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Italy: Staff information and consultation on restructuring plans

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Italy

Phase:

Anticipation

Type: [Staff information and consultation on restructuring plans](#)

Last modified: 21 June, 2021

Native name:

Legge 29 dicembre 1990, n. 428, Disposizioni per l'adempimento di obblighi derivanti dall'appartenenza dell'Italia alle Comunità europee; 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; Decreto Legislativo 6 febbraio 2007, n. 25, Attuazione della direttiva 2002/14/CE che istituisce un quadro generale relativo all'informazione e alla consultazione dei lavoratori

English name:

Law 29 December 1990, n. 428, Provisions for the fulfillment of obligations deriving from Italy's membership of the European Communities; 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; Legislative Decree 6 February 2007, no. 25, Implementation of European Directive 2002/14/EC which sets up a general framework for workers' information and consultation

Article

Law no. 428/1990, article 47-49; Law no. 223/1991, articles 4 and 24; Legislative Decree no. 25/2007, articles 4 and 8

Description

In Italy, there are various cases where the employer is obliged to preventively communicate their restructuring plans.

Legislative decree 25/2007 constitutes the most general source of information rights for employees and their representatives. The decree is the transposition into domestic law of Directive 2002/14/EC on information and consultation rights. Through this directive, the EU legislator establishes a general framework for information and consultation of workers, which aims to promote the participation of workers in decision-making processes regarding employment within the company. The legislative decree 25/2007 is applicable to companies employing at least 50 workers.

The following cases have to go through an information and consultation procedure:

- current and predictable performance of the business and its economic situation;
- employment within the company;
- decisions causing macroscopic changes in the organisation of work or significantly affecting labour contracts.

However, the concrete definition of the locations, times, subjects, methods and contents of information and consultation rights granted to workers are defined by collective agreements.

Remedies for the non-compliance with the decree are of two types:

- the application of a pecuniary sanction of an administrative nature, consisting in the payment of a sum of between €3,000 and €18,000 for each violation;
- the possibility for trade unions to sue the company for anti-union behaviour according to article 28 of law 300/1970 (Workers' Statute).

Special regimes concerning employers' obligations to preventively communicate their restructuring plans are defined in two further cases: [transfer of undertakings](#) (law 428/1990) and [collective dismissals](#) (law 223/1991).

In cases of collective dismissals (that is the dismissal within 120 days of more than 5 workers in companies with more than 15

employees) the employer must follow a specific procedure, preventively informing employee representatives (RSA or RSU) of the company and the most representative trade unions. The legislation requires employers to inform the workers concerned in writing.

The information obligation concerns the reasons that prevent the adoption of measures alternative to dismissal and any measures planned to reduce their social impact. At the request of the trade union, communication must be followed by a joint examination, at the end of which the parties can reach an agreement which might identify, among other issues, the criteria for choosing workers to be dismissed.

The legislation specifies a maximum consultation period of 45 days. The consultation period can be extended on initiative of the territorial labour inspectorate for further 30 days if the parties fail to reach an agreement. After this maximum period of 75 days, the employer can proceed to collective dismissals. Simultaneously with the dispatch of the dismissal letters, the employer must send (according to law 92/2012 within 7 days) to the trade unions and the territory labour inspectorate a communication with the names of the dismissed workers and details concerning the modalities of application of the [selection criteria](#). Employers shall detail the reasons why, based on the application of the criteria set out in the union agreement or, in the absence thereof, in the law, they have decided to dismiss those specific workers and not their colleagues. Employers may provide a comparative framework of all job positions in the company.

Comments

Company-level agreements may specify procedures in relation to collective redundancies. The tendency in Italy is towards negotiations between the partners with a view towards ending up with an agreement on possibilities to avoid all, or part of, the redundancies, and can also bear on the setting up of accompanying measures in order to facilitate conversion and requalification.

Cost covered by

Not applicable

Involved actors other than national government

Trade union
Works council
Other

Involvement others

Territory labour inspectorates

Thresholds





Company size by number of employees:

16

Number of affected employees:

5

Sources

-  [Law 29 Dicembre 1990, n. 428](#)
-  [Law 23 July 1991, no. 223](#)
-  [Legislative Decree 6 February 2007, no. 25](#)
-  [Italy: Staff information and consultation on business transfers. ERM restructuring legislation database](#)

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