National Labour Law Profile is a legislative document that provides all the laws, which deal with labour. It is organized into twenty parts.

**GENERAL LEGAL FRAMEWORK**

* Italy is a republic from 1946, after the fall of the fascist regime in 1943, and as a result of a referendum on the Monarchy in 1946.
* The Italian Constitution was approved by the Parliament in December 1947 and came into effect on 1st January, 1948.
* The Country is organized as a centralized State, divided into Regions, Provinces and Municipalities
* Five regions have special statues: Sicily, Sardinia, Valle d’Aosta, Trentino Alto Adige and Friuli- Venezia Giulia
* The Head of the State is the President of the Republic, elected by the Parliament for 7 years
* The Legislative is composed of two chambers: the Senato (315 seats) and the Camera (630 seats), both of them elected for 5 years. All laws must be approved by both Chambers
* Anyone who has been President of the Republic is a senator by right and for life. Also, the President of the Republic may nominate as senators for life five citizens who have brought honour to the Fatherland (through their outstanding achievements in social, scientific, artistic and literary fields)
* The government of the Republic is made up the Council of Ministers (the President of the Council + the ministers)
* European Community Acts and Regulations and European Court of Justice judgements are applied directly in the Italian legal system
* The Judiciary is a professional and pyramidal body, composed of three instances: there is one judge in first instance, three in the second, and five in the Supreme Court of Cassazione.
* Judge’s 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
* Aa recent law has established that lower cases are ruled in first instance by a non-professional judge, called “giudice di pace”

**LABOUR RIGHTS IN THE CONSTITUTION**

* Sect. 1 - Italy is a democratic Republic founded on labour
* Sect. 4: the Republic recognizes to every citizen the right to work
* Sect. 35 - the Republic protects work in all its forms and applications
* Sect. 36 - on fair pay, the maximum working hours, the weekly and annual paid vacation
* Sect. 37 - on the protection of women and of minors on the job
* Sect. 38 - on the social insurance for old age, illness, invalidity, industrial diseases and accidents
* Sect. 39 - on Freedom of Association
* Sect. 40 - on the right to strike

**CONTRACT OF EMPLOYMENT**

There are different kinds of contracts of employment: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**.**

* Fixed-term contracts of employment are permitted in these situations: seasonal work, replacement of employees on sick leave or maternity leave, extraordinary and occasional work
* Suspension of the contract of employment is permitted in case of industrial accident, illness, maternity 🡪 the employee is entitled to an allowance from social insurance
* Protection against unfair dismissal of managerial employees (grounds of political opinion, trade union membership, sex, race, language or religious affiliation, pregnancy or marriage) is regulated by collective agreements
* The contract of employment may also be terminated by the resignation of the employee

**SEVERANCE PAYMENT**

* For any termination of the contract of employment, the employee is entitled to receive from the employer a severance payment (TFR - trattamento di fine rapporto)
* TFR may be partially paid in advance if the employee:

1. has reached eight years of service
2. intends to purchase his/her household’s residence, or needs it for health care, extended leave for child care or educational leave

**HOURS OF WORK** and **PAID LEAVE**

* Article 36 of the Constitution establishes the 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; all workers have the right to rest one day a week
* Work performed in excess of 40 hours a week is overtime. It should be occasional or due to exceptional reasons
* During the festive days (recognized by the Civil Code), workers receive regular pay. If they have to work, they receive double pay and a further increase
* All workers have the right to annual paid leave and during their vacation, they receive normal pay
* 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
* The working hours are established by the employer (according to the law), while part-time working hours are established by an individually written contract
* The employer may change the part-time scheduled hours, under two conditions:

1. the prior consent of the worker
2. the increase in hourly wage

**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 and during this period, a woman who resigns has the right to the same indemnities due for dismissals
* 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
* Maternity leave is compulsory from two months before until three months after childbirth. It some cases it may be postponed or advanced
* Some rights have been gradually extended to the father
* Both parents have the right to leave for no more than a total of 10 months during the first eight years of a child’s life
* Both parents have equal right to leave in case of a child’s illness

**OTHER PERMITTED LEAVE**

* SICK LEAVE

During sickness 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 to attend, at public or certified schools, courses related or not to their professional activity
* Job security and seniority are guaranteed to all workers in case of military service
* There is an unpaid leave for persons elected to public office (during the time of mandate) or for elected trade union representatives
* Special leave is granted to workers by collective agreements on the occasion of important family events (for example the worker’s wedding)

**MINIMUM AGE AND PROTECTION OF YOUNG WORKERS**

* The minimum age to be employed is 15/16 years old (at the end of compulsory school)
* The capacity to conclude a labour contract is related to the age of capacity in civil law: 18 years
* There are special regulations to protect the work of minors. They include: medical certificates to guarantee the physical fitness for work, periodical medical check-ups, limits on working hours, prohibition of night work

**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 is a fundamental right also for foreigners
* Other illegal kinds of discrimination are AIDS discrimination, age discrimination and handicap discrimination
* A law on sexual harassment at work does not exist; however, there is case law on unfair dismissal on this ground

**PAY ISSUES**

The Italian Constitution includes the right of the worker to a liveable wage for himself and his/her family, however there is not a statutory minimum wage. Upon request, judges can also fix a minimum wage.

**CASSA INTEGAZIONE GUADAGNI**

* The Cassa Integrazione Guadagni is a state fund within the scope of the National Social Security Institute. It was created in 1954
* It operates mostly in cases of suspension or temporary reduction of activity due to causes beyond the will of the enterprise or the workers, or market fluctuations, and includes suspension of activity in the building industry due to bad weather (natural disasters or regional or sectoral economic crisis)
* Workers whose contracts of employment have been suspended on these grounds can be paid 80%

**PROTECTION OF WORKERS’ CLAIMS IN CASE OF INSOLVENCY OF THE EMPLOYER**

* In the event of insolvency of the enterprise, the employer-employee relationship is not interrupted due to bankruptcy
* According to the Civil Code, workers’ claims are second in order of priority, after taxes and court fees
* Under a EU Directive, there is a Wage Guarantee Fund administered under the National Social Security Institute, which takes up the payment of some specified workers’ claims in the event that they have been left outstanding because of the insolvency of the employer
* The payment is limited to three times the ceiling of the Cassa Integrazione Guadagni Straordinaria
* the Guarantee Fund also protects severance pay (TFR), in case it cannot be paid due to the insolvency of the employer

**TRADE UNION REGULATION**

* The Italian Constitution recognizes the right of citizens to associate freely and the right of employers and employees to join associations or unions
* Only the registered ones can obtain legal status and can make collective agreements valid erga omnes (for all employers and employees)
* In Italy unions do not need any recognition and can organize themselves without any pre-established legal model
* The Workers’ Statute recognizes freedom of association and freedom of trade union activity at the workplace
* The same rights are also guaranteed to public employees, except military staff. The Italian Police (Polizia di Stato) is not a military force, therefore it has the right of union freedom
* For workers the most frequent pattern is the industry-wide union, which has local, provincial, regional and national organs (vertical organization). The national unions join together in trade union federations (horizontal organization)
* For the employers there is a similar model of organization. There are three employers’ federations: industrial, commercial and artisan
* Unions are financed by the workers’ dues

**PROTECTION AGAINST ANTI-UNION PRACTICES**

* The “Workers’ statute” provides that whenever the employer tries to hinder or limit the exercise of freedom of association and trade union activities, or the right to strike, the local organs of the relevant national trade unions can demand that the judge orders the employer to cease and desist from his illegal conduct and to redress any grievances or obviate the effects thereof
* According to the case law, anti-union behaviour is prohibited. They include action such as:

1. dismissal of workers on strike;
2. the hiring of third parties to replace workers on strike;
3. retaliation against workers that undertake legal strike action;
4. failure to inform the unions on issues regulated by collective agreements;
5. direct bargaining with the workers, thus bypassing the unions;
6. to infringement of union rights fixed by law (not to reserve a room for union meetings inside the factory; not to permit the union to have a board to post union information, to interfere with union proselytism)

* the judge must summon the parties within the following two days and if he is sure that the employer has had an anti-union behaviour, he shall order by an immediate executory judgement to stop such behaviour
* This order remains in force unless and until it is reversed by a higher court decision

**COLLECTIVE BARGAINING AND AGREEMENTS**

* Unions can freely negotiate collective agreements at provincial, regional and national levels
* Collective agreements and accords must be registered with the CNEL (National Council of Economy and Labour) within 30 days after they have been concluded
* The economic accords are agreements that cover some categories of self-employed (known as lavoratori parasubordinati)
* Collective bargaining can regulate all aspects of the employer-employee relationship, except those that are regulated by law
* In Italy, about 95 % of workers are covered by a collective agreement, but if the employer is not a member of the association the agreement would not be binding on him/her

**WORKERS’ REPRESENTATION IN THE ENTERPRISE**

* The Workers’ Statute (1970) regulates plant level union activity (the unions joining the biggest federations have a very important function in collective bargaining and receive protection in view of trade union activity at the plant level)
* The Workers’ Statute specifies that workers can choose representatives, who have particular rights fixed by the Workers’ Statute, like:

1. the right to call meetings and referendums of workers
2. protection from the relocation of their leaders
3. permission for union activity
4. bill-posting rights
5. right to obtain a representative’s room

* For public employees there is a different system of workers’ representation, but the rights are the same
* Collective agreements recognise the right to be informed and consulted on the most important decisions of the company

**STRIKES AND LOCKOUTS**

* The Italian Constitution (Art. 40) recognizes the right to strike, which must be exercised within the limits fixed by the law
* Public essential services relate to certain rights protected by the Constitution referring to the life, health, freedom, safety, freedom to circulate, social assistance and provident fund (previdenza), instruction and freedom of communication of the persons
* Some workers cannot strike (military personnel and policemen); for others the right to strike has some limits (for example seamen cannot strike during navigation)
* Unions have a self-regulation code of strike
* There isn’t a specific regulation in the Italian legal system about lock-outs
* When the employer locks out the workers he/she breaches the contract of employment and must pay wages

**SETTLEMENT OF LABOUR DISPUTES**

* Labour Courts follow special procedure
* An Act which introduced a “consiglio di probiviri”, composed of representatives of employers and employees, for lower cases
* All cases engage professional judges, since the fascism reform of 1926
* There is one professional judge in the first instance, whose decisions can be appealed before a Tribunal of three judges, with a possible further appeal before the five-member Supreme Court Labour Chamber
* There is not a procedure for collective disputes, except for the possibility of asking the Supreme Court for the immediate interpretation of a collective agreement signed by the union of civil servants