

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 75

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WEEKLY ITALIAN LABOUR UPDATES

"If the transfer of business is unlawful, the employees are entitled to be paid the remuneration by the vendor even if their employment has continued de facto with the transferee."

National Collective Labour Agreements (CCNL) available on Ministry of Labour website

A special section of the Ministry of Labour's website containing national collective labour agreements ("CCNL") with the private sector is available online. The database is freely accessible and allows access to the details of all the regulatory provisions of CCNLs collected through CNEL, which manages the database and updates it with renewed collective agreements. Employers will be able to fulfil their obligations to provide their employees with the relevant CCNL – as now provided for by Law Decree 104/2022 (the so-called Transparency Decree) – at the time of recruitment by providing the link to the "Norme e contratti collettivi – Archivio CNEL" area on the ministerial website. test

Ministry of Labour, Message 30/09/2022

Trade unions must be privy to company closure plans

In instances where company collective agreements which, in addition to the provisions of the national collective labour agreement, provide obligations to inform and consult with trade unions, a company must periodically inform its trade union representatives about its financial status and production activity. It is considered anti-union conduct to initiate a procedure against collective transfers (introduced by Law 234/2021 and updated by the recent Decree-Law Aiuti-ter) for the closure of a production plant and the consequent reduction of personnel, without previously informing and involving trade union representatives on the status of said plant and the decision to proceed to its closure. The obligation to inform trade unions in advance cannot be limited by secrecy obligations arising from intra-group dynamics and the constraints of "marketing abuse regulations". On these grounds, in a recent case in the Court of Trieste, a procedure provided for by Law No. 234/2021 was revoked and, with it, the related collective dismissal procedure with an order for the company in question to initiate the consultation phase with the trade unions on the prospected closure of the production site.

Court of Trieste (decree) 22/09/2022, Judge Ancora

Recording conversations between colleagues is lawful if used as evidence in court

According to the Supreme Court, it is lawful for an employee to record a conversation between themselves and their colleagues without their knowledge if the recording can be used as evidence in court when defending their employment with their employer. It is not necessary to obtain the prior consent of the individuals in the recording's sole purpose is for the assertion or defence of a right.

Supreme Court 29/09/2022 no. 28398

No longer necessary to submit medical documentation to INPS for flexible maternity leave

Taking flexible mode' compulsory maternity – which allows employees to take five months' leave, either one month before birth and four postpartum or the full five postpartum – no longer requires submitting medical documentation to the INPS attesting to the employee's capacity to continue working after the seventh month of pregnancy. In order to take advantage of said leave employees were previously required to submit a certificate from an approved gynaecologist and a certificate from the competent company doctor. The INPS has now clarified that the prior submission of these documents is no longer necessary to obtain the leave with it being sufficient for employees to submit the documentation to their employer.

INPS, Circular 29/09/2022 no. 106

Compulsory training enters into force

On 29 September 2022, the ministerial provisions for the compulsory training for employees benefiting from extraordinary salary support fund ("CIGS") entered into force. Employees who are claiming CIGS on zero hours' work or those subject to a reduction in working hours are required to participate in training or retraining courses. Training and retraining projects must promote reskilling employees for their existing employment or facilitating their re-employment elsewhere by updating their professional skills. The projects can be co-financed by the regional authorities and, at the end of the course, the individual must be issued a certificate of the skills acquired for transparency.

Ministry of Labour Decree 02/08/2022, published in the Official Journal on 28/09/2022

Rules on employment contract transfers

The transfer of an employment contract from a previous employer to a new one does not require any special forms to be observed other than those laid down for when establishing the original employment relationship. In other words, the same rules as those provided for the valid establishment of the original employment contract apply formally to the new contract. An employee is not required to expressly consent to the transfer of an employment contract as the consent of the transferred employee is implied. Finally, the consent of the transferred employee, whether expressed or implied, may be given after a transfer contract has been concluded between the employer and transferee, provided that the conditions of the transfer have not changed.

Supreme Court 21/09/2022 no. 27681

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E-mail to superiors reporting negative conduct of another manager is not reputational damage

An employee who sent an e-mail to her superiors informing them of a conversation she had with another manager in the company in which she disclosed “disreputable behaviour” towards her within the work environment, is not liable for unlawful conduct. Since the employee merely reported the content of the conversation and did not use offensive or insulting language against the manager there was no offence against them, nor was there any reputational damage attributable to the e-mail sent by the employee to her superiors.

Supreme Court 20/09/2022 no. 34777

Contribution exemptions for travel agencies and tour operators have been communicated

Pursuant to Decree-Law Sostegni-ter, travel agencies and tour operators are entitled to a five-month contribution exemption for the period between April and August 2022, to be used by the end of the current year (Article 4, paragraph 2-ter, Decree-Law 24/2022). INPS has communicated the procedures and deadlines for submitting the application in order to access to the contribution exemption. The instructions also concern requests to re-examination applications that have already been submitted and only partially accepted. The re-examination request must be submitted by 13 October 2022 and a lack of response within the following 30 days is considered a rejection.

INPS, Message 29/09/2022 no. 3549

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