

CCIN: Position on the taking of temperature of employees and clients during the gradual resumption of economic activities



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The Position with regard to sanitary measures in the context of the gradual resumption of activities following the end of containment (early May 2020) of the Monegasque Personal Data Controller (CCIN) mainly concerns the recurring issue of temperature taking of employees, and of clients of stores in Monaco.

The CCIN requests that the temperature of employees should not be taken except in specific cases requiring it, and that client access to stores should not be made conditional on taking their temperature.

In the Principality, the taking of temperature is expressly provided for within the sole framework of construction activities.

For **construction activities**, the organisation of *"temperature-taking measures at the entrance to premises and building sites"* is part of the general access control instructions for employees as well as persons intervening in the company and on the building site (amended Annex of 20 April 2020 to Ministerial Order n° 2020-335 of 23 April 2020 on health safety measures for construction activities during the COVID-19 coronavirus epidemic).

For **other activities**, temperature taking is not part of the sanitary measures (general and specific according to the activity concerned) to be put in place (Ministerial Decision of 14 May 2020 amending the Ministerial Decision of 28 April 2020 on the introduction of exceptional measures within the framework of the gradual resumption of activities to combat the COVID-19 epidemic).

The CCIN recalls the sensitive nature of health-related data, and that *"the use of a temperature taking must correspond to a particular requirement and must be done in a proportionate manner, in accordance with the rights of individuals"*.

For *"specific cases requiring it"*, the CCIN lists the *"criteria"* applicable to the taking of employees' temperatures:

- Establishment of a written procedure specifying the temperature threshold above which access to the site is not authorized;
- Communication of this procedure to the employee representative bodies and the Labour Inspectorate;
- Prior information of employees on this procedure;

- Possibility for the employee to refuse to submit to the taking of the temperature, without consequence, the employer can then accept the employee in the workplace under the conditions that he sets, or send him home without legal or financial consequences (salary maintained);
- Confidentiality applicable to the taking of temperature and the possibility of refusal;
- No automated system for collecting the temperature of data subjects should be deployed before the data subjects have been able to consent or refuse to have their temperature taken.



With regard to **store clients**, the CCIN requests that access to the store should not be conditional on the taking of temperature, stating that "*no valid consent can therefore exist*".