

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 53

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### WEEKLY ITALIAN LABOUR UPDATES

"The collective expansion contract enables the employers with 50+ employees to start a generational change and to use the special salary support scheme during employees' trainings."

#### **Update on face mask requirements for public transport and indoor public spaces**

Wearing a face mask (specifically the FFP2 model) on public transport to prevent the spread of Covid-19 remains compulsory until 15 June 2022. and also extends to admission to cinemas, theatres and indoor sporting events and accessing hospitals and nursing homes. Mask requirements for students remain unchanged in schools until the end of the school year for those aged six and above. In addition to these measures, it recommended that masks be worn in "all indoor public places or places open to the public". This recommendation would seem to include workplaces and a government meeting is expected to take place in the next days to discuss further measures to combat Covid-19 in the workplace.

*Ministry of Health, Ordinance 28/04/2022*

#### **Confindustria confirms requirement for face masks in the workplace**

Confindustria, the Italian employers' federation, noted that although the original expiry date of 30 April 2022 for the use of face masks in public places has changed according to the Ministry of Health's recommendations (28/04/22), workplaces are considered private places and therefore the new recommendations do not apply. However, since employers remain responsible for ensuring the safeguarding of their employees against the spread of Covid-19 in the workplace, and since the rule that requires companies to apply the anti-virus security protocol (art. 29-bis, Law Decree No. 23/2020) is still in place, Confindustria recommends the continued use of face masks in the workplace.

*Confindustria, Note 30/04/2022*

#### **Dismissal unlawful if based on conduct punishable by conservative sanctions**

The Supreme Court reiterated that it is unlawful for an employee to be dismissed if their alleged misconduct falls under behaviour punishable by a conservative sanction. Conservative sanctions are disciplinary sanctions *other than* dismissal and include fines and suspensions. In instances where the employee challenges their dismissal a judge can refer to the protections among those provided for by Article 18 paragraphs 4 and 5 of Law No. 300 of 20 May 1970 (as amended by Law No. 92 of 28 June 2012) to determine if the dismissal was unlawful.

*Supreme Court 26/04/2022 No. 13065*

## **Employer must prove unlawfulness of employee activity during sick leave**

Under Italian law, employees who are absent from work due to illness are not specifically prohibited from carrying out other activities during their period of absence. Therefore, in cases where an absent employee has been dismissed for having carried out other activities during their sick leave (whether during work hours or not), it is the employer's responsibility to prove that the activities carried out were incompatible with their alleged illness, or considered a hindrance in terms of their recovery, in order for their dismissal to be legitimate.

*Supreme Court 26/04/2022 No. 13063*

## **Clarifications on tax-free compensation**

The Tax Authority clarified that the compensation for damages a judge orders to be paid to an employee who was demoted and subsequently lost out on professional opportunities is tax free. Compensation for damages is subject to tax if they replace or supplement the employee's income in terms of loss of earnings, known as loss of profit. Conversely, compensation to restore an employee's assets or recompense them for losses suffered, known as emerging damage, is tax free. Compensation for damages due to demotion and loss of opportunity falls into this second category.

*Tax Authority, Answer to question 08/04/2022 n. 185*

## **Clarification on employee's 'no further claims'**

The Tribunal of Palermo clarified that an employee's acceptance of a final sum and full settlement of any further claims in respect of their employment relationship with a declaration that they had "no further claims", did not amount to a waiver or final settlement within the meaning of Article 2113, paragraph 4 of the Civil Code. Rather, it constitutes a mere settlement of the sums received and cannot prevent the employee from making other claims regarding the same employment relationship.

*Tribunal of Palermo 07/04/2022 No. 1162*

## **INPS clarification on single allowance and citizenship income**

The INPS has provided further clarifications on the universal single allowance and citizenship income. Accessing the single allowance is subject to the INPS possessing all necessary information on the composition of a household in order to determine the amount due. This is done by filling out a specific form on the INPS website ("Rdc.Com/Au"). Citizenship income and the universal single allowance began in March 2022 and are determined according to the number of dependent children in a household.

*INPS, Circular 28/04/2022 No. 53*

## **Tax breaks due to "talent re-entry"**

Tax breaks due to so called "talent re-entry" provided for by Art. 44 of Law-Decree No. 78/2010 can be used by employees who have previously benefitted from the same tax regime. Said tax breaks are applied to overseas residents, both Italian and foreigner, who, by virtue of the skills they acquire overseas, are considered to be an asset to research and development in Italy. The fact that an employee has already benefitted from the same concessions in the past does not prevent them from benefitting again on their return to Italy.

*Tax Authority, Answer to Question 29/04/2022 No. 239*

## Employee dismissed for not caring for disabled relative during leave lawful

The dismissal of an employee who used some of her monthly leave to attend spas, gyms and restaurants when the leave was specifically given to her to care for her disabled mother-in-law (under Art. 33, par.1, Law No. 104/1992) is lawful. Since her working hours took place during the day it is irrelevant that she carried out the care for her mother-in-law at night.

*Court of Appeal Venice 05/04/2022 (r.g. 463/21)*

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