

**ITALY**

Items	Regulations in force on 1 January 2019
<b>1:</b> Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Individual dismissals: Written notice to the employee, with detailed reasons for dismissal. The written statement for the dismissal, as well as the indication of the reasons is required, under penalty of ineffectiveness (art. 2 of the law n. 604/1966). The disputed grounds for dismissal to the worker cannot be modified (Court of Cassation, labour section, n. 4983/2018).</p> <p>As of a certain number of dismissals (see Item 18): see Item 19.</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>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> <p>As of a certain number of dismissals (see Item 18): see Item 20</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 2019 this contribution amounts to 500.79 EUR, for 9-month job tenure, and 1502.37 EUR for job tenure longer than 3 years (Circolare INPS No. 5, 25-01-2013). For comparison, the gross annual wage for employees with an open-ended contract was 29 852 EUR in 2019</p>
<b>5:</b> Definition of unfair dismissal (b)	<p>Fair: 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). Unfair: 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, Cass.n. 24882/2017; Cass. n. 10435/2018). Workers dismissed by a company for staff reduction have the priority in being re-employed by the same company within six months (Article 15 of law n. 264/1949).</p> <p>As of a certain number of dismissals (see Item 18), it is an established court practice that judges verify only that the procedure has been respected 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 )	<p>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.</p>

<p><b>7:</b> Compensation following unfair dismissal (d)</p>	<p>In the event of dismissal for a justified objective or subjective reason deemed illegitimate by the judge, Legislative Decree No. 23/2015, as amended by Decree Law 87/2018 and the judgment of the Court Cost. No. 194/2018, provides that, for workers hired after the 7th March 2015, they will be entitled to a compensation indemnity ranging from a minimum of 6 to a maximum of 36 monthly payments. Employees in companies that employ up to 15 employees, hired since the 7th march 2015, in the event of unlawful dismissal will be entitled to a compensation up to a maximum of 6 monthly payments. Calculation (for EPL indicators): Typical compensation at 20 years tenure (large companies): 28.5 months (computed as average of mean (=average between minimum and maximum) and maximum compensation).</p>
<p><b>8:</b> Reinstatement option for the employee following unfair dismissal (b)</p>	<p>For workers hired from 7/3/2015, reinstatement is restricted to the event of dismissal that is null and void, discriminatory or ordered orally, in accordance with the provisions of Article 2 of Legislative Decree no. 23/2015. Reinstatement will also be possible, in accordance with paragraph 2 of Article 3 of Legislative Decree no. 23/2015, in the case of dismissal for subjective reason when the absence of the material fact contested to the worker is demonstrated in court. As of a certain number of dismissals (see Item 18), reinstatement restricted to the case of lack of written notification (Art 10 d.lgs. n. 23/2015).</p>
<p><b>9:</b> Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)</p>	<p>60 days</p>
<p><b>10:</b> Valid cases for use of standard fixed term contracts</p>	<p>Fixed term contracts can be used only if at least one of the following conditions is met:  a) temporary and objective needs, outside the ordinary activity, or needs to replace other workers;  b) needs related to temporary, significant and non-programmable increases in ordinary activities.  The first contract between an employer and a worker does not need justifications if its duration is no longer than one year  (Articolo 19 del decreto legislativo n. 81 del 15-6-2015 (come modificato dall'art. 1, comma 1, let. A), n. 1), D:L: 12 luglio 2018, n. 87, convertito, con modificazioni, dalla L. 9 agosto 2018, n. 96))</p>
<p><b>11:</b> Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>The contract may be extended for a maximum of 4 times within a period of 24 months. without causation for the first 12 months, with the causation after 12 months.  Collective agreements may provide for a different maximum duration  Articoli 19, comma 2 e 21 del decreto legislativo n. 81 del 15-6-2015 (come modificato dall'art. 1, comma 1, let. A), n. 1), D:L: 12 luglio 2018, n. 87, convertito, con modificazioni, dalla L. 9 agosto 2018, n. 96)</p>
<p><b>12:</b> Maximum cumulated duration of successive standard FTCs</p>	<p>24 months  One year in cases that do not require any justification (see Item 10).  Articolo 19 comma 1 del decreto legislativo n. 81 del 15-6-2015 (come modificato dall'art. 1, comma 1, let. A), n. 1), D:L: 12 luglio 2018, n. 87, convertito, con modificazioni, dalla L. 9 agosto 2018, n. 96)</p>
<p><b>13:</b> Types of work for which temporary work agency (TWA) employment is legal</p>	<p>The TWA may be temporary or indefinite.  The law does not provide for any absolute cases in which it may be used for an indefinite period of time, but only sets limits on its use in terms of quantity.  In addition to quantitative limits, fixed-term administration must also comply with duration limits and there must be certain causes, identified with reference to the needs of the user, such as:  - Temporary and objective needs, extraneous to the ordinary activity (of the user), or needs to replace other workers;  - Needs related to temporary, significant and non-programmable increases in ordinary (user's) activity.  (d.l. 87 del 12/7//2018)</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.  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>Decree-Law no. 87/2018, converted by Law no. 96/2018, applied the maximum duration for fixed-term contracts of 24 months (or a different limit set by collective agreements) to both the contract between the agency and the worker and the assignment of the worker at the user firm (d.l. 87 del 12/7//2018).</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> <p>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;</p> <p>b) premises and qualified personnel for carrying out the tasks associated with temporary agency work must be available;</p> <p>c) a guarantee that the business can provide nationwide cover, or a presence in at least four regions, must be provided;</p> <p>d) providing labour supply has to be the main activity of the agency</p> <p>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;</p> <p>f) the regular contribution to the funds for the vocational training and income support of the temporary agency workers must be paid.</p> <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>Notification of employee representatives: Duty to inform employee representatives and competent trade union and set up a joint examination committee. Notification of public authorities: 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>Type of negotiation required: 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. Selection criteria: Law specifies social and economic criteria (length of service, number of dependants, technical and production requirements), but does not specify priorities. Severance pay: 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>
<p><b>22:</b> The worker alone has the burden of proof when filing a complaint for unfair dismissal</p>	<p>No</p>
<p><b>23:</b> Ex-ante validation of the dismissal limiting the scope of unfair dismissal complaints</p>	<p>No</p>
<p><b>24:</b> Pre-termination resolution mechanisms granting unemployment benefits</p>	<p>Resignation or termination via mutual consent does not give entitlement to unemployment benefits, with the exception of resignation for just cause pursuant to Article 2119 of the Italian Civil Code. This is because, as clarified in the Court's ruling no. 269/2002, in this case resignation is not attributable to the worker's free choice as it is induced by the conduct of others, which is likely to integrate the condition of unsuitability of the relationship. INPS Circular no. 163 of 2003 specifies the cases included in cases of resignation for just cause (e.g. mobbing, non-payment of salary, etc.). Also eligible for unemployment benefits are the resignation of the mother employee during the period from the beginning of pregnancy to the first year of the child's life, pursuant to Article 55, paragraph 1, of Legislative Decree no. 151/2001.</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 Versions 1 to 3 of 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.