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LEGISLATION AND AGENCIES

Primary and secondary legislation
What are the main statutes and regulations relating to employment?

Italian employment law comes from various sources, including:

- international treaties and European sources;
- the Constitution, domestic law and the Civil Code;
- collective bargaining agreements (CBAs);
- individual employment agreements; and
- customs and practices.

In Italy, as in other civil law systems, case law precedents are issued by a court according to its inner conviction, which is based upon legal provisions. Case law precedents – in particular, those issued by the Supreme Court – have a significant role in orienting both the interpretation and the application of Italian laws.

The most important labour laws are:

- Law No. 300 of 20 May 1970 (the Workers' Statute) on the freedom and dignity of employees, the freedom of trade unions and trade union activity;
- Law No. 604 of 15 July 1966 (amended by Law No. 108 of 11 May 1990) on individual dismissals;
- Law No. 223 of 23 July 1991 on collective dismissals;
- Legislative Decree No. 151 of 26 March 2001, containing provisions on the protection of maternity and paternity;
- Legislative Decree No. 66 of 8 April 2003 (as amended by Legislative Decree No. 213 of 19 July 2004 and Law No. 133 of 6 August 2008) on working time;
- Legislative Decree No. 81 of 9 April 2008 on health and safety in the workplace;
- Law No. 92 of 28 June 2012, which regulates various issues of Italian labour law, including dismissals and the relevant procedure therefor, and many other provisions concerning employment relationships;
- Legislative Decree No. 23 of 4 March 2015, which introduced new regulations for unlawful dismissals that apply to all levels of employees – except the highest category of employee (executive-level employees) – hired permanently as of 7 March 2015;
- Legislative Decree No. 81 of 15 June 2015, which aims to systematically regulate the different types of employment contracts (fixed-term contracts, staff leasing and apprenticeships, etc);
- Legislative Decree No. 104 of 27 June 2022, on implementation of Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019, on transparent and predictable working conditions in the European Union', which introduces provisions governing information on the employment relationship, minimum requirements for working conditions, and a number of additional measures to protect employees; and

- Law No. 85 of 3 July 2023, converting into law, with amendments, Decree Law No. 48 of 2023, on 'Urgent measures for social inclusion and access to the world of work' concerning the simplification of the use of fixed-term contracts, with rationalisation of the reasons necessary for the conclusion of contracts between 12 and 24 months and for the extension and renewal of contracts that extend the duration beyond 12 months.

Many issues related to employment relationships are governed by the national CBA applied by the employer as well as by agreements that are signed with trade unions at the company level.

Law stated - 9 febbraio 2024

Protected employee categories

Is there any law prohibiting discrimination or harassment in employment? If so, what categories are regulated under the law?

The Constitution guarantees equal treatment of all citizens and expressly forbids any kind of discrimination based on birth, race, gender, religion, ideology, or any other personal or social circumstance.

The Workers' Statute prohibits employment discrimination on the following grounds:

- gender;
- political opinions;
- union-related activity;
- religion;
- race;
- language;
- disability status;
- age;
- sexual orientation;
- personal beliefs; and
- nationality.

Further, both direct discrimination (where a person is treated less favourably on the basis of one of the above-mentioned prohibited grounds) and indirect discrimination (where an apparently neutral provision, criterion, practice, agreement or conduct has a disparate impact on one of the protected classes) are prohibited.

There is a legal requirement for the employer to protect its personnel's physical safety and moral character. These protection obligations include the prevention of sexual harassment in the workplace, which is generally defined as conduct that:

- was carried out for reasons related to sex; and

- was aimed to, or may, result in a breach of an employee's dignity or a threatening, hostile, degrading, humiliating and offensive working environment.

Law stated - 9 febbraio 2024

Enforcement agencies

What are the primary government agencies or other entities responsible for the enforcement of employment statutes and regulations?

The National Labour Inspectorate is the only body entrusted with the task of verifying employers' compliance with employment laws and rules that govern social security contributions and mandatory insurance premiums. The National Labour Inspectorate exercises supervisory tasks that were previously assigned to:

- the Ministry of Labour;
- the National Social Security Authority; or
- the National Compensation Board.

Employment courts are public bodies that have jurisdiction over disputes between employers and employees (or claims regarding commercial agencies and independent contractors). Generally, employment tribunals' decisions are appealable to the Court of Appeal, while appeal judgments can be challenged in front of the Supreme Court.

Law stated - 9 febbraio 2024

WORKER REPRESENTATION

Legal basis

Is there any legislation mandating or allowing the establishment of employees' representatives in the workplace?

Section 39 of the Constitution provides the freedom to set up or join a trade union association. Accordingly, trade unions are considered unincorporated associations that do not need any authorisation or any registration to be recognised.

Under section 14 of Law No. 300 of 20 May 1970 (the Workers' Statute), workers are entitled to establish and join works councils, and carry out union activities, at the workplace.

In particular, trade union representatives' bodies may be established within production units with more than 15 workers.

There are two types of works councils:

- RSAs, which are governed by section 19 of the Workers' Statute and may be formed at the initiative of workers within each production unit within the framework of trade union associations that have signed (or negotiated) the collective agreement applicable to the production unit; and
-

RSUs, introduced by the 1993 inter-union agreement, whose members are elected directly by employees from lists submitted by trade unions.

In this context, Legislative Decree No. 188 of 19 August 2005, which implemented Directive 2001/86/EC integrating the European companies' statute with regard to the involvement of employees, and Legislative Decree No. 113 of 22 June 2012, which implemented Directive 2009/38/EC on the establishment of European works councils, should also be considered.

Law stated - 9 febbraio 2024

Powers of representatives
What are their powers?

Under Italian law, works councils are entrusted with specific powers and granted specific rights. Collective bargaining agreements (CBAs) may provide for additional powers and rights. The main powers and rights among these are:

- information and consultation on specific events such as, among others, transfers of business, collective dismissals and recourse to salary-integrated social security funds;
- periodic information on the envisaged trend of the employer's business and its economic situation, the occupational situation and envisaged trends, and potential company decisions that may affect work organisation and employment contracts (this only applies to companies staffed by more than 50 employees);
- negotiation of company CBAs; and
- advance agreement on the adoption of any systems that may result in employees' performance being monitored.

Law stated - 9 febbraio 2024

BACKGROUND INFORMATION ON APPLICANTS

Background checks
Are there any restrictions or prohibitions against background checks on applicants? Does it make a difference if an employer conducts its own checks or hires a third party?

Under section 8 of Law No. 300 of 20 May 1970 (the Workers' Statute), employers – both during the recruitment process and throughout the employment relationship – are prevented from carrying out investigations aimed at ascertaining certain categories of information about employees, such as:

- political views;
- religious beliefs;
- race;

- nationality;
- citizenship;
- language;
- gender;
- disability or HIV status;
- age;
- sexual orientation;
- personal opinions;
- affiliation with trade unions or participation in strikes; and
- any data other than that necessary to verify their professional skills.

This prohibition applies even if these investigations are not directly carried out by the employer but performed by third parties.

Law stated - 9 febbraio 2024

Medical examinations

Are there any restrictions or prohibitions against requiring a medical examination as a condition of employment?

Under section 5 of the Workers' Statute, employers are prevented from directly carrying out checks aimed at verifying an applicant's physical suitability. However, such checks are allowed if they are carried out by the company doctor and aimed solely at verifying the applicant's professional suitability for the performance of specific tasks that he or she is to be assigned.

Employers may legitimately refuse to hire applicants who do not submit to medical examinations carried out by the company doctor, as doing so is mandatory under Italian law.

Law stated - 9 febbraio 2024

Drug and alcohol testing

Are there any restrictions or prohibitions against drug and alcohol testing of applicants?

In some cases, employers are allowed to verify applicants' drug and alcohol use or addiction to the extent that the use or addiction, taking into account duties that such applicants are to be assigned, may entail risks to the security, safety and health of third parties. Employers may decline to hire an applicant who refuses to undergo such tests.

Law stated - 9 febbraio 2024

HIRING OF EMPLOYEES

Preference and discrimination

Are there any legal requirements to give preference in hiring to, or not to discriminate against, particular people or groups of people?

Under Italian law, discrimination based on an employee's political views, religious beliefs, race, nationality, citizenship, language, gender, disability status, age, sexual orientation, personal opinions and affiliation with unions or participation in strikes is prohibited. Therefore, employers are expressly prevented from granting employees less favourable economic treatment for those reasons (articles 15 and 16 of Law No. 300 of 20 May 1970).

Positive discrimination is also regulated in various pieces of Italian legislation (including, for example, Legislative Decree No. 216 of 9 July 2003 on equal treatment in employment and occupation, and Legislative Decree No. 198 of 11 April 2006 containing the Code of Equal Opportunities between Men and Women, which was amended in 2021). Among other factors, an employer:

- with 15 or more employees must ensure that a percentage of its workforce comprises workers with disabilities;
- with more than 50 employees must hire an additional percentage of its workforce from protected categories, which include orphans, surviving spouses and refugees; and
- is granted hiring incentives if it employs workers who are classified under certain disadvantaged categories, such as:
- workers aged 50 or below who have been unemployed for more than 12 months;
- female workers who have been unemployed for at least 24 months; and
- unemployed workers who are granted unemployment allowance.

Law stated - 9 febbraio 2024

Written contracts

Must there be a written employment contract? If yes, what essential terms are required to be evidenced in writing?

Generally, under Italian law there is no legal requirement to execute employment contracts in writing for them to be considered valid. However, the written form is expressly required by Italian law for the validity of certain contractual patterns or covenants (eg, fixed-term employment contracts with a term exceeding 12 days, post-employment non-compete covenants, trial period clauses and agreements with temporary workers). Other employment agreements must be executed in writing because they are to be mandatorily demonstrated in such a form (ie, part-time employment contracts).

Legislative Decree No. 104 of 27 June 2022 on transparency recently established that the employer must provide employees with several pieces of information. The measure applies to all salaried employment (fixed-term/indefinite, part-time/full-time, intermittent, and temporary), including those already in force as of 1 August 2023.

Information in writing, on the date of hire or at least within seven days (for salaried employment relationships already in force, however, it is provided that the employer shall update upon written request of the employee within 60 days of the same) of the start of employment relationship, includes but is not limited to:

- place of work;
- identity of the parties;
- starting date;
- seat or domicile of the employer;
- duties to be performed;
- trial period term, if any;
- job qualification (as set out by Italian law) and duties;
- initial remuneration and the items that compose it with details of the timing and method of payment;
- the specific type of contract, specifying whether it is a fixed-term relationship and its duration, etc;
- scheduling of normal working hours; and
- any conditions relating to overtime work and the remuneration therefore.

Recently, Law No. 85 of 3 July 2023, converting the Legislative Decree (the so-called 'Decreto Lavoro') No. 48 of 4 May 2023, amended and simplified the said information obligations. In fact, those regarding several issues (eg, duration of the probationary period, training, duration of vacations and any paid leave) may be fulfilled by the employer by means of the indication of regulatory references or by reference to the applied national collective bargaining agreement (CBA) or company agreement.

Law stated - 9 febbraio 2024

Fixed-term contracts
To what extent are fixed-term employment contracts permissible?

Under Legislative Decree No. 81 of 15 June 2015, as amended by Law Decree No. 87 of 12 July 2018, employers may lawfully execute fixed-term employment contracts if:

- the overall duration of the fixed-term employment relationship is up to 12 months; or
- the overall duration of the fixed-term employment relationship is up to 24 months (CBAs may provide for a longer or lower maximum term), upon the existence of:
- objective and temporary needs, which are to be other than those relating to the company's ordinary business;
- the need to replace employees who are absent from work and are entitled to keep their position during their absence; or
- needs arising from a temporary and significant increase in the ordinary business of the company that could not be planned for in advance.

The execution of fixed-term employment contracts is prohibited:

- whenever executed to replace employees on strike;
- within production units where employees that have the same duties as those under fixed-term employment agreements have been dismissed in the previous six months through a collective dismissal procedure, unless specific requirements are met;
- within production units where employees that have the same duties as those under fixed-term employment agreements are partially or entirely suspended from work, therefore benefitting from salary-integrated social security funds; and
- if the employer is not compliant with certain health and safety obligations.

In the event of a breach of the above, the fixed-term employment relationship is to be requalified as an open-term one, and the relevant employee is granted an indemnity in the range of between two-and-a-half months' and 12 months' salary.

The same applies whenever a second fixed-term employment agreement is executed within 10 days of the expiry of the term of the first fixed-term employment agreement (this 10-day term is increased to up to 20 days if the first fixed-term employment agreement had a term longer than six months).

Italian law sets out the maximum number of fixed-term employment agreements that may be lawfully executed by an employer (20 per cent of the overall open-term employees in force; a higher or lower percentage may be provided for by CBAs). A breach of this entails the payment of an administrative sanction amounting to, for each month of the breach, 50 per cent of the salaries paid to the fixed-term employees hired over the threshold (the percentage is decreased to 20 per cent if only one fixed-term employee has been hired in breach of the applicable maximum threshold).

However, following the enforcement of Law No. 85 of 3 July 2023 converting the Legislative Decree (the so-called 'Decreto Lavoro') No. 48 of 4 May 2023, the Italian legislator has further amended the discipline of fixed-term contracts.

In particular, the justifications that had been introduced by Decree-Law No. 87/2018, converted by Law No. 96/2018 – for cases in which the initial 12-month duration was exceeded, as examined above (ie, temporary and objective needs, unrelated to the ordinary activity or needs to replace other workers, and needs related to temporary, significant and non-programmable increases in ordinary activity) – have been replaced by the new ones set forth in points (a), (b) and (b-bis) of section 19 of Legislative Decree No. 81 of 15 June 2015, which provide that the exceeding of the initial 12-month period may take place only on the basis of:

- cases provided for by the collective agreements referred to in article 51 of Legislative Decree No. 81/2015 (thus, collective agreements of any level, provided that they are signed by the comparatively most representative trade union organisations – new letter a) Article 19(1) of Legislative Decree No. 81/2015);
- in the absence of provisions of collective agreements – and in any case by 30 April 2024 – for needs of a technical, organisational or productive nature identified by the parties (new letter b) Article 19(1) of Legislative Decree No. 81/2015); and

- for needs of a replacement nature, as has always been the case (new letter b-bis) Article 19(1) of Legislative Decree No. 81/2015).

To this extent, it has been established that the fixed-term contract may be extended and renewed freely during the first 12 months and, thereafter, only if the conditions set forth in article 19(1) above are met; in other words, for the first 12 months of the duration of the relationship, fixed-term contracts are always 'acausal', regardless of whether the duration limit is reached by virtue of several extensions of the same contract or through the conclusion of several fixed-term employment contracts (renewal), subject in the latter case to compliance with the minimum break period of 10 or 20 days provided for by law (the so-called stop-and-go).

In addition, the Italian legislator has provided that only fixed-term contracts entered into on or after 5 May 2023 are to be taken into account for the purposes of calculating the 12-month term provided for the application of the new regime of the justifications introduced by the new Decree. This means that, in the case of renewals, the 12-month period after which the causal reason is required must be calculated starting with renewals that occurred after 5 May 2023 and any fixed-term contracts entered into with the same person in earlier periods must therefore not be taken into account. However, no derogation has been introduced: (1) for contracts entered into before 5 May 2023, but extended thereafter, to which, if they exceed the total duration of 12 months, the reason must be stated, nor (2) to the maximum total duration of 24 months of the fixed-term employment relationship with the same individual.

Law stated - 9 febbraio 2024

Probationary period

What is the maximum probationary period permitted by law?

The maximum duration of a probationary period – during which both parties may terminate the relationship freely, without any notice – is specifically set out under the applicable national CBA and varies depending on the qualification (eg, executive, middle manager, white-collar or blue-collar) assigned to the relevant employee.

However, pursuant to section 7 of Legislative Decree No. 104 of 27 June 2022, the duration may not under any circumstances exceed six months.

Law stated - 9 febbraio 2024

Classification as contractor or employee

What are the primary factors that distinguish an independent contractor from an employee?

Employee (subordinate) relationships are those characterised by:

- the absence of autonomy in the organisation of the employee's work;
- the employee's submission to the employer's directive, organisational and disciplinary power;

- the employee's obligation to comply with established working hours or place of work; and
- the employee's stable inclusion within the employer's organisational structure.

Independent contractors may freely establish the time to be spent performing activities under the independent contractor agreement and the place where those activities are carried out. They are not subject to the principal's directorial, organisational or disciplinary power, which is only allowed for the purpose of providing guidance rather than orders from the principal to the independent contractor.

Law stated - 9 febbraio 2024

Temporary agency staffing

Is there any legislation governing temporary staffing through recruitment agencies?

Under Legislative Decree No. 81 of 15 June 2015, the main rules governing temporary staffing of personnel are that:

- the maximum number of temporary staffing agreements that may be lawfully executed amounts to 20 per cent of the overall number of open-term employees (higher or lower percentages may be set out by CBAs);
- no temporary staffing agreements may be executed:
- if executed to replace employees on strike;
- within productions units where employees who have the same duties as those under temporary staffing agreements have been dismissed through a collective dismissal procedure in the previous six months, unless specific requirements are met;
- within productions units where employees that have the same duties as those under temporary staffing agreements have been partially or entirely suspended from work and therefore benefit from salary-integrated social security funds; or
- by employers that are not compliant with certain health and safety obligations;
- temporary staffing agreements must be executed in writing and must specify certain information;
- temporary staffing agreements with a term exceeding 12 months may only be executed upon the occurrence of:
- objective and temporary needs, which are to be other than those relating to the company's ordinary business;
- the need to replace employees who are absent from work and are entitled to keep their position during their absence;
- needs arising from a temporary and significant increase in the ordinary business of the company that could not be planned for in advance; or
- specific requirements laid down in collective agreements;

- workers engaged under a temporary staffing agreement must be granted the same treatment, including economic treatment, that open-term employees are entitled to; and
- the recruitment agency and the employer are jointly liable concerning salaries owed to workers engaged under temporary staffing agreements over the term of the agreements, as well as social security contributions therefor.

The law converting Legislative Decree No. 48 of 4 May 2023 inserted a corrective measure with reference to staff leasing, for which Legislative Decree No. 81/2015 provided that the user has a quantitative limit of 20 per cent of the personnel hired on an indefinite-term basis in its employ. It is now established that the following categories do not fall within such limit:

- workers hired by the staff leasing agency under apprenticeship contracts; and
- so-called disadvantaged workers.

This amendment extends the exemption from the quantitative limits for so-called disadvantaged workers, already provided for fixed-term staff leasing, to permanent staff leasing (thus filling an important gap in the current legislation).

Law stated - 9 febbraio 2024

FOREIGN WORKERS

Visas

Are there any numerical limitations on short-term visas? Are visas available for employees transferring from one corporate entity in one jurisdiction to a related entity in another jurisdiction?

The immigration system in Italy varies depending on whether the worker is an EU national or not.

As far as EU nationals are concerned, there are no numerical thresholds and workers are not subject to specific immigration procedures.

Non-EU nationals must obtain a work permit to work in Italy. In this regard, Italian authorities annually establish specific quotas (namely, the maximum number of regular work permits that may be applied for by non-EU nationals). The Decree of 26 September 2023 (so-called 'Decreto Flussi') sets a maximum entry quota for foreign nationals of 151,000 units, 89,050 of which are reserved for entries for seasonal work reasons, 61,250 for non-seasonal employment and 700 for self employment.

However, highly skilled personnel and other personnel (eg, translators, interpreters, university professors and journalists) may apply to work in Italy beyond the fulfilment of these quotas, subject to an extra quota procedure. The key types of extra quota work permits in Italy are those that may be required for the following categories of employees:

- executives or highly specialised personnel employed by:
- companies headquartered or with branch offices in Italy;

- representative offices of foreign companies for which the main sites of activity fall within the territory of any World Trade Organization country; and
- an Italian office of an Italian company or a company established under the laws of an EU member state;
- directors, highly specialised workers and trainees who are to be assigned to a parent company based in Italy; and
- employees whose salary is regularly paid by employers (either individuals or organisations) residing or headquartered abroad and from whom they are directly granted their salaries, upon condition that the employees are temporarily transferred from foreign countries to work with individuals or organisations (whether Italian or not) residing or headquartered in Italy, to perform within Italian territory specific services in the framework of contracts executed by such individuals or organisations.

Law stated - 9 febbraio 2024

Spouses
Are spouses of authorised workers entitled to work?

Spouses of authorised workers are allowed to work in Italy without needing to obtain their own work permits if the family relationship can be demonstrated through official documentation.

Law stated - 9 febbraio 2024

General rules
What are the rules for employing foreign workers and what are the sanctions for employing a foreign worker who does not have a right to work in the jurisdiction?

Employers must only employ foreign workers who hold a valid work permit. Employers who employ foreign workers who do not have valid work permits may be punished with imprisonment for a term ranging from six months to three years and a criminal fine amounting to €5,000 per worker engaged in the breach (section 22 of Legislative Decree No. 286 of 25 July 1998 on immigration).

The above penalties may be increased by one-third and up to one-half whenever the affected workers are:

- more than three in number;
- minors under the age at which they gain the capacity to validly execute an employment contract; or
- subject to working conditions that qualify as exploitation of labour.

Also, the employer may be ordered to refund the average expenses incurred when repatriating the foreign worker, which qualifies as an administrative fine.

The employer may self-report breaches of immigration law, thus avoiding the above criminal and administrative fines, to the extent that a regularisation process is available on the self-reporting date.

Law stated - 9 febbraio 2024

Resident labour market test

Is a labour market test required as a precursor to a short or long-term visa?

In Italy, no labour market tests are required as a precursor to a short- or long-term visa.

Law stated - 9 febbraio 2024

TERMS OF EMPLOYMENT

Working hours

Are there any restrictions or limitations on working hours and may an employee opt out of such restrictions or limitations?

According to Legislative Decree No. 66 of 8 April 2003 (the Working Time Statute), normal working hours amount to 40 hours per week. A shorter duration may be established by collective bargaining agreements (CBAs), which may also set out that compliance with the threshold can be carried out over one year.

Under Italian legal provisions, weekly working hours – including overtime – cannot exceed a 48-hour threshold over a seven-day period. Compliance with this threshold is to be carried out over a four-month period.

CBAs may increase the above-mentioned four-month period to six or 12 months, conditional upon the existence of technical or production-related needs, to be duly specified by the same CBAs.

Employees are entitled to a daily rest period of at least 11 continuous hours every 24 hours, intended to be the rest period between the end of one shift and the beginning of the next. The number of hours worked per day may not exceed 13 hours unless the collective agreement or individual company agreement establishes a different working pattern for the day. In all cases, however, the requirement for rest between working days must be complied with.

The employees' rights outlined above cannot lawfully be waived by employees.

Law stated - 9 febbraio 2024

Overtime pay – entitlement and calculation

What categories of workers are entitled to overtime pay and how is it calculated?

Work performed over the normal weekly working hours established by the Working Time Statute or by the applicable CBA is to be considered overtime and remunerated accordingly.

Some employees are exempted from statutory hour restrictions, including high-level white-collar employees and executives, as well as certain kinds of sales staff, such as commercial travellers.

Section 5 of the Working Time Statute provides that the use of overtime must be limited and, usually, voluntary. The applicable collective agreement typically provides the conditions for performing overtime work. If the collective agreement does not cover the cases in which the performance of overtime may be legitimately required, overtime is allowed only with the consent of the employee and for a maximum of 250 hours per year (although collective agreements are allowed to provide for longer or shorter durations).

Overtime is paid with an extra remuneration as set out by the applicable collective agreement (generally, an increase in the employee's salary, represented by a certain percentage of his or her fixed hourly wage). The agreement may set out that alternatively or in addition to such extra remuneration, employees receive compensatory rest time.

Law stated - 9 febbraio 2024

Overtime pay – contractual waiver

Can employees contractually waive the right to overtime pay?

Employees cannot waive, in advance, their right to be granted overtime pay. However, if a claim concerning overtime pay arises, the right to overtime pay may be lawfully waived by employees, conditional upon the execution of an agreement whereby the employee waives the right before specific bodies, such as trade unions, the labour office and the labour court.

Law stated - 9 febbraio 2024

Vacation and holidays

Is there any legislation establishing the right to annual vacation and holidays?

Under section 10 of the Working Time Statute, employees are entitled by law to four weeks' paid vacation leave per year. Two weeks are to be used over the year during which they are accrued, while the remaining two weeks may be used in the 18 months following the end of the reference year. Such leave is to be used by employees and payment by the employer of the relevant indemnity in lieu is not allowed unless the employment relationship terminates.

Generally, national CBAs may provide for a period of vacation leave that is longer than the minimum four-week period set out by law.

According to the provisions set forth by Law No. 260 of 27 May 1949, employees are entitled to public holidays as laid out in the table below.

Public Holiday	Date
New Year's Eve	1 January
Epiphany	6 January
Easter	Subject to movement

Easter Monday	Subject to movement
Liberation Day	25 April
Employees' Day	1 May
National Day	2 June
Feast of Assumption	15 August
All Saints' Day	1 November
Immaculate Conception	8 December
Christmas	25 December
Saint Stephen's Day	26 December

Law stated - 9 febbraio 2024

Sick leave and sick pay

Is there any legislation establishing the right to sick leave or sick pay?

Under Italian law, employees absent from work owing to illness are entitled to keep their positions within a certain term, the duration of which is set out by the applicable national CBA but is generally up to 180 days per year.

Over this term, employees are also entitled to be granted a specific allowance. Generally, a portion of the allowance amounting to 80 per cent of their salary is paid by the National Social Security Authority, while the remaining portion – to the extent that this obligation is provided for by the applicable CBA – is paid by the employer.

Law stated - 9 febbraio 2024

Leave of absence

In what circumstances may an employee take a leave of absence? What is the maximum duration of such leave and does an employee receive pay during the leave?

According to the provisions set forth by Legislative Decree No. 151 of 26 March 2001 and applicable CBAs, the main leaves of absence to which employees are entitled are as follows:

- Maternity leave: female employees are entitled to a five-month period of leave over which they are paid an allowance amounting to 80 per cent of their salary, which is paid by the National Social Security Authority (the majority of CBAs provide for an obligation on the employer to pay the remaining 20 per cent).
- Paternity leave: male employees are entitled to a 10-day mandatory period of leave (one additional day of leave may be taken by employees, upon request, to be decreased from the maternity leave to which the other parent is entitled), during which they are paid an allowance amounting to 100 per cent of their salary that is entirely paid by the National Social Security Authority.

- Parental leave: during the first 12 years of a child's life:

- each parent is entitled to a six-month period of leave, conditional upon the total taken (between the parents) not exceeding 10 months (this term is increased to 11 months whenever the father takes leave equal to or longer than three months); and
- female workers are entitled to a six-month period of leave in addition to the statutory maternity leave outlined above.

Over the course of parental leave, parents are granted an allowance amounting to 30 per cent of their salaries, which is only paid when the leave is taken within the first 12 years of their child's life and, in any case, for a total of nine months (namely, taking into account the period of leave granted to each parent equal to three non-transferable months, plus a further period of three months to be otherwise taken). The allowance amount is raised alternately between parents until their child's sixth birthday and for the duration of up to one month to a rate of 80 per cent of their salaries. The same allowance is granted until the child turns 12 for periods of parental leave that are additional to those described above whenever the parents' income falls below certain thresholds specified by law.

Employees are also entitled to the following:

- Marriage leave: all employees, except during their trial periods, are entitled to special paid leave in the event of their marriage. The duration of this leave is 15 days. Almost all applicable CBAs provide for 15 days' paid vacation in the event of an employee's marriage regardless of whether the employee is a man or a woman.
- Leave for disabled employees and leave for assisting disabled relatives (Legislative Decree No. 151 of 26 March 2001 and Law No. 104 of 5 February 1992): disabled employees or relatives of disabled persons who need to be assisted are entitled to three days' leave per month, during which they are paid an allowance by the National Social Security Authority.

Italian law and CBAs provide for additional leaves of absence, either paid or unpaid, including those for exercising political offices or owing to serious personal reasons, study or training.

Law stated - 9 febbraio 2024

Mandatory employee benefits

What employee benefits are prescribed by law?

Employees that have spent a (rather long) time in the employment of a particular employer may be entitled to certain benefits, such as additional annual paid vacation.

However, the majority of benefits, such as additional pension schemes and insurance coverage, are provided for by CBAs governing the employment relationships for specific categories of employees, such as those at the executive level and middle managers.

Law stated - 9 febbraio 2024

Part-time and fixed-term employees

Are there any special rules relating to part-time or fixed-term employees?

Under Legislative Decree No. 81 of 15 June 2015, part-time employees must:

- not be granted overall treatment that is less favourable than that granted to full-time employees who hold the same qualifications or level; and
- be entitled to the same rights granted to full-time employees who have similar duties (however, such entitlements, including economic entitlements, may be proportionally reduced according to the lower number of working hours performed).

Moreover, part-time employees who were initially engaged on a full-time basis and whose employment contract has been converted from a full-time one are entitled to receive preference over other candidates during the recruitment of employees that are:

- to be assigned duties consistent with those under the part-time contract; or
- classified by the applicable CBA as belonging to the same level and being subject to the same qualifications requirements.

Similarly, fixed-term employees are entitled to the same treatment as that granted to open-term employees classified as belonging to the same level according to the applicable CBA.

Unless otherwise provided for by CBAs, fixed-term employees whose fixed-term employment exceeds six months are entitled to receive preference over other candidates during the recruitment of employees to be assigned duties consistent with those under the fixed-term employment agreement. This applies to recruitment by the employer that occurs within 12 months of the termination of the fixed-term employment relationship.

Law stated - 9 febbraio 2024

Public disclosures

Must employers publish information on pay or other details about employees or the general workforce?

There is no legal requirement for employers in the private sector to publish or disclose information on pay or other details about employees or the general workforce, except for:

- publicly listed companies, the board of directors (or supervisory board) of which must publicly disclose an annual report regarding the remuneration paid to general managers and executives who are entrusted with strategic responsibilities;
- information obligations to trade unions or staff representatives (eg, employers with more than 50 employees must inform staff representative bodies every two years about the equal treatment of male and female employees) under section 46 of Legislative Decree No. 198 of 11 April 2006;
- third-sector entities (eg, associations with the purpose of social utility) must account for the compliance with certain parameters of employees' pay differences in their

financial statements, considering that the salary difference between employees must not exceed a ratio of one to eight, to be calculated on the basis of gross annual salary; and

- additional information obligations that may be set out by the applicable CBA.

The enactment of new law is expected on the basis of the EU Directive No. 2023/970, made public on 17 May 2023, aimed at strengthening the principle of equal pay for men and women in the case of same job or job of the same value, by way of transparency on the criteria to determine remuneration.

Law stated - 9 febbraio 2024

POST-EMPLOYMENT RESTRICTIVE COVENANTS

Validity and enforceability

To what extent are post-termination covenants not to compete, solicit or deal valid and enforceable?

Post-termination covenants not to compete must meet all of the following requirements to be valid and effective (section 2125 of the Civil Code):

- the covenant is executed in writing;
- the term of the covenant does not exceed three years (five years for executives);
- the covenant duly specifies its scope;
- the non-compete obligations only apply within a given geographical area; and
- the relevant employee is granted a specific financial consideration.

Whenever even one of the above requirements is not met, the covenant is to be considered null and void. This does not apply if a term longer than the above maximum threshold is established as, in such a case, it is automatically reduced by law to match the maximum threshold.

The covenant is deemed to be null and void if the actual extent of the non-compete obligation (in terms of its duration, scope and geographical area) prevents the employee from finding an alternative professional position.

No specific legal provisions govern non-solicitation covenants (customers, employees or suppliers). Therefore, parties are free to agree on the scope, duration and geographical area in the absence of any constraints (however, statutory requirements applicable to non-compete covenants may be argued as also applying to non-solicitation covenants).

Law stated - 9 febbraio 2024

Post-employment payments

Must an employer continue to pay the former employee while they are subject to post-employment restrictive covenants?

There is no legal requirement for an employer to pay an employee his or her ordinary salary during the non-compete covenant term as, under section 2125 of the Civil Code, such an employee must be granted a specific financial consideration for the non-compete obligations, which is generally lower than the employee's salary.

Although Italian law does not provide the actual amount of such a consideration or statutory criteria to be mandatorily adopted when quantifying it, the amount (according to case law precedents) must be fair, taking into account the actual extent of the non-compete obligations.

Law stated - 9 febbraio 2024

LIABILITY FOR ACTS OF EMPLOYEES

Extent of liability
In which circumstances may an employer be held liable for the acts or conduct of its employees?

Under section 2049 of the Civil Code, an employer is liable for damages arising from employee misconduct carried out in the performance of duties.

As established by case law precedents, the duties performed by the employee should have made the commission of the damage to the third party possible.

Law stated - 9 febbraio 2024

TAXATION OF EMPLOYEES

Applicable taxes
What employment-related taxes are prescribed by law?

The tax rates that apply to employees' income, set since 2022, are:

- up to and including €15,000: 23 per cent;
- from €15,000.01 to €28,000, inclusive: 25 per cent;
- from €28,000.01 to €50,000, inclusive: 35 per cent; and
- over €50,000, inclusive: 43 per cent.

According to recent Law No. 214 of 30 December 2023, for the year 2024 only the IRPEF rates are reduced, from four to three, as follows:

- up to and including €28,000: 23 per cent;
- from €28,000 to € 50.000, inclusive: 35 per cent; and
- over €50,000, inclusive: 43 per cent.

Also, both the employer and the employee must pay social security contributions to the National Social Security Authority, the actual amount of which depends on the classifications

of both the employer and the employee. The employer makes its own social security contributions as well as those for employees, concerning which the employer acts as a withholding agent.

Insurance premiums to be paid to the National Compensation Board also apply.

Self-employed persons who hold a value added tax position and whose annual income is up to €85,000 can decide to apply, instead of the ordinary income tax rates, a flat tax rate of 15 per cent (5 per cent for the first five years following the initiation of value added tax contributions).

Law stated - 9 febbraio 2024

EMPLOYEE-CREATED IP AND CONFIDENTIAL BUSINESS INFORMATION

Ownership rights
Is there any legislation addressing the parties' rights with respect to employee inventions?

The right to employee inventions is governed by article 64 of Legislative Decree No. 30 of 10 February 2005, which distinguishes between inventions developed by an employee:

- during the employment relationship and where compensation for the inventive activity has been expressly agreed between the employer and employee (remunerated inventions) – the remuneration for those inventions is already provided in the employment contract as a part of the global remuneration and the employee only has the right to be recognised as the author of the invention;
- during the employment relationship and where no compensation has been agreed for the inventive activity (unremunerated inventions) – the employee is entitled to fair compensation and this right cannot be waived; and
- outside the scope of the duties assigned to the employee but related directly to the business of the employer, or made with the use of the employer's data or means of whatever nature (occasional inventions) – the employer has an optional right to use the invention or purchase the patent and should pay the inventor a licence fee or a price for the sale of the invention, deducting any amount for the aid received by the employee from the employer.

Law stated - 9 febbraio 2024

Trade secrets and confidential information
Is there any legislation protecting trade secrets and other confidential business information?

Employers' confidential information is granted specific protection to the extent that it qualifies as a trade secret according to Legislative Decree No. 30 of 10 February 2005. This only happens when all of the following requirements are met:

-

the information is secret as it is not widely known or easily accessible by experts who operate in the sector to which the information is relevant;

- the information has an economic value to the extent that it is secret; and
- specific measures aimed at ensuring the secrecy of the information have been adopted by the employer.

No rules ensure consistent protection of employers' confidential information that does not qualify as a trade secret except for the general employees' obligation not to disclose proprietary information of the employer set out under articles 1175 and 1375 of the Civil Code regarding bona fide execution of the contract, and under article 2105 of the Civil Code regarding the employment relationship and the prohibition against an employee disclosing the company's information.

Law stated - 9 febbraio 2024

DATA PROTECTION

Rules and employer obligations

Is there any legislation protecting employee privacy or personnel data? If so, what are an employer's obligations under the legislation?

Under Italian law, which enforces provisions under EU regulations, the employer may process employees' personal data to the extent that the data processing is necessary to fulfil employment-related obligations and is conditional upon the fulfilment of specific requirements, which are:

- the employer must comply with the principles of data minimisation and lawfulness of processing;
- the employer must provide its employees with adequate information regarding the processing of their personal data;
- when requested under Italian law, the employer must collect in advance the consent of the employees concerned regarding the processing of their personal data; and
- the employer must take any measures necessary to protect employees' personal data from unauthorised access.

Law stated - 9 febbraio 2024

Privacy notices

Do employers need to provide privacy notices or similar information notices to employees and candidates?

Employers, as is the case for all other data controllers, need to provide a privacy notice to employees and candidates (in their capacity as data subjects) that includes:

- the identity and contact details of the data controller and, where applicable, of the data controller's representative;

- the contact details of the data protection officer, where applicable;
- the purposes of the processing for which the personal data is intended as well as the legal basis for the processing;
- in certain cases, the legitimate interests pursued by the data controller or by a third party;
- the recipients or categories of recipients of the personal data, if any;
- where applicable, the fact that the controller intends to transfer personal data to a third country or an international organisation;
- the period for which the personal data will be stored or, if that is not available, the criteria used to determine such a period;
- the existence of the rights to:
- request from the controller access to, and rectification or erasure of, personal data;
- set restrictions regarding the processing of data concerning the data subject;
- object to the processing;
- data portability;
- withdraw consent at any time without affecting the lawfulness of processing based on consent before its withdrawal; and
- lodge a complaint with a supervisory authority;
- whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide personal data and the possible consequences of failure to provide such data; and
- the existence of automated decision-making, including profiling, and meaningful information about the logic involved, as well as the significance and envisaged consequences of the processing for the data subject.

Law stated - 9 febbraio 2024

Employee data privacy rights

What data privacy rights can employees exercise against employers?

As is the case for any other data subject, employees have the right to receive a privacy notice as well as the rights to data access, erasure, restriction of processing, portability and objection.

Law stated - 9 febbraio 2024

BUSINESS TRANSFERS

Employee protections

Is there any legislation to protect employees in the event of a business transfer?

Under section 2112 of the Civil Code, whenever a transfer of business (or a part thereof) takes place, employment relationships of the transferor's employees automatically continue – by operation of law – with the transferee. Employees are therefore entitled to maintain any rights arising from such employment relationships. In particular, the transferee must grant the transferor's employees any entitlements, including economic entitlements, set out by collective bargaining agreements (at the national, territorial or company level) that were applied to their employment relationships as at the transfer date until their expiry, unless such agreements are replaced by those that apply to the employment agreements of transferee's employees or by a collective agreement concluded on the occasion of the transfer.

The transferor and the transferee are jointly liable concerning sums owed to the transferor's employees as at the transfer date. This protection may be waived regarding the transferor, conditional upon the execution of the relevant agreement before bodies specified by sections 410 and 411 of the Code of Civil Procedure.

Dismissals that rely on a transfer are considered null and void, so employees are entitled to have their employment relationship continue with the transferee, as well as to be paid the salaries that would have accrued over the period that runs from the dismissal date until the date of actual reinstatement (a minimum of five months' salary is provided for). However, this does not prevent the transferor or the transferee from dismissing employees according to the general rules governing the matter (ie, if a cause for termination or justified grounds, either subjective or objective, occur).

If an employee's working conditions are significantly changed within three months of the transfer date, he or she is entitled to resign and is allowed to not give notice of the resignation. Such an employee is to be granted the indemnity in lieu of notice that would apply in a not-for-cause dismissal.

For transfers triggered by a share deal, the above employee protections do not apply as, in such transfers, there is no change in employer.

Law stated - 9 febbraio 2024

TERMINATION OF EMPLOYMENT

Grounds for termination

May an employer dismiss an employee for any reason or must there be 'cause'? How is cause defined under the applicable statute or regulation?

During a trial period, the termination of the employment relationship does not need to rely on cause or any specific reason. After the end of a trial period, the employment contracts of middle managers and white- or blue-collar employees may be lawfully terminated by the employer only in the presence of:

- a cause for termination according to section 2119 of the Civil Code, which is a breach by the employee of a level of seriousness that prevents the continuation, even temporarily, of the employment relationship (eg, theft of the employer's goods);
-

subjective justified grounds according to section 3 of Law No. 604 of 15 July 1966, which are less serious breaches by employees (eg, unjustified absences from work); or

- objectively justified grounds according to section 3 of Law No. 604 of 15 July 1966, which relate to production, organisational or regular operation of the work (eg, individual redundancies).

Moreover, employers with more than 15 employees are entitled to dismiss their employees under a collective dismissal procedure governed by Law No. 223 of 23 July 1991, which applies whenever the employer – owing to reduction, transformation or shutdown of activities – intends to dismiss, within a 120-day term, at least five employees from the same production unit or from different production units within the same municipality (ie, collective redundancies).

Employment contracts executed with executive-level employees are governed by specific rules set out by national collective bargaining agreements (CBAs) applicable to that category of employee, which generally provide that their dismissal must be justified. According to case law precedents, an executive's dismissal is justified whenever it relies on reasons that are not false, arbitrary, discriminatory or unfounded.

Law stated - 9 febbraio 2024

Notice requirements

Must notice of termination be given prior to dismissal? May an employer provide pay in lieu of notice?

Employees are entitled to notice, the actual term of which is set out by the applicable CBA, in the case of:

- dismissals within a collective dismissal procedure;
- dismissals on justified grounds, either subjective or objective;
- dismissals based on the relevant employee's absences from work owing to illness or injury exceeding the relevant maximum sick term set out by the applicable CBA; or
- dismissals owing to the employee's supervening professional unsuitability.

Under the above scenarios, the employer – at its own discretion – is entitled to exempt the employee from working during the notice period, which obliges the employer to grant the employee the relevant indemnity in lieu. This must be calculated taking into account any additional monthly salaries provided for by the applicable CBA, variable compensation paid over the preceding three years and the value of any fringe benefits granted to the employee in addition to the base annual gross salary.

Law stated - 9 febbraio 2024

Dismissal without notice

In which circumstances may an employer dismiss an employee without notice or payment in lieu of notice?

There is no legal requirement to give notice to employees who are dismissed after an unsuccessful trial period or for cause. 'Cause' constitutes a breach by the employee, the seriousness of which prevents the continuation, even temporarily, of the employment relationship.

Law stated - 9 febbraio 2024

Severance pay

Is there any legislation establishing the right to severance pay upon termination of employment? How is severance pay calculated?

Upon the termination of the employment relationship, regardless of its reasons, employees are entitled to the following severance payments:

- an end-of-service allowance, which represents a deferred form of remuneration equal to the sum resulting from adding, for each year of service, the all-inclusive annual remuneration paid to the employee divided by 13.5. An end-of-service allowance shall be, at the employee's choice:
- paid to a specific fund managed by the National Social Security Authority (for an employer with 50 or fewer employees, the end-of-service allowance must be set aside in its financial statement and re-evaluated each year); or
- transferred into an additional pension fund, which may be that chosen by the employee or, in the absence of any choice, that established by the applicable CBA;
- an indemnity in lieu of accrued and unused holidays and leave, the duration of which is set out by the applicable CBA; and
- an prorated additional monthly salary as set out by the applicable CBA.

Law stated - 9 febbraio 2024

Procedure

Are there any procedural requirements for dismissing an employee?

As a general rule, according to Law No. 604 of 15 July 1966, dismissals must be notified in writing and the relevant notice must include the reasons for the termination.

Disciplinary dismissals (ie, dismissals that rely on a cause or subjective justified grounds) must be served regardless of the relevant employee's level and date of hire, and the size of the employer's business, by complying with the following specific procedure set forth by section 7 of Law No. 300 of 20 May 1970:

- the employer must promptly provide the relevant employee with a written notice specifying the misconduct being objected to;
-

within the subsequent five days (or a longer term that may be set out by the applicable CBA), the relevant employee is entitled to submit his or her justifications for the conduct, either in writing or orally; and

- upon the expiry of the relevant term, if no justification has been provided by the employee or, alternatively, upon receipt of the employee's justification if this has been submitted, the employer is entitled to serve the dismissal.

According to section 7 of Law No. 604 of 15 July 1966, in dismissals that rely on objectively justifiable grounds (eg, dismissals for individual redundancy), a specific procedure must be triggered by the employer, except for dismissals that are:

- to be notified to employees hired as of 7 March 2015;
- to be served to executive-level employees;
- based on the relevant employee's absences from work owing to illness or injury exceeding the maximum threshold set out by the applicable CBA;
- to be notified by small companies (ie, those staffed by up to 60 employees throughout Italy and with up to 15 employees within each production unit or within each municipality); and
- collective redundancies.

Under this procedure, the employer must give advance notice of its intention to dismiss the employee, explaining the reasons for the dismissal to both the employee and the labour office. Within the subsequent seven days, a meeting aimed at reaching a settlement agreement with the employer and the employee concerned is scheduled before the labour office. Immediately after the meeting, if no agreement is reached or, alternatively, if no meeting is scheduled upon the expiry of the seven-day term, the employer is allowed to serve the dismissal.

Law stated - 9 febbraio 2024

Employee protections

In what circumstances are employees protected from dismissal?

If the dismissal is deemed null and void, employees – regardless of their level and date of hire, and the size of the employer's business – are entitled to be reinstated, as well as to the payment of an indemnity of a minimum of five months' salary. This happens whenever the dismissal:

- relies on discriminatory reasons (eg, is based on political views, religious beliefs, race, nationality, citizenship, language, gender, disability status, age, sexual orientation, personal opinions, affiliation with trade unions or participation in strikes);
- is based upon employees' marriage, which is considered to occur when the dismissal is served during the period between the date on which the banns are publicly displayed and one year after the marriage date unless it relies on:
- misconduct by the relevant employee that qualifies as a cause for termination;

- the company's shutdown; or
- expiry of the term of a fixed-term agreement;
- is served to:

- female employees during the period between the beginning of pregnancy and the date on which the child turns one;
- male employees who have taken paternity leave during the period between the leave's start date and the date on which the child turns one; or
- female employees during the one-year term following the date on which an adoption or custody arrangement takes place unless the dismissal relies on:

- misconduct by the relevant employee that qualifies as a cause for termination;
- the company's shutdown;
- expiry of the term of a fixed-term agreement; or
- an unsuccessful trial period;
- is grounded on a request for completion of parental leave or leave due to a child's illness that was taken by the dismissed employee;
- is orally served (this applies in both individual and collective dismissals);
- solely relies on unlawful grounds; or
- falls under any other cases of invalidity contemplated under Italian law (eg, relies on a transfer of business having taken place).

Otherwise, remedies that apply when a dismissal is found to be unfair vary depending on the relevant employee's level and date of hire, the breach by the employer and the size of its business, and the number of employees dismissed (individual or collective dismissals), as set out below.

For individual dismissals of middle managers and white- or blue-collar employees hired before 7 March 2015:

1. reinstatement and payment of an indemnity not exceeding 12 months of total compensation whenever the employee's misconduct turns out not to have occurred or should have entailed a disciplinary sanction other than the employee's dismissal under the applicable CBA or the employer's disciplinary code, or the individual redundancy clearly turns out not to have occurred;
2. payment of an indemnity amounting to between 12 and 24 months of total compensation whenever the dismissal is deemed unlawful owing to reasons other than those under point (1) above;
3. payment of an indemnity amounting to between six and 12 months of total compensation if the employer has breached rules governing the procedure to be complied with when serving individual dismissals; and
4. payment of an indemnity amounting to between two-and-a-half and six months of total compensation (to be increased to up to 10 or 14 months for employees that have worked for a certain length of time at the relevant company; this increase only applies

where the number of overall employees is greater than 15) whenever the employer has up to 60 employees throughout Italy and has up to 15 employees within each production unit or within each municipality, regardless of the breach by the employer.

For individual dismissals of middle managers and white- or blue-collar employees hired after 7 March 2015:

1. reinstatement and payment of an indemnity not exceeding 12 months of total compensation whenever it is directly demonstrated that the misconduct that the dismissal was based on did not occur;
2. payment of an indemnity amounting to between six and 36 months of total compensation whenever the dismissal is deemed unlawful owing to reasons other than those in point (1) above;
3. payment of an indemnity amounting to between two and 12 months of total compensation if the employer breaches rules governing the procedure to be complied with when serving individual dismissals; and
4. payment of an indemnity amounting to (depending on the seriousness of the employer's breach) between one and six months of total compensation whenever the employer has up to 60 employees throughout Italy and has up to 15 employees within each production unit or within each municipality, regardless of the breach by the employer.

For individual dismissals of executive-level employees, payment of the supplementary indemnity against unfair individual dismissals established by the applicable CBA must be made (the longer the executive's tenure is, the higher the amount of the indemnity due).

For collective dismissals:

- reinstatement and payment of an indemnity amounting to up to 12 months of total compensation whenever selection criteria (statutory or under the agreement reached with unions under the collective dismissal procedure) are breached (this only applies to middle managers and white- or blue-collar employees hired before 7 March 2015);
- payment of an indemnity amounting to between 12 and 24 months of total compensation in the case of a breach of the statutory procedure that is to be mandatorily complied with when serving collective dismissals (this only applies to middle managers and white- or blue-collar employees hired before 7 March 2015);
- payment of an indemnity amounting to between six and 36 months of total compensation in the case of a breach of either the selection criteria or the statutory procedure as far as employees who have been hired after 7 March 2015 are concerned; and
- as far as executive-level employees are concerned, payment of:
- a specific indemnity against unfair collective dismissals established by the applicable CBA, if any; or
-

an indemnity amounting to between 12 and 24 months of total compensation if either the collective dismissal procedure or the selection criteria is breached.

Law stated - 9 febbraio 2024

Mass terminations and collective dismissals

Are there special rules for mass terminations or collective dismissals?

A specific procedure for collective dismissal applies whenever employers with more than 15 employees – owing to the reduction, transformation or shutdown of activities – intend to dismiss, within a 120-day term, at least five employees employed at the same production unit or different production units within the same municipality (Law No. 223 of 23 July 1991).

The main steps of the procedure are the following:

- the employer must notify in advance both the works councils established within its premises and the trade unions;
- the relevant notice, a copy of which is to be sent to the labour office, must include details of, among other factors:
  - the reasons upon which the redundancy relies;
  - the number of both the redundant employees and the other effective employees of the employer as well as the positions covered by them; and
  - the technical, organisational and production-related grounds owing to which no organisational measures other than the collective dismissal may be adopted;
- upon request by the works councils or trade unions, a meeting between the latter and the employer must be scheduled;
- if no agreement is reached in this first stage, an additional meeting before the competent labour office must be scheduled;
- after the additional meeting, even if no agreement is reached, the employer is allowed to serve the dismissals, which are to be served in the subsequent 120 days unless the agreement reached with the works councils or trade unions within the collective dismissal procedure provides for a longer term; and
- the employees to be dismissed must be selected by applying:
  - the criteria agreed upon with the works councils or trade unions, if any; or
  - the statutory criteria provided for by Italian law (ie, the number of dependant relatives and company tenure as well as technical, organisational and production-related needs).

The maximum duration of the collective dismissal procedure is 75 days (to be decreased by half whenever the collective dismissal procedure concerns fewer than 10 employees). This procedure also applies to executive-level employees.

It is possible for the applicable CBA to provide an additional consultation to be implemented before that provided by law (eg, in the banking sector).

Moreover, an additional information and consultation procedure to be triggered before the statutory procedure by employers staffed by 250 or more employees has been established. This procedure applies whenever such employers intend to:

- shut down a production unit, thereby fully decommissioning the relevant activities; and
- dismiss at least 50 employees owing to the above shutdown.

Law stated - 9 febbraio 2024

Class and collective actions

Are class or collective actions allowed or may employees only assert labour and employment claims on an individual basis?

In most cases, employees bring their own claims individually against the employer.

However, a group of employees may bring one single claim against the employer to ascertain the same right (eg, the right to the payment of a bonus established by a company-level collective agreement).

Also, certain specific claims may be triggered by collective claimants (eg, the trade unions may bring a claim for anti-union behaviour and the counsellor for equal opportunities can bring a claim in the event of collective discrimination in the workplace).

Law stated - 9 febbraio 2024

Mandatory retirement age

Does the law in your jurisdiction allow employers to impose a mandatory retirement age? If so, at what age and under what limitations?

Under section 4 of Law No. 108 of 11 May 1990 and article 2118 of the Civil Code, employers are entitled to dismiss employees that have actually satisfied the ordinary retirement requirements, but there is no legal requirement to do so (except for certain cases in the public sector).

Generally, requirements for the ordinary pension paid by the National Social Security Authority are considered to have been met if employees (either male or female) of 67 years of age have paid social security contributions for at least 20 years.

Law stated - 9 febbraio 2024

DISPUTE RESOLUTION

Arbitration

May the parties agree to private arbitration of employment disputes?

Pursuant to article 410 et seq of the Code of Civil Procedure, employment-related claims may be subject to arbitration proceedings:

- during a meeting before the settlement committee established within the labour office, in which the parties may agree to assign the settlement committee the duty to decide the case according to rules governing arbitration proceedings;
- according to procedures set out by the applicable national collective bargaining agreement (CBA) and the terms set out in it; and
- before an arbitration court mutually appointed by the parties.

In principle, arbitration is optional, so each party has the right to bring an ordinary action before the competent labour court.

Law stated - 9 febbraio 2024

Employee waiver of rights

May an employee agree to waive statutory and contractual rights to potential employment claims?

Pursuant to article 410 et seq of the Code of Civil Procedure, employees may lawfully waive statutory and contractual rights to potential employment claims.

However, according to section 2113 of the Civil Code, whenever the waiver concerns rights established by mandatory provisions of law (eg, the right to challenge the termination of the employment relationship), or under CBAs or other arrangements, this is invalid unless the agreement through which those rights are waived is executed before certain bodies (e.g., trade unions, the labour office or the labour court).

If the parties fail to execute an agreement before such bodies, the waiver is to be considered null and void, and the employee may challenge it within a six-month term as of the date of termination of the employment relationship or the date on which the agreement is executed, whichever occurs later.

The employer is not obliged to offer the employee any financial consideration in exchange for consent to agree upon or obtain an effective waiver of claims or withdrawal from litigation that has commenced. However, this is very common in practice as an incentive to obtain the employee's consent to the agreement.

Employees hired after 7 March 2015 benefit from the quick settlement procedure introduced by Legislative Decree No. 23 of 4 March 2015. In particular, the quick settlement procedure consists of an offer from the employer to the employee made within 60 days of the date of the dismissal to pay compensation equal to one month's salary per year of service, with a minimum of three and a maximum of 27 months of compensation (for small companies, the indemnity is reduced by half and the maximum compensation is six months' salary).

This indemnity is not subject to tax or social security contributions and will be immediately paid by the employer via cheque. If the offer is accepted by the employee, all rights to object to his or her dismissal will be waived. In the same settlement agreement, the parties could also decide to waive all rights concerning the employment relationship, but any amount granted

for those waivers will be subject to ordinary taxation and social security contributions as provided for under Italian law.

Since 1 March 2023, Legislative Decree No. 149/2022 implementing the so-called 'Riforma Cartabia' has extended the negotiation procedure to labour disputes. Under the new regulation, employer and employee can execute settlement agreements under the 'assisted negotiation' procedure on the condition that each party has the assistance of a lawyer. The agreement signed by the parties and the lawyers constitutes an enforceable title. This procedure is neither mandatory nor a precondition to bring suit. The assisted negotiation procedure is indeed optional, but does provide the means to incentivise an out-of-court dispute resolution between the employee and employer.

Law stated - 9 febbraio 2024

Limitation period
What are the limitation periods for bringing employment claims?

Generally, the term within which claims are to be brought is equal to five or 10 years, depending on the rights upon which the relevant claim relies.

Specific terms apply to claims whereby the relevant employee challenges his or her dismissal. Under this scenario, the employee must challenge the dismissal in writing within no later than 60 days of the date on which it was served, with the relevant claim being brought before the labour court within the following 180 days.

The above terms also apply to litigation whereby:

- a worker (eg, a self-employed person) claims the requalification of his or her relationship as an employment relationship, as well as claiming the invalidity of its termination;
- independent contractors claim the unlawfulness of the termination of their contracts;
- employees challenge their relocation; and
- fixed-term employees challenge their fixed-term employment contracts (in such a case, the first term within which the employee has to challenge his or her fixed-term employment contract in writing is increased to 180 days).

Law stated - 9 febbraio 2024

UPDATE AND TRENDS

Key developments and emerging trends
Are there any emerging trends or hot topics in labour and employment regulation in your jurisdiction? Are there current proposals to change the legislation?

The long-awaited Legislative Decree No. 24 of 10 March 2023 implementing Directive (EU) 2019/1937 on the protection of persons reporting infringements of Union law, including in the private sector, is big news for several reasons.

First of all, it is intended to be the regulatory point of reference both for the public and private sector.

Secondly, its scope covers a wide area of violations of national and European law, such as harm to the public interest or the integrity of the public administration or private entity.

The most important aspect to highlight, however, is the fact that the adoption of whistleblowing procedures has now become mandatory for certain companies (while previously, in the private sector, it was optional, except for certain 'big' publicly listed companies).

The decree also contains specific sanctions.

Regarding the whistleblowing procedure, the new decree provides for more detailed discipline. In particular, it requires that each public or private entity adopts an internal reporting channel, the management of which, subject to compliance with legal requirements, may also be outsourced. The use of an external reporting channel, established at the moment by the National Anti-Corruption Authority (ANAC), is also possible, but only residually compared to the use of the internal reporting channel. Public disclosure cases are also considered, albeit the protection for the reporting person in this case is subject to strict constraints.

As regards protection for whistleblowers, it is extended by granting it not only to whistleblowers in the strict sense but also to so-called facilitators (ie, persons who assist a whistleblower in the reporting process, operating within the same working environment and whose assistance is to be kept confidential) and other persons – better specified in the decree – close for various reasons to the whistleblower themself.

From an objective standpoint, extensive protection is provided for the whistleblower against retaliation, expressly listing some cases that fall under it (ie, dismissal, suspension or equivalent measures; downgrading or non-promotion; change of duties, change of place of work, reduction of salary, change of working hours, etc).

In the event of disputes concerning retaliation against the whistleblower, a legal presumption in favour of the whistleblower is set out.

Even in the case of a claim for damages made by the whistleblower, the damage is presumed to be a consequence of the whistleblowing.

The new obligations set forth by the described discipline came into force on 15 July 2023, while for companies in the private sector employing less than 250 employees the discipline entered into force from 17 December 2023. In this respect, on 16 June 2023, the ANAC issued detailed guidelines with the aim to provide practical instructions for employers in order to be compliant with the new whistleblowing regulation.

Moreover, Law No. 85 of 3 of July 2023 converting Legislative Decree No. 48 of 4 May 2023 (the so-called 'Decreto Lavoro'), introduces some important developments in the field of labour law and social inclusion. In addition to amending the regulation of fixed-term contracts, the aforementioned decree provides a number of other measures, relating to the following.

Simplification of reporting requirements

The decree provides for the simplification of the information that the employer is required to provide to the employee at the time of recruitment pursuant to the so-called 'Transparency Decree' (Legislative Decree 104/2022), which came into force in August 2022. In particular, article 26, paragraph 1, of the new decree specifies that some of the information obligations (eg, duration of the probationary period, training, duration of holidays and any paid leave) may henceforth be understood as being fulfilled simply by indicating the regulatory references or by referring to the collective agreement applied, including the one at company level.

Fringe benefit

For the year 2023, the non-taxable threshold for employees' fringe benefits increased to €3,000, but only for those with dependant children. The non-taxable threshold of €258.23 remains unchanged in all other cases. The rule also specifies that sums disbursed or reimbursed by employers for the payment of domestic water, electricity and gas utilities are also covered by the allowance.

The Budget Law for 2024 (Law No. 213 of 30 December 2023) establishes new tax relief limits in the case of disbursement of goods and services in kind (including through vouchers) by the employer to employees:

- within the total limit of €1,000, with regards to the value of goods sold and services rendered to employees, as well as the amounts disbursed or reimbursed to the same employees by employers for payment; and
- the above limits are raised to €2,000 for employees with children, including recognised children born out of marriage, adopted or foster children, dependent on the said employees.

Law stated - 9 febbraio 2024