



News – April 28, 2023

SERVICE AGREEMENT AND SAFETY AT WORK: the client's responsibility



In the context of service agreement, the general principle of solidarity between the client and the contractor applies to wage, contribution, insurance obligations and also in the field of safety at work.

The client and the contractor are therefore jointly and severally liable for damages occurring to the contractor's employees and collaborators, if such damages have been caused by accidents or occupational diseases.

The issue has been addressed by two recent orders of the Italian Supreme Court of Cassation: No. 375 of 10 January 2023 and No. 2991 of 1 February 2023, which identified the following exceptions to the principle just stated, in that the client is not liable for damages suffered by the contractor's employees in two cases:

- 1) when such damage is a consequence of the specific risks of the contractor's activity;**
- 2) when the client has in no way interfered with the contractor's choices.**

In these cases, the only person liable for compensation for damages is the contractor, as provided for in Article 26(4) of Legislative Decree 81/2008.

For example, a client who contracts maintenance work at his business premises will not be held liable for accidents occurring to the contractor's employees, if they are due to malfunctions of the contractor's machinery. On the other hand, the client shall be jointly and severally liable in the event that the contractor's employees suffer an accident due to a short circuit in the electrical system installed on the client's premises.

The client is therefore obliged to ensure the safety and healthiness of its premises for the protection of all those who frequent them, as stipulated in Article 2087 of the Civil Code. He must also ensure that the contractor and its employees are able to carry out the contracted work or service in full compliance with the rules and procedures on safety at work.

It is in any case advisable for the client to illustrate to the contractor the specific details of his company, in order to enable the contractor to prepare any collaborative prevention measures.

On this topic, our professionals of the [Employment Law department](#) can provide you with any necessary advice.