

A professional office setting with three people. A man in a grey suit and glasses stands in the center, looking at a laptop. A woman with dark hair is on the left, and a woman with red hair is on the right, pointing at a document. The background is a blurred office environment with a large screen.

MORRI  
ROSSETTI

# Labour Monthly Roundup

October 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. *Circular from the Italian Ministry of Labour no. 9/2023: clarifications on the latest news within the so-called "Labour Decree".*
2. *Access to geo-localization data on the employee's part: Italian Data Protection Authority's decision.*
3. *"Asset" Decree and rewarding provisions for private employers.*
4. *Allowance for default in renewing NCBA: the decision of the Italian Supreme Court.*
5. *Budget law for 2024, the new provisions regarding tax burdens, labour, family, equal opportunities, and social policies.*

### **1. Circular from the Italian Ministry of Labour no. 9/2023: clarifications on the latest news within the so-called "Labour Decree"**

On October 9<sup>th</sup>, 2023, the Italian Ministry of Labour and Social Policies issued a Circular letter clarifying some aspects of the latest news in the so-called "Labour Decree".

Among other things, the latter provided that, notwithstanding the maximum limit of 24 months, fixed-term relationships established before May 5<sup>th</sup>, 2023, can be renewed or extended after such date without the obligation – lying on the employer – to justify such a decision through one of the particular reasons provided for by the law and the applicable NCBA.

The Circular also confirmed the other updates the mentioned Decree had brought (i.e., new reasons for other cases of renewal and extension of the fixed-term employment and relevant referral to NCBA, guidelines on which employees to rule out from the percentage of agency workers allowed under one employer).

### **2. Access to geo-localization data on the employee's part: Italian Data Protection Authority's decision**

With a decision reported in the Italian Data Protection Authority's newsletter dated last October 10<sup>th</sup>, the latter has sanctioned a company that had denied three of its employees' request to access data used to process mileage allowances and monthly hour remuneration within the relevant payslips, obtained through a geo-localization system installed in the company smartphone the employee were equipped with.

Given the clarity and preciseness of the employee's request, the Authority sanctioned the defaulting company, which could have avoided such a consequence by simply clarifying the reasons behind its refusal also reminding the employees of their possibility to lodge a complaint before the Authority itself or bring legal action to defend their claims.

### **3. "Asset" Decree and rewarding provisions for private employers**

The so-called "Asset" Decree (no. 104/2023) provided further updates regarding the management of former *Alitalia* employees. More specifically, private employers intending to offer such workers who were not transferred to the new airline "ITA Airways" an open-term employment contract will be exempt from the payment of the entire sums due under contribution for the thus established relationship for a maximum of 36 months and up to a 6,000-euro annual threshold.

### **4. Allowance for default in renewing NCBA: the decision of the Italian Supreme Court**

The company's employee brought its employer before the competent court for demanding the sums due by the latter as allowance for default in renewing the reference NCBA for 44 months. Since the worker was found righteous from both the courts he had turned to, the company claimed before the Italian Supreme Court that it was not compelled to execute such a payment for the period

the employee had worked under a different employer. Such a reasoning was agreed upon by the mentioned Court through order no. 28186/2023, according to which the payment of such an allowance is identified as a counterpart to the potential economic advantages that the employee should receive from timely and proper salary adjustments. Therefore, the employer at the moment of renewal cannot be compelled to pay the allowance for the previous default while the employees were carrying out their activities for a different employer (i.e., which benefitted from the advantage during those times).

#### ***5. Budget law for 2024, the new provisions regarding tax burdens, labour, family, equal opportunities, and social policies***

The budget law for the year 2021 provides news regarding employers and employees during the next year. Although the draft law is still under assessment by the Italian Senate, here are some of the most relevant provisions:

- Employees receiving a monthly salary within the EUR 2,692 threshold will benefit

from an exemption equal to six percentage points from paying the social contribution sums due on their part for the whole period from January 1, 2024, to December 31, 2024.

- Company welfare can be granted through sums disbursed or reimbursed to the employees to pay bills for domestic and integrated water, electricity and natural gas utilities, rent or interest on the mortgage of the employees' first homes. This amount will not be considered within the latter's remuneration up to the limit of EUR 1,000 (increased to EUR 2,000 for employees with children).
- Working fathers and mothers on their paternity and maternity leave terminating after December 31st, 2023, will be able to alternatively benefit from a two-month indemnity, amounting to 80% for one month and to 60% for the other (the latter increase up to 80%, too, only for 2024), up until the child reaches his/her sixth year of age.

The main updates on Labour Law of October 2023

### What "ESG" factors are, and how to pursue them when managing human resources

*The attention to compliance with provisions on environment, social justice, and governance has lately been progressively imposed as a main topic, not only for large companies. They are now taken into account by consumers spending and market operators' choices, who positively value companies truly invested in respecting such regulations. That is why ESG factors have become fundamental for a company to be identified as really in step with the times.*

[→ Read more](#)

### Unlawful dismissal for exceeding grace period if employer denied vacation time

*It is unlawful to dismiss an employee on the grounds of exceeding his grace period if the employer refuses to allow him to take his accrued leave without valid reasons justifying the refusal before the grace period ends..*

[→ Read more](#)

### HR Tips #10: Labour Intensive Service Contracts

To be **lawful**, service contracts require the following essential features:

- the contractor must have its **organisation** of means and
- it bears the **entrepreneurial risk** of the activity.

*In service contracts where the labour is predominant (so-called labour-intensive service contracts), the central issue is the organisation of work and the contractor's exercise of the employer's powers (so-called organisational, managerial and control powers) since it usually does not own any tangible assets.*

*This makes it necessary to pay attention to the drafting and execution of the contract because there is the risk of:*

- workers claim to be **hired by the principal**;
- **unlawful lease of personnel**, entailing, both for the contractor and the principal, the payment of administrative sanctions calculated on the number of employees involved and days of work.

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For more information and insights, you may contact:

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