



OBSERVATORY
LABOUR LAW & IR
di Morri Rossetti

Monthly Roundup

July - August 2024

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Key clarifications of practice and case law from the past months.

1. *Supreme Court: identification of employees in collective dismissal;*
2. *Supreme Court: just cause for resignation if the Executive is prevented from performing work activities;*
3. *Supreme Court: unlawfulness of dismissal due to employer's error in communicating the exceeding of the grace period;*
4. *INPS: Operational news on parental leave communications;*
5. *Equal opportunity report: deadline for submission to September 20th, 2024.*

1. Supreme Court: identification of employees in collective dismissal

In decision no. 18215 of July 3rd, 2024, the Supreme Court reiterated that collective dismissals announced only to employees belonging to a specific office are unlawful in cases where the notice of initiation of the procedure does not specify the reasons justifying the delimitation of the group of workers concerned and the reasons why the employer did not opt to transfer them to other offices of the company. Any union agreement that may have been reached does not have a remedial effect unless this matter has been expressly considered.

2. Supreme Court: just cause for resignation if the Executive is prevented from performing work activities

In its decision no. 18263 of July 4th, 2024, the Supreme Court declared unlawful the behaviour of an employer who prevented an executive from performing work activities during the notice period after receiving the manager's voluntary resignation. In this case, the executive can terminate the relationship immediately since the employer's conduct represents a just cause for termination under Article 2119 of the Civil Code. Specifically, the company had blocked the executive's access to company premises and disconnected his company e-mail account

following his voluntary resignation, thus constituting retaliatory conduct.

3. Supreme Court: unlawfulness of dismissal due to employer's error in communicating the exceeding of the grace period

In its decision no. 22455 of August 6th, 2024, the Supreme Court ruled that a dismissal served for an employee's exceeding the grace period provided by the applicable collective agreement was unlawful due to the employer's miscalculation of sickness leave used by the employee, which was communicated through the issuance of the monthly pay slips. Although the employer is not obligated to inform the employee of the expiration of the grace period since the employee could independently verify the actual number of days of sick leave used, the employer should not mislead the employees into believing that they have used fewer sick leave than done. According to the Court, the employer's conduct cannot be considered under good faith and fair dealing; therefore, the dismissal should be regarded as unlawful.

4. INPS: Operational news on parental leave communications

With Message no. 2704 of July 23rd, 2024, the National Social Security Agency (INPS) announced the implementation of the procedure for acquiring parental leave applications. This procedure allows applications to be submitted with the allowance request increased by the Budget Law 2023 and expanded for 2024.

As of January 2024, parents can alternatively take one month of parental leave compensated by INPS at 80% and an additional month with compensation raised from 30% to 60%.

5. Equal opportunity report: deadline for submission to September 20th, 2024

Companies with more than 50 employees must submit the biennial report on the situation of male and female employees to the Ministry of Labor by September 20th.

There were many doubts regarding the report's preparation, but the Ministry commissioned the creation of an Excel file that should facilitate data transmission. The document can be prepared offline and uploaded to the Ministry website.

The main updates on Labour Law of July and August 2024

Compensation in case of misclassification of self-employment relationship

In the case at hand, a journalist whose employment relationship had ended after he had been employed as a self-employee by a newspaper, with several temporary contracts and continuously for more than ten years, brought a misclassification claim against the newspaper before the court to be employed permanently.

[→ Read more](#)

The CJEU on a different term to challenge the dismissal of pregnant employees

The regulatory treatment of pregnant employees is a particularly sensitive issue in any jurisdiction. A recent case occurred in a similar scenario and requested the intervention of the Court of Justice of the EU, which, in ruling on German legislation, shared a principle of law potentially applicable to each member State.

[→ Read more](#)

Limits of the repêchage duty in redundancy cases

In the case at issue, some employees challenged the dismissal, complaining that it had not been preceded by an assessment of their possible repêchage, meaning their assignment to a different job that would have allowed them to keep an occupation for tasks available within the company.

[→ Read more](#)

Employment and ESG awareness: a new way to promote fundamental rights?

Environmental, social and governance (ESG) factors are becoming increasingly relevant in everyday life, mainly thanks to the United Nations Organisation, which created a list of 17 'Sustainable Development Goals' to achieve a better and more sustainable future.

In 2015, all UN Member States, in a powerful display of global partnership, adopted the 2030 Agenda for Sustainable Development. This agenda sets out a shared roadmap for peace and prosperity for people and the planet now and in the future. At its core are the 17 Sustainable Development Goals (SDGs), which call for urgent action by all developed or developing countries.¹

[→ Read more](#)

HR Tip #7: ESG and Gender Equality

ESG rating is a system that assesses companies' profiles regarding their **environmental sustainability, social policies, and corporate governance**.

Specifically regarding **gender equality**, Italian law allows the certification of the effectiveness of policies and measures taken by the employer to reduce the gender gap related to internal career opportunities, equal pay, and maternity protection.

Certified companies have **economic benefits**, including:

a partial exemption from social security contributions;

a better score in the evaluation process for obtaining funds or participating in calls for tenders.

¹ The article was published on the IBA Employment and Industrial Relations Law Committee e-bulletin.

Moreover, the **EU Directive no. 2022/2464 (CSRD)** is about to be implemented, which aims to improve sustainability information and tie ESG results to the company's balance sheet indicators.

HR Tip #8: Working Hours reduction (ROLs)

«**ROLs**» (Working Hours Reduction) were first created on a contractual basis. Under Italian legislation, they are hourly paid permits that employees can use within the limits and terms set by the **applicable NCBA**. As well as annual leaves,

employees **accrue their ROLs monthly**, and the latter can only be used after the accrual has appropriately occurred.

Each applicable NCBA sets the **timing for the fruition** of the accrued ROLs. In case of violation of such provisions, the employer is compelled to pay the referenced employee an **indemnity** equal to the amount corresponding to the value of the lost ROLs. Such payment shall be executed through the first payslip following the original deadline **and include all relevant due social contribution amounts**.

For further information and insights

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