

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 32

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WEEKLY ITALIAN LABOUR UPDATES

"To benefit of a tailor made part time the use of flexible clauses is requested, since it allows to modify the distribution of the part time shifts and to extend the number of hours."

No access to Naspi once ban on dismissals over

INPS issued clarifications on employees' right to access Naspi unemployment indemnities in the event of consensual terminations agreed in line with Law No. 104/2021. Given that Naspi only applies until the end of the ban on dismissals for reasons of financial difficulty introduced at the height of the pandemic, terminations that occur once the ban is over won't be eligible to access Naspi. An exception to this rule is if a company continues to make use of any of the other economic safety nets put in place to help businesses through the pandemic available until 31 December 2021.

INPS Circular 01/12/2021 No. 180

Professional negligence does not occur if instructions impracticable

An employee cannot be subjected to disciplinary measures for professional negligence if the instructions issued to them by their employer to carry out their required task(s) are impracticable. Since an employee is bound by Article 2104 of the Civil Code to use the utmost care, work requested by their employer must be carried out with care pertinent to the nature of the task at hand and the needs of the employer. Nonetheless, an employee's behaviour cannot be considered professionally negligent if the employer assigns them impracticable tasks or does not provide suitable conditions for the employee to properly perform said tasks.

Tribunal of Grosseto 24/11/2021 No. 171

New discrimination laws are enforced

Law No. 162/2021, which entered into force on 3 December 2021, integrates the current code on equal opportunities and aims to reduce the gap between men and women in terms of pay and career opportunities. The new notion of discrimination now includes any organisational and/or shift work alterations that create a disadvantage or limit opportunities for career advancement on the basis of gender, age and care needs (both personal or family). Other measures introduced by the law, including a biennial report of salaries and working conditions for businesses with 50+ employees and an equality certification, are subject to a Ministry of Labour decree.

Law 05/11/2021 No. 162

Joint liability for workplace bullying

According to the Supreme Court, in situations where employees have knowingly failed to prevent the work-place bullying of a colleague, they may be held jointly liable for failing to do so. As such, a recent sentence against an employer for breach of contractual responsibility pursuant to Article 2087 of the Civil Code because they did not safeguard the healthcare and wellbeing of a victim of workplace bullying and against various of their co-workers for extra-contractual responsibility pursuant to Article 2043 of the Civil Code for longstanding insults and improper conduct towards them was correct.

Supreme Court 28/10/2021 No. 30583

Smart Working National Protocol published

Trade union organisations and the Ministry of Labour have signed a Smart Working National Protocol. The Protocol provides guidelines on 'smart working' arrangements and highlights that smart working can only be included in an employment contract on a voluntary basis (with written agreement required) and that employees have the right to refuse to take up smart working. The Protocol further outlines that refusal to take up smart working is not a ground for disciplinary action nor should it affect the individual's working relationship with their employer. Working from home (known as "tele-work") and Smart Working (remote working) are different and are not comparable work regimes. The Protocol operates within the framework of the current provisions of Law 81/2017 and insists on the need to regulate employees' right to disconnect from digital communications and platforms.

Smart Working National Protocol 07/12/2021

Alphanumeric codes for NCLA operational

The National Collective Labour Agreements' (NCLA) unique alphanumeric codes – introduced by Law No. 120/2020 – are now operational. CNEL, the authority responsible for the management of the NCLA archives, gives companies an alphanumeric code that they must include in all compulsory communications with the Ministry of Labour and in their monthly reports to the INPS. A two month transition period has been set, during which companies are still allowed to use their old INPS code. From February 2022, the communication of data relating to the NCLA applicable to employees will only be possible using the alphanumeric code. This measure is a further step towards the finalisation of the NCLA's digital database and helps combat the emergence of so called "pirate collective agreements".

Law 11/09/2020 No. 120

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