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# The status of the labour law emergency legislation and the latest developments on the social shock absorbers

On June 16, 2020 a new urgency decree (D.L. June 16, 2020, no. 52 - the "**DL 52/2020**") was published in the Official Gazette. The DL 52/2020 contains a number of urgent measures, including on **social shock absorbers.**

The DL 52/2020 is the latest development of the emergency legislation enacted over the last 3 months in relation to the COVID-19 pandemic. In this connection, without limitation, the main emergency laws containing (also) labour law measures and provisions are:

- the so-called "***Decreto Cura Italia***" (D.L. March 17, 2020, no. 18) converted, with amendments, into law by law April 24, 2020, no. 27;
- the so-called "***Decreto Rilancio***" (D.L. May 19, 2020, no. 34).

## 1. The COVID-19 social shock absorbers system as amended by DL 52/2020

The *Decreto Cura Italia* is the backbone of the COVID-19 social shock absorbers system. Such law, as subsequently amended by the conversion law, first, and the *Decreto Rilancio*, later, has introduced a complex system based on:

- 3 schemes (1. *Cassa Integrazione Guadagni Ordinaria* (CIGO), 2. Ordinary Check paid by FIS/Solidarity Funds, and 3. Exceptional CIG (*CIG in deroga*));
- an aggregate term of 18 weeks to be used (i) *by August 31, 2020*, as regards the 9 weeks provided by the *Decreto Cura Italia* and the first 5 weeks provided by the *Decreto Rilancio*; and (ii) *between September 1 and October 31, 2020,* as regards the additional 4 weeks provided by the *Decreto Rilancio*;
- simplified procedures, also with respect to Unions' information and consultation requirements.

Since the enactment of the *Decreto Rilancio* - that had postponed to the period September 1 - October 31, 2020 the use of the additional 4 weeks of social scheme coverage - a number of concerns have been raised by many parties on the fact that the 5 weeks coverage, supplementing the previous 9 weeks package, that could be used until August 31, 2020, would have not been sufficient to meet the needs of many companies adversely affected by the pandemic. This is the reason why some companies had already commenced unions' consultation procedures to secure the possible use of ordinary (i.e. COVID-unrelated) social schemes as a "bridge" between (i) the expiration of the first 5-week coverage provided by the *Decreto Rilancio* and (ii) the second 4-week coverage provided by the *Decreto Rilancio* to be used as from September 1, 2020.

Given the above legal scenario and in order to fix the gap, the DL 52/2020 provides that **with exclusive reference to those employers that have already used the 14 weeks of coverage, they can use the additional 4-week coverage even before September 1, 2020**.

**The maximum 18-week term remains unchanged.**

## 2. Additional provisions set forth by the emergency legislation and possible developments

By law June 5, 2020, no. 40, the so-called ***Decreto Liquidità*** (D.L. April 8, 2020, no. 23) has been converted into law with amendments.

Upon conversion into law, the ***Decreto Liquidità*** has been supplemented by a number of provisions, including article **29-*bis*** (*Obligations of the employer regarding the protection against COVID-19 contagion)* according to which the employer complies with article 2087 of the Italian Civil Code (that provides for the employer's obligation to safeguard the personnel' health) (1) by applying the shared protocol regulating the measures to contrast and contain the spread of the Covid-19 virus in the workplaces signed on April 24, 2020 between the Government and the Unions, and subsequent amendments, and the other protocols and guidelines pursuant to *article 1, paragraph 14, law decree May 16, 2020, no. 33, a*s well as (2) by adopting and keeping in place the relevant measures.

It is also worth noting that there is currently a strong debate on the so called "dismissal ban" provided by the *Decreto Cura Italia,* whose expiry date was initially set on May 17, 2020 and was subsequently extended by the *Decreto Rilancio* until August 17, 2020. In view of the possible extension of the COVID-19 social schemes beyond the limits currently provided by the legislation in force, there are proposals, especially from the Unions' side, to extend in parallel the dismissal ban until year-end.

It is too early to foresee the actual legal developments. However, it seems to us that a further extension of the dismissal ban, as regulated by the current terms, might give rise to a number of concerns of different nature, considering the adverse impact of such measure on the employer's ability to terminate employment contracts pursuant to applicable ordinary laws.

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