

Goodwill Indemnity for Agents in Spain: The End of Judicial Moderation?

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The recent [Supreme Court Judgment No. 628/2026, dated April 22, 2026](#), establishes a significant shift in case law regarding the quantification of the goodwill indemnity in agency contracts.

The ruling consolidates a line of reasoning initiated by Supreme Court Judgments No. 1209/2025 and No. 1777/2025, dated September 3 and December 3, 2025, which effectively excludes the court's authority to adjust the amount of the indemnity that Article 28.3 of the Agency Contract Law (LCA) established as a maximum (the average annual amount of remuneration received by the agent over the last five years or, if shorter, over the entire term of the contract).

The practical consequences are significant: whereas until now the debate between the principal and the agent often revolved around the percentage by which the indemnity should be moderated, the new doctrine shifts the focus to an earlier and more decisive question: whether the right arises or, conversely, is excluded.

THE END OF JUDICIAL MODERATION OF THE INDEMNITY:

Until now, it was relatively common for courts to reduce the amount of the goodwill indemnity based on the circumstances of the specific case, such as the principal's brand recognition, advertising investments made during the relationship, or the customer turnover rate in the sector. This margin for adjustment - which in practice typically ranged between 20% and 30% of the statutory maximum - enabled judges to tailor the indemnity to the specific circumstances of each case. The new doctrine appears to rule out this possibility, based on a debatable interpretation of Article 28 of the LCA that brings the maximum limit closer to an almost automatic quantification of the indemnity.

From a practical perspective, this implies that once the cumulative requirements of Article 28.1 of the LCA have been established - termination of the agency relationship (even if it was of a temporary nature), the agent's contribution of new clients, the possibility of substantial future benefits for the principal, and the equitable nature of the indemnity - the possibilities for disputing the resulting amount would be virtually nonexistent.

However, it should be noted that, as we have pointed out, this doctrine appears to be in direct contradiction not only with the wording of Article 28.3 of the LCA - in which the quantification is set as a maximum that cannot be exceeded - but also with the case law of the Court of Justice of the European Union (CJEU), which, in repeated judgments - notably the CJEU judgment of March 26, 2009, in the [Turgay Semen case \(C-348/ 07\)](#) - has held that the Commercial Agents Directive requires the amount of the indemnity to be determined through an equitable assessment that takes into account all the circumstances of the case, with the statutory maximum serving as a ceiling, not as an automatic quantification.

A NEW FOCUS: THE ACCRUAL AND EXCLUSION OF THE RIGHT:

The immediate consequence of this development in case law is a shift in the legal debate toward the accrual or exclusion of the right.

While the amount of the indemnity is largely undisputed, two issues take on particular importance: **(i)** whether the cumulative requirements of Article 28.1 of the LCA, cited above, for the accrual of the indemnity are in fact met; and **(ii)** whether any of the grounds for exclusion under Article 30 of the LCA apply, in particular those set forth in subparagraphs (a) - termination of the contract due to the agent's breach - and (b) - applicable when the agent himself decides to terminate the relationship without cause attributable to the principal -.

In this context, Article 30 of the LCA is expected to play an increasingly significant role in practice. The exclusion of the right due to unjustified termination by the agent (Art. 30.b) of the LCA) has been the subject of recent case law that extends its application to fixed-term contracts: the Supreme Court has equated, for these purposes, the agent's unjustified refusal to renew the contract with a unilateral termination, thereby precluding the indemnity (among others, [Supreme Court Judgment No. 1439/2025, dated October 16, 2025](#)). The requirement of fairness under Article 28.1 of the LCA also takes on new relevance as a prerequisite for the accrual of the indemnity: the CJEU has noted that it would not be equitable to award an indemnity to an agent who continues to exploit the client base for the benefit of another business owner (CJEU Judgment of October 13, 2022, [Herios case, C-593/2 1](#)).

THE IMPORTANCE OF PROPER MANAGEMENT OF THE CONTRACTUAL RELATIONSHIP, ESPECIALLY ITS TERMINATION:

This new scenario calls for heightened attention both in the negotiation and drafting of agency contracts and in the management of their execution and eventual termination.

Clearly defining the obligations assumed by the parties and the term of the contract, as well as properly preserving the documentation generated during the contractual relationship, take on renewed importance in light of the most recent case law.

Beyond any potential dispute, proper contractual planning can help provide greater legal certainty to the parties and reduce the uncertainty associated with the termination of the relationship.

In particular, within this new legal landscape, it is important to pay special attention to the notice formalizing the termination of the contract - whether issued by the principal or the agent. Practical experience shows that this document can take on significant importance in any subsequent legal proceedings, especially when the circumstances surrounding the termination of the relationship are decisive for the recognition or exclusion of the right to the indemnity.

The clarity, precision, and consistency of its content can significantly help strengthen the position subsequently maintained by any of the parties involved.

FINAL REFLECTION:

Supreme Court Judgment No. 628/2026 does not alter the legal prerequisites for the goodwill indemnity, but it does redefine the practical relevance of each issue at stake. As the debate over the amount loses prominence, legal analysis must focus more intensely on two fronts: the existence of the cumulative requirements of Article 28.1 of the LCA, and the possible exclusion of the right under Article 30 of the LCA.

Consequently, it is advisable to review standard practices regarding the drafting, execution, and termination of agency contracts to adapt them to a case law landscape that is rapidly evolving.

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