MINIMUM WAGE SETTING IN ITALY: A COMPLEX ARCHITECTURE

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This paper examines Italy's wage-setting system, focusing on the challenges of ensuring adequate remuneration for workers. It begins by highlighting the absence of a universal statutory minimum wage, as wage floors are set through sector-specific national collective agreements. The analysis then focuses on Article 36 of the Italian Constitution, which enshrines two core principles: proportionality and sufficiency. The Court of Cassation has interpreted these principles as giving rise to a judicially enforceable standard of adequate minimum wage. Against this background, the paper explores the main tensions currently affecting Italian industrial relations and their impact on the ability of collective bargaining to set wages that comply with the constitutional requirements. It concludes by highlighting that declining workers' purchasing power is worsened by unresolved economic and tax policy issues.

Key words: wage setting; collective bargaining; individual employment contract; adequate minimum wage; "constitutional minimum wage"

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1. INTRODUCTION: THE LACK OF AN OBLIGATION TO ADOPT A MINIMUM WAGE LAW [***]

Directive (EU) 2022/2041 on Adequate Minimum Wages requires Member States to introduce statutory minimum wage legislation where the coverage rate of collective bargaining falls below a specified threshold (Article 4(2)).[1] During the legislative process, the European Parliament raised this threshold from 70% to 80% in order to broaden the Directive's scope of application as much as possible. Nevertheless, according to a recent report by the Italian National Institute of Statistics (ISTAT), Italy's collective bargaining coverage exceeds even this higher benchmark. The report indicates that approximately 98% of subordinate employment contracts include "a reference to the applicable collective agreement".[2] For the remaining 2% of contracts, no such information is available; however, this does not necessarily imply that a national collective agreement is not applied.

Accordingly, with respect to the minimum requirements and procedural obligations laid down by Directive (EU) 2022/2041, Italy is not required to introduce a statutory minimum wage. Rather, it is subject only to the monitoring and data-collection obligations provided for in Article 10, and in particular Article 10(2)(c) of the Directive.

These data, however, do not capture the shadow economy – estimated to account for approximately 10% of Italy's gross domestic product – nor do they reflect the likely significant incidence of bogus self-employment. Against this background, at the beginning of the current legislative term, opposition parties introduced a bill in Parliament proposing a statutory minimum wage of €9 per hour.[3] However, ISTAT subsequently clarified that, in 2022, 60% of the median

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[1] Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union [Official Journal of the European Union L 275, 25-10-2022].

[2] ISTAT, *Nota in relazione all'attività istruttoria del CNEL in tema di salario minimo e lavoro povero*, 2023.

[3] On legal issues Albi, P. (ed.), *Salario minimo e salario giusto*, Giappichelli, Torino, 2023. From an economic perspective, *see* instead Garnero, A.; Lucifora, C., *L'erosione*

gross wage – a benchmark expressly referred to in the aforementioned Directive – amounted to €7.05, well below the proposed statutory minimum wage.[4] As a result, the rationale underlying the €9 threshold remains unclear. At least at the time of its proposal, the figure exceeded the minimum benchmark derived from the parameters set out in Directive (EU) 2022/2041.

In any event, the opposition proposal to introduce a statutory minimum wage of €9 was not adopted by Parliament. More recently, the Meloni government has definitively abandoned initiatives aimed at introducing a universal statutory minimum wage, opting instead for a strategy centred on strengthening collective bargaining as the primary mechanism for ensuring adequate remuneration. To this end, Parliament approved the Enabling Act of 26th September 2025, no. 144, which delegates to the Government the power to adopt, within six months, legislative decrees addressing wage-setting mechanisms, collective bargaining, and enforcement and transparency measures.[5]

As of December 2025 (revision after review), the regulatory framework remains evolving and has not yet stabilised. What is clear, however, is that Enabling Act no. 144/2025 does not establish a universal minimum wage. Instead, it constructs a system of legal safeguards for wage levels rooted in the central role of social dialogue. As a result, wage determination in Italy continues – and will continue – to be governed by collective bargaining.[6]

More specifically, minimum wages in Italy are set through sectoral collective agreements at the national level, while only a limited share of firms – approximately 5% – are covered by company-level agreements that improve upon national standards. In some sectors, such as retail, construction, and tourism, territorial collective agreements also exist, though their impact on wage levels

della contrattazione collettiva in Italia e il dibattito sul salario minimo legale, Giornale di diritto del lavoro e di relazioni industriali, *vol*. 166, no. 2, 2020, pp. 295 ff.

4 ISTAT, *Occupazione, retribuzioni e costo del lavoro dei dipendenti privati*, anno 2022, available at: https://www.istat.it/wp-content/uploads/2025/02/REPORT_RACLI_2024.pdf. More recent figures are currently unavailable, reflecting a broader structural weakness in the labour-market statistics system. Italy is, in fact, lagging behind in the development and consolidation of reliable statistical data.

5 Enabling Act 26th September 2025, no. 144, "*Delegations to the Government on workers' remuneration and collective bargaining, as well as on inspection, monitoring and information procedures*", GU Serie Generale n. 230 del 03.10.2025. [Official Gazette, General Series, n. 230 of 03-10-2025].

6 A well-balanced stance on the implementation of statutory minimum wages differentiated by sector has been argued by Liso, F., *Salario minimo: considerazioni sulla proposta di legge*, Mondoperaio, no. 9, 2023, pp. 12 ff.

remains modest. Finally, there is a widespread perception that, at least in the Northern Regions, employers sometimes grant unilateral wage increases. Especially among smaller firms, these supplementary payments are often made in cash and therefore escape official statistical measurement.

2. WAGE SETTING THROUGH COLLECTIVE BARGAINING

The Italian legal system is marked not only by the current absence of comprehensive minimum wage legislation, but also by the lack of a statutory framework governing collective agreements comparable to those in countries such as France or Germany. Instead, regulation is dispersed across isolated provisions that address specific aspects of subordinate employment relationships in a piecemeal and fragmented manner.

2.1. The relationship between the collective agreement and the individual employment contract

Among these provisions, the most significant is Article 2113 of the Italian Civil Code (hereinafter: c.c.)[7], whose current wording dates back to 1973.[8] This provision implicitly acknowledges both the "immediate effect" of the collective agreement (known as *unmittelbare Wirkung* in German) and the "inderogability *in pejus*" (or *Unabdingbarkeit* in German) by individual employment contracts[9], insofar as the parties are bound by the normative part of the agreement.

Such binding force depends on the employer's adherence to a specific collective agreement or, more generally, to the applicable sectoral agreements. While collective agreements are non-derogable by individual contracts, they do not

7 Royal Decree 16th March 1942, no. 262 (GU Serie Generale n.79 del 04-04-1942) [Official Gazette, General Series, n. 79 of 04-04-1942].

8 The first paragraph states: "The waivers and transactions concerning rights of the worker arising from non-derogable provisions of the law and from collective agreements relating to the relationships referred to in Article 409 of the Civil Procedure Code are not valid".

9 *See* Nogler, L., *Saggio sull'efficacia regolativa del contratto collettivo*, Cedam, Padova, 1997. This study contends that immediate effectiveness should be understood as the capacity of the normative part of the collective agreement to offer judges the rules needed for evaluating the legal framework of the individual employment contract. Consequently, workers' subjective rights only arise when an individual contract is signed or when other conditions specified in the collective agreement are met.

apply *erga omnes* and imperatively. In other words, they do not have the same mandatory force as the statutory provisions. Accordingly, a set of criteria has been established to determine whether an employer has effectively adhered to (or is obliged to adhere to) a collective agreement, consistent with the employer's right to organise under Article 39(1) of the Italian Constitution.[10]

The first criterion concerns the employer's formal affiliation with the employers' organisation responsible for negotiating the collective agreement. Over time, however, the relevance of this formal act has diminished, as the representation theory – the renowned *Vertretungstheorie* introduced by Philipp Lotmar in 1900, which profoundly influenced the Italian doctrine on the subjective scope of collective agreements – has progressively lost its predominance.[11] Under the current theoretical framework, the employer's adherence can also be inferred from an express reference to the collective agreement in the individual employment contract or from the tacit implementation of its provisions. In other words, adherence to the collective agreement may be demonstrated by spontaneous conduct – before or after the agreement's conclusion – that, based on social context and experience, reveals an intention to be bound.[12]

The principle of adherence also applies to workers. However, in practice, disputes concerning the subjective scope of application are rare. Employers generally avoid applying a collective agreement selectively to only part of the workforce, as such behaviour could encourage unionisation. Additionally, the normative part of collective agreements may not contain clauses that differentiate between workers on the basis of union membership. Such distinctions would be regarded as discriminatory under the Workers' Statute (Law no. 300 of 1970).[13]

Consequently, the matter becomes relevant only when a worker objects to the renewal of a previously applied collective agreement. In such cases, the jurisprudence considers the worker's dissent legally relevant only where the principle of adherence no longer applies. This is the case, for example, where the worker has

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[10] Art. 39 of the Constitution of the Italian Republic (GU Serie Generale n.298 del 27-12-1947) [Official Gazette, General Series, n. 298 of 27-12-1947]. *See* Gragnoli, E., *Il contratto nazionale del lavoro privato italiano*, Giappichelli, Torino, 2021.

[11] The current dominant theory suggests that trade unions and employers' organisations negotiate the collective agreement as collective subjects signing it in their individual capacities and on their own behalf: *see* Nogler, L., *op. cit.* (fn. 9), pp. 190 ss.

[12] *See* Scognamiglio, R., *Autonomia sindacale ed efficacia del contratto collettivo di lavoro,* Rivista di diritto civile, *vol.* 2, no. 1, 1971, pp. 163 – 164.

[13] Law 20th May 1970, no. 300 (GU Serie Generale n.131 del 27-05-1970) [Official Gazette, General Series, n. 131 of 27-05-1970].

withdrawn from the union that signed the agreement before the new collective agreement is concluded.

2.2. Constitutional requirements for implementing *erga omnes* mechanisms

The Italian legislator may potentially establish a framework for extending the scope of collective agreements to make them universally applicable (a concept referred to in German as *Allgemeinverbindlichkeit*). This would facilitate the enforcement of such agreements to workers and companies not affiliated to the trade unions and the employers' organisations involved in their negotiation. However, such a mechanism can only occur in accordance with the procedures outlined in Article 39 of the Constitution, particularly when related to national sectoral collective agreements.

This article, after stating the principle of trade union freedom and collective autonomy ("Trade unions may be freely established"), provides that: a) No obligations may be imposed on trade unions other than registration at local or central offices, according to the provisions of the law; b) Registration is conditional upon the rule-books of the trade unions establishing a democratically based internal organisation; c) Registered trade unions are legal persons. They may, through a unified representation that is proportional to their membership, enter into collective agreements that have a mandatory effect for all persons belonging to the categories referred to in the agreement.

Italian trade unions have historically resisted the adoption of Article 39 of the Constitution, mainly because they oppose being included in a government-controlled register. An effort to make collective agreements universally applicable was made with Law 14th July 1959, no. 741, known as the 'Vigorelli Law' after the then Minister of Labour.[14] This law authorised the Government to issue legislative decrees within one year to set separate minimum wages for each sector. These decrees were required to reference the relevant collective agreement and reproduce its minimum wage. Over a thousand decrees were approved, making sector-specific minimum wage levels universally applicable. After the delegated legislative period expired, the law was extended for an additional 15 months by Law 1st October 1960, no. 1027.[15]

[14] Law 14th of July 1959, no. 741 (GU Serie Generale n.225 del 18-09-1959) [Official Gazette, General Series, n. 225 of 18-09-1959].

[15] Law 1st October 1960, no. 1027 (GU Serie Generale n.242 del 03-10-1960) [Official Gazette, General Series, n. 242 of 03-10-1960].

A constitutional question was raised concerning the two laws enacted in 1959 and 1960, alleging a violation of Article 39 of the Constitution. On 19th December 1962, the Constitutional Court issued Decision no. 106, ruling in favour of the first law but not the second. It explained that "Article 39 establishes two principles: the freedom of association and collective autonomy. The first grants citizens the right to form trade unions and related organisations; the second endows trade unions with the authority to conclude agreements with *erga omnes* effect if the constitutional conditions are satisfied. Consequently, any law aiming to achieve the same result of expansion and extension (...), in a manner different from that established by Article 39, would be manifestly unconstitutional".[16] However, the Court highlighted that it could not ignore that the procedures provided for by the constitutional norm were not yet applicable. Characterising the absence of comprehensive legislation on collective agreements as a deficiency with labour relations consequences, the Court considered the 'Vigorelli Law' as transitional, provisional, and exceptional, designed to regulate a past situation and ensure equal treatment of workers and employers. As such, the Court stressed that the law was not intended to implement Article 39 nor to establish a system of collective agreement extension. Instead, the second law, which sought to expand the Government's ability to implement minimum wages, did not meet the criteria of transitionality and exceptionality. Therefore, while the 'Vigorelli Law' was considered constitutional, the prorogation was found to conflict with Article 39 of the Constitution.

2.3. The relationship between the law and the collective agreement

Within the Italian legal framework, the collective agreement is hierarchically subordinate to statutory law.[17] Legislation may only be derogated by collective clauses that are more advantageous to the worker (commonly referred to as "derogation *in melius*"). In other words, the law establishes non-derogable minimum rights, while collective agreements may extend these protections or regulate matters reserved for them or intentionally left unregulated by the legislature. Clauses within collective agreements that are less favourable than the legal minimum shall be considered null and void, in accordance with Article 1418(1) c.c.[18]

[16] Constitutional Court, 19th December 1962, no. 106.

[17] The latest research relevant to this issue is by Alvino I., *I rinvii legislativi al contratto collettivo. Tecniche e interazioni con la dinamica delle relazioni sindacali*, Jovene, Napoli, 2018.

[18] Under Art. 1418(1) c.c. "The contract is null when it is contrary to mandatory rules, unless the law provides otherwise".

However, the legislator can explicitly authorise collective bargaining to derogate from these standards *in peius*. An illustrative case is Article 8 of Law 14th September 2011, no. 148[19], which confers substantial authority to the so-called 'proximity agreements', a term encompassing company and territorial collective agreements.

These agreements may establish specific arrangements aimed at "increasing employment and occupation, enhancing the quality of employment contracts, adopting forms of worker participation, addressing undeclared work, increasing competitiveness and wages, managing business crises, promoting investments, and launching new activities". When directed towards these objectives, such agreements can address the matters outlined in paragraph 2, namely: the use of audiovisual equipment and new technologies; the responsibilities and classification of workers; non-standard employment contracts (such as, fixed-term, part-time, etc.); working hours; the regime of joint and several liability in tenders and agency work; hiring procedures and employment relationship regulation; employment contract transformation and conversion; the legal consequences of employment termination (excluding discriminatory dismissal, dismissal for marriage, dismissal of a mother worker, dismissal related to parental leave and for the child's illness, and dismissal in cases of adoption or foster care). Although this list is exhaustive, its formulation offers a *de facto* broad discretion for social partners at both the company and territorial levels to adapt the employment contract's regulatory framework, including wage setting.

The most innovative aspect is that such agreements can derogate *in peius* from the law and from national collective agreements, with the sole limitations being the principles established by the Constitution and the constraints arising from European Union legislation. Furthermore, article 8 stipulates that such 'proximity agreements' – which are not concluded at the national level and consequently are not subject to the procedure outlined in Article 39 of the Constitution (*see* § 2.2) – possess "a legal binding effect on all the workers concerned", provided they are signed by the most representative trade unions based on a (not further specified) "majority criterion". To grasp the full implications of this legislation, it's relevant to note that Italy lacks legislation regulating the representativeness of trade unions and employers' organisations. Moreover, such 'proximity agreements' have been endowed with a broader binding effect compared to national collective agreements. As previously observed, the latter are binding solely upon signatory trade unions and their members.

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[19] Law 14th September 2011 (GU Serie Generale n.216 del 16-09-2011) [Official Gazette, General Series, n.216 del 16-09-2011].

3. ADEQUATE MINIMUM WAGE UNDER ARTICLE 36 OF THE ITALIAN CONSTITUTION

Having outlined the theoretical and legal framework governing collective bargaining in wage setting, attention can now turn to the core provisions on remuneration. In this respect, the Italian Constitution enshrines principles that resonate with Pope Leo XIII's renowned encyclical, *Rerum Novarum*. Article 36, in its opening paragraph, provides that: "Workers have the right to a remuneration proportionate to the quantity and quality of their work and, in any event, sufficient to ensure for themselves and their families a free and dignified existence".[20] This provision articulates two fundamental constitutional requirements: the proportionality and the sufficiency of wages.

Constitutional case law has traditionally kept these two requirements distinct and has regarded them as principles having only an indirect (interpretative) effect on statutory provisions.[21] By contrast, the Court of Cassation has not embraced this distinction in its interpretation of Article 36 of the Constitution. Instead, it has treated the requirements of proportionality and sufficiency as converging into a single *rule* of adequate remuneration.[22] Since the landmark decision of 21st February 1952, no. 461[23], the rule of adequacy has been recognised as having an immediate and direct effect within individual employment relationships. As a result, the constitutional standard of adequate remuneration derived from Article 36 is enforceable as a mandatory legal norm, directly binding on the parties to the employment contract.[24]

At the same time, Article 36 is silent as to the structure of remuneration and its individual components. The determination of wage levels and pay elements is, therefore, unquestionably entrusted to collective bargaining. Judicial intervention

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20 Art. 36 of the Constitution of the Italian Republic (GU Serie Generale n.298 del 27-12-1947) [Official Gazette, General Series, n. 298 of 27-12-1947].

21 *See*, for instance, Constitutional Court, 2nd May 2024, no. 73.

22 Court of Cassation, 12th December 1983, n. 7324; Zoppoli L., *L'articolo 36 della costituzione e l'obbligazione retributiva*, in: Caruso, B.; Zoli, C.; Zoppoli, L. *La retribuzione: struttura e regime giuridico, vol.* 1, Jovene, Napoli, 1994, p. 127. On the distinction between *principles* and *rules*, see Dworkin, R., *Taking Rights Seriously*, Harvard University Press, Cambridge, 1977.

23 Court of Cassation, 21st February 1952, no. 461.

24 On Article 36 of the Constitution, *see* Nogler L., *Commento all'art. 36, 1° comma, Cost.*, in: De Luca Tamajo, R.; Mazzotta, O. (eds.), *Commentario breve alle leggi sul lavoro*, Cedam, Padova, 2022, p. 47 ff.

is limited to verifying that the remuneration agreed upon meets the minimum guarantees imposed by the constitutional standard.[25]

Historically, the jurisprudence justified this approach by relying on Article 2099(2) c.c., which confers upon the judge the authority to determine remuneration where it has not been fixed by collective agreements or by the parties themselves.[26] However, legal scholars have long criticised the judicial reliance on Article 2099(2) c.c., noting that Courts are rarely faced with a total absence of contractual wage provisions; rather, they are typically confronted with remuneration clauses that exist but fail to meet constitutional adequacy requirements. Accordingly, scholars have argued that judicial intervention should instead be grounded in the combined application of Articles 1419(2), and 1339 c.c.[27] These provisions allow for the partial invalidity of unlawful clauses and the automatic insertion of mandatory legal standards into the contract.

More recent case law has taken these criticisms into account, and explicit references to Article 2099 c.c. have become less frequent. Contemporary jurisprudence now affirms that workers' right to adequate remuneration must be recognised *ex officio* and derives directly from Article 36(1) of the Constitution, by virtue of its immediate and direct applicability.

3.1. The crisis of collective bargaining on wage setting

In assessing wage adequacy, Italian courts have traditionally relied on collective agreements as the primary benchmark, comparing individual workers' remuneration with the minimum standards set therein.[28]

Courts, however, have never been formally confined to this criterion alone; they may also consider additional factors, such as the nature and characteristics of the work performed, prevailing practices and common experience, or, where other parameters are lacking, principles of equity.

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25 Constitutional Court, 28th April 1994, no. 164.

26 Art. 2999(2) c.c. states: "In the absence of provisions or agreement between the parties, the remuneration shall be determined by the judge, taking into account, where appropriate, the opinion of professional associations".

27 Treu, T., *Onerosità e corrispettività nel rapporto di lavoro*, Giuffrè, Milano, 1968, p. 160 ff. Art. 1419(2) states: "The nullity of individual clauses does not entail the nullity of the contract when the null clauses are automatically replaced by mandatory rules". Furthermore, under Art. 1339 c.c., clauses imposed by law "are legally included in the contract, even in substitution of the different clauses stipulated by the parties".

28 Menegatti, E., *Wage-setting in Italy: The Central Role Played by Case Law*, Italian Labour Law e-Journal, *vol.* 12, no. 2, 2019, pp. 61 ff.

In recent years, these supplementary criteria have gained greater relevance as Italy's collective bargaining system has come under increasing strain. The system is widely perceived as inadequate to guarantee wages that are both proportionate and sufficient, in accordance with Article 36 of the Italian Constitution.

A key indicator of this strain is the marked proliferation of national collective agreements. In 2024, Italy's national archive recorded at least 1,089 agreements, a figure that signals not an expansion of effective bargaining coverage but growing fragmentation.[29] This development is largely driven by the growing number of agreements signed by trade unions with limited representativeness. These unions frequently conclude agreements covering the same sectors as those negotiated by Italy's three major trade unions (CGIL, CISL, and UIL, ranked by their representativeness), thereby giving rise to the phenomenon commonly described as *contractual dumping*. The spread of so-called 'pirate collective agreements' – namely, agreements concluded by unions lacking genuine representativeness – undermines the role of collective bargaining by setting wage levels significantly below those established by the major unions.

That said, the scale of the phenomenon should not be overstated. Data published by the National Council for Economics and Labour (CNEL) in March 2024 indicate that 96.5% of private-sector workers covered by national collective agreements (excluding agriculture and domestic sectors) fall under agreements signed by branch unions affiliated with CGIL, CISL, and UIL. Furthermore, nearly 97% of private-sector workers are covered by just 99 agreements.[30] These figures suggest that the core problem lies less in the sheer number of agreements than in deeper structural dysfunctions within the bargaining system.

A particularly significant issue is the growing internal competition among the major trade union confederations themselves – CGIL, CISL, and UIL. Branch unions, even when affiliated with the same confederation, increasingly negotiate overlapping agreements covering the same enterprises, activity, or job. As a result, the boundaries of sectoral collective agreements are becoming progressively

[29] CNEL, *XXVI Rapporto. Mercato del lavoro e contrattazione collettiva*, 2025, p. 85, available at: https://www.cnel.it/Comunicazione-e-Stampa/Notizie/ArtMID/1174/ArticleID/5145/APPROVATO-IL-RAPPORTO-SU-MERCATO-DEL-LAVORO-E-CONTRATTAZIONE-COLLETTIVA.

[30] CNEL, *Report sui contratti collettivi nazionali di lavoro depositati. Periodo: gennaio – dicembre 2023 e primo trimestre 2024*, available at: https://www.cnel.it/Portals/0/CNEL/Reports/CCNL/Nota%20informativa%20sui%20CCNL%20depositati%20-aggiornamento%20al%2015%20marzo%202024.pdf?ver=2024-03-19-163315-757.

blurred[31], but confederations lack effective mechanisms to coordinate their affiliated unions or to resolve conflicts arising from divergent bargaining strategies.

This lack of coordination weakens wage-setting standards and expands employers' discretion in selecting which collective agreement to apply. Such discretion is deeply embedded in Italian private employment law and reflects constitutional protections of freedom of association and contractual autonomy. Article 39 of the Constitution guarantees both positive and negative freedom of association, allowing employers to decide whether or not to join an employers' organisation. Employers who remain unaffiliated are not bound by any collective agreements unless they voluntarily adopt one (*see* § 2.1.). In such cases, they are free to choose among existing agreements. Since the Court of Cassation's decision no. 2665 of 1997[32], employers have also been permitted to select so-called 'non-natural' collective agreements – namely, agreements that do not correspond to the employer's actual economic sector –, provided that the resulting wages comply with constitutional standards. In a fragmented bargaining landscape, this interpretative framework facilitates contract shopping and tends to exert downward pressure on wage levels.

These dynamics have increasingly shaped judicial reasoning. Until October 2023, the Court of Cassation generally presumed that the minimum wage levels established in collective agreements signed by Italy's three most representative trade unions – CGIL, CISL, and UIL – were compliant with the constitutional requirement of adequate remuneration. Departures from that benchmark were therefore exceptional and had to be expressly justified by the courts, which were required to explain why alternative parameters were preferable to the collective agreement standard.[33] In a series of decisions delivered in October 2023, however, the Court revised this presumption, holding that even collective agreements concluded by CGIL, CISL, and UIL may set wage levels below the constitutional standard, thereby potentially infringing Article 36 of the Italian Constitution.[34]

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[31] Nogler, L., *La giungla delle agevolazioni fiscali e l'inefficienza delle relazioni industriali*, Giornale di diritto del Lavoro e di relazioni industriali, *vol.* 181-182, no. 1-2, 2024, pp. 1 ff.; Cristofolini, C., *Profili organizzativi e trasparenza finanziaria dei sindacati rappresentativi*, Franco Angeli, Milano, 2021, pp. 31 ss.

[32] Court of Cassation, Joint Sections, 26th March 1997, no. 2665.

[33] For further specifications, *see* Nogler L., *op. cit.* (fn. 24), p. 47 ff.

[34] Court of Cassation, 2nd October 2023, no. 27711; Court of Cassation, 10th October 2023, no. 28311. On this judicial shift, *see* Pallini, M., *Alla ricerca dell'autorità salariale nell'ordinamento italiano*, Giornale di diritto del lavoro e di relazioni industriali, *vol.* 181-182, no. 1-2, 2024, pp. 165 – 191.

3.2. Regional disparities and the concept of a "constitutional minimum wage"

It is also worth noting that Italy has the most pronounced regional disparities among European countries. Its industrial activity is predominantly concentrated in the central-northern regions, particularly along the Verona-Bologna and Venice-Turin transportation corridors. Furthermore, the only sectors demonstrating consistent growth are tourism and the agri-food industry, with certain food processing sectors maintaining a competitive position on the global stage.

Within this framework, the courts of southern Italy have frequently invoked Article 36 of the Constitution to justify reductions in minimum wages specified in national collective agreements. These adjustments take into account the size of smaller enterprises, local labour market conditions, and prevailing sector wages. For example, during the crisis of the agricultural sector, Sicily experienced a 20% reduction in collectively agreed minimum wages.[35] The Court of Cassation has endorsed this approach, requiring judges to consider the cost of living based on "official statistical data" and surveys conducted by ISTAT.[36]

In any case, when courts adopt the collective agreement as a benchmark, they typically only consider the so-called "constitutional minimum wage", which includes basic pay and the cost-of-living allowance.[37] Part of the jurisprudence excludes the seniority allowance from this minimum, arguing that it is not related to the quantity or quality of work (as outlined in Article 36 Cost.), but rather to the length of service.[38] Conversely, other jurisprudence states that fair pay should be proportional to the length of service on the grounds that work quality generally improves with experience.[39] The unanimous trend in case-law excludes performance bonuses, additional payments, and special allowances, such as clothing allowances, from the concept of adequate pay, because these are tied to the individual's performance or personal qualities.

Furthermore, the minimum wage is usually determined based on the average weekly working hours. As a result, this factor is taken into account when evaluating whether the remuneration complies with Article 36 of the Constitution.

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35 Tribunal of Catania, 4th April 1997 and Tribunal of Catania, 5th November 1997.

36 Court of Cassation, 26th July 2001, no. 10260.

37 Court of Cassation, 9th June 2008, no. 15148; Court of Cassation, 15th October 2010, no. 21274.

38 Court of Cassation, 18th March 2004, no. 5519 and Court of Cassation, 4th December 2013, no. 27138.

39 Court of Cassation, 7th July 2008, no. 18584 and Court of Cassation, 9th August 2011, no. 17399.

4. CONCLUSIONS AND FUTURE PERSPECTIVES

The persistent shortcomings of Italy's wage-setting framework have given rise to an extended debate, involving legal scholars, trade unions, and employers' organisations alike. As outlined in the introductory section (*see* § 1), the most recent institutional response to this debate is the enactment of the Enabling Act of 26th September 2025, no. 144, which delegates to the Government the task of adopting a comprehensive reform on minimum wage setting and collective bargaining. The reform is intended to pursue four interconnected objectives: ensuring remuneration that is proportionate and sufficient within the meaning of Article 36 of the Constitution; addressing in-work poverty and underpayment, particularly in atypical organisational settings and among vulnerable groups of workers; promoting the timely renewal of national sectoral collective agreements; and combating forms of unfair competition, including the so-called contractual dumping (Article 1(1)(a-d)).

A central element of the reform lies in the delegation to the Government to identify, for each occupational category, the "most widely applied" national collective agreements, measured by the number of firms and workers covered (Article 2(2)(a) Enabling Act of 26th September 2025, no. 144). The minimum wage levels established in these agreements are intended to operate as a legally relevant reference threshold. This mechanism provides an indirect form of wage protection: rather than introducing a universal statutory minimum wage, it seeks to ensure wage floors that are both adequate and broadly consistent with the specific characteristics of each sector.

The Act also addresses situations in which workers are not covered by any collective agreement. In such cases, it provides for the extension of the minimum overall economic treatments laid down in the national collective agreements, identified on the basis of the criterion of "widest application", to workers outside collective bargaining coverage. To them, the national collective agreement applicable to the closest comparable category of workers is to be applied. Through this mechanism, the reform aims to extend protection to fragmented, marginal, or weakly organized segments of the labour market.

A further component of the reform concerns transparency and enforcement (Article 2). The Act envisages the development of a public and accessible information system on wages and collective bargaining, alongside the strengthening of labour inspections and control mechanisms. Measures shall aim to promote a more efficient data collection on collective agreements, the creation of interoperable databases, and the introduction of public reporting and periodic monitoring of enforcement activities targeting distortions in the labour market (Article 2(a)).

At this stage, any assessment of the reform's effectiveness would be premature, as its concrete impact will depend largely on the content of the implementing decrees yet to be adopted. In any case, in a national context characterised by deep territorial and sectoral disparities, the key challenge will be to translate this framework into effective practice, ensuring that all workers receive adequate remuneration.

This task will unfold against the backdrop of enduring structural weaknesses in Italy's socio-economic landscape. Between 2013 and 2023, cumulative inflation in the euro area reached 24.3%, while wage growth in Italy remained well below that level. This stagnation is attributable not only to the wage-setting framework itself, but also to a broader combination of structural and institutional factors.

First, following the social upheavals of the late 1960s and early 1970s, Italy introduced a system of automatic wage indexation aimed at protecting purchasing power through a specific wage component known as the "contingency allowance". However, the work of economist Ezio Tarantelli demonstrated that this indexation mechanism contributed to fuelling inflationary dynamics rather than containing them. Consequently, Article 2 of Decree-Law 1st February 1977, no. 12[40] converted, with amendments, into Law 31st March 1977, no. 91[41] – commonly referred to as "crisis legislation" – excluded the future inclusion of the cost-of-living allowance from the calculation of the fourteenth monthly salary in the commercial sector. This measure raised constitutional concerns with reference to Articles 3 and 36 of the Constitution. In judgment no. 124 of 26th March 1991, the Constitutional Court held that "collective autonomy is not immune from legal limits. The legislator may set guiding principles, such as ensuring uniformity of the indexing system across categories and limiting indexation to a portion of the remuneration or introducing constraints compatible with economic policy objectives under Article 41(3) of the Constitution.[42] However, within these legal boundaries, social partners must be free to determine the scope of

[40] Decree-Law 1st February 1977, no. 12 (GU Serie Generale n.29 del 01-02-1977) [Official Gazette, General Series, n. 29 of 01-02-1977].

[41] Law 31st March 1977, no. 91 (GU Serie Generale n.90 del 02-04-1977) [Official Gazette, General Series, n. 91 of 02-04-1977].

[42] Constitutional Court, 26th March 1991, no. 124. Art. 41 of the Constitution (GU Serie Generale n.298 del 27-12-1947) [Official Gazette, General Series, n. 298 of 27-12-1947] states: "Private economic enterprise shall have the right to operate freely. It cannot be carried out in conflict with social utility or in such a manner as may harm health, the environment, safety, liberty and human dignity. The law shall determine appropriate programmes and checks to ensure that public and private economic enterprise activity be directed at and coordinated for social and environmental purposes".

indexing and the remuneration components affected. Legal restrictions, such as wage caps, are justified only in exceptional cases to safeguard higher interests". Therefore, once the emergency concludes, such restrictions conflict with both Article 39 and Article 36 of the Constitution, given that collective bargaining constitutes the primary instrument for implementing the constitutional right to adequate remuneration.

The system of automatic wage indexation was definitively dismantled through a series of protocols between the Government and the social partners in December 1991 and July 1992[43], a step that was essential to Italy's accession to the Euro area. While the adoption of the single currency shielded Italy from speculative financial pressures that might otherwise have driven up interest rates on public debt, it also indirectly decoupled wage growth from the cost of living, linking it instead to productivity growth and unit labour costs. As a result, Italian wage dynamics have progressively diverged from those observed in France and Germany. A Bank of Italy study notes that "the greater inequality in annual labour income in Italy compared with France and Germany is largely attributable to Italy's lower employment rate".[44] In 2021, the median gross annual wage per job – which includes positions held for only part of the year – amounted to €12.139, and 10% of jobs paid no more than €784 annually.[45] These figures indicate that Italy's primary wage problem lies not only in low hourly pay, but also in the limited number of paid working hours, and, in particular, in a persistently low female employment rate.

A further structural issue is Italy's experience of the global trend towards a declining labour share of GDP. This share fell below the symbolic threshold of 50%, reaching 45.9% in 2019, while capital income accounted for 54%. Wealth inequality remains pronounced: the top 5% of households hold 46% of total net wealth, while the poorest 50% possess less than 8%.[46]

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43 Specifically, the Protocols of 10th December 1991 and 31st July 1992.

44 Bovini, G.; Ciani, E.; De Philippis, M.; Romano, S., *Labour income inequality and in-work poverty: a comparison between euro area countries,* Occasional papers, no. 806, Banca d'Italia, 2023, 8 ff.

45 ISTAT, *Occupazione, retribuzioni e costo del lavoro dipendenti privati anno 2021*, 2024. The average gross annual wage decreases for positions held by women (€9,375), those under 30 (€4,795), individuals born abroad (€7,074), or those who possess at most a middle school diploma (€9,539); the median value is also lower than that calculated across all positions for those on fixed-term contracts (€2,516), part-time (€5,504), with an apprenticeship qualification (€8,678), or as a worker (€8,118), in the South (€7,671), or in the Islands (€7,700). The report is available at: https://www.istat.it/it/files//2024/01/REPORT_RACLI_2023.pdf.

46 Neri, A.; Spuri, M.; Vercelli, F., *I conti distributivi sulla ricchezza delle famiglie: metodi e prime evidenze,* Occasional papers, no. 836, Banca d'Italia, 2024, 14.

Over the past five years, these trends have persisted, partly due to a limited emphasis on the need for structural tax reforms. Since the mid-2010s, political efforts have primarily concentrated on increasing employees' disposable income through broader taxation measures. This strategy is driven by the recognition that corporate taxes are increasingly influenced by international tax competition, which lacks robust supranational regulation.[47] However, this strategy entails particular risks for Italy, given its consistently high tax wedge and the need to maintain stable tax revenues in light of its substantial public debt. As a result, taxation continues to rely heavily on withholding mechanisms applied to subordinate employment, which are comparatively resistant to evasion. While tax evasion in subordinate employment averaged 2.7% between 2018 and 2020, it reached nearly 69% in self-employment and business activities.[48] These sectors are therefore characterised by significant disparities between taxable income and expenses, as well as between taxable income and public protection expenditures.

Finally, the structural weakness of the Italian financial market also discourages the introduction of progressive taxation on capital income, which is excluded from personal income tax, as it could incentivise Italian savers, particularly the top 10%, to shift investments towards global financial markets. This group holds nearly a third of its wealth in risk capital related to production, such as shares, participations, and real assets, with about a fifth invested in mutual funds and insurance products.[49]

These factors, many of which could only be modified through a European fiscal framework, are further complicated by the political sensitivity of several potential policy options. These include reforming inheritance taxation, which currently provides a generous exemption of one million euros and a low rate of 4% for transfers to spouses and children; increasing flat-rate taxes for small

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[47] Therefore, it is always necessary to "align the income tax system with greater international competitiveness" as now provided by Article 3(1), letter d) of Law 9th August 2023, no. 111 GU Serie Generale n. 189 del 14-08-2023) [Official Gazette, General Series, n.189 of 14-08-2023].

[48] The data is sourced from the 2023 report by the Minister of Economic and Finance on the shadow economy and tax and social security evasion (MEF, *Relazione sull'Economia non osservata e sull'evasione fiscal e contributiva, anno 2023*, available at: https://www.finanze.gov.it/export/sites/finanze/.galleries/Documenti/Varie/Relazione-evasione-fiscale-e-contributiva-2023_26set-finale.pdf). It also states that "The shadow economy caused by irregular labour input is especially high in Calabria (8.3%) and Campania (6.9%). The lowest rates are found in Lombardy (3%), Veneto (3.1%), Friuli Venezia Giulia (3.2%), and the Autonomous Province of Bolzano-Bozen (3.3%)".

[49] Neri, A.; Spuri, M.; Vercelli, F., *op. cit.* (fn. 46), pp. 10-11.

businesses and the self-employed; introducing a tax on the value or income of primary residences[50]; and implementing a traditional wealth tax. While these measures would require resolving complex but technically manageable issues, such as the valuation of wealth, they would also demand a level of political resolve that the Italian political class has so far appeared unwilling to exercise.

BIBLIOGRAPHY

Albi, P. (ed.), *Salario minimo e salario giusto*, Giappichelli, Torino, 2023.

Alvino, I., *I rinvii legislativi al contratto collettivo. Tecniche e interazioni con la dinamica delle relazioni sindacali*, Jovene, Napoli, 2018.

Bovini, G.; Ciani, E.; De Philippis, M.; Romano, S., *Labour income inequality and in-work poverty: a comparison between euro area countries,* Occasional papers, No. 806, Banca d'Italia, 2023.

Cristofolini, C., *Profili organizzativi e trasparenza finanziaria dei sindacati rappresentativi*, Franco Angeli, Milano, 2021.

CNEL, *XXVI Rapporto. Mercato del lavoro e contrattazione collettiva*, 2025, available at: https://www.cnel.it/Comunicazione-e-Stampa/Notizie/ArtMID/1174/ArticleID/5145/APPROVATO-IL-RAPPORTO-SU-MERCATO-DEL-LAVORO-E-CONTRATTAZIONE-COLLETTIVA.

CNEL, *Report sui contratti collettivi nazionali di lavoro depositati. Periodo: gennaio – dicembre 2023 e primo trimestre 2024*, available at: https://www.cnel.it/Portals/0/CNEL/Reports/CCNL/Nota%20informativa%20sui%20CCNL%20depositati%20-aggiornamento%20al%2015%20marzo%202024.pdf?ver=2024-03-19-163315-757.

Dworkin, R., *Taking Rights Seriously*, Harvard University Press, Cambridge, 1977.

Fadda, S., *Rapporto 2023. Lavoro, formazione, welfare. Un percorso di crescita accidentato. Relazione del Presidente,* INAPP, Roma, 2023.

Garnero, A.; Lucifora, C., *L'erosione della contrattazione collettiva in Italia e il dibattito sul salario minimo legale*, Giornale di diritto del lavoro e di relazioni industriali, *vol*. 166, no. 2, 2020, pp. 295 – 315.

[50] Neri, A.; Spuri, M.; Vercelli, F., *op. cit.* (fn. 46), p. 9 state that "half of Italians' wealth is held in housing" then clarify that "housing represents three-quarters of wealth for families below the median (meaning the poorest 50 per cent) and "nearly 70 per cent for middle-class families" (with a net wealth between the 50° and 90° percentile). For the top 10 per cent, "housing's share drops to just over a third".

Gragnoli, E., *Il contratto nazionale del lavoro privato italiano*, Giappichelli, Torino, 2021.

ISTAT, *Occupazione, retribuzioni e costo del lavoro dipendenti privati anno 2021*, 2024, available at: https://www.istat.it/it/files//2024/01/REPORT_RACLI_2023.pdf.

Liso, F., *Salario minimo: considerazioni sulla proposta di legge*, Mondoperaio, no. 9, 2023, pp. 12 – 20.

Menegatti, E., *Wage-setting in Italy: The Central Role Played by Case Law*, Italian Labour Law e-Journal, *vol*. 12, no. 2, 2019, pp. 53 – 66.

Neri, A.; Spuri, M.; Vercelli, F., *I conti distributivi sulla ricchezza delle famiglie: metodi e prime evidenze*, Occasional papers, no. 836, Banca d'Italia, 2024.

Nogler, L., *Saggio sull'efficacia regolativa del contratto collettivo*, Cedam, Padova, 1997.

Nogler, L., *Commento all'art. 36, 1° comma, Cost.*, in: De Luca Tamajo, R.; Mazzotta, O. (eds.), *Commentario breve alle leggi sul lavoro*, Cedam, Padova, 2022, pp. 47 – 61.

Nogler, L., *La giungla delle agevolazioni fiscali e l'inefficienza delle relazioni industriali*, Giornale di diritto del Lavoro e di relazioni industriali, *vol.* 181-182, no. 1-2, 2024, pp. 1 – 31.

Pallini, M., *Alla ricerca dell'autorità salariale nell'ordinamento italiano*, Giornale di diritto del lavoro e di relazioni industriali, *vol.* 181-182, no. 1-2, 2024, pp. 165 – 191.

Rossi, S, *Breve racconto dell'Italia nel mondo attraverso i fatti dell'economia*, Laterza, Bari-Roma, 2023.

Scognamiglio, R., *Autonomia sindacale ed efficacia del contratto collettivo di lavoro,* Rivista di diritto civile, *vol.* 2, no. 1, 1971, pp. 140 – 166.

Treu, T., *Onerosità e corrispettività nel rapporto di lavoro*, Giuffrè, Milano, 1968.

Zoppoli, L., *L'articolo 36 della costituzione e l'obbligazione retributiva*, in: Caruso, B.; Zoli, C.; Zoppoli, L. (eds.), *La retribuzione: struttura e regime giuridico*, *vol.* 1, Jovene, Napoli, 1994, pp. 93 – 142.

Sažetak

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ODREĐIVANJE MINIMALNE PLAĆE U ITALIJI: SLOŽENA ARHITEKTURA

U radu se propituje talijanski sustav uređivanja plaća, s naglaskom na izazove jamstva primjerene zarade za radnike. Polazi se od problema nepostojanja općeg, zakonskog, jamstva minimalne plaće, jer se one utvrđuju putem sektorskih kolektivnih ugovora primjenjivih na nacionalnoj razini. Analiza se potom usredotočuje na članak 36. talijanskog Ustava, koji sadržava dva temeljna načela: načelo razmjernosti i načelo dostatnosti. Kasacijski sud protumačio je ta načela kao ona koja dovode do sudski provedivoga standarda primjerene minimalne plaće. U tom kontekstu, rad istražuje glavne napetosti koje trenutačno utječu na talijanske industrijske odnose i njihov utjecaj na sposobnost da se putem kolektivnih pregovora definiraju plaće koje su u skladu s ustavnim zahtjevima. Zaključno se ističe da neriješena pitanja ekonomske i porezne politike nepovoljno utječu na kupovnu moć radnika i vode njezinu daljnjem padu.

Ključne riječi: određivanje plaća, kolektivno pregovaranje, individualni ugovor o radu, primjerena minimalna plaća, "ustavna minimalna plaća"

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