

Compliance Risks and Prevention in the Recruitment Process of Enterprises

Xinyi Yang*

Anhui University of Finance and Economic, Bengbu, China

*Corresponding Author

Abstract

With the rapid development of the market economy, small and medium-sized enterprises play a crucial role both domestically and internationally. While focusing on business growth, effective corporate management has become a key area of research, integrating material resources, financial resources, and information resources with recruitment strategies, as well as avoiding legal issues in business operations and recruitment processes. This study aims to systematically elucidate the nature and causes of legal risks in corporate recruitment, and on this basis, explore and analyze how companies can prevent and manage legal risks during the recruitment process to identify strategies and methods for reducing and avoiding these risks.

Keywords

Enterprise Recruitment; Legal Risk; Risk Management.

1. Overview of Compliance Risks in the Recruitment Process of Enterprises

1.1. Risk Prevention Tools and Functions in the Recruitment Process of Enterprises

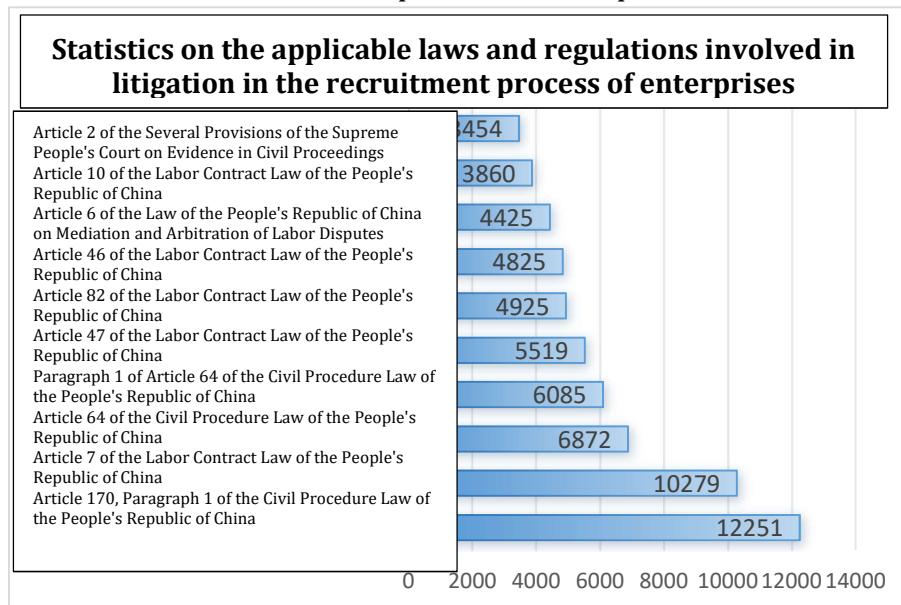
In recent years, with the rapid development of China's economy, competition among enterprises has become increasingly fierce. In this competition, the struggle for talent has become a core issue. "Most companies focus primarily on talent cultivation and team quality improvement in human resource management, while paying insufficient attention to the recruitment process, especially the necessary emphasis on preventing potential risks during recruitment. This leads to certain risks when recruiting personnel, sometimes even bearing unnecessary risks" [1].

Therefore, enterprises should comprehensively promote the efficient development of human resources recruitment in the recruitment process, so that the enterprise recruitment work can achieve the goal of comprehensive innovation, optimize talent reserve, and improve the core competitiveness of the enterprise [2].

1.2. Compliance Risks in the Enterprise Recruitment Process Reflected by Judicial Practice

The author used the "Handle Case" platform for searching, with the search conditions being "Case Reason = Labor Dispute / Personnel Dispute" and "This Court's Opinion = Recruitment." The number of judgments screened out was 53,078, most of which were labor dispute cases. This aligns with the scenario in recruitment processes, as personnel disputes often occur after successful employment. Although the author's screening process was relatively rough, it still sufficiently demonstrates the significant compliance risks present in the recruitment phase of companies. It also reflects the compliance risks generated by different types of recruitment processes.

Table 1. Statistics on the applicable laws and regulations involved in litigation in the recruitment process of enterprises



1.2.1. Compliance Risks under the Recruitment Publicity Link

Companies improve cost control by optimizing human resources recruitment management, enhancing the efficiency and accuracy of hiring. The entire process of a company's recruitment activities—from formulating recruitment plans, posting job advertisements, screening candidates to finally hiring employees—invokes significant cost investments at each stage. Any mistake in this series of processes can lead to an overall increase in the company's recruitment costs. A prime example is the case of Yan Jialin v. Zhejiang Sheraton Resort Co., Ltd., where the court ruled that when a worker submitted two resumes to an employer, both were rejected due to the applicant being from "Henan." Refusal on the grounds of inappropriateness clearly indicates that during the recruitment process involving the worker, the employer used the geographical origin as a criterion to categorize people and then treated the worker less favorably than others under normal circumstances, i.e., refused to hire them. This can be considered differential treatment by the employer based on the factor of being "from Henan" [3].

1.2.2. Compliance Risk in the Investigation Process

In the process of evaluating job applicants, companies also face a series of compliance risks. In the labor contract dispute between Pan Jianfeng and Lexing Power Generation (Wuxi) Co., Ltd., Lexing Company failed to review the employee's application materials, leading to a ten-year-long employment relationship. The employee had developed trust in the ongoing performance of the labor relationship and had reasonable grounds to believe that the employer would not terminate the relationship based on the educational qualifications stated in the application materials. Therefore, the employer's decision to "terminate at any time" according to the Employee Handbook not only avoids the company's fault in material review but also lacks reasonableness. The court of first instance was not wrong in concluding that the dismissal was illegal in light of other facts [4].

The development of enterprises requires the support of high-quality talent. By implementing risk prevention during the recruitment process, companies can better assess the qualities and capabilities of candidates. Conversely, if the quality of applicants varies widely, it may pose certain risks to the company. In addition, due to the abundant human resources in China, the labor market has seen an oversupply situation. This leads some recruiters to exhibit a sense of

superiority and arrogance during the hiring process, which can negatively impact public perception of the company and hinder its development^[5].

1.2.3. Compliance Risk after Employment

After the recruitment promotion and evaluation are completed, it does not mean that the recruitment process is over; on the contrary, compliance risks still exist. In the second-instance civil judgment of the labor dispute between Shenyang Sufute Software Development Co., Ltd. and Wang Tianle, the court held that Article 10 of the "Labor Contract Law of the People's Republic of China" stipulates that when establishing a labor relationship, a written labor contract shall be concluded. If a written labor contract has not been concluded simultaneously after establishing a labor relationship, a written labor contract shall be concluded within one month from the date of employment. If an employer and an employee conclude a labor contract before the start of employment, the labor relationship is established from the date of employment. According to this provision, the use of labor It is the legal obligation of an entity to conclude a labor contract with its workers ^[6].

After being formally hired, employees may undergo training according to the company's regulations to enhance their overall quality and capabilities, as well as the company's competitiveness. However, current employee training in companies carries several risks. The main reasons for these risks are twofold: first, an unreasonable training system with outdated formats that prevent employees from improving their skills through training; second, the training content does not align with the actual business operations ^[7].

2. Compliance Risks in the Recruitment Process of Enterprises

2.1. Information and Communication Risks

When recruiting relevant personnel, enterprises need to pay attention to the release of recruitment information, so that it conforms to legal norms, avoid the occurrence of textual ambiguity, resulting in legal risks. If an employer cancels an offer without justifiable reasons after a candidate has received a job offer letter, or decides not to hire the candidate due to issues found during the background check, medical examination, etc., the employer may be liable for corresponding compensation. An offer letter issued by an enterprise to a candidate indicating the intention to establish an employment relationship cannot substitute for an employment contract.

Case: Company A issued an offer letter to Zhang on November 12, 2018. The offer letter stated that Zhang would hold the position of office assistant, with a probation period of 2 months, a monthly salary of 4,500 yuan during the probation period, and a monthly salary of 5,000 yuan after regularization. After Zhang joined the company, no employment contract was signed. After Zhang submitted his resignation, his employment relationship with the company terminated on April 28, 2019. Subsequently, Zhang filed an arbitration with the labor dispute arbitration committee, demanding that his former employer pay double the salary for the period from December 12, 2018, to April 30, 2019, due to the failure to sign an employment contract. On August 14, 2019, the arbitration committee made a ruling: Company A was required to pay the respondent the difference in double the salary for the period from December 12, 2018, to April 30, 2019, due to the failure to sign an employment contract. The court pointed out that once an employment relationship is established between an employer and an employee, a written employment contract should be signed, and the written employment contract must contain the necessary clauses required by law. Since no employment contract was signed between the plaintiff and the defendant, the offer letter cannot replace the function of an employment contract. The court ruled that Company A should pay the employee double the salary per month starting from the second month of employment. In this case, Company A only signed an offer letter with the candidate, and did not sign an employment contract. Although the offer letter

also clearly specified the candidate's salary payment, work arrangement, etc., it cannot replace the existence of an employment contract. Signing a written employment contract is a mandatory requirement of the law for both employers and employees, and it is also an obligation that employers should fulfill. If a written employment contract is not concluded, the employer needs to pay the employee double the salary per month starting from the second month of employment. Enterprises must carefully review the content of the offer letter before issuing it, and sign an employment contract with the employee in a timely manner to avoid legal disputes.

An offer letter is a notification from the employer to the intended candidate after comprehensive testing and interviews. It typically includes clear information about the position, salary, benefits, and onboarding procedures, all in compliance with relevant laws and regulations. If an offer letter issued by a company contains ambiguous or non-compliant content, it may lead to legal disputes.

2.2. Legal Compliance Risks

When companies recruit externally, the review of application materials should be comprehensive and meticulous to ensure that the information provided by job seekers is true and valid. If a company fails to carefully examine the application materials, leading to false information from job seekers, it may pose potential risks to the company. This situation can make it difficult for the company to obtain effective talent support in subsequent development, resulting in recruited employees failing to meet the actual needs of their positions. Consequently, this leads to waste of human resource costs and economic losses^[8], reducing the company's market competitiveness.

2.3. Labor Contract Management Risks

It is crucial for companies to arrange probation periods in strict accordance with the rules and regulations of the law.

Amending employment contracts must be based on the principles of equality, voluntariness, and mutual agreement. If a company unilaterally changes the terms of an employment contract without the employee's consent, this practice may infringe upon the employee's legal rights and trigger labor disputes. Performance management systems are crucial for enhancing employee efficiency; therefore, establishing a comprehensive incentive evaluation system has become an essential part of current recruitment efforts^[9].

3. Causes of Compliance Risks in Enterprise Recruitment

3.1. Enterprises Have a Weak Sense of Legal Prevention

During the recruitment phase, many companies have a flawed understanding of legal norms, which in turn harbors various risks associated with compliance. In the process of hiring talent, companies often find themselves in trouble due to non-compliance with legal standards, causing unnecessary troubles and damage. The lack of legal awareness can be seen in many aspects. To address these issues, on one hand, corporate human resource management teams need to enhance their legal risk awareness, establish professional legal advisory teams, set up a comprehensive legal compliance mechanism, and strengthen the identification and prevention of legal risks during the recruitment process. On the other hand, in actual work, it is also necessary to introduce big data and other modern technologies. The traditional technology is used to screen talent information to ensure that the qualifications of each applicant are real and reliable, so as to fundamentally reduce the risks faced by enterprises in the process of human resource recruitment^[10].

3.2. The Enterprise Structure Lacks a Legal Department

Companies that focus on the return on investment in recruitment can effectively enhance their overall profitability [11]. However, if there is a lack of legal departments within the corporate structure, the likelihood of encountering compliance risks during recruitment will inevitably increase. Generally speaking, the legal department is responsible for handling all legal matters of the company, which includes but is not limited to procurement management, legal dispute resolution, and legal risk assessment. In the absence of professional legal guidance, companies may overlook some subtle legal points during the recruitment process, leading to unnecessary losses. Companies lacking professional legal talent may also face issues in the recruitment process, The emphasis on laws and regulations may be reduced, thus touching the potential risk of violation.

3.3. The Enterprise's Distribution of Job Responsibilities is Unreasonable

Companies assign job responsibilities to clarify each employee's tasks, ensuring a clear separation of authority and responsibility. Unclear duty assignments can lead to numerous issues, severely dampening employees' enthusiasm and hindering the company's long-term development. If job descriptions posted by companies are vague or do not match actual job requirements, they may attract unsuitable candidates. This not only increases labor costs but can also result in low employee efficiency and even legal disputes.

3.4. The Way of Enterprise Management Decision-Making Lacks Scientificity

The daily development and sustainable operation of a company rely on sound decision-making systems. In business operations, entrepreneurs and senior decision-makers sometimes opt for narrow and harmful emergency measures when faced with urgent challenges. Such measures may provide temporary relief to the current situation but could potentially sow more serious long-term risks. When companies recruit externally without considering the character and overall qualities of candidates, focusing solely on professional skills and short-term job competence as the sole criterion, such strategies will not only severely damage the company's reputation in the long run but also invite potential issues Serious legal liability, financial imbalance, and even the final collapse of enterprises.

4. Legal Prevention of Risks and Measures in Enterprise Recruitment

4.1. Strictly Standardize the Recruitment Compliance Procedures

4.1.1. Refine the Release of Recruitment Information

When companies refine their recruitment processes and job postings, they can better avoid legal risks. First, it clarifies recruitment needs and job responsibilities; second, it avoids discriminatory content; third, it protects the personal information of applicants; fourth, it reviews the qualifications of applicants; fifth, it establishes a comprehensive recruitment process. At the same time, companies need to regularly review and update their recruitment procedures and regulations to ensure they comply with legal requirements and meet the actual needs of the company. Before signing an employment contract, first of all, an enterprise should ensure that the content of the contract is legal, clear, and in line with the enterprise's needs. If necessary, a professional lawyer can be invited to review and revise the contract to ensure its compliance and legality. It is also extremely important to establish an archiving system for onboarding materials. The enterprise should properly keep the employees' onboarding materials and establish a sound archiving system. In this way, sufficient evidentiary materials can be provided in case of disputes or legal proceedings, proving that the enterprise has conducted strict material reviews and background checks during the recruitment process.

Secondly, the subject of the employment contract should be clearly defined. When necessary, employees should be classified according to the differences in their specific employment, and the classification criteria can be based on positions, employment periods, work forms, etc. If employees are not classified according to these criteria and the same employment contract is used, it will lead to unclear work divisions and responsibilities among employees, and it is likely to generate more legal disputes. Therefore, the enterprise can strictly review the onboarding materials, reduce the risk of hiring unqualified employees, and ensure that the recruitment activities are legal and compliant. These measures help the enterprise prevent legal risks during the recruitment process, improve the quality of recruitment, and lay a solid foundation for the sustainable development of the enterprise.

4.1.2. Establish a Fair Recruitment Process

A fair recruitment process determines the quality of talent a company hires. Some companies' recruiters fail to strictly adhere to the prescribed procedures for preparation, hiring, and evaluation during the recruitment process, introducing uncertainties and increasing the risk of hiring employees. To address these issues, companies should develop a comprehensive recruitment plan and process before the hiring phase begins. This includes clearly defining the specific job requirements, each step of the recruitment process, and the criteria for selecting talent, ensuring the standardization and effectiveness of the entire recruitment process, thereby reducing risks in the hiring process.

4.2. Establish a Scientific Labor Contract Signing and Management System

4.2.1. Establish a Scientific Labor Contract Signing System

Currently, many small and medium-sized enterprises in our country have the issue of signing labor contracts unscientifically. In some remote areas, it is common for these enterprises to sign labor contracts orally. However, it is important to note that oral labor contract signings do not enjoy legal protection and may harm both the interests of workers and the company in future work. According to the provisions of the Labor Contract Law, new employees must be given a written labor contract within one month from their first day of employment. If an enterprise fails to sign a written contract with an employee within the specified time, it must pay double wages to the employee from the second month until the end of the first year. If an employee has not signed a written labor contract with the company for over a year, it is considered that an indefinite employment relationship has been established between the employee and the company. These regulations aim to promote compliance with labor laws, protect workers' rights, and emphasize the importance of written labor contracts in legal relationships^[12].

4.2.2. Strictly Review the Entry Materials

In the recruitment process, companies need to strictly review candidates' application materials to prevent legal risks. Specifically, companies should establish a detailed list of required documents, clearly requesting employees to provide relevant proof such as identity verification, educational qualifications, and certification. During the review process, companies must carefully verify the authenticity and completeness of each document. This can be done through phone calls, emails, or online inquiries to verify educational and certification information. In addition, companies must prevent employees from having dual employment relationships. During the recruitment process, companies must ensure that they do not hire individuals who are still in valid labor relations with other employers. The mover.

4.3. Strengthen the Awareness of Labor Compliance Management of Employees

In the recruitment process, companies must prioritize legal training for employees, as this is also a crucial way to prevent legal risks. Legal training should not only target recruiters but also include new employees. For recruiters, companies need to ensure they are familiar with laws

and regulations related to the entire recruitment process and internal standards, and know how to comply with these rules. This includes being aware of principles such as equal employment opportunities, preventing discrimination, and avoiding fraudulent practices. At the same time, recruiters must learn how to legally and comprehensively review candidates' backgrounds and qualifications to ensure they meet the requirements of the job position and comply with legal regulations^[13]. In addition, regular legal training is also crucial, which helps to update employees' legal knowledge and enhance their awareness of risk prevention. The training content can include newly issued laws and regulations, judicial interpretations, and the latest developments related to enterprise management. At the same time, through regular legal training, enterprises can also convey to employees their attitude of attaching importance to laws, regulations, and ethical norms.

In addition to formal training courses, enterprises can also strengthen employees' legal awareness through other means. For example, online resources, legal manuals, or reference materials can be provided for employees to consult at any time. Encouraging employees to participate in legal-related internal seminars or external activities is also a good approach. Through these activities, employees can communicate with their colleagues, share experiences, and keep abreast of the latest industry trends.

5. Conclusion

In summary, this article comprehensively and in-depth explores the compliance risks faced by companies during the recruitment process and proposes corresponding preventive measures. Through case analysis, it reveals potential disputes that companies may encounter in this process and introduces risk prevention tools and their functions. It also suggests preventive measures against these risks, including refining job posting information, strictly reviewing application materials, and scientifically establishing labor contract signing systems, all aimed at improving the quality of recruitment. At the same time, the literature emphasizes the importance of legal awareness for companies, advocating that they should strengthen legal risk prevention during the recruitment process to ensure sustainable development.

References

- [1] Z.W. Zhang, J.N. Wang: Crane Design Manual (China Railway Press, China 1998), p.683-685. (In Chinese).
- [2] Yan Qiong. Recruitment risks and preventive measures in human resource management of tea enterprises [J]. Fujian Tea, 2023,45(08):63-65.
- [3] Yuan Guorong. Using Big Data to Prevent and Control Recruitment Risks in Enterprises [J]. Human Resources, 2023, (11):104-105.
- [4] Yan Jialin, Zhejiang Sheraton Resort Co., LTD. Equal Employment Rights Dispute [N]. Hangzhou Intermediate People's Court, Zhejiang Province, 2020-01-15.
- [5] Pan Jianfeng. Labor contract dispute case of Lexing Power Generation (Wuxi) Co., LTD. [N]. Wuxi Intermediate People's Court, Jiangsu Province, 2017-07-21.
- [6] Wang Sishuang. Risks and Prevention of Enterprise Human Resource Management [J]. Business Culture, 2020, (10):68-69.
- [7] Shenyang Suft Software Development Co., Ltd. v. Wang Tianle [N]. Shenyang Intermediate People's Court of Liaoning Province, 2018-03-10.
- [8] Huang Hui. Discussion on the Risks of Enterprise Human Resource Management and Its Prevention Measures [J]. Enterprise Reform and Management, 2020, (12):89-90.
- [9] Tang Lili. Risks and prevention strategies of enterprise employee recruitment [J]. Modern Corporate Culture, 2022, (22):143-145.

- [10] Faye Wong. A Brief Discussion on the Problems and Solutions of Recruitment in Private Enterprises [J]. National Circulation Economy, 2020, (32):81-83.
- [11] Zhang Fan. Risks and Prevention of Human Resource Recruitment in Enterprises [J]. Modern Corporate Culture, 2022, (33):145-147.
- [12] Lu Qian. Research on the risk of enterprise recruitment based on the theory of information asymmetry [J]. Investment and Cooperation, 2020, (12):169-170.
- [13] Bai Shaohua. Risk management of human resource recruitment and training in enterprises [J]. Employment and Security, 2020, (24):169-170.
- [14] Jin Jinghua. Research on Human Resource Legal Risks and Countermeasures in the Recruitment Process of Small and Medium-sized Enterprises [J]. Finance and Economics, 2021, (16):196-198.