

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 63

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WEEKLY ITALIAN LABOUR UPDATES

"New transparency decree is about to be published and it obliges the businesses (among other things) to inform in writing the employees on any change to their employment conditions."

Wage garnishment limits

The rule in the Civil Procedure Code (Article 545) whereby an employee's wage garnishment is determined within specific limits (varying from a fifth to a half) exists to match the rights of the creditor with the livelihood needs of the employees. The limits on wage garnishment extend to include measures to prevent seizure and/or confiscation of items of equivalent value and excludes directors' emoluments.

Supreme Court S.U. 07/07/2022 no. 26252

Right to employment following company takeover

In the event that a company ceases business activity and transfers its assets to another company and an agreement is reached whereby the successor company takes on certain of its predecessor's employees, a third-party contract has effectively been agreed. Employees covered by collective agreements are entitled to be

employed by the successor company. Unless otherwise specified, to determine who gets hired it will be necessary for the potential employee to meet the requirements of the collective agreement relating to duties, department, seniority etc.

Supreme Court 06/07/2022 no. 21450

No vaccine requirement for healthcare workers in administrative roles

The Tribunal of Ivrea ruled that health care workers who carry out administrative duties exclusively and have no contact with patients are not obliged to be vaccinated against Covid-19. The employee in the case in question had been suspended for not complying with the legal requirements on compulsory vaccination for those working in healthcare. However, given that the rule is intended to prevent high-risk or vulnerable individuals from being exposed to Covid-19 and the employee's administrative role prevented them from coming into contact with such individuals, the tribunal ruled that the vaccine requirement did cover them and their suspension was therefore unlawful.

Tribunal of Ivrea 01/07/2022

Compensation until retirement for accident at work

An accident at work which, after various relapses, surgery and rehabilitation, resulted in permanent injuries that prevented an employee from being able to carry out job-specific actions deserved compensation to support them until they reached retirement age in 22 years. This decision relied heavily on the fact that the damage had a lasting effect on the employee's ability to find future employment at the same pay grade as prior to the accident.

Tribunal of Padua 30/06/2022 no. 404

Fraudulent internships

It is an offence for a company to run internships that do not comply with the new rules set out in the 2022 Budget Act (Law 234/2022). Any such fraudulent internship will be sanctioned with a fine of €50 per intern and per day of their internship. An internship is considered fraudulent when it is a *de facto* subordinate employment relationship disguised as an internship. The intern can request recognition of the subordinate nature of the employment relationship even if the internship was concluded or activated after 1 January 2022.

National Labour Inspectorate, Note 11/07/2022 no. 1451

Online service for communicating CIG flows now functional

From 1 May 2022, applications for the direct payment of salary support funds (CIGO, CIGS, etc.) can only be submitted via the telematic Uniemens-Cig flow. The INPS has announced that its website now has a section dedicated to companies and consultants, two services for the acquisition of Uniemens data relating to the direct payment of salary support funds and the ability to delete previously transmitted data.

INPS, Message 08/07/2022 n. 2743

Flows Decree – National Inspectorate operational instructions

In cases of employment of a foreign national under the Flows Decree (Law Decree 73/2022), the affidavit must indicate the employer's assets and financial capacity, the level of turnover produced, the number of employees hired and the type of activity carried out. In addition, the employer's advisors are responsible for obtaining the DURC and self-certifications. All these details were reported by the National Labour Inspectorate in its recent circular with a model affidavit document attached.

INL, Circular 05/07/2022 no. 3

Holiday pay cannot be less than normal working pay

The remuneration for the minimum legal period of annual leave (four weeks) may not be lower than the remuneration that employees receive for their normal working activities. Only in respect of the additional days of leave provided by national collective labour agreements for example, is lower remuneration permissible. On the basis of this principle, the provision of the National Collective Labour Agreement for Air Transport that excluded supplementary flight allowances from the calculation of holiday pay was declared null and void.

Supreme Court 23/06/2022 no. 20216

Reinstated employees cannot be transferred elsewhere

If a judge has deemed the transfer of business unit to be unlawful and has ordered the reinstatement of its employees and the company does not comply, said company cannot avoid paying the remuneration of the employees on the assumption that the relevant business has been once again transferred due to a “spin off” operation. If the reinstatement order was not accomplished, the affected employees do not fall into the new business transfer and the previous employer is still obliged to pay their remuneration.

Tribunal of Milan 14/04/2022 n. 942

WhatsApp messages can be used to determine working relationships

WhatsApp messages can be used in court to determine the working relationship between an employer and employee. Messages received via WhatsApp fall under the ‘short message service’ category and are considered ‘mechanical representations’ of facts according to Article 2712 of the Civil Code, making them legally relevant and able to be used as evidence in court.

Tribunal of Rome 10/09/2021 no. 7083

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