

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 56

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WEEKLY ITALIAN LABOUR UPDATES

"To manage smart working successfully it is crucial to introduce modalities aligned to the business needs. Only collective company agreements enable the company with a set of binding rules towards the entire workforce."

Smart-working measures extended

Law No. 52 of 19 May 2022, which updates Decree-Law No. 24 of 24 March 2022 regarding Covid-19 prevention measures and the related national state of emergency, was published in the Official Journal (No. 119 of 23 May 2022). Notable employment-related measures include:

- the right of vulnerable workers' (as recognised by Article 17, paragraph 2, Decree-Law 221/2021) absence from work due to being unable to work remotely is equated to hospitalization until 30 June 2022;
- vulnerable workers' right to agile working is extended until 30 June 2022 and includes being assigned to a different role;
- the obligation for public and private employers to ensure health checks for high-

risk employees is extended until 31 July 2022;

- the right to agile working is extended until 31 July 2022 for parents who are employed in the private sector and have a child under 14; and

- the use of simplified smart-working, i.e. without the need (among other things) for an individual written agreement, is extended until 31 August 2022.

Law 19/05/2022, no. 52, converting Decree-Law 24/2022

Continued use of PPE in healthcare facilities

The obligation for employees, patients and those visiting healthcare facilities to wear PPE remains in place until 15 June 2022. This includes hospitals and long-term care facilities, nursing homes, hospices, rehabilitation facilities, old people's homes (including non-self-sufficient ones) and residential facilities for the elderly included under ex art. 44 of the DPCM 12 January 2017.

Law 19/05/2022, no. 52, converting Decree-Law 24/2022

Compulsory training on health and safety in the workplace can be remote

Pending the adoption of an agreement at the State-Regions Permanent Conference on employee health and safety training (Article 37, paragraph 2, Legislative Decree 81/2008), compulsory training may be provided either in-person or remotely. Training activities which are legally required to be carried out in person are obviously an exception.

Law 19/05/2022, no. 52, converting Decree-Law 24/2022

Article 18 (7) providing reinstatement only if inconsistent facts are “manifest” unconstitutional

The clause in Article 18(7) of Law 300/1970 (as reformed by Law 92/2012) requiring that dismissals on justified objective grounds must be “manifest” (i.e. obvious) has been declared unconstitutional. As a result, those whose dismissals were based by “insubstantial” circumstances or facts are entitled to reinstatement. Based on the decision, the Constitutional Court noted that the clause creates uncertainties that can result in different outcomes given that the requirement to be “manifest” is not linked to factual evidence.

Constitutional Court 19/05/2022 no. 125

Incoming decree on New Skills Fund

The Interministerial Decree from the Ministries of Labour and of Finance on the new allocations for the New Skills Fund is hotly anticipated. The Decree, which is currently being drafted, will state that working hours allocated to training will be 70- 75% financed by the state rather than in full as previously. Additionally, training can only be provided by nationally or regionally accredited entities, whereas previously training could also be carried out by employers. Said training is expected to be aimed at developing digital and green skills.

Interministerial Decree Min. Labour and MEF (in preparation) on the New Skills Fund

Online validation for resignations of parents with children ended

On the assumption that the pandemic emergency is over, the National Labour Inspectorate (“INL”) has announced that it is no longer possible for working parents with children under three years old to validate their resignation or consensual termination online. The traditional procedure of a direct interview with an ITL (“territorial labour inspectorate”) in order to correctly validate a resignation/mutual termination has returned. However, an interview can still be conducted via an electronic platform, on the basis that an application form has been completed on the ITL’s website.

National Labour Inspectorate, Message 19/05/2022

Data processing of agency contracts must comply with GDPR

The processing of personal data of any kind of employment relationship (including agency workers) must comply with GDPR. This reminder follows a recent incident where a company prevented an agency worker from accessing their company email by changing the password without notice. At the end of the agency worker's contract, the company also kept the email address active in violation of EU data protection regulations in numerous ways. Additionally, since the agency worker also used the e-mail for personal purposes and for handling other business activities, the company also violated the principles of dignity, reputation and confidentiality.

Privacy Authority, Newsletter 19/05/2022

New INPS instructions for marital leave allowance

The INPS has outlined the new instructions for requesting marital leave allowance via their digital procedure set up under the 'non-pension benefits' project. The allowance must be requested within one year of the marriage (or civil union) date and is equal to seven days' pay. It can be accessed by submitting a request on the web platform via the INPS contact centre or any of their associated offices aimed at assisting workers with tax and social security matters. Unemployed people who have worked for a minimum of 15 days for industrial or artisanal companies or cooperatives in the 90 days prior to their marriage are also entitled to the allowance.

INPS Message 22/05/2022 No. 2147

Maximum sick leave for disabled workers

Dismissal for exceeding the maximum amount of sick leave an employee can take (the so-called "*periodo di comporto*") by a disabled worker does not conflict with community (Directive 2000/78/EC) and national provisions on equal treatment of persons regardless of their disability. It is not possible to determine unequal treatment with regards to disabled and non-disabled employees and their *periodo di comporto* given that there is already a broader legal framework in place benefitting disabled employees.

Court of Bologna 19/05/2022 no. 230

Non-competition agreement deemed valid by Supreme Court

The Supreme Court ruled that a non-competition agreement between a private portfolio manager and a bank in which the manager was paid a fixed fee every six months in exchange for not carrying out any activities that either directly or indirectly affected the bank for three years (after the end of the employment) was valid.

Supreme Court 28/04/2022 n. 13357

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