



**OBSERVATORY**  
**LABOUR LAW & IR**

*di Morri Rossetti*

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# Monthly Roundup

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November 2024

## November 2024

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

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1. *Italian Supreme Court, decision no. 28406/2024: in the case of contract assignment, the seller's dismissal is also valid and effective for the buyer;*
2. *Italian Supreme Court, decision no. 29157/2024: principal's guarantee obligations towards contractor's employees;*
3. *Italian Supreme Court, decision no. 29135/2024: lawful dismissal of a Works Council Representative for misuse of union leave for personal or family reasons;*
4. *Unlawful processing of riders' data: The Italian Data Protection Authority sanctions a delivery company.*

### **1. Italian Supreme Court, decision no. 28406/2024: in the case of contract assignment, the seller's dismissal is also valid and effective for the buyer**

In decision no. 28406 of November 5<sup>th</sup>, 2024, the Italian Supreme Court reiterated that, in the case of the transfer of an employment contract, pursuant to section 1406 of the Italian Civil Code, the buyer succeeds in all active and passive positions of the seller, including the effectiveness of a dismissal that has been communicated and still under a pending lawsuit, without the necessity to mention the ongoing dispute in the transfer contract.

In this case, the Italian Supreme Court rejected the employee's appeal regarding the communication made by the buyer following the Court of Appeal's ruling. This ruling overruled the court of first instance decision and stated the legitimacy of the termination. The buyer, therefore, may lawfully enforce the dismissal that had initially been issued by the selling company even if it was not part of the proceedings that examined the legitimacy of the termination of the employment relationship.

### **2. Italian Supreme Court, decision no. 29157/2024: principal's guarantee obligations towards contractor's employees**

In decision no. 29157/2024 of November 12<sup>th</sup>, 2024, the Supreme Court reaffirmed a principle established by Italian case law: the principal is responsible for ensuring the safety of its employees and those staffed by the contractor in service contracts.

In the case at issue, the heirs of an employee who had died as a result of an illness caused by prolonged exposure to asbestos in the workplace sought compensation for damages related to the worker's death against both the employer and the principal company.

The Italian Supreme Court ultimately upheld the joint and several liability of the two parties, regardless of the principal's defence, which argued its lack of any role in the execution or organisation of the contracted activities, especially given that the tasks performed by the deceased employee were carried out entirely within premises under the principal's sole control.

### **3. Italian Supreme Court, decision no. 29135/2024: lawful dismissal of a Works Council Representative for misuse of union leave for personal or family reasons**

In decision no. 29135/2024 of November 12<sup>th</sup>, 2024, the Italian Supreme Court recognised the employer's right to control its employees' legitimate use of trade union permits granted to them, also via special investigations, since their potestative nature.

On these grounds, the Italian Supreme Court confirmed the legitimacy of the dismissal of a trade union representative, who was dismissed by the employer after the latter discovered—through an investigation agency—that the worker had left town for personal reasons instead of attending the trade union activity for which he had obtained a special permit.

### **4. Unlawful processing of riders' data: The Italian Data Protection Authority sanctions a delivery company**

With provision no. 675 of November 13<sup>th</sup>, 2024, the Italian Data Protection Authority sanctioned a Glovo group company with a EUR five-million fine after ascertaining its violation of the personal data processing of riders working for the company. More specifically, the Authority's preliminary investigation revealed that—in addition to a long list of other violations—the company was also able to geolocate its riders outside working hours.

Therefore, the Authority's decision established that employers must adopt measures that ensure their compliance with the principles of data protection from the setting of the processing and, by default, throughout the entire lifecycle of the data.

The main updates on Labour Law of November 2024

**In case of a non-complete risk-assessment document, the liability for injuries rests with the employer and not the safety delegate**

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](#)

**New European Directive on work organised through digital platforms**

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.

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**HR Tip #11: Annual paid leaves**

Each worker is entitled to a minimum period of paid annual leaves of at least **four weeks**, whose use cannot be replaced by an indemnity payment in lieu during the employment relationship.

Employees must take at least **two weeks of vacation during the year of their accrual** without any interruption if requested by the worker, while the remaining two weeks must be used within the following 18 months unless otherwise provided by applicable collective agreements.

In the event of **violations**, the employer may be sanctioned with an administrative fine ranging from EUR 120.00 up to EUR 5,400, depending on the number of workers involved and the duration of the violation. In addition, the DURC (i.e., the document attesting to a company's regular contribution status) may be suspended for three months.

For further information and insights

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