

GMS Flash Alert

Employment Law

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Italy – COVID-19: Certification (Green Pass) Required of Employees for Workplaces

A Law Decree (“the decree”) of 21 September 2021, published in Italy’s official gazette, introduces into Italy prohibitions on employees attending their workplace without a “COVID-19 Green Pass.”¹ The decree applies both to public and private sector workers and provides that from 15 October 2021 and until 31 December 2021, anyone who works in the private sector – or public sector – is obliged to possess and exhibit the Green Pass upon request, for the purpose of accessing their workplace.

WHY THIS MATTERS

The use of the Green Pass in Italy has been widened to make it mandatory for all employees in the public and private sectors. It is intended to reinforce public safety and control the spread of the coronavirus. Employers should apprise themselves of the new regulations in order to develop and institute proper control procedures. This will create new procedures and some administrative burdens for employers and their employees that did not exist before. In addition, there could be penalties applied for non-compliance.

Employers may also wish to consult with an employment lawyer, since the new rules raise some different questions regarding employees who may be suspended without pay, but not subject to disciplinary proceedings.

More Details on Green Pass

The obligation applies to all workers, including those with external contracts and volunteers.

- In the event of a breach by employees of the obligation to possess and exhibit the Green Pass for access to the workplace, an administrative sanction of between EUR 600 to EUR 1,500 will be applied.
- Employees exempt from vaccination based on appropriate medical certification are excluded.

- Employers (as responsible for health and safety in the workplace) are required to verify compliance with the aforementioned requirements by defining, by 15 October 2021, the operating procedures for organising the checks and appointing the subjects in charge of compliance; in the absence of such control, employers will be subject to the administrative sanction of payment of between EUR 400 to EUR 1,000.
- Workers who communicate that they are not in possession of the Green Pass or who do not have the Green Pass at the time of accessing the workplace, are suspended from work, without disciplinary consequences and with the right to retain the employment relationship. For the period of suspension, no remuneration or any other remuneration will be due.

The Decree prescribes that the suspension from work without pay concerns not only those employees who "are without certification at the time of access to the workplace" but also employees who "communicate that they are not in possession of the green certification." It implies that even those who merely "declare" that they do not have the Green Pass (even if operating under a "smart-working" regime) should be suspended from work without salary.

COVID-19 Green Pass

In parallel with the EU authorities, Italy has been developing a COVID-19 "Green Pass" to improve mobility across the EU. (For related coverage of developments at the EU level, see the following issues of *GMS Flash Alert*: [2021-226](#) (31 August 2021) and [2021-185](#) (28 June 2021).)

As well as the new requirements regarding employment, the Green Pass is necessary on Italian national territory to enter:

- indoor restaurants;
- shows, events, sporting events;
- museums, institutions, cultural places;
- gyms, pools, wellness centres, spas, theme and amusement parks, cultural and leisure centres, gambling halls, and casinos;
- trade fairs, congresses, and conferences.

Starting from 1 September, the Green Pass has also been necessary to board:

- planes;
- ships and ferries for inter-regional transport (excluding connections in the Strait of Messina);
- Inter-city and high-speed trains;
- buses for inter-regional transport;
- bus rental services with drivers.

FOOTNOTE:

1 *Gazzetta Ufficiale n.226 del 21-09-2021, "Decreto-Legge 21 settembre 2021" n. 127.*" See (in Italian): <https://www.gazzettaufficiale.it/eli/id/2021/09/21/21G00139/sq> .

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Contact us

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The information contained in this newsletter was submitted by the KPMG International member firm in Italy.

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