

Social security system

On the basis of article 38 of the Italian Constitution “Every citizen unable to work and lacking the necessary means to live has the right to maintenance and welfare services. Workers have the right to be provided with and ensured proper means for their needs in case of accident, illness, invalidity, old age, involuntary unemployment.”

The Italian social security system is therefore based on two distinct forms of protection: on one hand, the protection of those who are unable to work and the poor, and on the other hand the protection of workers, founded on the principle that all work carried out is entitled to a pension matured on the basis of taxes paid. In this sense, also foreign citizens, on the basis of articles 2 and 3 of the Constitution, benefit from the pension treatment with regard to the work carried out, the treatment being equal to that of the Italian citizens.

The Italian social security system is also founded on the protection of fundamental rights concerning health and safety on the job, as provided for by the Constitution (articles 4, 32, 35, 41). It is an essential inclusion tool, as it offers protection against risks such as unemployment, accidents on the job, illness and invalidity. Social security covers 11 main sectors: health care, insurance services for illness, insurance services for maternity and paternity, insurance services for invalidity, insurance services and pensions for old age, insurance services for survivors, insurance services in case of accidents on the job and professional diseases, family insurance services, unemployment, minimum income guaranteed and long-term assistance.

The social security system in Italy: SSN, INPS, INAIL

The Italian social security system is divided into three sectors: INPS, INAIL and SSN (Servizio Sanitario Nazionale - National Health Service).



The largest Italian Insurance body is the Istituto Nazionale di Previdenza Sociale (INPS), which insures almost the totality of dependent workers belonging to the private sector and, recently, also those belonging to the public sector. Whereas, other bodies insure further categories, such as journalists, doctors, lawyers and other professional sectors.

INPS provides both insurance and assistance services. The former are established on the basis of taxes paid, whereas the latter are at the State's expense or at that of Local bodies, and disregard the payment of taxes (for example, allowance for family unit, allowance for maternity and for family units granted by the Municipalities). The pensions managed by INPS are those of inability, ordinary allowance of invalidity, old age pension, pension to survivors. Other non-pension services provided by INPS are: social allowance, unemployment, workers' mobility, redundancy fund (Cassa integrazione guadagni), severance pay (trattamento di fine rapporto - TFR), allowance to family units, illness, family allowances from the Municipalities, maternity and paternity, parental leave and time off for breastfeeding, assistance to the disabled, allowance for tubercular treatment, thermal treatment, allowance for marriage leave, maternity allowance

from the State and the Municipalities.

The Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro (INAIL) has an active role within the ambit of health protection and workers' safety. Therefore, INAIL operates in the insurance sector on the basis of taxes paid only by employers, guaranteeing protection to workers in case of accidents, professional diseases or death at work. Accidents on the job are all those events which the worker undergoes and that occur due to violent causes during work, which produce death or permanent inability to work, absolute or partial, that is an absolute temporary inability entailing abstention from work for more than three days.

Dependent workers have the right to INAIL's insurance services even if the employer has not carried out tax obligations. INAIL provides temporary insurance services or permanent pensions in case of permanent disability, or it can grant indemnity in case of death. The right to require and obtain accident insurance services is prescribed within three years, suspended during the administrative payment of the indemnities.

Regulations implemented on foreign citizens and necessary requisites to access national insurance services

Third country national workers carrying out their activities in Italy are subjected to the Italian insurance law as regards national insurance and assistance on the basis of the principle of the territory's mandatory insurance, if under both a temporary and an indefinite job contract. Therefore, foreign citizens are equalled to Italians in the subjection to insurance and assistance regulations.

Whereas, specific regulations are provided for as regards seasonal workers, who benefit only from a few insurance forms (pensions, accidents, illness and maternity), since in their case the payments carried out by employers for family allowances and unemployment do not give place to insurance services but are paid to the Fondo nazionale per le politiche migratorie (National Fund for migratory policies) and contribute in financing social-welfare interventions at local level in favour of immigrants.

The self-employed, instead, pay taxes owed to INPS on the basis of the income reported for fiscal reasons. Whereas, for dependent workers the share of taxes owed is paid by the employer. On the basis of the principle of equal treatment between Italian workers and foreign citizen workers, in compliance with the ILO Convention n. 175 of 1973 and in conformity with article 2, paragraph 2, of the Single Text on Immigration, foreign citizens are subject not only to the measures provided for as regards employment, job, retribution, dismissal conditions, but also as regards all regulations concerning trade union rights and pension when withdrawing from work.

The payment of the insurance services envisages the occurred payment of a certain amount of years of taxes both for Italians and foreign citizens. For example:

- old age pension: at least 20 years of taxes paid
- mobility and invalidity pension: at least 5 years of taxes paid, of which 3 in the past five years.
- unemployment: different tax requisites depending on the employment sector involved.

The insurance services are not prejudiced if the employer does not pay taxes, should the foreign citizen involved require them within the prescription term of three years.

Attention: According to the most recent amendments as regards social security and in particular after the pension reform which involved all workers - including foreign citizen workers - as of January 2012, seniority taxes matured after 31 December are calculated for all workers on the basis of a tax calculation system and no longer on the average of the retributions received during the past years of work. Women registered in the mandatory general insurance acquire old age pensions at 62 years of age if dependent workers and 63 years and 6 months if self-employed. Moreover, women's pensionable age will be raised to 66 years of age within 2018 (age already provided for as regards men and women employed in the public sector). All workers must have a tax seniority of at least 20 years. From January 2012, the old age pension is no longer implemented, substituted by the anticipated pension. In order to obtain the latter, it is necessary to have turned 41 years old and 1 month for women and 42 years old and 1 month for men.

Exportability of pensions

In general, pensions are exportable both for Italians and non-EU citizens (with the exclusion of those with welfare characteristics) as well as accident insurances, with the exception of those provided for in case of illness, unemployment and redundancy fund. However, it is necessary to distinguish the case in which a foreign citizen worker decides to repatriate coming from another Country which has signed an agreement with Italy as regards social security and the case in which said decision is made by a worker coming from a Country not under agreement.

In particular, while there are no problems if the worker in Italy has reached the right to an autonomous pension (for further information on the payment abroad of the pension consult the specially devoted page on INPS's website), the case is different when the right to pension matures only by totalizing the tax periods matured in different Countries. In fact, at the moment, in order to have right to a totalizing pension regime, it is necessary for bilateral agreements to be in force between Italy and the Country of origin of the foreign citizen worker. Said agreements, in fact, guarantee the worker with the collection of insurance periods carried out in the agreeing States, thus enabling to achieve the right to insurance services should said right not have been matured autonomously in a single State.

Whereas, should the foreign citizen worker who decides to repatriate come from a Country not under agreement with Italy as regards social security, the totalising pension regime is not implemented. Moreover, while before the entering into force of law 189/2002 (the so-called Bossi-Fini law) non-EU workers who repatriated definitively were recognised (Law n.335/1995 art.3, paragraph 13) regardless of agreements of reciprocity between Italy and their Country, the right to obtain the refund of taxes paid up to that moment, with the entering into force of said law this faculty has been eliminated.

Currently, foreign citizen workers repatriated maintain insurance and safety rights matured, but they can benefit from these rights only starting from the pensionable age and upon maturing the minimum tax requisite on the basis of the laws in force in Italy. When these requisites are not satisfied, the foreign citizen, when turning 66 years old, may require the share of pension corresponding to the reduced seniority tax.

Bilateral agreements on social security

With the aim to encourage a greater cooperation among the Member States for the coordination with third Countries as regards social security, the European Commission published a document on the external dimension of EU social security coordination in the European Union:

See: EUROPEAN COMMISSION, Communication of the Commission to the European Commission, to the Council, to the European Economic and Social Committee and to the Regions' Committee. The external dimension of EU social security coordination in the European Union, doc. COM(2012) 153 final, Brussels, 30 March 2012.

The principles inspiring the bilateral treaties as regards social security can be inferred by Regulation 883/2004, among which:

- equal treatment (article 12), which hinders any discrimination founded on nationality in the implementation of national laws concerning social security;
- equal treatment of insurance services, incomes of facts and events (article 5), on the basis of which each State considers an event occurred on the territory of another Member State as if occurred on its own territory;
- uniqueness of the legislation applicable, according to which workers are subject to the legislation of the Member State where the job is carried out, as general rule (Regulation 883/2004);
- totalization, according to which all the periods of insurance, autonomous or dependent work and residence acquired in one Member State are considered in the calculation of the insurance services owed to the benefitting party;
- exportability, thus obtaining the payment of the insurance services in the Country of residence even if the insurance service is at the expense of another country (except the non-taxable insurance services, as for example social allowance);
- regulation against the superimposition of benefits (article 10), on the basis of which it is not possible to mature the right to receive multiple insurance services from different Member States of the same kind for the same period of mandatory insurance.

In the Seventies, Italy entered into a series of bilateral agreements with emigration Countries in order to protect the circulation of its working citizens. These are founded on the compliance with non-discrimination and on the guarantee of equal treatment of workers and pensioned workers, in order to coordinate the legislations of the agreeing States and equal the national territories so that migration may not entail the loss of rights in terms of insurance services.

In the Eighties, after the transformation of Italy from Country of emigration to Country of immigration, new agreements were carried out with the main countries of origin of the third country nationals, such as Cape Verde and Tunisia.

Currently, social security agreements are in force between Italy and the following Countries:

- Argentina (1984)
- Australia (2000)
- Brazil (1977)
- Canada (1979)
- Cape Verde (1983)
- Israel (2014)
- Jersey (1958)
- The Principality of Monaco (1985)
- Republics of former Yugoslavia, Bosnia - Herzegovina, Macedonia -FYROM, Serbia, Montenegro, Kosovo (1961)
- United States (1961 and additional agreement, 1986)
- Tunisia (1987)
- Uruguay (1985)
- Vatican City - Holy Seat (2004)
- Venezuela (1991)

In general, these agreements are applicable to the citizens of the agreeing States, but in the case of Argentina, Canada, San Marino, United States, Uruguay and Venezuela the agreements establish that it is not necessary to be citizens of one of the two agreeing States, thus being sufficient to be subjected to the insurance managements in both Countries. The insurance services provided on the basis of these agreements include the following insurance ambits:

- old age, survivors and invalidity;
- accidents on the job and professional diseases;
- family allowances;
- illness and maternity;
- unemployment.

The amount of the pension is established by the single Country on the basis of its own system for calculating taxes and in proportion to the insurance periods matured pursuant to domestic regulations. In general, these agreements regulate social security on the basis of the following principles:

- possibility for foreign citizens to work in Italy, even remaining under the regulation competence as regards social security of their own Country of origin, departing from the principle of territoriality of tax obligation;
- guarantee of equal treatment within the system of the hosting State in reference to particular insurance services, that is equality of treatment is valid for pension taxes as regards the implementation of the agreement, without prejudice to the restrictions on the assistance services (that is, based on the taxes paid);
- exportability of the social security services, in order to avoid the double fiscal imposition, which envisages the taxability of the pension only in the Country of residence;
- further measures for a better coordination of the social security systems, inspired to the principles stated by the European Commission.