

## SNACKS: DIGESTIBLE WEEKLY LABOUR NEWS – ISSUE 106

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### WEEKLY ITALIAN LABOUR UPDATES

"When using automated decisional systems additional information must be delivered to the employees."

#### **More than five days of unjustified absence triggers dismissal**

Unjustified absence exceeding the maximum period laid down in a collective agreement or, in the absence of a provision in said agreement, one of more than five days results in the termination of an employment relationship and is held to be the employee's responsibility. This eliminates the need for an employer to initiate disciplinary proceedings for dismissal with just cause. This provision is contained in a draft law reviewed by the Italian Government on 1 May 2023 when the new Employment Decree was approved. Among other things, the draft law contains a provision establishing how to determine the shorter probationary periods for fixed-

term contracts compared to permanent contracts. Specifically, it provides that the minimum duration for fixed-term contract probationary periods must be no less than two days and the maximum duration be one day's work for every 15 calendar days in the contract.

*Council of Ministers, Draft Law 01/05/2023*

#### **Dismissal for misconduct unlawful if conduct accepted within the company**

To assess the proportionality of a disciplinary dismissal, reference must be made to several factors including, but are not limited to, the breach of the obligations of diligence and loyalty. The proportionality assessment must take into account the "environmental prejudice (*disvalore ambientale*)" an employee's misconduct generates within their workplace. This means one must assess the employees' position within their company's hierarchy and the impact that their behaviour has had, or could have, on their colleagues. Applying these principles, the dismissal of a bank official for unauthorised access to their company's computer system was held to be unlawful, as this conduct constituted an accepted practice and had, therefore, no significant impact on other employees.

*Supreme Court (ord.) 17/04/2023 no. 10124*



## **Criminal acquittal does not invalidate disciplinary dismissal**

Even if criminal proceedings end with an acquittal, a dismissal for just cause imposed by an employer who was not a party to said proceedings remains valid. The acquittal of an employee from charges of theft that also led to their dismissal with just cause has no effect in civil proceedings against their employer if the latter did not participate in the criminal proceedings. Even after the acquittal judgment has become final, the employment judge remains free to independently ascertain the contested facts that have already been the subject of the criminal proceedings. Consequently, dismissal with just cause may be held to be lawful in civil proceedings even if the employee has been acquitted in criminal proceedings.

*Supreme Court (ord.) 06/04/2023 no. 9454*

## **“Info CIG” service rolled out nationwide**

The “Info CIG” online client assistance live chat service operated by the INPS will be available nationwide to both employers and employees from 22 May 2023. The service allows companies to obtain information on the use of wage subsidies for the reduction or suspension of business activity, as well as to check on the progress of applications for such financial support. For employees, the service informs them of the economic and social security support available in cases of reduced working hours or zero-hour work suspension. The service will be available from Monday to Friday from 3pm to 6pm and can be accessed via the “Info CIG” link. The service also allows users to have a live chat with an INPS advisor to discuss the above-mentioned matters.

*INPS, Message 03/05/2023 no. 1605*

## **Ministerial Decree for road transport training published in the Official Gazette**

The deadline for applying for grants for vocational training in the road transport sector expires on 16/05/2023. The training activities covered by the grant must be targeted at the acquisition or enhancement of skills in business management, using new technology, boosting competitiveness and improving road and occupational safety. A grant is contingent on a specific company or inter-company training plan. The training activities covered by the grant must take place between 15 June and 30 November 2023. Training to obtain haulier qualifications is not included in the training covered by the grant.

*Ministry of Infrastructure and Transport Decree 28/03/2023, published in the Official Gazette 05/05/2023 n. 104*

## **Restatement of interest for deferred social security contributions or social security contributions paid in instalments**

The new interest rate for social security contributions paid by instalment or deferred social security contributions was announced following the increase in the interest rate on refinancing transactions ordered by the European Central Bank. The deferment interest for the payment in instalments of social security contribution debts and civil penalties was set at 9.75% per annum (applicable on instalments submitted from 10/05/2023). The same percentage applies to interest due in the event of authorised deferral of the payment deadline for social security contributions (also from 10/05/2023). With respect to civil penalties, both for (i) failure to pay social security contributions (non-payment or delayed payment) and (ii) evasion of social security contributions (omitted or untruthful compulsory registrations or reports) interest is increased to 9.25% per annum.

*INPS, Circular 08/05/2023 no. 44*



## **Procedures announced for accessing “Opzione donna” early retirement scheme**

The INPS has announced the procedures for managing applications for accessing the “Opzione donna” early retirement scheme (Article 16, paragraph 1-*bis*, Decree Law 4/2019). In particular, the operational guidelines for obtaining the payment of this particular form of early retirement pension reserved for female workers were announced. For employed and self-employed women whose pension is paid by the General Compulsory Insurance (“AGO”) or its replacements, “Opzione donna” cannot take effect before 1 February 2023. In contrast, and only for employed women whose pension is paid by the AGO, “Opzione donna” is effective from 2 January 2023.

*INPS, Message 04/05/2023 no. 1611*

## **Management of activities through client company’s software unlawful outsourcing**

Where the services of workers of a contractor are organised on based on hardware and software owned by the client company, this constitutes unlawful procurement of labour. For example, a forklift driver who uses a forklift equipped with a tablet to find out where to pick up pallets and then transport them to, has his working activity entirely organised by such aforementioned hardware and software. As the tablet and software provided to the forklift driver is owned by the client company, their work is directed and controlled via the client company’s IT system. Therefore, the contracting cooperative is no more than a formal screen for employment relationships that are substantively and operationally exclusive to the client company.

*Court of Padua 03/03/2023 no. 126*

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