

23 March 2021

COVID-19 - Legal Updates For Employment Law: The “Sostegni” Decree

Following the extension of the state of emergency until April 30, 2021 and the issuance of further pieces of legislation in connection with the COVID-19 emergency, including the recent Decree of March 13, 2021, no. 30 (that introduced, among others, new parental leaves and baby-sitting vouchers), the so-called “*Sostegni Decree*” has been just issued (Decree of March 22, 2021, no. 41, in force from March 23, 2021).

Below are some relevant measures regarding private employment relationships introduced by the *Sostegni Decree*.

1. COVID-19 Social Shock Absorbers – New Measures Provided By The *Sostegni Decree*

CIGO, Ordinary Check (FIS/Solidarity Funds) and CIGD (Exceptional CIG scheme)¹

- The Decree provides for:
 - ✓ **13 weeks of CIGO** within the period of time April 1, 2021 – June 30, 2021; and
 - ✓ **28 weeks of Ordinary Check / CIGD** within the period of time April 1, 2021 – December 31, 2021.
- No payment of the additional contribution is required.
- As regards the information and consultation Union requirements, the *Sostegni Decree* does not introduce new rules, therefore it is reasonable to sustain that the information and consultation rules and requirements set forth by the *Cura Italia Decree* (Decree of March 17, 2020, no. 18) currently in force will continue to apply.
- The application must be filed with INPS: (1) as a general rule, by the end of the month following that of the reduction/suspension of the working activity; but (2) as a rule immediately applicable in the first phase, by the end of the month following the coming into force of the *Sostegni Decree*.

¹ Article 8, *Sostegni Decree*, paragraphs 1 -3.

2. Ban On Dismissal

Ban applicable until June 30, 2021 and further special restrictions from July 1 until October 31, 2021²

- The dismissal ban, applicable to collective dismissals and individual dismissals for business-related reasons, is extended until June 30, 2021; “changes in service contracts”, where the employees of the former contractor are dismissed to be re-hired by the new contractor, remain outside the scope of the ban.
- From July 1 until October 31, 2021 employers identified by paragraphs 2 and 8, Article 8, of the *Sostegni Decree*³, are further banned from dismissing; the exception regarding changes in service contracts shall continue to apply.
- **Exceptions** to the ban:
 - 1) winding-up without liquidation, or following the liquidation of the company (provided that meanwhile no transactions qualifying as a transfer of business pursuant to article 2112 of the Italian Civil Code are implemented);
 - 2) company-level collective agreement (entered into with trade unions) incentivizing the exit of employees; in this peculiar and exception case, the employees who accept to terminate the employment will have access to the unemployment allowance (NASPI);
 - 3) bankruptcy with no temporary business continuation.

3. Other Provisions Of Relevance For Employers

Measures for “fragile” employees and remote (“smart”) working⁴

- As a general rule, “fragile” employees will work on a remote (“smart”) working regime until June 30, 2021.
- The rules applicable to “fragile” employees whose working activity cannot be carried out on a “smart” working regime are supplemented and further extended until June 30, 2021.

Fixed-term contract⁵

- Until December 31, 2021, fixed-term contracts can be renewed / extended for maximum 12 months and only once, even in the absence of the so-called “*causali*” (i.e., the reasons justifying the fixed-term hiring) provided by article 19, paragraph 1, D. Lgs. 81/2015, it being understood that the maximum overall term cannot exceed 24 months.

² Article 8, *Sostegni Decree*, paragraphs 9 - 11.

³ Even if the final release of the Explanatory Report (*Relazione Illustrativa*) of the *Sostegni Decree* seems to support the interpretation whereby the further ban on dismissal in force from July 1 until October 31, 2021 applies only to those employers that will actually use the COVID-19-related social schemes, where available, an official confirmation of said interpretation is expected.

⁴ Article 15, *Sostegni Decree*.

⁵ Article 17, *Sostegni Decree*.

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