Strengthening Involvement

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National Legislation on Information and consultation in Italy

Country Report

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TRADE UNION INFORMATION AND CONSULTATION IN ITALY
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Italian legislation

The Law Decree n. 25/2007 transposes Directive 2002/14 / EC, which strengthens the rights of information and consultation provided by the trade union collective bargaining and foreseeing administrative sanctions. In case of larger companies, the new legislation foresees the extension of trade union information and consultation rights to the major business issues for employment and work organization and entrusts to the Territorial Labour Offices the task of investigating and punishing violations.

Collective bargaining and information and consultation

The rights to information and consultation are recognized to "workers' representatives", as defined in accordance with current legislation and collective bargaining, which are given, even for these purposes, the same protection and the same guarantees provided for employees' representatives by law and by collective bargaining

In detail, the definition of locations, times, subjects, methods and content of trade union information and consultation rights is left to collective bargaining, even pre-existing bargaining.

Confidentiality

Workers' representatives and experts who assist them, however, have specific obligations of non-disclosure for the information received on a confidentiality basis, and "qualified as such by the employer ... in the legitimate interest of the undertaking. Collective bargaining may authorize the employees' representatives and anyone assisting them to pass on confidential information to employees or third parties, who, in turn, must respect the obligation of confidentiality, in the manner foreseen. In the event of a breach of confidentiality, in addition to civil liability, offenders shall be liable of the disciplinary measures established by the collective agreement, but specific administrative sanctions are foreseen only for the experts who were requested to assist workers' representatives.

Sanctions

Any breaches of the information and consultation obligations by the employer involves an administrative fine of a minimum of € 3,000.00 to a maximum of € 18,000.00 for each violation. The breach of confidentiality, however, entails an administrative fine from € 1,033.00 to € 6,198.00, imposable only on the experts who assist the workers' representatives.

Violation of the right to information and consultation: for not having informed and consulted the union representatives on important employment business issues and the organization of work in the undertaking the sanction may vary from € 3,000.00 to € 18,000.00

The Jobs Act

The Jobs Act, enacted between 2014 and 2015, previews that in cases of suspension or reduction of the production activity, the undertaking is required to communicate in advance to

corporate representatives and members of the comparatively most representative territorial divisions of trade unions, the grounds for suspension or reduction of working hours, the extent and expected duration, the number of workers concerned. Upon request of either party, a joint examination shall follow. The whole procedure must be terminated within 25 days from the date of communication, reduced to 10 for companies up to 50 employees. Requests for approval must be submitted electronically to INPS within 15 days of the suspension or curtailment of activity, indicating the cause of the suspension or working time reduction and its estimated duration, the names of workers concerned, and the hours required. This information is sent by INPS to the Regions and Autonomous Provinces for the purpose of involvement in active policies.

In cases of objectively unavoidable events, which make the suspension or reduction in production non-deferrable, the company is in any event obliged to notify the persons above about the expected duration of the suspension or reduction and the number of workers concerned. If the working time reduction exceeds 16 hours a week, there shall be a joint examination.
Ordinary wage subsidies are granted by the territorially relevant INPS office. The evaluation criteria of these requests are set out by a Ministerial Decree.

Criteria for the selection of workers

The identification of workers to be dismissed must be in relation to the technical-productive and organizational needs of the company in compliance with the criteria laid down by collective agreements. In the absence of contractual provisions, the following criteria, shall be used:

- family responsibilities;
- seniority;
- technical-productive and organizational needs.

The number of disabled employees and female workers in the undertaking cannot be less than the quota reserved to them.

Social buffers

The ordinary and extraordinary wage supplement treatments, financed by contributions payable by employers and, in small part, workers and managed by INPS, intervene to protect the worker's income in the event of a corporate crisis that requires a temporary reduction or suspension of work, with partial or total reduction in working time, preserving the employment relationship.

For all other employers, provided they have more than 5 employees (in the previous law, the threshold was more than 15 employees), a system of bilateral solidarity funds shall be applied instead: the employers are obliged to adhere to their sectoral bilateral fund or, failing that, to the wage supplement fund (FIS) by paying a monthly rate, due partly by the employer and partly by the employee.

Information and consultation in multinational companies

As concerns multinational, EWCs complain about the lack of uniformity in industrial relations in all the countries where the multinational is present. In fact, the same company maintains

excellent industrial relations in some countries but not so in others, adjusting its action according to the weight of the unions and the social and labour laws in force in that country. In addition, EWCs complain about the misuse by companies of the term "Absolute Secrecy and Confidentiality" of data and information communicated to them, considering that not all the information in reality should be confidential as some of it is already publicly known. Therefore, the "Secrecy" is a way adopted by companies to reduce the role of the EWC and the resulting information to workers.

General conclusion

In most of the cases, good industrial relations can be found and the rules on information and consultation are sufficiently applied in large companies and multinationals. On the contrary, in SMEs, joining the union and the resulting good industrial relations are more difficult. For an adequate assistance and representation of workers employed in SMEs, FAI-CISL supports the increasingly widespread application of the 2nd level of territorial contracts and industry contracts, as this has been proven positive over time and gave excellent results in the agricultural sector.

Recommendations

- The Directive 2002/14 has to be more analytic (as is Directive 2009/38)
- Trade unions should look after the regular use of information and consultation and not recurring to it when the company faces crisis
- International exchange of experience is absolutely necessary for developing common understanding and common approaches to information and consultation because different countries have different traditions concerning industrial relations and different legislative background, so it is difficult to understand different contexts.