Women’s Rights and Gender Discrimination in the Workplace

Despite progress in gender equality, the glass ceiling still looms large over women in Italy’s labor market as they face gender discrimination in the workplace. One in two women in Italy do not work, illustrating Italy’s significantly high female unemployment. Italian women who do work often face gender discrimination that results in earning less than men, holding fewer leadership positions, and facing challenges balancing work with unpaid domestic responsibilities. In 2023, the gender wage gap in Italy was 7.3%. Furthermore, with only 15.3% of companies having a female top manager and 28.6% of management roles occupied by women, the gender disparity in leadership roles is extremely evident. Because of these difficulties, women are more likely to begin their careers in part-time jobs and struggle transitioning to full-time positions. This article seeks to inform female employees about their legal rights and protections against gender discrimination in the workplace, equipping them with the knowledge to safeguard their positions and enforce gender equality.

Key Italian Laws Protecting Against Gender Discrimination in the Workplace

Under Italian law, both employed and self-employed workers are safeguarded ag



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1. **Constitution of the Italian Republic**:
    - Article 3: “All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions.”
    - Article 37: “Working women have the same rights and are entitled to equal pay for equal work. Working conditions must allow women to fulfill their essential role in the family and ensure special appropriate protection for the mother and child.”

2. **The Workers’ Statute (Law no. 300/1970)**: Prohibits employment discrimination based on gender.
3. **Equal Opportunities Code (Legislative Decree No. 198/2006)**: Provides a comprehensive framework for promoting gender equality.
4. **Equal Pay Law 162/2021**:
    - Requires companies with over 50 employees to submit biennial reports on employee demographics and pay data.
    - Allows action by employees and equality advisors with a facilitated evidentiary regime.
    - Establishes a gender equality certification to incentivize reducing the employment and pay gap.

5. **Equal Pay and Pay Transparency Directive (EU)** *To be integrated into Italian Law by June 2026

- Mandates reporting of wages broken down by gender.
- Prohibits wage secrecy.
- Requires compulsory pay audits if the gender pay gap exceeds 5% without justified reasons.

Direct and Indirect Gender Discrimination

Direct gender discrimination occurs when an individual is treated less favorably than others in a similar situation specifically because of their gender. For example, a company paying male employees higher salaries than female employees for the same role is a clear instance of direct discrimination. Another example is when a qualified female employee is overlooked for a promotion in favor of a less qualified male colleague, where the decision is based solely on gender and not on merit.



On the other hand, **indirect gender discrimination** happens when a seemingly neutral policy or practice disproportionately disadvantages people of a specific gender. For instance, holding important career advancement meetings during informal evening social events can exclude women with family obligations, thus indirectly disadvantaging them. Similarly, scheduling training programs at times or locations that are inconvenient for employees with childcare responsibilities, which often affects women more than men, constitutes indirect discrimination.

Broadened Scope of Gender Discrimination in Italy

In Italy, the Equal Pay Law extends the concept of gender discrimination to all stages of employment, including recruitment. Under Section 2-bis, gender discrimination is defined as any treatment or organizational change that disadvantages an employee due to their gender. This includes limitations on participation in company life, decision-making, or access to career advancement opportunities, affecting not only existing employees but also job candidates.

Additionally, the legislation addresses unfavorable treatment related to pregnancy, maternity, and paternity leave, which can deter employees from using their parental rights due to fear of career setbacks. It also encompasses harassment—whether physical, verbal, or non-verbal—that creates a hostile work environment, violating workers' dignity and creating intimidating or degrading conditions (Legislative Decrees no. 215/2003 and no. 216/2003). Gender discrimination further includes dismissal clauses linked to marriage, where female workers may face unjust termination upon marrying. These practices are expressly prohibited under Italian law.

Understanding Your Rights and Protections

- **Equal Treatment:** You have the right to equal treatment during both hiring and employment, ensuring fairness in job opportunities and career progression.
- **Working Conditions:** Employers must provide equal opportunities in work participation and career advancement, preventing any discriminatory practices.
- **Pay:** You are entitled to equal pay for equal work.
- **Maternity Leave:** Under Italian labor law, maternity

leave entitles you to five months of paid leave at 80% of your wage, with job protection from the start of pregnancy to one year after birth (Sect. 2110 Civil Code, Act 1204 of 30). This includes protections against dismissal during this period and the right to resign without notice. Additionally, you are entitled to two hours of rest per working day, and legal measures are in place to prevent retaliation for taking maternity or parental leave.

- **Facilitated Evidentiary Mechanisms:** The burden of proof shifts from the employee to the employer in discrimination cases, meaning that you only have to provide presumptive elements of gender discrimination while the employer must prove that they did not discriminate.

Protecting Your Rights

You may file a claim for discrimination before the Labor Court. The Court may then either:



- Order the employer to stop the discriminatory conduct
- Remove the effect of the unlawful conduct
- Order a plan to avoid future discrimination
- Award damages (no minimum or maximum amount, it is at the discretion of the Labor Judge)

The Commission for Equal Treatment also has the power to implement anti-discriminatory practices. They can:



- Monitor employers

- Ask employers to stop the discriminatory conduct
- Represent you in court
- Bring proceedings against the employer in cases of collective discrimination
- Issues codes of conduct specifying conduct regulations
- Obtain information from employers to monitor equal treatment of men and women

Taking Action Against Gender Discrimination in the Workplace

If you believe you’re experiencing gender discrimination in the workplace, don’t hesitate to leverage your rights and seek legal guidance from A.L. Assistenza Legale. Together, we can uphold your workplace rights, ensure you receive the remedies and compensation you deserve, and eliminate gender discrimination within your company.