

Italy

On 14 September 2011, the Italian Chamber of Deputies approved a new budget austerity plan which includes as its main innovation with regard to industrial relations/labour law the *possibility to derogate, by a company agreement, from conventional and statutory provisions, including those governing layoffs*. This relates to the extremely controversial Article 8 of Decree No. 138 of 12 August 2011 which allows company or regional local agreements to derogate from national laws and collective agreements. It has now been further clarified. The conclusion of such special agreements is allowed in order to ‘increase employment, improve the quality of employment contracts, put a stop to illegal labour, increase competitiveness and pay, manage industrial and employment crises, and encourage new investments and the start of new activities’. As for the signatory parties to the agreement, whereas previously the rather vague expression ‘union representation structures operating in the company’ was used, this is now replaced by ‘trade union organisations operating in the company following existing laws and interconfederal agreements’. This makes it at least more likely that the creation of fictitious trade unions in the company will be prevented. These special derogatory agreements are to be valid for all the workers concerned, provided that they were signed by a majority of the union organisations thus defined. These agreements may affect ‘all aspects of labour organisations and production’, including ‘recruitment modalities and the regulation of the working relationship’, as well as the consequences of the termination of the employment relationship, except for discriminatory layoffs. This new Article 8 allows proximity bargaining to opt out on several issues, provided the resulting agreement still conforms to the Italian Constitution, EU norms and international requirements. The issues include: working hours; workers’ tasks and job classification; fixed-term work contracts, part-time contracts and temporary agency work; audio-visual equipment and the introduction of new technologies; hiring procedures; the regulation of freelance work; the transformation and conversion of employment contracts; and firing employees, with some exceptions (such as discriminatory firing, pregnant workers, mothers with babies under the age of one, firing during matrimonial leave or firing those who have requested parental or adoption leave). This clarification of Article 8 has to be read in conjunction with the adoption on 28 June 2011 of an interconfederal agreement which defines the criteria for union representativeness and the universal validity of company agreements approved by a majority of unions and extends the possibility of

derogating from national collective agreements at company level. The main objective of this new interconfederal agreement is to ensure the further development of company-level bargaining and, except for the possibility of derogatory company agreements, it ensures the universal validity of company agreements. From now on and unlike what was previously the case, if the company agreement is approved by a majority of RSU members, they will be valid for all employees and not only members of the signing unions. In businesses with RSAs – that is, company union representation bodies based on Act No. 300/70 – the agreement applies to all employees if the unions composing the RSA that approved it received a majority of the union contributions registered in the company the year before the signing of the agreement in question. The interconfederal agreement also provides that RSAs will get a three-year term. Agreements approved by RSAs will only be subject to a workers' vote if at least one of the organisations signing the interconfederal agreement or at least 30 per cent of workers in the company request it within 10 days of the signing of the agreement. The agreement may be rejected by a simple majority of voters.

Decree No. 138, furthermore, lays down *new rules for internships*, in particular to avoid excessive resort to internships. Article 11 establishes a uniform rule whereby internships can no longer exceed six months and will only be open to high-school or college graduates within 12 months of their graduation.

Almost immediately after it was installed the new Monti government – which succeeded the Berlusconi government – clashed with the trade unions because of its proposed austerity measures. Apart from raising the retirement age for both men (up to 66) and women (up to 62, but rising gradually to 66 in 2018) from 2012, the new government also announced a reform of the Labour Code (in particular with regard to labour relations) and measures to 'move the centre of gravity of collective bargaining towards the workplace'. The National Economic and Labour Council (CNEL) was reformed by a Decree of 22 December 2011. As part of its restructuring its membership has been reduced without respecting proportionate social partner representation. The new total membership is 10 economic, social and legal experts, 22 members representing employees (instead of 44), 9 members representing self-employed workers (instead of 18) and 17 employers' representatives (instead of 37).

As part of the reform of Italian labour law, the Minister of Labour announced the possibility of reviewing Article 18 of the Workers' Statute which provides that employers have to re-hire any worker proved to have been let go without just cause. This led to another conflict between the Monti government and the trade unions. There was 'informal' bilateral consultation with the social partners in early January 2012, as a preliminary to a tripartite meeting with the social partners. Trade unions remain very sceptical about what has been seen as an economic manoeuvre on Monti's part and have established a joint platform to emphasise their joint demands, in particular to reduce precarity in employment and to make flexibility more expensive for employers and therefore less appealing.

Despite large demonstrations and protests, the reform of the labour market or 'Labor market reform for growth' has been definitively approved on 27 June 2012 by the Chamber of Deputies with a vote of

confidence the draft reform the Senate adopted on 31 May 2012, after its adoption by the Parliament on 4 April 2012, after some changes made with the leaders of the Parliament majority thus amending the draft law adopted by the council of ministers on 28 March 2012, except the sanction for unfair economic layoff and the amount of compensation, reviewed and amended in Parliament. The reform came into force on 18 July as Law no. 92 of 28 June 2012, also known as the Fornero Reform because of the Labor Minister who carried the bill. He presented the reform as the beginning of a new work culture in Italy where “Work isn’t a right; it has to be earned, including through sacrifice’ and represents the broad reform affecting the form and content of Italian labour law. The key novelties of this reform are on different types of contract and dismissal law:

1. Types of contract:

The indefinite contract is considered the preferable form of employment, while apprenticeships shall be strengthened as the most important form of access to the labour market. Therefore, the use of flexible contracts is discouraged by imposing on employers an additional contribution to be paid for the financing of (new) unemployment benefits. Some types of contracts have been modified and the placement contract (*contratto di inserimento*) has been abolished.

Fixed-term contract: The Reform amends the Legislative Decree of 6 September 2001, No. 368 transposing Fixed Term Work Directive (1999/70/EC). Paragraph 01 of Article 1 of the Legislative Decree 368/2001 now states that: “The employment contract of indefinite duration shall be the common form of employment relationship”. This means that indefinite employment contracts should be the typical and dominant types of contract, so that other forms of contracts decline in number and/or are better regulated. In this regard, the Reform introduces some ambiguous measures. On the one hand, the first fixed-term contract, i.e., the first fixed-term contract between a worker and a given company for any type of job or the first mission in case of agency work, shall no longer be justified based on the reasons as provided in Art. 1 of the Legislative Decree 368/01. However, a contract that is concluded without specification of reasons may not last more than 12 months. Moreover, the conclusion of fixed-term (agency work) contracts not justified by reasons usually recognised by law, can be included by collective agreement signed by the (comparatively) most representative social partners at inter-sectoral level in case of: a) start-up of new activities, products or services; b) substantive technological changes; c) extension of high valuable research projects; d) renewal or extension of large job orders. These are reasons that can be added by collective agreement to those which are already provided by law. On the other hand, the waiting period between a fixed-term contract and a new one has been extended to 60 days in case of contracts lasting less than 6 months and to 90 days in case of contracts lasting more than 6 months (currently, the terms in question cover 10 and 20 days,

respectively). On the other hand, the period during which the fixed-term contract may continue beyond its original deadline to meet organisational needs has been extended from 20 to 30 days for contracts lasting less than 6 months and from 30 to 50 days for those exceeding 6 months. Yet, in case the fixed-term contract is justified according to the reasons added by collective agreement as specified above, the waiting periods can be reduced again to 20 or to 30 days by virtue of collective agreements signed by the (comparatively) most representative social partners at sectoral level. In case of a lack of agreement, the Ministry of Labour and Social Affairs shall intervene to determine the conditions that allow such a reduction. Last but not least, to determine the maximum period of 36 months (including extensions and renewals) of temporary contracts concluded between the same employer and the same employee, after which the employment relationship shall be converted into an indefinite one, any other temporary work relationship between the employee and the employer (also as a user) shall be taken into account. In case a fixed-term contract has been declared unlawful due to a lack of formal or substantial requirements, the employment relationship will be considered indefinite and the employee will receive a comprehensive compensation of between 2,5 up to 12 months of his or her previous wage.

Placement contract: The Reform provides for the abolishment of the placement contract (contratto di inserimento) established by Articles 54 to 59 of Legislative Decree 10 September 2003, No. 276. The placement contract aimed to increase the employment of disadvantaged workers by providing employers with wage and social security breaks. The Reform will substitute the placement contract with a new and organic system of incentives for elderly people and women living in disadvantaged areas of the country.

Apprenticeship: Apprenticeship is considered the most important form of access to the labour market. Therefore, a minimum period of duration of the contract of apprenticeship (six months) has been provided, which may only be reduced in case of seasonal activities and other exceptional circumstances specified by law. At the same time, a procedure by which the recruitment of new apprentices by employers with more than 10 employees is based on the percentage of permanent apprentices hired during the previous three years (50% - for the first three years of implementation of the Reform, and later 30%) has been introduced. Nevertheless, employers are allowed to hire one additional apprentice even if the abovementioned percentage of permanent apprentices has not been reached or even in case no permanent apprentice has been hired within the prescribed period. The ratio of apprentices/skilled workers has been raised from currently 1/1 to 3/2. For employers who employ less than 10 workers, the ratio may not exceed 100% of the workforce. Employers who do not employ skilled workers at all or who employ less than 3 skilled workers are allowed to hire no more than 3 apprentices. Apprentices cannot be hired by agency work contracts.

Internship: The government has been requested by Parliament to adopt one or more legislative decrees to elaborate fundamental rules and requirements for internships based on the following criteria and principles: a) general revision of internship regulations; b) measures to prevent the abuse of internships by means of an accurate description both of the intern's activities and of the internship's qualifying elements; c) internships should provide some form of remuneration (e.g., reimbursement) related to the intern's specific performance.

Part-time work: To provide stronger protection for part-time workers, the Reform has added two provisions to Legislative Decree No. 61/2000. First, if national collective agreements provide the possibility to agree to a more flexible distribution of work or working time proposed by the employer in individual contract clauses, they shall also provide terms and conditions which allow part-time workers to request their employers to remove or modify these clauses. Secondly, part-time workers suffering from oncologic diseases and students working part-time shall have the possibility to withdraw their assent to include flexible clauses in their employment contract.

On-call duty: Employers are allowed to make use of on-call duty only if specific conditions provided for in collective agreements are met or without restrictions if the employee is younger than 24 or older than 55 years. The employer shall inform the Local Labour Authority (Direzione Provinciale del Lavoro) about the length of each working period in advance.

Project work (coordinated self-employment): In order to fight the abuse of project work, the Reform provides that: 1) the given project shall be specified and the final result clearly denoted; 2) the project may not coincide with the employer's core business; 3) project worker's activities may not be repetitive or require very low skills; 4) when project workers (technically speaking, coordinated self-employed persons) hold a position which is de facto equivalent to that of an employee, the self-employment contract has to be reclassified into an employment contract from the beginning of the employment relationship; 5) the lack of a specific project will lead to the conversion of the project work relationship into an indefinite employment contract; 6) remuneration to be paid to project workers may not be lower than the wages paid to subordinate comparable workers employed in the same sector, as fixed by the collective agreements signed by the (comparatively) most representative social partners at inter-sectoral, sectoral and even local level, if thus decided by inter-sectoral or sectoral agreement.

Other types of self-employment activities: The Reform aims to fight the abuse of the so-called "partite IVA" (self-employed persons with a VAT number) which is often used by Italian companies to mask an ordinary employment contract. The Reform states that self-employed persons with a VAT number are considered, unless proven otherwise, as being in a continuous and coordinated self-employed relationship (project work), if at least two out of the following

conditions apply: 1) the relationship lasts for at least eight months per year; 2) the worker obtains more than 80% of his or her income from this employment relationship; 3) the position includes a permanent workplace at the company's premises. This presumption does not apply in case the job: a) is characterised by theoretical knowledge acquired by specific training or by practical skills acquired on the job; b) is carried out by someone whose annual income from self-employed work is no lower than 1,25 times the minimum income level taken into account to determine whether someone is subjected to social security contributions; c) is carried out within the execution of professional activities which require registration in public registries (barristers, accountants, etc.). The conversion of a self-employed into a coordinated and continuous self-employed relationship implies the application of all regulations applicable to project work (Article 61-69 of Legislative Decree No. 276/2003), including the conversion into an indefinite employment contract in case of lack of a specific project. Moreover, in case of violations of legal requirements, companies shall pay the social security contributions provided by law for project workers, which are higher than those due for self-employed persons.

Joint ventures with working partners: The Reform aims at fighting the abuse of joint ventures with working partners (*associazione in partecipazione*), a commercial contract often used by Italian companies to mask an ordinary employment contract. According to this commercial contract, one or more partners (associated partners) deliver products or services or their own work to an entrepreneur to support a specific business venture. The entrepreneur is accountable to third parties and the one who manages the business. Associated partners have the right to participate in the profits of the joint venture in relation to their specific support and to periodically check the accounts. When associated partners support the venture with their own work, the Reform provides that: a) no more than 3 workers may be associated with the business, unless they are the manager's relatives. In case of violation of this rule, all associated partners' contracts will be converted into an indefinite employment contract; b) if associated partners do not participate in the profits of the venture or if they do not have the right to periodically check the accounts, their contract is presumed to be an indefinite employment contract, unless proven otherwise by the manager. The same applies if the job performed to support the business is neither characterised by theoretical knowledge acquired by specific training nor by practical skills acquired on the same job.

Accessory work: The Reform provides a definition for accessory work as an occasional employment contract, meaning that accessory workers may not earn more than EUR 5.000 per year and in case accessory work is performed for a firm or for professional service providers, the individual contract may not exceed EUR 2.000. Moreover, to discourage abuse of this form of contract, social security contributions on the part of the employer have been increased.

2. Dismissal law:

- The most interesting topic of the reform concerns employment protection law as anchored in article 18 of the Workers' Statute, Law no. 300 of 1970. At the beginning, it appeared that the reform would completely changed existing employment protection law in particular in respect of the safeguarded employees' rights and the right to reinstatement in cases of wrongful termination. Instead, the reform does not e reinstatement from all the protections provided employees in cases of wrongful termination. However, it expands the situations in which alternate protections can be used, such as the mandatory protection of awarding compensation for damages.

The previous version of article 18 of the Workers' Statute provided that when it was proven that an employee was wrongfully terminated by an employer with more than 15 employees at a work site, the employee had the right to be reinstated to his or her position. The employer was also ordered to pay the employee damages amounting to all wages lost from the day of the termination to the day of reinstatement. The damages could not amount to less than 5 months' salary of the employee's total pay package, in addition to the normal wages received under the contract. Employees that had the right to be reinstated to their job had, however, the possibility of choosing a payment equal to 15 months' salary of the total pay package in lieu of reinstatement. Reinstatement was a remedy that was universally expected. Each time that a court found that an employee had been wrongfully terminated and that the employer had more than the statutory limit of employees (15 employees at each work site), the employee had the right to be reinstated to his or her job and receive compensation equal to his salary of his total pay package from the day of the termination to that of the reinstatement.

The new version of article 18 moves away from the previous version, but only partially. The Italian legislature wanted to limit when an employee has the right to reinstatement, identifying certain specific cases – more serious ones – in which the remedy still applies. Instead in other cases, the law awards monetary sanctions equal to 6 to 24 months of an employee's salary when a court finds that an employee was wrongfully terminated.

- For void or verbal termination and for discriminatory reasons, the obligation of reinstatement remains, i.e. in all cases in which the court finds that a termination is void because it was done for discriminatory reasons or because it was done in conjunction with an employee getting married or in violation of the laws that protect an employee's right to maternity or paternity leave, the employee has to be reinstated. At the same time, the employer must pay compensation for the damages suffered equal to the salary that the employee would have earned from the date of the termination to the date of the reinstatement, with a minimum payment of 5 months' salary. If

they want, instead of reinstatement, employees can choose payment equal to 15 months' salary of the last total pay package in addition to the normal wages received under the contract.

The new law expressly provides that managers will also be protected under the law. In general, managers are excluded from the provisions of article 18, aimed only at employees who fall into the contractual categories of manual worker, clerical workers and middle/senior management. Extending the legal protections to managers who are terminated for discriminatory reasons or whose termination is void was first codified in Law no. 92 of 2012. However, this is simply an adoption of solid case law that had been articulated by the Supreme Court of Cassation over the years.

- In case of disciplinary termination (termination that is justified for reasons due to the employee's own actions), either reinstatement or compensation for damages is foreseen. In Italian employment law, there are two types of disciplinary termination: termination for just cause or without notice and termination for subjective justified grounds, circumstances under which the employee is entitled to notice.

Employers will be ordered to reinstate employees to their positions only when the disciplinary offense that the employee has been charged with did not take place or was not committed by the employee and when the employee did commit the offense, but the collective bargaining agreement provides that sanctions less serious than termination will be imposed in such cases. If the court orders the employer to reinstate the employee to his or her position, the employee will also have the right to compensation for damages, equal to the salary that the employee would have earned from the date of the termination to that of the reinstatement, up to 12 months' salary. In all other cases, notwithstanding the fact that the termination was wrongful, the employer will be ordered to pay monetary damages that will range from 12 to 24 months' salary, thus avoiding a court order that the employee be reinstated.

- In case of termination for financial reasons, either reinstatement or compensation for damages is foreseen. Italian employment law provides that employers may terminate an employee for reasons that have nothing to do with an employee's actions but instead relate to the company's performance or to business decisions. These are defined as cases of termination for objective justified grounds and are due to job elimination, financial difficulties that the company is experiencing and internal restructuring. Under the previous law, labor courts could order an employer to reinstate an employee to his or her position when the court found that the employee had been wrongfully terminated because legitimate financial or organizational reasons for the termination did not exist. Instead now, reinstatement will be ordered only when the court holds

that there is a “manifest lack of grounds” that the objective financial reasons proffered by the employer to justify the termination did not exist.

Law no. 92 of 2012 also introduces an administrative burden when an employee is terminated for justified objective grounds. The employer must inform in advance the employee and the appropriate Territorial Employment Office of the employer’s intent to terminate the employee and the reasons for such decision. It is mandatory that the parties attempt to reach a settlement in the matter; negotiations are held at the Territorial Employment Office and can eventually involve union representatives. Settlement negotiations will last 27 days and if the parties have failed to reach an agreement at the end of this period, the employer can then terminate the employee.

- In case of termination with defects of form, the reform foresees compensation for damages. The new text of article 18 provides that when a termination has defects of form but there are substantive grounds upon which the decision to terminate employment was based, the court can order the employer to pay the employee compensation that can vary from 6 to 12 months of the employee’s salary. An employer will be ordered to pay a lower amount of compensation for damages – which may range at the court’s discretion from 6 to 12 months of the employee’s salary – only when the procedure for termination has defects of form but is substantively lawful. When a termination, either for subjective or objective grounds, is substantively wrongful, the remedies that provide for reinstatement or for greater damages as described above will be applied.
- The last great innovation introduced by the reform is the possibility of guaranteeing the employer the right to revoke a termination within a period of 15 days from when an employee challenges the termination. In this situation, the employment relationship is re-established without interruption and the employee has the right to be paid the salary that he would have earned in the period prior to the revocation. Moreover, the new text of article 18 of the Workers’ Statute gives employers the possibility of revoking a termination without the revocation having to be accepted by the employee, as was the case in the past. Thus, employers have been given a valuable tool to avoid a court order of sanctions when it is found that an employee was wrongfully terminated. However, to conclude, the true question now is whether these regulations will truly boost recruitments.
- Additionally, social dampers have been introduced:
 - The new Social Insurance for Employment (ASPI for *Assicurazione sociale per l’Impiego*) has started on 1st January 2013 and will permanently replace all existing unemployment benefits and be extended to apprentices in 2017,. replacing different existing unemployment insurances schemes and *Mobilità*, extending protection to apprentices and artists. To be

entitled, employees still need to have two years' seniority and at least 52 weeks working over the past 2 years. Coverage will be 12 months for jobseekers under the age of 55 and 18 months for the others. However, the allowance, limited to €1,119.32 a month, will be cut by 15 % every six months. Contributions for permanent contracts will be 1.31 % – 1.4 % for other open-ended contracts. For parasubordinate contracts, the statutory “*una tantum*” income support scheme will be strengthened.

- Ordinary and extraordinary *Cassa Integrazione* are maintained, though the latter will no longer apply in case of cessation of activities. In order to pay for wage compensation benefits when reducing or suspending activities, in sectors that are not covered by the benefits, the reform suggests creating the Solidarity Fund within the National Social Security Institute (INPS), based on collective agreements between “comparatively representative organizations at national level,” which would have universal validity.
- Protection for seniors with a new legal framework for collective departures (*esodi*) for workers who are four years away from retirement age – expenses will be borne by employers. The defined benefits will have to equal the amount of the worker's pension following the standards in force.
- The Senate introduced, on a trial basis until 2015, the possibility for workers to get a one-off payment of their benefits in order to set their business up.
- The reform introduced joint solidarity funds in 2013, as a system supporting workers in sectors where there is no *Cassa Integrazione* (CIG). Accordingly, the most representative union and employers' organizations at national level have to sign, within six months after the reform comes into force, agreements setting up joint solidarity funds. The Senate has come up with alternative setting up systems for sectors where there are already solidarity funds. Besides, on a trial basis for 2013-2015, it gives these sectors' workers the possibility, if their work is suspended because of the crisis, to receive the ASPI provided that the joint funds provide income support amounting to 20 % of the benefits.
- The reform is seeking to strengthen women employment and to wipe out abusive “blank resignations” (a practice where new employees sign a resignation letter used when they get pregnant) with the obligation to have resignations validated by the labour Ministry's inspection services up to the child's third birthday. Failure to comply with this procedure – if the termination of the contract turns out to be a “blank resignation” – will be considered as discriminatory layoff. The reform introduces mandatory three-day paternity leave which must be taken within 5 months after the birth. To encourage mothers to get back to work, as an alternative to the optional maternity leave within 11 months after mandatory maternity leave, they can choose ‘employment vouchers’ (inspired from French law) for babysitting services, which will be granted following several parameters.

- Active policies and employment services reforms strengthens dialogue between the State and the Regions in order to reach an agreement by June 30 2012 on guidelines to renew active policies and on the improvement of employability and the employment rate, via training and retraining. Furthermore, standards on the information and consultation of workers and promote employee participation in the company will be generalised. The government shall adopt, within 9 months after the reform comes into force, one or several decree-law(s) allowing worker participation to be activated by company agreement, following the guidelines on the obligation to inform, consult and bargain with the trade unions and minimum standards defined in the Act transposing the European directive on the consultation of workers (decree-law 25/2007). They will also have to determine the designation of union representatives on supervisory boards, giving employees preferential access to shares and quotas of the company's capital, aiming for "non-speculative use of participation and collective representation in company management."

In the frame of existing legislation to promote local collective agreements, a Decree of 30 May 2012 has extended an experimental measure (introduced in 2008 and renewed since every year) by which local collective agreements on the increase in productivity, competitiveness, efficiency, innovation or other service improvements have been rewarded with a 10 % tax cut to "productivity pay" in the private sector, and applied in 2012 for sums below EUR 2,500 (6,000 in 2011) and only concern employees earning less than EUR 30,000 a year (40,000 in 2011). Trade union were not consulted and requested that restored the decree should be amended so as to prevent cuts into workers' earnings, and reduction of efforts made towards increasing competitiveness.

New emergency structural measures, as second part of the government's Agenda for Sustainable Growth has been adopted on 15 June 2012, Several new measures aimed at supporting private capitals, reviving the construction industry, developing harbour and at creating a "Fund for Sustainable Growth" as well as measures to help solving corporate crises. It also comprised two new measures on labour::

- A tax credit for the permanent recruitment of highly-skilled profiles with a technical or scientific University degree, hired for research and development or with a research PhD, with no conditions as to the job performed. The tax credit amounts to 35 % of the employer's expenses, provided that the new employees are hired for at least 3 years. The government believes this measure could create up to 4,000 new jobs.
- Developing youth employment in the green economy by extending funding provided for in the Kyoto fund (€470 million) for public and private entities operating in four green economy sectors: The investment plans will only be funded if young people are hired with permanent contracts

On October 4, the Council of Ministers decree approved the Decree “Growth 2.0” following a proposal by the Ministry of Economic Development, which contains “emergency measures for innovation and growth: digital agenda and startup.” New provisions include, for the first time, the introduction in Italian law of a comprehensive framework for startups, covering all aspects of their activity cycle. These businesses have to be four years old tops and are characterized by the fact that a majority of the social capital and voting rights in the ordinary assembly is held by natural persons and. Also, their only corporate purpose must be “to develop and market innovative products or services with a high added value.” The decree contains a number of measures on tax exemption or exceptions from certain administrative requirements. Regarding employment contracts, startups may sign more flexible contracts, namely fixed-term contracts, between 6 and 36 months, with the possibility of renewing them without a break once as long as the special regulations for startups are valid (48 months). Once this period is over, the work relation becomes permanent and there cannot be any other forms of contract, e.g. “bogus self-employment contracts.” On December 16 by the Chamber of Deputies the related act and compared with the initial wording, the new law brings maximum spending on research and development from 30 down to 20 percent to be able to qualify a startup of innovative and therefore be entitled to the planned fiscal, administrative and labor-relations advantages. Besides, tax credit for the permanent recruitment of highly-skilled profiles included in the Growth Act of June now covers startups, which will also be able to call on it for apprenticeship contracts and follow simpler procedures. New measures are also added to existing measures on fixed-term contracts. Fixed-term contracts concluded by the innovative start-up company, within the 4 years of its establishment, are deemed ipso facto to be in line with the objective reasons required by legislative Decree No. 368/2001, if they refer directly or indirectly to the type of activity of the company. The abovementioned fixed-term contract can last from a minimum of 6 months to a maximum of 36 months and can be extended to 48 months if this is decided in the Local Office of the Ministry of Labour. Within the period of 36 months, more than one fixed-term contract can be concluded with the same worker without respecting the break periods usually provided for in legislative Decree No. 368/2001. If the total duration of the fixed-term contracts concluded with the same worker exceeds 36 or 48 months, the judge will transform the employment relationship into an open-ended one. Wages paid by the innovative start-up company shall consist of a fixed part which cannot fall below the minimum pay provided by the applicable sectoral collective agreement, and of a variable part linked to the productivity of the company. The latter can also be paid through stock options or the transfer of the stocks free of charge.

New "simplifying" measures for businesses have been adopted on 16 October 2012 and affect, among other things, planning, infrastructures, environmental improvement or even health and safety at work. Strong protests from the trade unions mobilized against the hazards of simpler health and safety

regulations were not heard, Amendments to Italian security at work regulations (Act No. 81-08 known as Testo Unico) ten:

- to simplify procedures for the obligation to inform, train and guarantee healthy conditions will be adopted for employees who have been in the company for less than 51 days
- to withdraw mandatory document assessing risks of interference in case of subcontracting. When one or several subcontractor(s) work on the same site at once, employers/silent partners needed to promote the cooperation and coordination of these businesses, issuing a single document assessing interference risks containing the measures adopted to remove or reduce this risk as much as possible. Instead, the new measure provides that it will be possible to appoint someone to monitor subcontracting activities. Besides, this document is no longer mandatory for activities considered to represent “almost no risk,” for instance intellectual services, some material/facility supplies, and services for less than 10 days where there is no risk related to carcinogenic, biological or other listed risks. Businesses in “low-risk” sectors may replace this document with a simpler model attesting that they have assessed risks. These sectors will soon be defined in a decree issued by the Minister of Labor.
- To simplify models for subcontractors to write the Security and Coordination Plan (PSC)– about the risk of interference from subcontracting firms operating on the site and to define the measures to remove/reduce these risks. It also simplifies the Operation Safety Plan (POS), written by subcontracting firms, detailing special prevention and protection measures adopted as part of the PSC.
- to repeal the obligation for the employer to send the National Institution for Insurance against Accidents at Work (INAIL) the medical certificate for the industrial accident/occupational disease. It also repeals the obligation for employers to inform public security authorities of any deadly accident or accident leading to work incapacity for more than 3 days. Besides, the Prosecutor’s Office will no longer have to investigate the causes for a deadly accident or an accident leading to a work incapacity over 30 days. Starting from the INAIL’s database and, at the request of the worker injured, his/her family in the event of a death, or the INAIL, the local Labour Inspectorate will have to launch an investigation “as soon as possible.”
- To faster procedures to verify facilities so as to allow businesses to reduce the time needed to do the periodical mandatory check the facilities. The competent organizations will have two weeks after the company’s request to send the possible impossibility of doing the check, allowing businesses to better plan timing for the production cycle and to turn to other habilitated public or private organizations for the check.

On 15 November 2012, and after lengthy and difficult negotiations, the Monti-administration, send the final text of the "Pact for Productivity" wanted by the Monti administration to the trade unions. These "Guidelines for Enhanced Productivity and Competitiveness" improve the prerogatives of local

(company/territorial) collective agreements compared with national collective agreements as regards conventional provisions "directly or indirectly" affecting the increase in productivity. Following agreements on the reform of the collective bargaining system of 22 January 2008 and the interconfederal agreement was signed on June 28, this new review of the conventional system gives more power to local (company or territorial) collective bargaining. The text provides amongst others:

- National Collective Agreements (CCNs) should go on with “normative simplifications, organizational improvements, issuing a clear mandate for the second bargaining level on topics and modalities that can have a positive impact on the productivity increase.” The aim is still to protect purchasing power but should also “bring the dynamic of economic measures (...) in line with general trends in the economy, on the labor market, drawing comparisons with other countries and evolutions in the sector.” This definition seems to be the compromise reached after unions rejected the previous text rejected by unions which provided – following pressure from the government – that “automatic pay adjustments” would be cancelled. Other major novelty, CCNs can provide that part of the wage increase will be determined at local level and tied to the increase in productivity. That way, it may be covered by the planned government incentives.
- CCNs give local collective agreements (CCLs) mandate to determine “flexible management conditions” (working time, organization of labor) to face up to “different time-related dynamics between production and markets, complying with Community regulations in addition to individual rights and requests.” Pointing to the “need” to encourage, via local bargaining, “agreements adjusting conventional standards to the needs of special production situations,” the signing parties point out that these “local conventional solutions” can also “be a good alternative to relocation,” become a factor to draw in new investments, and help manage crisis situations to safeguard employment.

The signing parties said that “collective bargaining between recognized union organizations in different sectors at national level” should also be “fully independent” as regards subjects currently regulated by law which “directly or indirectly” influence productivity and that priority should immediately be given to:

- Developing new standards on task equivalence and the integration of skills in order to “introduce more suited organizational systems promoting technological innovation and the necessary skills to increase productivity.”
- Redefining working hours and their “flexible” allocation related to “investment, technological innovation and market variations.” This would lead to making full use of production structures in order to achieve targeted productivity goals.
- Developing modalities to bring the use of new technologies in line with the protection of workers’ fundamental rights.

Furthermore the signatory parties have to define, by 31 December 2012, implementing rules on representatives and provisions to guarantee compliance with the agreements, as well as clauses on union truce and the prevention and settlement of disputes, “without forgetting sanction mechanisms for organizations that breach these standards.” Finally, the Pact was signed by Abi, Ania, Confindustria, Lega Cooperative and Rete imprese Italia for employers and Cisl, Uil and UGL for the trade union side. CGIL did not sign that agreement for different reasons amongst which that the agreement could increase the pay gap between employees and reduce buying power as it limits the increase to the wage increase index defined in 2009 or offer the possibility for collective agreements to monitor workers from a distance, which is prohibited by the Labor Code.

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ETUC Social Policy and Legislation Ad hoc working group (Meetings 13 November 2011, 5 April 2012, 24 October 2012).

ETUC Legal Experts Network NETLEX (Annual Conference 1-2 December 2011, 11–12 December 2012)