



News – April 24, 2021

THE EXECUTIVE IS NOW DISMISSABLE

Comment on the judgment of the Court of Rome n. 3605/2021



A few weeks after the questionable order by which the Court of Rome held that the prohibition of dismissal established almost a year ago is also applicable to Executives (“Dirigenti”) (and, consequently, ordered the reinstatement of an executive dismissed in 2020 pursuant to art. 18 of the Labor Code), comes another ruling of the Court of Rome, this time of the opposite sign.

The judgment, published on 19.04.2021, confirms what we have already argued in our [previous article](#), namely:

- The Law Decree n. 18/2020 has clearly indicated that the only dismissals to be prohibited are those **based on objective justified reason pursuant to art. 3 of the Law n. 604/66** (see art. 46); but Law 604/66 (see Art. 10) *does not apply to Executives*, since it does not make sense to speak about objective justified reason for dismissal of an Executive;
- Executives are not just any workers, in fact they are dismissable *ad nutum*, but at the same time they have solid contractual guarantees provided by their respective National Collective Labor Agreements and, moreover, they also benefit from unemployment allowance (“NASPI”); they are not recipients of the Wages Guarantee Fund, which is the only “counterpart” that has allowed companies not to fail so far. That’s why the Executives are excluded from the prohibition of dismissal: they cannot benefit from the Wages Guarantee Fund;
- Executives represent an important cost: if the company cannot cut not even this cost, it will be forced to close or to opt for redundancy at zero hours also for those employees or workers that until now have partially worked. And this would violate the constitutional principle of freedom of economic initiative.

Consequently, in the case under reference the dismissal of an Executive has been considered legitimate and ... the legal certainty has been restored.

Now we hope that companies can focus on reopening.