

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 31

2 DECEMBER 2021 • ARTICLE



WEEKLY ITALIAN LABOUR UPDATES

"In case of redundancies, new hires (as of 7 March 2015) have to be managed separately from hold hires (until 6 March 2015), because (only) for the former the economic incentive is not subject to tax and social security charges for an amount into a minimum of three and a maximum of 27 monthly salaries (to be determined according to the employees' seniority)."

Chairperson cannot hold employment positions in same company

The Court of Cassation has found that an individual cannot be appointed Chairperson of a Board of Directors if they remain simultaneously employed in the company. This is based on the fact that Chairpeople legally represent their company and therefore cannot exercise a power of control over themselves – something they are obliged to do on behalf of all subordinate employees.

Court of Cassation 23/11/2021, No. 36362

Disability assistance permits not limited to care

The monthly financial benefits for supporting disabled family members pursuant to Article 23, Law no. 104/1992 are not limited to covering the care of said persons in the strictest sense but also extend to activities disabled individuals cannot carry out independently themselves whether at home or externally.

Court of Cassation 20/10/2021, No. 29198

Employee's dismissal found to be retaliatory

The Court of Milan found that the consequential dismissal of an employee who claimed that they should be contracted to a different company was retaliatory given that their employer had been unable to prove misconduct on any grounds that call for disciplinary dismissal. In this case, the court found the dismissal to be a

retaliatory reaction to the employee's contractual issue and found the dismissal to be void, ordering the employee's reinstatement.

Court of Milan, 18.11.2021, No. 2798

Multiple dismissals of Deliveroo riders considered collective redundancies

According to the Court of Florence, Deliveroo riders with a 'coordinated and continuous collaboration' contract are subject to existing legislation on subordinate work, meaning that if the employer wants to terminate the contracts of a significant number of their riders, they must follow the procedures on collective redundancies provided for in Articles 4 and 24 of Law 223/1991 including initiating the required consultation with trade unions before they can terminate said contracts. Such cases are also subject to Article 2, paragraph 1 of Legislative Decree 81/2015.

Court of Florence, 24.11.2021

Converting paid sick leave into Covid-19 salary support scheme is valid

According to the National Labour Office it is possible to transfer paid sick leave into the salary support scheme for Covid-19 (Cassa Covid). Therefore, an employer can essentially furlough their employee by putting them onto the salary support scheme instead of paying them sick leave.

National Labour Office note No. 1799, 23.11.2021

Employees must be contactable during sick leave

The Court of Cassation found that an employee's change of residence during sick leave must be communicated to their employer as well as to INPS. This is because the employee's duty to their employer remains even during periods of sickness-related absence. Even when at home sick, an employee must be contactable as their employer still has the right to check in with them (excluding health checks which do not fall under their responsibility) in order to ensure how best to minimise any disruption caused by their absence.

Court of Cassation 25/11/2021, No. 3672

Introduction of Super Green Pass

The Government has issued new, more restrictive rules regarding using Green Passes to access indoor spaces and for certain professions in general. A difference is now being made between the 'Super Green Pass' issued following vaccination or full recovery from Covid-19 and the 'Basic Green Pass' issued following a simple molecular or antigenic swab.

From 6 December 2021, a Super Green Pass will be mandatory for accessing cinemas, theatres, sport events, indoor bars and restaurants, parties and nightclubs, museums and public ceremonies.

The Basic Green Pass remains in place for accessing workplaces, except for the following sectors where it is compulsory for employees to be vaccinated (thus warranting a Super Green Pass): school/education personnel, law enforcement, firefighters and the military. Unvaccinated employees in these categories will be suspended from work without pay.

The previous rule which stated that non-vaccinated health personnel could be used for so-called 'different tasks' has been eliminated.

The existing requirement for a Basic Green Pass to access long-distance transport networks now also extends to local public transport and regional trains.

Law Decree 26/11/2021, No. 172.

INPS clarifications on CIGD special salary for businesses

The INPS has announced operational clarifications on the use of the CIGD special salary support scheme for businesses in financial difficulty as set forth by the 2021 Finance Law (Art. 1, paragraphs 286 to 288, Law 30.12.2020 No. 178). The requirement for accessing CIGD support is that a business' financial difficulties are being undertaken by the Ministry of Economic Development or the relevant regional authority. CIGD support can be used for a maximum of 12 months either continuously or intermittently.

INPS Circular 26/11/2021 No. 179

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.