



MORRI
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Labour Monthly Roundup

March 2024

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. Supreme Court: proof of the demotion also by presumptions
2. Supreme Court: reinstatement of an employee dismissed after the expiry of the terms of the disciplinary proceedings
3. Remote working: as of 1st April 2024, reinstatement of the ordinary rules
4. Revenue Agency: raising the exemption threshold for fringe benefits
5. Agreement to renew the NCLA of the Trade Sector

1. Supreme Court: proof of the demotion also by presumptions

With the decision No. 6275 of 8th March 2024, the Supreme Court stated that demotion does not automatically determine the occurrence of damage, and it is, in fact, up to the employee, even by presumptions, to provide proof thereof.

The latter may also be given through severe, precise and concordant presumptions.

The quality and quantity of the work performed, the type and nature of the professionalism involved, the duration of the demotion, and the different and new job positions assumed after the prospective qualification may be assessed as presumptive elements.

2. Supreme Court: reinstatement of an employee dismissed after the expiry of the terms of disciplinary proceedings

In its decision No. 5485 of 1st March 2024, the Supreme Court stated that, in disciplinary proceedings, justifications not followed by a disciplinary measure within the time limit set by applicable collective bargaining must be deemed accepted.

If the sanction chosen is dismissal and it is served after the time limit set by the CBA, it must be considered unlawful due to the non-existence of the fact reported to the employee and not merely ineffective due to a breach of a procedural term. Consequently, the employee dismissed is entitled to reinstatement.

3. Remote working: reintroduction of the ordinary rules as of 1st April 2024

The so-called Anticipation Decree (Law Decree no. 145/2023, converted into Law no. 191/2023) set 31 March 2024 as the deadline for the last use of simplified procedure for the application of remote working. This provides for the right of vulnerable employees and parents with children under 14 to work remotely.

From 1 April 2024, these employees will have access to remote work according to the requirements defined by the ordinary rules (Law No. 81/2017). Therefore, this regime can be implemented only following the execution, in writing, of an individual agreement between these workers and the employer, which regulates aspects such as work performed outside the company, employee rest times, and rules for disconnection.

4. Revenue Agency: raising the exemption threshold for fringe benefits

With Circular No. 5/E of 7th March 2024, the Revenue Agency clarified the Budget Law provisions that increased the exemption threshold for fringe benefits.

Specifically, the Agency recalled that, for the 2024 tax period only, the value of goods and services supplied by the employer to the employee up to a maximum amount of EUR 1,000.00 does not contribute to the formation of the employee's taxable income. If this threshold is exceeded, the excess is subject to taxation according to the ordinary rules. Finally, the Agency recalled that the exemption threshold is further increased to EUR 2,000.00 for employees who have children dependent on them and who have informed their employer.

5. Agreement to renew the NCLA of the Trade Sector

On 22nd March 2024, the unions representing employers and employees of the Trade Sector met and finalised an agreement to renew the NCLA. The new agreement is valid from 1 April 2023 to 31 March 2027 for the economic part and from 1

April 2024 for the regulatory part, except for the individual and different starting dates that may be indicated. Among the many new features, the most relevant changes relate to employee classification, an increase in the minimum wages, the provision of a 'one-off' salary allowance, and the specification of reasons justifying the renewal or extensions for fixed-term contracts.

The main updates on Labour Law of March 2024

The proof of the demotion

Proof of demotion can also be provided by allegation of presumptions.

In its Order no. 6275 of March 8th, 2024, the Supreme Court reiterated that although damage from demotion is not in re ipsa, presumptions can also provide proof of the same.

The case stems from an appeal by an employee who complained that he had suffered damages due to a demotion implemented by his employer. Specifically, the employee sought a determination of professional and monetary loss and related damages.

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The Italian “contract of stay” for foreign workers

When foreign workers access Italian soil to perform professional activities under subordinate employment relationships, the latter undertakes to individually execute a so-called “contract of stay” once they arrive in Italy, which allows them to stay in the country lawfully.

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HR Tips #3: Non-Compete Agreements

*A non-compete agreement (NCA), governed by Article 2125 of the Civil Code, is an agreement in which the employer restricts the employee's ability to work for a competitor for a specified period of time **following the termination of employment**. The employee is compensated for this restriction.*

The NCA is void if:

- it is not in **writing**;
- consideration is not agreed upon in favour of the employee;
- it is not contained within certain limits of **scope, time and territory**.

The NCA may also contain the following items:

- option clauses;
- information undertakings;
- clauses providing for the payment of a penalty

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For more information and insights, you may contact:

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