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# GDPR & Italian COVID-19 - related Legislation Operational Issues and Guidelines for Businesses

# COVID-19 Phase 2

## Operational rules for reopening

### **Sources of law – an overview**

DPCM 17 May 2020

National & Regional Protocols for Reopening as transposed in  
DPCM 17 May 2020

Guidelines & Best Practice

# COVID-19 Phase 2

## Operational rules for reopening

National General Protocols – 24.04.2020 - «framework legislation»

- NGP for Workplaces
- NGP for Construction Sites
- NGP for Public Transport

# COVID-19 Phase 2

## Operational rules for reopening

National General Protocols – 24.04.2020 - «framework legislation»

- NGP for Workplaces
- NGP for Construction Sites
- NGP for Public Transport & Logistic

NGPs transposed in DPCM 26.04.2020 repealed by DPCM 17.05.2020 which in turn incorporates NGPs and technical sector-specific sheets.

# COVID-19 Phase 2

## Operational rules for reopening

### **Technical Sector-Specific Sheets (DPCM 17.05.2020) – Annex 17**

- Restaurants & Catering,
- Tourism (Beaches),
- Hotels & Accommodation,
- Beauty Centres & Hairdressers,
- Retail, Markets,
- Open to the public offices,
- Swimming pools,
- Gymnasiums.

### **Further Sector-Specific Regional Protocols**

# COVID-19 Phase 2

## Operational rules for reopening

### **Main recommended Guidelines (DPCM 17.05.2020) – Annex 17**

- INAIL Technical Reports and Recommendations
- ISS (National Health Institute) Reports and Recommendations

# COVID-19 Phase 2

## Operational rules for reopening

### **Common principles – Annex 10 and 17, DPCM 17.05.2020**

- Both general and specific recommendations and requirements may vary according to epidemiological evidence, data and risk;
- Social distancing (min. 1 mt.);
- Compliance with strict hygiene standards as set by any relevant Act, Regulation and/or technical Report;
- Specific and consistent individual reopening approach: previously planned organizational measures and system solutions
- Risk based approach

# COVID-19 Phase 2

## Operational rules for reopening

### NGP for Workplaces – Structure

- Section 1 – Duty of Information;
- Section 2 – Admittance to workplace (general) → **Privacy related issues;**
- Section 3 – Admittance to workplace (suppliers) → **Privacy related issues;**
- Section 4 – Cleaning and sanitization;
- Section 5 – Hygiene individual precautions;
- Section 6 – Individual protection devices;
- Section 7 – Common areas management and reorganization;



# COVID-19 Phase 2

## Operational rules for reopening

### NGP for Workplaces – Structure

- Section 8 – Work flow management and reorganization (shift, transfers, smart work, levels of production reorganization) → **Privacy related issues;**
- Section 9 – Staff admittance and exit;
- Section 10 – Inside displacement, meetings, events and training activities; → **Privacy related issues;**
- Section 11 – Rules for managing a COVID-19 case in the workplace → **Privacy related issues;**
- Section 12 – Health and medical monitoring, cooperation with the Health Authorities and the Occupational Physician → **Privacy related issues;**
- Section 13 – Internal Committee and Protocol implementation constant monitoring.

# COVID-19 Phase 2

## Operational rules for reopening

**Protocol implementation**  **Intervention Operative Plan**

**Intervention Operative Plan: in writing ?**

**COVID-19 infection as a «work accident» – Employer's civil and/or criminal liability ?**

**Employer must give evidence of his/her compliance to Protocols, Guidelines and Best Practices.**

**Accountability and focus on individuals protection**

# COVID-19

## Privacy related specific compliance issues

### Sources:

- **GDPR**
- **NGP Workplace – Section 2**
- **Italian S.A. on:**
  - Employers' self-certification requests before admittance and Data Collection
  - Serological tests at the workplace (on a voluntary basis only)
  - FAQ for Employers
  - Privacy and Training Platforms
  - Privacy and Smart Work

# COVID-19

## Privacy related specific compliance issues

### **Art.9 GDPR Data may be processed in the following cases:**

- Temperature measuring:
  - Before admittance – non compulsory (NGP for Workplaces)
  - COVID-19 infection cases management – compulsory
- Interactions between the Employer and the Occupational Physician  
Physician as a Processor  
Must inform the Employer about any situation of risk and / or fragility  
and/or previous illness / disease (without mentioning the specific illness/  
disease)

# COVID-19

## Privacy related specific compliance issues

### **Art.9 GDPR Data may be processed in the following cases:**

- Interactions between the Employer and the Health Authorities
  - COVID-19 cases management;
  - Cooperation in identifying the «strict contacts chain» of an individual after a COVID-19 case at the workplace;

### **Other issues**

- Training and videoconferencing and Data Processing
- Smart Work

# COVID-19

## Privacy related specific compliance issues

### Data concerning health

- **Privacy statement for Staff and General Public**
  - **Processing purposes** ( mainly as set out by the law):  
Temperature measuring, admittance procedures, COVID-19 related case management, Cooperation with the Health Authorities, ...
  - **Legal basis:** art. 9, par. 2, b) g) h) i) f);
  - **Confidentiality:** no disclosure by dissemination; no disclosure to staff; limited disclosure to any third party (FAQ S.A.);
  - **Data retention** – until the end of the state of emergency at least (NGP Workplace)
- **Instructions** to Processors art. 29 GDPR (Temperature measuring, COVID-19 case management, cooperation with Health Authorities, ...);
- **DPA with Occupational Physician review + Instructions.**

# COVID-19

## Privacy related specific compliance issues

### Other Personal data

- **Smart Work & Videoconferencing:**
  - Privacy statement
  - Policies
  - DPA with platform providers
  - Cybersecurity issues - BYOD

# COVID-19

## Privacy related specific compliance issues

### Sanctions & Inspection bodies

- **Non-compliance with Protocols:** suspension of the activities until achievement of of compliance;  
Among the **inspection bodies and authorities: Guardia di Finanza**
- **GDPR + D.lgs 101/2018** (Legislative Decree on the harmonization of the Italian Legislation with the GDPR.  
**Inspection bodies: Guardia di Finanza**





*Any Questions?*

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