

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 27

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### WEEKLY ITALIAN LABOUR UPDATES

"The expansion contract allows the anticipated retirement of the older employees and the use of the special salary support scheme to do training. It is a measure very useful to manage the reorganization of the business."

#### **Covid swab expenses included in tax credit**

The Tax Agency has confirmed that the "tax credit" companies are entitled to for sanitising their workplaces and the purchasing PPE (art. 32, Law Decree 73/2021), also includes expenses relating to administering Covid-19 swabs. This covers the purchase of swabs and expenses for healthcare workers administering such tests.

*Tax Agency Circular 02/11/2021 No. 13/E*

#### **EU's digital Covid certificate not a limit on free movement**

The EU's digital Covid certificate does not violate the right of free movement. As such, an Italian petition to suspend Regulation 2021/1953 of the European Parliament and Board, which regulates the release and verification of Covid certificates, has no basis. The EU digital certificate helps – and does not limit – the free movement of people, since it helps prevent the spread of the pandemic.

*European Union Tribunal (ord.) 29/10/2021 (T-527/21)*

#### **Dismissing employee carrying out non-work-related activities while on sick leave may be unlawful**

Carrying out non-work-related activities whilst on sick leave is not a cause for dismissal provided said activities do not impact the recovery of the employee in question. In accordance with this principle, the Supreme Court found that the dismissal of an employee that used their car and motorbike for short trips to clean bottles during their sick leave (due to lumbosciatica) was unlawful.

*Supreme Court 07/10/2021 No. 27322*

## **Working during midweek holidays must be agreed between employer and employee**

The Supreme Court found that the principle that entitles employees to time off during midweek civil and religious holidays also applies to those providing essential public services such as airflight transport. In the same case, the court declared the rule allowing employees to receive normal, full pay during said holidays is irrelevant given their employer cannot force them to work during these midweek holidays. The employer cannot unilaterally oblige the employee to perform his tasks during midweek holidays, since an agreement (individual or collective) is required to do so.

*Supreme Court 24/10/2021 No. 29907*

## **Delayed dismissal results in compensation**

According to a case law interpretation, if an employee's dismissal is not officially communicated to them by their employer before the maximum deliberation time provided by the NCLA, then the dismissal is cancelled and the employee is reinstated as set out by Article 18, paragraph 4 of Law No. 300/1970. Said interpretation is to be rejected according to a different case law judgment. In a recent case involving this matter, the Supreme Court judged that a delay in the communication implied that the dismissal has been overturned, enabling the employee to receive compensation (between a minimum of six and a maximum of twelve monthly salaries) as set out in Article 18, paragraph 5 of Law No. 300/1970.

*Supreme Court 13/10/2021 No. 27935*

## **Dismissal for posting disparaging comments on social media lawful**

An employee that publishes disparaging comments about their superiors on their personal social media profiles cannot invoke a right to private correspondence. This is because, according to the Supreme Court, there is a possibility others could access the disparaging content meaning it cannot be considered private. As a result, defamation can occur and dismissal can be based on cause.

*Supreme Court 13/10/2021 No. 27939*

## **Draft 2022 financial document published**

The draft financial document for 2022 has published and includes several employment measures, with specific regards to security, re-employment and social safety nets. Whilst the proposed measures are still to be discussed by the Italian Parliament, it is worth highlighting the following:

### Social security measures

- “level 100” has been superseded by the new “level 102” mechanism which keeps the minimum 38 years contribution requirement but increases the age requirement from 62 to 64 years;
- A “women’s option” will be introduced allowing women to retire at 60 (61 if self-employed) if they have completed 35 years’ contribution;
- The availability of the “APE Sociale” (a financial indemnity paid by INPS until the employee is entitled to retire) will be extended for a year and is also now available to other heavy workloads such as school teachers, cleaning and warehouse staff, etc.

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## Social safety nets and re-employment

- the “expansion contract” has been extended for two years and the minimum number of employees required to access it reduced to 50;
- for those on “solidarity contracts” (trade union agreements involving temporary reductions to work shifts and payment in part by INPS), the average hourly work reduction margin for affected employees will be increased to 80%, while the reduction margin for each individual employee will be increased to 90%;
- 50% deduction in social security contributions for female employees that become mothers will be introduced;
- 52 additional weeks of salary support scheme to be made available to companies in the manufacturing and construction industries that have run out of the available salary support;
- the social security exemption when hiring of employees aged under 35 on a permanent basis (with an annual cap of €6,000) will be extended for a year. It will be available (without age limits) to businesses going through financial difficulties and supported by the Ministry of Economic Development that hire permanent employees
- access to CIGS now available to all businesses with more than 15 employees;
- introduction of 12 additional months of CIGS in cases of re-hiring (for both the employed and self-employed); and
- FIS extended to “micro-size” businesses for 13 weeks during a two-year period for companies with up to five employees and 26 weeks for those with over five.

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