



# Gatti Pavesi Bianchi

COVID-19 Update

EMPLOYMENT LAW

## COVID-19 EMERGENCY - MEMORANDUM

(summary of the restrictive provision applied in Italy - updated to 22 May 2020)

### 1. APPLICABLE LAW AND REGULATION

Law Decree no. 6/2020, Decrees of the President of the Council of Ministers ("DPCM") 8 March 2020, DPCM 9 March 2020, DPCM 11 March 2020, shared regulatory protocol for the containment of Covid - 19 - executed on April 24, 2020 by Confindustria, Confapi, Confartigianato and CGIL - CISL - UIL (the "**Protocol**") and Law Decree no. 18/2020 of 17 March 2020, as converted by Law no. 27 of April 24, 2020 DPCM 22 March 2020, D.L. 25 March 2020 n. 19, DPCM 1 April 2020, D.L. 8 April 2020 n. 23, DPCM 10 April 2020, DPCM 26 April 2020 and D.L. 16 April 2020, no. 33, DPCM 17 May 2020 and D.L. no. 34/2020 (so called *Decreto Rilancio*).

The more restrictive containment measures adopted by the Regions continue to apply, also in agreement with the Minister of Health, in relation to specific areas of the regional territory.

### 2. SECURITY MEASURES

Duration: from May 18, 2020 and for the entire duration of the emergency (as better illustrated below).

Zone: Whole Italian territory

Topics	D.L. no. 33/2020, DL 34/2020 and DPCM 17 May 2020 provisions and guidelines	Protocol provisions and guidelines <sup>1</sup>
Movements within the territory	<u>As of 18 May 2020, any restrictions of movement on the territory of each region (and within it) are removed.</u>	The Protocol suggests to encourage forms of transport to the workplace with adequate distance between travellers and favouring the use of private vehicles

<sup>1</sup> The Protocol at stake refers to the generality of employers; specific provisions relating to the construction, transport and logistics sectors are governed by separate protocols which almost regulates the same measures

	<p>Until 3 June 2020 travel outside the region where a person is staying shall be permitted only for:</p> <ul style="list-style-type: none"> <li>• proven working-related reasons;</li> <li>• situations of need;</li> <li>• health related reasons.</li> </ul> <p>Until 3 June 2020 it is <b>forbidden</b> to move abroad also by public or private means of transport, except for proven work needs, of absolute urgency or for health reasons.</p> <p>It is in any case allowed to return to proper domicile / permanent residence.</p> <p><b><u>The existence of one of the above exceptions that justify the movements shall be certified by means of a self-statement,</u></b> which can also be released by filling a specific form provided by the Police department in case of control.</p> <p>With regard to the <b><u>movement for "proven working related reasons"</u></b>, it would seem that any working reason can justify it: <b><u>thus, it appears that, both the work-home travel as well as any travel to go anywhere for business purposes are allowed.</u></b></p> <p>The absolute prohibition of circulation for those who are subject to the measure of compulsory quarantine for ascertained Covid-19 remains unchanged.</p> <p><b><i>Suggestion:</i></b> In any case, it is advisable for the employer to give the employees who need to move for working reasons a</p>	<p>and shuttles.</p>
--	---	----------------------

	<p>statement certifying the existence of the "<i>working related reasons</i>", so that it can be shown by the employees in the event of police check and kept for any subsequent checks.</p> <p><i>Note:</i> The above provisions may be amended (even in a more restrictive sense) by measures issued by the regional authorities/autonomous provinces.</p>	
<b>Criminal liability</b>	<p>In the event of breach of the above provisions, unless the breach does not constitute a criminal offense different to the offence under Section 650 of the Italian Criminal Code, an administrative fine would apply (from 400 to 3,000 euros). If the breach occurs by means of a vehicle, the applicable fine can amount up to 4,000 euros. The above said fines can be doubled in case of recurrence of the breach. If the violation concerns the exercise of economic activities, the sanction of suspension (even precautionary) from 5 to 30 days may be applied.</p> <p>Violation of the mandatory quarantine in case of ascertained Covid-19 constitutes a crime under Article 452 of the Italian Criminal Code, "Culpable offences against public health", which provides for imprisonment up to a maximum of 12 years in certain cases.</p>	<p>Same</p> <p>Failure to adopt the Protocol that does not ensure adequate levels of protection may result in the suspension of the activity until all the measures described therein are implemented.</p>
<b>Transport and delivery of goods</b>	<p><u>Allowed</u> only if adopting all the organizational and health and safety measures suitable to protect employees performing the transports.</p> <p>Transport activities must be carried out in compliance with the Protocol or any specific protocols for the sector concerned.</p>	<p>The employer shall regulate the access of external suppliers and / or drivers within the company's premises/plants as follows:</p> <ul style="list-style-type: none"> <li>• Implementation of identification process in entrance, transit and exit for the access of external suppliers and implementation of processes predefining methods, routes and timelines in order to reduce the opportunities of contact between the employees in force in the departments / offices involved;</li> </ul>

		<ul style="list-style-type: none"> <li>• the trucks drivers shall remain on board their vehicles as far as possible and in any case they shall keep a distance of at least one meter from the employees;</li> <li>• the trucks drivers are prohibited in entering to the offices;</li> <li>• the employer shall identify / install dedicated toilets, providing for a ban on the use of those of employees and ensuring adequate daily cleaning;</li> <li>• the employer shall reduce as much as possible the access to external visitors such as, for example, cleaning and maintenance companies to which the above security measures shall be applied;</li> <li>• in the transport service organized by the company (e.g. shuttle), the safety of employees shall be guaranteed and respected during each movement.</li> </ul>
<p><b>Obligation to close premises/establishments</b></p>	<p>All economical/industrial activities are resumed, <b>except for:</b></p> <ul style="list-style-type: none"> <li>• Thermal baths, spas and ski resorts (reopening to be evaluated);</li> <li>• Gyms and swimming pools (which will reopen - unless otherwise specified - on 25 May 2020);</li> <li>• Cinemas and theatres (which will reopen - unless otherwise specified - on 15 June 2020).</li> </ul>	<p><i>Note:</i> any provisions included in the Protocol in this sense must be considered to be superseded by the provisions of the most recent Decrees.</p>

<p><b>Behaviours at workplace</b></p>	<p>The economic activities shall be carried out within the limits of the sanitary prescriptions and with respect of the provisions contained in the Protocol (or of any other specific protocol provided for any specific sector)</p> <p>The non-compliance with these measures, without prejudice to the application of further sanctions, may result in the suspension of the activity until the measures are implemented.</p> <p>Retail businesses as well as businesses providing services for the person, bars, restaurants, etc. can be reopened provided that the regions verify the feasibility of such reopening and always in compliance with security measures and with a guarantee of interpersonal distance of at least one meter, deferred access and no longer than the time necessary to purchase goods/services.</p> <p>Specific regulations are provided for the reopening of (i) retail businesses, (ii) businesses providing services for the person, (iii) bars, restaurants, etc., (iv) bathing establishments and (v) reception facilities (hotels, etc.).</p>	<p>The employer shall:</p> <ul style="list-style-type: none"> <li>• closedown of all departments other than production or, in any case, those whose operation is possible through the use of smart working, or in any case remotely;</li> <li>• proceed with a re-modulation of production levels;</li> <li>• consider placing in unused offices / meeting rooms those employees who do not require special tools and / or equipment and who can work alone;</li> <li>• in the environments where several employees operate simultaneously, consider repositioning the work positions in order to have them spaced from each other;</li> <li>• ensure a shift schedule for employees dedicated to production with the aim of minimizing contacts and creating autonomous, distinct and recognizable groups;</li> <li>• encourage staggered entry / exit times in order to avoid contacts in the common areas as much as possible (entrances, changing rooms, canteen);</li> <li>• where possible, dedicate an entry door and an exit door from the premises and ensure the presence of detergents indicated by specific indications;</li> <li>• limit travel within the company to the bare minimum and in compliance with company instructions.</li> </ul> <p>The employer may also rearrange the working time by redefining it in a differentiated way.</p> <p>Employers shall adopt the Protocol and therefore the employer shall carry out the following activities:</p> <p>a) inform all employees and anyone who enters the company about the provisions of the Authorities. The information in particular must concern:</p>
---------------------------------------	---	--

		<ul style="list-style-type: none"> <li>• the obligation to stay at home in the presence of fever (over 37.5°) or other flu symptoms and to call your family doctor and health authority;</li> <li>• ban on accessing or staying in the company's premises for those who in the last 14 days have had contacts with subjects that have been resulted positive for COVID-19 or come from risk areas according to WHO indications, or if the dangerous conditions referred above exist (e.g. symptoms of flu, temperature over 37.5°, origin from areas at risk or contact with people positive to the virus in the previous 14 days, etc.) and obligation to declare it if the above conditions occur after entry<sup>2</sup>;</li> <li>• for employees already subject to Covid-19, obligation to communicate and send to the employer the medical certification showing the negative result;</li> <li>• the commitment to comply with all the provisions of the Authorities and the employer in accessing the company (e.g. interpersonal distance of at least 1 meter, hand washing, etc.);</li> <li>• the commitment to promptly inform the employer of the presence of any flu symptoms during the performance of the working activity;</li> </ul> <p>b) take the following measures to clean and sanitize company's premises:</p> <ul style="list-style-type: none"> <li>• extraordinary sanitation before the reopening for all companies located in the geographical areas with the highest endemic;</li> <li>• ensure daily cleaning and periodic sanitization of premises, environments, workstations, working tools and common and leisure areas;</li> <li>• in the case of presence of a positive person at COVID-19 within company's premises, the premises shall be cleaned and sanitized</li> </ul>
--	--	--

<sup>2</sup> If a self-statement is requested to certify that the employee does not come from epidemiological risk areas and does not have had any risky contacts in the last 14 days with subjects tested positive for COVID-19, according to the Protocol, personal data should be processed in a correct way. To this extent, it is suggested to collect only the necessary, adequate and relevant data with respect to the prevention of COVID-19 infection. For example, if the company requests a statement relating to contacts with people who resulted positive for COVID-19, it should refrain from requesting additional information about the person who resulted positive. Or, if a declaration is requested on the origin from epidemiological risk areas, it is necessary to refrain from requesting additional information regarding the specificities of the places.

		<p>according to the provisions of circular no. 5443 of 22 February 2020 of the Ministry of Health and their ventilation;</p> <ul style="list-style-type: none"> <li>• grant the cleaning at the end of the shift and the periodic sanitization of keyboards, touch screens, mice with suitable detergents in each company premises;</li> <li>• the employer has the faculty to organize special / periodic cleaning interventions using social security measures;</li> </ul> <p>c) take all personal hygiene precautions and make personal protective equipment available, as better specified below:</p> <ul style="list-style-type: none"> <li>• take all hygienic precautions, especially for hands for which frequent cleaning with soap and water is recommended;</li> <li>• provide suitable hand cleaning means (also by means of a dispenser and always in line with WHO provisions);</li> <li>• make sure that the <b>masks</b> are used in compliance with the provisions of the WHO (for example, to be used only in the case of colds or in contact with affected people) and <b><u>in the case of work at a distance of less than one meter</u></b> (together with gloves, glasses, overalls, headphones, gowns etc.)</li> <li>• ensure that the protective devices referred to in the previous point comply with the provisions of the scientific and health authorities;</li> </ul> <p>d) manage company's common areas as follows:</p> <ul style="list-style-type: none"> <li>• limit the access to common areas, with the provision of (i) continuous ventilation of the premises, (ii) reduction of permanence within these common areas and (iii) maintenance of the safety distance of one meter between the people staying within these areas;</li> <li>• organize/restructure the spaces and sanitize the changing rooms;</li> <li>• grant periodic sanitisation and daily cleaning, with special cleaners in the canteen rooms, on the keyboards of the vending machines for drinks</li> </ul>
--	--	---



		<p>and snacks</p> <ul style="list-style-type: none"> <li>employees will be required to wear surgical masks in common areas.</li> </ul>
Third suppliers (e.g. contractors, etc.)	N/A	<p>The Protocol applies also to third suppliers who carries out their services/manage constructions sites within the client's sites.</p> <p>The principal shall provide the contractor with appropriate information on the obligations included in the Protocol.</p> <p>The contractor immediately informs the principal in the event that its employees prove positive to Covid-19. In this case, the contractor and principal collaborate with the health authorities.</p>
Health and medical controls	<p>Employers must ensure <b>exceptional</b> health surveillance of employees most at risk of infection, due to their age or risk condition resulting from immune-depression, including from Covid-19, or from the outcome of oncological diseases or the performance of life-saving therapies or, in any case, from comorbidities that may characterize higher risk.</p> <p>Employers who have not appointed a plant doctor (pursuant to Article 18 of Legislative Decree 81/2008) may (i) appoint one temporarily for the duration of the emergency or (ii) use local health services in this regard.</p> <p>In any case, the impossibility to carry out the working activities (<i>inidoneità allla mansione</i>) ascertained by the plant doctor in the context of the above mentioned supervision cannot justify the employer's withdrawal from the employment relationship.</p>	<p>Health surveillance shall be carried on respecting the hygiene and health and safety measures included between the indications of the Ministry of Health and favouring preventive visits.</p> <p>During the whole emergency period, the employer shall:</p> <ul style="list-style-type: none"> <li>give preference to preventive medical visits, visits on request and visits to return from illness;</li> <li>continue the ongoing periodic health surveillance;</li> <li>collaborate with the competent doctor and the RLS / RLST (representatives of employees for health and safety matters).</li> </ul> <p>Employer plant doctor (<i>medico competente</i>) shall report to the employer any situations of particular fragility and current or past employee pathologies to which the company shall follow appropriate protection in respect of the data protection (also during the re-opening phase).</p>

		<p>According to the Protocol, the employer <b><u>can, before entering the workplace, detecting body temperature of its employees</u></b><sup>3</sup>.</p> <p>If the activity of detecting body temperatures is deemed essential, it would in any case be carried out in accordance with the provisions of the Protocol for the data protection (see note 2 at the foot of the page).</p> <p>Should the competent health authority, in the areas most at risk, provide for more specific measures in this regard, such as the execution of tampons to employees, the employer will provide maximum collaboration.</p> <p><b>Note:</b> according to certain territorial authorities' regulation the temperature measurement has become mandatory (e.g. Lombardy).</p>
<b>Management of employees with symptoms</b>	N/A	<p>Should an employee working at company's premises develop fever and symptoms of respiratory infection such as cough, he/she shall immediately declare it to the personnel office.</p> <p>In the presence of a symptomatic employee, the employer shall:</p>

<sup>3</sup> The detection of body temperature constitutes a processing of personal data and, therefore, **shall be implemented in accordance with the current data protection related regulations**. To this end, the Protocol suggests to:

- detect temperature and not record the relevant data. It is possible to identify the subject and record the exceeding of the temperature threshold only if it is necessary to document the reasons that prevented access to company premises;
- provide information on the processing of personal data. As for the contents of the information notice, with reference to the purpose of the treatment, the prevention of contagion from COVID-19 may be indicated and with reference to the legal basis, the implementation of the anti-contagion safety protocols may be indicated in accordance with art. 1, no. 7, lett. d) of the DPCM of 11 March 2020 and with reference to the duration of any data retention, reference can be made to the end of the state of emergency;
- define the appropriate security and organizational measures to protect the collected data. In particular, from an organizational perspective, it is necessary to identify the subjects in charge of the processing and provide them with the necessary instructions. To this end, please note that the data can be processed exclusively for the purpose of preventing contagion from COVID-19 and shall not be disclosed or communicated to third parties outside the specific regulatory provisions (e.g. in the event of a request from the Health authority for the reconstruction of the supply chain of any "close contacts of a worker who tested positive for COVID-19);
- in the event of temporary isolation due to exceeding the temperature threshold, ensure methods that guarantee the confidentiality and dignity of the employee. These guarantees shall also be ensured in the event that the worker notifies the personnel department of having had contacts, outside the company context, with subjects who have tested positive for COVID-19 and in the case of removal of the employee who during the performance of his/her working activity develops fever and symptoms of respiratory infection and its colleagues.

		<ul style="list-style-type: none"> <li>• proceed with the isolation of the resource, granting his/her dignity in any case and granting him a mask (in case he/she has not already got it);</li> <li>• immediately notify the competent health authorities and the emergency numbers for COVID-19 provided by the Region or by the Ministry of Health;</li> <li>• collaborate with the Health Authorities for the definition of any "close contacts" of a person present in the company who has been found to be positive with the COVID-19 buffer;</li> <li>• ask the positive employee's close contacts to leave the plant as a precaution, according to the indications of the Health Authority.</li> </ul>
<b>Business trips</b>	<p>Business trips can be made for “proven reasons”.</p> <p>For trips abroad, further limitations provided for by the country of destination should be taken into account.</p> <p>Please refer to “Movements within the territory”.</p>	All national and international business trips / temporary assignments are suspended and cancelled, even if already agreed or organized.
<b>Smart working</b>	<p><b><u>Strongly recommended</u></b> for the 100% of the workforce; if not possible, it should be applied on a rotational basis, in order to alternate the employees.</p> <p>For the entire duration of the state of emergency and in any case no later than 31 December 2020, the employer may use the smart working with reference to all of its employees, even in the absence of an individual agreements, without prejudice to the mandatory communications to the National Institute for Insurance Against Industrial Injuries (<i>INAIL</i>) and the Ministry of Labour and the obligations regarding health and safety at</p>	<p>Applicable even without individual agreement (without prejudice to communication obligations regarding health and safety information as well as the administrative notice to the Italian labour authority).</p> <p><b><u>Highest use possible</u></b> for all those activities that can be carried out at home or remotely if social safety nets are used, even by way of derogation, shall always evaluate the possibility of ensuring that they concern the entire company structure, if necessary also with appropriate rotations.</p>

	<p>work.</p> <p>Employees suffering from serious and proven pathologies, for whom a reduced working capacity remains, are given priority in accepting requests to perform their work in smart working.</p> <p>Until the end of the state of emergency employees with children under the age of 14 have the right to perform their work in smart working even in the absence of individual agreement.</p> <p><i>Suggestion:</i> It would be advisable to enter into an agreement or at least a general regulation for the management of resources who work remotely, or at least it would be appropriate to specify that - due to organizational reasons - the employer has the right to recall (i.e. to ask to come back to the office) the employees, with notice (e.g. 24 hours).</p>	
Meetings	<p>Meetings are allowed starting from 18 May 2020, only where it is possible to guarantee the interpersonal distance of one metre.</p>	<p><b><u>All internal events and all classroom training activities are suspended and cancelled</u></b>, even if mandatory, even if already organized: these should be replaced with <u>distance training</u>, even for employees working with the smart working modality.</p> <p>Failure to terminate the updating of professional and / or qualifying training within the deadlines for all company roles / functions regarding health and safety at workplace, following the current emergency status and therefore due to force majeure, does not entail the impossibility to continue the performance of the specific role / function.</p>
Professional activities	<p>With regard to professional activities, it is recommended that:</p> <ul style="list-style-type: none"> <li>the maximum use of agile working methods is</li> </ul>	N/A

	<p>implemented for the activities that can be carried out at home or remotely;</p> <ul style="list-style-type: none"> <li>• holidays and paid leave for employees are encouraged as well as other instruments provided for in collective bargaining;</li> <li>• anti-contagion safety protocols are adopted and, where it is not possible to respect the interpersonal distance of one meter as the main containment measure, with the adoption of individual protection tools;</li> <li>• sanitation of the workplace is encouraged, including by using forms of social safety nets for this purpose.</li> </ul>	
--	---	--

### 3. ECONOMIC MEASURES

Issue	Main provisions
<p>Ordinary temporary lay-off (<i>trattamento ordinario di integrazione salariale - CIGO and assegno ordinario</i>)</p>	<ul style="list-style-type: none"> <li>• <b>causes: suspension or reduction of working activity</b> for events linked to the epidemiological emergency from COVID-19;</li> <li>• <b>terms:</b> starting from February 23, 2020, for a period of maximum nine weeks, plus a further five weeks (only if the nine weeks have already been fully used within the threshold previously granted) by 31 August 2020*; for the period from 1 September to 31 October 2020 a further period of four weeks** is available, all to be requested by the end of the month following the one in which the period of suspension or reduction of work began<sup>4</sup>;</li> <li>• <b>ordinary allowance</b> (<i>assegno ordinario</i>) to employees with employers enrolled with <i>Fondo di Integrazione Salariale (FIS)</i> with an average workforce of more than 5 employees;</li> <li>• <b>recipients:</b> employees in force on 25 March 2020 without a minimum seniority requirement;</li> <li>• <b>simplified trade union procedure:</b> prior communication and consultation - also telematics - to be carried out within three days from the request;</li> <li>• no assessment of the existence of the grounds (<i>causali</i>) as per the current legislation is required;</li> <li>• the period of wage foreseen by the reason COVID-19, does not compete with the limits set by the legislation currently in force;</li> </ul>

<sup>4</sup> For the periods from 23 February 2020 to 30 April 2020, the deadline for the submission of the application shall be 31 May 2020.

	<ul style="list-style-type: none"> <li>• <b>Salary integration treatment:</b> Euro 939.89 for incomes up to Euro 2,159.48; Euro 1,129.66 for incomes over Euro 2,159.48. The social security contribution and the related accessory charges are automatically paid;</li> <li>• <b>Exemptions:</b> the following provisions <b>shall not apply:</b> (i) additional contribution; (ii) demonstrate the transitory nature of the event, the resumption of normal work or the non-attributability of the event to the entrepreneur or employees; (iii) maximum limits set for the use of social safety nets. Furthermore, periods authorized as "COVID-19" are neutralized in the event of subsequent requests to take advantage of social safety nets; (iv) preparation of the technical report.</li> <li>• <b>Holidays:</b> the possible presence of previous holidays is not an obstacle to the acceptance of the application for CIGO.</li> <li>• <b>Methods of payment:</b> in addition to the ordinary method of providing the service by means of a balance on UNIEMENS, it is possible to request direct payment of the Social Security National Body to the employees involved, without the employer having to prove the company's financial difficulties.</li> </ul> <p><b>The alternative bilateral solidarity funds</b> (<i>Fondi di solidarietà bilaterali alternativi</i>) grant the payment of the ordinary allowance as above.</p> <p>Social Security national body (INPS) monitors the spending threshold and <b>DOES NOT TAKE INTO ACCOUNT ANY APPLICATION ISSUED AFTER SUCH A THRESHOLD HAS BEEN OVERCOME.</b></p> <p>* Employers with production units located in the municipalities identified in Annex I to the DPCM 1 March 2020 as well as employers who have no registered office or production or operating unit in the aforementioned municipalities, limited to employees who are resident or domiciled in the aforementioned municipalities, may submit an application for the grant of ordinary salary integration treatment or access to the ordinary allowance with the causal "COVID-19 emergency", for an <b>additional period not exceeding three months.</b></p> <p>** Employers in the tourism sector, trade fairs, congresses, amusement parks, live shows and cinemas may also have access to the additional 4 weeks in the period before 31 August 2020, provided that they have made full use of the above fourteen weeks (within the limits previously granted).</p>
<p>Ordinary temporary lay-off for employers which are already granted with the extraordinary temporary lay-off</p>	<ul style="list-style-type: none"> <li>• Employers that, as at February 23, 2020, was being granted with an extraordinary temporary lay-off, has the right to suspend and replace such ongoing extraordinary temporary lay-off <b>with the ordinary one</b> described above, for a period not exceeding nine weeks plus a further period of five weeks (only if the nine weeks have already been fully used within the threshold previously granted) by 31 August 2020*; for the period from 1 September to 31 October 2020 an additional period of four weeks is available;</li> <li>• the additional contribution required by current legislation <b>does not apply</b>;</li> <li>• procedural terms for the consultation with trade unions and for the following procedure envisaged by the current legislation <b>do not apply</b>;</li> <li>• the granting of the ordinary temporary lay-off is subject <b>to the suspension</b> of the extraordinary temporary lay-off; the period of duration of the ordinary temporary lay-off linked to COVID-19 will not be considered for the achievement of the time limit provided for the extraordinary one.</li> </ul>

	<p>Social Security national body (INPS) monitors the spending threshold and <b><u>does not take into account any application issued after such a threshold has been overcome.</u></b></p> <p>*Employers with production units located in the municipalities identified in Annex I to the DPCM 1 March 2020 as well as employers who have no registered office or production or operating unit in the aforementioned municipalities, limited to employees who are resident or domiciled in the aforementioned municipalities, may submit an application for the grant of ordinary salary integration treatment or access to the ordinary allowance as explained in the section above for an <b><u>additional period not exceeding three months</u></b>, and within the spending limit of euros 0,9 million for year 2020.</p>
<p>Ordinary allowance (<i>assegno ordinario</i>) for employers which are granted with solidarity allowance (<i>assegno straordinario</i>)</p>	<ul style="list-style-type: none"> <li>• employers enrolled with <i>Fondo di Integrazione Salariale (FIS)</i> may require the application of the ordinary temporary lay-off; in this case the ongoing solidarity allowance (<i>assegno di solidarietà</i>) is suspended for a period not exceeding nine weeks;</li> <li>• the periods during which the solidarity allowance (<i>assegno di solidarietà</i>) and the ordinary allowance (<i>assegno ordinario</i>) coexist are not taken into account for the achievement of the maximum overall duration of the solidarity allowance;</li> <li>• the additional contribution foreseen by current legislation <b>does not apply</b>;</li> <li>• <b>recipients:</b> employees in force on 25 March 2020 without a minimum seniority requirement</li> <li>• may be granted for the same employees who are beneficiaries of the solidarity allowance (<i>assegno di solidarietà</i>) to fully cover working hours.</li> </ul>
<p>New provision for the temporary lay-off (<i>Cassa integrazione in deroga</i>)</p>	<ul style="list-style-type: none"> <li>• <b>subjects:</b> employers which have no right to be granted with the above listed temporary lay-offs;</li> <li>• <b>duration:</b> for the whole suspension of the employment relationship and in any case for a period not exceeding nine weeks plus an additional period of five weeks (only if the nine weeks have already been fully authorised) by 31 August 2020*; for the period from 1 September to 31 October 2020, an additional period of four weeks may be granted**;</li> <li>• it is required to be executed, even in a telematic way, <b><u>an agreement with trade unions</u></b> which are comparatively more representative at national level (<b>EXCEPT FOR</b> those employers who employ less than five employees, that are not required to enter into a union agreement);</li> <li>• <b><u>Salary integration treatment:</u></b> Euro 939.89 for incomes up to Euro 2,159.48; Euro 1,129.66 for incomes over Euro 2,159.48. The social security contribution and the related accessory charges are automatically paid;</li> <li>• <b>recipients:</b> employees in force on 25 March 2020 without a minimum seniority requirement;</li> <li>• the imputed social contributions (<i>contribuzione figurativa</i>) as well as any relevant charge is recognized in favour of the employees;</li> <li>• for employees of agricultural sector, the hours of reduction or suspension of activities, within the limits provided for therein, are equated to work for the purpose of calculating agricultural unemployment benefits;</li> <li>• domestic-employers are excluded from the provision above.</li> </ul> <p>For employers with units located in multiple Regions or Autonomous Provinces, the treatment referred to in this section can be recognized by the</p>

	<p>Ministry of Labor.</p> <p>* Employers with units located in the Municipalities identified in Annex I to the DPCM 1 March 2020 as well as employers who have no registered office or production or operating unit in the aforementioned municipalities, limited to those employees who are resident or domiciled in the aforementioned Municipalities, can apply for the ordinary salary integration treatment or access to the ordinary allowance with the causal "COVID-19 emergency", for an <b>additional period not exceeding three months</b> starting from 23 February 2020.</p> <p>Without prejudice to the above, the regions of Lombardy, Veneto and Emilia-Romagna, with reference to employers with units located there, as well as to employers who have no registered office or production or operating unit in the aforementioned regions but with respect to those employees with permanent address or domiciled in those Regions, they can recognize salary redundancy payments, for a period not exceeding four weeks, additional to the above 9 weeks and authorized with the same concession.</p> <p>** Temporary lay-off for periods following the first nine weeks (granted by the Regions) are granted by the Social Security National Body (INPS) upon request of the employer (who must forward the application to the relevant Social Security National Body (INPS) electronically). Employers in the tourism sector, trade fairs, congresses, amusement parks, live shows and cinemas may also have access to the additional 4 weeks in the period before 31 August 2020, provided that they have made full use of the above fourteen weeks (within the limits previously granted).</p> <p>Social Security national body (INPS) monitors the spending threshold and <b>DOES NOT TAKE INTO ACCOUNT ANY APPLICATION ISSUED AFTER SUCH A THRESHOLD HAS BEEN OVERCOME.</b></p>
<b>Fixed-term employment agreement</b>	<p>As express derogation to the provisions of Legislative Decree 81/2015, it is possible to extend / renew fixed-term employment agreement (also with reference to staff-leasing related agreement) even during the access to any social safety nets.</p> <p>Until August 30, 2020, it will also be possible to extend/renew the fixed-term contracts in force on February 23, 2020 in express derogation of the provisions set forth under Article 21 of Legislative Decree no. 81/2015 (with regard to maximum duration, extensions, renewals and reasons – i.e. <i>causali</i>).</p>
<b>Collective dismissals</b>	<p>Starting from 17 March 2020 and for the following 5 months (i.e. until August 17, 2020), any collective dismissal procedures is banned except for those cases in which the dismissal follows a change of contractor in the context of a service agreement, pursuant to the applicable law, national collective bargaining agreement or contractual clauses (c.d. <i>cambio appalto</i>).</p>



	<p>For the same period, pending collective dismissal procedures started after February 23, 2020 are suspended.</p> <p>The collective dismissal procedures started prior to February 23, 2020, whose legal consultation is in progress on the date of entry into force of the Decree no. 18/2020, continue in their course.</p>
<b>Individual dismissals</b>	<p>Starting from 17 March 2020 and for the following 5 months (i.e. until August 17, 2020), any individual dismissal grounded by objective reasons and, thus, for any reason related to the production activities, the organization of the business and its regular functioning, is forbidden (including by means of the opening of the procedure pursuant to Article 7 of Law no. 604/1966).</p> <p>It will be still possible to proceed with dismissals for just cause or justified subjective reasons (i.e. significant breach of contractual obligations) as well as, as per a preliminary interpretation, any dismissal for the exceeding the illness period (<i>periodo di comporto</i>) (quarantine period with active surveillance as well as fiduciary isolation shall not be taken into account to this end) as well as any withdrawal during the probationary period. To be still evaluated the chance of dismissal for supervening impossibility.</p> <p>An employer who dismissed resources for justified objective reasons between 23 February and 17 March 2020 may revoke such dismissals at any time subject to its application for salary integration treatment (ordinary or temporary lay-off): in this case the employment relationship shall continue without interruption without any burden or penalty for the employer.</p>
<b>Parental leave</b>	<p>Between March 5, 2020 and July 31, 2020 it has been introduced a so-called "Covid-19 Leave":</p> <ul style="list-style-type: none"> <li>• for those parents who are or employed with private employers, or enrolled with the so called <i>gestione separata</i> of the social security national body, or are self-employed workers enrolled with social security national body;</li> <li>• for period of no more than 30 days – total for both parents – either on a continuous basis or on a segmented one;</li> <li>• for old children up to 12 years old (this age limit does not apply to children with serious disabilities)*;</li> <li>• provided that there is no other unemployed parent, non-worker or beneficiary of any other salary support means.</li> </ul> <p>During the Covid-19 Leave, an allowance equal to 50% of the salary is granted and the relevant employees is paid his/her imputed social contribution.</p>

	<p>Any "ordinary" parental leave periods used during the period of suspension of childhood education services and teaching activities (i.e. from March 5, 2020 and up to April 13, 2020<sup>5</sup>) are converted into "Covid-19 leave" with the right to the related allowance and are not counted or compensated as ordinary parental leave.</p> <p>With regard to the private sector, parents of children younger than 16 years of age, are granted with the following:</p> <ul style="list-style-type: none"> <li>• right to abstain from work for the period of suspension of educational services for children and educational activities in schools of all levels;</li> <li>• without indemnity right or acknowledgment of imputed social contributions;</li> <li>• prohibition of dismissal and right to job retention;</li> <li>• provided that there is no other unemployed parent, non-worker or beneficiary of any other salary support means.</li> </ul> <p>"Covid-19 Leave" also applies to step parents.</p> <p>* Alternative: bonus of a maximum of 600 Euros (increased to 1,200 Euros) for the purchase of baby-sitting services for the school suspension period (the bonus is paid through the family booklet).</p>
<b>Beneficiaries of Law no. 104/1992 related leaves</b>	<p>The days of paid monthly leave covered by imputed social contributions provided for by Article 33 paragraph 3 of Law no. 104/1992 (currently 3 days) are increased by a further 12 days for months of March and April 2020 and increased again by a further 12 days for months of May and June 2020.</p>
<b>Working Time Rescheduling and Fondo Nuove Competenze</b>	<p>Possibility of implementing - by means of company or territorial trade union agreements to be signed with the comparatively more representative trade union associations - specific working time rescheduling agreements for organisational and production reasons, with which part of the working time can be finalised into training courses.</p> <p>The charges relating to these training courses will be borne by a fund (not yet established) so-called <i>Fondo Nuove Competenze</i>.</p>
<b>Self-isolation related protection</b>	<ul style="list-style-type: none"> <li>• The period spent in mandatory/fiduciary self-isolation by employees of private sector, is treated as sickness for the purposes of the economic treatment provided for by law and shall not be taken into account for the achievement of the maximum illness period (<i>periodo di comparto</i>).</li> <li>• With reference to the aforementioned periods, a medical certificate shall be issued with the specific indication of the reason that gave rise to the mandatory/fiduciary self-isolation with active surveillance.</li> <li>• By way of derogation from the current provisions, the charges borne by the employer, which apply to the social security institution, and the relevant social security charges are to be borne by the State.</li> </ul>

<sup>5</sup> Updated with National Social Security Body message no. 1516/2020.

	<ul style="list-style-type: none"> <li>Until July 31, 2020, for all those employees with severe disabilities or certification of risk from immunosuppression or from the results of oncological pathologies or from carrying out life-saving therapies, the period of absence is equivalent to hospitalization. No liability, is attributable to the primary doctor in the event that the recognition of the invalidating status depends on the illicit act of third parties.</li> </ul>
<b>Additional indemnities for workers</b>	Within certain limits and under certain detailed conditions - for the month of March, and now also for the months of April and May - certain indemnities (between five hundred and one thousand Euros) are provided for self-employed workers, freelancers with VAT numbers, intermittent workers, workers registered with the Gestione separate, enrolled with the AGO, agricultural workers, seasonal workers (also spa workers), coordinated and continuous collaborators, domestic workers and sports workers.
<b>Prorogation of terms for applying for NASpI e DIS-COLL (unemployment related allowances)</b>	<ul style="list-style-type: none"> <li>In case of involuntary termination of the employment occurred between 1 January 2020 and up to 31 December 2020, the expiry terms provided for the NASpI related request as well as the DIS-COLL related ones are extended from 68 to 128 days.</li> <li>For NASpI and DIS-COLL applications submitted after the ordinary deadline, the effect of the service from the sixty-eighth day following the date of involuntary termination of the employment relationship is reserved.</li> </ul>
<b>Una-tantum bonus for those who work during March</b>	<p>Employees who have a total income of no more than 40,000 euros are entitled to a bonus, for the month of March 2020, which does not contribute to the calculation of income for tax and social security purposes, equal to 100 euros to be prorated taking into account the number of working days of presence during the aforementioned month.</p> <p>The bonus is anticipated by the employer and subsequently compensated with the ordinary legal procedures.</p>
<b>Tax credit for sanitizing activities / other contributions</b>	Several form of tax credit / contribution credit with different thresholds (within the envisaged expenditure thresholds) are provided for the costs for sanitizing the environments and work tools incurred (where documented by the employers) as well as for the purchase of personal protective equipment (DPI).
<b>Loan facility</b>	<p>In order to ensure the necessary liquidity for companies based in Italy, affected by the COVID-19 epidemic, other than banks and other entities authorized to exercise credit, SACE S.p.A. <u>until 31 December 2020 it grants guarantees</u>, in accordance with European legislation on state aid and in compliance with certain criteria laid down by art. 1 of Legislative Decree 23/2020, in favour of banks, national and international financial institutions and other entities authorized to exercise credit in Italy, for loans in any form to the aforementioned companies.</p> <p>The company benefiting from the guarantee undertakes to manage employment levels through agreements with trade unions<sup>6</sup>.</p>

<sup>6</sup> The practical aspects of this provision shall be still clarified.

## TEAM



Equity Partner

**Paola Tradati**

[paola.tradati@gpblex.it](mailto:paola.tradati@gpblex.it)

Equity Partner

**Nicola Bonante**

[nicola.bonante@gpblex.it](mailto:nicola.bonante@gpblex.it)

Co-Head of the Employment Law department, they render continuous assistance rendered in relation to labour law. They assist clients operating on a wide range of business sectors in all matters relating to the management of employment relationships, both autonomous and subordinate, including new types of management of employment relationships, advising domestic and international entities including those in financial distress. They also advise our clients on matters of social security, trade union negotiations, labor and safety at work and labour law aspects of their extraordinary corporate transactions. Our lawyers are renowned labour lawyers who focuses in particular on restructuring processes, collective dismissals, transfers of business and stock option plans, as well as in domestic and cross-border labour aspects of extraordinary transactions. They have in-depth expertise in HR contracts both in out-of-court settlements and in litigation before the court, in remuneration policies as well as in the area of agency and distribution contracts.

## CONTACTS

### Milan

Piazza Borromeo, 8  
20123 Milan (MI)  
Tel. +39 02 859751  
Fax +39 02 809447  
[studio@gplex.it](mailto:studio@gplex.it)

### Rome

Piazza dei Caprettari, 70  
00186 Rome (RM)  
Tel. +39 06 68134961  
Fax +39 06 68134701  
[studioroma@gplex.it](mailto:studioroma@gplex.it)

[gplex.it](http://gplex.it)