

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 8

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WEEKLY ITALIAN LABOUR UPDATES

"Expansion agreement is a very useful tool for companies entering into a process aimed to reorganize its business. It allows to manage at the same time the anticipated retirement of older staff and new hiring's, the utilization of special salary support to face business activity reduction and the training of employees to increase their professional skills."

International placement of employees' subject to limits within EU

When placing temporary workers in businesses between two European Union (EU) member states, said placement is deemed unlawfully if the turnover generated by the placing agency in its own jurisdiction is significantly less than that generated to the benefit of companies registered in other EU member states. This will be verified by the Italian Labour Inspectorate comparing the turnover of the agency in its domestic jurisdiction as opposed that it generates in other EU members states.

National Labour Inspectorate, Message 15/06/2021 No. 936

Dismissal for "like" on Facebook violates human rights

The dismissal of an employee for a "like" they made to a Facebook message which was highly critical of the repressive policies of the Turkish authorities violates the European Convention on Human Rights. The argument that the "like" may have generated contention in the workplace is not a valid reason to justify the dismissal, since in this circumstance the right to freedom of expression on issues of general interest prevails.

European Court on Human Rights 15/06/2021 (proceeding Melike vs Turkey)

Holidays accrued and not taken by manager snot to be paid

While the right to holiday is inalienable for managers also, it is not subject to any financial indemnity payment if it has not been used when their existing employment officially terminates. As manager usually have the power to decide when to take their holidays, they therefore do not accrue any right to a substitutive financial payment if they have not taken them. An exception to this rule occurs if a manager provides evidence that they were not able to take their holiday time due to objective and exceptional business needs.

Supreme Court (ord.) 08/06/2021 No. 15952

Excess compensation to be returned only if error is essential

An employer is entitled to restitution of any compensation paid in excess to what an employee has accrued only if the payment was made for an essential and recognisable error on their part. In other words, the employer's error must be the sole reason the excess compensation was paid to the employee and, moreover, should be able to be determined as so with normal diligence in light of the circumstances of the case.

Supreme Court 09/06/2021 No. 16088

Employees refusing to wear masks subject to punishment

The refusal of an employee to wear a mask during a meeting on company premises is a violation of the provisions aimed to prevent the spread of Covid-19. Since infection linked to employment is considered an injury at work, the measures employers implement to contain the spread of the virus in the workplace are part of the provisions to safeguard health and safety at work. Therefore, disciplinary suspension from work and remuneration against employees who refuse to wear masks is lawful.

Tribunal of Venice (Judge Bortot) 04/06/2021

Violation of selection criteria may be challenged only by affected employees

Not all employees who were dismissed during a collective redundancy are entitled to challenge the violation of the procedure's selection criteria. The employees entitled to claim violation of the selection criteria are only those who would not have been dismissed if the selection criteria had been properly implemented. Therefore, only said employees may ask to annul their dismissal for violation of the selection criteria and be reinstated in their role, since it is against such employees that the breach was the decisive factor determining their dismissal.

Supreme Court 24/05/2021 n. 14198

Unilateral reduction in part-time working hours unlawful

In a part-time employment contract, increasing or decreasing the agreed working hours represents an objective novation of said contract and requires that both parties must agree to accept in writing and in line with any required legal provisions. Therefore, a reduction in working hours unilaterally decided by the employer against the part-time employee is totally unlawful and entitles the employee to claim his right to reinstatement of the previous work time and to full payment of the unpaid salary differential.

Tribunal of Bolzano 28/05/2021

New hiring requires judicial certificate if minors involved in role

If a position involves direct contact with minors, an employer must request a judicial certificate to verify the employee has not been convicted for any criminal offences against minors (prostitution, possession of pornography, etc.). If this check is not made, the employer is subject to an administrative fine of €10,000 to €15,000 (Article 2 of Legislative Decree No. 39/2014). If the employer hires several employees at different times without requesting a judicial certificate, the fine is applicable for each such employee. If, however, the new hires occur at the same time, the fine is only applicable once.

National Labour Inspectorate, Note 17/06/2021 No. 967

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Financial support for apprenticeships

The National Social Security Body (Inps) has agreed financial support equivalent to 100% social security contributions for the first three years for hires involving 1st level apprenticeship contracts by employers with nine or fewer employees. Temporary workers and apprentices are not included when calculating this headcount. This support assumes the employer regularly pays social security contributions and has signed up to a national collective labour agreement supported by major trade unions (i.e. most trade unions with representation at a national level”).

INPS, Circular 18/06/2021 No. 87

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