



Press and Information

Court of Justice of the European Union

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Judgment in Case C-266/14

Federación de Servicios Privados del sindicato Comisiones obreras
(CC.OO.) v Tyco Integrated Security SL,
Tyco Integrated Fire & Security Corporation Servicios SA

The journeys made by workers without fixed or habitual place of work between their homes and the first and last customer of the day constitute working time

Excluding those journeys from working time would be contrary to the objective of protecting the safety and health of workers pursued by EU law

The Working Time Directive¹ defines working time as any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice. Any period which is not working time is regarded as a rest period.

The companies Tyco Integrated Security and Tyco Integrated Fire & Security Corporation Servicios ('Tyco') carry out, in the majority of Spanish provinces, a business that involves installing and maintaining antitheft security systems. In 2011 Tyco closed its offices in the provinces and assigned all its employees to the central office in Madrid (Spain).

The technicians employed by Tyco install and maintain security equipment in homes and on industrial and commercial premises located within the geographical area assigned to them, so they have no fixed place of work. That area can consist of all or part of the province in which they work and sometimes more than one province. The workers each have the use of a company vehicle for travelling every day from their homes to the various places of work and to return home at the end of the day. The distances between the workers' homes and the places where they are to carry out work vary a great deal and are sometimes more than 100 kilometres, taking up to three hours to drive. In order to carry out their duties, the workers are each provided with a mobile phone which they use to communicate remotely with the central office in Madrid. On the eve of their working day, the workers receive a task list identifying the various premises that they are required to visit the next day within their geographical area of work and the times of their customer appointments.

Tyco counts the time spent travelling between home and customers (i.e. the daily journeys between the homes of the workers and the premises of the first and last customers designated by Tyco) not as working time, but as a rest period. Tyco calculates daily working hours by counting the time elapsing between when its employees arrive at the premises of the first customer and when they leave the premises of the last customer; thus, only the period of work on the premises and of the journeys between each customer is taken into account. Before the closure of the regional offices, however, Tyco used to count the daily working time of its employees as starting when they arrived at the office (the employees then picking up the vehicle they were to use and receiving the list of customers to be visited and the task list) and ending when they returned to the office in the evening (to leave the vehicle there).

With the matter currently the subject of judicial proceedings before it, the Audiencia Nacional (National High Court, Spain) asks whether the time spent by the workers travelling at the beginning and at the end of the day must be regarded as working time within the meaning of the directive.

By today's judgment, **the Court of Justice declares that, where workers, such as those in the situation at issue, do not have a fixed or habitual place of work, the time spent by those**

¹ 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 (OJ 2003 L 299, p. 9).

workers travelling each day between their homes and the premises of the first and last customers designated by their employer constitutes working time within the meaning of the directive.

The Court considers workers in such a situation to be carrying out their activity or duties over the whole duration of those journeys. The journeys of the workers to the customers their employer designates is a necessary means of providing their technical services at the premises of those customers. Not taking those journeys into account would enable Tyco to claim that only the time spent carrying out the activity of installing and maintaining the security systems falls within the concept of working time, which would distort that concept and jeopardise the objective of protecting the safety and health of workers. The fact that the journeys of the workers at the beginning and at the end of the day to or from customers were regarded by Tyco as working time before the abolition of the regional offices also shows that the work consisting in driving a vehicle of a regional office to the first customer and from the last customer to that office was previously among the duties and activity of those workers. Yet the nature of those journeys has not changed since the abolition of the regional offices. It is only the departure point of the journeys that has changed.

The Court takes the view that the workers are at the employer's disposal for the time of the journeys. During those journeys, the workers act on the instructions of the employer, who may change the order of the customers or cancel or add an appointment. During the necessary travelling time – which generally cannot be shortened – the workers are therefore not able to use their time freely and pursue their own interests.

In addition, **the Court considers the workers to be working during the journeys.** If a worker who no longer has a fixed place of work is carrying out his duties during his journey to or from a customer, that worker must also be regarded as working during that journey. Given that travelling is an integral part of being such a worker, the place of work of that worker cannot be reduced to the physical areas of his work on the premises of the employer's customers. The fact that the workers begin and finish the journeys at their homes stems directly from the decision of their employer to abolish the regional offices and not from the desire of the workers themselves. Requiring them to bear the burden of their employer's choice would be contrary to the objective of protecting the safety and health of workers pursued by the directive, which includes the necessity of guaranteeing workers a minimum rest period.

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 European Union law or the validity of a European Union 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.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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