

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 2

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### WEEKLY ITALIAN LABOUR UPDATES

"Since the Italian government has extended the ongoing ban on business dismissals due to the pandemic, companies can face redundancies with collective company agreements aimed to determine an economic incentive to leave."

#### **MP's pensions may lawfully shift to the contributory system**

The recalculation of MPs' pension benefits by applying contributory methods does not breach the principle of proportionality regarding objectives to limit public expenditure. Since the purpose of the Chamber of Deputies' resolution to redetermine the amount of said pension benefits is to rationalise public spending in the name of fiscal discipline, it can be deemed of general public interest and therefore any of curbing fundamental rights are justified. The disadvantages a reduction in pension benefits entails for former MPs is not disproportionate to the objectives of the new contributory calculation method (*Court of Justice of the EU (case T-695/19) 05/05/2021*).

#### **Covid-19 salary support scheme may be used seamlessly from 26 March**

Under an amendment to the Support Decree Law (D.L. 41/2021), salary support benefits tied to the Covid-19 emergency set out in the same Decree Law (13 weeks

in case of CIGO and 28 weeks in case of FIS and CIGD) may be received with no interruption from the similar measures in the 2021 Budget Act (12 weeks available until 31/03 in case of CIGO and until 30/06 for FIS and CIGD).

In practice, companies that opted for 12 weeks under the 2021 Budget Act from the first available day (1 January 2021) had used all their available benefits by 25 March 2021. Under the Support Decree, however, the additional weeks available under said Support Decree can be used as of 1 April 2021. The amendment affects this step and allows the additional weeks to be implemented with no interruption from the previous deadline, even if this means as of March 2021 (*amendment by the Budget Committee of the Senate, new para. 2-bis, art. 8 D.L. 41/2021*).

## **Collective redundancies affecting only certain operating units valid**

The decision to start a collective redundancy process only with reference to the employees operating in certain offices or operating units is valid, provided that it is consistent with a corporate restructuring plan previously shared with relevant trade unions in the initial notification of said process. Moreover, workers in operating units affected by a reduction in numbers need to be assigned to non-interchangeable tasks, meaning that said functions are different from tasks completed at operating sites that are outside the scope of the collective dismissal program.

*Supreme Court 06/05/2021 n. 12040*

## **Conditions required to apply smart work and leave in the event of minor and disabled children were revised**

Upon converting D.L. 30/2021 into law, certain changes were introduced to the eligibility for leave and smart working for parents with children aged under 16 or disabled children:

- (i) The parents of seriously disabled children or children with learning disorders or special education needs are eligible for smart working for the entire period of distance learning, Covid infection or quarantine of said child or children;
- (ii) Parents that do not live with their disabled (or with learning difficulties) children are eligible for smart working, if their child is aged 16 or less and is distance learning, affected by Covid or in quarantine; and
- (iii) Paid leave remunerated at 50% for the parents of disabled (or with learning difficulties) children under the age of 14 that are doing distance learning can be taken by the hour instead of on a full day basis as was required previously.

*Conversion Law of Law Decree 13/03/2021 n. 30, approved by the Senate on 05/05/2021*

## **Exemption from social security contributions if the Covid-19 salary support scheme is not used**

The INPS has specified that exemption from social security contributions, as an alternative to the Covid-19 salary support scheme for the months from November 2020 to January 2021, under D.L. 137/2020 (converted into Law 176/2020), requires that the company did not use the supplement benefits from said scheme or, for companies with several premises, did not use them in the operating units where it intends to apply the exemption from said social security contributions.

*INPS message 06/05/2021 no. 1836*

## **Superminimums can no longer be absorbed if the first tranche of a salary raise was not reduced**

The general principle that superminimum salary elements are absorbed into any rise in the minimum salary rate set out in the relevant collective bargaining agreement can be superseded if it can clearly be deemed that this is the definitive intention of the employer. Accordingly, if further to a salary raise under the provisions of the national collective bargaining agreement, an employer decides to proceed with the adjustment in several installments rather than one payment, the payment of the first tranche without deducting a portion of the superminimum indicates the definitive intention of the employer not to consider the superminimum as absorbable.

*Supreme Court 16/04/2021 no. 10164*

## **Dismissal by telegramme requires proof of signature or delivery**

Dismissal must be notified in writing and the letter signed by the employer or their duly empowered representative. Accordingly, if dismissal was notified to an employee by telegramme, their employer has the burden of proving the original dismissal notice was signed by them or, in the absence of a signature, delivered by them to the dispatching office.

*Supreme Court 15/04/2021 no. 10023*

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## Breach of selection criteria in a collective redundancy may be enforced only by prejudiced workers

Invalid collective dismissals in cases of the breach of the relevant selection criteria (technical/operating needs, family dependents and seniority) cannot be claimed as grounds to dispute said dismissal by workers, save those that suffered an actual prejudice from the incorrect application of said selection criteria.

*Supreme Court 14/04/2021 no. 9828*

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