



Italian bill on the right to be forgotten for cancer survivors: important signals on the labour front

by Emanuele Dagnino

Last 28 June, the Social Affairs Committee (XII) of the Italian Chamber of Deputies approved a unitary text on the subject of so-called **oncological oblivion**, a synthesis of the various bills presented by different parties and the CNEL (National Council for Economic and Labour Affairs) in recent months (see *Dispositions for the prevention of discrimination and the protection of the rights of persons who have been affected by oncological diseases - Fourth Edition A.C. 249, A.C. 413, A.C. 690, A.C. 885, A.C. 959, A.C. 1013, A.C. 1066, A.C. 1182, Servizio Studi*, for a summary of the proposals).

The importance and the reasons for a legislative action - urged by the European legislator - limiting the disclosure of information relating to previous oncological pathologies after a certain period of time are well highlighted by the speech of the Italian Privacy Authority (Garante Privacy) given in Parliament on the sidelines of the presentation of the Annual Report for 2022, where it stresses how *'among the many instances related to the body, oncological oblivion takes on a particular importance. Patients who have long since recovered are denied long-term mortgages, their insurance conditions are radically changed, the possibility of entering into an employment contract or even adopting a child is diminished. In short, it seems, as has been written, that it is possible to recover from the disease, but impossible to get rid of its stigma, as if it casts its shadow over the patient's future life'* (*Il potere dell'innovazione e la solitudine digitale. La protezione dei dati a tutela della persona*, Report of President Pasquale Stanzone 2022, 6 July 2023, p. 27).

In the face of these instances, the proposal adopted as the **draft text**, presents some important aspects in the area of labour law, thanks to the provisions in Article 4, entitled Access to competitive procedures, employment and vocational training.

Even before analysing the contents, it is necessary to mention as **a first positive sign the inclusion of a focus on the issue of work**, which is by no means taken for granted with respect to a policy action that has seen its specific focus on access to financial, banking and insurance services. Credit for this attention must be given to those legislative proposals (A.C. 690, first signatory: Hon. Rizzetto; A.C. 1066, on the initiative of the CNEL; A.C. 1182, first signatory: Panizzut) that, with different declinations, have given room to the theme of work within the parliamentary debate.

It is in particular to the Rizzetto proposal and the CNEL proposal that the 'labour' provisions introduced in the unified text appear to "owe a debt".

The second one takes up - overcoming the critical aspects that had been pointed out in the first commentary (E. Dagnino, *Diritto all'oblio per i malati oncologici: una proposta meritoria con il rischio di "effetto boomerang"*) - **the provision on the prohibition to request information on pathological states of an oncological nature after 10 years** (5 years in the case of a pathology

arising before the age of 18) **from the end of active treatment**. Given the complex requirements relating to the management of the employment relationship - in terms of preventing exposure to certain risks to the health of the worker - **the prohibition is limited to 'access to competitive procedures, when they provide for the assessment of psycho-physical requirements or concerning the health of the candidates'**, thus leaving unaffected any further investigations that may be necessary for the protection of the worker at a later stage.

Instead, the second paragraph of Article 4 is taken from the Rizzetto proposal, the scope of which goes beyond the boundaries of the action on the right to be forgotten for former oncological patients. It provides, in fact, that *'with a decree of the Minister of Labour and Social Policies, to be adopted, in agreement with the Minister of Health, within six months from the date of entry into force of this law, specific active policies shall be promoted to ensure, for each person who has been affected by an oncological pathology, equality of opportunity in entering and remaining at work, in the use of the relative services, and in the reclassification of career and salary paths'*. This is a provision that, although it postpones the definition of the concrete measures to a subsequent regulatory act, shows attention to the particular difficulties of workers who are (have been) affected by oncological pathologies in staying and re-entering work.

The issue of **returning to work** after a long period of illness represents an increasingly significant challenge not only for individuals and companies, but also for welfare systems. The Italian legal system, so far, has not been able to adapt to these new needs of its workforce and the initiatives of collective bargaining are still timid, though certainly meritorious. Measures of this tenor are, consequently, to be warmly welcomed (for a comparative study on return to work and chronic diseases in Europe and the role of industrial relations see M. AKGÜÇ (Ed.), *Continuing at work Long-term illness, return to work schemes and the role of industrial relations*, ETUI, 2021).

In spite of a much more limited scope of application of the proposal with respect to the group of recipients in need of targeted actions to ensure their inclusion or re-inclusion into work following a long-term illness, this is therefore an important signal that goes in the right direction. It can be an **effective first step** that, as in the past, can start the path of **extending the scope of application to other subjects deserving protection**. It can be an effective first step that, as happened in the past, can set the course for extending the scope of application to other subjects deserving protection. This was the case with the right to part-time work for workers suffering from oncological pathologies introduced by legislative decree no. 276/2003 (see M. TIRABOSCHI, P. TIRABOSCHI, *Per un diritto del lavoro al servizio della persona: le tutele per i lavoratori affetti da patologie oncologiche e tumore al seno*, in DRI, 2006, no. 2, pp. 527-529) today extended to persons suffering from serious chronic degenerative diseases that are worsening; this could or, better, should also be the case for measures favouring permanence and return to work.

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