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Italy: Obligation to consider alternatives to collective dismissals

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Italy

Phase: Management

Type: Obligation to consider alternatives to collective dismissals

Last modified: 30 September, 2019

Native name:	**Legge 23 luglio 1991, n. 223, Norme in materia di cassa integrazione, mobilità, trattamenti di disoccupazione, attuazione di direttive della Comunità europea, avviamento al lavoro ed altre disposizioni in materia di mercato del lavoro; Legge 28 giugno 2012, n. 92, Disposizioni in materia di riforma del mercato del lavoro in una prospettiva di crescita**
English name:	**Law 23 July 1991, no. 223, Rules on the Wage Guarantee Fund, redundancies, unemployment benefits, enforcement of European directives, job placement, and other labour market provisions; Law of 28 June 2012, n. 92, Provisions on labor market reform with a view to growth**

Article

Law n. 223/1991, article 4; law n. 92/2012, article 44

Description

Italian law does not foresee an obligation on behalf of employers to consider alternatives to collective dismissals. However, the mandatory procedure foreseen by law no. 223/1991 aims at fostering dialogue between employers, employee representatives, and public authorities.

According to this procedure, companies with more than 15 employees willing to carry out a collective dismissal (i.e. at least 5 dismissals within 120 days) as a result of the termination of the activity, or the reduction or transformation of the activity or work, need to give prior notice, in writing, to the company employee representatives (Rappresentanze sindacali aziendali, RSA) and to the respective employer associations.

At the request of the company employee representatives and the respective trade unions, within seven days from the receipt of the communication, a joint examination is carried out between the parties, in order to examine the causes that have contributed to determining the surplus of personnel and the possibility of a (even partial) reduction in the number of dismissals, also through solidarity contracts and flexible forms of working time management. Hence, the obligation to preventive communication aims at allowing employee representatives to verify the total or partial inevitability of the dismissals planned by the company.

The joint examination can be concluded with an agreement, through which the parties can provide:

- the assignment of workers to different tasks, also in derogation from the prohibition to modify in a worse way the duties of the worker envisaged by the art. 2103 of the civil tode;
- the temporary posting or command of workers to other companies.

The phase dedicated to the joint examination between the parties must be completed within 45 days from the date of receipt of the communication from the company. After this deadline, the company communicates the results of the consultation and the reasons for any negative outcome to the territory labour lispectorates (Ispettorati Territoriali del Lavoro).

When the joint examination has given a negative outcome or has not taken place because it was not requested by the trade unions, the territory labour inspectorate has the power to convene the parties for further examination and can formulate proposals for reaching an agreement. This further examination must be completed within 30 days, a term starting from the date of receipt of the communication from the company.

After these two phases, lasting 75 days in total, the employer can proceed with the dismissals even without having reached an agreement.

Comments

No information available.

Cost covered by

Employer

Involved actors other than national government

Trade union
Works council
Other

Involvement others

Territory and interregional labour inspectorates

Thresholds

Company size by number of employees:
16
Number of affected employees:
5

Sources

- Law 23 July 1991, no. 223
- Law 28 June 2012, n. 92
- F. Carinci, R. De Luca Tamajo, P. Tosi, T. Treu, 2016, Diritto del lavoro, Volume II. Il rapporto di lavoro subordinato, Utet;
- Ispettorato Nazionale del Lavoro

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