COVID-19 – New Wave of Restrictive Measures to Face Outbreak in Italy – Shutdown of Non-Strategic Production

Tuesday, March 24, 2020

On 21 March 2020, the Italian government announced the adoption of new restrictive measures aimed at combating the Coronavirus (COVID-19) spread in the Italian territory, which would include the shutdown of all non-strategic production in the whole Italian territory until 3 April 2020. Such measures were adopted by a decree of the President of the Council of Ministers dated 22 March 2020, which has become effective on 23 March 2020.

IN DEPTH

Brief History of the Previous Measures

Since it was clear that the COVID-19 spread was dramatically increasing in Italy and was resulting in an emergency situation, the Italian government started adopting restrictive measures to face this situation.

On 23 February 2020, a law decree no. 6 was enacted for the purpose of adopting measures to address the COVID-19 emergency. On the same date, by means of a decree of the President of the Council of Ministers, implementing such law decree,
the first restrictive measures were adopted in the most affected areas located in the Lombardy and Veneto regions.

On 25 February 2020, additional measures were adopted, which included restrictions on school activities and other public events in the affected areas.

On 1 March 2020, a decree of the President of the Council of Ministers was enacted, in further implementation of the law decree no. 6 of 23 February 2020, to set forth new measures applicable in the most affected areas and harmonize certain of the adopted restrictive measures applicable in the whole territory.

On 4 March 2020, a new decree of the President of the Council of Ministers dictated the shutdown of schools and other educational institutions in the whole territory on a temporary basis and other measures applicable in the country.

On 8 March 2020, restrictions on individuals’ movements within certain most affected areas were adopted through the issuance of decree of the President of the Council of Ministers (and other restrictions applicable in the whole country). On 9 March 2020, such restrictions on individuals’ movements were extended to the whole Italian territory, effective 10 March 2020, by a new decree of the President of the Council of Ministers.

On 11 March 2020, the Italian Premier executed a new decree of the President of the Council of Ministers imposing the temporary lockdown of any retailing activities, with the exceptions of those relating to the sale of essential goods.

On 17 March 2020, the government enacted the law decree no. 18 (so-called “Italy-care Decree”), setting forth a massive set of measures to support the healthcare system and the economy in connection with the COVID-19 emergency.

On 22 March 2020, the government, by means of a new decree of the President of the Council of Ministers, becoming effective on 23 March 2020, imposed the shutdown of non-strategic production activities and additional restrictions on the individuals’ movement within the Italian territory.

**Measures under the 22 March Decree**

As announced by the Italian Premier in his press conference on 21 March 2020, under the 22 March decree the Italian government has adopted, effective as of 23 March 2020, new temporary measures to face the COVID-19 emergency.

Such temporary measures can be summarized as follows: (i) additional restrictions on individuals’ movements, and (ii) shutdown of production activities in the whole Italian territory.

Regarding the restrictions on individuals’ movement, the decree has further restricted, always on a temporary basis, movements from a municipality to another, which are now permitted only in case of (i) well-grounded work-related reasons, (ii) absolute urgency or (iii) health-related reasons.

Moving to the shutdown of the production, the following provisions should be noted:
The shutdown will not apply to (i) a number of strategic activities listed (by reference to the respective codes identifying each of them) in an annex to the decree and, in any event, (ii) other essential public services identified by law 15 June 1990, no. 146 on limitations of strikes in connection with key public services.

The shutdown does not apply to professional activities.

The activities that can be carried out through alternative forms of “flexible” or “on remote” work can be continued.

Activities falling within the “supply chain” of the permitted activities, if required to ensure the continuance of such permitted activities, can continue as well, subject to prior notice to the local authority. The authority may subsequently order the suspension of the notified activities if it determines that they do not meet such requirement.

Production, transportation, sale and delivery of pharma products, healthcare instruments, medical equipment, food and agricultural products are always permitted, as well as any activity aimed at facing the emergency.

Activities of no-stop-cycle plants can continue if their interruption may cause serious damages to such plants or danger situations, subject to prior notice to the local authority. The authority may subsequently order the suspension of the notified activities if it determines that they do not meet such requirement.

Defense and aerospace industries, as well as other activities that are key to the national economy, can continue subject to prior authorization by the local authority.

The shutdown of the non-strategic activities shall be completed by 25 March 2020.

The list of permitted strategic activities include no. 80 different categories, and may be amended by the Ministry of Finance, after consultation with the Ministry of Health.

Considering the possible exemption applicable to other activities falling within the same “supply chain,” the number of facilities that would be allowed to keep running may still be pretty large.

On the other hand, local governmental entities have adopted additional restrictive measures applying to individuals and/or business operations located in their geographical areas.

A case-by-case assessment as to whether the shutdown (or any other restriction) applies is therefore recommended.

The measures set out under the decree (as well as the lockdown imposed by the 11 March decree on retailing activities, which was originally intended to remain in force until 25 March 2020) will remain in force until 3 April 2020.