



CAMMINO DIRITTO

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JOB'S REFORM: THE EMPLOYER CAN ASSIGN THE EMPLOYEE TO LOWER FUNCTIONS

The Government, in the job's reform it is supporting, has established that in case of any changes of the organizational firm orders that engrave on the worker's position, the same may be assigned to "functions belonging to the lower classification level".

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The last February 20th, the Government promulgated the first two current writs foreseen by the law delegation n.183 of the 2014, known as Jobs Act, revolutionizing our arrangement by means of the change of the last discipline related to the **tutelage in case of illegitimate dismissal** and the introduction of the **contracts to increasing tutelage**.

However, besides the above-mentioned innovations, analysed in other articles, the Government approved the writ's schemes on the reorganization of the contractual typology, with a radical reform of the art.2103 of the civil code, prosecuting the way of a general flexibility of the job-market.

In fact, it **has been eliminated the “equivalence” limit** to the employer's unilateral power to change the worker functions, being in position to turn him to every function “leading to the same level of arrangement of that actually in force”. The importance of this reform is revolutionary, if we think that the preservation of the same job's functions, it has been a totem of the right of the Italian job.

The only arbitrator of the extension of the horizontal mobility is the **collective negotiation** put in act by the trade union associations comparatively more representative on the national level, by means of the construction of the professional scale and of the respective arrangement levels.

To the employer is allowed a **large power to move the employee to the function of the lower level**, with the only limits represented by the **preservation of the retributive level** in enjoyment and by the obligation to keep company with a **suitable formation**. Company or territorial contracts stipulated by trade unions more representative on the national level, can foresee the same change to lower functions, on condition that the limits are respected.

To foresee the temporariness of this change of level is useless when the Government has foreseen the possibility that they can become definitive through the stipulation of **individual pacts “sustained”** on the basis of three presuppositions as the interest of the worker in the job, improvement of life conditions or new professional acquisition.

It is evident how the risk, with this last forecast, is that the worker's will is coerced by the large contractual power of the employer. It has been **changed the view of the old art.2013 c.c.**, sacrificing the professional protection about the flexibility, probably indiscriminate, of the worker.

Now the parliamentary committees have to approve, but it seems that there are not a lot of borders of change of this planning.