

Italy

Definition of collective dismissal

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| Phase | Directive 98/59/CE; Law 23 July 1991, no. 223, Rules on the Wage Guarantee Fund, redundancies, unemployment benefits, enforcement of European directives, job placement, and other labour market provisions; Legislative Decree 8 April 2004, no. 110, Modification and integrations to Law 23 July 1993, no. 223, concerning collective dismissals; Legislative Decree n. 149 14/09/2015 Provisions for the rationalisation and simplification of inspection work and social legislation, in implementation of the law of 10 December 2014, n. 183; Legislative Decree no.61 of 18 May 2018 (seafarers); Law No. 234 of 30 December 2021 |
| Native name | Direttiva 98/59/CE; Legge 23 luglio 1991, n. 223, Norme in materia di cassa integrazione, mobilità, trattamenti di disoccupazione, attuazione di direttive della Comunità europea, avviamento al lavoro ed altre disposizioni in materia di mercato del lavoro; Decreto Legislativo 8 aprile 1004, n. 110, Modifiche ed integrazioni alla legge 23 luglio 1991, n. 223, in materia di licenziamenti collettivi; Decreto legislativo n. 149 14/09/2015 Disposizioni per la razionalizzazione e la semplificazione dell'attività ispettiva in materia di lavoro e legislazione sociale, in attuazione della legge 10 dicembre 2014, n. 183; Decreto Legislativo n. 61 del 18 maggio 2018 (Marittimi), Legge 30 dicembre 2021, n. 234Directive 98/59/CEDirective 98/59/CE |
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Article

Directive 98/59/CE; Law no. 223/1991, article 24; Legislative Decree 8 April 2004, no. 110 , article 1; Legislative Decree n. 149 14/09/2015 whole decree; Legislative Decree no.61 of 18 May 2018 whole decree; Law No. 234 of 30 December 2021

Description

The rules on collective dismissals apply to companies and private employers staffed with more than 15 people. To fall within the scope of the legislation, the dismissals must involve at least five workers within a time span of 120 days. Legislative Decree of 8 April 2004, no. 110 enlarged the scope of Law no. 223/1991 to employers who are not entrepreneurs, also pursuant to judgement of the Court of Justice of the European Union (CJEU) C-32/02 of 16 October 2003.

Rules on collective dismissals apply as well in case companies having activated the Extraordinary Wage Guarantee Fund (Cassa Integrazione Guadagni Straordinaria, [CIGS](#)) decide to proceed with one or more dismissals.

Collective dismissals are subject to a triple control mechanism (collective dismissal procedure or mobility procedure) implemented by union, administrative institutions, and judicial authorities. In detail, the unions and, whereas an agreement is not reached during the first negotiation phase, the Ministry of Labour and Social Policies or its local branch, the territorial labour inspectorates (Ispettorati Territoriali del Lavoro) take part in the collective dismissal procedure. In addition, the judicial authorities can be appealed after the conclusion of the procedure. The national legislation requires proposed collective dismissals to be justified in terms of a reduction, change, or cessation of activity.

According to Legislative Decree no. 61 of 18 May 2018, seafarers are covered by collective dismissals procedures.

The Law No. 234 of 30 December 2021 (2022 Budget Law) sets stringent rules for companies with over 250 employees, considering the previous year's average (referred to the number of employees), including apprentices and managers. If these companies plan to close departments or dismiss 50 or more employees, they must:

- Provide a 90-day advance written notice to various entities, including trade unions and governmental bodies.
- Within 60 days of this notification, deliver a plan to reduce job and economic losses, with the plan's duration capped at 12 months.

Commentary

The freedom of the employer to proceed with a collective dismissal derives directly from the constitutional guarantee to exercise economic initiative (article 41 of the Italian constitution). This is the reason why the court does not scrutinise the choices made by the employer, while the prior checking is entrusted to the trade unions. The court can only

verify in the second instance whether the motivations for collective dismissals were unlawful.

Additional metadata

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| Cost covered by | Companies |
| Involved actors other than national government | Trade union Works council Other |
| Involvement (others) | Ispettorati Territoriali del Lavoro |
| Thresholds | Affected employees: 5 Company size: 16 Additional information: No, applicable in all circumstances |

Sources

- [LEGGI 30 dicembre 2021, n. 234](#) ~~~ [Law 23 July 1991, no. 223](#) ~~~ [Legislative Decree 8 April 2004, no. 110](#) ~~~ F. Carinci, R. De Luca Tamajo, P. Tosi, T. Treu, 2016, Diritto del lavoro, Volume II. Il rapporto di lavoro subordinato, Utet ~~~ [Ispettorato Generale del Lavoro](#) ~~~ Zilio Grandi, G. and Biasi, M. (2016), Commentario breve alla riforma 'Jobs Act', CEDAM, Padova ~~~ [Legislative Decree 18 maggio 2018, n. 61](#) ~~~ [Legislative Decree n. 149 14/09/2015](#) ~~~ [Legislative Decree no.61 of 18 May 2018](#) ~~~

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