



PASSPORT



COVID-19

EUROPEAN EMPLOYMENT PRACTICE
— newsletter

FAQs · *Immune Certificate*

July 2021

**ANDERSEN**[®]

INTRODUCTION

Andersen, through the member and collaborating firms of Andersen Global and its European Employment Practice, has prepared this edition of the Newsletter with relevant information for employers regarding the vaccination certificate. The Newsletter provides an overview of 21 countries covering the most common questions regarding vaccination:

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Can the employer ask the employee to present vaccination/immunity certificate?

We are confident that this overview will help employers in Europe to solve the most common questions in this regard. In case you are interested in receiving more detailed information, please contact one of the members of the Andersen Employment Practice who will be glad to give further advice.

Our Employment Practice has a proven track record in delivering best-in-class and seamless service.

- Layoffs
- Collective conflicts
- Outsourcing
- Litigation and labor disputes
- Executive compensation and incentives
- Non-compete
- Employment policies
- Pensions

European Employment Group

CONTENTS

- 04. Albania
- 05. Austria
- 06. Bosnia and Herzegovina
- 07. Bulgaria
- 07. Croatia
- 08. Cyprus
- 09. Germany
- 10. Greece
- 11. Hungary
- 12. Italy
- 13. Moldova
- 13. North Macedonia
- 14. Poland
- 15. Portugal
- 16. Romania
- 18. Serbia
- 19. Slovakia
- 20. Slovenia
- 21. Spain
- 22. Switzerland
- 23. Ukraine

ALBANIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Citizens who have been vaccinated are entitled to be equipped with a Vaccination Certificate. The Vaccination Certificate contains only the name, ID number of the person, time of the vaccination and type of the Vaccine. Albanian state authorities do not issue any Immunity Certificate for citizens recovered from Covid-19.

Can the employer ask the employee to present vaccination/immunity certificate?

There are no specific legal provisions or guidelines from the Albanian DPC regarding this topic. Although Albanian employers have a duty to protect the health and safety of their workforce, in the absence of an expressed legal duty to be vaccinated against Covid-19 and to provide proof of vaccination it is unclear whether employers can require employees to present a “vaccination certificate” in certain circumstances. An employee’s vaccine status is health data and is considered to be sensitive category data, therefore, it can only be processed to a very limited extent, provided it is necessary and proportionate to do so (e.g. can be proportionate for employees in open offices or workspaces, dealing with customers/public etc, while not reasonable in case of teleworkers.) as well as ensure that the data is deleted if no longer needed. Employees have the right to refuse to provide the vaccination certificate or information regarding their recovery and they may not be penalized for this.



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AUSTRIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

- Austrian Citizens usually are in possession of a vaccination-booklet. Vaccines received against Covid-19 are entered thereto. Since some years, an electronic patient card is established for all those citizens, who benefit from social security and have not dissented to their data being entered into that registry (ELGA). Thus, any infection and successive recovery as well as the fact of a vaccination are known to the authorities.
- Based on these data, Austria has established an electronic “green pass”, which aligns with the European Model. All persons who are validly tested, vaccinated or recovered, receive a certificate and a QR-Code. This certificate is suitable for travel within the EU and is necessary for entry to several public and private institutions in Austria. Besides this certificate, Austrians may prove their “status” with the national vaccination booklet or an actual test-certificate. Antigene-tests done by medics/testing centers/pharmacies are valid for 48 hours, PCR-tests are valid for 72 hours. A first shot of vaccine (in case of Pfizer/Moderna/Astra) gives freedom from restrictions from the 22nd day after the first shot on, until max three months. After the second shot (or in case of the only shot for Johnson’s vaccine), the vaccinated-status allows all liberties for up to max. 9 months after the first vaccination date.

Can the employer ask the employee to present vaccination/immunity certificate?

- There is no longer a state-imposed FFP2-mask requirement in the workplace, except in case of customer contact (including contact to pupils and patients). Exceptions to mandatory masks when in contact with customers are permissible, if employees present the proof that they are posing a “reduced epidemiologic risk” or other suitable (structural) measures to minimize the risk of infection are in place. The proof of reduced epidemiologic risk is known as „3G“-Rule (geimpft, getestet, genesen – vaccinated, tested, recovered). Thus, a certificate of vaccination is one of several possibilities to certify a reduced risk, and the employer is entitled to ask, which of the 3G applies to the employee.
- Numerous larger companies, especially in the health and education sectors, have announced that they will give preference to vaccinated persons when hiring them and are contemplating to declare vaccination a hiring-requirement from autumn 2021 on. It is to be expected that this trend will intensify throughout the labour market - at least for new hires. The introduction of a general vaccination obligation is currently rejected in Austria, both politically and legally.



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BOSNIA AND HERZEGOVINA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Bosnia and Herzegovina citizens who have been vaccinated are provided with a Covid-19 vaccination certificate. Such certificate contains details about the vaccinated person (name, ID number), details about the vaccine (type and series of vaccine, date of vaccination of the first and second dose), details on the medical institution and date of issuance of the certificate. Furthermore, for the purpose of verifying the validity of the document, each certificate has a confirmation code and QR code. It is not necessary to be fully vaccinated in order to get this certificate. Also, people who had been diagnosed with Covid-19 via positive PCR test, can obtain immunity certificate issued by the relevant authority, which states the name and ID number of the person, the date when the person was tested (PCR), and the date when it was confirmed that the PCR test was positive.

Can the employer ask the employee to present vaccination/immunity certificate?

In Bosnia & Herzegovina there are no legal provisions specifically authorizing an employer to request from their employee presentation of a vaccination/immunity certificate. Since vaccination is not obligatory in Bosnia & Herzegovina, labor rights could not be affected by the fact whether someone has or has not been vaccinated. Therefore, employer cannot request from an employee to present a vaccination/immunity certificate. Furthermore, considering that vaccine status is part of health data and represents a special category of personal data in terms of applicable provisions, processing and collecting of such data is allowed to a very limited extent, and requires a valid legal basis from the data protection point of view.



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BULGARIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

The EU Digital Covid Certificate is issued in Bulgaria and facilitates safe free movement during the Covid-19 pandemic within the EU. The EU Digital Covid Certificate system covers three different types of Covid-19 certificates: a vaccination certificate, a negative test certificate, and a certificate of recovery. All EU citizens and their family members, as well as non-EU nationals legally staying or residing in the Member States and who have the right to travel to other Member States, are eligible to receive such certificates free of charge. The EU certificate only includes a minimum set of information necessary to confirm and verify the holder's vaccination, testing or recovery status.

Can the employer ask the employee to present vaccination/immunity certificate?

There are no specific legal provisions or guidelines on this topic. The Bulgarian employers are obliged to introduce measures on the health and safety protection at the workplace, including Covid-19. The measures may include also providing information by the employees regarding their immunity and vaccination status. Such obligation may be included in the internal rules on the health and safety, which must be duly presented to the employees in order for them to be binding for the employees.

CROATIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Yes. Croatia issues Covid-19 vaccination certificates and it is also one of the first EU countries to start the EU digital Covid-19 certificate application and apply it on its border controls. The EU Covid-19 digital certificate shows the person's vaccination status, whether they have been infected with Covid-19 as well as the result of the PCR test. The Government notes that the certificate will be used in accordance with data protection regulations and exclusively for downloading and processing the data contained in the certificate.

Can the employer ask the employee to present vaccination/immunity certificate?

Given that there is no statutory obligation to vaccinate in Croatia, the fact that an employee has been or has not been vaccinated could not adversely affect his labor rights and thereby, cannot ask the employee to present a vaccination/immunity certificate. Any collection and processing of personal data requires a valid legal basis (according to Article 6 of the General Data Protection Regulation), but given that vaccination data is health data, as such it represents a special category of personal data in terms of provisions of the General Data Protection Regulation. The processing of such data is in principle prohibited, so that their processing, in addition to the legal basis, requires the existence of one of the exceptions in Article 9 (2) of the General Data Protection Regulation.



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CYPRUS

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Cyprus, there is no vaccination or immunity certificate as such, however, vaccinated citizens hold a vaccination card confirming the doses of the vaccination they chose to put (for the time being 2 doses). Once an individual has had 2 doses of the vaccine he/she is said to hold the so-called 'safe-pass' and can freely move around without restriction or need for a prior rapid test which is the case until today. Vaccinated persons are registered directly in the General Health Service system, where the vaccine is automatically entered into the person's profile.

Cyprus has proceeded with the implementation of issuing the EU Digital Covid Certificate as from the 1 July 2021. The European Digital Covid Certificate can be issued in digital and printed form, while it is available in both Greek and English. It contains a QR code with a digital stamp that ensures its authenticity, which is verified by scanning the code.

Regarding Cyprus, the Certificate can be issued in the following 3 cases:

- When an individual has been vaccinated (in one or two doses) and this has been registered in the relevant database of the Ministry of Health.
- When an individual has been laboratory-diagnosed with Covid-19 disease by molecular methodology (RT-PCR) and the result has been declared and registered in the relevant database of the Ministry of Health.
- When an individual has undergone Covid-19 laboratory test in the last 7 days with antigen rapid test method or with molecular methodology (RT-PCR) you have received a negative result and the result has been registered by the laboratory in the relevant database of the Ministry Health.

Can the employer ask the employee to present vaccination/immunity certificate?

Currently, it is not mandatory for citizens to put the vaccine, and this is totally optional. Employers cannot ask an employee to present the vaccination card mentioned above as there is no legitimate basis for this. However, for employees to be able to go the workplace, they will need to present a negative rapid test every 72 hours. This requirement is justified by the issue of a decree issued by the Minister of Health.

What needs to be considered by employers is that they have a responsibility to ensure the protection of health and safety in the workplace. Measures that are currently being taken in both the public and private sector relate to the keeping of a 2-meter distance between employees, teleworking insofar as practicable, disinfection and cleaning of the premises. Additionally, in Cyprus there is a ministerial decree that only 50% of the total workforce may physically be present at the workplace, this includes the private and public sectors.

The so called 'SafePass' is now mandatory, and there is no more free rapid antigen testing.



At the forefront of the new measures is the “SafePass” policy in place since July 9, whereby citizens aged 12 or older are obliged to possess and present either a vaccination certificate with at least one dose — including completion of a three-week post-vaccination period — or proof that a person has contracted Covid-19 in the last 6 months, or a negative PCR or rapid test with a 72-hour validity period.

The SafePass must be presented by employees and customers entering an establishment, be it their workplace, a restaurant or bar. In addition, the provision of free rapid antigen tests will be abolished as of August 1 in an effort to exert pressure on unvaccinated citizens either to get vaccinated or pay for a PCR or rapid test every 72 hours.

GERMANY

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Yes, Germany issues Covid-19 vaccination certificates. The Covid-19 vaccination can be noted in the vaccination passport (so called Impfpass). The vaccination passport corresponds to the international vaccination passport provided by the World Health Organization (WHO). Upon presentation of the vaccination passport, the vaccination can be proven.

Further, Germany established a digital vaccination passport / immunity certificate. Citizens may conveniently store personalized information such as vaccination date and vaccine on their smartphones. Therefore, they can download the EU’s digital Covid certificate for Corona vaccination to their smartphone and show it when needed (for instance in the so called CovPass-App). In addition, the app can also be used to download a certificate for recovery from a Corona infection (immunity certificate) or for a negative Corona test result.

Can the employer ask the employee to present vaccination/immunity certificate?

The employer may only ask about facts in which he has a legitimate interest or an interest worthy of protection. Since a vaccination is a private matter, it is initially none of the employer’s business. In addition, information on vaccination status is health data that requires special protection within the meaning of Article 9 of the General Data Protection Regulation (GDPR).

However, the situation is somewhat different for employees who are in contact with persons who are particularly at risk, such as hospital employees, employees in retirement homes and care facilities, and in doctors’ offices. Hygiene and protection concepts of the operators could provide for corresponding requirements. In any case, in the absence of a legal basis, the demand for proof of vaccination should only be considered in the legitimate interest of the employer.

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GREECE

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Greek authorities provide for a Covid-19 vaccination certificate. To be specific, Greek citizens who have been fully vaccinated may obtain such a certificate online following the procedure stipulated. Said certificate clearly mentions the type of vaccine used, the dates of vaccination, in addition to the vaccination center where the vaccination was completed. Furthermore, for the purpose of verifying the validity of the document, each certificate is issued carrying a digital stamp, a verification code and QR code.

Moreover, Greece has recently launched the EU Digital Covid certificate which is issued in both Greek and English. It has a QR code for authentication purposes, is also issued online and may be used in digital as well as paper form, for any travelling within EU. This certificate may be issued for citizens who have been fully vaccinated against Covid-19 or have undergone a PCR test/rapid test with negative results within the last 30 days or have even recovered from the disease. So, besides the above-mentioned EU Digital Covid certificate which may be issued in case of recovery from Covid-19 as well, no other immunity certificate has been provided in Greece so far.

Can the employer ask the employee to present vaccination/immunity certificate?

Considering that vaccination against Covid-19 is not yet obligatory in Greece for employees, other than for a specific type of employment (firefighters who are members of a special team called EMAK), employees until recently were not required to present said certificate upon request by their employer. However, notwithstanding the above, as per the provisions of the latest legislation in effect, the employer has the right to ask the employees who have been fully vaccinated against Covid-19 to present the vaccination certificate in order to ensure that they do not have the obligation to undergo self-testing.

Employees who have been fully vaccinated against Covid-19 prior to at least 14 days, are exempt from the self-testing obligation under the condition that they properly present the vaccination certificate.

All employees working in the private sector are required to do a COVID-19 self-test once a week, up to 24 hours prior to the first day of the week the employee will carry out his/her duties at the employer's premises. The test results shall be valid for a week past the day of the employees doing the test. Employees are given the tests for free by their local pharmacies using their Social Security Number (AMKA) and after doing the test, they are required to submit the test results online.

Self-testing is not optional, but it is considered a prerequisite for any employee to be able to provide his/her work at the employer's premises. Thus, employers are in fact prohibited from actively employing any employee who has not done the test and submitted the test result thereof or has even tested positive. Sanctions



(fines) are also to be imposed to employers in case of non-compliance with the provisions of the framework regulating said issue.

Recently the following measures have been announced, which will be determined in the coming days by specific legal framework: Vaccination becomes mandatory in nursing homes for the elderly and those who will not have been vaccinated will be suspended from 16 August onwards. Also, from September 1, the compulsory vaccination will apply to employees in the health sector in the public and private sector. For employees in other sectors it is currently being considered to impose compulsory vaccination.

HUNGARY

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Hungary those who either had been vaccinated against Covid-19 or has already been recovered from it are provided with an immunity certificate ex officio. This certificate only contains name, ID card or passport number of the person and either the time of vaccination or the date of recovery in this later case the card has an expiry date: 6 months from recovery. (There is a special piece of law on the certificate).

As of July 1, 2021 Hungary can also provide EU Digital Covid Certificate which is issued in both Hungarian and English and contains the information required by Regulation (EU) 2021/953 of the European Parliament and of the Council. This certificate is only issued if requested either at the competent government offices or at the respective website or application of the National Healthcare Service Center.

Can the employer ask the employee to present vaccination/immunity certificate?

Yes, but strictly in line with and applying the limitation of the GDPR rules. Objective of such data request and process can only be to provide occupational health and safety in the work organization and on the basis of a prior risk analysis carried out based on objective criteria. The measure should be proportionate and the necessity to be checked per job functions/job groups (e.g. can be proportionate for employees in open offices or workspaces, dealing with customers/public etc., while may not reasonable in case of teleworkers.)

Considering that both the fact of vaccination and the recovery from Covid-19 is special data, the employer can only ask the employee to present the Hungarian immunity card but cannot copy it. Employer can only handle the data that employee concerned has proved that she/he is protected against the coronavirus and for how long (if this can be established at the time of presentation of that certificate).

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ITALY

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Italy, citizens who have been vaccinated anti-Covid-19 are registered on the National Health Service system and have the possibility of obtaining a document from their health record showing the date of vaccination, the batch number and the type of vaccine administered. In addition to this option, vaccinated citizens can request a "vaccination certificate" from the Health Centre where they have had the vaccine, certifying that they have been already vaccinated anti-Covid-19. For citizens who have already contracted and recovered from the disease, there is not yet a specific certificate of immunity.

Since the beginning of July, citizens who have received at least one dose of the vaccine can download the EU Digital Covid Certificate from the Ministry of Health website or install it on app called "Immuni" or "Io".

Can the employer ask the employee to present vaccination/immunity certificate?

Currently in Italy there aren't legislative requirements or specific laws in Italy governing the obligation / requirement for employees to produce vaccination or immunity certificates to their employers, or the legitimacy / admissibility of employers requesting such certificates from employees.

Only employees and doctors working in medical facilities and nursing homes are required to have the Covid 19 vaccine. Those who refuse the vaccine may be placed on leave or suspended from employment without pay if they are unable to be allocated to duties that do not require them to interact with patients.

Other employers are not permitted to know which of their employees have been vaccinated and which have declined to get vaccinated. This is true even if the vaccination is given in the workplace in accordance with a protocol agreed by professional associations and the national health service. Vaccines are considered sensitive data and may only be processed in accordance with GDPR.

What has just been written above is an expression of a broad legal principle that bans the employer from discriminating against employees. It is illegal for an employer to conduct inquiries, even through third parties, into a worker's political, religious, or trade union ideas, as well as facts unrelated to the evaluation of the worker's professional capability.



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MOLDOVA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Yes. A vaccination certificate both on paper, as well as in electronic form generated by the Electronic Registry for Vaccination against Covid-19 (RVC19), is issued by the Vaccination Centers of the Republic of Moldova. This certificate is executed in Romanian, Russian and English languages and it comprises the identity data of the patient and information about the manufacturer, vaccine series, date of administration and security features, such as QR code, signature and stamps.

Can the employer ask the employee to present vaccination/immunity certificate?

According to the Moldovan Labor Code, the employer cannot request information about the employees' health, except for the data on the employee's ability to fulfill their work obligations. Although the Moldovan authorities issued a guide on Covid-19 prevention measures at workplace, the guide does not regulate the vaccination/immunity certificate aspects, but only provides general obligations of the employer regarding the related employees' safety. The employees have the right therefore to plead on the lack of specific regulation in the field and refuse providing the vaccination certificate or information regarding their recovery. Such an information would be allowed for processing by the employers subject to the written consent of the employee as data holder of special category data (on health condition).



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NORTH MACEDONIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In terms of Covid-19 vaccination certificate, in the Republic of North Macedonia a certificate is issued stating the vaccine received, the date of first dose, LOT number of the vaccine, the date scheduled for the second dose as well as the date and LOT number of the second dose of the vaccine received.

Concerning the Immunity Certificate for the citizens who have recovered from Covid-19, the latest updates on this matter are that now all citizens that have been positive for Sars-Cov-2 in the last 9 months and are registered as positive cases in the National System, can now receive a Certificate which contains personal data (name and surname, personal identification number, unique health identification number, date of birth, gender), information about the type and date of test, date of positive result, information about the Health institution (laboratory) where the test was made, as well as a QR code. The certificate is certified with a digital stamp of the Ministry of Health and it is in Macedonian and English.

Can employer ask employee to declare whether he/she had vaccination (or had been recovered from Covid-19) and the date (of vaccination or recovery)?



At the moment there are no any legal provisions which provide that an employer has a right to ask his employees to declare whether they had vaccination or had been recovered from Covid-19 as well as about the date of vaccination (or recovery). This is due to the fact that the vaccination process in our country is still on a voluntary basis (it is not mandatory).

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POLAND

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Poland takes an active part in the process of development of the EU Digital Covid Certificate. The Certificate has been available in Poland from June 1st 2021 and it has become valid in all EU member states and Schengen zone countries as of July 1, 2021. The certificates can be verified with a dedicated mobile application – Unijny Certyfikat Covid (EU Covid Certificate) and with a bespoke tool of the National Border Guard.

Vaccinated people may obtain the Certificate from the Patient Internet Account (IKP) on pacjent.gov.pl or in mobile applications My Patient Internet Account and mObywatel for Android and iOS in a digital form or a hard copy and a QR code. It is possible to get a paper version at vaccination centers or from the doctor / nurse. The Certificate can be accessible only by people who are fully vaccinated – either have received two doses of vaccination or have received a single dose of vaccine. The certificate is valid from 14 to 365 days after the last dose has been given. The certificate is free and available in a national language and English. The Certificate recognizes all Covid-19 vaccines authorized by the European Medicines Agency (Pfizer/BioNTech, Moderna, Oxford/AstraZeneca, Johnson & Johnson).

Can the employer ask the employee to present vaccination/immunity certificate?

Under the Polish law the employer cannot verify or ask whether employees have been vaccinated or recovered from Covid-19, and has no right to order vaccination. However, employers have the right to mobilize and encourage employees. Employees are not required to inform the employer if they have been vaccinated. Covid-19 vaccines are not compulsory, even for employees in the medical sector. The only information about the employee's health which the employer can request is the medical examination for work. Moreover, the information on vaccination status is classified as health-related data and is subject to special protection within the meaning of Article 9 of the General Data Protection Regulation (GDPR).



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PORTUGAL

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Portugal, the Decree-Law No. 54-A/2021, of 25 June, implements the Regulation (EU) 2021/953, concerning the EU Digital Certificate Covid.

Under the terms of this Decree-Law, it is foreseen that the EU Covid Digital Certificates may be used in matters of air and sea traffic, circulation within the national territory and in relation to access to events of a cultural, sports, corporate or family nature.

It is also required to present the EU Covid Digital Certificates to access hotels and other tourist facilities and also to go to restaurants during the weekend, in high risk locations defined by government.

Regarding air and sea traffic, citizens holding the EU Covid Digital Certificates are now authorized to travel to Portugal. This authorization exempts the application of additional prevention and mitigation measures, such as testing for SARS-CoV-2 infection or compliance with quarantine periods.

Regarding the circulation within the national territory, it is established that the presentation of the EU Covid Digital Certificates or proof of having done a test to detect the infection by SARS -CoV-2 allows free circulation within the national territory, regardless of the validity of the norms of prevention, containment and mitigation of the pandemic disease Covid-19 regarding circulation.

Regarding access to events of cultural, sports, corporate or family nature, namely weddings and christenings, whenever, under the legal terms, it is required to present proof of having been tested for SARS-CoV-2 infection to attend or participate in the referred events, the EU Covid Digital Certificate may be presented as an alternative.

The Digital Certificates system covers three different types of Covid-19 certificates: a vaccination certificate, a test certificate and a recovery certificate. Therefore, the certificate is accessible to:

- People who have already been vaccinated against covid-19.
- People who are immunised because they have already contracted the disease or
- People who have a valid negative test.

Can the employer ask the employee to present vaccination/immunity certificate?

Currently in Portugal, there are no legal provisions or specific regulations concerning the obligation/need to present vaccination or immunity certificates by employees to their employer, or the legitimacy/admissibility of employers being able to request such certificates from employees.



However, this is an issue that has been strongly discussed in Portugal, which may soon lead to changes in our current labour legal system.

Since the vaccination process is not mandatory (there is no legal obligation for citizens to be vaccinated against Covid-19), it might be difficult for employers to require employees to provide a certificate of vaccination or proof of vaccination.

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ROMANIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Romania, evidence of vaccination is made available to the vaccinated person either electronically or on paper to allow the individual to keep track between the two visits to the vaccination center (initial dose and booster) and to know the type of vaccine administered. Vaccination in Romania is free, voluntary, and the vaccination certificate is not issued in order to condition or restrict the rights of vaccinated persons.

The Vaccination Certificate contains details about the vaccinated person (name, sex, age, address, identity card series and number), details about the vaccine (type of vaccine, date of vaccination of the first and second dose), details on the vaccination center (name and address).

As for citizens who have already contacted and recovered from the disease, there is not yet a specific certificate of immunity for such situations in Romania, however, the family doctor, upon request, shall issue a certificate confirming the person had Covid-19.

Additionally, the Digital Green Certificates that facilitates safe free movement of citizens in the EU during Covid-19 pandemic introduced in Romania as of 1 July.

The Digital Green Certificate is a proof that a person has either been vaccinated against Covid-19, received a negative test result, recovered from Covid-19. The digital version can be stored on a mobile device, but citizen can also request a paper version. Both have a QR code that contains essential information, as well as a digital signature to make sure the certificate is authentic.

Can the employer ask the employee to present vaccination/immunity certificate?

In Romania there are no specific legal provisions or guidelines regarding this topic. Still, it was decided through Government Decision that as of its entry into force (i.e., June 1, 2021), the employer can organize the activity at the workplace, if it cannot be organized under telework regime, by ensuring the protection of the health and safety of the employees, and by observing the rules established during Covid-19 pandemic, considering:

- the degree of vaccination within the employees, certified by the vaccination certificate presented by the employee and for which 10 days have passed



- since the completion of the complete vaccination scheme, as well as
- the number of employees who are in the period between the 15th day and the 180th day following the confirmation of Covid-19 and who present to the employer the certificate issued by the family doctor.

On the other hand, an employee's vaccine status is health data and is sensitive category data, therefore, it can only be processed to a very limited extent, provided it is necessary and proportionate to do so (i.e., in Romania, this requirement is justified by the issue of the Government Decision providing that the employer may organize the activity at the workplace taking into account the rate of vaccination/immunity of the employees), as well as ensure that the data is deleted if no longer needed.

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Țuca Zbârcea & Asociații
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SERBIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Serbia, evidence of vaccination is made available to the vaccinated person either electronically or on paper to allow the individual to keep track between the two visits to the vaccination center (initial dose and booster) and to know the type of vaccine administered. Vaccination in Serbia is free and voluntary.

The Vaccination Certificate contains details about the vaccinated person (name, sex, age, address, personal number), details about the vaccine (type and series of vaccine, date of vaccination of the first and second dose), details on the vaccination center (name and address) and date of issuance of the certificate.

Additionally, the Digital Green Certificates has been available as of 12 May 2021. The Digital Green Certificates is a confirmation of completed vaccination against Covid-19, test results for SARS-CoV-2 infectious disease and recovery from Covid-19 disease. The Digital Green Certificate is a consolidated certificate proving whether you have received the Covid-19 vaccine, whether you have SARS-CoV-2 infectious disease test results, or have recovered from Covid-19 disease. The Digital Green Certificate is a certificate that is electronically stamped and as such cannot be falsified or misused. The Digital Green Certificate, in addition to personal data (name, surname, personal identification number, gender, passport number), contains information on whether the person has been vaccinated, the number of doses received, as well as the date of receipt of the first and second doses. The certificate also contains the results of the following tests:

- PCR test (SARS-CoV-2 RT real-time PCR)
- Antigen Test (SARS-CoV-2 Ag-RTD Antigen Rapid Detection Test)
- Serological test (SARS-CoV-2 RBD S-Protein Immunoglobulin G (IgG) Test) as well as the information whether the person had contracted the infectious disease Covid-19.

Can the employer ask the employee to present vaccination/immunity certificate?

In Serbia there are no specific legal provisions or guidelines regarding this topic. Given that there is no statutory obligation to vaccinate, the fact that an employee has been or has not been vaccinated could not adversely affect his labor rights and thereby, cannot ask the employee to present a vaccination/immunity certificate. Any collection and processing of personal data requires a valid legal basis, but given that vaccination data is health data, as such it represents a special category of personal data in terms of applicable provisions. An employee's vaccine status is sensitive category data, therefore, it can only be processed to a very limited extent.



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SLOVAKIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

In Slovakia, currently after vaccination, vaccination centers, which are officially registered by the regulatory authority - the Ministry of Health of the Slovak Republic, directly issue a bilingual (Slovak-English) "document on vaccination against Covid-19". If a citizen was vaccinated before this date or has a voluntary interest, can ask the National Center for Health Information for a "vaccination certificate", which containing a QR code that redirects you to a website with identification of the person being vaccinated.

From June 26, 2021, are issued EU Covid-19 green pass.

EU Covid-19 green pass include name, date of birth, date of vaccination and vaccine (further name of health care provider and their specific code, specific code of doctor, information about fulfill the anamnestic questionnaire and examination, vaccine manufacturer, batch, specific code of state institute for drug and vaccination center ID).

Regarding to the "document of immunity", from July 1, 2021, it is also possible to ask for an EU Digital Covid pass with a confirmation of the test or overcoming the Covid-19 disease and include an information about date of the positive result of the test or overcoming the Covid-19 and a clear identification of the person being tested/overcoming disease, which can be verified by the inspection body.

Can the employer ask the employee to present vaccination/immunity certificate?

Currently, there is no such legal regulation that would entitle employers to require employees to prove: (i) a negative test; or (ii) confirmation of overcoming Covid-19 disease; or (iii) vaccination certificate.

The right of employers to request a negative test for Covid-19/confirmation of overcoming Covid-19 depend on the current situation by the Covid automat, which is divided into 6 groups that characterize the degree of risk in a specific district. The level of risk depends on the two basic pillars, namely the degree of warning and the degree of vigilance. If the district is located in III. warning level and in III. level of vigilance is the duty of the employer to order a home-office wherever possible. If this is not possible, the employer is entitled to request confirmation from the employees of a negative test for Covid-19.

From May 31, 2021, in Slovakia are no more districts included in III. warning level and III. degree of vigilance.



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SLOVENIA

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Yes, in Slovenia, both vaccination certificate and Covid-19 test results are generated by the National Institute for Public Health and made available to citizens electronically through the national web portal zVEM. Paper certificates can also be requested directly at the Institution that administered the vaccination.

Citizens who have already contracted and recovered from the disease, can obtain a certificate of immunity directly from the physician whom they informed on contracting the Covid-19 virus. Admissible proof of immunity is also: i) a positive Covid-19 test result in form of a zVEM printout or SMS message ii) doctors' certificate on sick leave due to Covid-19.

Can the employer ask the employee to present vaccination/immunity certificate?

Employers who sell goods and services directly to consumers and public institutions such as schools are currently still obliged to send the employees at such exposed work positions to weekly Covid-19 tests. The employer can however allow the employee to omit testing if the employer is presented either with vaccination or immunity certificate. Immunity can be proven with: i) a positive Covid-19 test result in form of a zVEM printout or SMS message ii) doctors' certificate on sick leave due to Covid-19, iii) a doctor's certificate on immunity.

However, neither the abovementioned nor any other group of employers can condition the employment with presenting vaccination or immunity certificates, as weekly tests for the most exposed work positions are currently still considered as an adequate measure to protect public health.



Maja Stojko

Miro Senica and Attorneys
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SPAIN

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Currently, Spain doesn't have a single vaccination certificate for the entire national territory, but the Health Services of certain Autonomous Communities would be issuing a Covid-19 vaccination certificate for those persons who request it when they have received the necessary doses of the vaccine provided.

In addition, Spain, as a member of the EU, has just implemented the "Digital Green Certificate" which will facilitate mobility within the EU.

In Spain, it is expected that the Autonomous Communities will be responsible for issuing, stamping and delivering the certificates in electronic format (QR Wallet, PDF with QR) or on paper.

Can the employer ask the employee to present vaccination/immunity certificate?

Currently in Spain, there are no specific regulations on this. However, considering vaccination is only administered on a voluntary basis, the employer, in general terms, could not require employees to present a vaccination certificate.



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SWITZERLAND

Does your country issue Covid-19 vaccination certificate or immunity certificate?

The Covid-certificate in Switzerland have been issued since June 7, 2021 in electronic format or on paper. The issue of Covid-certificate is possible in all cantons at different locations, such as vaccination centers, medical practices and hospitals, but they can also be delivered by post or e-mail or even directly to the Covid Certificate app. Besides, all the citizens who have been vaccinated are given a Vaccination Receipt, which states their name, birth date, date and type of vaccination.

Switzerland's Covid certificate is compatible with the EU's Digital Green Certificate and they are mutually recognized (the validity follows the same rules established by EU authorities)

Currently in Switzerland, the use of the Covid certificate is divided into three zones:

1. Green zone: Use of the certificate is not envisaged (e.g. workplace, private events, public transport)
2. Orange zone: The use of certificates is not prescribed. However, the Covid certificate may be used optionally
3. Red zone: Use of certificates is required as a temporary condition for opening (e.g. big events)

Can the employer ask the employee to present vaccination/immunity certificate?

Currently, in Switzerland it is generally not possible to oblige all the employees of a company to have the vaccination. The obligations arises only when, despite the precautionary measures, there is still a high risk for the employees or other people (e.g. patients, clients). Every situation has to be evaluated case by case. The employer can invite its employees to have the vaccination on a voluntary basis and according to the cantonal plan of vaccinations.

Based on the above, the employer can ask the current vaccination status only if it is entitled to oblige the employee to have the vaccination.

It shall be noted that employees are subject to the general requirement to wear a mask in publicly accessible indoor spaces. Employers are not required to draw up and implement precautionary measures provided their businesses are not accessible to the public. In this case, there is no longer a general requirement to wear a mask at the workplace, but the employers are still obliged to protect employees and decide where and when it is necessary to wear a mask.



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UKRAINE

Does your country issue Covid-19 vaccination certificate or immunity certificate?

Following passing a complete Covid-19 vaccination series, Ukrainians may apply for and obtain an International Vaccination Certificate, which is provided for by the International Health Regulations and designated for travelling abroad. The above certificate is not supposed (and is not required) to be used inside Ukraine, including it may not be requested by an employer to employ personnel or to admit employees to work.

Can the employer ask the employee to present vaccination/immunity certificate?

Under Ukrainian employment laws an employer is prohibited:

- to request from an employee documents and information which are not expressly required by the laws for the employment relationships. In this regard we note that documents with regard to a state of health (specifically, a document evidencing passing a mandatory medical examination and conformity of the state of health with statutory requirements to occupy certain jobs) and passing a mandatory vaccination against specific infection diseases may be requested by the employer only in cases expressly determined by the laws for specific professions/positions, as well as for underage employees;
- to limit in any way the right of employees to exercise their right to work, including to suspend an employee from work on the state of health reasons, otherwise when an employee refuses to pass a mandatory medical examination or mandatory vaccination required by the law for a specific profession/position;
- to discriminate employees on the ground of the state of health as well as on other features not related to characteristics of job or conditions of its performance.

We note that currently a mandatory medical examination is purposed to confirm that a state of health of an employee corresponds to characteristics of work (e.g. consumer servicing) and may not be used to confirm if an employee has been vaccinated. A mandatory vaccination against specific infection diseases is set forth by the law for specific professions only. Moreover, for the time being, no laws imposing a mandatory Covid-19 vaccination in Ukraine have been adopted and the Ukrainian state authorities have not announced any intention to impose any obligations on employers to control/ensure Covid-19 vaccination of their employees. So, employers are currently prohibited from both requesting employees to provide information or documentary proof of Covid-19 vaccination and that an employee has been recovered from Covid-19 and undertaking against employees any measures (imposing disciplinary liability, suspending from work, limiting salary payment, limiting in any other way employment rights etc.) in case an employee refuses to be vaccinated against Covid-19 and/or to provide any kind of information in this regard.

It shall be noted, however, that an employee shall be free to provide the above information on his/her own will (it is recommended for an employer to have evidences to prove voluntary nature of actions of an employee), as well as to accept (again, on his/her own will) a vaccination to be offered by the employer.





This newsletter provides an overview of the vaccination information for employers as it relates to Employment and Labor Law provisions and regulations by local governments. This newsletter includes information as it pertains to specific countries on general Employment measures, in specific countries as provided by the member and collaborating firms of Andersen Global.

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