



# Employee Data Privacy – Italy

## GDPR Related National Laws & Modifications

The European Union's General Data Protection Regulation sets a common standard for protecting personal data across the EU. It also allows member nations some flexibility to create additional provisions and limitations. Some examples, which may impact HR teams, include the ability for EU member states to:

- provide “specific rules to ensure the protection of...employees’ personal data in the employment context” (Art. 88);
- limit the transfer of “specific categories of personal data to a third country or international organization” if the country (or international organization) is deemed not to have adequate protections in place (Art. 49, (5)); and,
- “determine the specific conditions for the processing of a national identification number or any other identifier of general application” (Art. 87).

### Derogations in Italy

Italy's legislative decree relating to the GDPR became law in September 2018 (Legislative Decree no. 101/2018). Decisions/authorizations previously issued by the Italian Data Protection Authority (DPA) along with existing ethical codes are remaining in-place until they are officially updated.

The processing of sensitive data and the processing of data in the context of labor relations previously authorized and issued by the Italian data protection authority remain valid and are compatible with the GDPR.

**Whistleblowing:** Italy has recently transposed the Whistleblowing EU directive with a final decree dated March 15, 2023, stating that the whistleblower's identity cannot be disclosed to subjects, other than those authorized according to GDPR and Data privacy Code, without express consent of the whistleblower.

### Transparent and Predictable Working

**Conditions:** Italy's latest legislative decree No. 104/2022, implementing the EU Directive 2019/1152 on transparent and predictable working conditions, applies to all employment relationships and requires employers to inform employees and trade unions if applicable, of all specific information on decision-making or monitoring systems related to working conditions.

### Privacy Notices for Unsolicited Job Applicants:

Italy's Data Protection Code includes a privacy notification exception for when employers receive unsolicited resumes from job applicants. In these cases, the employer can wait until the first meaningful contact with the applicant to provide a data protection notice.

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