



Gatti Pavesi Bianchi

AUGUST DECREE - Update
EMPLOYMENT LAW

Law Decree no. 104 14 August 2020 – so-called “AUGUST DECREE”

LABOUR LAW PROVISIONS

Topics	Provisions and guidelines
<p>New provision for the temporary lay-off (<i>trattamenti di cassa integrazione ordinaria, assegno ordinario e cassa integrazione in deroga</i>) for COVID-19</p>	<p>It has been extended the possibility to request up to a maximum of a further 18 weeks of ordinary temporary lay-off (<i>CIGO</i>), ordinary allowance (<i>Assegno Ordinario</i>) and temporary lay-off (<i>Cassa Integrazione in Deroga</i>) for COVID-19 pursuant to Decree Law 18/2020 (the so-called "<i>Cura Italia</i>"), under the following conditions:</p> <ul style="list-style-type: none"> • Terms: for periods between <u>13 July 2020 and 31 December 2020</u>, for a maximum of nine weeks, plus further nine weeks that can be used only if the first nine weeks have already been fully used. Any integration period already requested before the entry into force of the “Decreto Agosto” for periods placed, even partially, after 12 July 2020 are charged, if authorized, to the first nine weeks of temporary lay-off pursuant to the Decree; • Additional contribution: if the second nine weeks of temporary lay-off¹ are used, the employer is required to pay the Social Security National Body (<i>INPS</i>) an additional contribution determined as follows on the basis of a comparison between the company's turnover for the first semester of 2020 and the corresponding semester of 2019, as follows: <ol style="list-style-type: none"> a) a reduction of turnover in the first semester of 2020 under 20% compared to the same semester of 2019: an additional contribution equal to 9% of the total remuneration that would have been due to the employee for hours not worked during the suspension or reduction of working activity; b) no reduction of turnover in the first semester of 2020 compared to the same semester of 2019: additional contribution equal to 18% of the total remuneration that would have been due to the employee for hours not worked during suspension or reduction of working activity; c) a reduction of turnover in the first semester of 2020 equal to or above 20% compared to the same semester of 2019 or companies that entered into business activities after 1/1/2019: no contribution due. <p>The situations relating to any loss of turnover or the start of business activity must be self-certified by the employer at the time of application and will be subject to subsequent checks by <i>INPS</i>. If the self-certification is not provided, the maximum contribution of 18% will be due.</p>

¹ No additional contribution is due for the first nine weeks of temporary lay-off, as previously provided for the ordinary temporary lay-off/ordinary allowance for COVID-19.

<p>Exemption from social security contributions for companies that do not require the temporary lay-off</p>	<p>The exemption from the payment of social security contributions (with the exception of premiums and contributions due to INAIL, repaired and applied on a monthly basis) is provided for a maximum period of four months, available by 31 December 2020, for private employers (with the exceptions of those in the agricultural sector) that:</p> <ul style="list-style-type: none"> • do not apply for the additional temporary lay-off provided by “Decreto Agosto”; • have used the temporary lay-off for COVID in the months of May and June 2020 or have already requested temporary lay-off placed, even partially, in periods after 12 July 2020. <p>The exemption is granted <u>for a maximum period of four months, available by 31 December 2020, within the limit of double the hours of temporary lay-off enjoyed in May and June 2020.</u></p> <p>Employers who have received the contribution exemption may not carry out individual or collective dismissals for the entire period of the exemption. Breach of this ban shall entail the retroactive withdrawal of the contribution exemption and the impossibility of applying for temporary lay-off.</p> <p>The contribution exemption may be cumulated with other exemptions or reductions in the financing rates provided by current provisions, within the limits of the social security contribution due.</p> <p>The effectiveness of the provisions relating to this contribution exemption is subject to the authorization of the European Commission.</p>
<p>Exemption from social security contributions for hiring with an open-ended employment contract</p>	<p>Until 31 December 2020, private employers (with the exception of those in the agricultural sector), who hire employees with an open-ended employment contract (with the exception of apprenticeship and domestic work contracts), are granted total exemption from social security contributions for a maximum period of six months from the date of hiring, with the exception of premiums and contributions due to INAIL and up to a maximum exemption amount of € 8,060 on an annual basis, repaired and applied on a monthly basis.</p> <p>Employees who have been employed with an open-ended employment contract in the six months before recruitment by the same company are excluded from the exemption.</p> <p>Contribution exemption is also granted in cases of conversion of fixed-term employment contracts into open-ended employment contracts after 14 August 2020.</p> <p>The contribution exemption can be cumulated with other exemptions or reductions in funding rates provided for by current provisions, within the limits of the social security contribution due.</p>

<p>Exemption from social security contributions for fixed-term employment contract in the tourism and spa sector</p>	<p>Until 31 December 2020, private employers are granted total exemption from social security contributions (with the exception of premiums and contributions due to INAIL and up to a maximum exemption amount of EUR 8,060 on an annual basis, repaired and applied on a monthly basis) for temporary or seasonal employment in the tourism and spa sectors.</p> <p>The exemption is equal to the duration of the relative employment contracts entered into or, in any case, a maximum of three months from the date of hiring.</p> <p>The effectiveness of the provisions relating to this contribution exemption is subject to the authorization of the European Commission.</p>
<p>Fixed-term employment agreements</p>	<p>Until 31 December 2020, it is possible to extend/renew, for one time only, current fixed-term employment agreements for a maximum period of twelve months (within in any event a maximum total duration of 24 months) without the need of the specific ground (i.e. <i>causali</i>) set forth under Article 19, paragraph 1, of Legislative Decree 81/2015.</p> <p>In addition, the automatic extension of fixed-term employment agreements (for a period equal to the duration of the suspension of working activities due to the Covid-19 emergency) (also with reference to staff-leasing related agreement), apprenticeships for qualification and high level training, which was introduced by the law converting so-called “Decreto Rilancio”, was revoked.</p>
<p>Extension of the ban on individual and collective dismissals</p>	<p><u>For the employers who have not fully used the temporary lay-off for COVID provided by the Decree or the contribution exemption provided for companies that not require temporary lay-off:</u></p> <ul style="list-style-type: none"> a) <u>any collective dismissal procedure is banned</u> (and pending procedures started after 23 February 2020 shall also remain suspended) except for those cases in which the dismissal follows a change of contractor in the context of a service agreement, pursuant to the applicable law, national collective bargaining agreement or contractual clauses (c.d. <i>cambio appalto</i>); b) any individual dismissal grounded by objective reasons and, thus, for any reason related to the production activities, the organization of the business and its regular functioning, is forbidden (including by means of the opening of the procedure pursuant to Article 7 of Law 604/1966). <p>The ban on dismissal (which would have expired on 17 August 2020) has been, therefore, extended. The “August Decree” did not, however, provide an extension to a fixed date valid for all employers (as occurred in previous decrees), but introduced a <u>"mobile term" that changes according to the status of each single company.</u> It is connected to the possibility of using the temporary lay-off or contribution exemption treatments provided by the Decree, as follows:</p> <ul style="list-style-type: none"> a) <u>companies that will use all the 18 weeks of the temporary lay-off treatment (so-called “Cassa Covid”)</u> provided by the Decree <u>before 31 December 2020: no dismissal until the 18 weeks of so-called “Cassa Covid” are exhausted</u> (for those who apply from 13 July the ban would expire on 16 November); b) <u>companies that will use the alternative contribution exemption</u> to the 18 weeks of “Cassa Covid”: no dismissal <u>until the end of the exemption period</u> (which can be a maximum of 4 months, but can also be much less: if, for example, 2 weeks of “Cassa

	<p>Covid” were used between May and June, the contribution exemption would be equal to 4 weeks and, therefore, the ban on dismissal would expire in the middle of September);</p> <p>c) <u>companies that will not use all or part of the 18 weeks of so-called “Cassa Covid”</u> before 31 December 2020 and cannot (or do not want) have access to the contribution exemption: <u>no dismissal until 31 December 2020</u> (deadline for using the 18 weeks of “Cassa Covid”).</p> <p>The ban on dismissal does not apply in the case of:</p> <ul style="list-style-type: none"> a) dismissals motivated by the termination of the company's activity, following the liquidation of the company without continuation, even partial, of the activity, in the event that during the liquidation there is no transfer of a set of assets or activities that may constitute a transfer of a business or a branch of it pursuant to Article 2112 of the Italian Civil Code; b) reaching of a collective company agreement, stipulated by the trade unions more representative at national level, to provide incentives for the termination of the employment relationship, limited to employees who enter into the above-mentioned agreement; c) dismissals in the event of the company's bankruptcy, when the company is not expected to operate provisionally, or when its termination is ordered. In the event that the provisional exercise is provided for a specific branch of the company, dismissals in respect of sectors not covered by the prohibition are excluded from the ban.
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TEAM



Equity Partner

Paola Tradati

paola.tradati@gpblex.it

Equity Partner

Nicola Bonante

nicola.bonante@gpblex.it

Co-Head of the Employment Law department, they render continuous assistance rendered in relation to labour law. They assist clients operating on a wide range of business sectors in all matters relating to the management of employment relationships, both autonomous and subordinate, including new types of management of employment relationships, advising domestic and international entities including those in financial distress. They also advise our clients on matters of social security, trade union negotiations, labor and safety at work and labour law aspects of their extraordinary corporate transactions. Our lawyers are renowned labour lawyers who focuses in particular on restructuring processes, collective dismissals, transfers of business and stock option plans, as well as in domestic and cross-border labour aspects of extraordinary transactions. They have in-depth expertise in HR contracts both in out-of-court settlements and in litigation before the court, in remuneration policies as well as in the area of agency and distribution contracts.

CONTACTS

Milan

Piazza Borromeo, 8
20123 Milano (MI)
Tel. +39 02 859751
Fax +39 02 809447
studio@gplex.it

Rome

Piazza dei Caprettari, 70
00186 Roma (RM)
Tel. +39 06 68134961
Fax +39 06 68134701
studioroma@gplex.it

gplex.it