

ASKING EMPLOYERS TO RECORD STAFF WORKING HOURS IS UNFEASIBLE DUE TO FLEXTIME AND TELEWORKING - GRANT THORNTON

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The Spanish court rulings that state employers must record their employees' working hours are unworkable in practice, says Aurora Sanz, partner at Grant Thornton in Barcelona.

"As far as I am concerned, the Spanish Labour Inspectorate is emphasising the need to control employees," she says. "This is causing problems for many companies with flexible time, teleworking, as well as those working within project systems, among others," Sanz says, in reference to the 2015/2016 rulings that apply article 35.5 of the Worker's Statute Act (establishing that the working day for each worker must be recorded day-to-day and summed up in the period set for the payment of compensations). "These rulings don't take into account that we're not all working in a factory and that there are different kinds of working time. We just cannot apply this legislation in the way it was drafted, as the reality is completely different." In addition, these rulings come after the Court of Justice of the European Union established that the time spent travelling to work should be counted as working time. "This implies that even if employees do not have a fixed workplace, the

employer has a duty to record their working hours," says Sanz.

While lawyers wait for further regulatory amendments to address these concerns, they are helping clients put in place mechanisms of control for flexible working. "We're having lots of seminars and training sessions with clients," she explains. "We're helping them come up with creative solutions that take into account health and safety and data protection regulations." Consequently, Sanz says, the role of the employment lawyer is changing. "In helping clients establish a good working environment, we're concerned with different things that are increasingly related to human resources – there is now a definite overlap."