

Italian Labor Reform: New Provisions on Regulating Resignation and Termination by Mutual Consent

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By Andrea Gangemi and Marilita Piromalli

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Introduction

The Law June 28, 2012 no. 92 (the “**Law**”) – in force since July 18, 2012 – has modified several aspects of working relationship.

The Law introduces provisions that regulate Resignation and Termination by Mutual Consent and curtails the practice of requiring “Blanket Resignation” letters. Blanket resignation enables an employer to circumvent mandatory dismissal procedures by requiring employees to sign an undated resignation letter upon hiring.

Pursuant to Article 4 of the Law, Resignation and Termination by Mutual Consent is effective only when validated by the employee.

New Procedures for Resignation and Termination by Mutual Consent

The Law requires that the employer sends to the employee an invitation to validate his/her Resignation or Termination by Mutual Consent within 30 days of the resignation or the termination by mutual consent. The validation may occur either: (i) at a local authorized labor office – “*Direzione Territoriale del Lavoro*” or “*Centro per l’impiego*” – or the office designated in the applicable trade union agreement

or; (ii) by signing a statement upon receipt of the proper communication – made by the employer to the authorized labor office (“*Centro per l’impiego*”) – of the termination of the employment relationship following Resignation or Termination by Mutual Consent.

This provision places an undue burden on employers because an employer who fails to send the invitation to validate the Resignation or Termination by Mutual Consent or ,within 30 days of the Resignation or Termination by Mutual Consent, forfeits the possibility to make validated the same.

The invitation is deemed successfully delivered using registered mail to either the employee’s address listed in the employment contract or to a different address formally communicated by the employee. It may also be hand-delivered to the employee.

This is a tedious and time-consuming process that requires employee cooperation.

However, the Law does take into account the possibility of an uncooperative employee by including a final deadline by which employment is terminated in the absence of a validated Resignation or Termination by Mutual Consent.

The Law provides that the working relationship terminates when the employee fails to comply with or revoke his/her Resignation or Termination by Mutual Consent within 7 days of the receipt of invitation.

Before the effectiveness of Law, it was not possible to revoke the Resignation or Termination by Mutual Consent once it was communicated to the employer. Although an employee may now revoke the Resignation or Termination by Mutual Consent, the Law provides that after the revocation any existing agreement between the employer and the employee is invalid and the employee must repay any amounts in excess obtained according to the latter agreement.

Sanctions

Under the Law, should the authorized labor office (“*Direzione Territoriale del Lavoro*”) find that an employer has violated the Article 4 provisions, the employer must pay a fine of between 5,000.00 and 30,000.00 Euros. Imposition of a fine does not preclude the possibility of criminal liability.

Conclusion

The provisions of the Law governing Resignation and Termination by Mutual Consent, in particular those relating to the use of Blanket Resignation letters, while giving added protection to employees, create bureaucratic complexity which will render even grounded Resignation or Termination by Mutual Consent more onerous.

For example, the new provisions allowing an employee to revoke the Resignation and Termination by Mutual Consent within 7 days from the date the employer requests validation, could create administrative roadblocks for the employer. In this scenario, an employee could leave the company to try a new job and, after a negative initial experience or assessment, could revoke the Resignation and Termination by Mutual Consent in order to be reinstated in the previous position.

The content of this article is intended to provide general information on the subject matter. Legal advice should be sought for case-specific questions.