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## WHISTLEBLOWING and the limits of employee protection



Whistleblowing is a system that encourages employees to report wrongdoing committed or premeditated in the corporate environment. Initially intended only for public companies, it was extended to the private sector by Italian Law No. 179 of 2017.

**The rule encourages the employee to report irregularities or crimes committed by colleagues or directors of the employer by specific protection measures: in fact, the whistleblower is assured confidentiality and protection from possible employer retaliation.**

The employee can report the wrongdoing to the competent authorities without fear of potentially negative work-life reprisals.

The employee may rely on the fact that any employer's measures such as dismissal, demotion or transfer, if applied as a result of the whistleblowing, are null and void. Therefore, the employee who is dismissed for reporting wrongdoing by others in the company will have to be readmitted to the workplace.

However, these broad forms of protection do not guarantee the whistleblower, i.e., the employee who reported the alleged wrongdoing, in the event that his **independent conduct** was irregular from a disciplinary standpoint.

In fact, the employer may sanction the whistleblower in the event that he believes that his actions, by which the whistleblowing was carried out, violated disciplinary rules. In the most serious cases, the employer may go as far as imposing the sanction of dismissal.

This principle was established by **the March 31, 2023, Order No. 9148 of the Italian Supreme Court** and provides that an employee's whistleblowing cannot exempt him from liability.

Consider the case of the employee who reports the misappropriation and "under-the-table" resale of goods from the company warehouse. The employer will not be able to dismiss him or demote him for having reported the fact: but, in the event that the whistleblower has been involved even minimally in the realization of this wrongdoing, he may be subject to separate disciplinary proceedings pursuant to Article 7 of the Workers' Statute.

BACCIARDI PARTNERS can provide specialized advice to managers and senior employees on this sensitive issue, guaranteeing competence and confidentiality.