Metodo Giuridico
Ius et Ratio • ISSN 3103-7305

ITALIAN JOURNAL OF LAW & CASE LAW • ISSN 3103-7305
CASE NOTE • LABOUR & EMPLOYMENT LAW & EMPLOYMENT RELATIONSHIP • 13 NOVEMBER 2026

Compensation for Damages Arising from Managerial Demotion and De-Skilling

The Italian Supreme Court of Cassation, Civil Division, establishes the evidentiary benchmarks and equitable assessment parameters for forced inactivity and infringement upon managerial dignity

FP Federico Palumbo Labour & Employment Law & Employment Relationship 13 November 2026

Reading time 15 min

Current Legal Framework as of 11 November 2026: by Order no. 8890 of 9 April 2026, the Italian Supreme Court of Cassation, Civil Division, consolidates the criteria governing compensation for damages arising from professional de-skilling and forced inactivity of managerial personnel, confirming the compensability of harm to professional reputation and dignity through simple presumptions and equitable assessment set at 30% of overall remuneration.

ABSTRACT

Examining the infringement of managerial prerogatives requires coordinating the employer's breach of contract with the strict rules governing the burden of proof. In Order no. 8890 of 9 April 2026, the Italian Supreme Court of Cassation, Civil Division, reaffirms that non-pecuniary harm does not arise as an automatic consequence of unlawful conduct, yet may be established through **presumptive evidence** grounded in the duration and severity of the stripping of authority, placement within hollow organisational units devoid of operational substance, and the mortification resulting from replacement by a former subordinate. Recognition of **harm to professional dignity** and personal reputation operates independently of future loss of professional marketability and is amenable to **equitable assessment** benchmarked against a percentage of overall remuneration, wherever the employer fails to discharge its burden of proving **proper contractual performance** of the duty to assign commensurate duties.

Key Takeaways

- **Managerial classification in complex organisations:** the three-step judicial inquiry prioritises duties actually performed and autonomous decision-making authority, looking past purely paper-based *ad interim* appointments devoid of genuine hierarchical impact.
- **Allocation of the burden of proof regarding duty assignment:** the employer bears the burden of demonstrating proper performance in assigning duties commensurate with the employee's classification or the lawfulness of exercising managerial prerogative to vary duties (*ius variandi*) under Article 2103 of the Italian Civil Code.
- **Presumptive proof of non-pecuniary harm:** while ruling out automatic damage *in re ipsa*, infringement of professional reputation and dignity may be inferred from the duration of forced inactivity, the visibility of the previous role, and the demeaning manner of replacement.
- **Equitable assessment and remuneration benchmark:** quantifying monetary redress at 30% of overall remuneration constitutes an appropriate and reviewable parameter under Article 1226 of the Italian Civil Code to compensate moral suffering and existential harm.

CASE DOSSIER

JURISDICTION
Italy (Civil Law)

SUBJECT AREA
Labour & Employment Law & Employment Relationship

LEADING DECISION
Italian Supreme Court of Cassation, Civil Division, Order of 9 April 2026, no. 8890 — Upholds the damages award for non-pecuniary

Legal Principle / Editorial Headnote

With regard to compensation for damages arising from professional de-skilling and forced inactivity of an employee vested with managerial functions, although non-pecuniary harm does not arise automatically in re ipsa and requires specific pleading, proof of infringement upon professional reputation and dignity may lawfully be inferred by way of presumption from serious, precise, and consistent circumstantial indicators, such as total deprivation of operational duties, multi-year persistence of forced idleness, assignment to a purely fictitious organisational unit, high visibility of the position previously held, and the objectively demeaning manner in which authority was stripped, including replacement by a former subordinate; consequently, equitable assessment quantified as a percentage share of the overall remuneration received during the injurious period is lawful wherever the employer has failed to discharge its burden of proof under Article 2103 of the Italian Civil Code to demonstrate proper performance of its duty of assignment or the existence of genuinely commensurate duties.

01. FACTUAL BACKGROUND OF THE DISPUTE AND DETERMINATION OF SENIOR MANAGERIAL STATUS

The inquiry into safeguarding the dignity of senior-level employees finds a prime testing ground in disputes where corporate restructuring oversteps the lawful boundaries of the employer's power to vary duties (*ius variandi*) and degenerates into the complete deprivation of any operational remit. **Compensation for damages arising from demotion and de-skilling** assumes a complex configuration in such cases, requiring the interpreter to connect the substantive ascertainment of the claimed job classification with the nature of the harm suffered by the sidelined executive. The litigation brought before the Italian Supreme Court of Cassation, Civil Division, originated from an action filed by

an employee formally classified as a middle-management executive (*quadro direttivo*), to whom the employing company had entrusted, since January 2007, the effective management of a strategic operational division responsible for stage design and set production across the entire public broadcasting network.

The dispute stemmed from a stark dichotomy between the formal, paper-based allocation of top-level responsibility — retained by the company in the hands of executives holding provisional *ad interim* appointments — and day-to-day operational management, exercised exclusively and continuously by the claimant. That arrangement, which lasted for more than five years, changed abruptly following a reorganisation of senior corporate leadership, when the employee was stripped of all managerial powers and placed in a state of forced **total inactivity**, culminating in his transfer to an office devoid of any genuine planning responsibilities.

1.1 — The Three-Step Judicial Inquiry and Managerial Autonomy over the Organisational Unit

Examining the higher classification claimed by the employee required a rigorous application of the settled **three-step judicial inquiry**, whereby the trial court reconstructs the historical facts of the duties actually performed, identifies the abstract job descriptions set forth in the applicable collective bargaining agreement, and conducts a subsumptive comparison between actual conduct and the collectively bargained standard. Within complex corporate organisations, the statutory concept of executive (*dirigente*) outlined in Article 2095 of the Italian Civil Code receives binding specification through collective bargaining, which establishes a **plurality of managerial tiers** graduated according to the breadth of powers and coordinated through internal hierarchical links.

In the case reviewed by the Supreme Court, the evidentiary record confirmed that the employee steadily coordinated over two hundred and sixty employees distributed across three production macro-areas, exercised **autonomous decision-making powers** in allocating resources to individual television programmes, and held spending authority for below-threshold purchases of up to forty thousand euros. Furthermore, the employee liaised directly with the Production Centre Director regarding workforce management, authorisation of annual leave and overtime, and the formulation of salary progression proposals. This body of evidence exposed the weakness of the company's defence resting on the absence of a formal deed of appointment, proving that the *ad interim* placement of other executives amounted to a mere paper fiction devoid of any hierarchical or operational counterpart in daily corporate practice.

Subsuming the duties performed under the executive *Management* category proved fully consistent with collective bargaining criteria, given that the unit headed by the claimant constituted a core support division to general management, historically entrusted to other officers holding executive rank. The fact that spending authority was capped at a monetary ceiling or channelled administratively through the procurement department did not detract from the **managerial autonomy** of the position examined, confirming that assessing senior-level functions calls for an overall evaluation of participation in corporate governance and business objectives.

1.2 — From the Stripping of Prerogatives to Forced Inactivity in a Hollow Organisational Shell

Establishing the demotion suffered by the executive brought to light employer conduct marked by a pronounced **dismantling of functions**. Starting in November 2012, in the wake of a senior management overhaul, the employee was abruptly removed from heading the operational division, responsibility for which was handed over to an architect who had previously reported to the executive himself. Executed ostensibly and without any formalised objective justification, this replacement immediately disrupted workplace relational dynamics, exposing the employee to visible professional marginalisation.

That isolation was in no way remedied by his subsequent posting to a unit nominally tasked with financial and resource planning. Witness and documentary evidence revealed that the unit operated as a veritable **hollow shell**, lacking genuine

projects, operational staff, and defined tasks, within which the executive was left in a state of forced idleness lasting several years. Faced with the employee's repeated requests to be assigned duties commensurate with his accrued classification, the company offered no concrete work assignment, merely alleging a generic unwillingness on the employee's part to take on alternative duties — a contention belied, however, by the complete absence of disciplinary charges.

In scrutinising such conduct, the Italian Supreme Court of Cassation, Civil Division[1] upheld the findings of the lower courts, emphasising that completely excluding an executive from the productive cycle constitutes a serious breach of the protective duties imposed by Article 2103 of the Italian Civil Code and Article 2087 of the Italian Civil Code. The multi-year continuation of de-skilling, combined with the high visibility of the role originally held and the humiliating replacement by a former subordinate, caused an immediate injury to personal dignity, entitling the claimant to damages regardless of the formal preservation of his salary package.

02. COMPENSATION FOR DEMOTION DAMAGES BETWEEN BURDEN OF PROOF AND PRESUMPTIONS

Delimiting the compensatory consequences arising from breaches of employer obligations remains one of the most debated theoretical issues in employment law. Establishing unlawful demotion — even where aggravated by the complete elimination of functions — does not *ipso iure* give rise to a lump-sum indemnity obligation. Supreme Court case law has progressively refined the dividing line between breach of contract — which triggers the obligation to reinstate the employee in their prior duties or equivalent tasks — and compensable damage, which invariably presupposes a specific detrimental alteration to the employee's legal and existential sphere.

2.1 — Moving Beyond Damage In Re Ipsa and the Burden of Pleading Specific Harm

Ever since its landmark nomophylactic ruling of 2006, the Supreme Court has rejected the notion of automatic damage *in re ipsa* in unlawful de-skilling claims. **Compensation for damages arising from demotion** cannot dispense with a specific and timely **pleading of the constituent facts** in the originating statement of claim pursuant to Article 414 of the Italian Code of Civil Procedure. An employee bringing proceedings bears the burden of specifying the nature, objective extent, and concrete manifestations of the harm suffered, demonstrating that the employer's breach adversely affected their professional, bodily, or relational sphere.

Mere harmful potentiality of the employer's conduct does not satisfy the requirements for compensatory liability. Compensable harm must materialise as a **tangible detrimental change** in real-world conditions, whether affecting future earning capacity, psychophysical integrity, or non-income-generating personal fulfilment. Under the general rules of Article 2697 of the Italian Civil Code, it therefore rests upon the employee to prove not only the occurrence of demotion, but also the immediate and direct causal link connecting the enterprise's unlawful conduct to the injury inflicted upon their moral and social sphere.

This rigorous doctrinal boundary does not, however, foreclose access to compensatory relief; rather, it shifts its centre of gravity from automatic entitlement to rational evidentiary assessment. Where direct or witness testimony of inner distress or loss of standing proves elusive, procedural law affords the employee the mechanism of **presumptive evidence**, enabling the trial court to reason from known facts — the objective circumstances of the breach — to the unknown fact of the existence of damage by applying established maxims of common experience.

2.2 — Presumptive Indicators: Duration, Severity, Visibility, and Relational De-Skilling

Judicial fact-finding through simple presumptions under Articles 2727 and 2729 of the Italian Civil Code rests on the synergistic combination of multiple circumstantial factors, whose artificial isolation would result in an incurable logical flaw in reasoning. Recent rulings of the Italian Supreme Court of Cassation, Civil Division[2] reveal a structured **typology of symptomatic indicators** capable of substantiating harm to the employee's personal dignity and professional reputation.

Foremost among these parameters is the **temporal duration** of the injurious conduct: a state of inactivity or mortification protracted over several years carries a qualitatively different afflictive weight than temporary organisational friction linked to corporate transitions. Equally decisive is the **severity of the demotion**, which reaches peak offensiveness when it entails the complete withdrawal of duties or placement within purely fictitious offices devoid of any business utility.

Alongside these factors stand the **visibility and prestige** of the former position, together with the concrete manner in which authority was stripped. When the deprivation of powers targets an executive heading a strategic division and is carried out through immediate replacement by a former subordinate, awareness of that demotion both inside and outside the workplace generates **objective relational mortification**. The perception of hierarchical erasure in the eyes of colleagues and corporate counterparts irreparably impairs the employee's moral personality safeguarded under Article 2087 of the Italian Civil Code, supplying serious, precise, and consistent circumstantial evidence to establish non-pecuniary harm.

2.3 — Structuring Proof of Bodily and Psychiatric Harm Arising from Work-Related Stress

Where de-skilling conduct triggers a genuine impairment of psychophysical equilibrium, compensatory protection extends to redress for **psychiatric non-pecuniary bodily harm** (*danno biologico*). Unlike injury to reputation or dignity — which may be established presumptively —, impairment of bodily integrity presupposes a **clinically ascertainable pathology** verified through rigorous medico-legal examination. Counsel for the employee bears the burden of pleading and documenting the onset of psychiatric or psychosomatic disorders emerging during the period of de-skilling, such as adjustment disorders accompanied by anxious and depressive mood symptoms.

The linchpin of litigation strategy lies in demonstrating **material causation** between the destabilising work environment and the onset or aggravation of the clinical condition. In employment disputes, employers frequently raise the defence of supervening or exclusive causation attributable to extraneous factors, such as prior family crises, bereavement, or subjective predispositions. Civil case law, however, applies the standard of **adequate and concurrent causation**: pre-existing vulnerabilities or personal distress do not exclude employer liability wherever workplace events acted as a triggering factor or efficient concurrent cause in generating the chronic clinical condition.

Quantifying this head of damage requires court-appointed expert medical evaluation, tasked with ascertaining both temporary disability (total or partial) endured during the acute phase of illness and residual permanent impairment. Compensation for non-pecuniary bodily harm (*danno biologico*), anchored to standardised medico-legal tables, is awarded cumulatively and autonomously alongside damages for moral suffering and harm to professional reputation, as these constitute **non-overlapping heads of loss** addressing distinct injuries to medico-legal health and to personal dignity in the workplace.

03. EQUITABLE ASSESSMENT CRITERIA AND REMUNERATION BENCHMARKS IN TRIAL

ADJUDICATION

Translating the harm endured by an employee holding senior managerial responsibilities into monetary terms tests the rationality of the entire compensatory framework. Whenever an employer's breach causes an injury to the intangible sphere that cannot be quantified in its exact monetary amount, Article 1226 of the Italian Civil Code comes into play, expressly providing that "If the damage cannot be proven in its exact amount, it is assessed by the court on an equitable basis." That judicial power does not license discretionary arbitrariness detached from objective benchmarks; rather, it requires adopting reviewable parameters susceptible to logical verification *ex post*.

٪ 3.1 — Percentage Benchmarking Against Remuneration and the Boundaries of Article 1226 of the Civil Code

In labour court practice, equitable assessment of harm to reputation, dignity, and professional standing is frequently anchored to a **percentage share of the remuneration** received by the employee throughout the period of forced idleness. As clarified by recent case law of the Italian Supreme Court of Cassation, Civil Division[3], relying on salary consideration serves as an objective monetary benchmark directly correlated with the significance of the job classification and the contractual rank of the professional position affected by de-skilling.

Even so, identifying the base remuneration represents only the initial step in the valuation process. The trial court must subsequently calibrate that figure against objective factors drawn from the concrete circumstances of the demotion. Viewed from this angle, setting redress at **thirty per cent of overall actual remuneration** — upheld in Order no. 8890 of 2026 for the complete deprivation of managerial prerogatives — reflects a balanced weighing of the protracted nature of the breach against the high visibility of the office, steering clear of unjustified reductions or punitive windfalls examined in other judicial trends on remuneration-benchmarked assessment of demotion damages.

Head of Damage	Evidentiary Standard	Assessment Parameter	Protected Legal Interest
Harm to reputation and dignity	Simple presumption under Art. 2729 Civil Code (duration, visibility, demeaning manner)	Equitable assessment under Art. 1226 Civil Code (percentage share of salary: 30%)	Moral personality and professional standing (Art. 2087 Civil Code)
Psychiatric bodily harm (*danno biologico*)	Medico-legal ascertainment via court-appointed expert (adjustment disorder, concurrent causation)	Standardised medico-legal tables (temporary disability and permanent impairment points)	Psychophysical integrity of the employee (Art. 32 Italian Constitution)
Loss of professional skill and marketability	Specific proof of forgone skill enrichment and loss of future career chances	Equitable assessment excluded where retirement is imminent	Employability and competitiveness on the labour market

A foundational rule must likewise be reiterated: the calculation base for the percentage share must be identified with **gross overall remuneration** contractually due rather than net take-home pay, since net salary fluctuates according to tax and family variables wholly extraneous to the employer's breach of contract. Using net remuneration results in an arbitrary reduction of compensation and distorts the economic valuation of the injury inflicted upon the employee's dignity.

3.2 — Employer Defences: Proof of Proper Performance and Case-Specific Distinguishing

Turning to defensive strategies in employment litigation, an employer's line of defence cannot stop at challenging the quantum of damages or pointing to the absence of certified physical illness. Once the employee has specifically pleaded the deprivation of duties, the employer bears the entire burden of proving **proper contractual performance** of the obligations arising under Article 2103 of the Italian Civil Code, demonstrating that the employee was assigned tasks genuinely consistent with their classification level and accrued professional dignity.

> *The burden of proving proper performance rests entirely upon the employer: in the absence of concretely assigned and formalised duties, alleged passivity on the employee's part neither cures the breach of Article 2103 of the Italian Civil Code nor negates the resulting infringement upon moral personality.*

Should the employer contend that the employee refused alternative assignments or displayed an uncooperative attitude, that defence carries no evidentiary weight unless backed by the timely initiation of **formal disciplinary proceedings** pursuant to Article 7 of Law no. 300/1970 (Workers' Statute). Corporate inaction on the disciplinary front bars the employer from invoking an alleged breach by the employee in court to justify prolonged forced idleness.

By way of case-specific distinguishing from adjacent factual scenarios, compensatory liability does not arise where a change in duties takes place within a genuine, substantiated corporate reorganisation carried out in compliance with the formal safeguards of the amended Article 2103 of the Italian Civil Code (written notice and preservation of remuneration). Unlike total stripping of functions and placement in fictitious offices, an organisational change that preserves operational duties falling within the same contractual level and statutory category causes no compensable injury. Similarly, in contrast to early-career employees, damages for future loss of professional marketability do not apply where an executive is approaching pensionable age; in that event, compensatory protection remains confined to injury to personal reputation and moral dignity.

04. CRITICAL REFLECTIONS AND SYSTEMIC PERSPECTIVES ON PROTECTING MANAGERIAL DIGNITY

The interpretive position consolidated by Order no. 8890 of 2026 prompts broader systemic reflections on the limits of corporate organisation and the effectiveness of personal protection within subordinate employment relationships. The plight of executives stripped of authority exposes an unresolved tension between freedom of economic enterprise guaranteed under Article 41 of the Italian Constitution — encompassing the prerogative to redesign corporate structures — and mandatory respect for **human and professional dignity** enshrined in Article 2087 of the Italian Civil Code.

Withdrawing managerial duties and subsequently placing an employee inside hollow, ineffective units represent a distorted exercise of employer authority. While statutory reforms to Article 2103 of the Italian Civil Code have introduced greater flexibility in assigning tasks within the same contractual tier, such flexibility indispensably presupposes

the **genuine existence of the assigned duties**. Forced inactivity is not an imperfect exercise of *ius variandi*, but a total breach of the foundational obligation to allow performance of work — an activity that serves the employee not merely as a source of livelihood, but as a primary avenue for expressing moral identity.

From a doctrinal standpoint, critical scrutiny is warranted toward the increasingly widespread practice among trial courts of quantifying intangible harm by automatically applying a flat-rate percentage of salary. Although benchmarking against gross remuneration provides an objective and reviewable monetary parameter consistent with Article 1226 of the Italian Civil Code, mechanically adopting a fixed percentage risks surreptitiously reintroducing the very damage *in re ipsa* that Supreme Court jurisprudence has expressly repudiated. Such evidentiary rigour aligns labour law quantification with the general principles of contractual liability, as already highlighted regarding serious building defects and compensation for damages, as well as the principles governing generic judgments on liability for damages when assessing potential harm. To avert unreasoned tariff-style awards, trial courts must provide specific reasoning on **calibrating the percentage multiplier** to the concrete severity of the de-skilling, weighing case-specific factors such as relational isolation, public awareness of the sidelining, and unjustified hierarchical humiliation.

From an operational standpoint, the principle reaffirmed by the Supreme Court compels human resources departments and corporate counsel to fundamentally rethink how senior-level reorganisations are managed. Formally preserving an executive's remuneration package does not insulate the enterprise from civil liability wherever reallocating functions amounts to hollowing out responsibilities or publicly marginalising the employee. Defensible corporate governance requires preparing a **substantive organisational plan** and maintaining detailed records of the tasks assigned — indispensable prerequisites for discharging the burden of proving proper performance and avoiding substantial damages awards aimed at safeguarding the executive's moral personality.

References & Authorities Cited

Statutory Provisions

- Article 2103 of the Italian Civil Code — Regulation of employee duties, limits on the employer's power to vary duties (*ius variandi*), nullity (voidness *ab initio*) of unlawful de-skilling pacts, and protection of professional skill.
- Article 2087 of the Italian Civil Code — General duty of care and workplace safety imposed upon the employer to safeguard the physical integrity and moral personality of employees.
- Article 1226 of the Italian Civil Code — Judicial power and criteria for equitable assessment of damages where the exact amount cannot be proven.

Case Law Cited

1. **Italian Supreme Court of Cassation, Civil Division, Order of 9 April 2026, no. 8890** — Upholds the damages award for non-pecuniary harm to professional reputation and dignity quantified at 30% of overall remuneration alongside 5% psychiatric bodily harm (*danno biologico*) arising from forced inactivity and de-skilling of an executive. Outcome: dismissed. Para.: Grounds 1–5.

2. **Italian Supreme Court of Cassation, Civil Division, Order of 24 April 2026, no. 10935** — Confirms the lawfulness of presumptive proof and equitable quantification of professional harm benchmarked at 30% of remuneration, reiterating the employer's burden of proving proper performance of the duty of assignment under Article 2103 of the Italian Civil Code. Outcome: declared inadmissible. Para.: Grounds 1–3. ↑

3. **Italian Supreme Court of Cassation, Civil Division, Order of 9 May 2026, no. 13469** — Sets forth the requirements of non-arbitrariness and proportionality in the equitable assessment of demotion damages under Article 1226 of the Italian Civil Code, mandating gross remuneration as the objective quantitative benchmark. Outcome: quashed and remanded. Para.: Grounds 1–2. ↑

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