



## Can the administrator collect cash allowances?

Obligation to open the condominium current account, traceability of entries and exits in compliance with the principle of transparency of management by the administrator

Laura Cecchini - Court of Florence 26/03/2020

The reform of the condominium (law n.220 / 2012) introduced, in art. 1129 paragraph VII of the Civil Code, the obligation for the administrator **<to let the sums received for any reason from the condominiums or third parties, as well as those for any reason disbursed on behalf of the condominium, on a specific current account, postal or bank, in the name of to the condominium>**.

### What does this provision respond to?

Certainly the clear and acceptable need to implement the principle of transparency of the administrator's work in condominium management, aimed at drawing up a crystal clear statement of income and expenses, as well as the traceability of the sums collected, by way of condominium shares, and expenses carried out.

### Non-mandatory nature of art. 1129 paragraph VII of the Italian Civil Code

It is well known that, in the aftermath of the entry into force of the news (June 18, 2013), the burden of opening a condominium current account has affected all the condominiums, together with the administrator's duty to use it.

On this point, we cannot forget that, even before the advent of the reform, the administrator was responsible for paying the fees paid by each condominium to a current account in the name of the condominium and managed by the same in order to prevent the so-called "confusion "between" the assets of the various management entities administered by him "(ex multis, Salerno Tribunal, 3.5.2011; Cass. Civ., n. 7162/2012).

### So what has changed?

The novelty lies in the transposition into a standard - art. 1129 paragraph VII of the Italian Civil Code - the practice already maintained in the condominiums and the orientation of the Law, where it has codified the custom in an obligation, at the same time establishing the binding nature of this precept, as foreseen pursuant to and for the effects of art. 1138, paragraph IV of the Civil Code, so as to confer the character of imperativity to the aforementioned provision.

Consequently, neither a contractual regulation, nor a **resolution of the assembly** will be able to oppose a different will with respect to the opening of the condominium current account, under penalty of nullity of this clause and / or decision.

At present, therefore, each condominium must unquestionably have a current account in its name.

### Traceability and payment of cash quotas

The duty of the administrator to have the amounts paid and those disbursed to third parties conveyed to the condominium current account makes it possible to track both incoming and outgoing movements.



These operations allow, for each individual condominium who requests it, to check the status of management and payments made by viewing the account statement.

Indeed, with the opening of the condominium current account, payments can be made both by bank transfer and check, thus being able to trace both the person who ordered the payment and the one in favor of which it is paid.

## Can a condominium then pay his share in cash?

In this regard, it is useful to remember that **there is no prohibition in this sense**, without prejudice to the preference for traceable means of payment, which is why the individual condominium can pay his short manu fee to the administrator.

In this case, always in accordance with the transparency that must affect the activity carried out by the administrator, the latter must issue a receipt and record this payment in the accounting register, in addition to providing for the payment of the sum in the condominium current account.

From this point of view, it is important to remember that, according to the provisions of article 1130 paragraph 1 n.7) of the civil code, the administrator must also take care of the keeping of the accounting register where <are noted in chronological order, within thirty days from that of the execution, the single incoming and outgoing movements. This register can also be kept in a 'computerized' manner.

It follows that, in the event of payment in cash, this annotation represents the necessary premise legitimizing the same condominium statement, reiterating that this register cannot be replaced by the account statement.

## Does cash payment have limits?

The answer is affirmative as following the entry into force of Legislative Decree no. 90/2017, containing the provisions governing anti-money laundering, has imposed an express prohibition on the transfer of cash for a total amount equal to or greater than Euro 3,000.00.

Therefore, this limit (Euro 2,999.00) also finds certain application in the payment of condominium shares and, the same, cannot even be circumvented with a payment in installments dictated by the intention of circumventing the aforementioned legislation.

The circumstance which, on the other hand, occurs if the condominium pays the individual installments, prepared by the administrator, in cash on the occasion of the single deadlines, for a total amount equal to or greater than Euro 3,000.00 due to the fact that the deferment in the during the year it is reported in the same prospectus attached to the budget, so it is not possible to assume a violation or adduce an intent aimed at contravening the regulatory provisions.

In this regard, it should be recalled, further, that the aforementioned threshold will remain in force for payments with cash, until **30 June 2020, since from 1 July 2020**, it will be reduced to 1,999.00 Euros.

## Payments of suppliers

If what has just been argued on the side of the payments in favor of the **condominium**, what happens for the payments made by the latter in favor of third parties?

Well, the 2017 Financial Law has provided that the payment of the consideration accrued by companies operating for the condominium is carried out through traceable payments, among which we can include ordinary and extraordinary maintenance, cleaning, works to hydraulic and electrical systems, to the boiler.

Likewise with Law no.205 / 2017, also payments to employees of the condominium, such as the porter, must be made through traceable methods.

The only category excluded from this method are the services relating to invoices for the remuneration of freelancers who have provided advice to the condominium such as, by way of

example, surveyors, lawyers, engineers.

In conclusion, from the examination on the subject it can be stated that although there is **no ban**, except with the limitations set out, for paying the condominium fee in cash, bank transfer payment can be considered preferable for both the condominium, who has proof of payment in the event of dispute or incorrect accounting, or to make the activity of the administrator easier, given the current restrictions which require, as illustrated, to pay the sums due with traceable instruments to third party suppliers.

Source: <https://www.condominioweb.com/quote-condominiali-in-contanti-e-possibile.16808>

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