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1. NEW LAWS AND REGULATIONS

1.1 A new protocol on safety measures at the workplace and a new protocol for the implementation of the vaccination campaign at the workplaces have been signed

On 6 April 2021, the Italian Government and the National Trade Unions signed a new protocol on health and safety measures at the workplace (document in Italian [here](#)), with the aim of containing the spread of the COVID-19 virus. This new protocol updates the previous protocol signed on 14 March 2020 and updated on 24 April 2020 (see our newsletter on the protocol of 14 March [here](#) and the one on the protocol of 24 April [here](#)).

On the same day, the Italian government and the National Trade Unions also signed a new protocol on the implementation of vaccination campaigns at the workplaces (document in Italian [here](#)).

You can read more about these new protocols in our newsletter [here](#).

2. CASE LAW DEVELOPMENTS

2.1 Transfer of ongoing concern: employees' base salary cannot be reduced

According to a recent ruling by the Italian Supreme Court, employees can file a claim against the employer in case they suffer a reduction in their compensation as a consequence of a transfer of ongoing concern. To do this, the employee must have suffered an actual reduction of their overall compensation, excluding all amounts that are not paid on a regular basis but rather depend on variable elements such as the quality and quantity of the work performance.

2.2 Dismissal for cause: unlawful when grounded on the employees' refusal to obtain specific licenses

According to a recent ruling by the Italian Supreme Court, employees cannot be dismissed for cause if they refuse to get a specific license upon the employer's request. In the case ruled on, the employer requested the employee, who refused, to obtain a license (the cost of which was significant) that were not requested by the law or the collective or individual employment agreement in order to perform their duties. According to the Court, such refusal cannot ground a dismissal for cause, but rather disciplinary action due to the employee's objection to comply with an employer's order.

2.3 Transfer of ongoing concern: the assessment of the functional autonomy requirement

Under Italian law, when an ongoing concern is transferred, the transferred business must be clearly identified and be able to perform its business activity independently, with its own means and assets. According to a recent ruling by the Italian Supreme Court, when assessing whether such a requirement is met, the organizational structure of the business must be considered before the transfer takes place and not after the transfer.

2.4 Settlement agreements: formal appointment to the unions is required

In Italy, settlement agreements containing waivers on potential claims an employee may raise must be ratified pursuant to the law in order to be effective. This ratification must take place before settlement commissions, that are administrative bodies in which a union representative appointed by the employee must also sit. A According to a recent ruling by a local labour court, the mentioned ratification is void if no union representative sits on the settlement commission. The labour judge reached this conclusion arguing that, in such a case, it is evident that the employee did not receive effective assistance during the ratification process, thus making the waivers not fully enforceable.



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