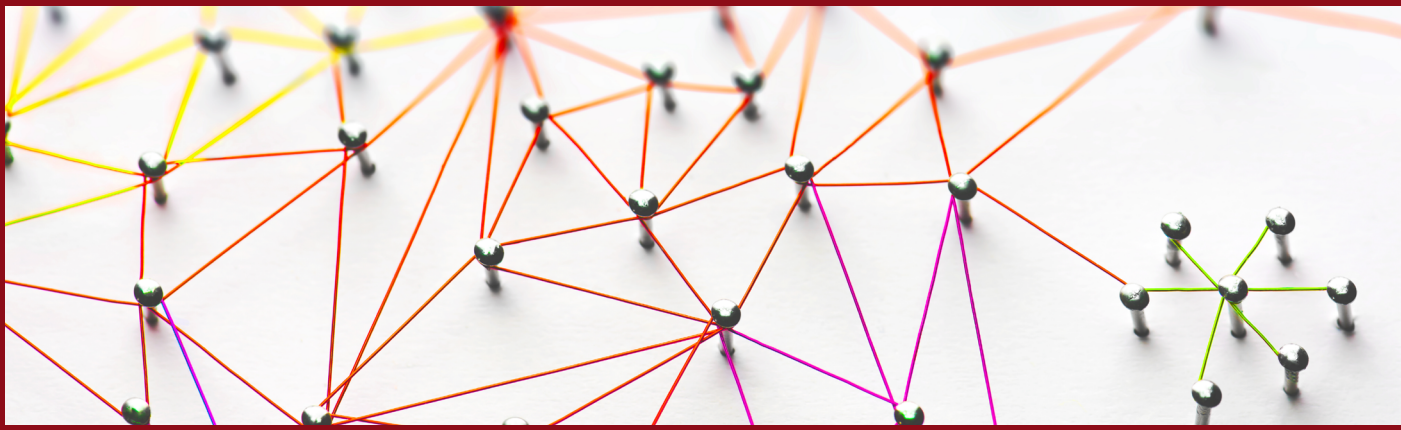
The case concerns a female employee of the Seville City Council who claimed a violation of her right to equal pay because the collective bargaining agreement was not applied to her, initially obtaining compensation for moral damages. The High Court of Justice ruled that the action was time-barred, but the Supreme Court overturned this ruling and held that the prior collective dispute interrupted the statute of limitations, as it addressed the same substantive issue (wage discrimination against temporary employees).

Consequently, it upheld the employee's appeal, overturned the High Court of Justice's ruling, and confirmed the initial decision recognizing the violation of the fundamental right.

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COMMENT OF THE MONTH

NULL AND VOID DISMISSALS. A NEW STRATEGIC REALITY FOR BUSINESS DECISIONS

Spanish employment law is undergoing a quiet but profound transformation that directly affects the way companies make decisions.

Since the elimination of the payment of procedural salaries for unfair dismissals in 2012, the focus of legal risk has centered on determining whether a dismissal was fair or unfair, assuming that, in the worst-case scenario, the consequence would be the payment of the statutory severance for unfair dismissal.

However, that framework has fallen short in the face of current realities. Today, the real risk is not so much paying more or less, but rather that the business decision is declared null and void, with the consequent obligation to reinstate the employee, pay back procedural salaries since the termination date until the reinstatement, and face an organizational and reputational impact that was often unforeseen.

This change is not solely due to a radical modification of the rules, but to an evolution in their judicial interpretation. Spanish courts, supported to a large extent by the case law of the Court of Justice of the European Union, have been strengthening the protection of employees' rights and expanding the circumstances under which a company's termination decision may be deemed null and void. In Spain, this trend has been embraced by the legislature, which has progressively included new scenarios protected by the nullity condition for termination; this has been accepted and developed by the Supreme Court and the Constitutional Court, creating a scenario in which the company must not only act in accordance with formal legality but also demonstrate that its decision is reasonable, proportionate, and free from any violation of rights.

One of the areas where this risk has become most evident is that of health and temporary disability.

The well-known ruling in the "Daouidi v. Bootes Plus" case marked a turning point by opening the door to considering certain situations of medical leave as equivalent to disability, which triggers protection against discrimination. Since then, Spanish case law has increasingly established the principle that dismissing an employee on temporary disability may be deemed null and void if there is a connection—even if only circumstantial—between the employer's decision and the employee's health condition. This forces companies to exercise extreme caution, since in many cases the burden of proof is reversed, and it is the company itself that must demonstrate that its decision is entirely unrelated to that circumstance.

The issue also extends to the realm of indirect discrimination, a particularly complex area because it does not require an explicit intent to discriminate. It is sufficient for an apparently neutral measure to have a disproportionately negative impact on a specific group for it to be challenged, which in the case of termination measures could also lead to the nullity of the dismissals. Here, the courts are applying an increasingly demanding standard, requiring companies to analyze not only the legality of the measure but also its actual effects. This introduces an additional level of sophistication into decision-making, as it is not enough to design general measures; rather, it is necessary to anticipate how they may affect different employee profiles in practice and whether the measure could be considered discriminatory in light of the selection criteria and/or the objective grounds intended to be implemented.

One of the recent changes that is already providing specific protection is the right to indemnification under November 11 Organic Law 5/2024 on the Right to Defense, which, in its Third Additional Provision, protects employees and even their relatives up to the second degree, with a guarantee of indemnity against any adverse consequences they may suffer as a result of taking any action or filing a claim, either directly or through employees' representatives.



The recent September 9, 2025 Constitutional Court Ruling No. 148/2025, declared the dismissal of an employee worker null and void for having approached the chair of the Works Council to claim a right. The general nature of the legislation regarding this protection and the right to indemnity only confirms a judicial and legislative trend toward granting courts greater interpretive discretion when determining whether circumstances exist that violate the right to indemnity, creating a situation of uncertainty that companies must analyze with great caution prior to deciding on any termination.

At the same time, the use of digital tools in the workplace has opened up a new area of risk. The possibility of using emails, messaging systems, or monitoring tools as the basis for disciplinary decisions has been the subject of numerous judicial rulings. The Constitutional Court and the European Court of Human Rights have established clear criteria regarding privacy and employer monitoring, requiring that the employee be informed in advance, that there be a legitimate purpose, and that the measure be proportionate. When these requirements are not met, the risk of nullity is high, even if the employee's conduct could justify a sanction from a substantive standpoint, and the employer must assess whether the use of these digital tools is reasonable and not abusive or intrusive.

All of this makes it clear that the problem is no longer exclusively legal, but strategic. Business decisions regarding labor matters are no longer an area where merely complying with the rules in a formal sense is sufficient. Today, it is essential to be able to demonstrate that a prior analysis has been conducted, that alternatives have been evaluated, and that the measure adopted is the most appropriate among the possible options.




In this context, internal documentation plays a key role, as many decisions fail not because they are incorrect, but because they cannot be adequately substantiated in court.

In short, the courts are demanding a higher standard of justification, proportionality, and traceability. This means that companies must integrate labor analysis into the early stages of decision-making and not limit it to a subsequent review.

The conclusion is clear. The increased risk of nullity is not a passing trend, but rather a reflection of a structural shift in the balance between employer and employee. The margin of corporate discretion is shrinking, while the demand for rigor in every decision is rising, and the courts' discretion is expanding due to the increasingly broad nature of protections. In this new landscape, it is no longer enough to make the right decisions; rather, it is essential to make them in a way that can be legally defended, because, in practice, the difference between a valid decision and a null and void one does not always lie in what is decided, but in how that decision was reached.

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