National Labour Law Profile: Italy

General legal framework

* The Italian Republic came into being in 1946
* 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
* The Legislative is composed of two chambers, namely the Senato and the Camera
* The government of the Republic is made up of the President of the Council and the ministers,
* All laws must be approved by both Chambers;
* The Judiciary is a professional and pyramidal body, composed of three instances.

Labour rights in the Constitution

The Constitution contains some declarations of principles and some rules on :

* fair pay
* the maximum working hours,
* the weekly and annual paid vacation
* on the protection of women and of minors on the job
* on the social insurance for old age, illness, invalidity, industrial diseases and accidents
* on Freedom of Association
* on the right to strike

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 pemitted n case of industrial accident, illness, maternity
* Collective agreements frequently list the grounds for dismissal.
* Dismissals on the grounds of political opinion, trade union membership, sex, race, language or religious affiliation are null and void.
* Dismissal on the grounds of pregnancy and marriage is also prohibited
* In case of unjustified dismissal employers are required to reinstate the dismissed employee, and to pay damages
* The contract of employment may also be terminated by the resignation of the employee

Severance payment

* At the end of the contract of employment the employee is entitled to receive from the employer a severance payment
* The trattamento di fine rapporto provided two conditions are met:

1. the employee has reached eight years of service,
2. he/she intends to purchase his/her household’s residence, or needs

Hours of work

* the hours worked by employees ought not to exceed 8 hours a day or 48 hours a week
* overtime pay is worth about 30 per cent over the basic 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
* Student workers are not obliged to work overtime or on Sundays and must be given paid days off work to take exams.

Paid leave

* All workers have the right to rest one day a week usally on Sunday
* Act 260/1949 and 90/1954 recognises four national holidays and other holidays. During these festive days, workers receive regular pay.
* All workers have the right to annual paid leave
* The time at which the holiday is taken is in principle chosen by the employee

Maternity leave and maternity protection

* 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
* The father the right to leave for three months after birth, where the mother’s caring for thechild had become impossible
* It is also possible for both parents of an adopted child to obtain paid leave for three months after the effective introduction of the child into the family
* With Act no .53/ 2000 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

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. The average period is about one year. During this time, the worker is fully paid

Educational Leave

* Student workers have the right to paid days off work to take exams.
* Workers with a minimum of 5 years seniority can request a maximum of 11 months unpaid leave to attend schools, universities or other educational training.
* 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.

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
* The capacity to conclude a labour contract is related to the age of capacity in civil law
* Act no. 977 of 1967 introduced 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.

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
* Act 604, 15 July 1966 prohibits dismissal for discriminatory reasons such as political and union views, religion, participation in union activities
* Act 40, of 6 March 1998 affirms equality between other foreign workers legally resident in Italy and Italian workers.

Pay issues

* Sect. 36 of the Italian Constitution includes the right of the worker to a liveable wage for himself and his/her family
* most workers are actually covered by a minimum wage agreement,

Cassa Integrazione Guadagni

* It was established by Act 788 of 1954, with a view to protecting the workers’ earnings in the event the enterprise has difficulties
* It covers all enterprises
* The Cassa Integrazione Guadagni operates mostly in cases of suspension or temporary reduction of activity due to causes beyond the will of the enterprise or the workers and includes suspension of activity in the building industry due to bad weather

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
* Sect. 1676 of the Civil Code gives direct action to the contractor’s employees towards the employer within the limit of the sums he is in debt towards the contractor.
* Act 80 of 1992 implemented EU Directive 80/987 on the protection of workers’ claims in case of insolvency of their employer.
* Workers’ claims so protected are the salaries corresponding to the three final months of the employment relationship, within a time limit of one year before the declaration of insolvency.

Trade union regulation

* The Italian Constitution recognises the right of citizens to associate freely (Sect. 19) and the right of employers and employees to join associations or unions.
* Sect. 39 of the Constitution regulates trade unions and specifies that only the registered ones can obtain legal status and can make collective agreements valid erga omnes
* The Workers’ Statute (Sect. 14) recognises freedom of association and freedom of trade union activity at the workplace.
* The law does not fix any model of union organization either for the unions or for the employers’ associations.
* For workers the most frequent pattern is the industry-wide union, which has local, provincial, regional and national organs
* For the employers there is a similar model of organization, with provincial, regional and national associations, that join to form federations
* Recently local unions have been formed but have their own coordinating organs.

Protection against anti-union practices

* Sect. 28 of Act 300 of 1970 (Workers’ statute) provides that whenever the employer indulges in behaviour designed to hinder or limit the exercise of freedom of association and trade union activities,
* Under case law a number of employers’ actions have been deemed to be anti-union behaviour, and are therefore prohibited, these include dismissal of workers on strike
* Under Section 28, the judge must summon the parties within the following two days and take a summary deposition of the facts at issue.

Collective bargaining and agreements

* Unions can freely negotiate collective agreements at provincial, regional and national levels
* Collective bargaining can regulate all aspects of the employer-employee relationship, except those that are regulated by law (for the effects of collective agreements see no. 12).
* Most categories of workers (roughly 95 per cent) in Italy are covered by a collective agreement

Workers’ representation in the enterprise

* The unions joining the biggest federations have a very important function in collective bargaining in public employment and receive protection in view of trade union activity at the plant level
* The Workers’ Statute, 1970, regulates plant level union activity. The Statute has been an important means of support of the unions at plant level.
* The Workers’ Statute (Sect. 19) specifies that workers can choose representatives, who form plant level union bodies
* For public employees there is a different system of workers’ representation (Act 29, 3 February 1993), but the rights are the same

Strikes

* The Italian Constitution recognises the right to strike, which must be exercised within the limits fixed by the law (Art. 40)
* Under the law of 1990 the notion of public essential services relates 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
* Act 83, of 11 April 2000 has extended the above law to the public essential services fulfilled by a number of categories of self-employed workers,

Lock-outs (serrate)

* A specific regulation does not exist in the Italian legal system
* When the employer locks out the workers he/she breaches the contract of employment and must pay wages. However, under case law there is not a breach when the lockout is a consequence of a strike by the workers and the industry is unable to continue production.

Settlement of labour disputes

* Labour Courts are integrated into the organization of the general civil court system, but follow special procedure.
* A special jurisdiction on labour issues was established in 1893, with an Act which introduced a “consiglio di probiviri”, composed of representatives of employers and employees, for lower cases.
* Act 533 of 1973 provides special procedural rules, which reduces the amount of written material at a labour trial, increase participation by the litigants, and speed up the trial
* Act 80 of 1998 transferred to the labour courts the competence to hear cases brought by civil servants, which were previously dealt by the administrative courts
* There is not a procedure for collective disputes, except for the possibility, introduced by the Act 80 of 1998, of asking the Supreme Court for the immediate interpretation of a collective agreement signed by the union of civil servants.