

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 5

3 JUNE 2021 • ARTICLE



WEEKLY ITALIAN LABOUR UPDATES

"The ongoing ban on economic dismissals will expire end of June for companies benefiting of standard salary support (manufacturing industry, transport, constructions). For all other businesses, such as services and trade sector, the prohibition to start individual dismissals and collective redundancies continues until 31 October 2021."

Bilateral solidarity fund for professional services now operating

The bilateral solidarity fund for the professional services sector, which includes but is not limited to lawyers' and notaries' offices, payroll consultants and accountants and pharmacies and analysis labs, is now operational. The fund is dedicated to employers that have an average three or more employees and makes them eligible for the standard salary supplement allowance in the event of reduced or discontinued work activities (listed in arts. 11 and 22 of Leg. Dec. 148/2015 applicable for the Cigo and Cigs salary supplement schemes). Subordinate staff are eligible for the standard salary supplement allowance from the fund, including professional apprentices but excluding executives.

Inps instructions 26/05/2021 n. 77

Reinstatement legal even if collective bargaining agreement makes reference to general clauses only

The claim that one can link a remedy for reinstatement (in addition to the non-existence of a disputed fact) only to provisions in collective bargaining agreements that specifically classify a breach and connect it to a conservative remedy, is contrary to the principles of equality and reasonableness according to the Supreme Court.

Disciplinary events punishable by conservative remedies (warning, fine, suspension)

but described only in general clauses or open wording deserve the same remedies. The discriminating factor between reinstatement and compensation cannot lie in the specificity of the disciplinary breach described in collective bargaining agreements because this creates an illogical disparity of treatment between minor offenses that are expressly classified in a collective bargaining agreement and those of equal or lesser significance that are not expressly stated in the collective bargaining agreement.

Supreme court (ruling) 27/05/2021 n. 14777

Refunds for employees for the purchase of PCs and tablets exempt from personal income tax

Any refund to employees for costs incurred to purchase electronic devices (PCs, laptops and tablets) used by family members for remote learning are exempt from personal income tax. The tax exemption applies both if an employee purchases an electronic device and then receives a refund from their employer or if their employer gave them a voucher to purchase IT tools at selected stores (including online stores).

Revenue Agency, Instructions 27/05/2021 n. 37/E

New rules for quarantine and isolation

The Ministry of Health amended its quarantine and fiduciary isolation measures in the event of Covid-19 infection or of close contact with a Covid-19 case. The new provisions take into account the different variants of the virus and how high or low risk they are in deemed to be.

Ministry of health, Instructions 21/05/2021 n. 22746

Individual redundancies following collective procedures in circumvention of the law

Individual redundancies implemented for the same business reasons as previous collective redundancy procedures are null and void. Such a redundancy is in circumvention of the law as it is deemed an attempt to bypass restrictions resulting from the completion of collective redundancy procedures. However, a subsequent individual redundancy for business reasons is not deemed a circumvention of the law if it is based on factors that differ from those outlined a previous collective redundancy procedure.

Supreme Court 23/04/2021 n. 10869

Five-year limitation period inapplicable while formal self-employment relation in progress

The five-year limitation period for employee credits is effective while employment is in progress only if a condition of actual stability is met, granting a right to reinstatement in the event of unlawful dismissal. Determination of actual stability is made based on the actual performance of employment and the formal configuration given by the parties, as the existence of an actual psychological state of deference/fear on the part of an employee depends on this last element. Consequently, in a relationship officially recognised as one of self-employment by both parties, the five-year limitation period begins only after termination of employment.

Supreme Court 10/05/2021 n. 12344

Failure to update risk assessment documentation with Covid regulations does not trigger possible criminal offense

An employers' failure to update their risk assessment documentation (DVR) with the measures outlined in DPCM 24/04/2020 to contain the spread of Covid-19 does not qualify as a criminal offense of unintentionally spreading an epidemic. This offence requires purposeful behaviour by an employer, which cannot be determined merely by a failure to update DVR documentation with the provisions to contain the spread of the Covid-19 in the workplace.

Supreme Court 24/05/2021 n. 20416

Absence from the office to protest working conditions is not a just cause for dismissal

If an employee leaves the office without checking out, they commit fraud by not changing their status from present to absent at work and may be subject to dismissal. However, if the employee left the office to take part in a protest on working conditions in the surroundings of their workplace, this is not deemed just cause for dismissal. The employer was not, in this case, misled over their presence in the office and the employee did not in fact their workplace fraudulently.

Supreme Court 24/05/2021 n. 14199

KEY CONTACTS



**GIUSEPPE BULGARINI
D'ELCI**

PARTNER • MILAN

T: +39 02 721 7071
M: +39 347 26 86 664

gbulgarini@wfw.com



ROBERTA CRISTALDI

COUNSEL • MILAN

T: +39 02 721 7071
M: +39 344 0506106

rcristaldi@wfw.com

DISCLAIMER

Watson Farley & Williams is a sector specialist international law firm with a focus on the energy, infrastructure and transport sectors. With offices in Athens, Bangkok, Dubai, Dusseldorf, Frankfurt, Hamburg, Hanoi, Hong Kong, London, Madrid, Milan, Munich, New York, Paris, Rome, Seoul, Singapore, Sydney and Tokyo our 700+ lawyers work as integrated teams to provide practical, commercially focussed advice to our clients around the world.

All references to 'Watson Farley & Williams', 'WFW' and 'the firm' in this document mean Watson Farley & Williams LLP and/or its affiliated entities. Any reference to a 'partner' means a member of Watson Farley & Williams LLP, or a member, partner, employee or consultant with equivalent standing and qualification in WFW Affiliated Entities. A list of members of Watson Farley & Williams LLP and their professional qualifications is open to inspection on request.

Watson Farley & Williams LLP is a limited liability partnership registered in England and Wales with registered number OC312252. It is authorised and regulated by the Solicitors Regulation Authority and its members are solicitors or registered foreign lawyers.

The information provided in this publication (the "Information") is for general and illustrative purposes only and it is not intended to provide advice whether that advice is financial, legal, accounting, tax or any other type of advice, and should not be relied upon in that regard. While every reasonable effort is made to ensure that the Information provided is accurate at the time of publication, no representation or warranty, express or implied, is made as to the accuracy, timeliness, completeness, validity or currency of the Information and WFW assume no responsibility to you or any third party for the consequences of any errors or omissions. To the maximum extent permitted by law, WFW shall not be liable for indirect or consequential loss or damage, including without limitation any loss or damage whatsoever arising from any use of this publication or the Information.

This publication constitutes attorney advertising.