

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 12

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### WEEKLY ITALIAN LABOUR UPDATES

"According to Confindustria, the Italian employers' association, green pass should be requested to employees when accessing in the workplace. Employees without green pass, should be suspended from work and remuneration. "

#### Clarifications from the National Employment Inspectorate concerning end of ban on redundancies

The Central Management of the National Employment Inspectorate (INL) provided useful clarifications on the steps which need to be taken into consideration when the ban on redundancies expires. The ban on redundancies (both individual and collective) continues until 31 October 2021 for businesses which do not fall within the scope of standard salary support (CIGO). For businesses that can access CIGO (primarily industrial and manufacturing companies) the ban on redundancies expired on 1st July, with the exception of those in the textile industry dedicated to the packaging of clothing, leather and fur goods, and to the production of leather and similar goods. For these businesses the ban also extends to 31 October.

The ban on redundancies also remains for businesses falling under the scope of CIGO that applied for salary support measures due to a reduction or suspension of work activity. In these cases, the ban continues for the entire period the support

measures are authorised for, even if they have not used entirely.

Finally, on the INL website, it is possible to download the new application form to start the conciliation and joint examination procedure aimed at serving individual redundancies for economic reasons, pursuant to Article 7 of Law No. 604/1966.

*INL Circular 16/07/2021 n. 5186*

#### Green Pass to be introduced in Italy

The Italian Government is about to issue a decree whereby having a 'Green Pass' is mandatory in order to attend commercial establishments, restaurants and other indoor places open to the public. Meanwhile, the employer's industrial association, Confindustria, issued a letter indicating that employers should be allowed to ask employees to show their Green Pass as a condition to access the workplace. It has also been said that, if the employees refuse, the employers are allowed to assign them to other duties which do not involve accessing the workplace or, if this is not possible, to suspend them from work and offer remuneration.

*Confindustria, Letter 20/07/2021*

## **INPS clarifications on cumulative pension schemes**

INPS delivered recent clarifications on the cumulative pension schemes regime, which occurs when the employee has been subject to several different pension schemes during their professional life. The minimum pension amount (“importo soglia”) required to benefit from the cumulative pension regime must be calculated to include the overall pension contributions accrued by the employee. Said calculations also include pension contributions accrued in other EU countries and in non-EU countries that have a bilateral social security agreement with Italy.

*Inps Message 13/07/2021 No. 2575*

## **NCLA's disciplinary regulations are the benchmark for reinstatement**

If the collective agreement applied by a company connects the wrongful behavior to a disciplinary measure, the unlawful dismissal for cause against an employee implies reinstatement to work and compensation for damages covering the monthly salaries of the period which has not been worked (up to a maximum of 12 months), as set forth by Article 18, paragraph 4, of Law No. 300/1970. Instead, if the wrongful behavior is not included in a disciplinary measure by the collective agreement, the unlawfulness of the dismissal for cause implies an application of an indemnity for damages remedy, without reinstatement, in a measure of between 12 and 24 monthly salaries, as set forth by Article 18, paragraph 5, of Law No. 300/1970.

*Supreme Court 09/07/2021 No. 19585*

## **Inail compensation does not exhaust damages for accidents at work**

The amount paid by the National Insurance Authority (Inail) to compensate an accident at work or a professional illness cannot be considered the full compensation to which employees are entitled in cases of an accident at work. Compensation paid by Inail covers permanent health damages and does not include other causes of financial damage/loss. Particularly, non-material damages and temporary health damages are not included in the Inail insurance coverage and employees are entitled to file a specific civil claim to receive compensation for such damages.

*Supreme Court 23/06/2021 No. 17967*

## **Company relationships can be shared between employers of multiple companies**

Employment relationships officially established within a company can now be referred to other companies within the group, if the following conditions occur: (i) unique organisation and production structure; (ii) integration between the activities of the companies; (iii) technological, administrative and financial coordination between the companies; (iv) mixed and joint use of the employees' roles between the companies. If these conditions occur, the employment falls under a co-employer's regime and must be addressed to a single center of interests made up by the affected companies of the group.

*Supreme Court 24/06/2021 No. 18135*

## Ban on collective dismissals does not apply to employees ranked as executives

Since employees at executive level are not entitled to salary support scheme due to covid-19 health emergency ("Cassa Covid") in cases of reduction or suspension of work activity, the ban on collective redundancies does not apply to these employees. The adverse interpretations according to which only ban on individual economic redundancies are not applicable to employees ranked as executives due to Law Decree No. 18/2000 (Decreto Cura Italia) and, most recently, Law Decree 41/2021 (Decreto Sostegni) are not acceptable. The "ratio" of the emergencies provisions due to pandemic is to temporarily forbid employers from making people redundant for business / economic reasons while being entitled to utilize Cassa Covid in the lack of work activity. Therefore, since executives are not allowed to benefit from Cassa Covid, the ban on collective dismissals cannot apply to these employees.

*Tribunale di Milano, ord., Judge Moglia, 17/07/2021*

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