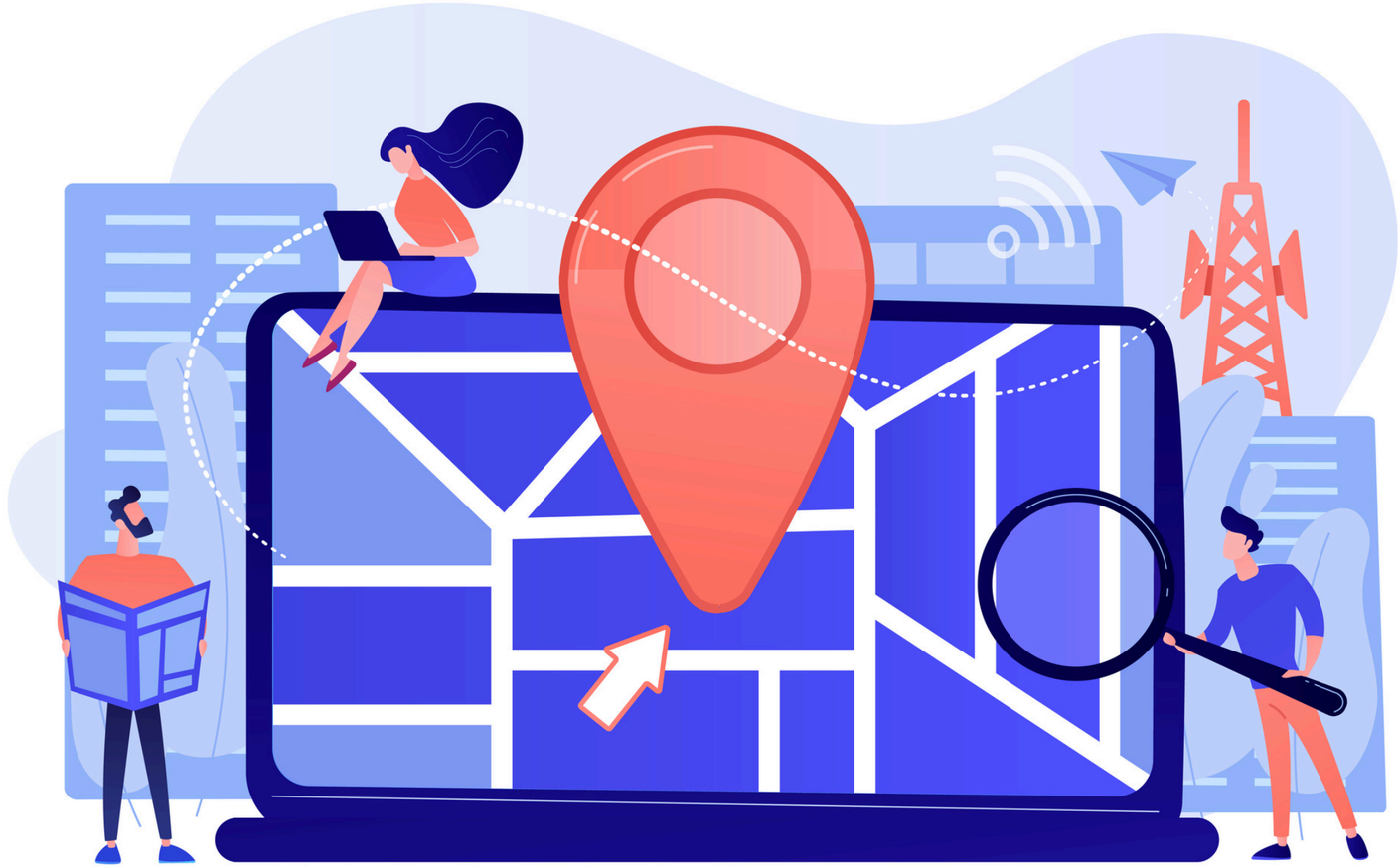

CHANGE OF WORKPLACE LOCATION

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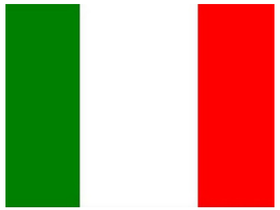

Italy - Romania: Introduction

While often overlooked as a minor element of the employment contract, changes to the place of work occur more frequently—and in more varied forms—than one might expect in practice. Such changes are generally straightforward when both parties agree; however, the situation becomes significantly more complex when only one party seeks to initiate and enforce the change.

Change of workplace location – are local regulations that different?

Workplace changes are regulated by distinct legal frameworks in Italy and Romania, each with its own classifications, conditions, and limitations. While there are multiple similarities—particularly in temporary assignments—the two countries differ significantly when it comes to employer authority, employee consent, and the distinction between temporary and permanent changes.

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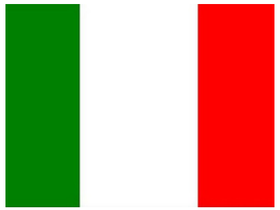

Business trip (Italy) vs. Delegation (Romania)

In ITALY, a business trip occurs when an employee is temporarily assigned to work in a location other than their usual place of work. One of the essential characteristics of a business trip is its temporary nature: the employee is sent to another location to meet the company's production or organizational needs, with the expectation that they will return to their regular workplace once the assignment is completed. A business trip is also characterized by the fact that it results from the employer’s initiative. The employer organizes and arranges the trip according to business needs. Finally, the employee’s duties remain unchanged during the assignment: they continue to perform the same tasks as they would at their regular place of work.

The ROMANIAN legal equivalent of this is delegation (Romanian: delegare). Like the Italian business trip, delegation involves a temporary assignment to another workplace, during which the employee continues to report to the same employer and perform their usual duties. However, Romanian law sets clear time limits: a delegation can last up to 60 calendar days within a 12-month period, with the possibility of extension only with the employee’s consent.

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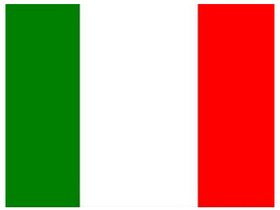

Relocation of the workplace (Italy) vs. Permanent change of the workplace (Romania)

In ITALY, the relocation of employees from one place of work to another is strictly regulated by law. According to the Italian Civil Code, relocation can only be carried out in the presence of “proven technical, organisational, or productive reasons” on the part of the employer. It is understood that, despite the change in the place of work, the employer remains the same. The relocation must be communicated to the employee in writing, in accordance with the notice period established by the National Collective Bargaining Agreement (NCBA). If the letter does not include the reasons for the relocation, the employee must expressly request them.

By contrast, under ROMANIAN law, any permanent change to the place of work must be based on mutual agreement. The location of the workplace is a mandatory element of the employment contract, and changes cannot be made unilaterally by the employer. Clauses allowing the employer to unilaterally impose a relocation may be declared void. As a result, Romanian employers must obtain the employee’s consent in such cases.

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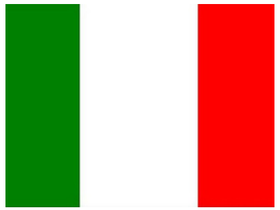

Posting (Italy) vs. Posting/Secondment (Romania)

In ITALY, posting refers to the temporary assignment of an employee (the “posted worker”) from one company (the “posting company”) to another (the “host company”), while maintaining the employment relationship with the original employer.
To be considered legitimate, the posting must meet specific requirements. In particular, the posting must have a specific, objective interest in doing so, which may be technical, productive, organisational, or commercial in nature. This interest must be verifiable and properly documented.

In ROMANIA, this concept partially aligns with the local posting (Romanian: detașare) regulations, which are also commonly referred to as secondments. Secondments also involve the temporary transfer of an employee to another workplace, usually under the supervision of a different employer, while maintaining the employment contract with the original company. Romanian law permits secondment for up to 12 months without requiring the employee’s explicit consent, but any extension or significant change to contract terms would require agreement.

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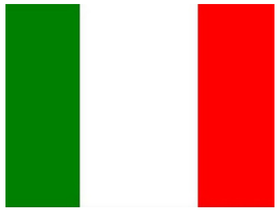

Cross-border temporary changes of the workplace: are the legal obligations the same?

From this perspective, both Italy and Romania have their local regulation based on Directive 96/71/EC on the posting of workers in the framework of the provision of services.

During aninternational posting, the employee maintains their employment relationship with the Italian/Romanian posting company and is generally subject to the law of the country of origin, but also of the regulations of the host country — particularly those concerning working conditions and occupational safety. The posted worker remains an employee of the Italian/Romanian company and continues to receive their salary from it but may be subject to different regulations depending on the host country.

If the posting occurs within the EU, the worker must be granted the same core working conditions as local workers —this includes essential protections such as minimum wage, working hours, and health and safety standards. There are also specific duties for the posting company, including prior notification of the posting and the appointment of a contact person, with certain exceptions. However, additional administrative or social security requirements may apply depending on the destination country.

There is, however, a slight difference between the two countries. In ITALY, for international postings, employee consent is always required—particularly when the posting affects the employee's contractual conditions. In contrast, ROMANIAN law requires the employee to be informed about a specific list of topics before the posting begins. However, for long-term postings, it is recommended to formalize the secondment through an addendum to the employment contract given the complex issues that surround this type of assignemnts.

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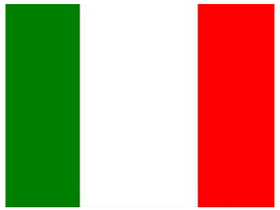

I. Can the employer legally impose a change of workplace? What are the employee's rights?

YES, employers may generally impose a business trip or a posting on the employee, but with limits and under certain conditions. If the posting involves a change of duties, the employee's consent is required and if the posting involves a transfer more than 50 km away, it can only take place for proven technical, organisational, productive or replacement reasons.

In case of a relocation of the workplace, the employer may relocate an employee to another workplace, but only if there are proven technical, organisational or production reasons, as set out in Article 2103 of the Civil Code. In some cases, such as for employees caring for severely disabled family members, the relocation is prohibited without their consent, unless there are urgent business needs.

I. Can the employer legally impose a change of workplace? What are the employee's rights?

YES, the Labour Code allows the employer to temporarily change an employee's place of work for a limited period of time. As mentioned above, permanent changes imposed unilaterally by the employer are not permitted by law. A particular situation arises when the employer relocates its operations (offices) within the same city—such as moving to a different area/neighbourhood of the city. This is generally not considered a transfer to a different workplace or a negotiated term of the employment contract and therefore does not require the employee's explicit consent.

In the context of implementing temporary workplace changes, an employee may refuse only under extraordinary circumstances, provided they submit appropriate evidence. The employee can also challenge the decision in court, seeking its annulment and potentially claiming moral damages if the change significantly alters their general working conditions.

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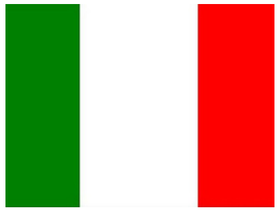

II.What documentation must an employee provide when refusing to participate in a scheduled posting?

In the case of business trips and postings, an employee may refuse the assignment only for serious and well-founded reasons—such as health issues, family constraints, or if the decision is unlawful (e.g., it breaches contractual terms or lacks a legitimate interest on the employer's side). While no specific documents are formally required to justify the refusal, it is advisable to submit a written notice outlining the reasons. Supporting documentation is essential to demonstrate the legitimacy of the refusal.

In the event that an employee refuses a transfer, the employer has the option to initiate disciplinary proceedings, which — in more serious cases — can lead to dismissal for just cause, especially if the refusal is interpreted as an act of insubordination. However, the employee has the right to challenge both the transfer and any subsequent dismissal by taking the matter to the labour court, which will assess the legitimacy of the employer's decision

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II.What documentation must an employee provide when refusing to participate in a scheduled posting?

In the context of a delegation (the closest equivalent of business trips in Italy), the employee may refuse an extension beyond the maximum duration of 60 calendar days. Such refusal does not require justification and cannot be regarded as disciplinary misconduct. However, with respect to the initial assignment, the employee is generally not entitled to refuse the delegation on personal grounds, except where they can demonstrate that the relocation to a different workplace would cause real and significant harm. In such cases, the burden of proof rests on the employee. The rules shift slightly when it comes to secondments. In this case, the employee has the right to refuse the assignment from the outset. However, such refusal must be exceptional and for well-justified personal reasons. As a result, the burden of proof—which remains with the employee—is subject to a high standard of assessment in order to be lawfully opposed to the employer’s decision.

The law does not provide explicit guidance regarding such proof, leaving room for various types of documentation to support the employee's position. Common examples include medical certificates concerning the employee or a family member, documents evidencing specific events (e.g., a recent fire in the employee’s apartment), or even documents issued by private entities however they should be evaluated in the context of each case and not be given predetermined absolute values.

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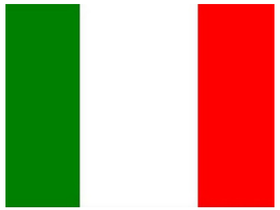

III. Can the employer challenge the employee’s justification and request additional documentation?

YES, the employer may request further clarifications or additions if the documents submitted are not sufficiently clear or exhaustive. However, the employer's refusal must be justified and proportionate, and the employee has the right to challenge the decision of the employer to continue with the intended decision to (temporarily/permanently) change the workplace if they consider it unlawful.

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III. Can the employer challenge the employee’s justification and request additional documentation?

As the same in Italy, acting in good faith, the employer may challenge the reasoning provided by the employee if it can objectively demonstrate that the submitted documentation is insufficient or that the issues raised are not substantiated. Moreover, it is essential that any refusal or objection by the employer be clearly and reasonably explained to the employee in order to mitigate any accusations of discriminatory treatment due to their personal situation.

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Chiara Maria is an Associate at the firm.
She is a graduate of the Università Cattolica del Sacro Cuore in Milan and a member of the Milan Bar Association.
She provides assistance, both in and out of court, to Italian and foreign companies regarding personnel management issues, particularly concerning the establishment, regulation, and termination of both subordinate and independent work relationships.
She is attending the advanced training program in labor, trade union, and social security law at the “Luca Boneschi” School.
She also participates in ELLINT Next, a working group within ELLINT, an international organization of law firms specializing in employment law.

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Teodora has advised foreign and local companies on individual and collective employment matters. She has also offered legal support on data protection compliance programs as well as GDPR training and data audits.

Over the past years Teodora also acquired extensive expertise in tech and e-commerce law.

Read more here.