

“COVID-19” HEALTH EMERGENCY AND BAN OF DISMISSAL:
“AUGUST DECREE”

The Italian Decree No. 104 of 14 August 2020 (“August Decree”), published in the Italian Official Journal on 14 August 2020 and in force from 15 August 2020, inserts/extends additional extraordinary measures in the context of Covid-19 health emergency.

In particular, until 17 August 2020 the ban of individual and collective dismissals for justified objective reasons was in force and all the procedures started after 23 February 2020 were suspended (“Cure Italy Decree”).

With Section 14 of August Decree the ban of collective or individual dismissals for justified objective reasons (and the suspension of all the procedures started after 23 February 2020) has been extended until the end of the year for the employers, which requested (or will request) the access to the emergency new publicly-funded salary coverage or the social security contributions’ exemption.

Section 14 of the August Decree provides that it is possible to proceed immediately with dismissals only in the following situations:

- 1) A change in the service contract which implies the re-employment of the personnel employed by the new service contractor;
- 2) The permanent cessation of a business by liquidation of the company;
- 3) A company-level collective agreement, signed with the trade unions that are comparatively most representative nationally, which provides for layoffs with incentives, limited to the workers who subscribe to such agreement (in this case, the worker will be granted the involuntary unemployment benefit in Italian named “NASPI”).
- 4) Bankruptcy without temporarily carrying on the business.

We point out that at the moment the most part of the Italian labour law doctrine prefers a prudential approach and affirms that the ban of the dismissals is valid also for the employers which have not yet requested the new publicly-funded salary coverage or the social security contributions’ exemption until 31 December 2020 (dead-line to request the access to the new publicly-funded salary coverage). At the moment, a clear interpretation of the Italian competent Authorities is expected in order to exclude the block of the functioning of the companies and also the labour market in Italy until the end of this year.

This alert is updated on 31 August 2020 and it summarizes the new rules concerning the ban of dismissal. Due to the continuous amendments of the laws



for the health emergency, the above topics could be subject to additional amendments.

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SILS' legal team is specialized in the extrajudicial assistance concerning the employment law matters and in the coordination of the individual and collective dismissal procedures with reference to this period of Covid-19 health emergency. For further information and queries, please send an e-mail to the partners Mr. Fulvio Pastore-Alinante (fulvio.pastore@silsitalia.it) and Luigi Zumbo (luigi.zumbo@silsitalia.it).

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