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Reasonable accommodations: protective principles and organisational challenges

Recent case law from the **Corte di Cassazione** has clarified the Italian regulatory framework on "**reasonable accommodations**": while still evolving, it requires companies to adopt a **structured, proactive and documented approach** to balance the protection of **vulnerable workers** with business and operational needs.

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Today's labour market is increasingly faced with the need to take into account the specific **personal circumstances and situations of employees** - and at times also their personal family situations. Whilst the focus on **work-life balance** has highlighted in recent years the growing role of family needs - it is in recent years that attempts have been made to define a certain framework for the protection of the most **vulnerable employees** through **Italian case law**.

In this context, the need (or rather the **obligation** - which if not complied with would risk an employer being penalised for unlawfulness) to identify solutions (more commonly referred to as '**reasonable accommodation**') is becoming increasingly evident at a **company level**. In these cases, we have to consider both the principles of personal protection together with the concrete organisational and productive needs of the employer's business activities; both of these interests are protected by the Italian Constitution.

At the **European and Italian national law** levels, it is possible to identify the distinctive features of legitimately balancing these conflicting interests. The protection of employees is, in fact, imposed on the employer not as an external source of regulation of the employment relationship (and as such potentially limiting corporate organisational power) - but instead solely from the perspective of **equal treatment** in order to guarantee to **employees with disabilities** (but also in other situations - for example those exercising parental responsibility for children with disabilities, guardians or support administrators) the enjoyment and effective exercise of his/her rights in the employment relationship. These are **ancillary measures** in relation to the protection and support instruments already provided for by the Italian legal system, which must, as such, be necessary, appropriate and proportionate - in addition to not imposing an excessive burden on the employer.

Only on this basis, and also in order not to impose excessively onerous burdens on companies - especially foreign ones operating in Italy - we can consider the *reasonable (organisational) accommodations* for employees personally affected by **health and other issues** (as well as employees with family members impacted by health and other issues) - as some concrete solutions:

- at an **environmental level** (for example the physical space and positioning of the workstation);
- at **technological level** (such as height-adjustable desks);
- at an **organisational level** (i.e. a different distribution of duties, working hours, or work shifts).

The aim in all cases is to implement the general principles set out above - without disrupting the employer's organisation (hence the concept of an '*accommodation*' that is '**reasonable**' in light of the conflicting interests at stake).

Information obligations: a dialogue between employer and employee

Each solution may also be considered in terms of Italian case law. However, **case law often tends to generalise the measures** and conduct to be adopted - thereby imposing actions to be undertaken by employers - which if not implemented could risk a fine for unlawfulness and for non-compliance with proper conduct.

An analysis of the **most recent rulings on this topic made by the Italian Supreme Court** (more specifically Cass. 7973/2026 and Cass. 8211/2026) can help employers better understand these principles and the possible scope for manoeuvres.

The Italian labour courts emphasise that it is essential for the **employer** to demonstrate that they have **acted proactively**, from the moment they became aware, or could reasonably have become aware, of an employee's personal situation. The employer therefore bears the **burden of obtaining information** on the employee's personal circumstances - in order to adopt any

reasonable adjustments required by Italian law which will facilitate the better management of the employee's role and duties in situations of proven disability. This obligation may be fulfilled through the mechanism of **health and safety monitoring procedures**, a fundamental starting point for subsequent interactions with the employee.

Conversely, **the employee is required to cooperate** with the company by providing full and accurate information regarding his/her personal circumstances. This therefore necessitates **a dialogue between the parties** - supported, where necessary, by appropriate medical documentation.

The scope of this sensitive matter and the boundaries of the discussion between the employee and their employer also touches on **highly sensitive data** that requires companies to pay particular attention when reconstructing the facts - in order to be able to prove that they have indeed adopted **all of the most appropriate solutions** (including at an organisational level) aimed at protecting the employee's position. This also includes through the correct acquisition of the information necessary to ensure compliance with their legal obligations.

In this context, Italian Supreme Court judgement No. 7973/2026 is of **particular significance**. This case emphasised the liability of an employer who was penalised for failing to make a request to the employee - even in the face of incomplete medical records - for **supplemental documentation** to add to those originally presented by the employee - which would have provided **an adequate and complete understanding** of the personal situation of the worker. Italian Supreme Court judgement No. 8211/2026 also takes the same line, emphasising that the **absence of a formal communication** from the employee **does not relieve the employer of their duty to investigate** the reasons for the personal impediment. Both of these cases draw attention to the - far more onerous - burden for employers of proving the **'know-ability'** (rather than mere knowledge) of the disability.

From these latest legal cases, it is clear that the real issue lies precisely with the **evidence** - that is the **burden of proof** and **proactive behaviour** (on both sides). Italian case law requires the employee to provide evidence of their condition that documents their limitation or 'vulnerability'. This then places the burden on the employer to prove that they have fulfilled the obligation to seek reasonable accommodation through diligent and proactive measures (see Italian Supreme Court No. 12270/2025).

Reasonableness of the organisational accommodation

Other Italian case law examples - particularly those that are based on the analysis of **dismissals** - requires the employer instead to verify the possibility of **redeployment to 'equivalent' or lower-level duties**. At the same time the employer must also demonstrate an organisational effort aimed at averting dismissal. According to this approach, an Italian **judge** would have a fuller insight, with an additional assessment, of the **reasonableness of the solutions** adopted (see Italian Supreme Court No.10568/2025 and No. 24997/2025).

At the same time, however, a certain line of reasoning is taking hold within Italian case law. Here we see efforts to **limit the scope of this obligation** to the bounds of reasonableness and the actual feasibility of the solution adopted.

The **reasonableness of the organisational accommodation** (whether in terms of duties, shifts or working hours, etc.) requires a concrete assessment of the **practicability** of the solution identified and also requested by the employee - taking into account the **size of the business**, the **available resources** and the impact on overall **workplace dynamics**.

It follows that, precisely in light of the *practical reasonableness* of a specific case (which will in any event be for the Italian labour courts to assess on an individual basis in the event of a dispute), **the employer cannot be required to undertake a radical reorganisation** of the business or to **create new job positions** or those unrelated to actual production needs. In a similar vein, the redistribution of duties that would significantly affect the **rights and workloads of other employees** cannot be demanded (since the latter are also involved in balancing the interests at stake).

Therefore, what matters is not only the content of the solutions but also the **procedure the employer followed** to identify them - with particular weight being given to the employer's demonstration that they have examined (all) the practically viable alternatives and have made the assessments carried out traceable. Such traceability consists of **documenting the options examined** and the reasons, whether organisational or economic, that led to their exclusion or adoption, so as to **allow an ex-post reconstruction of the decision-making process** which was undertaken... or not.

Only on the basis of an effective discussion between both parties, based on a full exchange of information, can the feasibility of the *'reasonable accommodations'* be assessed. **In the absence of solutions** compatible with the employer's organisation or which are excessively onerous, there may nevertheless be scope to demonstrate the reasons for the employer's failure to fulfil the obligations incumbent upon them (see Italian Supreme Court No. 24994/2025, No. 23481/2025, and No. 9095/2023).

Conclusions

The conclusion to be drawn here is that, despite the regulatory requirements (Italian Legislative Decree No. 62/2024), the **management of reasonable accommodation** cannot be reduced to merely a reactive compliance exercise - but instead **requires a structured, informed and documented approach** where the employer's initiative, supported by an adequate

information base, is combined with the necessary collaborative contribution of the employee. Only when these conditions are met will it be possible to achieve **a genuine balance between the protection of the individual employee and the sustainability of the organisation** - whilst at the same time reducing the risk of litigation and ensuring decisions consistent with the principles established by the Italian labour courts.

We are only at the beginning of this long journey, and only with time (and with the Italian case law that will develop on a case-by-case basis in the coming years) will it be possible to find an appropriate and reasonable accommodation of the interests at stake.

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