

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 22

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WEEKLY ITALIAN LABOUR UPDATES

"The employee who has been working in the premises of the business without the compulsory green pass (from 15/10) is subject to disciplinary action, which could lead to a dismissal without notice."

Tax benefits for smart working performed in Italy

When establishing if a worker has a right to tax benefits based on smart or remote working, their "place of work" is deemed to the location where they conducted the work physically. This entitles employees (whether Italian or a foreign citizen) who are employed abroad but transfer their tax residency to Italy and carry out smart working from Italy to better tax benefits than those who remain overseas. (Article 16 Legislative Decree No. 147/2015).

Tax Agency, Answer to Question 23/09/2021 No. 621

Electronic takeover of employee's PC lawful on suspicion of illicit behaviour

According to the Supreme Court, an employer can electronically take control of an employee's computer if they have a well-founded suspicion that the employee is involved in illicit behaviour. An employer's failure to fully comply with the conditions

set out in Article 4 of the Statute of Workers can be overlooked providing they do so purely to acquire data from the employee's device following legitimate suspicions of misconduct and is carried out recognizing both the need to protect company information and the need to safeguard the employee's dignity. It is necessary to distinguish between protective controls taken against an entire workforce – which requires the full adhering of Article 4 of the Statute – and protective controls against a rogue individual which can be done without full compliance of Article 4, but only if there is a legitimate suspicion of illicit behaviour.

Supreme Court 22/09/2021 No. 25732

Dismissal of the employee threatening to record workers is lawful

The dismissal of an employee who threatened to record contract workers on his mobile phone has been found lawful. The employee was unhappy with the improper use of protective equipment by workers employed by a contractor and took out his phone, threatening to record them. The Tribunal of Taranto noted that the employee should have raised his grievances with his line manager, should not have addressed the contracted workers directly or threatened to record them.

Tribunal of Taranto (ord.) 24/09/2021, Judge Magazzino

Dismissal based on offensive conversation in online chat is unlawful

The Supreme Court found that the dismissal of an employee who 'badmouthed' a superior in an online chat room with colleagues was unlawful. Since the comment was made on a platform that required a password to access and was private in nature, it was deemed a 'free expression of ideas'. If statements are not clearly disparaging, they are deemed irrelevant and cannot be used as grounds for dismissal.

Supreme Court 22/09/2021 No. 25731

Employers can be held responsible for accidents at work suffered by contract workers

The Supreme Court ruled that it is the responsibility of employers to choose contractors that can carry out the needed works in accordance with basic duty of care rules and ascertain that they have the technical, organisational and professional skills needed to correctly carry out the work in question. As a result, the employer can be held responsible for any accidents at work suffered by employees of the contractor in cases where proper due diligence did not occur.

Supreme Court 10/09/2021 No. 33595

Social security exemption in tourism/trade sectors non only with "Cassa Covid"

Article 43 of Law Decree No. 73/2021 (Decree "Sostegni bis") provides an exemption from paying social security contributions (with a limit of two times the salary support scheme used between January and March 2021) for businesses in the tourism, trade and spa sectors. The INPS clarified that this special exemption, which is available to companies until 31st December 2021, can be requested regardless of the type of social support used in the first quarter of 2021, regardless of whether it is Covid-related or not. Said social security relief can also be used if the company suspended employees from work due to a crisis or business reorganisation.

INPS, Circular 21/09/2021 No. 140

Additional benefits for employees seconded to trade unions

Employees seconded to a trade union can benefit from their pension contribution scheme as well as additional contributions paid by the trade union to which they belong. In such instances, the additional contributions paid by the trade union won't increase the pension contribution made by the employee but will lead to an increase in pensionable earnings.

INPS, Message 23/09/2021 No. 3204

Lawful dismissal of employee who lied about client visits

The dismissal of an employee who has falsely claimed to have visited clients (when in fact no such visits were made) is lawful according to the Supreme Court. The Court found that such false claims irreparably breaches the trust between employer and employee and damages the former's confidence in the latter's ability to correctly carry out their duties going forward.

Supreme Court 05/08/2021 No. 22370

Additional citizenship income benefits for entrepreneurs and self-employed

The INPS has specified the conditions for obtaining income support aimed at helping entrepreneurs of six citizenship income, with a monthly limit of €780 (Article 4, para 8, Law Decree No. 4/2019) – aimed at helping entrepreneurs. To access this incentive, one needs to have set up (or become partner of) a business in one's first year using citizenship income. The incentive is also available to those who establish a single-member company and self-employed people who enter a shared capital company.

INPS, Message 24/09/2021 No. 3212

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