UNLAWFUL DISMISSALS: CONSTITUTIONAL COURT REMOVES THE SIX-MONTH CAP FOR EMPLOYEES HIRED BEFORE 7 MARCH 2015 BY SMALL-SIZED EMPLOYERS

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EU Labor, Employment, and Workplace Safety Alert

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In its recent Judgment No. 174 of 22 October 2026, the Italian Constitutional Court addressed the remedies available for the employees in the event of unlawful dismissal, removing the requirement that prevented employees hired before 7 March 2015 by employers with fewer than 16 employees from benefiting from an increase in the indemnity payable based on their length of service.

In particular, the Italian Constitutional Court declared Article 8 of Law No. 604/1966 unconstitutional insofar as it made the possibility of increasing the indemnity beyond 6 monthly salaries conditional upon the employer having more than 15 employees.

As a result of this ruling, in case of employees hired before 7 March 2015 by employers falling below the “16-employees” thresholds set out under Article 18 of the Italian Workers' Statute, the competent Labor Court may also award an indemnity of up to 10 monthly salaries to employees with more than 10 years of service and up to 14 monthly salaries to employees with more than 20 years of service. The minimum threshold of 2.5 monthly salaries remains unchanged, as well as the statutory criteria for determining the amount of compensation, including the number of employees, the size of the business, the employee's length of service, and the conduct held by the parties.

This decision follows Constitutional Court Judgment No. 118/2025, whereby the Italian Constitutional Court had already removed the maximum cap of 6 monthly salaries applicable to employees hired on or after 7 March 2015 by employers falling below the above mentioned threshold.

Set out below is a summary of the regimes applicable in case of unlawful dismissal, in light of the above mentioned Italian Constitutional Court rulings:

Hiring date	More than 15 employees	Up to 15 employees
Before 7 March 2015	12 to 24 monthly salaries	2.5 to 10 monthly salaries (for employees with more than 10 years of service) or up to 14 monthly salaries (for employees with more than 20 years of service)

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After 7 March 2015	6 to 36 monthly salary	3 to 18 monthly salary

The disparity in treatment between employees hired before and after 7 March 2015 is therefore reduced. However, the amount of the indemnity must be always determined by the Court on a case-by-case basis and in light of the above referred statutory criteria.

The firms' Labor, Employment, and Workplace Safety practice team remains available to assist clients in assessing the operational implications of the new rules and in navigating through any particular case.

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