COVID-19: ITALIAN PUBLIC SCHEMES AND SOCIAL MEASURES DURING COVID-19 EMERGENCY

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Italian Labor Alert

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Decree no. 9 of 2 March 2020 (as amended by the Decree lately issued on 11 March 2020) contemplates "*urgent support measures for families, employees and businesses related to the COVID-19 epidemiological emergency*," and put at the disposal of employers operating in those areas of the Italian territory touched by the "COVID-19" risk special social measures.

Furthermore, the latest Decree no. 18 of 17 March 2020 (so called "*Cura Italia Decree*") made available additional public schemes to employers operating in the whole Italian territory.
Please, find herein below the most important schemes which may be used by Italian employers to face the current emergency.

GENERAL MEASURES

Firstly, the general public schemes available to certain industrial and commercial companies (as specified below) are the following:

- *Cassa Integrazione Guadagni Ordinaria*: shall apply in case of temporary company's crisis, mainly with respect to companies operating in the industrial sector. Depending on the circumstances, access to the *Cassa Integrazione Guadagni Ordinaria* may enable the employer to have its employees' salary (or at least a part of it) paid by the Italian National Social Security Institute ("INPS") for a maximum period of 13 continuous weeks (which may be extended on a quarterly basis up to 52 weeks).
- *Cassa Integrazione Guadagni Straordinaria*: shall apply in case of company's crisis or reorganization, mainly with respect to industrial companies employing more than 15 employees and commercial companies employing more than 50 employees. INPS may pay employees' salary (or at least a part of it) for a maximum period of 24/36 months, depending on the circumstances.
- *Wage Integration Fund (FIS)*: shall apply in case of reduction or suspension of business of companies employing more than five employees to which the above normal schemes of *Cassa Integrazione Guadagni Ordinaria* and of *Cassa Integrazione Guadagni Straordinaria* are not applicable (e.g. commercial companies employing less than 50 employees; public services; craft and arts related enterprises; etc.).

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Cassa Integrazione in Deroga: set forth by the Italian Government for companies to which the above referred schemes are not applicable.

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With the above in mind, the Italian Government made available further special social measures and additional public schemes to meet employers' needs and to grant all entrepreneurs operating within the Italian territory with the right to benefit from the support granted by public schemes as long as the health emergency remains.

Please, see below for more details.

EMPLOYERS WHOSE OPERATIONS ARE SUSPENDED DUE TO THE PUBLIC AUTHORITIES' RESOLUTION IN THE "RED ZONES"

Employers whose operations are suspended due to a resolution issued by the Public Authorities in connection with the "COVID-19 emergency" can apply directly for the *Cassa Integrazione Guadagni Ordinaria* in case suspension or reduction of the operations affects, amongst other things, units located in the "red zones" [1]. No prior information and consultation with works council/trade unions is required under the circumstances.

From 23 February, employers whose units are located in the "red zones" and operating in market sectors to which the *Cassa Integrazione Guadagni Ordinaria* is not applicable are entitled to apply for a special public scheme for integration of the salary (*Cassa Integrazione in Deroga*) having a maximum duration of three months.

The integration of the employees' salaries covered by such public schemes will cover up to 80% of the salary related to unworked hours and, in any case, cannot exceed € 1,127.87 per month for monthly salaries lower than € 2,159.48; and € 1,355.58 per month for monthly salaries higher than € 2,159.48.

EMPLOYERS OPERATING IN EMILIA-ROMAGNA, LOMBARDY, AND VENETO

Employers whose units are located in Emilia-Romagna, Lombardy and Veneto which cannot apply for Cassa Integrazione Guadagni Ordinaria or for Cassa Integrazione Guadagni Straordinaria are entitled to apply for the Cassa Integrazione in Deroga in case they are seriously affected by the "COVID-19 emergency," provided that they are able to reach an agreement with the company's works council/trade unions. In such an event, integration of the salary may be granted for a period no longer than one month.

The integration of the employees' salaries covered by such public scheme will cover up to 80% of the salary related to unworked hours and, in any case, cannot exceed € 1,127.87 per month for monthly salaries lower than € 2,159.48; and € 1,355.58 per month for monthly salaries higher than € 2,159.48.

MEASURES MADE AVAILABLE IN THE WHOLE ITALIAN TERRITORY ("CURA ITALIA DECREE")

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a. "Cassa Integrazione Guadagni Ordinaria"
Employers may apply for *Cassa Integrazione Guadagni Ordinaria* in case suspension or reduction of business is determined by the "COVID-19 emergency", starting from February 23, 2020, and for a maximum period of nine weeks which are supposed to anyhow end on August 2020.

No prior agreement with works council/trade unions is required. Nonetheless, the employer is supposed to carry-out an information and consultation procedure with works council/trade unions, which may even be conducted electronically or from remote.

Only employees hired by February, 23 2020 will be granted with the integration of the salary; executives are excluded.

The employer is not requested to pay any additional social contribution and the integration of the employees' salaries covered by such public scheme will cover up to 80% of the salary related to unworked hours and, in any case, cannot exceed € 1,127.87 per month for monthly salaries lower than € 2,159.48; and € 1,355.58 per month for monthly salaries higher than € 2,159.48.

Furthermore, it is worth mentioning that employers for which a *Cassa Integrazione Guadagni Straordinaria* is in course as at February 23, 2020 are entitled to suspend and replace it with the *Cassa Integrazione Guadagni Ordinaria* at hand.

b. Wage Integration Fund (Assegno Ordinario)
Assegno Ordinario can be granted for maximum nine weeks to employees belonging to companies members of the so-called Fondo di Integrazione Salariale (FIS) employing more than five employees to which the *Cassa Integrazione Guadagni Ordinaria* and the *Cassa Integrazione Guadagni Straordinaria* are not applicable.

Such public scheme will be granted to all the employees hired by February 23, 2020; executives are excluded.

No prior agreement with works council/trade unions is required. Nonetheless, the employer is supposed to carry-out an information and consultation procedure with works council/trade unions, which may even be conducted electronically or from remote.

The employer is not requested to pay any additional social contribution and the integration of the employees' salaries covered by such public scheme will cover up to 80% of the salary related to unworked hours and, in any case, cannot exceed € 1,127.87 per month for monthly salaries lower than € 2,159.48; and € 1,355.58 per month for monthly salaries higher than € 2,159.48.

c. Cassa Integrazione in Deroga
Employers not entitled to the *Cassa Integrazione Guadagni Ordinaria* may apply for the *Cassa Integrazione in Deroga* due to the "COVID-19 emergency" for a period no longer than nine weeks. In such an event, companies employing more than five employees are supposed to execute a prior agreement with works council/trade unions.

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Cassa Integrazione in Deroga will be granted to all the employees hired by February 23, 2020; executives are excluded.

The integration of the employees' salaries covered by such public scheme will cover up to 80% of the salary related to unworked hours and, in any case, cannot exceed € 1,127.87 per month for monthly salaries lower than € 2,159.48; and € 1,355.58 per month for monthly salaries higher than € 2,159.48.

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As a general remark, please be advised that it is a common use under the Italian labor law that employees enjoy all the holidays accrued and still not spent before the public scheme becomes effective.

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This document constitutes a preliminary memorandum for information purposes only; K&L Gates Team will be more than glad to deepen any relevant aspect you may be interested in.

NOTES

[1] Municipalities of Bertonico; Casalpusterlengo; Castelgerundo; Castiglione D'Adda; Codogno; Fombio; Maleo; San Fiorano; Somaglia; Terranova dei Passerini; Vo'.

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