

**Editor's Note:** This is the ninth in a series of articles summarizing various country's government and SH&E legislative processes. It is intended to serve as a useful planning tool for SH&E professionals preparing to conduct business in the profiled country. Previous profiles have included Japan, The United Kingdom, Chile, Ireland, Singapore, Spain, Mexico and India. All country profiles are available on the ASSE IPS Practice Specialty website. The material contained has been provided courtesy of ENSR International. Requests for additional country information should be directed to Halley Moriyama at [hmoriyama@ensr.aecom.com](mailto:hmoriyama@ensr.aecom.com) / +1-978-589-3233 or Jack Fearing at +1-973-463-6240 / [jack\\_fearing@aon.com](mailto:jack_fearing@aon.com).

## Country Profile - Italy



### Geography

Italy encompasses about 116,300 square miles, which makes it about the size of the state of Arizona. Italy includes the Mediterranean islands of Elba, Sardinia, and Sicily and many lesser islands. Within the boundaries of mainland Italy are two independent countries, San Marino and the Vatican City. Italy is part of the European Union (EU).

Italy is situated in southern Europe. The country is bordered by Switzerland and Austria on the north; by Slovenia and the Adriatic Sea on the east; by the Ionian Sea and the Mediterranean Sea on the south; by the Tyrrhenian Sea, the Ligurian Sea, and the Mediterranean Sea to the west; and by France on the northwest.

More than half of Italy consists of the Italian Peninsula, which extends in a southeasterly direction into the Mediterranean Sea. The rugged Apennines extend along the central part of peninsula. At the far northerly end of the country are the Alps which extend in a wide arc from Ventimiglia on the west to Gorizia on the east. Also in the north is the broad Plain of Lombardy, comprising the valley of the Po.

Italy has a predominantly Mediterranean climate, though the far north has an Alpine climate. A map of Italy is provided in Figure 1-1 and illustrates the major cities.

### **Population**

The population of Italy was estimated to be nearly 58.3 million in 2007 (CIA Factbook). The nation is largely urban in the north and rural in the south. The country's major cities include Rome, the capital and largest city; Milan, an important manufacturing, financial and commercial center; Naples, one of the busiest seaports in the country; Turin, a transportation hub and commercial center; Bologna, a major transportation center and agricultural market; and Florence, a cultural center. The leading manufacturing centers include Genoa, Milan, Rome and Turin.

The people of Italy are almost entirely native born. The majority of the population speaks Italian, though German is spoken around Bolzano, in the north near the Austrian border. The predominant religion of the country is Roman Catholic. The constitution provides for freedom of worship to the religious minorities, which primarily involve those of the Protestant, Muslim, and Jewish faiths.

## **Government**

### Overview

Since June 2, 1946, Italy has been a democratic republic. The ceremonial head of state is the President, who is elected to a seven year term by the bi-cameral Parliament. The actual executive power lies in the Prime Minister (who is actually referred to as the President of the Council of Ministers). The Prime Minister is chosen by the President and generally is the leader of the party having the largest representation in the Chamber of Deputies, which is the lower house of the Parliament. The Prime Minister must form a government, including a cabinet (ministers), which are then subject to approval by both houses of Parliament.

The legislative branch is represented by a bi-cameral Parliament, which consists of a Senate and a Chamber of Deputies. The members of Parliament are elected on the basis of proportional representation by popular vote to a five year term of office. The Senate has 315 members who are elected on a regional basis; there are also a number of life members who are past Presidents and their honorary nominees (each President can make up to five Senate appointments). The Chamber of Deputies consists of 630 members. Legislation (legislative, presidential, or prime ministerial decrees) passed by Parliament requires approval by the President of the Republic, which in practice is always forthcoming. Parliament may also enact guidelines. The regional parliaments in turn interpret these guidelines and enact more specific regulations. There are also decree-laws, issued by either the Prime Minister or a ministry. These require approval of the President. Once approved by the President, they have the force of law for 60 days. Within this period, Parliament must approve the decree-law or it is voided.

The judicial system in Italy is a national one, with no regional or local judiciary. There are civil, criminal, and special courts, with the latter dedicated to specialized areas such as administrative and tax matters. The appeals system involves a court of cassation and a constitutional court. The former hears civil and criminal appeals for all matters except those involving constitutional questions. The latter court deals with the constitutional challenges.

The country is divided into 20 regions, which in turn are subdivided into 94 provinces. Each region is governed by an executive who is responsible to a popularly elected regional parliament (Consigli Regionali). The regions have considerable authority. The chief executive of each province, who is called a prefect, is appointed by and answerable to the central government (State) and has limited authority in effect. There is also an elected council and an executive committee who together administer each province. Below the provincial level is the commune, the basic unit of local government. Each commune is governed by a communal council who is elected to a four year term by popular vote. A mayor is elected by each council.

The Ministry for the Environment generally issues regulations and guidelines to the regions, some of which have their own environmental department (assessorato all'ambiente) through which national requirements are implemented and enforced. The regions may further delegate responsibilities to the provinces and municipal authorities, though such responsibilities are more in the area of enforcement and recordkeeping rather than establishment of standards or requirements.

### Environmental Authorities

In 1986, the Ministry for the Environment was established under Law No. 349/1986 to coordinate environmental matters. In practice, the Ministry for the Environment shares environmental responsibilities with several other

administrative bodies including the Ministry of Health (open water pollution), Ministry of Industry (pollution of natural resources), the Ministry of the Merchant Navy (pollution of marine reserves), and the Ministry of Public Projects (pollution of surface waters used for drinking water).

The ANPA ("Agenzia Nazionale per la Protezione dell Ambiente" - National Environment Protection Agency) was established in accordance with Law No. 61/1994 in order to supply knowledge and technical based support for the environmental activities of the Ministry of the Environment. The ANPA is supported by Regional Agencies (ARPA - Regional Environment Protection Agency) which have the same duties relative to their respective regions. In general, terms, the ANPA's role is that of a technical consultant; it has no power to enforce any environmental legislation.

#### Health and Safety Authorities

Matters more specifically relating to health and safety largely come under the purview of the Ministry of Labor. A special body of the Ministry of Labor, the Ispettorati del Lavoro (Factory Inspectorate), is responsible for carrying out workplace health and safety inspections. Such inspections can be conducted at any time. The Ispettorati del Lavoro can also conduct medical examinations of employees at any time.

The Ministry of Health and Safety operates in cooperation with the Ministry of Labor. The former authority has both administrative regulatory powers in order to realize the policy of the Government in the area of health and safety.

The separation of responsibility between the two authorities is not clear-cut. In some areas, there is dual responsibility.

## **History of EH&S Legislation**

### **Environmental**

Environmental regulations in Italy are represented by a complex and sometimes overlapping mixture of constitutional provisions, special statutes, articles from the Civil and Criminal Codes, as well as by a series of special decrees issued by different levels of government. As a result, the regulatory system is fragmented and often difficult to interpret. The situation is further complicated by the fact that requirements dealing with a particular issue or environmental media (air, water etc) are often scattered throughout many different laws, decrees and regulations which in turn may replace, amend, or suspend certain provisions of the other. According to Italy's Environment Minister, Edo Ronchi, "there are something like 3,000 laws regarding the environment in Italy, and no one knows which ones to follow."

The country's environmental regulatory regime has been changing, largely due to a 1984 Constitutional Court judgement (Judgement No. 170 of 8 June 1984) that paved the way for the implementation of European Union (formerly EC) directives into national law. Previously, the Italian legal system assumed the position that European community directives did not take precedence over national laws. As a result, Italy implemented few EU directives. Since the early 1990's, much of the environmental legislation in Italy has been in response to EU legislation.

In the past few years, the central government (State) has repossessed a number of the functions and powers involving environmental matters, all of which had been previously transferred to regional and local authorities as a result of constitutional decentralization. As a result, there is a certain degree of confusion on the interpretation of EH&S legislation as well as coordination problems with regard to the various enforcing authorities.

At the moment, national EH&S policy is managed by the Ministry of the Environment, the Regions; the Provinces; and the Municipalities. Notwithstanding the constitutional principle of the decentralization of the

functions relating to the environment, it is not possible to draw a definite line between the competencies of the above entities. Currently, the Ministry of the Environment, the Parliament or the government issue laws or legislative decrees to implement EU directives; such laws (or legislative decrees) normally grant local entities the powers to issue specific regulations as well as specific powers to enforce the national legislation.

### **Occupational Health and Worker Safety**

The structure of the Italian model for protection at work, set out before the Second World War, was characterized by a lack of systematic legislation. Only recently has the conclusion been reached that a systematic consideration of the prevention of accidents and illnesses in the workplace can result in better protection.

The d.lgs. 626/94 constitutes a fundamental change from the past, in that an employer was previously obliged to observe formal prescriptions which lacked substance. The employer must now activate an entire series of actions concerning health and safety in the workplace where employees, government and unions are involved.

### **Recent EH&S Legislation**

Legislation enacted during the past 10 years has been focused on implementation of a number of European Union directives that still require transposition into Italian law. Among the outstanding directives that have applicability to manufacturers are the following:

- 91/271/EEC on the treatment of urban wastewater;
- 93/88/EEC, which amends Directive 90/679/EEC on the protection of workers from risks deriving from exposure to biological agents during work;

- 94/45/EEC regarding the establishment of a European Company Board or a procedure for informing and advising workers within enterprises or groups of enterprises with a European dimension;
- 95/63/EEC, which amends Directive 89/655/EEC on minimum health and safety requirements for use of work equipment by workers;
- 96/59/EEC concerning disposal of PCB/PCT;
- Directive 96/61/EEC on the prevention and integrated reduction of pollution;
- 96/62/EEC on the evaluation and management of air quality;
- 96/82/EEC on the control of risk of serious accidents connected with defined dangerous substances;
- 94/67/EEC on incineration of dangerous waste;
- 95/30/EEC regarding the adaption to technical advancement of Council Directive 90/769/EEC relating to the protection of workers from risks deriving from exposure to biological agents during work;
- 96/94/EEC which establishes a second list of indicative limits in the application of Council Directive 80/1107/EEC on the protection of workers against risks deriving from exposure to chemical, physical, and biological agents during work;
- 97/10/EEC which adapts Attachment I of Council Directive 76/769/EEC concerning the approach of legislative, administrative and regulatory provisions by the Member States relating to restrictions on the introduction to the market and use of some dangerous substances and preparations; and
- 97/16/EEC concerning the restriction of use and the introduction into the market of some dangerous substances and preparations.

## **Enforcement of EH&S Regulations**

### **Administrative Actions**

Environmental laws frequently provide for the intervention of the administrative authorities and more particularly, of the local authorities, who are vested with various powers relating to the protection of the environment. The provinces and the municipalities, in particular, have the power to impose fines where there has been a violation. Fines can amount to up to 100 million lira for the more serious offenses.

Moreover, the law gives local authorities - the mayor as a rule - the right to order parties who have committed an environmental offence to fulfill certain requirements. For example, Article 14 of law no.22/1997 relating to contaminated sites allows the Mayor, in the case of waste dumping or unauthorized deposit of waste, to order the perpetrator, jointly with the proprietor and the holders of the real or personal rights to the area (e.g. the landowner), insofar as they may be held responsible for the violation, to remove the waste and to clean up the site. If this party does not take action, the town council may proceed with the clean up operation, at the expense of those responsible.

According to the general principle of administrative law in Italy, it is always possible to challenge an act of the administrative authority before the local administrative court (i.e. the regional T.A.R.).

### **Civil Liability**

The administrative regulations leave open the question of the protection of those who suffer damages to their property caused by the polluting activities of third parties.

This matter is covered by Sec. 844 of the Civil Code, whereby the right of the owner of land to prevent the emission of smoke, heat, fumes, noise, vibrations or similar emissions from the land of his neighbors, is recognized only if such emission exceeds normal levels of tolerability.

Civil liability is relevant to recovery of damages for harm caused to the environment. Section 18 of law no. 349/1986, provides that, "Any fraudulent, malicious or negligent act in breach of any laws or regulations, which causes damage to the environment, altering, modifying or destroying it in whole or in part, obliges the person who has committed the act to pay damages." This provision only entitles the Government and the local entities (on whose territory the damage has been produced), as well as some environmental associations, to commence legal proceedings against the person who caused the damage to the environment. This type of action has been quite rare in the past few years, but is becoming more common. Recently, a number of legal proceedings have been set in motion, in particular by environmental associations.

### **Criminal Sanctions**

Government intervention in the protection of the environment is without doubt centered around the prescriptions of the government, rather than on the enforcement actions of the criminal courts.

The Italian environmental regulatory system is composed of a vast series of penal sanctions part of which are set forth by the Criminal Code, and others included in the regulation relating to water, air and land protection.

Criminal sanctions for environmental crimes may vary, depending upon the seriousness of the violation, from a minimum of a few weeks to a maximum of two years in prison.

The current tendency of the Italian governmental environmental policy is towards a transformation of the criminal offenses into administrative violations; this does not mean that environmental violations will only be punished with administrative sanctions, but that criminal sanctions will be reserved for the more serious violations.

### **Strict Liability**

According to some decisions of the Supreme Court, business activities which involve the production of hazardous waste must be treated as "dangerous activities" and, as such, be ruled by sec. 2050 cod.civ., whereby any environmental damage is deemed to constitute a case of strict liability. According to such provision, "Whoever cause injuries to another in the performances of an activity dangerous by its nature or by reason of the instrumentalities employed, is liable for damages, unless that he has taken all suitable measure to avoid the injury."

### **Comments on Enforcement Practices**

Enforcement of environmental regulations is effected through the application of administrative and criminal sanctions.

In addition to the traditional financial penalties and to the criminal sanction of imprisonment, there are other sanctions which are addressed to the restoration of the original status quo (for example, the order to destroy a building).

In the event of violation of the prescription contained in administrative permits, the administrative authority can issue a notice containing a warning and an order to comply within a certain term with such prescriptions; in other cases the permits can be suspended.

## **Audit Privilege**

If an audit is being conducted in order to meet a specific license or permit condition, these findings are public information and must be made available for discovery. However, if an audit is self-initiated, there is no obligation to report the findings to the regulatory authorities.

Attorney-client privilege is available Italy. Therefore, any audit report prepared by an attorney would not be subject to discovery.

## **Access to Information**

Environmental information about a specific facility theoretically is available through the governmental authorities upon request. In fact, the right of public access to environmental information is provided for in three laws:

- Law 349/86 on the "Establishment of the Ministry of Environment and Rules about Environmental Damage," establishes in Article 14 the right of every citizen to have access to environmental information held by public authorities upon payment of copying costs;
- Law 142/90 on the "System of Local Authorities" gives rights of access to administrative documents and the right to obtain copies (articles 6 and 7); and,
- Law 241/90 on "New Rules about Administrative Procedure and the Right of Access to Administrative Documents," sets forth the general right of public access to administrative documents in Articles 22-28.

In spite of the legal basis for access to information, "inefficient bureaucracy and its traditional secrecy about environmental matters" has tended to make access difficult.

## **Contaminated Land**

### **Applicable Regulations**

Legislative decree No. 22 (February 5, 1997), the Italian framework law on waste ("Decreto Ronchi"), contains provisions that are directly applicable to contaminated land. More specifically, Articles 17.1 and 17.2 require that any facility that causes ground contamination, surface water or groundwater contamination must undertake the necessary cleanup and remediation activities. Relevant municipal, provincial, and regional authorities must be notified and told of any proposed remediation measures planned to control the contamination and to reduce the health and environmental risks.

According to sec. 19 and 20 of the "Decreto Ronchi," each Region must issue its own contamination clean up plan, while the Provinces are in charge of monitoring the clean up activities in its own territory. Each Municipality must then give its approval to each project to clean up polluted sites. Following satisfactory completion of the cleanup, certificates of completion are issued by the relevant authority.

### **Liability for Pre-Existing Contamination**

Article 14 of d.lgs. 22/97 provides that whomsoever deposits waste in the soil is obliged to move, collect or dispose of such waste, in addition to cleaning the area in question and ensuring that it is returned to its original state. Such obligation is on the person liable for the violation together with the landowner as well as the tenant, but only if they effectively contribute with malice or negligence to the violation.

## **Cleanup Standards**

Article 17 of d.lgs. 22/97 states that within 3 months of the decree entering into effect, the Minister for Industry, Commerce and Health must define the acceptable limits of soil and ground water contamination in relation to the specific use of a site.

At the moment the Authorities in question have not yet issued such cleanup standards.

## **Other Useful Information**

### **List of Key Agencies**

#### Central Government Authorities

Ministry of Environment  
Piazza Venezia, N. 11  
Rome  
Tel: (39-6) 70361

Ministry of Labor  
Via Flavia, N. 6  
Rome  
Tel: (39-6) 46831

Ministry of Health and Safety  
Piazza dell'Industria, n. 20  
Rome  
Tel: (39-6) 59941

### **Sources of Regulatory Information**

Laws and regulations can be obtained through the following:

Gazzetta Ufficiale  
Piazza Verdi, n. 11  
Rome  
Tel: (39-6) 85081

## Other Contacts

The Embassy of the Republic of Italy  
1601 Fuller Street, N.W.  
Washington, D.C. 20009  
Tel: (202) 328-5500 Tel:  
Fax: (202) 462-3605

U.S. Embassy  
Via Veneto 119/A  
00187-Rome, Italy  
(39-6) 46741  
Fax: (39-6) 488-2672

U.S. Department of State  
U.S. Department of Commerce  
Country Desk Officer, Italy  
Int'l Trade Admin., Italy Desk  
Washington, DC  
Tel: (202) 482-2177  
Tel: (202) 647-4426

The American Chamber of Commerce in Italy  
Via Cantu 1  
20123 Milan, Italy  
Tel: (39-2) 869-0661  
Fax: (39-2) 805-7737

## Public Holidays

National holidays are noted as follows; this is a working guide only. Dates should be verified prior to undertaking any visit. When holidays fall on a Saturday or Sunday, commercial establishments may be closed the preceding Friday or the following Monday.

<u>Holiday</u>	<u>Fixed Date</u>
New Year	January 1
Epiphany	January 6
Easter Monday	April 13
Liberation Day	April 25
Labor Day	May 1
Anniversary of the Republic	June 2
The Assumption	August 15
All Saints Day	November 1
Immaculate Conception	December 8
Christmas	December 25

Figure 1.1 – Map of Italy

