Labornet No. 1511

De Diego’s Weekly News & Analysis Report

December 17, 2025

Dear All,

On September 17, 2025 the Supreme Court of Justice of Madrid decided on the appeal filed by the CONFEDERATION OF WORKERS' UNIONS and the State FEDERATION of Services, Mobility and Consumption within the General Union of Workers (FESMC-UGT).

The complaint contained the facts and grounds for an action under labor law requesting as follows: Declare Holiday Hampers as a consolidated, protected, beneficial condition of employment. Declare that this group of workers should receive the same Christmas Hamper that all permanent workers on the payroll receive in recognition of their hard work and dedication throughout the year, without waving their rights to the gifts granted.

As a result, grant this group of workers the missing holiday hamper or gift card, as appropriate, depending on what they had to waive because they were forced to choose.

Since 1997 this group of workers has been receiving a Christmas hamper containing three perfume testers, two facial treatment samples and two makeup color samples. Under the motto: “The Christmas campaign is a crucial period for our business, and also a time to celebrate for everyone! That is why, this holiday season our employees will be receiving a Douglas gift card worth €100 redeemable for purchases at any of our stores during the campaign. Those colleagues who already receive a Christmas gift because of their home company (e.g. Old Douglas Holiday Hampers) may opt for this Gift Card this year instead of their usual holiday hamper, if they so wish.”

Why should they be forced to waive a right, in exchange for a "specific gift" that will be given to their coworkers and has nothing to do with the Christmas hamper they usually receive?

The fact is that this group of workers enjoy more beneficial conditions as agreed (monthly testers, birthday gift baskets and holiday hampers), no strings attached.

They should not be discriminated against in terms of the gifts given to the rest of their coworkers in recognition of the hard work they all make.

The Company sent an email explaining that the €100 gift card was given in recognition of employees' hard work and dedication throughout the year for all Douglas personnel. The only requirement was to be permanent employees, or temporary staff hired before October 1.

So "Old Douglas" workers fully met this requirement. There was no reason for them to waive an already agreed right or condition in order to get this "gift".

In our opinion, this is a clear and unequivocal direct act of discrimination against a group of workers at Douglas Spain, who because of their better contractual conditions were forced to choose between one gift or another.

The monthly "benefit" of testers and two baskets a year was a more beneficial condition of employment for these workers, which they received since they all began working for the Company, and which Douglas Spain used to offer as a retention incentive to attract employees and fight the competition. And there were no strings attached to get this benefit.

As explained in the company email message, the €100 gift card was given in recognition of the hard work and dedication throughout the year of all Douglas Spain workers, provided they were permanent employees with more than 2 months' tenure. In other words, this group of workers met and exceeded this requirement, and should not have been forced to choose between one gift or the other, because, as explained above, the "benefit" of receiving testers was a component of their employment contract.

The Company regretted not having workers' support when after a period of reorganization and in such a complicated business scenario, it had voluntarily taken measures to encourage, motivate and boost employees' morale by cultivating a sense of belonging, which was the key to business success and sustainability, ultimately a common goal. The Company ended its message hoping they had clarified the matter and kept its offer in the same terms as before because of the reasons explained, and concluded with kind regards. "The legal requirements have been met."

I.- Legal Analysis. Madrid, December 2025

First, the appeal was based on Section 207 e) of the Law regulating Labor Courts, arguing disregard for court precedents about vested rights.

Second, based on Section 207 d) of the aforementioned procedural rule, the appeal pointed out the mistake incurred by the Lower Court when stating that the €100 Douglas gift card was worth more than the Holiday Hamper.

1. The Union based its appeal on Section 207 e) of the Law regulating Labor Courts, and claimed that this decision ignored court precedents about vested rights. Furthermore, the €100 Douglas gift card was considered an incentive under the law; that is why the employees involved in this labor law conflict should have received both the Holiday Hamper and the Gift Card.

Every year since 1997, employees had been receiving a holiday hamper containing three perfume testers, two facial treatment samples and two make-up color samples.

The Company has 738 workers on the payroll. On December 12, 2022, the Company sent an email to all employees, informing them that it had decided to give them a Christmas gift, in recognition of their hard work and dedication throughout the year. It was a Douglas gift card worth 100 euros, which could be used for purchases in any of its stores during the campaign, between December 15, 2022 and January 15, 2023. Then, it set out to limit the entitlement scope of the gift by specifying that it was designed for permanent employees only, thus excluding backup staff or temporary workers hired after October 1, 2022.

In addition, it was said that this gift was intended for all those workers who had not received any other kind of gift that holiday season. And it ended with a relevant remark, specially for the purposes of this appeal, saying that those who already received a Christmas present because of their home company, such as Old Douglas Holiday Hamper, should choose to receive the 2022 Gift Card, instead of their usual Holiday Hamper, if they so wish.

3. The Union considered that the Company had unilaterally changed their vested rights, without giving notice to workers' legal representatives, and by making them opt out, they waived their most beneficial condition.

a) To determine whether this was a vested right or not, all the surrounding circumstances should be analyzed to find out whether there was a succession of events or situations that could be claimed under the law and whether this was a discretionary decision by the Company.

b) Vested rights were created by court precedents, based on Section 9.2 of the Employment Contract Act and, although at first, in the early 1960s, they applied to individual benefits only, which were repeatedly granted by employers, for no valuable consideration in return, and became part of their employment contract, later on, its application was extended to any actions or agreed terms by the Company outside of a collective bargaining agreement, thus recognizing vested rights.

c) Vested rights should be consolidated benefits granted at employers’ sole discretion. In other words, employers voluntarily grant this benefit, which becomes part of employees' employment contracts, thus superseding any applicable law or collective bargaining agreement. In addition,

d) The key is the evidence of employers' intent to grant employees a permanent benefit or right to be included in their employment contracts. It is not enough to claim that the benefit has been granted repeatedly or over a long period of time, as it is a mere present or discretionary item by employers.

e) Finally, it is worth mentioning that once a vested right is recognized, it is then included in the employment contract, and employers cannot take it away. In addition, such binding contractual rights are part of a tacit contractual agreement.

4. The discussion and analysis in this case focused on whether the Old Douglas Holiday Hamper, containing three perfume testers, two facial treatment samples and two make-up color samples, was a vested right, and if so, which were the consequences of giving employees the option to choose between the 2022 Holiday Hamper or €100 Douglas Gift Card.

On the one hand, as a vested right it becomes part of employees' employment contract, the Company cannot unilaterally take it away. Along this line of argument the Court issued decision No. ST 1034/2024 on July 17 (Rec 278/2022) in connection with the granting of a Christmas hamper.

However, in this case, the Company limited itself to giving employees the option to choose between receiving a Christmas hamper or a gift card in 2022 only. This did not mean that employees would lose their right to continue receiving a Christmas hamper the following years.

On the other hand, as a tacit contractual agreement, this right remains valid and in full force since the parties have not agreed otherwise or the Company has not intended to compensate for or stop this benefit. It just gave employees the specific option of replacing the Christmas hamper with a €100 Douglas gift card, and only if they so wished. This was not a unilateral decision to replace their benefit.

The Union also claimed that the €100 euros Douglas gift card was an incentive that was not tied to the achievement of any target, and was granted to all employees.

The Company claimed this statement was wrong as per the email message sent, this was a gift, a mere present, and not an incentive.

Please feel free to contact us for further information.

Best regards,

Natalia de Diego

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