



MORRI  
ROSSETTI

# Labour Monthly Roundup

November 2023

## LABOUR MONTHLY ROUNDUP

The Firm's Labour Monthly Roundup holds some of the most important clarifications on the new practices and law cases of the past month that are relevant to the following subjects:

1. *Fringe benefits: new INPS instructions for the adjustment;*
2. *Supreme Court: lawful dismissal of an employee who files a false complaint against his employer;*
3. *Supreme Court: dismissal of an employee who has become partially unfit for work is not lawful;*
4. *INPS: Youth employment, the granting of public subsidies and the re-classification of the employment relationship;*
5. *Sports work: INPS clarifies contribution obligations for professional apprenticeships.*

### **1. Fringe benefits: new INPS instructions for the adjustment**

With Message no. 3884 of 6<sup>th</sup> November 2023, the National Social Security Agency (INPS) summarises the rules on fringe benefits and provides operating instructions on the adjustment in cases where the amounts paid to employees exceed the exemption thresholds set for the 2023 tax year by Article 51(3) of the TUIR. Decree-Law 48/2023 has set the maximum exemption limit for employees with children at EUR 3,000.00.

### **2. Supreme Court: lawful dismissal of an employee who files a false complaint against his employer**

In the decision no. 30866 of 6<sup>th</sup> November 2023, the Supreme Court ruled that the employee's exploitation of a criminal complaint against the employer constitutes a disciplinary offence that can lead to dismissal.

The Supreme Court points out that the exercise of the whistleblowing power cannot in itself be a source of liability but may become so if the employee instrumentally makes use of public authorities, acting in full awareness of the non-existence of the offence or of the extraneousness to it of the accused.

In this case, the employee's conduct can irreparably damage the bond of trust with the employer.

### **3. Supreme Court: dismissal of an employee who has become partially unfit for work is not lawful**

In decision no. 31471 of 13<sup>th</sup> November 2023, the Supreme Court has acknowledged particular restrictions to dismissing an employee who has become disabled.

In particular, according to the Court, in such situations, the employer should find reasonable organisational solutions and arrangements to enable the employee to continue to perform his work.

In the case examined by the Court, the company had not made the necessary adjustments, which would not have led to organisational changes or additional costs for the employer, to not discriminate against the employee who had become partially disabled.

### **4. INPS: Youth employment, the granting of public subsidies and the re-classification of the employment relationship**

With Message no. 4178 of 24<sup>th</sup> November 2023, the INPS provides guidance on the contribution exemption granted for hiring young workers.

The benefit, as noted, is granted to employers who hire young people under 30 and who have not been employed permanently with the same or another employer.

The INPS, on this last point, had specified that the exemption 'cannot be granted in the hypothesis that, following an inspection, the self-employment relationship, with or without a VAT number, as well as the para-subordinate relationship, are reclassified as subordinate employment relationships of indefinite duration'.

The limitation operates only if the employer who intends to take advantage of the exemption is the same employer who is the holder of the reclassified employment relationship; otherwise, it may legitimately enjoy the benefit since, at the date of the hiring, it hired in good faith that the employee assuming the compliance with the requirements for the exemption.

### ***5. Sports work: INPS clarifies contribution obligations for professional apprenticeships***

In Circular no. 91 of 10<sup>th</sup> November 2023, INPS clarified the information and contribution obligations for professional apprenticeship contract recruitments.

For professional sports clubs and associations, recruitment is possible for sports workers between the ages of 18 and 23 and training professional athletes, allowed from 1<sup>st</sup> January 2022.

The main updates on Labour Law of November 2023

### **What moonlighting is and how it is applied in Italy**

*There are several reasons why an employee might decide to embark on a new employment relationship while still entertaining one with the first employer. However, the Italian laws only allow such a decision under certain conditions. The so-called moonlighting phenomenon has a particular translation in the Italian jurisdiction..*

[→ Read more](#)

### **Dismissal of an employee who refuses to move from a part-time to a full-time regime**

*An employee who refuses to amend his employment relationship by accepting a full-time schedule may be dismissed because the part-time work cannot be used, but not because of the refusal standing alone.*

[→ Read more](#)

### **HR Tips #11: End-of-Office Severance**

*If so provided by the relevant by-laws or regulated under a shareholders' resolution, company directors have the right to receive additional compensation when terminating their assignment: the so-called «**End-of-Office Severance**» (TFM).*

*Social contribution-wise, as directors' compensation, the TFM is generally subject to contribution to a special scheme held by the National Social Security Agency (INPS). Therefore, the relevant due contribution sums are paid within the cap thus provided.*

*When dealing with TFM, identifying the proper taxation regime to apply to these sums can become troublesome. The latter may, in fact, change depending on the date of the deed granting the severance to the director (i.e., if preceding or following the beginning of the relationship). Therefore, it is crucial to address appropriately the documentation establishing the treatment.*

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For more information and insights, you may contact:

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