

**ITALY**

Items	Regulations in force on 1 January 2013
<b>1:</b> Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Written notice to the employee.</p> <p>In the case of objective reasons (economic redundancy): the territorial employment office and the employee, are notified at the same time. Detailed reasons for dismissal are provided in the written notice.</p> <p>In the case of dismissal for subjective reasons (“significant non-compliance with contractual obligations”), the employee can request conciliation by the territorial employment office or through conciliation committees set up under collective agreements.</p>
<b>2:</b> Delay involved before notice can start	<p>Letter sent by mail or handed directly to employee.</p> <p>In the case of dismissals for subjective reasons (“significant non-compliance with contractual obligations”), notice can start at the earliest 5 days after the fact originating the sanction (art. 7 Law 300/70).</p> <p>According to most collective agreements notice starts only on 1<sup>st</sup> or the 16<sup>th</sup> day of the month (e.g. collective agreement of metal workers, tourism industry, textile workers, chemical workers, trade industry, food industry),</p> <p>In the case of dismissal for objective reasons (economic redundancy) notice also to territorial employment office - TEO - (and the employee) for request conciliation procedure. Within 7 days of receiving the communication the TEO must convene a meeting between employer and employee to consider alternatives to dismissal and, failing this, try to settle the dispute without the parties going to court. The procedure must be concluded within 20 days from the date the TEO sends the convocation letter, unless the parties wish to continue in order to pursue a settlement agreement. If negotiations over the settlement agreement fail or the 20-day time limit expires, the employer may send the dismissal letter to the employee. However, the date of start of the notice period will be that of the first communication to the employee and the TEO.</p> <p>Calculation (for EPL indicators): 1 day for letter plus 7 days on average for the 1<sup>st</sup> or the 16<sup>th</sup> day of the month plus 5/2 days for the waiting period in the case of subjective reasons.</p>
<b>3:</b> Length of notice period at different tenure durations (a)	<p>Length of notice period is provided by each collective agreement In most collective agreements (e.g. collective agreement of metal workers, tourism industry, textile workers, chemical workers, trade industry, food industry) notice is as follows:</p> <p>9 months tenure: 10-75 days, 4 years tenure: 10-75 days, 20 years tenure: 30-180 days.</p>
<b>4:</b> Severance pay at different tenure durations (a)	<p>An end-contract indemnity is paid to employees according to general principles set forth by art. 2120 of the civil code, and as provided by each collective agreement. However, this is paid upon any type of separation. Nonetheless, upon dismissal, the employer must pay a contribution equal to 41% of the monthly unemployment benefit ceiling for each of the first three years of tenure (or fraction of it). In 2013 this contribution amounts to 362.85 EUR, for 9-month job tenure, and 1451 EUR for job tenure longer than 3 years (§31 of art. 2, law 92/201, §250 of art.1, law 228/2012, Circolare INPS No. 44, 22-03-2013). For comparison, the gross annual wage for employees with an open-ended contract was 29 852 EUR in 2012 (Source ISTAT).</p>
<b>5:</b> Definition of unfair dismissal (b)	<p><b>Fair:</b> Termination of contract only possible for “just cause” or “just motive”, including significant non-compliance with contractual obligations by the employee (subjective reasons), and compelling business reasons (objective reasons). <b>Unfair:</b> Dismissals reflecting discrimination on grounds of race, religion, gender, trade union activity, etc.</p> <p>Law 604/66 establishes that dismissal is fair in cases of serious misconduct or for reasons concerning productive activity, work organization and its regular functioning. Except for additional provisions in Law 428/90, which sets that company delocalisation is not a fair reason for dismissal, the law is sufficiently general that case law should determine how broad the definition is. The notion that “repechage” (that is of transfer of the redundant worker to other functions in the company) must be attempted prior to dismissal is “very” extensive in case law and applies also to other companies of the same group (for example: Pret. Milano 2/8/95, est. Negri della Torre; Trib. Milano 15/7/2008, Est. Casella; Cass. n. 5403/2010; Cass. n. 6559/2010; n. 3040/2011; Cass. n.6026/2012).</p> <p>In the case of collective dismissals, it is an established court practice that judges verify only that the procedure has been respected (see Items 19 and 20) and do not typically examine the validity of the economic justification for redundancy, except in cases of misguided personal reasons (for example: Cass. 6/7/2000, n. 9045; Trib. Vallo della Lucania, 1/2/2011, est. de Angelis; Cass. 11/03/2011 n.5888).</p>

<b>6:</b> Length of trial period (c )	The length of trial period is specified in each individual employment contract or collective agreements. In most collective agreements (e.g. collective agreement of metal workers, tourism industry, textile workers, chemical workers trade industry, food industry) maximum trial period is between 30 and 180 days.
<b>7:</b> Compensation following unfair dismissal (d)	<p>Case of large companies (Law n.92/2012): In the case of workers in companies employing &gt;15 employees in one establishment or in the same municipality and, anyway, in companies with more than 60 employees (even if distributed in production units or municipalities with less than 15 employees), if the labour court finds that the dismissal is unfair or unjustified, it will order the employer to pay the employee an indemnity of between 12 and 24 months' salary, depending on circumstances such as age, length of service, number of employees and size of company. In the case of ineffective termination of employment, due to the absence of written reasons in the termination letter or breach of procedural aspects (such as in case of disciplinary procedures), the labour court establishes an indemnity ranging from 6 to 12 months' salary, without prejudice for the application for stronger protection in the case the alleged reasons of dismissal are deemed unfair or unlawful. Reinstatement (with backpay) will be ordered instead of monetary compensation in the case of discriminatory dismissal or if the reason is manifestly false or inapplicable (see Item 8)</p> <p>Case of small companies: for establishments not included in the above cases, Law 604/66 gives the employer the choice between re-employment (different from reinstatement because it does not give rise to compensation for the period between the date of dismissal and the court decision) and compensation of 2.5-6 months (depending on seniority and firm size). This can be increased up to 10 months for job tenure &gt; 10 years.</p> <p>Calculation (for EPL indicators): Typical compensation at 20 years tenure (large companies): 21 months (computed as average of mean and maximum compensation, excluding the case of ineffective termination).</p>
<b>8:</b> Reinstatement option for the employee following unfair dismissal (b)	<p>If the labour court finds that the alleged breach or failure did not take place, and should have been penalised by a measure less severe than dismissal according to the applicable national collective agreements or disciplinary codes or that it was a discriminatory dismissal, or that the objective reason indicated in the dismissal letter clearly does not apply or is inexistent, or that the employee was dismissed in breach of Article 2110 of Civil Code (ie if the dismissal is communicated to the absent employee before the end of the provided sick leave or maternity leave), it will revoke the dismissal and will order the employer to:</p> <ul style="list-style-type: none"> <li>-reinstatement the employee (although the employee may refuse reinstatement and instead receive 15 months' salary as an indemnity);</li> <li>- pay employee an indemnity equal to the salary due from the date of the dismissal to the date of reinstatement, to a maximum of 12 months' salary, minus any remuneration earned by employee from working during this period (aliunde perceptum) or that he would have earned had he duly sought new employment (aliunde percipiendum);</li> <li>-pay social security contributions from the date of the dismissal to the date of the reinstatement.</li> </ul> <p>In practice, case law suggests that reinstatement remain the most frequent remedy in the case of unfair dismissal for personal reasons and that it is often ordered also in cases of unfair dismissal for economic reasons if the proof of having attempted transfer is not provided by the employer.</p> <p>However, small companies (see Item 7) are not required to pay back-pay or reinstate workers who are found to be unfairly dismissed.</p>
<b>9:</b> Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)	60 days
<b>10:</b> Valid cases for use of standard fixed term contracts	Fixed term contracts can be used for technical, production and organizational reasons including the replacement of absent workers, and for types of work normally carried out by the firm. The first contract between an employer and a worker does not need justifications if its duration is no longer than one year
<b>11:</b> Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	One extension is possible provided that the duration initially agreed is less than three years. No extension is possible in cases that do not require any justification (see Item 10) – in that case a new FTC contract, with justified reasons, must be established. It is possible to conclude successive FTCs within a time frame of 36 months.
<b>12:</b> Maximum cumulated duration of successive standard FTCs	36 months, with further renewal possible with agreement of Territorial Employment Office, unless collective agreements define a longer duration. One year in cases that do not require any justification (see Item 10).

<p><b>13:</b> Types of work for which temporary work agency (TWA) employment is legal</p>	<p>TWA employment can be used for technical, production and organizational reasons including the replacement of absent workers and for types of work normally carried out by the enterprise. Collective agreement often lay down upper limits for the use of temporary workers. The use of TWA employment is forbidden in firms which have resorted to collective dismissals in the previous 6 months and for the replacement of striking workers.</p> <p>Only for the first fixed-term assignment at the user firm there is no necessity to justify technical, production or organizational reasons (Law 92/2012).</p>
<p><b>14:</b> Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)</p>	<p>Yes for assignments, in the cases and for the duration set forth in the collective agreement used by temporary work agencies.</p> <p>Contracts between the agency and the worker can be open-ended</p>
<p><b>15:</b> Maximum cumulated duration of TWA assignments (f)</p>	<p>There is no legal maximum duration of TWA assignments or contracts, but it is set by collective agreements applied by temporary work agencies. The current agreement stipulates no limit for both assignments and contracts if open-ended and 36 months for assignments and 42 months for contracts if fixed-term.</p>
<p><b>16:</b> Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>The requirements laid down by Legislative Decree 276/2003 in order to obtain the administrative authorisation as TWA are as follows:</p> <ul style="list-style-type: none"> <li>a) the agency must be set up as a limited liability company or as a co-operative, registered as a company based in Italy or in another EU Member State, with capital stock of no less than 600,000 euros; as a guarantee of sums due to the workers and the corresponding contributions to social insurance funds, for the first two years the agency is required to make a deposit of some 350,000 euros in a bank based (or with branches) in Italy; as from the third year of business, the agency may replace this deposit with a bank or insurance guarantee of no less than 5% of the annual turnover, net of value added tax, recorded in the previous financial year, but amounting to no less than 350,000 euros;</li> <li>b) premises and qualified personnel for carrying out the tasks associated with temporary agency work must be available;</li> <li>c) a guarantee that the business can provide nationwide cover, or a presence in at least four regions, must be provided;</li> <li>d) providing labour supply has to be the main activity of the agency</li> <li>e) the members of the board, general manager, the managers with powers to represent the company and partners of the company must not have been found guilty, even if not in definitive terms, of any of a series of offences listed in the Act;</li> <li>f) the regular contribution to the funds for the vocational training and income support of the temporary agency workers must be paid.</li> </ul> <p>Periodic reporting is necessary to maintain the administrative authorisation.</p>
<p><b>17:</b> Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>TWA workers are entitled to receive the same pay and conditions as other workers in the user firm for equal work, equivalent tasks or jobs of the same nature.</p>
<p><b>18:</b> Definition of collective dismissal (b)</p>	<p>In firms with 15 and more employees and over a period of 120 days, 5+ workers in a single production unit; 5+ workers in several units within one province.</p>
<p><b>19:</b> Additional notification requirements in cases of collective dismissal (g)</p>	<p><b>Notification of employee representatives:</b> Duty to inform employee representatives and competent trade union and set up a joint examination committee. <b>Notification of public authorities:</b> Notification of labour authorities.</p>
<p><b>20:</b> Additional delays involved in cases of collective dismissal (h)</p>	<p>Up to 45 days negotiation in joint examination committee at plant level. If parties fail to reach an agreement, the next step is a conciliation phase chaired by the Labour office, which may last for a maximum of 30 days. (if parties agree this second phase may be extended to reach an agreement).</p> <p>These delays are reduced by one half for less than 10 dismissals.</p> <p>Calculation: average of 10+ dismissals (45 days for negotiation + 30/2 on average for conciliation) and &lt;10 dismissals (22.5 days for negotiation + 15/2 on average for conciliation) minus the number reported in item 2</p>
<p><b>21:</b> Other special costs to employers in case of collective dismissals (i)</p>	<p><b>Type of negotiation required:</b> Good faith consultation on alternatives to redundancy, scope for redeployment and ways to mitigate the effects; severance agreement usually reached after negotiation with union and (in major cases) labour authorities, - determining selection criteria and use of financial support.</p> <p><b>Selection criteria:</b> Law specifies social and economic criteria (length of service, number of dependants, technical and production requirements), but does not specify priorities. <b>Severance pay:</b> first, monthly payments from a redundancy fund (financed from company contributions) - "Cassa Integrazione Guadagni". Second, when CIG fund is exhausted or the firm is not eligible to CIG, mobility payments (mobility indemnities are financed through the social security system, when accessing the scheme firms have to pay, for every worker dismissed, a sum equal to six times the first-month mobility allowance).</p>

Legend: d: days; w: weeks; m: months; y: years. For example “1m < 3y” means “1 month of notice (or severance) pay is required when length of service is below 3 years”.

Notes:

- a) Three tenure durations (9 months, 4 years, 20 years). Case of a regular employee with tenure beyond any trial period, dismissed on personal grounds or economic redundancy, but without fault (where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment). Averages are taken where different situations apply – e.g. blue collar and white collar; dismissals for personal reasons and for redundancy.
- b) Based also on case law, if court practice tends to be more (or less) restrictive than what specified in legislation.
- c) Initial period within which regular contracts are not fully covered by employment protection provisions and unfair dismissal claims cannot usually be made.
- d) Typical compensation at 20 years of tenure, including back pay and other compensation (e.g. for future lost earnings in lieu of reinstatement or psychological injury), but excluding ordinary severance pay and pay in lieu of notice. Where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment and that a court case takes 6 months on average. Description based also on case law.
- e) Maximum time period after dismissal up to which an unfair dismissal claim can be made.
- f) Description based on both regulations on number and duration of the contract(s) between the temporary work agency and the employee and regulations on the number and duration of the assignment(s) with the same user firm.
- g) Notification requirements to works councils (or employee representatives), and to government authorities such as public employment offices. Only requirements on top of those requirements applying to individual redundancy dismissal count for the OECD EPL indicators (cf. Item 1).
- h) Additional delays and notice periods in the case of collective dismissal (only delays on top of those required for individual dismissals – as reported in Items 2 and 3 – count for the OECD EPL indicators).
- i) This refers to whether there are additional severance pay requirements and whether social compensation plans (detailing measures of reemployment, retraining, outplacement, etc.) are obligatory or common practice.