SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 81

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WEEKLY ITALIAN LABOUR UPDATES

"The collective company agreement can allow employees to convert the variable remuneration linked to KPI's into welfare services."

Aiuti-quater decree raises cap on tax-free fringe benefits for households

The cap on tax-free fringe benefits that employers may grant employees for the 2022 tax year has risen from €600 to €3,000. These benefits include the financial support, benefits and services companies provide employees to pay for electricity, gas and water utilities. The Aiuti-quater decree (currently in the process of being approved) considerably broadens the threshold for the maximum amount granted introduced in the Aiuti-bis decree to allow employers to further support their employees regarding the increasing cost of domestic utilities. These benefits technically fall under company welfare measures that do not contribute to taxable income. A company agreement is still the preferred method for enabling employers to deduct 100% of their expenses on these fringe benefits.

Aiuti-quater decree, draft approved by the Council of Ministers 10/11/2022

Non-compete covenant compensation paid during employment relationship and not after termination

The validity of non-compete covenant compensation presupposes that any money received is not merely symbolic or in any way unfair or disproportionate in comparison to the limits imposed upon them when seeking new employment following the termination of their existing role. An investigation must take place to ascertain whether the amount of monthly renumeration paid during their period of employment balances out those by which the employee is bound. Therefore, the assumption that a non-compete covenant is null and void due to the indefinite nature of remuneration when it is paid on a monthly basis whilst employed must be rejected.

Supreme Court (ord.) 11/11/2022 no. 33424

Providing justification for seven day+ absence post facto sanctionable though not grounds for dismissal

The dismissal of an employee who has been absent from work without justification for seven days but submitted a valid doctor's note after the disciplinary action has been initiated is unlawful. The delivery of a medical certificate, even if it is delivered more than a week after the absence, prevents said absence from being considered unjustified and instead constitutes a breach for late justification of absence. Since the NCLA deems tardiness of justification a minor sanction, making this grounds for dismissal inflicted for the more serious reason of unjustified absence is invalid due to the non-existence of any contested fact. It follows that the employee must be reinstated in service and compensated for damages to an amount equal to the time not worked, in addition to any related contributions.

Supreme Court (ord.) 10/11/2022 no. 33134

Collective redundancies must include employees of all company's units and subsidiaries

When a collective redundancy procedure is being carried out, it must cover employees of *all* a company's units and subsidiaries when determining selection criteria for redundancy or is unlawful. If these units and subsidiaries share the same organisational and production structure, have a common interest and carry out integrated services, benefit from technical and administrative-financial coordination and, finally, simultaneously share the services of employees, it constitutes a unified organisation to which all employment relationships must be attributed.

Supreme Court (ord.) 08/11/2022 No. 32834

Anpal provides operating instructions for access to New Skills Fund

Anpal has published a notice on how to access training funding through the New Skills Fund based on the new provisions of the Interministerial Decree (Ministry of Labour/MEF) of 27/10/2022. By 31 December 2022, companies seeking to access the fund must sign an agreement to revise their employees' working hours to accommodate said training, whilst applications for projects to update employees' skills (primarily relating to digital and energy transition) must be submitted between 13 December 2022 and 28 February 2023. Once an application is approved, companies have 150 days to carry out the agreed training, report the working hours to be financed and submit a reimbursement request. Applications are evaluated in chronological order until funds are exhausted. Any funds that are interested in financing training projects for their employers must notify said interest by 3 December 2022. The duration of training for each employee involved in a training project must ranges from a minimum of 40 to a maximum of 200 hours. The maximum contribution for each application must not exceed €10m.

Anpal, Public Notice 10/11/2022 no. 320

INPS clarifications on contribution exemption after returning to work from maternity leave

If an employee returns from maternity leave (midway through a month), the 50% exemption from contribution payments payable by the employee (Article 1, paragraph 137, Law 234/2021) applies only to the taxable amount of social security starting from the day of actual return. Said exemption is valid for the following year from the date of return to work. Any periods of absence (e.g. for sickness and holidays) taken after maternity or parental leave that follow the previous period of absence, alter the date of return to work.

INPS, Message 09/11/2022 no. 4042

Online procedure activated to renounce leave permits

The INPS has activated a procedure on its online portal to manage permissions and licences allowing employees to renounce any requests for leave made that fall under Law 104/1992. Employees who have applied for leave in order to assist a disabled family member (or any other reason covered by Law 104/1992) can use the portal to waive said leave. The waiver only covers, however, leave requested for the same month in which the initial application was made. For example, one can renounce leave days requested in December that month, but not those requested for January.

INPS, Message 09/11/2022 no. 4040

Prolonged inactivity of employees is not equivalent to a waiver to the right to bonuses

That employees whose employer failed to pay them correctly during their half-hour lunch breaks did not exercise their right to said payment to which they are entitled as part of a collective labour agreement over the course of an extended period, does not amount to them waiving their right to such. This inaction on their part could be the result of ignorance, temporary impediment or another cause that prevented them from claiming their payment to which the Supreme Court has ruled that they are entitled.

Supreme Court (ord.) 20/10/2022 No. 30928