BRIEFING PAPER – NATIONAL LABOUR LAW PROFILE: ITALY

1. GENERAL LEGAL FRAMEWORK

* The Italian Republic came into being in 1946. The Italian Constitution was approved by the Parliament in December 1947 and came into effect on 1stJanuary, 1948.
* The Country is organized as a centralized State, divided into Regions, Provinces and Municipalities.
* The Head of the State is the President of the Republic, he/she is elected by the Parliament. The parliament has the legislative power, that is the power to pass laws.
* The Legislative is composed of two chambers, namely the *Senato* (315 seats) and the *Camera* (630 seats), without any substantial difference in competence. Senato has the legislative power and the Camera has the executive power.
* The government of the Republic is made up of the President of the Council and the ministers, who together form the Council of Ministers.
* In recent years a political debate took place to change the form of the State into a Federal one. Some ordinary laws have already decentralized more power to the Regions.
* The Judiciary is a professional (that is it’s done thanks to a competence) and pyramidal body, composed of three instances. Judges’ career depends on the *Consiglio Superiore della Magistratura*, an administrative body composed of 33 members, the Head of State, the first President of the Supreme Court, the General Prosecutor,20 members elected by judges, and 10 by Parliament.

1. LABOUR RIGHTS IN THE CONSTITUTION

* The Constitution contains some declarations of principles (e.g. Sect. 1 -Italy is a democratic Republic founded on labour;)
* and some more effective rules, largely employed in case-law. In the Italian Constitution you can find several articles concerning labour (disability, illness, accidents at work, trade unions, right to strike).

1. CONTRACT OF EMPLOYMENT

* The contract of employment is considered indefinite except in cases specified by legislation. Fixed-term contracts of employment are permitted to the extent that they are justified on grounds such as seasonal work, replacement of employees on sick leave or maternity leave, and extraordinary and occasional work.
* The main types of special contracts of employment are as follows: apprenticeships, part-time, solidarity contracts, "work-training" contracts, fixed-term contracts, domestic work, work undertaken by building caretakers, work with temporary agencies, and contracts for managers.
* Suspension of the contract of employment is permitted in case of industrial accident, illness, maternity.
* As far as fixed-term contracts are concerned, termination is automatic at the end of the specified duration or on completion of the specified task.
* The Civil Code provides that each contracting party (the employer and the employee) of a contract of indefinite duration can terminate it, provided the notice period is respected, or without any notice in case of just cause.
* Dismissals on the grounds of political opinion, trade union membership, sex, race, language, or religious affiliation are null and void.
* In case of unjustified dismissal, remedies are different according to the size of the firm: employers employing more than 15 employees. The contract of employment may also be terminated by the resignation of the employee, provided a notice period is respected.

1. SEVERANCE PAYMENT

* For any termination of the contract of employment, on whatever ground, even for dismissal for just cause or resignation, the employee is entitled to receive from the employer a severance payment (trattamento di fine rapporto).

1. HOURS OF WORK

* Article 36 of the Constitution establishes that maximum working time must be fixed by law. the hours worked by employees ought not to exceed 8 hours a day or 48 hours a week.
* Act 196/1997 requires a specific authorisation by the Department of Labour (Inspectorate) for work exceeding 48 hours a week. Under Act 623, of 1923, still in force, overtime must be paid with an increase of not less than 10 per cent over the regular rate.
* Special pay increases are fixed by collective agreements for overtime worked on Sundays, on other holidays and night work.
* For part-time work, the distribution of the working hours is established by an individually written contract which cannot be changed by the employer.

1. PAID LEAVE

* All workers have the right to rest one day a week.
* Act 260/1949 and 90/1954 recognises four national holidays and other holidays. During these festive days, workers receive regular pay.
* During their vacation, employees receive normal pay, excluding only indemnities connected to the actual work.

1. MATERNITY LEAVE AND MATERNITY PROTECTION

* Female workers have special protection in case of pregnancy and maternity.
* From the beginning of pregnancy to one year after the child’s birth, the employee cannot be dismissed.
* Maternity leave is compulsory for female workers, from two months before until three months after childbirth.
* In 1987, for the first time, the Constitutional Court extended to the father the right to leave for three months after birth, where the mother’s caring for the child had become impossible due to illness or death.
* During compulsory maternity leave, the mother is entitled to 80% of her regular pay from Social Security and the period is counted as actual work time.
* Both parents have equal right to leave in case of a child’s illness; without limitation for the first three years of age and for five days a year until age eight.

1. OTHER PERMITTED LEAVE

* SICK LEAVE:

During sickness, suspension of the contract, with job protection, lasts for periods usually determined by collective agreements, according to the employee’s seniority. During this time, the worker is fully paid.

* EDUCATIONAL LEAVE:

Student workers have the right to paid days off work to take exams.

Workers are entitled to a number of paid hours off work (150 in general) to attend, at public or certified schools, courses related or not to their professional activity.

1. MINIMUM AGE AND PROTECTION OF YOUNG WORKERS

* Act no.345/99 and Act 262/2000 establish the minimum age at which a person may be employed at the end of compulsory schooling, however not less than 15 years of age.
* There is a special regulation to protect the work of minors, such as special medical certificates guaranteeing their physical fitness for work, periodical medical check-ups, limits on working hours, prohibition of night work and so on.

1. EQUALITY

* The Italian Constitution (art. 3) provides for the concept of equality of all citizens before the law without difference of sex, race, language, religion, political views, personal and social position.
* Equality between men and women at work is specifically recognised and guaranteed by Act 903, 9 December 1977. Act 125, 10 April 1991 provides for affirmative action to encourage true equal opportunity for women in access to employment and during employment.
* The Constitutional Court has ruled that equality is a fundamental right of foreigners as well.