



OBSERVATORY
LABOUR LAW & IR
di Morri Rossetti

Monthly Roundup

December 2024

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

1. *Supreme Court, Order No. 30691/2024: the audio recording holds no evidential value if rejected by the supposed author of the statements it contains;*
2. *Supreme Court, Order no. 33531/2024: reinstatement of the employee in case of dismissal due to general objections;*
3. *Italian Ministry of Labour and Social Policies, Decree No. 195 of 17 December 2024: approval of the Integrated Plan for Health and Safety in the Workplace;*
4. *Supreme Court, Judgment no. 31866/2024: lawful termination of an employee who is violent toward his wife.*

1. Supreme Court, Order No. 30691/2024: the audio recording holds no evidential value if rejected by the supposed author of the statements it contains

The Italian Supreme Court, with Order No. 30691 of December 29th, 2024, ruled that a recording is unusable for probatory purposes if it is contested and disavowed by the alleged author of the statements that can be heard in the recording.

In this case, the employee challenged his dismissal for making defamatory statements about the company on a radio show. During formal interrogation, he contended that he was not the author of the recorded statements.

The Italian Supreme Court upheld the decision made by the lower court judges, which declared that the dismissal was illegitimate. The court ordered the employee's reinstatement and compensation payment. It also reaffirmed that audio recordings made outside of a trial can be submitted as evidence in court as long as they are not disputed by the person whose statements are captured in the recording. The court rejected the employer's appeal.

2. Supreme Court, Order no. 33531/2024: reinstatement of the employee in case of dismissal due to general objections

The Italian Supreme Court, with Order No. 33531 of December 20th, 2024, affirmed that the generic disciplinary charges made by the employer against the employee, which prevented the latter from exercising his right of defence properly, should be equated to the case of the illegitimacy of the dismissal for the non-existence of the reported facts.

The Italian Supreme Court upheld the lower courts' decisions, ruling that the company's dismissal of the employee for just cause was illegitimate because it relied on vague accusations.

The Italian Supreme Court highlighted that the disciplinary dispute failed to properly identify the specific disciplinary conduct involved. As a result, the employee's right to defend themselves was compromised. The court concluded that this situation was akin to a scenario where the alleged misconduct did not occur at all. Consequently, the court annulled the dismissal and ordered the employer to reinstate the employee.

3. Italian Ministry of Labour and Social Policies, Decree No. 195 of 17 December 2024: approval of the Integrated Plan for Health and Safety in the Workplace

Decree No. 195 of December 17th, 2024, the Italian Ministry of Labour and Social Policies adopted the 'Integrated Plan for Health and Safety in the Workplace' (the "Plan"), effective from January 1st to December 31st, 2025.

Within the Plan, various actions are planned to promote a culture of health and safety in the workplace through concrete initiatives to raise awareness, empower people, and promote prevention.

4. Supreme Court, Judgment no. 31866/2024: lawful termination of an employee who is violent toward his wife

On December 11th, 2024, the Italian Supreme Court issued Sentence No. 31866, confirming that an employer's dismissal of an employee can be deemed legitimate if the employee commits a serious act that undermines the trust relationship

with the employer, even if that act occurs outside of work. This ruling particularly applies to cases involving confirmed instances of violence by an employee against their spouse.

In this case, the employee was found guilty in a criminal trial and sentenced to two years and six months in prison for committing crimes of sexual violence, domestic abuse, and personal injury. This conviction provided the basis for the dismissal served by the employer.

The Italian Supreme Court upheld the decision made by the judges of the second instance, rejecting the appeal filed by the former employee who challenged the lawfulness of his dismissal. The court determined that the events, as defined by the criminal courts, were serious enough to undermine the trust between the employee and the employer, justifying the dismissal for cause.

The Court made this decision considering that the appellant's job required regular interaction with the public. The Judges assessed that there was a risk the former employee could become violent towards the users of the service offered by the employer.

The main updates on Labour Law of December 2024

Alert | Italian “Collegato Lavoro” 2024 – The most relevant novelties of Law Draft No. 1264 on labour provisions, approved by the Senate of the Republic

On December 11, 2024, Law Draft No. 1264 was approved by the Senate, introducing significant innovations in the field of labor law. Among the most notable changes is the introduction of a new mechanism for the termination of employment.

Under this provision, an employment relationship shall be deemed terminated at the employee's initiative after 15 consecutive days of unjustified absences from work, provided that the employer notifies the National Labour Inspectorate (INL) of the employee's conduct.

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HR Tip #12: Social security representative

Foreign companies not headquartered in Italy but staffing employees working in said country must identify a social security representative (SSR) to act on their behalf in Italy. The SSR will be responsible for fulfilling social security contribution and pension obligations, for which - unless otherwise provided for by international agreements - the foreign company remains obliged.

For this purpose, the SSR - an individual or a legal entity, as it may be - will be appointed through a dedicated deed and will remain **jointly liable** with the employer for the correct payment of the aforementioned contributions unless otherwise agreed by the parties.

If the foreign company fails to comply with the above, it risks an investigation by the authorities for **unpaid social security contributions**, which could result in **additional sanctions**.

For further information and insights

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