FOCUS LAVORO

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1. Introduction

The following document provides an overview of the most significant updates in employment law, focusing on legislative reforms and judicial decisions of interest to professionals in the field.

Its aim is to offer, through a series of concise articles, brief insights into current issues stemming from legislative developments and from the evolving and, at times, divergent lines of case law at both first-instance and Supreme Court level.

2. Legislative updates

Decree-Law No. 62 of 30 April 2026, which symbolically came into force on Labour Day, moves, as stated in its title, in three directions, introducing measures aimed at boosting employment, ensuring fair pay and combating digital labour exploitation.

Achieving the first objective involves strengthening the system of social security contribution reliefs with the aim of promoting stable employment and supporting those groups most vulnerable to the challenges of the labour market. In this context, a key measure is the "Women's Bonus", which involves total exemption from social security contributions for the permanent recruitment of disadvantaged female workers by private employers during the period from 1 January 2026 to 31 December 2026. The maximum benefit is €650 per month for each female worker, but the ceiling rises to €800 per month if the worker is resident in one of the regions of the Single Special Economic Zone for Southern Italy (ZES). The benefit lasts for 24 months, reduced to 12 months for the recruitment of women falling into one of the categories of "disadvantaged workers".

A similar incentive is provided to support youth employment. The Decree, in fact, also introduces the "Youth Bonus", which is essentially modelled on the one established for women: the permanent recruitment of young people *under* 35 entails total exemption from social security contributions, with a maximum limit of €500 per month for each worker, which can be increased to €650 per month for recruitments made at sites or production units located within the single ZES.

For small businesses employing up to 10 staff, the ZES bonus is available, namely total exemption from social security contributions, up to a maximum of €650 per month for each worker, for the permanent recruitment of workers *over* 35 at premises or production units located in one of the regions of the Single ZES.

Finally, particular attention is being paid to the conversion of fixed-term employment contracts entered into by 30 April 2026, with full exemption from social security contributions, capped at €500 per month per worker, to employers who convert fixed-term contracts – with a total duration not exceeding 12 months and concerning workers *under* 35 who have never been employed on a permanent basis – into permanent contracts. To qualify for the benefit, the conversions must take place, without interruption from the previous fixed-term contract, between 1 August and 31 December 2026. The most innovative aspect of the Decree-Law concerns the provisions on "fair pay". While formally aimed at defining the conditions for access to the bonuses and incentives examined, they actually pursue a different objective: not so much the implementation of the principles enshrined in Article 36 of the Italian Constitution, but rather the attribution of a renewed central role to collective bargaining, which represents the instrument for determining fair pay, guaranteeing workers "*an overall remuneration commensurate with the quantity and quality of the work performed*".

For the purposes of identifying the fair wage, the total remuneration (which is not the same as the statutory minimum wage, but also includes additional pay components and welfare benefits) as defined by the national collective agreements concluded by the employers' and workers' organisations that are comparatively most representative at national level, taking into account the relevant sector of production, the employer's main or predominant activity, as well as its size and legal form (Article 7(2)).

The same parameter then becomes a mandatory benchmark even in cases where the employer applies a national collective agreement other than those referred to in paragraph 2. Therefore, in such cases, the total remuneration to be paid to workers may not be less than the TEC (total economic treatment) established by the national collective agreement signed by the employers' and workers' organisations that are comparatively most representative at national level, always taking into consideration the factors set out above (sector of

production, main or predominant activity, etc.). This criterion also applies to sectors not covered by collective bargaining, with the result that, in such sectors, the TEC may not be lower than that established by the National Collective Labour Agreement (CCNL) concluded by the employers’ and workers’ organisations that are comparatively the most representative at national level and most closely linked to the activity actually carried out by the employer, once again taking into account the same factors mentioned above.

Recognition of a fair wage, as defined by the TEC set out in the leading collective agreements, is also the key to accessing all the benefits introduced by the Decree.

In essence, the legislator sought to curb the use of so-called “pirate” collective agreements in an attempt to prevent the phenomenon of contractual dumping, which all too often results in the erosion of workers’ purchasing power.

In this regard, it should also be emphasised that Article 10(2) establishes a mechanism for the automatic indexation of workers’ pay, providing that, in the event of a delay in the renewal of collective agreements, wages shall be adjusted by 30% in line with the change in the HICP (Harmonised Index of Consumer Prices): this adjustment is paid as a lump-sum advance against future wage increases agreed at the time of renewal. In conclusion, it is necessary to ask whether the TEC also complies with the principle of adequate remuneration, as the scope for intervention by the labour court judge called upon to apply Article 36 of the Italian Constitution depends on the answer to that question.

Equally important is the introduction of stronger safeguards, in terms of safety, transparency and the effective enjoyment of rights, for workers who carry out activities via digital platforms, with specific reference to delivery riders.
In determining the nature of the relationship, the actual manner in which the work is carried out is decisive, regardless of the legal designation adopted by the parties, taking into account, among other things, the exercise, including through automated or algorithmic systems, of powers of organisation, direction and control.
The relationship is presumed to be subordinate employment where there are indicia of control or external direction, even if exercised through algorithmic management.
Platforms are required to ensure greater access to information on the (algorithmic or automated) systems used for the allocation of tasks and the determination of remuneration, with an obligation to ensure the traceability of data and to retain such data for inspection and control purposes.
Worker access to the platform may be via one of the digital identity systems (i.e., SPID, CIE or CNS) or via an account issued by the platform itself to a single tax code, with a prohibition (subject to administrative sanctions) on the transfer or duplication of the account.

Italy, through Legislative Decree No. 96 of 7 May 2026, approved by the Council of Ministers on 30 April 2026 and published in the Official Gazette on 1 June 2026, has transposed Directive (EU) 2023/970 on pay transparency, marking a significant step towards organisational models increasingly oriented towards equity, social sustainability and the development of human capital.
EU legislation, designed to give effect to the principle of equal pay for men and women for the same work or work of equal value – a principle already enshrined in Article 157 of the TFEU – aims to achieve the objective of reducing the gender pay gap through concrete measures to ensure corporate transparency and accountability. Indeed, according to Commission data collected prior to the adoption of the Directive, women in the European Union earn on average around 13% less than men, with effects that are also reflected in career progression, pensions and, more generally, women’s economic independence.
The European legislator has therefore sought, on the one hand, to promote the adoption of objective, transparent and gender-neutral pay systems, strengthening workers’ right to know the pay criteria applied and introducing new reporting obligations for companies; and, on the other hand, to combat forms of indirect discrimination and structural imbalances that have historically affected women’s careers and pay.
Strengthening legal safeguards and enforcement mechanisms is also of key importance, in line with the European Pillar of Social Rights and the objectives of the UN 2030 Agenda, notably Goal 5 (Gender Equality) and Goal 8 (Decent Work and Economic Growth).
Legislative Decree No. 96/2026 fits within this framework. Among the main elements of the provisions contained therein are: the right of job applicants to receive information on initial remuneration or the relevant pay band prior to recruitment; the prohibition on employers requesting information on the remuneration received by the candidate from previous employers; the right of workers to obtain information on average pay levels, broken down by gender, for categories of workers performing the same work or work of equal value; the obligation for companies to adopt objective and gender-neutral criteria for determining pay and pay progression.
It should be noted, however, that not all the obligations introduced by the Decree apply indiscriminately to every company. In line with the approach of the Directive, the Italian legislator has in fact differentiated certain requirements according to company size, in order to balance the need to ensure pay transparency with that of avoiding disproportionate administrative burdens for small businesses. Consequently, reporting obligations on the gender pay gap and relating corrective measures apply only to companies exceeding certain

employment thresholds (100 employees) and will come into force on staggered dates (from 7 June 2027).
Of particular interest is the emphasis placed on collective bargaining. The Decree recognises a central role for the social partners in defining and implementing job classification and grading systems.

The entry into force of the new rules requires companies to carry out a thorough review and adaptation of their HR processes and human resources management systems. In particular, it will be necessary to:

- map company roles and define objective and gender-neutral criteria for job evaluation and classification;
- analyse the company's remuneration structure in order to identify any pay gaps not justified by objective factors;
- draft or update policies, internal regulations and procedures on pay, promotions, career progression and incentive schemes;
- review recruitment processes, ensuring that job advertisements and communications to candidates comply with the new disclosure requirements and the prohibition on requesting information about previous pay;
- implement procedures for managing requests from employees for access to pay information;
- train management, HR departments and those involved in decision-making processes relating to recruitment, performance appraisal and remuneration;
- establish systems for collecting and monitoring remuneration data disaggregated by gender, also in view of future reporting obligations under the legislation.

The Directive and the transposing Decree therefore mark a paradigm shift: pay equality is no longer viewed solely as a principle to be enforced *ex post* through the courts, but as an objective to be pursued proactively through transparency, measurement and organisational accountability. Companies are required to demonstrate the fairness and objectivity of their remuneration systems, making remuneration policy a central element of their governance, sustainability and human capital management strategies.

3. Case law developments

Pleading and evidentiary burdens in relation to holiday pay

Court of Appeal of Rome, Labour Section, judgment of 26 February 2026

The judgment under review, in establishing the principle that a worker's failure to plead the deterrent effect on the taking of annual leave arising from the non-inclusion of certain allowances in holiday pay, results in the dismissal of the claim for payment of such allowances – departs from the prevailing case law, which instead considers such deterrent effect to exist *in re ipsa* where the remuneration paid to the worker during annual leave is even marginally lower than the remuneration ordinarily received.

In the case at hand, a number of public transport workers had requested that attendance allowances, shift allowance and Sunday work premiums be included in the calculation of their holiday pay.

At first instance, the Court of Rome – in a ruling reflecting the majority line of case law – upheld the workers' claim, recognising that such payments, received on a continuous rather than occasional basis, should be included in holiday remuneration.

The Court of Appeal recalled that, pursuant to Article 7 of Directive 2003/88/EC, as interpreted by the Court of Justice, the remuneration due during the period of annual leave "*includes any pecuniary component linked to the performance of tasks and related to the worker's personal and professional status, so as to prevent the worker from being induced to forgo annual leave in order to avoid a reduction in* pay". However, it attached decisive importance to the circumstance that "*the exclusion of the disputed payments must be such as to produce a deterrent effect on the worker, namely to induce him or her to forgo annual leave*".

From this perspective, the deterrent effect constitutes an essential element of the right asserted and, as such, must therefore, pursuant to Article 2697(1) of the Civil Code, be properly pleaded and substantiated by the worker from the very outset of the proceedings.

Accordingly, since the first-instance claim contained no allegation whatsoever in this regard – the workers having merely emphasised the intrinsic link between the allowances and the duties performed, as well as their continuous and non-occasional nature– the judgment of the Court of First Instance was overturned.

The decision represents a dissenting voice within the national case law landscape, while remaining consistent with the approach of the Court of Justice, as it restores centrality to a fundamental aspect– the deterrent effect – which has instead been downplayed in Italian case law.

Non-compete covenants and remote-work clauses: invalidity of the restriction in the absence of a determinable territorial scope

Court of Milan, Labour Division, order of 2 April 2026

The Court of Milan has once again ruled on non-compete covenants under Article 2125 of the Italian Civil Code, reiterating that the validity of a post-contractual restriction requires a clear and prior identification of the territorial scope, as clauses worded in general terms or in such a way as to prevent an understanding of their scope of application are not admissible.

In the case under consideration, the Court examined a non-compete covenant that expressly provided for a restriction relating to certain foreign countries and specific Italian regions. This was, however, accompanied by a so-called "remote-work" clause, under which the prohibition applied not only to physical locations where the work was performed, but also to those in which the service could be used or, in any event, produce its effects, in whole or in part, irrespective of the worker's physical presence and the location of the competitors' premises.

According to the Court, such a provision ultimately renders the geographical scope of the restriction highly uncertain and impossible to determine in advance, as it is based on flexible criteria that cannot be objectively verified. This prevents the employee from knowing with sufficient certainty, at the time of signing, the territorial boundaries within which the agreement applies, resulting in a breach of the requirement of certainty set out in Article 2125 of the Italian Civil Code and the nullity of the entire restriction.

The decision follows a line of case law aimed at limiting the use of overly broad clauses, reaffirming that the growing flexibility and dematerialisation of work cannot result in a corresponding lack of clarity regarding the limits of the non-compete covenant.

In practical terms, the ruling calls on companies to exercise greater care when drafting such agreements, requiring the utmost precision in specifying the locations to which they refer. In particular, the use of "remote-work" clauses, or of wording that extends the prohibition to places where the work may be used or produce effects, must be applied with the utmost rigour to avoid excessive flexibility in the territorial restriction compromising the validity of the agreement in its entirety.

Territorial jurisdiction in claims for payment brought solely against a jointly and severally liable principal

Court of Monza, Labour Division, order of 24 April 2026

The Court of Monza addressed an issue of particular practical interest in labour litigation concerning contracts, namely which court has territorial jurisdiction when the worker, relying on the joint and several liability of the principal under Article 29 of Legislative Decree No. 276/2003, brings proceedings solely against the latter. In the case at hand, the worker had commenced proceedings before the court with jurisdiction over the place of work, although he had sued only the principal to obtain payment of certain sums accrued under the contract and not paid by the contractor, his employer.

The Court upheld the objection of lack of territorial jurisdiction raised by the defendant company on the grounds that, since no employment relationship existed between the parties to the proceedings, the dispute could not fall within any of the alternative fora referred to in Article 413(2) of the Italian Code of Civil Procedure. The Court developed a very straightforward line of reasoning, which can be summarised as follows:

- the rules laid down in Article 413 of the Italian Code of Civil Procedure are mandatory;
- the worker's decision to sue only the jointly and severally liable party does not permit reliance on the *forum contractus*, as no contractual relationship exists between these two parties, nor can reliance be placed on the forum of the employer or the place of work, since the principal is not the employer;
- Article 413(7) of the Italian Code of Civil Procedure provides that "*Where the provisions of the preceding paragraphs do not apply, those of Article 18 of the Code of Civil Procedure shall apply*";
- the reference to Article 18 of the Italian Code of Civil Procedure is to be understood as implicitly extending also to Article 19 of the Italian Code of Civil Procedure, which governs general jurisdiction over legal persons;
- accordingly, jurisdiction lies with the court of the place where the defendant company has its registered office.

The ruling, based on a strict reading of the provision, excludes the possibility of automatically applying the three alternative fora where the employer (to whom such fora refer) is not also joined as a defendant in proceedings brought to establish the principal's joint and several liability.

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