

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 58

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WEEKLY ITALIAN LABOUR UPDATES

"The company policy aimed to regulate the work-life balance measures is a useful tool to help gender equality in career paths."

No additional monthly payments during special leave

While on 'special leave' as per Article 4(5) of Legislative Decree No. 151/2001, employees are only entitled to their fixed monthly salary and all other payments or benefits are excluded. 13th and 14th month payments are also excluded. The different policy expressed in INPS circulars does not preclude this conclusion. Nor is there any difference in treatment with respect to employees benefiting from three days' monthly leave pursuant to Article 33, paragraph 3 of Law 104/1992, who are entitled to 13th and 14th month payments in addition to their fixed monthly salary.

Court of Rome 06/06/2022 no. 5313

Level 1 apprenticeships valid for family members

Level 1 apprenticeships are available to 15-25-year olds enrolled in school/training courses and involve obtaining a qualification through a 'dual' programme that includes both external training and training supplied by the relevant company. The Ministry of Labour has clarified that a level 1 apprenticeship contract is valid even if it is executed with a family member providing. In such instances, it is important that the employer ensures that all professional standards and transparency are met to ensure any certificate acquired by the apprentice can be deemed valid.

Ministry of Labour, Circular 06/06/2022 no. 12

EU minimum wage directive set for approval

The new European Union minimum wage directive is expected to confirm that employees' wages must be appropriate for the type of work they carry out and guarantee them a respectable standard of living based on the current draft. The member states can introduce a minimum wage level by law, in the absence of which the collective bargaining agreements are vital to ensuring adequate minimum wage protection. The press release on the EU directive specifies that requirements for ensuring an acceptable standard of remuneration can be set either through a legal minimum wage or through collective bargaining agreements. The draft is still to be approved and may be subject to adjustments.

EU press release on minimum wage directive 07/06/2022

Complaint expressed to board of directors not cause for dismissal

According to the Italian Supreme Court, a general manager's dismissal after making a complaint to their board of directors concerning alleged criminal offences carried out by their employer is unjust on the basis that there was no slanderous intent when raising the concern. It is irrelevant that the accusations made ultimately turned out to be groundless given that the manager expressed them in a civil manner. The court pointed out that the relationship between a manager and their employer does not restrain the former's right to critique the latter when expressed in a manner that is neither defamatory nor offensive.

Supreme Court (ord.) 31/05/2022 no. 17689

No lunch vouchers for working days of fewer than six hours

Employees who work fewer than six hours – or the minimum limit set by a collective agreement – on a daily basis are not entitled to lunch vouchers even if they reach said hourly threshold through other means such as agreed maternity or parenting support. With regards to time taken off for breastfeeding, Article 39 of Legislative Decree 151/2001 equates such time spent as working hours. However, this provision does not apply regarding eligibility for lunch vouchers, for which only 'actual' working hours are considered.

Supreme Court (ord.) 25/05/2022 no. 16929

Clarifications on single centres of interest

A single centre of interest exists when there are various companies within a group and: (i) their organisational and production structure is unique; (ii) the activities carried out by companies within the group are integrated; (iii) the pursuit of a common purpose exists; (iv) the companies share the same directors; and (v) employees are shared between companies within the group. In such cases, an individual dismissal must be assessed with reference to the overall structure of the various companies within the group and must not be limited to the specific company the employee is formally employed by. The above also holds when one of the group companies has been assigned a specific service contract to be performed on the premises of one of the other group companies resulting in the service contract becoming invalid.

Supreme Court (ord.) 25/05/2022 no. 16975

Incentive to leave transferred into pension fund subject to taxation

The tax neutrality regime, whereby certain payments are not relevant for IRPEF (personal income tax) purposes, only applies to the transfer of TFR (severance pay) into a pension fund (Article 19, paragraph 4, TUIR). The same favourable regime does not apply when transferring any incentives given to managers due to the anticipated termination of their employment into a pension. The Revenue Agency reached this conclusion on the basis that the conversion of payments originally stipulated under a specific title into disbursements of another nature can only take place under a tax neutrality regime if provided for by a specific provision of law.

Revenue Agency, advance ruling no. 323 of 03/06/2022

National Legality Protocol against criminal infiltration signed

Confindustria and the Ministry of the Interior have signed a National Legality Protocol to combat criminal infiltration of the national business activities. The various Confindustria associations have been urged to collect anti-mafia documentation from their member companies. As such, trade associations will have access to a single, comprehensive national database of anti-mafia documentation. The aim of the protocol is to prevent infiltration by organised crime into the real economy given that having competitive companies and attractive investments requires a healthy socio-economic system.

Legality Protocol Confindustria/Ministry of the Interior 01/06/2022

Mandatory certification of workforce suitability on construction sites

Before a client pays a final fee, the suitability of workers employed by contractors on private construction sites must be proved. The contractor must present their client with a certificate of suitability for work (“Durc di congruità”) and the client has an obligation to have said certificate issued – subject to conditions laid down by the Revenue Agency – before making the final payment for any construction work. The suitability certificate is issued by the competent Cassa Edili (“Construction Fund”), which verifies the requirements have been met and, in the event of discrepancies, invites the construction company to address these within 15 days. If the discrepancies are not remedied before this deadline, the contractor will be listed in a national database of companies in violation of the mandatory certification obligations.

Revenue Agency, Circular 27/05/2022 no. 19/E

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