

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 87

29 DECEMBER 2022 • ARTICLE



### WEEKLY ITALIAN LABOUR UPDATES

"The taxation of the performance bonus is halved by the Budget Law 2023. Company agreements are the necessary instrument."

#### **Collective agreements signed by the end of 2022 to access the New Skills Fund**

The final deadline for signing the second-level (company or territorial) collective agreement for accessing the New Skills Fund remains 31 December 2022. The Special Commissioner of ANPAL confirmed that the postponement until 28 February 2023 of the deadline for preparing training projects was granted in order to facilitate the submission of applications in the face of an inter-ministerial decree implementing the new edition of the Fund published on 3 November 2022. In that case, projects will have to be shared with the trade unions who will sign the second-level collective agreement. However, the sharing of the training projects must take

place on a formal level "under penalty of the inadmissibility of the application." It follows that, subject to the signing of a company or territorial agreement by the end of the year, the training project must also be signed (or otherwise formally shared) with the trade unions by the end of February 2023.

*ANPAL, Interpretative note 23/12/2022 no. 17372*

#### **Five-day deadline for communicating commencement of smart working**

Informing the Ministry of Labour on the commencement of smart working – which is mandatory for all private employment relationships as of 1 January 2023 – must be made within five days of its effective date. The reason lies in the fact that the commencement of smart working equates to a change to the employment relationship, which, as such, must be communicated within the five-day deadline. The Ministry of Labour issued this clarification in its own FAQs on 23 December 2022, in which it attributes the five-day deadline "to new agreements and extensions" only. Smart working agreements activated before the end of the year are not subject to the five-day deadline whilst extensions to the aforementioned agreements entered into from 1 January 2023 are.

*Ministry of Labour, FAQ 23/12/2022*

## **Client company prohibited from accessing recordings from video recording systems**

Only an employer may process data obtained from video recording systems in company vehicles supplied to employees pursuant to Article 4 of the Workers' Statute. Ownership and responsibility for processing data acquired through installed video recording systems remains exclusively with the employer of the vehicles' drivers. It follows that the control of the video recording systems installed in vehicles by a contractor company is unlawful, since only a client company, as the owner of the employment relationships, can view the recordings and process them. Based on these arguments, an authorisation order for the installation of video recording systems in the vehicles of a contractor's employees was revoked because the processing of the recordings was provided by the client company.

*TAR Lazio 23/11/2022 no. 15644*

## **Article 2103 of the Italian Civil Code on superior duties also applies to public companies**

An employee of a public in-house company, who has continuously performed duties attributable to a higher qualification than the contractual level assigned by their employer, must be recognised as being classified at a higher level. In this case the public rules for career advancement by selective process do not apply, because an in-house company is a private entity. The fact that a company's capital is entirely public is not decisive, because the employment relationship is governed by the rules of private employment law. Therefore, Article 2103 of the Italian Civil Code also applies to the employees of companies wholly owned by the public sector, pursuant to which, in correspondence with the continuous performance of six months' worth of superior duties, the employee is entitled to be classified in the category corresponding to the superior activities performed.

*Supreme Court 01/12/2022 no. 35421*

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