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Italy: Selection of employees for (collective) dismissals

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Italy

Phase:

Management

Type:

Selection of employees for (collective) dismissals

Last modified: 21 June, 2021

Native name:

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 14 Settembre 2015, n. 148; Decreto Legislativo 12 gennaio 2019, n. 14

English name:

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 14 September 2015, No. 148; Legislative decree 12 January 2019, No.14

Article

Law 23 July 1991, no. 223 -5; Legislative decree 14 September 2015, No. 148, art. 24 and 24-bis; Legislative decree 12 January 2019, No.14 - art. 368

Description

The criteria for the selection of workers involved in collective dismissals (that is the dismissal of at least five employees within 120 days in companies with more than 15 employees) are to be set within the context of the collective dismissal procedure (that is the mandatory procedure that has to take place in case of collective dismissals) and, ultimately, in the agreement which might be reached at the conclusion of the procedure. In the case the procedure ends up with no agreement, the selection criteria are those established by article 5 of law 223/1991, which identifies the following list:

- number of family members and family commitments;
- length of service;
- technical, productive and organisational needs.

Selection criteria should be applied on an equal basis, meaning that none of them should prevail over the others, that is without the employer having the power to assign each of them a different weight, so as to arbitrarily alter the result of the choice.

Jurisprudence has set limits to the ability of the parties to identify selection criteria for dismissals, stating that selection criteria identified in union agreements shall comply with the principle of non-discrimination based on union, political, religious, racial, sexual, and language reasons, as well as with the rationality principle (that is agreed criteria must possess the characteristics of objectivity and generality).

Comments

No information available.

Cost covered by

Not applicable

Involved actors other than national government

Trade union
Works council

Thresholds






Company size by number of employees:

16

Number of affected employees:

5

Sources

-  [Law 23 July 1991, no. 223 \(original law\)](#)
-  [Law 23 July 1991, no. 223 \(text with modifications\)](#)
-  [Legislative decree 12 January 2019, No.14](#)
-  [Legislative decree 14 September 2015, No. 148;](#)
-  F. Carinci, R. De Luca Tamajo, P. Tosi, T. Treu, 2016, Diritto del lavoro, Volume II. Il rapporto di lavoro subordinato, Utet;

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