

Spain – thyssenkrupp appears to violate EU working time rules.

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In the middle of last year, Industria-CCOO negotiated a significant pre-agreement with the State Federation and thyssenkrupp elevators (TKE). The agreement concerned recognition of travel time as effective working time for maintenance and assembly activities. This work is carried out in large regions of Spain and involves lengthy travels by car which could involve hours of unpaid working time. The company management and the union committed to solving the problem by signing the binding agreement at the National Court shortly after the summer of 2022. However, this was never done by the company's management.

Instead, the pre-agreement was breached by the company. It is now null and void. Therefore, there is a dispute between the parties whether parts of the travel time for installers can be considered working time. The employees demand pay for the travel from home to their first place of work in the morning and from the last place of work to their homes in the afternoon. Such an arrangement would be in line with a former interpretation done by the Court of Justice in the European Union (CJEU) in 2015 (Tyco case, C-266/14), another case where CCOO was the plaintiff. The legal basis for the ruling was the EU Directive on Working Time of 2003.

The distances between the homes of the workers and the places they carried out the installations in the Tyco case, could be over 100 kilometers and take three hours by car. The ruling protects workers who do not have a fixed or habitual place of work. Interpretations by the CJEU can be cited by other courts or authorities as precedents or case law.

Even if Spain has not amended their working time rules so that they comply with the ruling in the Tyco case, other courts must apply the CJEU ruling in similar cases. Unions in other countries have been helped by the said ruling.

Industria demands respect for the CJEU ruling for remote maintenance workers and the rights it gives to the workers of the company, but TKE refuses to comply with it. Thus, the union now recommends that its members clock in when they get into their car to travel to the first customer in the morning. If they don't get paid for the entire working time, they should take legal steps to get their rightful pay. UGT stands with CCOO in this conflict.

The EU Working Time Directive is a health and safety measure regulating maximum weekly working time, rest periods etc. In general, it is essential that workers get rewarded for the time spent carrying out their duties.

Edited by industriAll Europe.