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Limitation Period for Social Security Contributions After Reinstatement: Ten-Year Conversion

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ABSTRACT
Under Italian labour and civil law, the final judgment ordering reinstatement and the payment of social security contributions pursuant to Article 18 of Law No. 300/1970 converts the five-year limitation period into a ten-year period under Article 2953 of the Civil Code, even in favour of INPS as a third party absent from the dismissal proceedings. Examining judgment No. 27341 of 20 October 2026 rendered by the Labour Division of the Court of Cassation, this article clarifies why the public-law nature of social security obligations precludes both a split res judicata doctrine and any waiver inferred from the agency's procedural stance, while demarcating the boundaries vis-à-vis void fixed-term contracts and non-enforceable payment orders. It further analyses the partial reversal concerning restitution of the employee contribution share where the underlying payment order was swept away by termination of the dispute.

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Limitation Period for Social Security Contributions After Reinstatement: Ten-Year Conversion

Actio iudicati under Article 2953 of the Civil Code between third-party contribution orders and overturned payment decrees in Supreme Court of Cassation, Labour Division, Judgment no. 27341 of 20 October 2026

CASE DOSSIER

COURT
Italian Supreme Court of Cassation

DECISION
Labour Division, Judgment no. 27341 of 20 October 2026

KEY PROVISIONS
Law no. 300 of 20 May 1970, Article 18 • Italian Civil Code, Article 2953 • Italian Civil Code, Article 2115

HOLDING
quashed and remanded in part

KEY TAKEAWAYS

01 Order in favour of a third party
The social security contribution order ancillary to reinstatement under Article 18 of the Workers' Statute requires neither a specific claim by the employee nor INPS participation in the dismissal action.

02 Ten-year conversion under Article 2953 c.c.
Finality of the reinstatement judgment extends the ten-year limitation period to INPS as a third party, regardless of the agency's procedural conduct on a public-law regime.

03 Scope boundaries and distinguishing
This exceptional regime cannot be extended by analogy to the judicial conversion of void fixed-term contracts or to unopposed payment orders lacking judicial enforceability under Article 647 c.p.c.

04 Fate of the restitution title
Termination of the dispute in opposition proceedings sweeps away the payment decree, requiring the remand court to verify actual receipt and the existence of a valid title for EUR 59,084.66.

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JEL: K31, K38 • EuroVoc: 3359, 557

LEGAL PRINCIPLE / EDITORIAL HEADNOTE

The social security contribution order ancillary to workplace reinstatement converts the limitation period into a ten-year term under Article 2953 of the Civil Code even for INPS absent from the proceedings, subject to verifying the validity of any restitution title.

ABSTRACT The **limitation period for social security contributions after reinstatement** converts into a ten-year period by operation of *res judicata* under Article 2953 of the Italian Civil Code even in favour of INPS as a third party absent from the dismissal proceedings. Examining Judgment no. 27341 of 20 October 2026 of the Italian Supreme Court of Cassation, Labour Division, this article explains why the **contribution order** under Article 18 of Law no. 300/1970 represents an exceptional judgment in favour of a third party that admits neither a split *res judicata* doctrine nor any waiver inferred from the agency's procedural stance. Contrasting this regime with void fixed-term contracts and non-enforceable payment decrees, the study further analyses the reversal on the employer's restitution claim regarding the employee contribution share collected under an **opposed payment order** subsequently swept away by **termination of the dispute**.

COMPARATIVE & EU FRAMING **Institutional & EU Nexus:** In Italian Civil Law, mandatory social security contributions (*contributi previdenziali obbligatori*) are public-law obligations comparable to taxes, governed by a strict non-waivable five-year limitation period (*prescrizione*) that converts into a ten-year judgment period (*actio iudicati*) under Article 2953 of the Civil Code once adjudicated with final effect. **Comparative Common Law Lens:** Whereas UK and US employment tribunals typically treat unfair dismissal remedies as bilateral compensation orders leaving tax and national insurance adjustments to separate statutory assessment, Italian reinstatement protection (*tutela reale*) embeds a statutory order in favour of the public pension agency directly into the private dismissal judgment, triggering strict restitution rules when summary payment decrees (*decreti ingiuntivi*) collapse in opposition proceedings.

01. INTRODUCTION: SUPREME COURT OF CASSATION, LABOUR DIVISION, JUDGMENT NO. 27341/2026

Judgment no. 27341 of 20 October 2026 of the Italian Supreme Court of Cassation, Labour Division[1] addresses the delicate intersection between reinstatement protection for unlawful dismissal, social security obligations, and the stability of judicial titles. Reviewing a twenty-year litigation history, the Court reaffirms that the **limitation period for social security contributions after reinstatement** converts into a ten-year term by operation of *actio iudicati*. The Bench thus rejects every attempt to curtail the reach of *res judicata* on account of INPS's absence from the dismissal proceedings, while separating two distinct legal planes.

§ 2 On the social security plane, the decision confirms the exceptional nature of the **order in favour of a third party** provided by Italian labour legislation. The public-law regime governing contribution claims remains impervi-

ous to subjective procedural bars and to any conceding stance adopted by the beneficiary agency. On the private-law plane of restitution between employer and employee, however, the Court requires strict scrutiny of whether the **summary payment order** still stands. It therefore quashes and remands the appellate ruling that had denied recovery of the employee contribution share without assessing the supervening termination of the opposition dispute.

§ 3 This dual outcome strikes a clear balance between the **non-waivable character of public obligations** and the concrete verification of unjust enrichment prerequisites. Protecting the **integrity of the social security system** never legitimizes retentions devoid of a valid judicial title.

02. FACTUAL BACKGROUND, PROCEDURAL SEQUENCE, AND STATUTORY FRAMEWORK

§ 4 The dispute decided by the Italian Supreme Court of Cassation, Labour Division, in Judgment no. 27341/2026[1] stems from the **disciplinary dismissal** served on 15 February 2003 by Banca Toscana on employee Salvatore Presta, later continued against merging bank Banca Monte dei Paschi di Siena. By judgment of 23 July 2010, affirmed by the Court of Appeal of L'Aquila on 28 April 2011, the Court of First Instance of Chieti annulled the dismissal for untimeliness of the disciplinary charge. The court consequently ordered **workplace reinstatement**, payment of back pay, and remittance of social security contributions. Dismissal of the cassation appeal on 3 July 2015 rendered that order final.

§ 5 In parallel, in 2010 the employee obtained from the Court of First Instance of Chieti a **payment order for EUR 736,067.96**, including the employee's own contribution share of **EUR 59,084.66**. The bank's opposition closed on 25 June 2012 with a declaration of termination of the dispute, followed on 25 July 2013 by a ruling declaring the appeal inadmissible under Article 434 c.p.c. for lack of specificity. In separate proceedings before the Court of First Instance of Pescara, decided on appeal on 29 October 2020, the bank was ordered to pay INPS EUR 158,892.25 up to the employee's election of the statutory indemnity in lieu of reinstatement. The appellate court also dismissed the bank's restitution counterclaim.

§ 6 The statutory architecture rests on three provisions of systemic relevance. Paragraph 2 of Article 18 of Law no. 300 of 20 May 1970 mandates that the employer be ordered "to pay social security and welfare contributions" from dismissal to reinstatement. An analogous rule applies under paragraph 4 for **attenuated reinstatement protection** and under Articles 2(2) and 3(2) of Legislative Decree no. 23 of 4 March 2015. The five-year limitation period under Article 3(9) of Law no. 335 of 8 August 1995 thus intersects with Article 2953 of the Civil Code, under which rights subject to shorter limitation periods, "when a final judgment of condemnation has been rendered regarding them, are time-barred after ten years".

§ 7 Regarding liability for performance, Article 2115(2) of the Civil Code states that "the employer is responsible for paying the contribution, including the share borne by the employee, subject to the right of recourse under special laws". The provision further voids any agreement aimed at evading social security duties. The Court's twofold review builds directly upon these **statutory foundations**.

03. LIMITATION PERIOD FOR SOCIAL SECURITY CONTRIBUTIONS AFTER REINSTATEMENT AND ACTIO IUDICATI FOR A THIRD PARTY

3.1 — Judgment in Favour of a Third Party and Rejection of Split Res Judicata

§ 8 By its first ground of appeal, the bank challenged the application of Article 2953 of the Civil Code, relying on INPS's absence from the dismissal proceedings and on the agency's own acknowledgment of limitation. Supreme Court of Cassation, Labour Division, Judgment no. 27341/2026[1] rejects that objection, because Article 18 of Law no. 300/1970 establishes an **order in favour of a third party** requiring neither a claim by the employee nor participation by the agency. As confirmed by Labour Division Judgment no. 6722 of 10 March 2021[2] and Order no. 19861 of 15 June 2026[3], mandatory contributions constitute **public-law obligations** akin to tax debts, whose public character bars the employee from substituting for the agency.

§ 9 Insofar as the legal system exceptionally permits a condemnation in favour of a non-appearing entity, denying its full legal effect on the limitation period would be internally contradictory. The employer's thesis would yield a *split res judicata*, stripped of the statutory conversion effect mandated by Article 2953 of the Civil Code upon finality. **Ten-year conversion** requires solely that the right fell within the *thema decidendum* adjudicated with final force. Nor can **INPS's procedural conduct** alter the outcome, since the public-law limitation regime governing social security contributions lies beyond the disposal of the parties.

> ***The contribution order ancillary to reinstatement admits no split res judicata: once the dismissal judgment becomes final, actio iudicati operates in full even for the social security agency absent from the proceedings.***

§ 10 Conversely, the time span of the employer's contribution duty remains sharply bounded, stopping in the case at hand upon the employee's election of the fifteen-month indemnity in lieu of reinstatement. Paragraph 3 of Article 18 of Law no. 300/1970 characterizes that election as an act "whose request terminates the employment relationship and which is not subject to social security contributions". On the adjacent front of income-support benefits, this journal has previously examined entitlement to NASpI unemployment benefits after reinstatement without factual resumption[D1]. While the election closes the insurance relationship, the reinstatement judgment consolidates **ten-year collection** of contributions accrued up to that date, anchored in the **adversarial guarantee** of the original dismissal trial.

3.2 — When the Ten-Year Limitation Period Applies and Which Rights Remain Excluded

§ 11 The **limitation period for social security contributions after reinstatement** becomes ten years only where a final condemnation has been rendered under Article 18 of Law no. 300/1970 or Legislative Decree no. 23/2015. In such cases, limitation begins to run only after the judicial order restoring the employment relationship.

§ 12 This rule does not apply to the distinct scenario of judicial conversion of a **void fixed-term employment contract**. As clarified by Supreme Court of Cassation, Labour Division, Judgment no. 603 of 10 January 2025[4], Article 18 of the Workers' Statute is an exceptional provision barred from **analogical extension** under Article 14 of the Preliminary Provisions to the Civil Code. Because nullity of the expiry clause leaves the employment relationship legally intact, no legal impediment under Article 2935 of the Civil Code prevents INPS from claiming contributions prior to judgment. Accordingly, the five-year limitation period runs day by day from expiry of the void term, starting from the twenty-first day of the month following salary accrual.

§ 13 A second boundary concerns the formal quality of the judicial title invoked to trigger ten-year conversion under Article 2953 of the Civil Code. Supreme Court of Cassation, Labour Division, Order no. 32903 of 9 November 2021[5] rules out that an unopposed payment decree lacking a **declaration of enforceability** under Article 647 c.p.c. converts the five-year period into ten years. That decree involves a genuine judicial check on proper service and adversarial notice, and only an enforceable payment order triggers the extraordinary remedies of *res judicata* under Article 656 c.p.c.

§ 14 Further limits arise in enforcing a reinstatement judgment and seeking any **recalculation of ancillary pay items**. In Order no. 19861/2026, the Labour Division addresses an employee who enforced the reinstatement judgment through execution proceedings up to distribution of proceeds. Once enforcement concludes, the worker is barred from bringing a fresh ordinary action to add further pay elements and corresponding unpaid contributions. Any dispute over the scope of the title must be raised within enforcement or opposition proceedings, subject to **internal res judicata** under Article 2909 of the Civil Code on heads not challenged by cross-appeal, leaving enforcement governed by strict **procedural preclusions**.

DECISION / COURT	HOLDING	CORE LEGAL PRINCIPLE
Supreme Court of Cassation, Labour Division, Judgment no. 27341 of 20 October 2026	Ten-Year (Mixed)	Confirms ten-year conversion under Article 2953 c.c. for INPS as a third party, rejecting split res judicata; quashes and remands on restitution of the employee share after termination of the opposed decree.
Supreme Court of Cassation, Labour Division, Order no. 19861 of 15 June 2026	Consistent	Reaffirms third-party contribution orders under Article 18 and ten-year conversion, barring employee substitution for INPS and post-enforcement recalculation actions.
Supreme Court of Cassation, Labour Division, Judgment no. 6722 of 10 March 2021	Consistent	Confirms accrual from reinstatement and ten-year limitation for INPS as a third party, while denying any direct worker action against INPS and referring to Article

DECISION / COURT	HOLDING	CORE LEGAL PRINCIPLE
		2116 c.c. and Article 13 of Law no. 1338/1962.
Supreme Court of Cassation, Labour Division, Judgment no. 603 of 10 January 2025	Excluded (Distinguishing)	Rules out analogical extension of Article 18 to conversion of void fixed-term contracts: five-year limitation runs day by day from expiry of the void term.
Supreme Court of Cassation, Labour Division, Order no. 32903 of 9 November 2021	Excluded (Distinguishing)	Excludes ten-year conversion under Article 2953 c.c. for an unopposed payment order lacking a judicial declaration of enforceability under Article 647 c.p.c.

3.3 — Interaction Between Employee Claims, Damages Remedies, and INPS Inaction

§ 15 The ten-year extension granted to INPS does not alter the structural asymmetry separating the **contribution relationship** from the pension benefit relationship. In Judgment no. 6722/2021, the Labour Division denies the employee a **direct action against INPS** to compel regularization of the insurance record, even where the worker notified the agency of the reinstatement judgment and employer default before limitation expired. As reiterated in Order no. 19861/2026, exclusive **public ownership of the claim** bars the employee from substituting for the agency under Article 81 c.p.c. to demand payment, shifting protection onto the damages plane.

§ 16 Where contributions are no longer recoverable, Italian law provides a twofold residual safeguard against the employer. The insured worker may seek establishment of a **life annuity** under Article 13 of Law no. 1338 of 12 August 1962, an action that under Judgment no. 603/2025 requires no prior administrative application. Alternatively or subordinately, the worker may claim **pension loss damages** under Article 2116(2) of the Civil Code, which the trial court cannot treat as absorbed once limitation is established. Judgment no. 6722/2021 further clarifies that deregistration of corporate employers from the Companies Register does not bar these claims, which pass by succession to shareholders, preserving the effectiveness of the **residual remedy system**.

04. THE EMPLOYEE CONTRIBUTION SHARE, ARTICLE 2115 C.C., AND THE OVERTURNED PAYMENT TITLE

4.1 — The Employer's Exclusive Duty Under Article 2115 c.c. After Maturity

§ 17 By its second ground, the appellant bank challenged the dismissal of its counterclaim to recover the **employee contribution share** of EUR 59,084.66 enforced via payment order. Relying on Articles 2115 and 2033 of the Civil Code and Articles 19 and 23 of Law no. 218 of 4 April 1952, the bank characterized that payment as **subjective undue payment** ***ex latere accipientis***. The appellate court had rejected restitution on the premise that payroll withholding applies only to timely paid wages and that, once overdue, the employer remains the **sole debtor** even for the employee's share. Yet that premise does not automatically justify retention by the employee.

§ 18 Construing Article 2115 of the Civil Code confirms that employer liability for full remittance to the social security agency confers no independent entitlement on the employee to pocket contribution amounts directly. Paragraph 3 reinforces this public-law discipline by declaring that "any agreement aimed at evading obligations relating to social security or welfare is void". In Judgment no. 27341/2026[1], however, the Labour Division shifts the inquiry from substantive law to the **judicial title** allegedly supporting payment. On the closely related issue of payments made under subsequently overturned titles, this journal has recently analysed restitution of compensatory indemnity after reversal of reinstatement[D2]. Here, the critical issue lies precisely in the standing of the **opposed payment order** before the lower court, rendering **verification of actual payment** indispensable.

4.2 — Termination of the Dispute, Burden of Proof, and Defence Strategies

§ 19 Quashing and remand rest on the procedural effect assigned to the outcome of the **opposition proceedings** against the payment order. According to the Court, opposition opens full scrutiny of all constitutive, modifying, and extinguishing facts existing at the time of judgment. Consequently, supervening **termination of the dispute**, driven by an extinguishing event or loss of legal interest, sweeps away the summary ruling on the merits and mandates its revocation, depriving the opposed order of any *res judicata* effect.

§ 20 On remand before the Court of Appeal of L'Aquila, review focuses on two factual findings previously left unaddressed. First, the court must resolve the conflict between the bank, alleging payment of EUR 59,084.66, and the employee, denying receipt. Should disbursement be proven, the court must then verify whether a **valid judicial title** survives notwithstanding the opposition judgment of 25 June 2012 and the inadmissible appeal of 25 July 2013. A sharp contrast thus emerges with Labour Division Order no. 32903 of 9 November 2021[5]: whereas an unopposed decree lacking enforceability under Article 647 c.p.c. fails to trigger the ten-year period, a decree terminated for mootness cannot justify retaining funds.

§ 21 On the defensive plane and the **burden of proof**, the judgment demands a twofold documentary and procedural precaution from counsel. An employer suing for restitution under Article 2033 of the Civil Code must prove **actual disbursement of the contested sums** and produce the opposition file demonstrating revocation of the summary order. Conversely, employee counsel must separate **contributions owed to INPS**, protected by the ten-year term, from sums claimed directly in execution as employee shares, verifying proof of payment or an independent compensatory title untouched by revocation. The precision of the **evidentiary strategy** governs the outcome on remand.

TEN-YEAR LIMITATION OF INPS CONTRIBUTIONS AND COLLAPSE OF THE PAYMENT ORDER
The contribution order ancillary to reinstatement converts the limitation period into ten years even for INPS as an absent third party, regardless of the agency's conduct. Conversely, a restitution claim over the employee share requires concrete proof of payment and of a surviving valid title after termination of the dispute.

05. CONCLUSIONS

§ 22 Supreme Court of Cassation, Labour Division, Judgment no. 27341/2026[1] strikes an equilibrium consistent with Articles 35, 36, and 38 of the Constitution on labour and social security. By confirming that the **limitation pe-**

riod for social security contributions after reinstatement converts into ten years under Article 2953 of the Civil Code even for INPS absent from the proceedings, the Court avoids a diminished judgment. The non-waivable public-law regime further shields the worker's insurance record against conceding stances by the agency, giving full effect to the **protective function of reinstatement**.

§ 23 At the same time, quashing and remand on the second ground reaffirms procedural legality in restitution disputes between employer and employee. No monetary claim can outlive the collapse of its underlying summary order when opposition proceedings close for **termination of the dispute**. It will thus fall to the Court of Appeal to ascertain actual receipt of EUR 59,084.66 and verify whether an independent legal title exists, ensuring certainty in restitution through strict **title verification**.

AUTHORITIES & REFERENCES

Table of Authorities & References Cited

I. STATUTORY PROVISIONS

Law no. 300 of 20 May 1970, Article 18 – Reinstatement protection against unlawful dismissal, social security contribution order, and election of indemnity in lieu of reinstatement.

Italian Civil Code, Article 2953 – Ten-year conversion of shorter limitation periods following a final judgment of condemnation.

Italian Civil Code, Article 2115 – Contribution allocation and employer responsibility for remitting also the employee share.

Law no. 335 of 8 August 1995, Article 3(9) – Ordinary five-year limitation period for mandatory social security contributions.

Italian Civil Code, Articles 2033, 2116, 2909, and 2935 – Restitution of undue payment, damages for omitted contributions, res judicata, and accrual of limitation.

Italian Code of Civil Procedure, Articles 81, 434, 647, and 656 – Procedural substitution, appeal specificity, and enforceability of payment orders.

Law no. 1338 of 12 August 1962, Article 13, and Legislative Decree no. 23 of 4 March 2015, Articles 2 and 3 – Life annuity for time-barred contributions and contribution orders under increasing-protection contracts.

II. CASE LAW CITED

[1] **Italian Supreme Court of Cassation, Labour Division, Judgment no. 27341 of 20 October 2026** Confirms ten-year conversion under Article 2953 c.c. for INPS absent from reinstatement proceedings and quashes dismissal of the employer's restitution claim over the employee share for failure to examine the opposed payment order. OUTCOME: quashed and remanded in part. PARA.: 1.2 and 2.1-2.3.

[2] **Italian Supreme Court of Cassation, Labour Division, Judgment no. 6722 of 10 March 2021** Reaffirms the exceptional third-party contribution order under Article 18 and ten-year conversion for the absent agency, while denying a direct worker claim against INPS for contribution crediting. OUTCOME: dismissed. PARA.: Reasons on joined grounds.

[3] **Italian Supreme Court of Cassation, Labour Division, Order no. 19861 of 15 June 2026** Confirms the public-law nature of contributions and conversion under Article 2953 c.c., barring employee substitution for INPS or fresh recalculation suits after completed execution. OUTCOME: quashed and decided on the merits in part. PARA.: 1, 2, and 4.

[4] **Italian Supreme Court of Cassation, Labour Division, Judgment no. 603 of 10 January 2025** Excludes analogical extension of Article 18 to judicial conversion of void fixed-term contracts, affirming day-by-day five-year limitation and the duty to adjudicate subordinate claims under Article 13 of Law no. 1338/1962 and Article 2116 c.c. OUTCOME: quashed and remanded in part. PARA.: 2.1-2.5 and 3.

[5] **Italian Supreme Court of Cassation, Labour Division, Order no. 32903 of 9 November 2021** Excludes ten-year conversion under Article 2953 c.c. for an unopposed payment decree lacking a judicial declaration of enforceability under Article 647 c.p.c. OUTCOME: dismissed. PARA.: single ground.

III. LEGAL SCHOLARSHIP CITED

[D1] Metodo Giuridico, Spettanza della NASpI dopo la reintegra senza ripristino di fatto [Entitlement to NASpI After Reinstatement Without Factual Resumption]. Analysis of social security effects arising from the election of indemnity in lieu of reinstatement under Article 18(3) of Law no. 300/1970.

[D2] Metodo Giuridico, Restituzione indennità risarcitoria dopo riforma della reintegra [Restitution of Compensatory Indemnity After Reversal of Reinstatement]. Study of limits and conditions governing recovery of sums paid under reinstatement judgments lacking a stable title.

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