



**OBSERVATORY**  
**LABOUR LAW & IR**

*di Morri Rossetti & Franzosi*

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# Monthly Roundup

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January 2026

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

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1. *Demotion: external visibility must also be assessed for the purpose of quantifying the damage (Cass., Ord. 1195/2026);*
2. *Clarifications on the re-patriation regime also applicable to agile workers, from the Italian Revenue Agency;*
3. *Italian Supreme Court, Ordinance No. 1907/2026: travel allowance due even when linked to the transfer caused by the employee's illness or accident;*
4. *Increased the child's age limit to use parental leave, but only for subordinate employees (National Social Security Agency, Message no. 251/2026).*

### **1. Demotion: external visibility must also be assessed for the purpose of quantifying the damage**

With Order No. 1195/2026, the Labour Section of the Italian Supreme Court has consolidated the principles on the liquidation of damages due to demotion. In fact, the latter reiterated that damage to professionalism cannot be compensated when generally claimed, but its existence can be inferred by the judge through presumptive evidence, when a specific allegation of prejudice is shared by the involved employee.

According to the mentioned order, the competent judge must assess the economic relevance of the damage by taking into account factual elements such as the duration of the demotion, the professionalism affected, the impoverishment of the professional background with the impact on career or relocation.

It is specifically interesting that, in addition to the above, the Italian Supreme Court also included the "visibility" of the demotion among these criteria, meaning the loss of decision-making and coordination powers over a higher-level employee's subordinates.

Therefore, the Court confirmed the legitimacy of the liquidation criterion as a percentage of the employee's monthly salary (in this case, 30%) for the entire period of occurrence of the demotion,

stating its efficacy in quantifying the damage suffered by the employee.

### **2. Clarifications on the repatriation regime also applicable to agile workers, from the Italian Revenue Agency**

With the answer to question no. 2/2026, the Italian Revenue Agency provided an important clarification regarding the regime for re-patriated workers (*impatriati*), governed by section 5 of Legislative Decree no. 209 dated December 27<sup>th</sup>, 2023, with reference to workers carrying out their activities under agile work regime.

In extending the interpretative principles already consolidated under the previous legislation, the Agency reiterated that the determining criterion is the territoriality of the work performance, thus confirming the application of the benefits at issue to the mentioned category of workers, too.

Access to the regime, which provides for the taxability of income to the extent of 50% within the limit of Euro 600,000, remains subject to the possession of the other regulatory requirements, including non-tax residence in Italy in the three previous tax periods and the possession of high qualification or specialization requirements.

### **3. Italian Supreme Court, Order no. 1907/2026: travel allowance due even when linked to the transfer caused by employee's illness or accident**

With Order No. 1907/2026, the Italian Supreme Court determined that employees temporarily assigned to another municipality due to unfitness for their original duties are entitled to travel allowances.

In the case at issue, the employee of a company had been declared unfit for the tasks there were originally defined by his employment contract. In order to comply with the medical provision, the employer had sent said employee to a different workplace than the one contractually set, as there were no matching vacancies within the latter one. Following this different allocation, the employee had claimed the transfer indemnity due to this change, whereas the employer had stated that the latter was due to a specific necessity, unlinked from an actual company decision.

Involved in the controversy, the Italian Supreme Court clarified that the employer's obligation to relocate the employee to tasks compatible with his reduced working capacity does not exclude the existence of the "service requirements" required by collective bargaining (in this case, NCBA for mobility sector) for the payment of the allowance.

Consequently, the assignment to a different location fully integrates the conditions for the entitlement to receive a transfer indemnity, even if only aimed at ensuring the preservation of an employee's job position.

### **4. Increased the child's age limit to use parental leave, but only for subordinate employees (National Social Security Agency, Message no. 251/2026)**

The Budget Law for the year 2026 (No. 199/2025) raised the age requirement of children upon which employed parents are entitled to parental leave, which is now increased from 12 to 14 years of age.

Given that the previous provision—which allowed such leave to be taken only until the child reached the age of 12—applied to the entire category of workers, including the self-employed and those enrolled in a INPS (National Social Contribution Agency), it was not clear whether the amendment brought by the new Budget Law also included the latter category of workers.

In this regard, the INPS has finally clarified that the latter are excluded from the group of individuals who can benefit from the extension at issue, thus stating that parental leave can be used by parents of children up to the age of 14 only and exclusively if they belong to the "employees" category.

The main updates on Labour Law of January 2026

### **The use of private means of transport in the framework of “in itinere” accidents**

Nation case-law plays a significant role in defining the correct set of norms to apply to cases of “in itinere” accidents, with specific regards to the controversial issue of the use that workers make of their private vehicle to reach the workplace. In this article, we examined some specific scenarios that may occur during the daily work life of all of us.

[→ Read more](#)

### **European Court of Justice: Law applicable to employment contracts in the event of a change in the place of work**

In its judgment of 11th December 2025 (Case C-485/24), the European Court of Justice provided an interpretation of the Rome Convention on the law applicable to contractual obligations, with specific reference to transnational employment contracts.

[→ Read more](#)

### **HR Tip #1 The workers' safety representative (RLS)**

The Workers' Safety Representative (RLS) is typically an employee chosen by their peers and takes an active role in promoting health and safety in the workplace. This representative plays a crucial part in addressing the needs and concerns of fellow workers.

According to **Legislative Decree No. 81/2008**, the RLS is involved in the prevention and management of risks within the company. For instance, they participate in **drafting the risk assessment document (DVR)** and **check the effectiveness of the safety measures** in place. This includes access to key documents such as accident reports, training logs, and records of personal protective equipment distribution.

**If no Workers' Safety Representative is elected or appointed by the employees**, an external trade union representative, known as the **Territorial Workers' Safety Representative (RLST)**, steps in to fulfil these responsibilities. The RLST is established through national, interconfederal, or sector-specific collective agreements concluded by employers' and employees' associations.

For further information and insights

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