

Peripatetic workers ‘at work’ when travelling between home and assignments

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Peripatetic workers – i.e. those who travel between different assignments rather than having a single set workplace – are

considered 'at work' when travelling between their homes and assignments given to them by their employer.

Tyco Integrated Security and other companies in its group offered security system installation and maintenance to customers in Spain. Its technicians had an app on their smart phones which listed all of the assignments they must attend in each given day. The technicians would travel from home to the first assignment on the list, between different assignments, and from the last of the day's assignments to their homes. Tyco did not count the time technicians spent travelling from home to the first assignment, or travelling to home from the last assignment, as working time.

The technicians challenged this decision and the matter went before the European Court of Justice.

The Advocate General delivered his opinion on the case, finding that the first and last journeys of the day are considered to be 'working time'. He reasoned that travelling is an integral part of being a peripatetic worker; therefore, whenever a worker transports himself to a customer, he is "at work". Similarly, the technicians remained at the disposal of Tyco on their way home; the company was at liberty to ask technicians to make extra stops after the last assignment on the list and could equally cancel scheduled appointments. Therefore, the technicians ought to be seen as "at work" from the time they set off in the morning to the time they returned home.

Whilst the Advocate General's opinion is not technically binding, it is unlikely that the ECJ will reach a conflicting decision. Therefore, in anticipation of this, employers of staff with no fixed base (such as some maintenance workers, as in the present case) would be wise to review their pay and working time calculations to ensure that all the time spent by workers in transit is accounted for.

Federación de Servicios Privados del sindicato Comisiones
Obreras v Tyco Integrated Security SL and another (C-266/14)

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