

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 35

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WEEKLY ITALIAN LABOUR UPDATES

"Also if simplified smart working during emergency due to Covid-19 has been extended to 31 March 2022, it is useful to immediately adopt rules on smart work customised on the business needs through collective company agreement."

Emergency state extended to March 2022

The law extending the state of emergency linked to Covid-19 pandemic has been published in the Official Journal. Effects that impact labour and employment laws include:

- (i) the continuation of the use of smart working in a simplified mode (which is without the need of a written agreement between employer and employee);
- (ii) the employees' right to time off if required to care for children under 16 who are having remote lessons, are infected with Covid-19 or are required to quarantine;
- (iii) the employees' right to paid leave (50% of the normal remuneration) in cases of children under 14 years subject to the above conditions; and
- (iv) the right of vulnerable employees to perform smart-working (or be assigned to

different tasks).

Law-Decree 24/12/2021 No. 221

New program GOL published in Official Journal

The Decree of the Ministry of Labour allocating €880m to the Employability Guarantee for Worker program ("GOL") was published in the Official Journal. The total amount allocated under the National Recovery and Resilience Plan ("NRRP") to requalification and employability policies is €4.4bn. The following categories have access to the GOL program: employees under a salary support scheme, beneficiaries of unemployment support Naspi and Dis-coll, beneficiaries of basic income, fragile or vulnerable workers (over 55 etc.), and those unemployed or without an income support. The financial resources are assigned to the Italian Regions which must adopt the plan within the next sixty days.

Decree of the Ministry of Labour 05/11/2021 (Official Journal 27/12/2021 n. 306)

Deadline for Covid-19 salary support extended

INPS has extended the final deadline to apply for the various available salary support schemes to 31 December 2021. The extension of the deadline applies to applications for Cigo, Cigs, Aso and Fis related to Covid-19 and to the filing of the data for direct payment of the salary support from INPS.

INPS, Message 21/12/2021 No. 4580

Access to Guarantee Fund unavailable to transferred companies

If an employment relationship continues with the transferee company in the context of a transfer of a company branch, any subsequent bankruptcy of the transferor company does not allow a worker to access the Guarantee Fund for the quota of severance pay (TFR) which have been accrued before the transfer of business. Therefore, if an employee resigns after the continuation of the relationship with the transferee company has been finalised, there is no basis for the intervention of the INPS Guarantee Fund. In this case, the condition of the state of insolvency of the transferee company is missing.

Supreme Court 13/12/2021 No. 39698

Rules on NCLA renewals

The Supreme Court found that the NCLA, which is expected to remain valid until the signing of the new NCLA, continues to bind the stipulating parties even after its expiry. In the event that the renewal of the NCLA is signed only by certain trade unions, the expired NCLA will continue to apply to those employees who are members of the trade unions that are not signatories to the renewal. The renewed collective agreement is, essentially, effective only for the parties who signed it, while the other parties remain bound by the expired collective agreement by virtue of the clause of ultra-activity.

Supreme Court 16/12/2021 No. 40409

Access to Naspi available in cases of mutual termination

Mutual terminations where the employee is eligible to access the unemployment indemnity Naspi remain possible until 31 December 2021 in accordance with the ban on economic redundancies. INPS has extended the use of said measure to employees that have signed the individual mutual termination agreement no later than the end of this year, while the effective date of the termination can also occur in 2022. INPS also stated that this access to Naspi is not limited to employees of companies making use of the Covid-19 salary support schemes but to companies that have the *possibility* to access such schemes, even if not used.

INPS, Circular 23/12/2021 No. 196

Single and universal child benefit begins March 2022

The single and universal child benefit will begin in March 2022. This measure substitutes other measures aimed to support families, including the existing 'family check'. To access the single check, employees are required to directly file their application to INPS (via web or call center) or through a patronage, indicating the make-up of their family. Children aged 18 or over can file the application instead of their parents and be directly paid their amount of the single check. The monthly amount of the check is €175 for each minor child and €85 for adult children (up to 20 years) with a family "Isee" indicator no higher than €15,000. The amount is reduced with a higher "Isee". An increase of the amount is provided in some cases (more than two children, disabled children, etc.).

Legislative Decree approved on 23/12/2021

Ban on economic redundancies includes executives

The ban on economic redundancies introduced during the emergency period also applies to executives, in both cases of collective dismissals and individual redundancies. The Tribunal of Milan ruled that since the rationale behind these emergency provisions is to prevent the economic consequences of the pandemic from translating into immediate job losses, then an interpretation of said provisions implies that executives are included in the prohibition of economic dismissals. This also includes so-called 'pseudo-executives' that is, employees who are formally considered executives but in fact do not have substantial managerial powers.

Tribunal of Milano 10/11/2021, Judge Paziienza

No automatic redundancies in cases of bankruptcy

The Supreme Court ruled that the bankruptcy of a company does not allow an employer to make their employees redundant. Under Article 72 of the Bankruptcy Law, it is the trustee appointed by the Tribunal that must decide if the employment relationships will continue or be terminated. In cases of the latter, the legal provisions concerning individual dismissals for business reasons and collective redundancies apply, depending on the number of the affected employees.

Supreme Court 13/12/2021 n. 39699

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