UNLAWFUL DISMISSALS: WHAT CHANGES FOR SMALL COMPANIES IN ITALY AFTER DECISION NO. 118 OF 21 JULY 2025

Date: 24 July 2025

Labor, Employment, and Workplace Safety Alert

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The aim of this alert is to provide an update on the recent ruling issued by the Italian Constitutional Court (the Court) on 21 July 2025 (Decision No. 118), dealing with the consequences of unlawful dismissals in small companies.

In this decision, the Court declared Article 9, paragraph 1, of Legislative Decree No. 23/2015 unconstitutional insofar as it established a maximum threshold of six monthly salaries as compensation in the event of an unlawful dismissal served by a company employing no more than 15 employees per production unit or municipality (and in any case no more than 60 employees overall).

According to the Court, the above referred provision establishes the following:

- Imposes a rigid cap, which cannot be adjusted based on the seriousness of the breach or the specific circumstances of the case.
- Prevents judges from tailoring compensation, thus violating the principles of adequacy and proportionality.
- Undermines the deterrent effect of compensation for unlawful dismissal, thereby reducing the effectiveness of judicial protection.

The Court further noted that the narrow range provided for by the law—between three and six months—prevents a genuine judicial assessment of damages, contrary to the requirements laid down by both the Italian Constitution (Articles 3, 24, and 111) and EU law on protection against arbitrary dismissal.

The practical consequences of the ruling are as follows:

- For large companies, the compensation range remains unchanged, i.e., between six and thirty-six monthly salaries.
- For small companies, the labor courts may now award between three and 18 monthly salaries, depending on the specific facts, thereby removing the previous six-month cap.

This ruling has immediate effect and applies to all current and future proceedings. Employers employing less than 15 employees must therefore take particular care in managing dismissal procedures, even for nonstrategic or marginal roles.

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