

To the clients:

Subject: Unlawful dismissals and small enterprises - Constitutional Court exceed the six-month salary ceiling.

With ruling No. 118 of 2025, the Constitutional Court returned to address an issue that closely concerns many Italian businesses: the protection due to workers unlawfully dismissed by small companies.

The legislation introduced by Legislative Decree No. 23 of 2015 - known as the 'contratto a tutele crescenti' - provided for differentiated treatment for companies with fewer than 15 employees, the so-called 'sub-thresholds'. In the event of a dismissal declared illegitimate, these companies were required to pay the workers severely reduced indemnity: not only halved compared to that provided by larger companies but also contained within an insurmountable ceiling of six-month payments.

It is precisely this ceiling of six months' salary that has now been ruled unconstitutional.

The Court held that that rigid limit - equal for all and not to be exceeded even in the most serious cases - was detrimental to certain fundamental constitutional principles: firstly, the right to equality and personalization of compensation. A dismissal may be faulty for very different reasons: the just cause may be lacking, the procedure may be violated, the questioned fact may be completely unfounded. Yet, until now, with respect to 'sub-threshold' employers, the law prevented judges from considering the seriousness of the individual case, standardizing each case on the same compensation treatment, which was too low to be considered effective.

In its ruling, the Court emphasizes that even a company with few employees can have significant economic strength. The numerical criterion alone is no longer sufficient - especially today - to measure the real capacity of a company. And if a dismissal proves to be unlawful, even in a small business, it must be able to be sanctioned in a proportionate manner.

What, then, does this decision entail?

As of today, companies with fewer than 15 employees remain subject to halving compensation compared to ordinary ceilings but are no longer bound by the six-month limit.



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This means that a judge will also be able to pay the unlawfully dismissed employee amounts for more than six-monthly salaries, exceeding the previously envisaged ceiling, but always within the framework outlined by Legislative Decree No. 23/2015, which provides - for employers with under 15 employees - a halving of the indemnities with respect to those payable in larger companies.

In particular:

- article 3, paragraph 1 provides, for dismissals without justified reason or just cause, an indemnity between 6 and 36 monthly payments; for 'sub-threshold' employers, this range remains halved: from 3 to 18 monthly payments;
- Article 4(1) regulates cases of formal or procedural violations (such as failure to issue a written complaint or violation of the disciplinary procedure), for which the ordinary indemnity is between 2- and 12-months' salary; here too, for smaller companies, the range is from 1 to 6 months' salary;
- Finally, Article 6(1) refers to the hypothesis of conciliation with acceptance of the allowance offered by the employer: the ordinary amount is one month's salary for each year of service, from a minimum of 3 to a maximum of 27 months' salary; in the halved scheme, the limits become 1.5 to 13.5 months' salary.

The Court left unaltered the possibility of applying these reduced thresholds but eliminated the rule - contained in Article 9(1) - that prohibited exceeding the six-month salary ceiling in any case, making the judge's assessment more flexible and adherent to the concrete case.

It is a change that strengthens the employee's position, but that imposes - even more - care and prudence on the part of the employer. The consequences of a mishandled dismissal, without the right caution, in compliance with the procedures, or in the absence of solid grounds, could now result in larger outlays than in the past, even for small companies.

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