

# Newsletter HR

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## Will employers be allowed to collect information on vaccination status of employees?

Once again in our newsletter we deal with the topic of vaccination of employees. In August we wrote that the government announced implementation of tools that could enable employers to control vaccination of employees. Now, we know a little bit more about the legislative plans in this regard. The assumptions of the draft act have been published on the website of the Chancellery of the Prime Minister.

### What solutions are intended by the government?

1. The proposed regulation is to introduce the possibility for the employer to obtain information on the vaccination status of an employee as well as the fact of having been infected with the virus or having a valid negative COVID-19 test result;
2. Verification of the health status will be possible via the mobile application provided by the e-Health Center or use of certificates, along with the image of the certificate holder's face (the photos are to originate from the Register of ID Cards and records of issued and invalidated passport documents);
3. Having learnt that an employee has not been vaccinated or infected, the employer will be able to:
  - post an employee to work outside his/her permanent workplace;
  - post an employee to a different type of work with remuneration corresponding to the type of work;
  - oblige an employee to use an unpaid leave.
4. The employer will also be able to obtain the above information from the job applicant.

The deadline for the adoption of the bill by the Council of Ministers is planned for the third quarter of this year. The bill in this regard has not been published yet.

## Does annual leave have to last for at least 14 days?

### Position of the Main Labor Inspectorate

Every employee is entitled to a continuous annual leave, which may be divided into parts at the employee's request. According to the Labor Code's regulations, at least one part of the annual leave should last not less than 14 consecutive calendar days. In practice, two-week annual leaves are not always possible to grant or even desired by employees. Many employees prefer shorter but more frequent holidays.

The Main Labor Inspectorate issued a statement changing the current interpretation of the provisions on consenting to annual leaves shorter than 14 calendar days.

In its latest position, the MLI stated that failure to grant to an employee at least one part of the holidays covering at least 14 consecutive calendar days is contrary to the Labor Code's

provisions, but **does not constitute an offense against the employee's rights**. It means that the practice of granting such shorter holidays may not result in imposing sanctions on the employer, in particular the fines provided for in the Labor Code's provisions.

Source: *Dziennik Gazeta Prawna*

## Extending the term of office within employees' and employers' representative bodies

Restrictions in the operation of work establishments introduced because of the COVID-19 pandemic significantly affected the operation of statutory bodies of trade unions, business and employers' organizations and other employee representative bodies. The statutes of many of such organizations do not provide for the possibility of holding elections or adopting resolutions via means of direct remote communication.

The revised version of the Anti-Crisis Shield is to prevent situations when inability to conduct remote elections would lead to the expiry of the term of office of the statutory bodies and, in consequence, the paralysis of these representative bodies.

Based on the new regulations the term of office of statutory bodies of the above organizations as well as the term of office of the social labor inspector is being extended until the statutory body / social labor inspector is elected for a new term, however, for a maximum period of up to 90 days after cancellation of the state of epidemic threat or the state of epidemic. This rule applies only when organization of elections is not viable as a result of any of these states being announced (e.g. due to the contents of the statutes or restrictions related to mobility and operation of work establishments).

Extension of the term of office under the Anti-Crisis Shield will be possible during the state of epidemic threat or epidemic and within 30 days after it was lifted.



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