

Employer's withdrawal from company-level collective agreements: what happens to employees' rights?



THE CASE AT HAND

Background of the dispute

OPEN-ENDED COMPANY-LEVEL AGREEMENT

Signed with the trade unions, **granting economic rights** to the employees

↻ **Employer's withdrawal:** the employer withdraws from the company-level agreement

⚠ **Consequence:** the employees' economic treatment was reduced following the withdrawal



THE EMPLOYEES' CLAIM

Relying on the constitutional right to pay

📁 **Not in dispute** the employer's right to withdraw from the agreement

🕒 **However**, according to the plaintiffs, the withdrawal would be effective **only towards new individual contracts**

🛡 **Existing contracts:** individual contracts already in place **would not be affected** by the withdrawal



THE COURT'S DECISION: EMPLOYEES' CLAIM REJECTED

The **general principles concerning the company level agreements** are confirmed and **also apply to remuneration items**.

📁 **Collective agreements are not part of the individual employment contract:** this principle also covers the company level collective agreements

↻ **Collective agreements can be amended or terminated, even to employees' detriment:** employees cannot claim to keep a treatment that is "no longer in existence" — **this applies to pay-related rights too**

🕒 **No ultra-activity:** extending an agreement beyond the term agreed by the parties would restrict the freedom of the trade unions. Post-expiry effectiveness (*ultrattività*) applies only to collective agreements that expressly provide for it



THE LIMIT: VESTED RIGHTS

Vested rights - those already definitively part of the employee's assets - remain protected, **even if not yet paid** when the agreement is terminated



THE EXCEPTION: EXPRESS INCORPORATION

A pay entitlement survives the withdrawal only if the parties **expressly agreed**, departing from the general principles, to **incorporate it into the individual employment contract**



PRACTICAL TAKEAWAYS

What employers and HR should consider

✓ **Withdrawal can affect everyone:** terminating an open-ended company agreement may lawfully reduce pay for current employees, not only new hires after the withdrawal

⚠ **Check vested rights first:** entitlements already accrued at the date of termination must still be honoured

📁 **Read the wording:** clauses expressly incorporating economic terms into individual contracts will survive the withdrawal