

Temporary rules for redundancy

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Due to the ongoing COVID-19 pandemic, the government has extended the ban on individual and collective redundancies due to organisational or economic reasons until the end of 2020 (Law Decree 104/2020).

Under the previous emergency regulations, individual and collective redundancies due to organisational or economic reasons were suspended until 17 August 2020. As of 18 August 2020, this policy remains in place for employers that have not fully benefited from the social security benefits specifically provided during the COVID-19 emergency (ie, a special salary integration fund for 18 months or an exemption from social contributions for up to four months).

However, employee terminations can proceed where:

- the dismissal and rehiring of employees occurred due to a change of contract as a result of a legal or contractual obligation;
- the dismissal was motivated by the employer's cessation of business activity, resulting from the liquidation of the company without continuation, even partial, of the activity (without prejudice to the rules on business transfer);
- collective labour agreements are used which provide for lay-offs and incentives. Terminations are limited to employees who adhere to the agreement and can also receive unemployment indemnity; and
- the dismissal occurred due to the company's bankruptcy, when there is no authorisation for the provisional continuation of the company's activity or the termination has been approved.

Further, there are no limitations in relation to the individual dismissal of executives.

The scope of employers to which the prohibition on dismissal applies is unclear, especially in relation to those that have not benefited and do not intend to benefit from the COVID-19 social bumpers under Law Decree 104/2020. The wording seems to exclude these employers from proceeding with redundancies, but clarification is expected when the decree is converted into law.

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