Differences Between The United States and Italian Labor Laws

Introduction

The United States and Italy have varying labor laws that create many different working environments. Labor laws in the United States are more centric around the employer, where Italy has agreements and contracts in place to protect the employee. There are many differences in labor laws between the United States and Italy, and it is all surrounding the way employees are protected and ensured.

Employee Protection – Minimum Wage and Paid Overtime

The United States has the Fair Labor Standards Act (FLSA) in place to establish minimum wage requirements, overtime pay rules, record-keeping standards, and youth employment standards. This act is to protect employees in private sectors, and Federal, State, and local governments. Exempt employees, who are on a salary, are not subject to the FLSA, and nonexempt employees, who are paid hourly, are subject to the FLSA.

The Fair Labor Standards Act sets the national minimum wage at 7.25 US Dollars per hour, 6.40 Euros. States may have a separate minimum wage from the government. If the state minimum wage is higher than the federal minimum, employees are entitled to the higher wage. The average minimum wage, amongst all states and the District of Columbia, is 10.77 US Dollars per hour, 9.56 Euros. Under the FLSA, employers who meet specific conditions can apply a tip credit, allowing them to pay tipped employees a lower base wage if their total earnings meet or exceed the minimum wage. The minimum wage for this type of employment is 2.13 US Dollars per hour, 1.89 Euros.



Nonexempt employees receive overtime pay for working over 40 hours within a workweek. Their overtime pay is at a rate greater than one and a half times their regular pay rate. Employees who are 16 years or older have no limit to the number of hours they may work within a workweek. Overtime pay, however, is not required for work performed on weekends, holidays, or regular days of rest unless such work exceeds the standard working hours and qualifies as overtime.

Italy has Guideline 957, 2018 in place to ensure equal treatment to workers concerning maximum work periods, minimum duration of paid leave, salaries, including overtime rates, conditions for the supply of the workers, safety, accommodations, and reimbursement. However, outside of this, most contracts and employee rights are set by collective agreements and bargaining, creating agreements between the employee and the employer.

In Italy, there are regulations regarding wages. These regulations are governed by Legislative Decree 66/2003 and

national collective bargaining agreements. This decree and bargaining agreements determine what the minimum wage is, instead of it being statutory.

Legislative Decree 66/2003 and collective bargaining agreements also determine working hours and overtime conditions. The standard legal working hours are 40 hours a week, with a maximum of 48 hours including overtime. In the absence of specific collective bargaining provisions, the statutory maximum overtime is 250 hours annually. Overtime pay is also typically between the range of 30-50% above the regular wage.

Employee Protection – Leave

The Family and Medical Leave Act (FMLA) was put into place by the United States in 1993. The act gives eligible employees the right to take unpaid, job-protected leave for specific reasons with the continuation of health insurance coverage under the same terms and conditions as if the employee had not taken leave. Employees covered under the FMLA must have worked for their employer for at least 12 months and worked at least 1250 hours for their employer in the last 12 months.

When taking leave, employees are entitled to 12 workweeks of unpaid leave in 12 months for the birth of a child and to care for a newborn within 1 year of birth, new placement of a child for adoption or foster care within 1 year of placement. Caring for an immediate relative with serious health conditions, having a serious health condition that prevents the employee from effectively doing their job, or exigencies that come from the employee’s immediate relative that is a covered military member of “covered active duty,” also are included in the Family Medical Leave Act. While these are the standard reasons for taking FMLA leave, an employee may also take up to 26 workweeks within 12 months to care for a covered service member with a severe injury or illness.



In contrast, Italian employees have leave entitlements that include sick leave, maternity leave and paternal leave, parental leave, family care leave, and study leave. Sick leave can extend up to 180 days, although it may vary depending on the collective bargaining agreement. During this time pay is partially covered by social security and often supplemented by employers.

Families in Italy have mandatory maternity leave, optional parental leave, and compulsory paternity leave. Mandatory maternity leave is a total of 5 months and can be availed 3 months before birth. This leave is paid 80% by social

security, with many collective agreements to ensure the remaining 20%.

Optional parental leave can last up to 10 months total and can be extended to 11 if the father takes at least 3 months of leave. Optional parental leave is generally compensated at 30% salary until the child is 6 years old. Compulsory paternity leave is 10 working days, fully paid by INPS.

In addition to parental leave, employees are also entitled to family care leave and study leave. Under Law 104/92 employees are granted up to 3 days per month paid at 100% to care for a severely disabled family member. Study leave is also available to the employee, and they can take up to a total of 11 months unpaid throughout their career.

The last main type of leaves is carried forward leaves. These types of leave are unused times that may be carried forward to the following year. Typically, employees must request to carry forward unused leaves, but it is not required that the employer grants the request. Unused leave must usually be used within 18 months of the end of the year it accrued.

Social Security

The Social Security Act of 1935 was enacted in the United States to create a social insurance program designed to pay retired workers a continuous income after retirement. The purpose of Social Security is to replace a percentage of the worker’s pre-retirement income based on lifetime earnings. When people work, they pay taxes to Social Security. These tax dollars are used for retired workers, workers with qualifying disabilities, survivors of deceased workers, dependent spouses, and children of beneficiaries. When people start Social Security benefits at or past the age of 67, they will receive full benefits. If they start at the age of 62, which is considered early retirement, they will receive reduced benefits.

In Italy, the social security system is contributory and mainly managed by Istituto Nazionale di Previdenza Sociale (INPS), providing pensions for retirement, disability, survivors, and social assistance. Employees pay a part of their income to one of the national social security schemes. Employers also pay a contribution to the system on behalf of the employees. The center of the Italian welfare state is the INPS. The INPS offers services and social benefits and specializes in four micro areas: Pension and welfare, work, support, subsidies and allowances, and enterprises and freelancers.

To receive an old age pension, the person must have worked in Italy and contributed to the Istituto Nazionale di Previdenza Sociale for a minimum of 20 years, and the age minimum is 67, subject to potential adjustments based on life expectancy. Long-service pensions, invalidity allowances, disability pensions, survivors' benefits, and social assistance pensions are all offered in the system.

Workers Unions

Collective bargaining agreements are established between union members and employers in the United States. This bargaining is the process in which workers, through unions, negotiate with employers to create terms and conditions of employment, including wages, benefits, and working conditions.

The Labor-Management Reporting and Disclosure Act of 1959 manages the relationship between union officials and employers. The act protects union funds and promotes democracy within unions by requiring labor organizations to file annual reports, file specific labor-related practices, and create standards for the election of union officers.

The National Labor Relations Act (NLRA) gave employees the right to organize and bargain collectively with their employers through representatives of their choosing. The act

applies to those who act as employers or direct or indirect agents of employers.

Government or union employers, companies that have a municipal function, religious schools, and healthcare workers are not covered by the NLRA. The act also typically covers the rights of employees. The NLRA gives employees the right to: Self-organization and bargain collectively, hold provisions on the requirements for union-security agreements, gives the right to strike, picket, and select employee representatives, defines unfair labor practices, and protects concerted activity.



Italy, like the United States, has collective agreements. In Italy, national collective agreements govern the labor relations between companies and employees in a unified manner – representing collective interest.

In the Italian Constitution, Article 39 guarantees trade union freedom. Trade unions are assigned active roles in the discipline of employment relationships and industrial relations. All employees are entitled to join a trade union association which can be established both externally, representing the entire industry, and internally, within the company. Employers can also create and join trade unions or associations of employers.

Unions in Italy are structured based on a dual organizational line, vertical and horizontal. Vertical, sector-specific unions affiliated with their field of work and are part of larger confederations that represent all sectors. Horizontal is when unions are organized at a local/provincial, regional, and national level. The major trade union organizations are the Confederazione Generale Italiana del Lavoro (CGIL), the Unione Italiana del Lavoro (UIL), and the Confederazione Italiana Sindacati Lavoratori (CISI). These major unions actively negotiate on coprotae decisions such as restructuring or closure, ensuring workers' rights and participating in industrial relations.

In unions, Residenza Sanitaria Assistenziale (RSA), members appointed directly by the territorial trade union associations, and Rappresentanze Sindacali Unitarie (RSU), members that are elected directly by the employees, have specific rights. If a company is willing to transfer the staff representative from one place to another, it must obtain the consent of the trade union, and if this is not done, the measure is considered unfair. Staff representatives are also granted special protection against dismissal and unfair treatment.

Severance and Termination

One of the most prominent differences between Italian and United States labor laws is severance and termination.

The United States has “at-will” employment, except for Montana. This saying means that an employer or employee can end the employment relationship at any time, for any reason. However, the reason cannot be illegal, which includes discrimination based on race, sex, age, national origin, disability, retaliation for reporting illegal workplace practices, and refusing to conduct illegal activities. An exception to this is if the employee is under a signed contract, if it goes against a collective bargaining agreement, and if it is part of a public sector.

If an employee is let go by their company, they may be given a severance package, which typically includes financial compensation, continued benefits, and job placement assistance. It is common for employees to be offered a severance package, but it is not a requirement under the Fair Labor Standards Act. Employees may also receive unemployment benefits from the government, which is funded by the employers’ taxes. Unemployment benefits provide insurance that pays the employee money if they lose their job through no fault of their own. These benefits are set by the state. To qualify for unemployment benefits the states may require that the employee earn a certain amount of money within the past 12-24 months, work consistently for the last 12-24 months, and look for a new job.

Italy has more laws and agreements in place that regulate employee termination and severance. The grounds for termination must be justified by specific reasons including just cause, subjective justified reasons, and objective justified reasons.



The reasoning for just cause termination is when an employee engages in gross misconduct that makes it impossible to continue the employment relationship. Subjective justified reasons are when the employee breaches a contractual obligation, or the employee negligently performs their duties. Lastly, there are objective justified reasons related to technical, production, or organizational factors which must be proven by the employer.

In contrast, the grounds for dismissal of an executive are wider than the ones for other employee categories due to their relationship with the company and the relationship between the executive and employer.

When there are at least 5 dismissals served by the employer in 120 days, it is considered a collective dismissal or redundancy. When this occurs, the employer must consult with the trade unions. The notice must include the reasons for redundancy, reasons for why they cannot adopt suitable measures to resolve the situation, the details of their

employees, prospective timeframes to implement the collective dismissal plan, possible measures to address the occupational consequences of the dismissal plan, and calculations for all types of economic awards in addition to those provided by the law or the National Collective Bargaining Agreement (NCBA). If the company and the trade union do not reach an agreement within the maximum 75-day period, or if they do come to an agreement earlier, the employer may continue with the dismissal of the redundant employees by providing the required notice period.

Regardless of the reason for termination, employees in Italy are entitled to Trattamento di Fine Rapporto (TFR), a severance payment gained annually throughout their employment. The amount of TFR varies depending on the employee's salary and length of service. The amount of TFR is typically about 7.5% of the total salary during the entire employment period.

Summary

The main differences between the United States and Italy's labor laws center around employee protections and guarantees. U.S. regulations allow more employer discretion and fewer mandatory benefits regarding termination and paid leave. Italy provides stronger protections through collective bargaining and robust unions, emphasizing the employer-employee relationship and job security.

There are more labor laws in place to protect employees and their position within a company in Italy. They have requirements for severance that the U.S. does not. In Italy, an employee can only be dismissed for specific reasons while the U.S. has "at-will" employment. When an employee released in Italy, they must be given a severance package and notice, which is not required in the U.S.

The concept of paid leave is a foreign concept in the U.S. In the U.S. employees are given 12 work weeks of leave in 12

months, but without pay. In Italy, there are separate types of leave that have different classifications and executions, including paid leave.



All labor laws that protect employees and ensure job security come from the strong unions that create collective agreements between employees and companies. These agreements set up minimum wage, working hours, benefits, and termination procedures. Although the U.S. has workers unions and collective agreements, they are not as popular or strong as the unions found in Italy.

In all, the United States has acts and labor laws that govern the operation of companies, but they are not closely regulated. Most of the power is given to employers and companies. The U.S. does not have strong employee protection like Italy. Italy may not have as many explicit Acts or laws in place, but they have strong agreements and contracts that protect the employee and ensure job security.

For any individuals or businesses navigating labor laws, we at A.L. Assistenza Legale, can help provide guidance which can be essential in protecting your rights and maximizing worker protection. Our team of experienced professionals in labor laws can provide helpful and expert guidance and advice in various aspects, including labor disputes, contractural management, employment regulations, and many more. We are here to offer support in any way, so contact us today to learn more about how we can support your legal needs.

Madeleine Kiel