

Dear Audience:

RE: Maxi-sanction for undeclared work minimized with a formal notice

The decree for the implementation of the NRRP (National Recovery and Resilience Plan) has increased penalties for undeclared work by 30%, as indicated in Article 29 of Legislative Decree 19/2024 effective since March 2nd and currently being examined by the Chamber to be converted into law.

The amounts of the fines, divided into bands, are as follows:

- from €1,950 to €11,700 for each irregular worker, if employed without prior notice of employment up to 30 days of actual work;
- from €3,900 to €23,400 if the worker has been employed for 31 to 60 days;
- from €7,800 to €46,800 if the worker has been employed for more than sixty days.

Five years from the 2019 Budget Law, there has been a further crackdown on undeclared work: the fight against undeclared work remains one of the National Labor Inspectorate's program's priorities for this year.

The penalties amounts increased by 20% in the case of employment of foreign workers without a residence permit, minors of non-working age and workers benefiting from the Inclusion Allowance or Support for training and work for whom, among other things, the warning procedure does not apply.

The NLI will have to clarify whether the 30% increase also concerns the latter sanction or only the third paragraph of Article 3 of Legislative Decree 12/2002.

When the maxi-sanction is going to take place

The maxi-sanction applies to all private employers, with the exception of domestic ones, if the company does not communicate within 24 hours of the day before the start of employment and if the inspection bodies prove that they are subordinate.

This penalty for undeclared work adds to the one provided for the lack of traceability of wages and if the employer were unable to prove payment by one of the methods established by law, he may also receive a warning for unpaid wages.

How to comply with the warning

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The amounts of the penalties are not to be trusted, so if the offender complies with the request he will be able to pay the fine at the minimum rate established by law within 120 days of the notification of the penalty and within the same period, the employer will have to regulate the undeclared employee.

If the employee is still in force for the inspection access, the company will have to stipulate an open-ended contract, even part-time, with a reduction in working hours of no more than 50%, or a fixed-term contract of at least three months.

When hiring, it will not be possible to use the intermittent contract; however, it will be allowed to begin an apprenticeship contract. Regularization by means of a fixed-term contract must comply with the percentages established by law or collective agreement.

In addition, the worker must remain on duty for at least three months, equal to 90 calendar days from the date of the inspection. If the employment is terminated for reasons not related to the employer, it is possible to comply with the notice through a separate contract concluded after the inspection, ensuring the continuity of the relationship for at least three months.

However, the formal notice is not considered fulfilled if the employment relationship is not actually maintained for three months within 120 days of the notification of the notice, regardless of the cause.

Another option concerns the regularization of an undeclared work period carried out before the regular period with the employer. In this case, the notice, to be complied with within 45 days, must include the correction of the date of employment, the payment of wages, bonuses and a minimum penalty.

To declare a former employee who is no longer in service with the company, it is not required to remain in service for at least three months.

Non-compliance and appeals

If the warning is not complied with within 120 days, the penalty increases by twice the minimum or by a third of the maximum, depending on the situation of the worker to declare, choosing the most favorable option. Payment dues must be made within 60 days of the deadline to comply with the formal notice.

It is necessary to submit the appeal to the Employment Relations Committee within 30 days of the deadline to comply with the formal notice.

Palermo, Rome, 16 April 2024

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