

# Legal Notes



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## Toda & Nel-lo secures a ruling of unfair dismissal for a temporary employee with 22 years of service and obtains a judgment of more than 41,000 euros against the Community of Madrid for the fraudulent civil-service conversion of her post

The law firm Toda & Nel-lo, under the legal direction of its Public Law partner and former judge **Javier Ramón Sierra**, has obtained a judgment handed down on 3 July 2026 by Labour Court No. 36 of Madrid that takes a further step in defending temporary employees against the abusive temporary hiring practices of Public Administrations. The judgment not only applies the doctrine established by the Plenary of the Labour Chamber of the Supreme Court in its judgment of 11 May 2026 and that of the Court of Justice of the European Union of 14 April 2026 (Obadal case), but also **goes a step further**: it declares **the dismissal to be unfair**, and orders the Department of Family, Youth and Social Affairs of the Community of Madrid to choose between her **reinstatement with payment of back wages** or payment of 32,223.95 euros as compensation for unfair dismissal, to which an additional award of 9,000 euros is added as compensation for moral damage arising from the fraudulent hiring, bringing the **total compensation to 41,223.95 euros**.

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- Why does the civil-service conversion of the post amount to an unfair dismissal?

The employee had been providing services for the public entity since November 2001, first under a fixed-term contract to cover a leave of absence, and from July 2003 under a part-time, fixed-term employment contract as an administrative assistant to cover a vacancy.

By letter in 2025, she was informed of the termination of her employment relationship under Article 8.1.c of Royal Decree 2720/1998. However, the court found that the maximum permitted duration had been notably exceeded and that the post she had held had not been filled through the proper labour recruitment process, but had instead changed in its legal nature, being assigned to a newly appointed career civil servant who had taken part in a process to stabilise temporary civil-service employment.

Thus, the judgment applies the doctrine whereby, when the post assigned to a non-permanent indefinite employee is filled through a civil-service conversion process, this amounts to a dismissal, as the proper procedure for filling a labour vacancy was not followed, citing Supreme Court judgments of 30 September 2025 and rulings of the High Court of Justice of Madrid. Consequently, the dismissal is declared unfair.

- What compensation is awarded?

The ruling orders the Community of Madrid to pay two significant amounts of compensation:

- Compensation for unfair dismissal: The compensation is calculated based on the details of the fraudulent contract (from July 2003), the gross daily wage and the date of termination, resulting in compensation of 32,223.95 euros, with the possibility for the Administration to instead opt for reinstatement with payment of back wages.
- Compensation for moral damage: Applying the doctrine of the Fourth Chamber of the Supreme Court set out in its Judgment 475/2026 of 11 May, in addition to the severance compensation, an additional award accrues arising from the abuse of temporary employment, intended to fully redress the harm suffered from the job insecurity endured over a prolonged period. Finding that the employee provided services under fraudulent temporary status for a total of 19 of the 22 years the contract was in force—a figure exceeding by almost two decades the maximum permitted under the EBEP—the court sets the additional compensation for moral damage at 9,000 euros, considering that such an extraordinary duration, spanning most of the employee's working life, justifies an amount at the upper end of the compensation range set out in Article 40.1.c bis of the LISOS.

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- Why is this judgment important? Practical consequences

- Consolidates the **classification of unfair dismissal** in cases of civil-service conversion. The judgment confirms that converting a labour post into a civil-service post—and awarding it through a process to stabilise civil-service staff—does not amount to properly filling the labour vacancy, but instead constitutes an unfair dismissal with all its compensatory consequences. This sets a highly significant precedent for all non-permanent indefinite employees whose posts have undergone civil-service conversion processes.
- Recognises the **combination of compensation for unfair dismissal with compensation for moral damage**. Unlike cases in which the contract ends because the labour vacancy is properly filled, here the employee is entitled not only to the additional compensation for abuse of temporary employment, but also to the statutory compensation for unfair dismissal, which considerably increases the employee's financial protection.
- Applies the **maximum level of the compensation range for moral damage** for cases of extraordinarily prolonged abuse. The ruling considers that a fraudulent duration of almost two decades, spanning most of the working life of the employee, justifies placing the award at the upper end of the compensation range, moving away from the minimum that would apply to fraudulent contracts of shorter duration.

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- The judgment follows the line of doctrine set by the Court of Justice of the European Union (judgment C-418/24 of 14 April 2026, Obadal case) and the Fourth Chamber of the Supreme Court (judgment 475/2026 of 11 May), which hold that the mere statutory severance compensation is insufficient to redress abuse in temporary hiring, and impose additional compensation to fully redress the harm suffered.
- Consolidates **Toda & Nel-lo as a leading firm in defending employees affected by job insecurity in the public sector**, at a time of particular jurisprudential significance, and reaffirms the firm's commitment to the fight for the permanent status of temporary employees where appropriate, together with claiming any compensation due.

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