10 Common Legal Mistakes Made by Foreign Employers in Italy



Common legal mistakes made by foreign employers in Italy can easily arise when navigating the complexities of Italian labor laws. At A.L. Assistenza Legale, we specialize in guiding businesses through these legal intricacies, ensuring full compliance and mitigating risks. In this article, we outline ten frequent errors that foreign employers make. By understanding and avoiding these pitfalls, you can safeguard your company against fines, legal disputes, and reputational damage. Let A.L. Assistenza Legale be your trusted partner in upholding legal standards and regulations. fostering a harmonious and safe work environment, and bypassing common legal mistakes in Italy.

Mistake 1: Misclassification of Workers

Foreign employers often misclassify employees as independent contractors to avoid providing benefits, even though most labor contracts in Italy are open-ended. Fixed-term contracts are only allowed for justified reasons and cannot exceed 20%

of total open-ended contracts within an organization. These contracts are for specific, short-term projects lasting up to 12 months and extendable to a maximum of 24 months under Law Decree Number 85/2023. Independent contractors control their work hours and do not receive benefits, and employers are exempt from payroll taxes. Therefore, misclassifying workers can lead to significant fines, tax penalties, and criminal charges.

Mistake 2: Non-Compliance with National Collective Labor Agreements

Rather than simply instating a fixed minimum wage, employers must follow National Collective Labor Agreements (CCNLs), which set industry-specific minimum wages and working conditions and are binding for employers registered with trade unions.

Even employers not involved with trade unions must ensure wages are proportionate and adequate as per Article 36 of the Constitution of the Italian Republic. A wage is deemed proportionate if it aligns with CCNL standards for the employer's economic category. Violating CCNL terms can result in serious legal consequences facing the employers.



Mistake 3: Ignoring Mandatory Employee Benefits

Employers must adhere to the employee benefits outlined in their CCNL such as paid leave, maternity leave, and severance pay. Although employment contracts can agree to more time, most CCNLs require a minimum of four weeks of paid time off per year. Statutory sick pay in Italy covers up to 180 days per year through social security, with the first three days usually paid by the employer. Mothers and fathers are also entitled to maternity and paternity leave, receiving five months and 10 days of compulsory paid leave, respectively. Additionally, employees are entitled to severance pay regardless of termination grounds. CCNLs may also mandate other paid leaves (education, marriage, family, etc.), emphasizing the importance of adhering to these benefits requirements.

Mistake 4: Inadequate Health and Safety Measures

Overlooking the rigorous health and safety regulations required by Italian law can cause serious legal issues. Most of the health and safety measures fall under Law Decree Number 81/2008 and are a mix of EU legislation and national laws.



Employers are legally responsible to provide a safe and secure workspace and getting National Institute for Insurance Against Accidents at Work (INAIL) coverage. A breach in health and

safety laws can result in fines up to €8,000 and criminal liability.

Mistake 5: Failure to Register Employees Properly

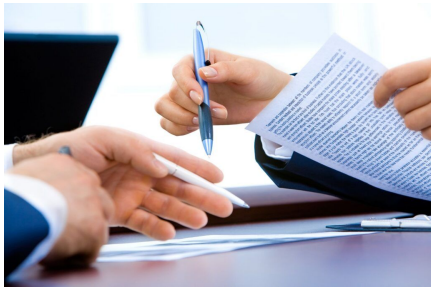
Employers are fully responsible for enrolling employees with the Italian social security system (INPS) and the Revenue Agency for Italian income taxes and INAIL. Proper registration of employees is crucial to avoid legal and financial penalties.

Mistake 6: Non-Compliance with Working Hours and Overtime Rules

Not adhering to laws regulating working hours, rest periods, and overtime pay can lead to legal trouble for employers. In Italy, the standard full-time work week is 40 hours, and an employee cannot be contracted to work more than an average of 48 hours per week (including overtime) or 8 hours per day (Article 4 of Law Decree No. 66). Workers are also entitled to at least 11 hours of rest between shifts. While CCNLs usually dictate sector-specific overtime rules, the statutory limit is 250 hours per year with overtime pay at least 10% above the standard rate (Article 5 of 11 Royal Law Decree No. 692). Full observance of the law ensures fair working conditions and avoids legal repercussions.

Mistake 7: Lack of Written Employment Contracts

Despite the allowance for oral agreements under Italy’s labor laws, having a



written employment contract is crucial. Key information like salary, work hours,

and other terms must be documented within 30 days of the start date. A written co

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Mistake 8: Inadequate Employee Termination Procedures

Compared to other countries around the world, Italian law grants employees comprehensive protection against termination from employers. Improperly handling employee terminations without just cause or without following due process can lead to acute economic consequences. Some examples of just cause include breach of contract, abuse, criminal offenses, and fraud. The cause of termination, however, does not affect severance pay for employees. Therefore, employers must carefully abide by the law to avoid harmful andcommon legal mistakes.

Mistake 9: Non-Compliance with Data Protection Regulations



In order to secure employees' personal data and safeguard against data breaches, employers must adhere to the EU General Data Protection Regulations (GDPR) and the Italian Personal Data Protection Code.

For instance, employers need to provide data subjects with a clear picture of personal data processing and evaluate risks to rights and freedoms of their employees. They must also

avoid processing information not relevant to employees' professional capabilities. Many foreign companies risk violating GDPR and the Code by design or default, emphasizing the urgent need to verify that data handling processes are secure and lawful.

Mistake 10: Lack of Employee Training and Development

Under Italian labor law, employees have the right to training and development to advance their skills. Employers are often required to design and implement training programs that align with regulations and meet industry standards, such as safety protocols. Additionally, since 1973, all workers have had the right to paid leave to take study courses that can be unrelated to their current job. Neglecting to provide necessary training and professional development opportunities required by law can induce criminal charges.

Avoid Common Legal Mistakes with A.L. Assistenza Legale

With A.L.'s expert legal guidance, you can ensure full adherence to Italian labor laws, safeguard your business interests, and create a fair and compliant work environment for your employees. Reach out to us to prevent common legal mistakes and secure your business's legal standing.