



ITALY - COPING WITH COVID-19 IN THE "BACK TO WORK" PHASE

Much later than originally expected, Decree no. 34/2020 (so-called Decreto Rilancio) has finally been published in the Official Gazette and is now in force effective 19th May 2020.

The Decree confirms a large portion of the previous Covid-19 emergency initiatives, with a view to further extending the possibility of suspending employees from work while at the same time safeguarding their jobs. It also introduces additional subsidies to support employers and additional rights in favour of employees to handle the current - still atypical - phase of their work life.

FIRING BAN AND REVISED EMPLOYMENT RULES

The already introduced **ban on dismissals is extended until 17th August, 2020**: consequently, until such date employers are prevented from dismissing employees on economic grounds.

Specifically, it is forbidden to start collective dismissal procedures and/or to terminate employees on an individual basis due to organizational/redundancy reasons. The ban still does not apply to the limited scope of workers who can be dismissed "at will", including for instance domestic workers, and to employees who are dismissed for disciplinary reasons.

The Decree specifies that an employer who (in the period until March 17th) terminated an employment in breach of the above prohibition may, by way of derogation from the applicable provisions of law, revoke the termination at any time provided that he simultaneously places the employee under a social plan.

This specification seems to strengthen the interpretation whereby the prohibition to proceed with individual terminations on economic grounds **does not apply to executives** (called *dirigenti* in Italy), given that this category of employees does not benefit from any social plan.

Fixed-term employment and staff leasing

In order to facilitate the restart of business activities, fixed-term employment contracts already in force on February 23rd can be renewed or extended until August 30th, 2020, even in the absence of the specific reasons ("*causali*") and of the stop & go requirements generally imposed by law.

Although the letter of the law is not so clear in this sense, we consider that the same kind of exemption should apply also to fixed-term staff-leasing contracts in force on February 23rd.

The obligation to hire disabled people is further suspended

The suspension of the employer's obligation to hire disabled employees – originally equal to two months – is extended of further two months (four months in total).

HOME WORKING GRANTED TO PARENTS

The Decree confirms the possibility (at least until 31st December 2020) to use home working, throughout the national territory, even in the absence of individual agreements.



Therefore, the employer has the possibility to unilaterally impose home working, while in principle the employee is not entitled to work from home.

However the Decree has introduced an exception to this rule: indeed, until the end of the health emergency, **parents with children under 14 are entitled to work remotely** (unless there is another parent at home who benefits from social plans or is unemployed) even in the absence of an agreement with the employer, provided that their tasks can be reasonably carried out from home.

WORK ON SITE UNDER STRICT H&S RULES

In those cases in which the business activity continues "on site", employers must first of all comply with the H&S Protocols recently agreed between the social parties. In addition, until the end of the state of emergency employers are required **to ensure exceptional health and medical surveillance** in favour of workers who are most at risk of infection (due to their age, or because of immune-depressive diseases). Should the medical checks assess that any of such employees is no longer fit for work, employers are however prevented from dismissing them.

ADDITIONAL SUBSIDIES IN FAVOUR OF EMPLOYERS

Wage subsidy to avoid dismissals

Regions, other territorial authorities and Chambers of Commerce may adopt aid measures, using their own resources, in order **to contribute to the salary and social security costs incurred by companies to avoid redundancies during the COVID-19 pandemic**. This subsidy may be granted for a maximum of 12 months and up to 80% of the gross monthly salary (including the employer's social security charges) *"of employees who would otherwise have been made redundant as a result of the suspension or reduction in business activities due to the COVID-19 pandemic and on condition that the staff benefiting from it continue to work continuously throughout the period for which the aid is granted"*.

It remains to be seen whether the Regions and other entities will actually offer such measures, given the likely unavailability of sufficient resources.

Funds to safeguard occupation

A specific **State fund aimed at the safeguard of occupation**, and with an endowment of 100 million euros for 2020, has been established with a view at supporting the rescue and restructuring of, among others, companies with at least 250 employees which are in economic and financial difficulty.

Reduction of working time agreed with the trade unions

Again with the purpose of easing the gradual resumption of business activities and the employer's related burdens, in 2020 company-level or local collective agreements entered into with the Trade Unions may define patterns for the re-modulation of working time, a part of which is to be dedicated to training courses. The **cost of training hours**, including the related social security contributions, is to be **borne by a special public fund called the "New Skills Fund"**, which is set up



with an initial allocation of 230 million euros. The criteria and methods for the application of this measure and the related resources will be identified by a specific ministerial decree.

Subsidy to reduce risks of contagion

In order to encourage the implementation of the anti-contagion protocols, the national insurance for accidents at work (INAIL) may promote extraordinary measures in favour of companies, including for the purchase of equipment for the isolation or distancing of workers or for the sanitation of places.

Tax credits are also provided for companies in relation to the interventions necessary to ensure compliance with H&S rules and virus containment measures in the workplace, sanitization processes, purchase of protective equipment, etc.

SOCIAL PLANS AND EXCEPTIONAL LEAVES OF ABSENCE

Social plans

The Decree provides for the extension (and therefore the refinancing) of the wage subsidy schemes already in place **for additional 9 weeks**, and namely:

- **5 weeks** until 31st August 2020, for employers who have fully used up the previously granted 9 weeks;
- **4 weeks** in the period from 1st September 2020 to 31st October 2020 (for companies operating in the tourism, entertainment, exhibitions and congresses sectors these additional 4 weeks can be used also prior to 1st September).

Clearly, for those employers who started using social plans since February 23rd, the 9 + additional 5 weeks will **expire before the end of the firing ban**, and this leaves the door open to a series of rather complex implications.

Exceptional leaves of absence (including for disabled employees)

The Decree confirms and renews the several extraordinary types of leave already introduced by the previous emergency legislation, and namely:

- parents of children under 12 (or disabled children without age limits) can benefit in the period from 5th March and **until 31st July 2020** from an **extraordinary leave of absence of 30 days** in total, which is paid with an allowance paid by the social security administration and equal to 50% of the salary; as an alternative to this leave, parents can benefit from a voucher of 1200 Euro for the expenses of baby-sitting/summer centers/child care services;
- parents of children from 12 to 16 can take unpaid leave during the school closure period.
- employees with serious disabilities or their carers can benefit from further 12 days of permits in May and June 2020. These employees will therefore be entitled to a total of **18 days' leave between May and June**, which must be granted in accordance with the ordinary rules.

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The Employment and Industrial Relations Department of Legance is available to provide any clarifications, also in respect of any specific situation which may be of interest to you.

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