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# WORKATION IN: ITALY

Overview of Mandatory Employee Protection Law



# Workation in: Italy – Mandatory employee protection law

In a connected world, mobile delivery of work performance is becoming increasingly more common. The most popular phenomenon here is probably the so-called "workation". When employers allow work from abroad, it is not uncommon for mandatory employee regulations to be ignored, regularly unintentionally and out of lack of knowledge.

However, according to Art. 8 (1) 2 and Art. 9 (1) Rome I Regulation, mandatory employee regulations must be taken into account. Usually, these concern personal occupational health and safety law enacted in the public interest for reasons of public welfare.

When allowing an employee to work temporary in **Italy** the following Italian mandatory regulations are to be observed by any employer based in an EU member state regardless of the applicable laws in that state and any contractual choices of law.

The following list is only intended as an overview and cannot replace a specific case assessment.

**1. Minimum wage** In Italy there is no minimum wage set by law. The Italian Constitution establishes that the worker has the right to a salary which is proportionate to the quantity and quality of work performed. In Italy they are collective agreements that indicate the minimum wages to be paid to workers (they therefore vary according to the sector and the NCBA applied).

**2. Minimum paid leave** Workers are entitled to four weeks of paid leave per year, two of which must be taken within the year of accrual and must be consecutive, and the remaining two to be taken within 18 months after the end of the year of accrual. Collective agreements may provide for additional holidays and recognise days of paid leave.

**3. Public holidays** In Italy there are 12 paid public holidays, 11 of which apply nationwide and one that varies according to the saint patron day of the municipality where the work is carried out.

Name	Date	Scope of application
<b>New Year</b>	January 1st	nationwide
<b>Epiphany (Epifania)</b>	January 6th	nationwide
<b>Easter Monday (Pasquetta)</b>	Monday after Easter	nationwide

<b>Liberation Day (Festa della Liberazione)</b>	April 25th	nationwide
<b>May Day/Labor Day (Festa dei lavoratori)</b>	May 1st	nationwide
<b>Republic Day Anniversary (Festa della Repubblica)</b>	June 2nd	nationwide
<b>Assumption Day (Ferragosto)</b>	August 15th	nationwide
<b>All Saints' Day (Tutti i Santi)</b>	November 1st	nationwide
<b>Feast of Immaculate Conception (Immacolata Concezione)</b>	December 8th	nationwide
<b>Christmas Day (Santo Natale)</b>	December 25th	nationwide
<b>Boxing Day (Santo Stefano)</b>	December 26th	nationwide
<b>Patron Saint's day (Santo Patrono del comune della sede di lavoro)</b>	Varies according to the municipality where the work is carried out.	nationwide

#### **4. Maximum working time**

The normal working time amounts to 8 hours a day for a maximum of 40 hours per week. However, it is always necessary to refer to the applicable NCBA, some contracts provide for less than 40 hours per week. The maximum working time is set by the NCBA, but the average working time cannot in any case exceed 48 hours per seven-day period, including overtime.

#### **5. Minimum rest periods**

Workers are entitled to a daily rest period of not less than 11 consecutive hours every 24 hours. Workers are also entitled to a weekly rest period of at least 24 consecutive hours every 7 days, normally coinciding with Sunday.

#### **6. Occupational safety laws**

In Italy, there is important legislation on health and safety in the workplace. The law requires the employer to fulfil a number of obligations (e.g. risk assessment, appointing the Head of the Risk Prevention and Protection Service). In general, the employer must minimise risks to the safety of workers and protect the physical integrity and moral personality of employees.

#### **7. Maternity Protection provisions**

Employers must also observe the following maternity protection provisions:

It is forbidden to use pregnant workers for transport and heavy lifting, dangerous, strenuous and unhealthy work. It is forbidden to employ women from the beginning of pregnancy and until the child is one year old to work from midnight until 6 a.m. It is forbidden to dismiss the mother and the father from the beginning of pregnancy and until the child is one year old. Pregnant or nursing employees are obliged to abstain from work for a period of five months. Moreover, in the case of special working conditions, of the state of the pregnancy or depending on the duties performed, the period of leave may be extended by bringing forward the start of the leave. In addition to the compulsory leave, the employee is entitled to a period of parental leave of up to 6 months for the mother (10 months maximum for both parents, extendable to 11 months in particular cases). During the first year of the child's life, the mother is entitled to paid daily rest periods, which, depending on working hours, may amount to 1 hour or 2 hours per day. The father is obliged to abstain from work for a period of 10 working days from two months before the expected date of birth until three months afterwards. The father may also take parental leave.

#### **8. Protection of young people at work**

Adolescents (those who have not turned 18) workers may be employed if they are at least 16 years of age and have completed their compulsory education (for some types of contracts it is possible to employ adolescents who have turned 15). The legislation indicates a number of jobs that cannot be performed by adolescents. Adolescents must undergo a pre-employment medical examination to ascertain their suitability for work. They also have a series of rights concerning the performance of work activities: the maximum working time cannot exceed 8 hours per day and 40 hours per week, in general they may not be assigned to night work, they are entitled to intermediate rest periods of at least 1 hour (interrupting the work performance) and they must have at least 2 days of rest per week.

#### **9. Anti-discrimination provisions**

As in any EU-member state, employees working in Italy are protected by the European anti-discrimination provisions as well as the corresponding Italian provisions. These provisions require the equal treatment of employees of different genders, religions, nationalities, social and cultural back-grounds, ages, and sexual orientations. Furthermore, it is forbidden to engage in discriminatory acts on the basis of the type of employment contract (part-time, fixed-term, apprenticeship).

#### **10. Reporting obligations to authorities when taking up work**

Register the company with INAIL (National Insurance Agency for Accidents at Work), the body that manages compulsory insurance against accidents and occupational diseases.

Register the company with INPS (National Social Security Agency), which collects contributions, pays pensions and manages income support services (sick and maternity leave, layoffs, etc.).

Notify the hiring of the worker to the Employment Agency.

**11. Miscellaneous** In Italy, the law often sets legal limits (mandatory in "peius") that collective bargaining can change. Therefore it's necessary not only to comply with the acts issued by the legislative sources but also with the NCBA, which vary according to the business sector to which the company belongs and the unions that sign it.

Feel free to contact us if you have any questions about Italian labour law.

# CONTACT

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