



OBSERVATORY
LABOUR LAW & IR

di Morri Rossetti

Monthly Roundup

October 2024

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Some of the most important clarifications on the new practices and law cases of the previous month.

1. *Supreme Court: Cooperative working member is entitled to severance pay;*
2. *Supreme Court: the pay reduction agreement must be signed before competent settlement panels;*
3. *Supreme Court: in case of leave under Law 104/1992, lack of care for the disabled person during working hours is not sufficient to integrate an abuse of the permit;*
4. *Supreme Court: disciplinary dismissal of an employee who leaves the workplace without punching a timecard is permissible;*
5. *Legislative Decree No. 135, Sept. 4, 2024: new protections for employees exposed to dangerous chemical agents.*

1. Supreme Court: Cooperative working member is entitled to severance pay

With decision No. 26071 of Oct. 4th, 2024, the Supreme Court ruled in favour of for the entitlement to payment of the mandatory severance pay where the subordinate worker is also a member of a cooperative. The Court stated that the rules provided for subordinate employment apply to cooperative worker members, in addition to the rules provided by Law No. 142/2001; therefore, the member is, also, entitled to the severance pay.

2. Supreme Court: the pay reduction agreement must be signed before competent settlement panels

With decision No. 26320 of Oct. 9th, 2024, the Supreme Court clarified that the agreement executed for the reduction of the employee's pay below the minimum wage stipulated in the collective bargaining agreement must be signed before a competent settlement panel; otherwise any related arrangement is null and void.

According to the Court, the principle of the stability of the earning and the salary of the employee allow exceptions, according to Article 2103, paragraph 6, Civil Code, only when there is a change in the employee's duties and the agreement before a protected venue. Lacking one of the above conditions, the agreement that reduces the employee's wage below the collective minimum standard is void.

3. Supreme Court: in case of leave under Law 104/1992, lack of care for the disabled person during working hours is not sufficient to integrate an abuse of the permit

With decision No. 26514 of Oct. 11th, 2024, the Supreme Court confirmed that the assistance provided by the employee to the disabled family member on days of leave under Law 104/1992 does not exclusively concern the home care but includes all activities that the disabled is unable to perform independently.

The abuse of this permit, therefore, takes place only when the employee uses the leave for purposes other than assisting the disabled person.

With specific reference to working hours, since these are daily permits not granted on an hourly basis, failure to aid coincide with the work shift does not constitute abuse.

4. Supreme Court: disciplinary dismissal of an employee who leaves the workplace without punching a timecard is permissible

In Order No. 26938 of Oct. 17th, 2024, the Supreme Court ruled that, pursuant to Article 55-quater of Legislative Decree No. 165/2001, employees' failure to record breaks from work constitutes 'false attestation of presence on duty'. The mentioned provision allows to discipline the employee with a dismissal for cause.

The behaviour of the employee who leaves the workplace without clocking out is indeed just

cause for termination since it is likely to mislead the employer about his presence at the workplace.

5. Legislative Decree No. 135, Sept. 4, 2024: New protections for employees exposed to dangerous chemical agents

Legislative Decree No. 135 of Sept. 4, 2024, implements European Directive 2022/431, which introduces new measures of prevention and monitoring for employees who may be exposed to toxic substances.

The decree introduces new thresholds on the matter, expanding the definition of dangerous agents.

The main updates on Labour Law of October 2024

When can a rude employee be dismissed?

It is lawful to dismiss an employee who addresses customers in a rude and aggressive manner.

The case stems from an appeal made by an employee, a butcher counter clerk at a supermarket, who was dismissed for just cause by his employer. The dismissal was due to the employee addressing a customer in an aggressive and vulgar manner.

[→ Read more](#)

Indemnities due at the termination of agency relationships under Italian Trade ECAs

The regulation of agency relationships of the trade sector is definitively a peculiar one under the Italian laws and, the parties of this kind of agreements may decide to enrich it of further terms and conditions under a specific normative set – collectively determined – rather than just having them referring to the Italian Civil Code only.

Of course, this significantly alters the finalized agreements between the parties, which both the principal and the agents shall properly consider, especially at the termination of the relevant agency contract.

[→ Read more](#)

HR Tip #10: Unemployment allowance (Naspi)

The so-called “Naspi” is a monthly unemployment benefit granted to employees who have lost their employment.

To be eligible for Naspi, the following criteria must be met:

- the **involuntary** loss of employment;
- there will be continued unemployment throughout the period the allowance is paid.

To obtain the benefit, the recipient must:

- have accrued at least **13 weeks of contributions** in the 4 years preceding the start of unemployment;
- have performed at **least 30 days of actual work**, regardless of the social security minimum contribution, in the 12 months preceding the start of unemployment.

The maximum **duration** of the benefit is 24 months.

The benefit is also granted to employees who resign for cause.

For further information and insights

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