

# UNFAIR DISMISSAL

The Italian law grants foreigners the same protections as Italian citizens in the event of unfair dismissal.



In order to understand whether you have been wrongfully dismissed, you must first know what it means and what the requirements are for defining a dismissal as unfair:

- Being fired is only valid if it is communicated in a **written form** to the worker.
- dismissal is only legitimate if there is a **"just cause"** or **"justifiable reason"**, i.e. the dismissal must be justified by worker behaviour that is particularly serious or by a certain reason.

## THE "JUST CAUSE"

This is one or more instances of the worker's behaviour that make it impossible to continue the employment

relationship, because there is no longer trust between the worker and employer (for example: unjustified absence from the workplace, threats in relation to the employer or colleagues, offences committed in the workplace...).

In this case, the employer is **not obliged** to communicate the date of dismissal (notice) to the worker in advance.

## THE "JUSTIFIABLE REASON"

This may be

- **subjective:** a breach of the worker's contractual obligations
- **objective:** reasons (mainly economic) linked to the production, organisation, and operation of the company.

In both cases the employer must communicate the date of dismissal (notice) to the worker in advance.

## THERE ARE SITUATIONS IN WHICH DISMISSAL IS CONSIDERED UNFAIR:

### DISMISSAL ON THE OCCASION OF MARRIAGE

If you are a woman, you cannot be fired during the period between the date of publishing the banns in your municipality until a year after celebrating the wedding.

### DISCRIMINATORY DISMISSAL

A dismissal is considered discriminatory when it is the result of reasons linked to:

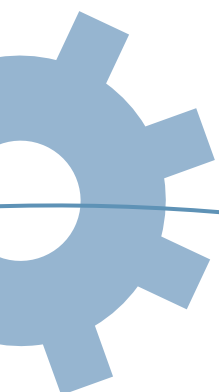
- political/religious orientation;
- origin;
- language;
- gender;
- age;
- sexual orientation;
- personal beliefs;
- physical condition (e.g. disability);
- trade union membership and activity (e.g. enrolment in a workers trade union).

### DISMISSAL IN BREACH OF MATERNITY/PATERNITY LEAVE:

If you are a female worker you cannot be fired from the start of your pregnancy until your child has reached one year of age.

Neither parent may be fired during parental leave, for the length of the leave itself, until the child has reached one year of age.

This prohibition against dismissal also applies in the event of adoptions and fostering children, if maternity and paternity leave are used, up to one year from the child's joining the family.



## IN THESE CASES, THE WORKER HAS THE RIGHT TO:

### 1 RETURN

to return to your job or receive a payment of up to 15 months calculated based on your last pay.

### 2 COMPENSATION

to receive a sum equal to the remuneration that was not received in the period from dismissal until your return and - in any case - not less than 5 months.

### 3 SOCIAL SECURITY AND ASSISTANCE CONTRIBUTIONS

payment of contributions for the period from dismissal until your return.

## DISPUTING YOUR DISMISSAL

If the requirements for legitimate dismissal were not respected or if you believe that your dismissal was illegitimate, you may dispute it.

#### Here is what to do:

- you must send your employer a document that is called an "appeal", within 60 days from the dismissal notification.

- you must ask an employment judge to declare the dismissal as illegitimate or propose a reconciliation/arbitration procedure to the employer, within 180 days.

To help you understand whether there are elements for considering your dismissal as illegitimate, or to assist you in the different steps, you can contact the trade union in your region.

## WORKER TRADE UNIONS



These are associations that represent and defend the rights of workers.

You may contact your **trade union** to:

- Ask for information about your rights: contract, working hours, leave, holidays, pay slip, occupational health and safety, etc.
- Receive legal assistance if your employer breaches your contract. Through services promoted by the trade union, you may also obtain:
- Tax assistance at tax centres (CAFs)
- Assistance regarding injuries, occupational illnesses, pensions, unemployment, etc. **at Patronage.**



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