



Background screening is becoming increasingly commonplace in Italy as it is throughout Europe.

Legal Landscape

Italy is a member state of the European Union and as such is responsible for compliance with regulations and directives. A regulation is a binding act that must be uniformly applied across all member states within the EU, whereas a directive establishes a legislative goal that each member state must implement with their own laws. Laws implementing a directive must be at least as strict but can impose additional requirements. The European Commission is responsible for ensuring each member state properly applies EU law.

Capital	Roma
Currency	Euro (€) (EUR)
Population	60,674,003
Area	301,338 km ²
Language	Italian
Time Zone	UTC +1(2 summer)
Calling Code	+39

Italy also has the power to implement its own legislation which is primarily done through the legislature (parliament) which is comprised of the Senate and Chamber of Deputies (the lower house). Regions within Italy may pass local legislation but that may also be subject to challenge at the Constitutional Court.

Data Privacy

Data protection in Italy is currently governed by Legislative Decree No. 196/2003 which implemented EU Directive 95/46/EC into law. Under the law, personal data must be processed lawfully and fairly, and be collected and record for only a specific, explicit and legitimate purpose. Further, personal data processing must be accurate, relevant, not excessive and retained for only as long as necessary to fulfill the processing's purpose. The data protection law also affords data subjects many rights, including the right to access personal data, rectify or update personal data, and obtain erasure, anonymization or blocking of personal data.

Additionally, the data subject must provide express consent for personal data processing that is specific, informed and freely given, and is documented in writing. Many experts believe that consent as it relates to employment can never truly be "freely given" so employers should consult with a qualified legal expert to determine what steps should be taken if an individual were to refuse consent to a background check.

It is also important to note that the data privacy landscape throughout the European Union is shifting due to the passage of the General Data Protection Regulation (GDPR) which goes into effect May 25, 2018. As noted in the introductory notes of the legislation, the fragmented nature of data privacy across member states created significant challenges to businesses in terms of compliance and presented different rights for individuals depending on where they resided. Instead, the GDPR will represent a uniform law that all impacted companies must adhere to. The GDPR presents strengthened protections for data subjects as well including a "right to be forgotten", easier access to their data and stronger enforcement of the rules.



The EU-US Privacy Shield presents one method for lawful data transfers from Italy (or any other member state) to the United States, and was endorsed by the Garante per la protezione dei dati personali (Italian Data Protection Authority) via resolution No. 436 of 27 October 2016. The Privacy Shield is the result of an agreement between the European Commission and the US following the invalidation of the US-EU Safe Harbor Framework in October 2015. Info Cubic self-certifies compliance with the EU-US Privacy Shield as set forth by the U.S. Department of Commerce regarding the collection, use and transfer of personal data from the European Union member states to the United States. More information about this program may be found here: <https://www.privacyshield.gov/welcome> and a list of active and inactive organizations, including Info Cubic's certification, may be found here: <https://www.privacyshield.gov/list>.

Investigations

Employers should be cognizant of Article 8 of Law 300/1970 when designing a background screening program in Italy. According to the law, employers – whether directly or through third parties – may not investigate the political or religious beliefs, union memberships or other matters not directly related to the professional skills of an applicant or employee.

Background Screening – Available Checks

Bankruptcy Records

Civil Records

Credit Check

Criminal Record Certificate

Directorship

Education

Employment

Global Monitor Check

ID Verification

Motor Vehicle Records

Passport Check

Professional License Verification

References

In general, the most commonly conducted checks in Italy include reviewing an individual's past education and employment history, in addition to conducting a criminal records check. Particular checks, such as the MVR or criminal search, should only be performed when directly tied to the position being filled.

Education

In Italy it is common to verify the highest degree obtained by a candidate. Educational institutions will be contacted to verify dates of attendance, graduation date and degree information.



Employment

It is common to verify the last seven years of employment for candidates. Employers will be contacted to verify the individual's title, dates of employment and if the candidate is eligible for rehire. Current employers will only be contacted with express consent from the applicant.

Criminal Record Certificate

The criminal record check offered by Info Cubic obtains the *Certificato Penale del Casellario Giudiziale* (Penal Certificate) which includes criminal convictions that are considered final. According to Article 24, of Decree of the President of the Republic No. 313 of Nov 14, 2002, the Penal Certificate will not include all data contained in the Judicial Record Register including information such as:

- Convictions that are granted the benefit of non-disclosure (typically applied to minor offenses)
- Judicial measures ordered by a Justice of the Peace (giudice di pace)
- Convictions where the offense is only punishable by a fine
- Convictions that have been expunged or extinguished.

Miscellaneous

Other searches in Italy include: Bankruptcy Records, Civil Records, Directorship Search, Motor Vehicle Records (validation of the individual's driver's license), Passport Check, Global Monitor Check (sanctions and watch lists), Professional License Verification and Professional References.

The preceding is offered as general educational information and is not intended to constitute legal advice. Given the intricacies of the pertinent laws and regulations, consultation with qualified legal counsel is recommended.