

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 80

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### WEEKLY ITALIAN LABOUR UPDATES

"The collective company agreement allows to customize to business needs the distribution of the work shifts within part-time employments."

#### **Interministerial Decree on refinancing of New Skills Fund registered**

The Interministerial decree between the Ministry of Labour and Ministry of Finance on the €1bn refinancing of the New Skills Fund (the "Fund") was registered at the Court of Auditors on 27 October 2022. The decree defines the parameters and conditions for accessing financing for training related to company reorganisation and redevelopment processes linked, in particular, to the green transition and the digitalisation of production equipment. Said financing is available to companies that provide special training courses as part of collective agreements signed by 31 December 2022 on the rescheduling of working hours. It is worth noting that the amount financed by the Fund has been reduced by 60% but reverts to 100% if a

company reduces the normal work hours for the same total remuneration for a period of at least three years. A company that accesses the financing cannot be a training provider. Applications for access to the Fund may not be submitted until ANPAL (National Agency for Active Labour Policies) has published its notice with the operating procedures.

*Ministry of Labour – Mef, Decree registered 27/10/2022*

#### **Compensation for neuroma from prolonged mobile phone use**

The Court of Appeal of Turin found that an acoustic neuroma thought to have been developed as a result of an employee's exposure to radio frequencies from prolonged, work-related use of a mobile phone is a professional illness that can be compensated by INAIL with an income for life. In such cases, if a causal link between prolonged use of a mobile phone and the illness can be proved then lifelong income from INAIL is payable for a permanent disability assessed in a 53%. Even if the reason for the acoustic neurinoma is not fully known, Inail's indemnity applies if the exposure level to the radiofrequencies emitted by a work mobile phone was sufficiently high.

*Court of Appeal of Turin 03/11/2022 no. 519*

## **Dismissal for backdated retention covenant**

The conduct of a manager who, in agreement with their managing director, arranged a retention pact in his favour which was particularly burdensome for the company, constitutes just cause for dismissal, according to the Supreme Court. The backdating of such a document is indication of conduct contrary to the canons of good faith. On these grounds, the validity of the manager and their colleague's dismissal was confirmed by the Supreme Court.

*Supreme Court 07/11/2022 No. 32680*

## **Employer liable for accidents when safety training has not been carried out**

An employer's safety officer must be adequately trained and carry out periodic health and safety updates (Art. 37(7) of Legislative Decree 81/2008). If an employer has failed to train their safety officer, they are always liable for employee accidents at work. The employer remains liable for not training the safety officer even if the employee injured had extensive operational experience in their role. On-the-job training and assistance from other colleagues are not considered appropriate substitutes for proper training.

*Supreme Court 19/10/2022 no. 39489*

## **Certified tender contracts and sanctions**

If a contract has been certified, the Labour Inspectorate is obliged, in every instance, to contest its legality before a Regional Administrative Tribunal, preceded by an attempt at mediation. The main purpose of certifying tender (and other) contracts is to avoid legal disputes by providing a mandatory prior attempt at conciliation followed by recourse to the Regional Administrative Tribunal (Article 75 et seq. of Legislative Decree 276/2003). The Inspectorate cannot, however, proceed directly to contest any infringements and impose corresponding sanctions. This also applies when the Labour Inspectorate's preliminary objections relate to the validity of the certifying body and in the event of a violation by a certification board.

*Court of Appeal of L'Aquila 05/07/2022*

## **Bonus for utility bills**

The reimbursement of household utility bills up to the maximum of €600 with tax exemptions (introduced by Article 12 of Decree-Law 115/2022) is also available to 'coordinated and continuous collaborators' as well as interns and scholarship holders. These workers cannot, however, access the €200 indemnity for fuel expenses (introduced by Article 2 of Decree-Law 21/2022) unlike official employees. These rules have been laid out by the Revenue Agency.

*Revenue Agency, Circular 04/11/2022 no. 35*

## **Tax cost deductions for cars used exclusively for work purposes**

If a vehicle is used exclusively for business purposes and not for private use, the relevant costs are fully deductible under Article 164(1)(a) TUIR. Cars used for surveillance activities fall into this very narrow category as they are fitted with equipment and instruments that make private use virtually impossible.

*Revenue Agency, Answer to question 07/11/2022 no. 553*

## **Pensions not part of *aliunde perceptum* following unlawful dismissal**

The pension of an employee after being unfairly or illegitimately dismissed does not fall under the scope of *aliunde perceptum* (any financial gain acquired prior to the court deciding on compensation in a lawsuit) and cannot, therefore, be deducted from the amount of compensation for damages due to the employee following the annulment of their dismissal and the judicial order of reinstatement in service. *Aliunde perceptum* includes only income earned by an employee for work undertaken in the period between dismissal and the order to reinstate their employment relationship. Receiving a pension does not depend on work carried out but on an individual's age and the contribution requirements to access to social security benefits. It follows that the pension received by an employee in the time between the dismissal and the order of reinstatement at work is not deductible from the amount of compensable damages.

*Supreme Court 31/10/2022 no. 32130*

## **Broad notion of “individual protection devices” for employee safety**

The “individual protection devices” an employer must make available to employees to safeguard their health and prevent the risks of accidents at work, is not limited to equipment that is specifically produced and marketed for the protection of specific risks (Article 2087, Italian Civil Code). This is to be understood in a broader sense and encompasses any tools or equipment that can be considered a protective barrier against any risk to the health and safety of employees. Therefore, individual protection devices are also instruments which, although not specifically marketed for the prevention of accidents in the workplace, in the specific circumstances in which service is carried out constitute protection for employees (e.g. waterproof jacket against the weather and winter work trousers).

*Supreme Court (ord.) 11/10/2022 no. 29720*

## KEY CONTACTS



**GIUSEPPE BULGARINI  
D'ELCI**

PARTNER • MILAN

T: +39 02 721 7071  
M: +39 347 26 86 664

[gbulgarini@wfw.com](mailto:gbulgarini@wfw.com)



**ROBERTA CRISTALDI**  
COUNSEL • MILAN

T: +39 02 721 7071  
M: +39 344 0506106

[rcristaldi@wfw.com](mailto:rcristaldi@wfw.com)

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