Revue de droit comparé du travail et de la sécurité sociale

4 | 2017
English Electronic Edition

Italy

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Electronic version

URL: <https://journals.openedition.org/rdctss/2543>

DOI: 10.4000/rdctss.2543

ISSN: 2262-9815

Publisher

Centre de droit comparé du travail et de la sécurité sociale

Printed version

Date of publication: 1 December 2017

Number of pages: 258-261

ISSN: 2117-4350

Electronic reference

Alberto Mattei, "Italy", *Revue de droit comparé du travail et de la sécurité sociale* [Online], 4 | 2017, Online since 01 November 2021, connection on 04 December 2021. URL: <http://journals.openedition.org/rdctss/2543> ; DOI: <https://doi.org/10.4000/rdctss.2543>

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Legislative news of the second half of 2017 regarding Italian Labor Law news mainly concern two areas: employment relationship (the novelty of the new law aimed at freelance workers), and trade union law (the promotion of the company's welfare required by the Italian legislator and which is recording a significant number of collective agreements adhering to it).

It should first be noted that, as a result of the abolition of the discipline of the accessory work covered by one of the decrees of the *Jobs Act* (Article 48-50 Legislative Decree No. 81 of 2015) by a decree law approved in the first half of 2017 (Legislative Decree No. 25 of 2017), already analyzed in the previous contribution regarding Italy for this Review¹, a new law was passed in April 2017 and converted in June 2017, which provided for a form of a "reincarnation" of these types of work.

In fact, art. 54-bis of the Legislative Decree 24 April 2017, no. 50, introduced at the time of conversion from Law no. 96 of June 21, 2017, envisaged a "new" type of voucher with two distinct applications with respect to the previous discipline.

Now there are specific aspects regarding the subject of work, the remuneration, the social contribution rights and compliance with the informational aspects to the National Institute of Social Security: the first is the Family Booklet (*Libretto Famiglia*); the second is the Occasional Service Contract (*Contratto di prestazione occasionale*)². In both cases, the total earned income limit is € 5,000 for each worker for the total number of users; €5,000 per user with regard to the total number of workers; for the performance of each worker in favor of the same user, the maximum limit is €2,500. There is also a limit of 280 hours during the same year for the voucher-paid worker, with the exception of the agricultural sector.

In particular, compared to the Family Booklet, this tool can be used by individuals who do not carry out professional or business activities, and those who use this tool can pay occasional benefits for certain types of activity (e.g. domestic workers), paid through payment securities set at €10, including the costs incurred by the social security and insurance system, for work not exceeding one hour. Users of the Family Booklet are required to furnish some information related to the work performed (e.g. identification data).

Another type of voucher is the Occasional Service Contract, through which a user acquires simplified odd or occasional jobs: they can resort to such a tool such as professionals, self-employed/freelance workers, entrepreneurs, public administrators, associations, foundations and other private bodies. For this type of contract, the amount of the remuneration is set by law at € 9 per hour of work and there are prior communication costs to be made to National Institute of Social Security. Specific usage limits have,

¹ See S. Nadalet, *Italie*, in *Revue de Droit Comparé du Travail et de la Sécurité Sociale*, 1, 2017, p. 186.

² See Decisions of INPS n. 107, July 5 2017.

however, been laid out: employers cannot use this type of contract if they have more than five permanent employees.

This law has again come to regulate a type of work that has been the subject of no small discourse over the last few years, in particular aimed at increasing their prevalence, which is also subject to a lively debate on the issue of the referendum.

I – JOBS ACT FOR FREELANCE WORKERS

Let us consider the legislator's intervention on the individual work relationship. A major issue with regard to Italian legislative innovations is the law regarding measures for the protection of freelance workers and measures to facilitate flexible articulation in times and places of subordinate work (Law no. 81 of 2017). This is the so-called "Jobs Act for Self-Employed Workers", which came into force in June 2017.

Apart from the discipline regarding the so-called smart working³, the part of the law concerning self-employment represents for the first time the will to intervene by the legislator not only in an antifraudulent logic, but in the aspect of the freelance workers' protection⁴.

In brief, it has been highlighted that the law protects substantive safeguards on all self-employment relationships that reflect a part of the discipline regarding unbalanced contractual terms and conditions while at the same time guaranteeing social welfare such as maternity, parental leave, illness and workplace accidents, as well as training rights, with tax advantages, and rights of information for self-employed workers access to public contracts.

For example, there are two aspects on which critical comments have been made. The first concerns the provision of clauses concerning unilateral modifications, withdrawals and payment terms. In accordance with the law, applying the rule on abuse of economic dependence (art. 9 l. 192/98), the clauses giving the employer the right to unilaterally modify the terms of the contract or, in the case of a longer-term contract, to withdraw from it without proper notice, shall be deemed to be abusive and without effect, including but not limited to the clause with which the parties agree payment terms exceeding 60 days as well as the refusal of the contractor to write the contract (Article 3). In this regard, there

³ See S. Nadalet, *op. cit.*, p. 187.

⁴ See A. Perulli, *Per gli autonomi tutele da migliorare*, in *Il Sole 24 Ore*, June 28 2017; also, A. Perulli, *Il lungo viaggio del lavoro autonomo dal diritto dei contratti al diritto del lavoro, e ritorno*, in *Lavoro e Diritto*, 2, 2017, p. 251 ss.; R. Salomone, *La regolazione del lavoro autonomo al tempo del Jobs Act*, in *Quaderni di Rassegna Sindacale*, 1, 2017, p. 99 ss.

are doctrine who have pointed out that there is a lack of application in the Italian case-law of issues relating to the abuse of economic dependence: there is a doubt about the actual fallout of that model of rules⁵.

Another part of the descriptive text is the self-employment desk dedicated to freelancers in the public service: the employment centers and temporary agency workers must have a desk dedicated to freelancers, even rendering free services to professional guilds and associations, as well as with trade unions representing self-employed workers. These public desk must collect the requests and offers for freelance work, provide relevant information to the professionals and businesses that ask for it, and furnish information on the procedures for freelance activities and for any transformation of their business (Article 10).

In this regard, it has been noted that the inclusion of self-employed work within the services provided by employment agencies is significant, but for structural reasons the problem lies in the quality of Italian services, considered inadequate, to the concrete needs of self-employed workers⁶.

II - THE PROMOTION OF ITALIAN COMPANY WELFARE

A major issue with regard to Italian legislative developments is the continuation of the promotion of company welfare by the Italian legislator. This is a significant tax benefit measure because it fosters the promotion of welfare within companies through support for collective bargaining.

When using the term “company welfare” it is meant within the scope of secondary welfare measures, i.e. measures and interventions not funded by the public system provided by a multitude of private actors in the world of both profit and non-profit associations (companies, trade unions, employers’ associations, bilateral agencies, social enterprises, insurance, bank foundations, etc.) consisting of more varied and diversified interventions (e.g. grants for employees’ children)⁷.

The phenomenon of company welfare has branched out in the absence of detailed and specific legislative discipline. There is no legislative notion of company welfare, except for a practice favored by a multidimensional interdisciplinary instrumentation: it had initially and continues to have an effect not in terms of labour law legislation - even if it affects collective relations - but on the basis of tax law. The basket of goods and services which compose the company welfare was born on the basis of normative provisions that would allow it to be excluded, if unilaterally promoted before 2015 and collectively promoted after 2016, by the notion of taxable income on salary.

The legislative turning point took place at the end of 2015, with the prevision included in the Stability Act of 2016 (Law n. 208 of 2015, art. 1, par. 182-190), which reintroduced tax incentives in favor of earnings-related income based on company or territorial collective

5 See A. Perulli, *Il lungo viaggio del lavoro autonomo dal diritto dei contratti al diritto del lavoro, e ritorno*, op. cit., p. 273.

6 See A. Perulli, *Il lungo viaggio del lavoro autonomo dal diritto dei contratti al diritto del lavoro, e ritorno*, op. cit., p. 277.

7 See E. Massagli, S. Spattini, *Cosa intendiamo quando parliamo di welfare aziendale?*, January 23 2017, www.bollettinoadapt.it.

bargaining now related to company welfare through the possibility of conversion, in total or in part, of the performance related pay elements (Article 1, par. 187, has referred back to Article 51 of Legislative Decree 81/15); and for the current year, by the Stability Law of 2017 (Law n. 232 of 2016, Art. 1, par. 160-162). This law has broadened the sum of the award thresholds that can be which is the object of conversion into welfare and has expanded the subjective scope for both the signatories to the agreements, i.e. by including those signed at national level, by an interconfederal agreement and through a territorial collective agreement (Article 1, par. 162) - recalling the most recent national collective bargaining renewals in the private sector - both for the beneficiaries, i.e. the employees of both the public and private sector.

Access to tax benefits has triggered a significant increase in the electronic communication of such agreements at the Ministry of Labor and Social Policies. Since May 2016, when the deferment was operational, there was an increase of 24,353 declaration of conformity registered on 15 September 2017 (up from 1,305 in 2016 to 25,658 in 2017). This includes the wide range of recourse to such measures by collective autonomy, but has certainly not been limited to it.