

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 57

1 JUNE 2022 • ARTICLE



WEEKLY ITALIAN LABOUR UPDATES

"Collective company agreements allows the businesses to regulate employee's training in view of their needs, assigning their employees a passport on professionalism to manage career advancements."

National Protocol on safe school-to-work pathways signed

The National Protocol for safe work-to-school pathways, signed by the Ministries of Labour and Education as well as the National Labour Inspectorate and INAIL, seeks to raise awareness among schools and companies of the health risks students involved in curricular, extra-curricular and internship training face, as well as those on educational and professional training courses. The Protocol aims to make health and safety training processes more effective by involving external tutors entrusted with the task of identifying both the general and specific risks associated with school-to-work pathways, the training to be provided and the individual protection devices required.

National Protocol 26/05/2022 of the Ministries of Labour and Education, with INL and INAIL

New INPS instructions on social Ape

The INPS has provided clarifications on the use of the "social Ape" retirement welfare benefit, which the 2022 Budget Act extended by one year. From 1 January 2022, unemployed workers for whom social safety nets have expired, can also access the social Ape. It was further clarified that those eligible for the social Ape also includes those dismissed for failing to complete their probation period or due to cessation of business activity.

INPS, Circular 25/05/2022 no. 62

Legitimate to dismiss employee for using trade union leave for personal activities

The Supreme Court found that the dismissal of a company trade union representative who used trade union leave to carry out unrelated activities was legal. The employer bears the burden of proof with respect to the unlawful use of trade union leave hours, which can be achieved through an investigative inquiry. In this case, the investigator ascertained that the employee spent his leave walking on the seafront, in bars and shopping.

Supreme Court (ord.) 27/05/2022 no. 17287

Unlawful dismissal of a supermarket cashier who consumed a snack without paying for it

The disciplinary dismissal of a supermarket cashier for taking and eating a snack at work without paying for it was unlawful according to the Supreme Court. The employer dismissed the cashier on the basis that their conduct constituted an illegal appropriation of company property. The court rejected the employer's argument, noting that the employee had not acted illicitly as they had taken and consumed the snack (which was of modest value) in an openly visible manner and without leaving their workstation.

Supreme Court (ord.) 27/05/2022 no. 17288

Damages linked to loss of income taxable

Economic indemnities received by an employee as compensation for loss of income and, therefore, all indemnities linked to an employment relationship must be considered employment income and therefore subject to taxation. If an indemnity is intended to compensate non-economic losses however, the amount is not taxable. This principle was applied in a recent case where compensation for income lost due to an individual not being appointed as a director was found to be taxable, whilst the same individual's compensation for damages relating to moral distress and the alteration of their personal and professional life was found to be non-taxable by the Supreme Court.

Supreme Court (ord.) 23/05/2022 no. 16512

On-call considered working time even when absent from workplace

For on-call and availability time to be considered paid working time, there is no obligation for the employee to be present at their workplace. What is decisive is the fact that as a result of being on-call, the employee's freedom to carry out other activities is restricted regardless of whether they are physically present at their workplace or not. The restriction of freedom must, however, be objective and significant, and must be based on two elements: (i) the time the employee is assigned before they must return to work following a call and (ii) the average frequency they are called out during the on-call period.

Supreme Court 23/05/2022 no. 16582

Employer liability for "straining" and compensation for damages

Unlike "mobbing" where a repeated and constant series of actions aimed at isolating an employee takes place, "straining" occurs when a single action that has a lasting stressful effect takes place. With this in mind, "straining" occurs when an employee is assigned tasks that are demeaning in a professional sense and have a lasting impact on their mental or physical health. In such cases, an employer is obliged to pay compensation for the damage suffered by the employee. On the other hand, there is no liability if any damages to health derive from the intrinsically exhausting nature of ordinary work tasks.

Supreme Court 23/05/2022 no. 16580

Criteria for selecting employee redundancies extended to include all affiliated companies

Selection criteria for redundancies must be determined by examining not only the company formally in charge of work relationships, but also any other companies in the same group, if there is a unique structure and a sole decisional centre in between said group companies. It is irrelevant whether an employee worked for only the company that had hired it and not also for the other group companies, as the selection criteria must be carried out with respect to all comparable employees working in all affiliated companies.

Supreme Court 27/4/2022 no. 13207

WATSON FARLEY & WILLIAMS

Invalid dismissal if final notice of staff redundancy procedure late

The time limit of seven days to notify trade unions and other labour offices and local authorities of a final communication of a staff redundancy procedure (Article 4(9), Law 223/1991) is binding and mandatory. If the final deadline is not respected, any dismissals are invalid and the appropriate remedies provided by law apply.

Supreme Court 04/05/2022 no. 14057

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.