

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 77

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WEEKLY ITALIAN LABOUR UPDATES

"Working days
reduction combines
with energy savings.
The collective company
agreement allows a
tailor made
regulation."

Excessive conflict in a company does not indicate an unsafe working environment

The employer is not liable for violation of the obligation to ensure the suitability and safety of a working environment if there is "heated conflict" between colleagues. With this in mind, the Supreme Court clarified that excessive conflict in a company does not in itself indicate an unsafe working environment since disagreements can naturally occur in the workplace, especially if the employers' organisation is hierarchical.

Supreme Court 06/10/2022 no. 29059

Fixed-term agency contracts and lack of key requirements

Employees on fixed-term agency contracts who are used repeatedly over long periods of time may use this repetition to contest an abuse of their contract. The "temporariness" of fixed-term agency work contract, as provided for in Article 5(5) of EC Directive 104/2008, is a structural condition of this type of contract. Therefore, even if an employee forfeited their right to challenge an individual supply of manpower contract, the court is not prohibited from undertaking an overall assessment of the various renewals and extensions of their supply of manpower contract with the same user company.

Supreme Court 11/10/2022 No. 29570

Gender equality certificates only valid with Accredia and Uni mark

Not all gender equality certificates with a Uni/PdR 125:2022 reference code are recognised. In order for gender equality certification to allow access to the relevant tax benefits and perks, they must have the "Accredia" logo and the "Uni" mark. This clarification was made in a joint note by national accreditation body Accredia together with national standardisation body UNI, in light of the recent proliferation of certificates issued by non-accredited bodies.

Accredia – UNI, Joint Note 13/10/2022

Maternity leave a valid form of previous experience

The Court of Appeal of Catanzaro clarified that when applicants apply for permanent positions in a company, any and all compulsory maternity leave taken during the applicant's previous position must be included as part of the period of time spent at that position when referring to 'previous experience'. The Court clarified that it is irrelevant that during that period the candidate did not actually perform their duties and that a different reading could constitute a form of indirect discrimination against the employee on account of her previous status as a pregnant woman. Equal treatment and equal opportunities between men and women must be guaranteed "from the stage of access to employment" and, therefore, a selection that does not take into account the period of compulsory leave during pregnancy, regardless of the fact that the job was not performed, constitutes an indirect form of discrimination.

Court of Appeal of Catanzaro, 30.9.2022 no. 1041

Transfer of employment contracts and implicit consent of employees

The transfer of an employment contract may be expressed by evidences after the transferor and the transferee have finalised the act of transfer. This rule was highlighted in a recent Supreme Court case in which an employee's tacit acceptance of their transfer was implied, based on: (i) their uninterrupted employment until dismissal and (ii) the fact that they had brought an appeal against their dismissal only against the transferee. In the Supreme Court's view, this conduct was indicative of implicit consent to the transfer. Hence, the rejection of the employee's claim, which argued that they be recognised as an employee of their original employer.

Supreme Court 21/09/2022 no. 27681

INPS clarifications on one-off €150 allowance

The INPS has provided explanatory instructions on the one-off €150 (indemnity provided for by art. 18 of Decree-Law 144/2022) to employees (excluding domestic workers) with a taxable salary for social security purposes that does not exceed €1,538 and who are not in receipt of pension benefits (as provided for by art. 19 of Decree-Law 144/2022). The allowance is automatically granted by both public and private employers (including natural persons) to employees in their November 2022 salaries. In order to obtain the allowance, employees must provide their employer with a declaration stating that they are not in receipt of pension benefits (in which case it is, in fact, the INPS that directly disburses the aforementioned allowance).

INPS, Circular 17/10/2022 no. 116

INPS clarifications on one-off allowance for part-time employees

The INPSs has provided operational clarifications on the payment of the one-off €550 allowance for 2022 to so-called "vertical cyclical" part-time employees (under Article 2-bis of Decree-Law No. 50/2022). The payment of the allowance assumes that in 2021 the employee suffered, as a result of vertical cyclical part-time shifts, a continuous period of non-work of at least one month and a total period of non-work of no less than seven and no more than 20 weeks. A continuous period of one month of non-work is to be understood as a period of four weeks without work. Another condition for the payment of the allowance is that the employee, at the time of submitting their application, does not have another job and is not a NASPI recipient.

INPS, Circular 13/10/2022 no. 115

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INPS clarifications on one-off €200 bonus

The INPS has clarified that the one-off €200 bonus to be paid in recipients' October 2022 monthly salary as provided for in Article 22 of Decree-Law no. 115/2022, is due to employees who did not benefit from the 0.80% contribution exemption in the period between 1 January and 18 May 2022 as they were beneficiaries alternative provided by the INPS during that period. Employees who, for any event related to the suspension of activity (illness, lay-off, etc.), have benefited from full social security contributions are included in this condition. Only employees who, in addition to meeting the aforementioned conditions, are employed in October 2022 and were employed (even by another employer) in July 2022, benefit from the one-off payment. Furthermore, employees must declare in writing to their employer that they did not benefit from the one-off bonus in July 2022. *INPS, Circular 07/10/2022 no. 111*

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