



Andersen Update Employment Law News

REGULATIONS

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

- Law 1/2026 of April 8 introduces significant changes to the legal framework governing cooperative companies, with particular emphasis on gender equality and the modernization of their internal operations.

With regard to equality, the law requires cooperatives and their associations to ensure balanced representation of women and men across all governing bodies. In addition, they must adopt equality measures specifically designed to promote shared responsibility in balancing family, personal, and working life. The law further reinforces equality plans within the cooperative sector and allows cooperatives to establish an Equality Committee where provided for in their bylaws.

Resolution of March 31, 2026, of the Directorate-General of the State Public Employment Service, updating the economic modules used to calculate eligible training costs under alternating work-study contracts

- The Directorate-General of the State Public Employment Service has updated the economic modules used to calculate eligible training costs under alternating work-study contracts.

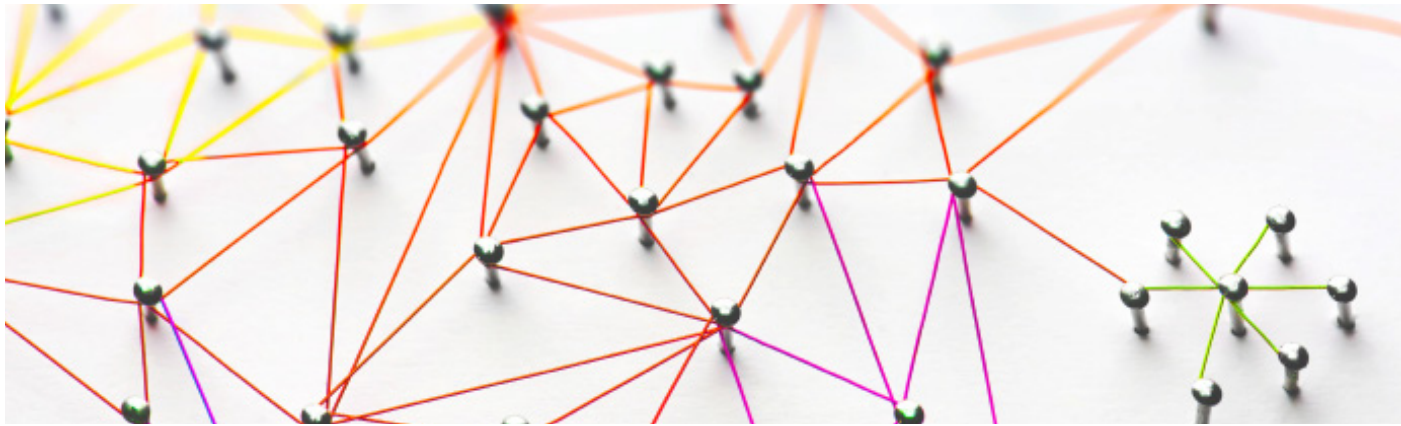
Until now, eligible costs were calculated at 8 euros per hour per participant for in-person training and 5 euros for distance learning or online training.

Following the update, those amounts are now 10.1 euros per hour per participant for in-person training and 6.3 euros for distance learning or online training.

Regulation (EU) 2026/1139 of the European Parliament and of the Council of May 20, 2026, amending Regulation (EU) 2021/691 as regards support for workers facing imminent dismissal at companies undergoing restructuring

- The European Union has broadened the scope of the European Globalization Adjustment Fund for Displaced Workers (EGF), allowing its resources to reach workers before dismissal takes place, and not only afterward.

Until now, the EGF funded support measures, such as training, career guidance, and outplacement assistance, only after workers had already been dismissed. Under the new regulation, those same measures may now be introduced at the pre-dismissal stage, where a company undergoing restructuring is planning a collective dismissal, even before employment contracts are terminated. The aim is to help affected workers acquire the skills they need to move into a different role with their current employer or find another job, making the transition smoother and reducing the time they spend unemployed. The regulation entered into force on May 21, 2026, the day after its publication in the Official Journal of the European Union, in accordance with Article 2 thereof.



Royal Decree 416/2026 of May 27 regulating flexible retirement and other common aspects of the arrangements for combining contributory retirement pensions with work, and amending the rules on delayed retirement

> Royal Decree 416/2026 amends the flexible retirement system with the aim of encouraging greater use of this option and making it easier to combine retirement benefits with work.

Under the new rules, individuals may combine their retirement pension with part-time employment, provided that their working hours represent between 33% and 80% of those of a comparable full-time employee. The pension may also be combined with self-employment. In such cases, the pensioner must not have been registered as self-employed during the three years preceding the event giving rise to the pension entitlement.

The pension is reduced in proportion to the hours worked. However, the royal decree introduces incentives for individuals who enter flexible retirement at least six months after retiring. In these cases, the pension payable while working may be increased by 15% or 25%, depending on the percentage of working hours performed.

Where the pension is combined with self-employment, the pensioner will receive 25% of the pension amount.

The royal decree also establishes reporting obligations to the Social Security authorities, regulates incompatibilities, and sets out common provisions for the various arrangements that allow retirement benefits and work to be combined.

Lastly, the royal decree amends the financial supplement available under the delayed retirement system by modifying the rules governing the so-called “mixed option” for receiving that supplement.

RULINGS OF INTEREST

National Court (Labor Chamber) Judgment No. 62/2026 of April 6, 2026 (Appeal No. 2/2026) Clause allowing proportional recovery of working hours in phased retirement with a compressed work schedule held lawful

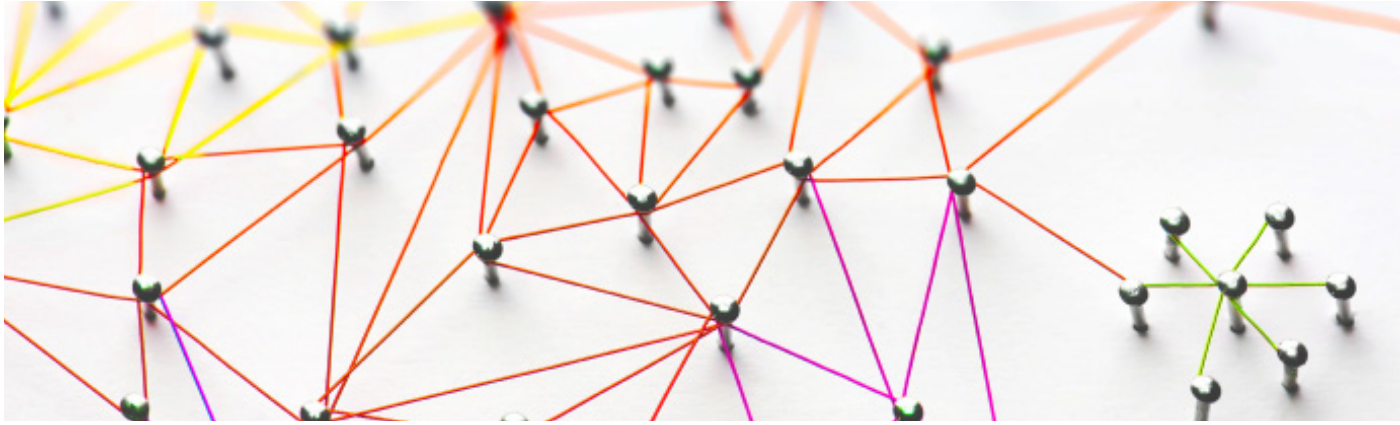
> The National Court examined the validity of a clause used in the contracts of employees who enter phased retirement and concentrate their entire annual working time into specific months of the year. The clause provided that, where a period of temporary disability leave or the use of authorized leave occurred during the period of active work, the hours not worked would have to be made up later on a proportional basis.

The claim, brought by the UGT trade union and supported by CC.OO., argued that the measure could be discriminatory because it linked employment-related consequences to situations involving illness or the exercise of paid leave rights.

The National Court rejected that argument and upheld the clause. The judgment notes that the applicable regulations allow working time in phased retirement arrangements to be concentrated through individual or collective agreements, including by limiting the actual provision of services to certain months of the year.

The Court also found that the proportional recovery of working hours does not constitute less favorable treatment of employees who are on medical leave or taking authorized leave. Rather, it considered that the measure is intended to preserve the balance between the time actually worked, the salary received, and the corresponding Social Security contributions. It prevents situations in which a period of leave coincides with the compressed work schedule from giving rise to a disproportionate advantage compared with employees who perform work throughout the entire scheduled working period.

Supreme Court (Labor Chamber) Judgment No. 372/2026 of April 15, 2026 (Appeal No. 674/2025) The absence of time records does not automatically prove all claimed overtime hours



> The Supreme Court examined the impact of the absence of complete working time records where an employee claims payment for overtime hours. The case concerned an employee at a butcher shop who alleged that he had worked beyond his regular schedule and sought financial compensation for those additional hours. The company did not keep complete time records, although it acknowledged a limited amount of overtime and agreed to pay 1,000 euros in compensation.

The key issue was whether the absence of adequate time records, by itself, means that all overtime hours claimed by the employee must be deemed proven.

The Supreme Court concluded that there is no automatic shift in the burden of proof. The judgment distinguishes between two situations: on the one hand, positions involving variable or difficult-to-predict schedules and, on the other, positions with fixed schedules known to both parties.

For irregular schedules, the absence of time records is particularly significant because such records are the primary means of proving the hours actually worked. However, where a schedule has been established in advance, the employee must provide evidence or indications showing that the schedule was not followed and that overtime was in fact worked.

In this case, the employee failed to provide sufficient evidence or indications to support his claims. Accordingly, the Supreme Court upheld the dismissal of his claim.

Supreme Court (Labor Chamber) Judgment No. 435/2026 of April 22, 2026 (Appeal No. 5194/2024). Pregnancy and protection against retaliation may be invoked in the court claim even if they were not included in the conciliation petition

> The Supreme Court examined whether an employee may introduce new grounds for declaring a dismissal null and void in her court claim where those grounds had not previously been included in the conciliation petition. In the case at hand, the employee argued in her court claim that the dismissal was null and void on the grounds of pregnancy and breach of the so-called “protection against retaliation,” arising from a sexual harassment complaint filed with the Labor and

Social Security Inspectorate (Inspección de Trabajo y Seguridad Social, ITSS).

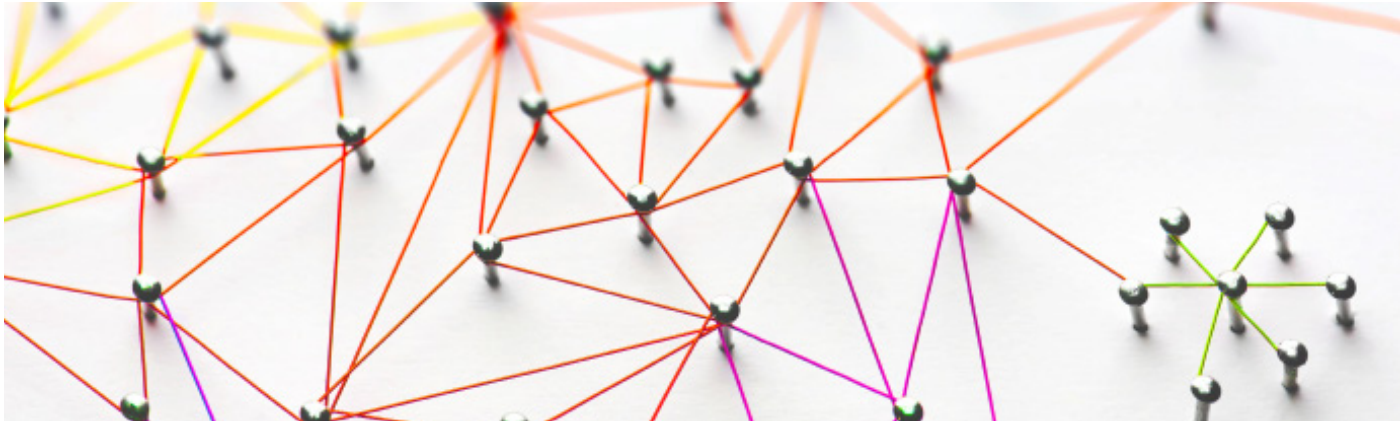
The Supreme Court examined whether an employee may include new grounds in her court claim for seeking a declaration that her dismissal is null and void when those grounds were not set out in the conciliation petition.

In the case analyzed, the employee had requested in her conciliation petition that the dismissal be declared null and void in general terms. However, when she subsequently filed her court claim, she introduced two specific grounds for the first time: that the dismissal was null and void because she was pregnant at the time of termination, and that it violated the principle of protection against retaliation, which safeguards employees from adverse action taken in response to the exercise of their rights—in this case, the filing of a sexual harassment complaint with the ITSS.

The Supreme Court concluded that introducing these new arguments in the court claim did not constitute a substantial departure from the issues raised during the prior conciliation proceedings and, therefore, did not prevent the court from considering those claims. In this regard, the Court reasoned that the employer had sufficient advance knowledge of the facts and legal grounds relied upon and had an adequate opportunity to prepare its defense. Accordingly, no prejudice to the employer’s right of defense could be found.

As a result, the Supreme Court overturned the judgment of the High Court of Justice of Madrid, which had dismissed the employee’s claim in its entirety on the grounds of an inconsistency between the conciliation petition and the court claim. The Supreme Court remanded the case to that court so that it may issue a new judgment and, having rejected the alleged inconsistency, rule on the merits of the appeal filed by the employer.

Supreme Court (Labor Chamber) Judgment No. 443/2026 of April 22, 2026 (Appeal No. 126/2025) The five-day leave for caring for a hospitalized family member does not end upon hospital discharge if home rest is still required, even where the collective bargaining agreement links the leave to the duration of the triggering event



> The judgment examines whether the five-day paid leave for the hospitalization of a family member ends upon hospital discharge or whether, instead, it may continue until the full five days have been used where home rest has been prescribed.

The employer argued that the leave should remain available only for as long as the hospitalization lasted, based on a strict interpretation of the applicable collective bargaining agreement. By contrast, the collective dispute claim argued that the leave should continue if the family member still required rest and care at home.

The Supreme Court reiterated its settled case law: hospital discharge does not automatically result in the termination or end of the leave if it is not accompanied by the corresponding medical discharge. Hospital discharge means only that the patient no longer needs to remain admitted to the hospital; it does not rule out the need for care at home and outpatient treatment.

The key issue, therefore, is not whether the family member has been discharged from the hospital, but whether, once that discharge has taken place, medical discharge has also occurred and home rest has been prescribed because the patient still needs care and has not yet recovered. This distinction, which may seem subtle but has significant practical consequences, reflects a very common situation: hospital discharge is not normally accompanied by medical discharge, since healthcare continues at the patient's home.

Accordingly, the Supreme Court dismissed the appeal filed by the employer and upheld the judgment declaring the employees' right to use the full five days of leave where, following hospital discharge, those days have not yet been exhausted and home rest has been prescribed for the family member or person living in the same household.

Supreme Court (Labor Chamber) Judgment No. 444/2026 of April 23, 2026 (Appeal No. 2505/2024). Heart attack suffered by teleworking employee held to be a work-related accident where the company failed to prove that it occurred outside working time

> The Supreme Court has classified as a work-related accident the death of an employee who suffered a fatal heart attack at home during a telework day. The ruling clarifies how the presumption of work-relatedness applies in remote work arrangements and what each party must prove.

Under employment law, any injury suffered by an employee during working time and at the workplace is presumed to be work-related. In a telework arrangement, the employee's home is considered the workplace. The key issue was therefore whether the heart attack occurred during working time.

Here, the employee died at around 3:00 p.m. She had a flexible schedule, and her lunch break had not been set in advance, so it could not be determined with certainty whether she was working or on a break at that time. The company did not produce the time records that would have clarified the issue.

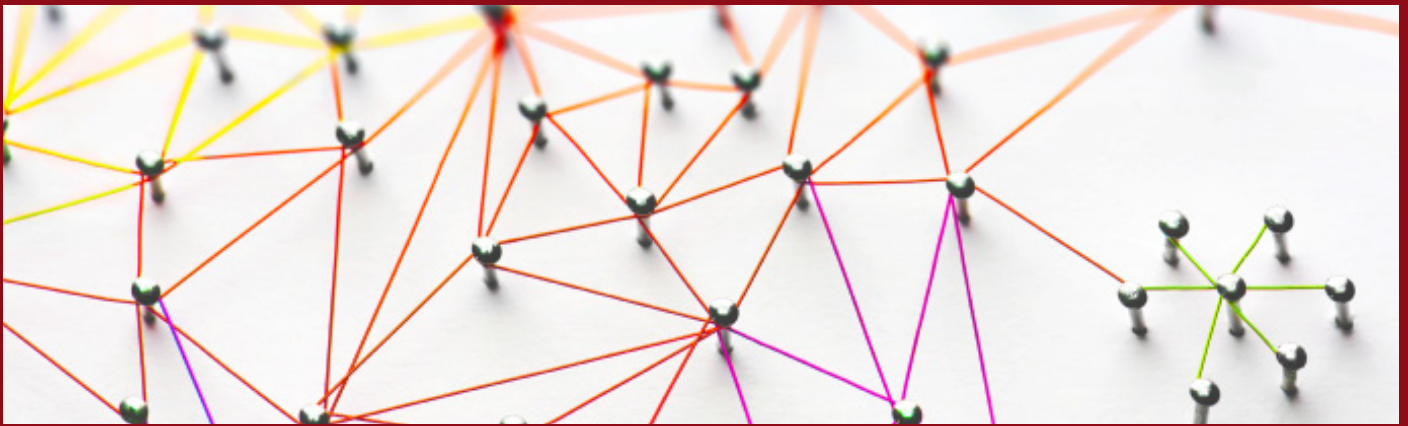
The Court was clear: the company and, where applicable, its occupational accident insurer must prove that the accident occurred outside working time. If they fail to do so, the presumption of work-relatedness applies in favor of the employee. Time records are therefore not merely a formal requirement. They are the evidence a company needs to support its position in cases like this.

Because the company failed to prove that the heart attack occurred outside working time, and because there were sufficient indications that the employee was still working, the Supreme Court concluded that the death had to be treated as a work-related accident.



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COMMENT OF THE MONTH

THE OVERLAP BETWEEN PUBLIC HOLIDAYS AND WEEKLY REST DAYS FOLLOWING THE NATIONAL COURT'S MAY 19, 2026 JUDGMENT: EXTENSION OF THE "ZARA CASE" DOCTRINE AND OUTSTANDING ISSUES

The recent National Court Judgment No. 88/2026 of May 19, 2026, has reopened the debate regarding the treatment of public holidays that coincide with weekly rest days.

The dispute arose in connection with the national collective bargaining agreement for the contact center sector. The contested practice primarily affected employees who work from Monday to Friday and whose regular rest days are Saturday and Sunday. Where a public holiday fell on a Saturday, employers had generally considered that the holiday had already been taken and therefore did not grant any additional time off.

The trade unions challenged this interpretation, arguing that weekly rest days and public holidays are distinct legal concepts.

The National Court largely accepted this position and concluded that public holidays that coincide with weekly rest days must be regarded as not having been taken and must therefore be compensated, since weekly rest days and public holidays cannot overlap.

Until now, the Supreme Court had already recognized the right to compensation where public holidays overlap with weekly rest days, but only in very specific circumstances. Of particular note is its judgment of April 30, 2025, known as the "Zara case."

In that judgment, the Supreme Court dealt with employees working Monday through Sunday on schedules with rotating rest days, leaving open the question of whether the same rule applied to the more common situation of employees who work Monday through Friday and have fixed rest days on Saturday and Sunday.

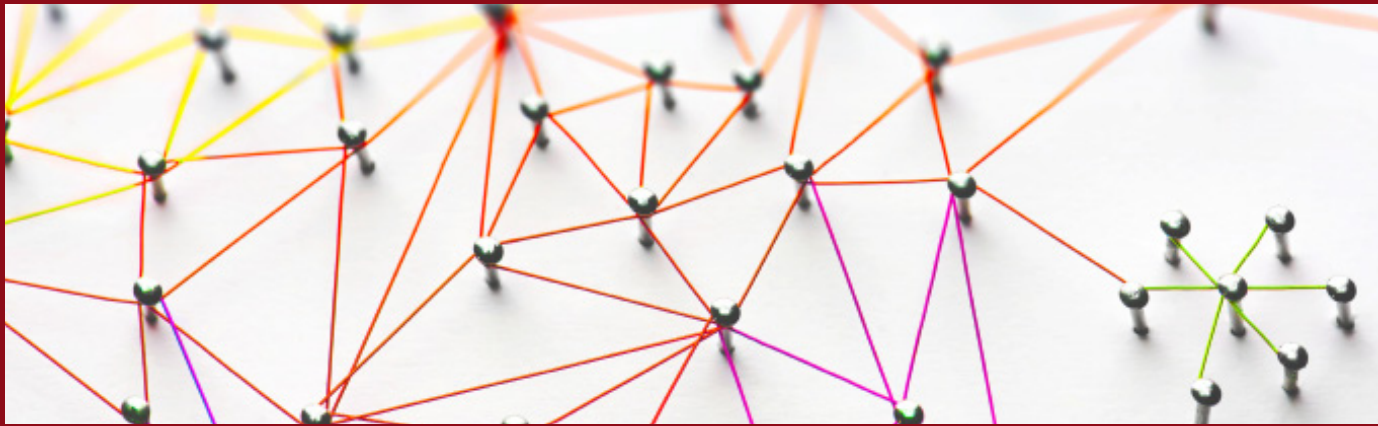
The National Court's judgment resolves that question and holds that the same doctrine applies to employees whose regular weekly rest day falls on Saturday.

The National Court relied mainly on the doctrine established by the Supreme Court, according to which weekly rest periods (Article 37.1 of the Workers' Statute) and public holidays (Article 37.2 of that law) serve different purposes: the former protect occupational health, while the latter commemorate dates of civic or religious significance. It also relied on the principle of equal treatment, meaning that the two cannot cancel each other out.

Against this background, and pursuant to the provisions of the collective bargaining agreement for the contact center sector, the National Court's judgment declares that all employees in the sector affected by the dispute are entitled to have public holidays not be neutralized by weekly rest periods. It therefore recognizes the employer's obligation to grant an additional day of actual rest when such an overlap occurs. It also establishes that such compensatory time off must be taken within no more than 14 days and requires companies in the sector to compensate for public holidays, with retroactive effect for the non-time-barred period.

The judgment is not final, so it will be necessary to wait for the Supreme Court's final resolution of the dispute. Nevertheless, it clearly extends the Supreme Court's doctrine from cases involving shift work and rotating rest days to employees with fixed rest days on Saturday and Sunday.

However, the decision leaves important interpretive questions open, including the following: Should its application be extended to other sectors?



Although the judgment was issued in the context of a collective dispute limited to the contact center sector, it is reasonable to understand that its doctrine—regarding the impossibility of allowing weekly rest periods and public holidays to overlap without compensation—could apply to other sectors, insofar as its legal reasoning is based primarily on the interpretation of the Workers’ Statute and Supreme Court case law that would be generally applicable.

However, there can be no automatic or generalized application. The specific circumstances of each case must be analyzed, including the specific rules in the collective bargaining agreement, the system for calculating annual working time, and the way in which the company has structured its work schedule.

Must the compensatory day off be granted within 14 days?

One of the most striking aspects of the judgment is its statement that compensation for the public holiday must be taken within a period of no more than 14 days. The judgment accepts the position advanced in the claim brought by the CC.OO. trade union, while expressly acknowledging that there is no legal provision requiring such a deadline. The court justifies this time limit on the grounds that, since public holidays are known from the beginning of each year, it would make little sense for employers to be able to postpone compensation indefinitely at their own discretion and for an unspecified period.

Nevertheless, it is difficult to argue that the obligation to provide compensation within that specific timeframe should necessarily apply across all sectors or under all collective bargaining agreements.

Should compensation take the form of time off or pay?

The judgment appears to favor compensation in the form of additional time off rather than financial compensation. However, this aspect of the ruling cannot automatically be extended to all sectors either, and the particular circumstances of each case will need to be considered.

What are the implications for negotiated work schedules and annual working time?

This is probably the most complex issue raised by the judgment. Its practical implementation within companies gives rise to numerous unanswered questions, as the court does not address how this doctrine should interact with negotiated work schedules or with annual working time arrangements.

This National Court judgment undoubtedly represents an important step forward in protecting the effective enjoyment of public holidays and reinforces a line of case law that clearly distinguishes between weekly rest periods and public holidays. At the same time, however, it leaves open a number of key issues that are likely to give rise to significant future litigation.

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