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LABOUR LAW & IR
*di Morri Rossetti & Franzosi*

# Monthly Roundup

**February 2026**

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The main clarifications of practice and case law of the month.

1. *Oral dismissal: the employee needs to prove that the termination is due to the employer's decision;*
2. *Court of Cassation:* Mobbing *and liability for damages;*
3. *Geolocation of company vehicles: judgment no. 3462 of 2026 expands the obligation to notify the Data Protection Authority (DPA);*
4. *NLI: operational indications on contracts and subcontracts in the light of Legislative Decree 159/2025.*

## 1. Oral dismissal: the employee needs to prove that the termination is due to the employer's decisionz

The recent order of the Supreme Court, no. 4077 of 23rd February 2026, confirms that, in the case of oral dismissal, it is up to the employee who challenges the dismissal, claiming that the notice was communicated without complying with the written form, to prove the employer's intention to terminate the employment relationship.

The Court reiterated that proof of the simple cessation of work performance is not sufficient.

If the employer then objects that the employment relationship was terminated due to the employee's resignation and, following the preliminary investigation, the evidence remains uncertain, the claim shall be rejected.

## 2. Supreme Court: Mobbing and compensation liability

In the event of mobbing, if the employer can demonstrate that they exercised their power of control and took immediate corrective measures, liability for compensation falls on the person who actually carried out the abusive conduct against the employee.

In its ruling no. 3103/2026, the Supreme Court draws a line between the employer's power of management and control and individual tort liability for the purposes of determining responsibility for mobbing.

When the persecutory conduct results from behaviour not attributable to the employment relationship, it cannot be ascribed to the employer, but only to the individual responsible, pursuant to Article 2043 of the Italian Civil Code.

The employer's responsibility must be excluded when its employees' activities are unrelated to the employer, as they are acting for personal purposes outside the work context.

## 3. Geolocation of company vehicles: judgment no. 3462 of 2026 expands the obligation to notify the Data Protection Authority (DPA)

In its judgment no. 3462 of 16 February 2026, the Supreme Court reiterated that the use of a geolocation system installed on company vehicles constitutes the processing of personal data even when the identification of employees is only possible indirectly.

In the case examined, the company used GPS devices installed on trucks that did not allow the worker to be directly identified. Still, it made him identifiable through the cross-referencing of other data.

According to the Supreme Court, the fact that the system identifies the worker through automatic codes or data cross-referencing is not relevant.

What determines the obligation to notify the DPA is not the manner in which the worker's identification takes place, but the mere possibility of its taking place, even indirectly.

## 4. NLI: operational indications on contracts and subcontracts in the light of Legislative Decree 159/2025

With Circular No. 1/2026, the National Labour Inspectorate (NLI) has released the first operational indications introduced by Legislative Decree 159/2025 (conv. L. 198/2025), which strengthens the system of controls on health and safety at work.

With reference to contracting and subcontracting, the Decree provides that, in planning the supervisory activity preordained to the issuance of the registration in the "*NLI Compliance List*", the INL must give preference to controls on companies operating under subcontracting.

Among the most important interventions is also the strengthening of the credit license: from 1st January 2026, a reduction of 5 credits for each irregular worker is provided, and the minimum penalty for those who work without a license or with insufficient points is raised to EUR 12,000.

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The main updates on Labour Law of February 2026

**Non-assignment of variable pay objectives and damage due to loss of opportunity**

According to the Supreme Court, to establish the right to obtain compensation for loss of opportunity due to the employer's failure to assign individual objectives related to a bonus scheme, employees have the burden of proving that, if the objectives had been assigned, they would have been able to achieve them.

→ Read more

**Employee participation in European companies: European Works Councils**

The European regulatory framework actively promotes employee participation in company life, acknowledging its importance towards constructive social dialogue and economic change. Over the years, a system of information and consultation rights for employees within companies operating at a European level has been developed, along with a framework of sanctions for employers' conduct that hinders the effective exercise of these rights.

→ Read more

**HR Tip #2 The penalty system in the agency worker contract**

The agency-worker contract is an agreement under which a staffing agency supplies labour to a **user**. In this case, two contracts are relevant:

- the commercial contract between the supplier and the user;
- the employment contract between the supplier and the employee.

Through labour supply, there is a separation between the formal ownership of the employment relationship, which lies with the supplier, and the actual use of the labour provided by the user.

Failure to provide the agency-worker contract in **writing renders it null and void, and the employee is deemed** an employee of the user. In addition, the user is subject to an administrative penalty of EUR 250 to EUR 1,250.

In the case of **a fraudulent agency-worker contract,** however, carried out to circumvent mandatory rules or collective agreements applied to the worker, the supplier and the user are punished with arrest and a fine of EUR 100 for each employee involved and for each day of the agency-worker contract.

For further information and insights

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