

Travelling to work “is work” according to European Court of Justice

The European Court of Justice has recently ruled that time spent by workers without a fixed office in travelling to and from customers’ premises should be treated as working time for the purpose of the Working Time Directive.

The facts of the case (*Federacion de Servicios Privados del sindicato Comisiones obreras v Tyco Integrated Security SL*) were that Tyco employed electricians to install and maintain security equipment at customers’ premises in Spain. Tyco provided the technicians with a vehicle, and required them to travel from their own homes to locations where they would install the equipment, sometimes distances exceeding 100 kilometres. The technicians were in contact with Tyco at all times by mobile phone and were not generally required to travel to an office or central location except to collect tools and materials.

Tyco advanced a remarkable argument that, for the purposes of the Working Time Directive (and relevant Spanish legislation), the technicians’ travelling time was a “rest period” rather than working time because they were not carrying out any installations or maintenance during those periods. The European Court of Justice disagreed, stating that such an argument would jeopardise the objective of protecting the health and safety of workers, and that it was working time.

Tyco further argued that as the technicians had the autonomy to make decisions as to their itinerary and the routes they would travel, these factors again put the technicians outside the scope of the Directive. The European Court of Justice again disagreed, stating that the technicians were at the disposal of Tyco and accordingly their travelling time was covered by the Directive.

This ruling is of direct relevance to mobile workers in the UK such as, for example, care workers, gas fitters or sales representatives.
