

SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 103

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WEEKLY ITALIAN LABOUR UPDATES

"Collective company agreements allow to customize training and career paths to the needs of the business."

Dismissal ticket still due if worker resigns during paternity leave

An employer is still required to pay the so-called “dismissal ticket” (termination fee) even in the event of an employee’s resignation during paternity leave (mandatory or alternative) and until the employee’s child’s first birthday. This new measure is provided for by INPS and is linked to the Equilibrium Decree (Legislative Decree 105/2023), which extended paternity leave. This measure recognizes the NASPI unemployment benefit for working fathers that have taken mandatory paternity leave (outlined in circular No. 32/2023). Employers will, therefore, have to contribute by paying the dismissal ticket to the NASPI unemployment benefit

coverage for working fathers who have taken paternity leave and resign during the first year of their child’s life.

INPS, Message 12/04/2023 no. 1356

INL clarifications on video surveillance systems

The National Labour Inspectorate has provided guidance on the issue of authorisation for the installation of video surveillance systems, reiterating the absolute prohibition on them being used to carry out intentional monitoring of workers’ activities. The installation presupposes a company agreement with a trade union counterpart, and even in the absence of an agreement, an employer can still submit an application to the Inspectorate, specifying the reasons for the lack of agreement. Workers giving their consent to the use of surveillance systems is not enough to make up for a lack of a company agreement or authorisation from the Inspectorate. Companies with multiple offices may sign a single company agreement with the trade unions that are more representative at national level or can submit an application for authorization to the National Labour Inspectorate. Finally, it is clarified that the guarantees set out in Article 4 of the Workers’ Statute also apply if the use of the video surveillance system is imposed by sector regulations (e.g. in schools or social welfare facilities).

INL, Note 14/04/2023 no. 2572

INL clarifications on geolocation systems

The INL provided clarifications on the use of geolocation systems, outlining the extent of their use in line with the prescriptions issued by the Guarantor for the processing of personal data. If geolocation systems are installed in company cars, it is not necessary to transmit the required list of license plates. It is noted that the installation of geolocation systems on vehicles used by workers is allowed subject to the following conditions: (i) there must be no continuous monitoring of workers; (ii) displaying workers' exact geographical location must only occur when strictly necessary (protecting of company assets, safety at work, etc.); (iii) only authorized persons can access the workers' geographic position; (iv) the system must be able to be deactivated during breaks and at the end of working hours; (v) data must be stored and retained only when necessary and for a time proportionate to the purpose; and (vi) processing must be carried out, as a rule, in such a way that does not reveal any personal identification data.

INL, Note 14/04/2023 no. 2572

Rule that limits extracurricular traineeships to those with 'social inclusion' difficulties

The provision of Law no. 234 of 30/12/2021 (art. 1, par. 721, lett. a) under which the revision of the regulations on how extracurricular traineeships must take place "*according to criteria that restrict certain applications in favor of those of individuals with 'social inclusion' difficulties*" is constitutionally unlawful. In line with this principle, the provision of the law limiting the application of extracurricular traineeships to those with social inclusion difficulties, excluding the possibility for the regions to introduce any different training choice at the Permanent Conference for relations between State, Regions and Autonomous Provinces, is contrary to the Constitution.

Constitutional Court 14/04/2023 no. 70

NCLA for Tertiary Sector Executives renewed

The NCLA for Tertiary Sector Executives has been renewed. In particular, there is a monthly economic increase of €450 which will affect the minimum table and will be recognised in three instalments of €150 in December 2023, July 2024 and July 2025. There is also provision for a one-off payment of €2,000, to be paid to executives in three instalments, to cover arrears for the 2020/2022 contractual holiday period. Finally, an outlay of €1,000 is planned for welfare benefits and services. The new welfare amount is on an annual basis and is in addition to any company welfare schemes already in place.

NCLA Tertiary Sector Executives, Renewal 13/04/2023

Dismissals following a change of contract fall under the collective dismissal procedure

Dismissals ordered by an employer following a change of contract must be managed by applying the collective dismissal procedure pursuant to Articles 4 and 24 of Law 223/1991. Only in cases where the incoming contractor hires workers already employed by the outgoing contractor and dismissed by the latter, does the collective dismissal procedure of consulting with trade unions not apply. The rule that provides for the exception assumes that the workers dismissed by the outgoing contractor are re-employed by the successor company due to a social clause of the collective employment agreement.

Cass. 11/04/2023 no. 9650

Reinstatement protections limited to cases of nullity expressly provided by the law may be unconstitutional

The Court of Appeal of Florence declared the dismissal of an employee, hired with an employment contract falling under the protections of the Legislative-Decree 23/2015, null and void because it was imposed in violation of the intervention procedure of the Disciplinary Council, provided for by the special regulations for train drivers. However, the judges did not apply the reintegration protection provided by the so-called *Increasing protection* (Article 2, paragraph 1, Legislative Decree 23/2015) because the violation did not, in that instance, expressly provide for the nullity of the dismissal. Conversely, according to the letter of the *Increasing protection*, reinstatement can only occur if the nullity of the dismissal is expressly provided for by law. The Court of Cassation, sued by the worker, referred the question of the constitutional legitimacy of the provision of the *Increasing protection* to the Constitutional Court, as the limitation of reinstatement appears to be in contrast with the Delegated Law no. 183/2014 (so-called Jobs Act) which provides that reinstatement must be applicable to all cases of nullity of dismissal. *Cass. (ord.) 07/04/2023 no. 9530*

Amounts in company pension fund cannot be forfeited after termination of employment

Accumulated sums in a company's supplementary pension fund cannot be forfeited. This remains the case even after the termination of an employment relationship, when contributions to the company pension fund are no longer paid in favor of the employee. This is because if the employee does not transfer the accumulated contributions to another pension fund or does not request redemption of the position, it remains under management at the company pension fund and is considered to be in the accumulation phase. Article 11, paragraph 10, of Legislative Decree No. 252/2005 provides that individual positions in the accumulation phase in pension funds are nonforfeitable. Article 14, paragraph 2, letter c-bis of Legislative Decree No. 252/2005 provides that, in the member's inactivity, their amounts are automatically maintained in the supplementary pension scheme even in the absence of further contributions.

Cass. 04/04/2023 no. 9249

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