



A Comparative Examination of Compensation Frameworks for Unjust Terminations: Insights from Diverse Jurisdictions

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Abstract

This study provides a comprehensive analysis of the compensatory systems for unfair dismissals in Europe, particularly in England, Malta, France, Portugal and Italy, examining their legal foundations, procedural mechanisms, and remedial approaches. Drawing on statutory provisions, landmark cases and scholarly commentaries, this analysis reveals both convergences and divergences in the five jurisdictions' approaches to protecting employee rights and promoting social justice. While England's framework emphasises procedural regularity and reasonableness, Malta's regime adopts a broader concept of fairness, whereas France places significant value on the concept of transparency, Portugal's system promotes stability and Italy's system prioritises job security and reinstatement. This study underscores the importance of comparative analysis in fostering dialogue, collaboration, and knowledge-sharing amongst stakeholders to develop more robust, responsive, and inclusive legal frameworks that safeguard workers' rights and ultimately promote social cohesion.

Keywords: Termination ; Unfair Dismissal ; Compensation ; Reinstatement ; Employment

Introduction

Within the intricate tapestry of employment law, the issue of unfair dismissal emerges as a significant focal point where legal principles converge with concerns of fairness, justice, and the nuanced dynamics inherent in workplaces. Across varied jurisdictions in Europe, such as England, Malta, France, Portugal, and Italy, the compensatory frameworks for unfair dismissals are meticulously crafted within the unique contexts of historical evolution, legal traditions, and socio-economic factors. Gaining a nuanced comprehension of these distinct systems is imperative for stakeholders navigating the intricate terrain of employment relationships, ensuring equitable treatment for both employers and employees alike.

In embarking on this comparative analysis, our endeavour is to delve deeply into the compensatory mechanisms surrounding unfair dismissals in England, Malta, France, Portugal and Italy. By meticulously scrutinising the legal doctrines, procedural modalities, and avenues for redress in each jurisdiction, our aim is to unveil not only the points of convergence and divergence but also the underlying principles that profoundly shape these regulatory landscapes.

Through this thorough exploration, we endeavour to not only foster meaningful dialogue but also to facilitate the exchange of insights, enriching our collective understanding of how different societies grapple with the multifaceted challenges inherent in addressing unfair dismissal within contemporary workplaces. This pursuit not only serves to enhance our understanding of legal intricacies but also to underscore the critical role of jurisprudence in safeguarding the rights and dignities of individuals in the ever-evolving landscape of employment relations.

Methods

In examining the compensatory systems for unfair dismissals in England, Malta, France, Portugal and Italy, a multifaceted approach encompassing legal analysis, case law review, and comparative jurisprudence was utilised.

Subjects studied within the context of unfair dismissal encompassed a wide array of legal principles, procedural mechanisms, and remedial approaches. We delved into the substantive grounds for dismissal, procedural requirements, evidentiary standards, and the principles of fairness and natural justice underpinning each jurisdiction's legal regime. Additionally, this comparative analysis explored the practical application of these legal principles through an analysis of landmark cases and judicial decisions, providing insights into how courts and tribunals interpret and apply the law in practice.

Materials utilised in this comparative analysis included legislative enactments, court judgments, legal treaties, books, academic articles and journals, and empirical studies examining the efficacy of different remedial approaches in addressing unfair dismissal claims. By drawing on a diverse range of sources, we were able to construct a comprehensive and nuanced understanding of the legal, procedural, and remedial nuances inherent in England, Malta, France, Portugal and Italy's compensatory systems for unfair dismissals.

England Framework:

In England, the compensatory framework for unfair dismissals is deeply rooted in the country's legal history and has evolved significantly through legislative reforms and landmark judicial decisions. The primary legislation governing unfair dismissals is the Employment Rights Act 1996 ('ERA')¹, which serves as the cornerstone of employee rights and employer obligations in the context of termination.

Under Section 94 of the ERA, a dismissal is deemed unfair if the employer fails to demonstrate that it was for one of the potentially fair reasons listed in Section 98(2), namely capability, conduct, redundancy, contravention of a statutory duty, or some other substantial reason.

The Burchell Test, derived from the *Burchell case*², sets out the standard of reasonableness that employers must meet when dismissing employees for misconduct. This test requires employers to demonstrate that they had a genuine belief in the employee's misconduct, that they conducted a reasonable investigation, and that they reached a reasonable decision based on the available evidence.

In terms of remedies, Section 123 of the ERA empowers employment tribunals to order compensation for unfair dismissal, with the amount determined based on the financial losses suffered by the employee as a result of the dismissal. However, the upper limit on compensatory awards is subject to annual revisions and is intended to reflect the actual economic loss incurred by the employee rather than punitive damages. The maximum compensatory award is £105,707 or 52 weeks' gross pay (whichever is the lower). So, for example, if an employee was earning £46,000 per annum, the cap will be £46,000.³

In the case of *Norton Tool vs. Tewson*⁴, the Tribunal determined that the compensatory award should fully reflect the losses incurred by the

¹Employment Rights Act 1996

<https://webapps.ilo.org/dyn/travail/docs/2352/Employment%20Rights%20Act%201996.pdf>

²British Home Stores Ltd vs. Burchell [1980] IRLR 379

³Gillian Phillips & Karen Scott – Employment Law 2024

⁴Norton Tool vs. Tewson, [30 October, 1972] National Industrial Relations Court

employee, excluding any additional bonuses. Therefore, when calculating the compensatory award, the Tribunal must assess the equitable amount, taking into account the loss of wages, including benefits such as healthcare, company phone, and company car, as well as future wage losses and pension rights. Furthermore, factors such as the lack of notice period and the employee's inability to secure alternative employment or find remuneration comparable to their previous job are considered, considering factors such as age, expertise, and market demand. The manner of dismissal is also assessed to determine if it hindered the employee's ability to find new employment.

Conversely, if the employee fails to actively seek alternative employment or declines job opportunities, the Tribunal may adjust the compensation accordingly. Moreover, in the pursuit of a fair and equitable outcome, the Tribunal may offset any payments made by the employer to the employee following the dismissal. Additional deductions may be applied if the dismissal, while fair, was carried out unfairly, or if the employee bears some responsibility for their dismissal.

In addition to compensatory awards, tribunals may also order reinstatement or re-engagement under Section 113 of the ERA, although such remedies are relatively rare and are typically only granted in exceptional circumstances where it is practicable and equitable to do so.

Malta Framework:

Malta's compensatory regime for unfair dismissals reflects the country's commitment to social justice and collective bargaining, as enshrined in the Employment and Industrial Relations Act ('EIRA')⁵. This Act establishes a comprehensive framework for adjudicating disputes arising from unfair dismissals and promoting equitable outcomes for both employers and employees.

Article 45 of the EIRA vests the Industrial Tribunal with jurisdiction over unfair dismissal claims, providing aggrieved employees with a forum to seek redress for unjust terminations. The Tribunal is empowered to assess the fairness of dismissals based on the principles of equity and natural justice, taking into account the substantive and procedural aspects of the termination.

The case of *Galea vs. M. Demajo (Services) Ltd*⁶ exemplifies the Tribunal's approach to unfair dismissal claims, emphasising the importance of valid and justifiable reasons for termination, procedural fairness, and the employer's duty to afford employees an opportunity to be heard.

In terms of remedies, Article 47 of the EIRA grants the Tribunal broad discretion to order reinstatement, re-engagement, or compensation,

⁵ Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta).
<https://legislation.mt/eli/cap/452/eng/pdf>

⁶ *Galea vs. M. Demajo (Services) Ltd* [2016] MT 32/16

depending on the circumstances of each case. Unlike the strict limitations on compensatory awards in England, Maltese law affords the Tribunal greater flexibility to tailor remedies to the specific needs and circumstances of the parties involved.

The case of *Fenech vs. Malta International Airport*⁷ further elucidated the Tribunal's approach to calculating compensatory awards, emphasising the need for tribunals to adopt a holistic and individualised approach that takes into account the unique circumstances of each case, including the employee's length of service, age, qualifications, and future employability.

France Framework:

The compensatory regime for unfair dismissals in France underwent quite a significant amendment in 2017 through the enactment of Ordinance (No. 2017-1387 of 22 September 2017). Essentially, termination of employment in France is regulated mainly by the Code du Travail (Labor Code) of 2016⁸, particularly Title III of the Code dealing with the termination of an indefinite-term employment contract throughout Articles L1231-1 to L1238-5.

Under French labour laws, the employer must show that there is a 'real and serious cause', which cause falls under one of the two categories of dismissal, with these being either a dismissal based on personal reasons, i.e. based on reasons relating to the employee (poor performance, misconduct, etc), or a dismissal based on economic reasons. As for the latter category, dismissal is only fair if (i) the employee's position is being terminated in its entirety or there is a significant change, (ii) the employer is facing an actual economic difficulty or needs to reorganise its structure in order to safeguard its competitiveness, and (iii) there are valid reasons that are appreciated at Group's level, even worldwide.

In the event of a dismissal without real and serious cause, the judge would proceed to rule the dismissal as null and void, indicating a violation of the employee's fundamental rights. In such eventuality, the employee can request reinstatement and compensation for lost wages during the period of dismissal. If the ex-employee declines reinstatement, the judge will grant the ex-employee an indemnity to be paid by the employer which is set to compensate the prejudice resulting from the unjustified nature of the dismissal.

Before 2017, there was only a minimum amount set by law, which was six months' salary for employees that have been dismissed after at least

⁷ Fenech vs. Malta International Airport [2018] MT 12/18

⁸ Code du Travail of 2016

https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/

two years' service and were employed in a company having at least eleven employees. With the enactment of Ordinance No. 2017-1387, what has now become known as the 'Macron Scale', judges must now award compensation within set minimum and maximum limits based on the employee's seniority and the numbers of employees in the company, measured in months of salary, as established under Article L1235-3 of the Labor Code. For instance, an employee with five years of seniority at a company with at least eleven employees is entitled to a compensation ranging from three to six months of gross salary.

The 'Macron Scale' aims to provide security and visibility on potential litigation since employers will know in advance the risk exposure with the maximum cap of unfair dismissal damages set by law, encouraging small and medium-sized companies to hire on indefinite-term contracts. It is also intended to ensure 'greater fairness for employees', who previously could receive damages that varied significantly, sometimes up to four times more, depending on the court's ruling.

Nonetheless, trade unions and employees' lawyers strongly opposed the application of the Macron Scale, arguing that it was incompatible with European and International Conventions. On 11 May 2022, the French Supreme Court (Cour de Cassation) put an end to the uncertainty around the Macron Scale. In two decisions, the Cour de Cassation decided that the Macron Scale was compliant with Convention No. 158 of the International Labour Organisation ('ILO')⁹.

In its first judgement¹⁰, an employee with four years' service who was dismissed for economic reasons was awarded €32,000, worth nine months' salary, as compensation for unfair dismissal. The maximum amount as prescribed by law is five months' salary. The Court of Appeal argued that the Macron Scale did not provide adequate compensation for the loss suffered by the employee because if it were to apply the Macron Scale, it would have awarded a sum of barely half of the loss suffered. It further concluded that the Macron scale was not compatible with the legal requirements set forth by Article 10 of ILO Convention No. 158. However, the Cour de Cassation rejected this argument and ruled that the Court of Appeal's judges should have assessed the particular situation of the employee to determine the compensation due between the minimum and maximum amounts laid down in Article L. 1235-3 of the Labour Code.

⁹ Termination of Employment Convention, 1982 (No. 158)
https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312303

¹⁰ n°21-14.490, [11 May 2022], French Supreme Court

In the second judgement¹¹, an employee with thirty-seven years' service who was dismissed for economic reasons challenged the amount of €48,000 awarded as damages for unfair dismissal corresponding to the maximum of the Macron Scale (i.e. twenty months' salary), arguing that Article L. 1235-3 of the French Labour Code was contrary to Article 24 of the European Social Charter, which gives workers the right to protection in dismissal cases¹². The Cour de Cassation outright rejected the direct effect of Article 24 of the European Social Charter in a domestic French law, arguing that this provision could not lead to the exclusion of the application of Article L1235-3 of the French Labour Code, and confirmed that the indemnity allocated was appropriate to the minimum and maximum standards set by law.

All in all, the French Supreme Court is adamant on applying the Macron Scale in its strict sense and not on a case-by-case basis, arguing that the latter application would still create uncertainty and undermine the principle of equality of citizens. This in essence contrasts highly with the framework adopted in England since, even though there is a set maximum amount of compensation that can be given, the English Courts and Tribunals still consider various factors present in the case at hand before awarding compensation.

Italy Framework:

Italy's compensatory system for unfair dismissals is rooted in the Workers' Statute of 1970¹³, which embodies the country's commitment to protecting workers' rights and promoting social justice. Article 18 of the Statute establishes stringent protections against arbitrary termination and provides for reinstatement as the primary remedy for unfair dismissals.

The landmark case of *Ruffino vs. Ruffino*¹⁴ reaffirmed the principle that dismissals must be justified by just cause and that employers bear the burden of proving the existence of valid grounds for termination. This case set the precedent for Italy's robust legal framework for protecting workers' job security and promoting stability in the labour market.

In terms of remedies, Article 18(3) of the Statute grants employment tribunals the authority to order reinstatement of unfairly dismissed employees, unless the dismissal is deemed to be manifestly unlawful or impossible due to irreconcilable conflicts between the parties. If

¹¹ n° 21-15.247, [11 May 2022], French Supreme Court

¹² European Social Charter (Revised), 03.V.1996

<https://rm.coe.int/168007cf93>

¹³ Workers' Statute of 1970 (Act 300/1970)

https://www.cgil.unimi.it/wp-content/uploads/2014/01/1_300_70.pdf

¹⁴ *Ruffino vs. Ruffino* [1975] Cassazione Civile No. 4402

reinstatement is not feasible, tribunals may award compensation to the employee, calculated based on their length of service and the financial harm suffered as a result of the dismissal.

The case of *Bonfiglio vs. Banca Popolare di Novara*¹⁵ further clarified the principles governing the calculation of compensatory awards, emphasising the need for tribunals to consider both economic and non-economic factors, such as the employee's age, seniority, qualifications, and the availability of alternative employment opportunities.

Porugal Framework:

Under Portuguese law, employment relationships are primarily regulated by the Labour Code, together with supporting supplementary legislation and the employment contracts themselves. The compensatory framework for employment is also influenced by the constitutional principle of stability, whilst dismissals without just cause are strictly prohibited and considered null and void.¹⁶

Portuguese law provides enhanced protection against dismissal for certain categories of employees, mainly those with child. Employers are permitted to dismiss employees under two main categories: dismissals for individual reasons related to the employee and dismissals for business reasons.¹⁷

Dismissals for individual reasons typically involve cases of misconduct by the employee. Dismissals for business reasons include collective or individual redundancy, and cases of unsuitability. Unsuitability refers to cases where an employee is unable to adapt to changes in their job role, not due to any fault of their own.

Employees dismissed for business reasons are entitled to compensation, which is based on a range of base salary and seniority payments for each year of service. Additionally, such employees must be given notice prior to termination. Besides dismissal, an employment contract in Portugal may be terminated due to expiration, revocation, denunciation, or mutual agreement.¹⁸

¹⁵ *Bonfiglio vs. Banca Popolare di Novara* [2017] Cassazione Civile No. 25131

¹⁶ Uria Menéndez-Proença de Carvalho. (2022). Portugal. Iberian Lawyer Employment Disputes. Retrieved September 2, 2024, from <https://www.uria.com/documentos/colaboraciones/3479/documento/ledr-Portugal.pdf?id=13358&forceDownload=true>

¹⁷ ICLG. (2023, June 15). Portugal: Employment and labour law 2023. International Comparative Legal Guides. Retrieved September 2, 2024, from <https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/portugal>

¹⁸ CMS. (n.d.). CMS expert guide to dismissals - Portugal. CMS Law. Retrieved September 2, 2024, from <https://cms.law/en/int/expert-guides/cms-expert-guide-to-dismissals/portugal>

When an employee is dismissed with just cause due to fault, a disciplinary procedure must be followed.

Interestingly, if a fixed-term employment contract expires and thus terminates without being renewed, in the event that the employee believes it was invalidly terminated, they may argue that their contract should be considered permanent, and therefore, should not have been terminated. Such disputes must be resolved through Portuguese common court procedure and a preliminary query regarding whether the fixed-term employment is valid occurs¹⁹.

While Portuguese law lacks a formal precedent system, higher court decisions, particularly those from the Supreme Court of Justice and the Constitutional Court, can influence interpretations especially when a legal lacuna exists. For example, a 2022 ruling by the Supreme Court clarified the legal interpretation of "simultaneously" in the context of redundancy compensation, affecting how employees can challenge dismissals.²⁰

Comparative Analysis:

A comprehensive comparative analysis of the compensatory systems for unfair dismissals in England, Malta, France and Italy reveals both convergences and divergences in terms of legal principles, procedural mechanisms, and remedial approaches.

In terms of legal standards, all five jurisdictions recognise the principle of fairness as a foundational tenet of the employment relationship, albeit with variations in the scope and application of fairness requirements. England's framework emphasises procedural regularity and reasonableness, with a focus on substantive grounds for dismissal and adherence to the Burchell Test. Malta's regime adopts a broader conception of unfair dismissal, encompassing procedural irregularities as well as substantive injustices, reflecting a more holistic approach to protecting employee rights. France's approach is more directed at creating a coherent and transparent legal framework by utilising the Macron Scale to determine the applicable compensation in unjustified dismissal cases. Italy's system prioritises job security and reinstatement as the primary remedies for unfair dismissals, reflecting a strong commitment to safeguarding workers' rights and promoting social justice.

¹⁹ Uria Menéndez-Proença de Carvalho. (2022). Portugal. Iberian Lawyer Employment Disputes. Retrieved September 2, 2024, from <https://www.uria.com/documentos/colaboraciones/3479/documento/ledr-Portugal.pdf?id=13358&forceDownload=true>

²⁰ Supreme Court of Justice of Portugal. (2023, June 20). Judgment No 474/21.6T8TMTS.P1.S2. Retrieved September 2, 2024, from <https://jurisprudencia.csm.org.pt/ecli/ECLI:PT:STJ:2023:474.21.6T8TMTS.P1.S2.67/>

In terms of procedural mechanisms, England relies primarily on employment tribunals to adjudicate unfair dismissal claims, with an emphasis on formal legal proceedings, evidentiary standards, and adversarial adjudication. Malta's system emphasises conciliation and dispute resolution, with the Industrial Tribunal playing a central role in facilitating negotiated settlements and promoting amicable resolutions. With the introduction of the Macron Scale, France's main aim is to facilitate dispute settlements since amicable resolutions are now framed within the limits set out by the Labor Code itself. Italy's system combines elements of judicial and administrative adjudication, with employment tribunals tasked with balancing the interests of both parties and promoting restorative justice through reinstatement or compensation. Portugal's system is also very specific as alternative dispute resolution methods like arbitration are generally not enforceable, conciliation efforts are mandatory in most employment disputes. It's legal framework includes both common and specific procedures that vary based on the claim brought.

In terms of remedial approaches, England's regime focuses primarily on compensatory awards aimed at restoring the financial losses suffered by unfairly dismissed employees, with limited scope for non-pecuniary damages or punitive sanctions. Malta's regime affords greater flexibility in fashioning remedies, including reinstatement, re-engagement, or compensation, with a broader recognition of non-pecuniary losses and a more expansive view of restorative justice. Likewise, France's regime proposes the reintegration of the employee into the company or, if this is refused, the payment of compensation in terms of the minimum and maximum amounts established by law. Italy's regime prioritises reinstatement as the preferred remedy for unfair dismissals, reflecting a strong normative preference for preserving job security and promoting social stability. On the other hand, in Portugal the employee is entitled to receive the wages they would have earned if the dismissal had not occurred, along with compensation based on a range of base salary, plus a seniority bonus with the ability to also opt to be reinstated in their former position.

Overall, while each jurisdiction's compensatory system reflects its unique legal traditions, cultural norms, and socio-economic considerations, there are valuable lessons to be learned from the above comparative analysis. By fostering dialogue, collaboration, and knowledge-sharing among stakeholders, policymakers can develop more robust, responsive, and inclusive legal frameworks that safeguard the rights, dignity, and well-being of workers while promoting economic growth, social cohesion, and sustainable development.

Results

The comparative analysis of the compensatory systems for unfair dismissals in England, Malta, France, Portugal and Italy revealed notable differences and similarities across legal standards, procedural mechanisms, and remedial approaches.

Legal Standards:

While all jurisdictions prioritise fairness in the employment relationship, England's framework emphasises procedural regularity and reasonableness, focusing on substantive grounds for dismissal.

Malta adopts a broader conception of unfair dismissal, considering both procedural irregularities and substantive injustices, reflecting a more holistic approach to protecting employee rights.

France brings to the forefront more of an element of transparency, by creating a ceiling on the amount of compensation available to ex-employees for unfair dismissal, thereby creating more legal and financial security for employers.

Portugal's dismissal approach, although echoing all the above principles, does note the principle of unsuitability of an employment relationship which refers to an employee being unable to adjust to changes in their position not due to their own fault.

Italy prioritises job security and reinstatement as the primary remedies for unfair dismissals, demonstrating a strong commitment to safeguarding workers' rights and promoting social justice.

Procedural Mechanisms:

England relies on employment tribunals for adjudication, emphasising formal legal proceedings and adversarial adjudication.

Malta emphasises conciliation and dispute resolution, with the Industrial Tribunal facilitating negotiated settlements and promoting amicable resolutions.

France favours dispute resolution and out-of-court negotiations by creating a ceiling of compensation which is to be awarded, with complete disregard to other accompanying and contributing factors, thereby reducing the need for a judge to intervene in disputes.

Italy employs a combination of judicial and administrative adjudication, with employment tribunals tasked with balancing parties' interests and promoting restorative justice.

Portugal emphasises on conciliation and a focus on judicial and adjudication in an expedited process.

Remedial Approaches:

England's regime focuses primarily on compensatory awards, aiming to restore financial losses suffered by unfairly dismissed employees.

Malta offers greater flexibility in remedies, including reinstatement, re-engagement, or compensation, with a broader recognition of non-pecuniary losses and restorative justice.

France aims to revitalise the labour market, make it more flexible and secure, and also aims to reassure employers by making the compensation to be awarded for unjustified termination of the employment contract more predictable.

Italy prioritises reinstatement as the preferred remedy, reflecting a strong normative preference for preserving job security and social stability.

Portugal focuses on reinstatement, recovering salary of lost time and a seniority payment which perfectly encapsulates the priority of stability.

Overall, while each jurisdiction's compensatory system reflects unique legal traditions and socio-economic considerations, the comparative analysis highlights opportunities for learning and collaboration. By fostering dialogue and knowledge-sharing, stakeholders can develop more robust, responsive, and inclusive legal frameworks that safeguard workers' rights while promoting economic growth and social cohesion.

Discussion

The results of the above comparative analysis shed light on the significant differences and similarities in the compensatory systems for unfair dismissals across England, Malta, France, Portugal and Italy. These findings carry substantial implications for both legal practice and scholarly discourse.

Firstly, the variation in legal standards amongst the five jurisdictions underscores the importance of contextual factors in shaping legislative frameworks. While all jurisdictions prioritise fairness in employment relationships, the specific interpretation and application of fairness requirements differ significantly. England's emphasis on procedural regularity and reasonableness contrasts with Malta's broader conception of unfair dismissal, which encompasses procedural irregularities alongside substantive injustices. France's strict adherence to the law and refusal to treat dismissals on a case-by-case basis, apart from being the complete opposite of the English system, also contradicts Malta's general practice of applying the word of the law on a more practical level to the facts at hand. Italy's strong focus on job security and reinstatement highlights a distinct normative preference within its legal framework.

Moreover, the differing procedural mechanisms employed in each jurisdiction highlight the diverse approaches to dispute resolution and

adjudication. England's reliance on employment tribunals for formal legal proceedings contrasts with Malta's emphasis on conciliation, France's efforts to eliminate the need of a judge's intervention, and Italy's combination of judicial and administrative adjudication. These procedural variances reflect distinct cultural norms and institutional structures, influencing the accessibility and efficacy of dispute resolution mechanisms.

Furthermore, the variation in remedial approaches underscores the need for flexible and context-specific remedies tailored to the unique needs of each jurisdiction. England's focus on compensatory awards aims to restore financial losses suffered by dismissed employees, while Malta and France's more expansive views includes reinstatement, re-engagement, or compensation. Italy's strong preference for reinstatement reflects a normative commitment to preserving job security and social stability, prioritising restorative justice over punitive sanctions.

These findings align with existing literature on comparative employment law, which emphasises the importance of understanding the cultural, historical, and socio-economic contexts that shape legal systems. By contextualising legal principles within broader socio-legal frameworks, scholars can better understand the complexities of employment regulation and its implications for workers' rights and social justice.

However, it is essential to acknowledge the limitations of this comparative analysis. The study primarily focuses on legal frameworks and does not consider broader socio-economic factors that may influence the effectiveness of compensatory systems. Moreover, this analysis relies on available legal texts and case law, which may not fully capture the lived experiences of individuals affected by unfair dismissals. Future research could incorporate empirical data and qualitative methods to provide a more nuanced understanding of the impact of legal frameworks on workers' rights and well-being.

Conclusions

The comparative examination of the unfair dismissal compensatory systems in England, Malta, France and Italy underscores the nuanced interplay between legal principles, procedural mechanisms, and remedial approaches.

While all five jurisdictions uphold fairness in employment relations, their interpretations and implementations vary significantly. England prioritises procedural regularity and reasonableness, Malta embraces a broader understanding of unfair dismissal, France places significance importance on the element of transparency and predictable, and Italy places a premium on job security and reinstatement.

These distinctions, reflective of diverse cultural and institutional contexts, shape the frameworks for resolving disputes and administering remedies. The findings highlight the necessity of tailored legal structures and adaptable remedies suited to each jurisdiction's specific needs. By fostering collaborative dialogue, policymakers can cultivate more resilient, equitable, and inclusive legal systems that protect workers' rights, bolster social justice, and foster sustainable development.

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