Covid-19 vaccination and the workplace

Common questions among employers in Croatia

The Croatian government aims to increase the percentage of vaccinated persons (currently approx. 50%).

Topics concerning vaccination raise a number of questions for employers. An EU Covid Certificate or testing is generally only mandatory for employees and visitors of public or health care institutions (certain exceptions may apply). It is not yet clear whether any further restrictions will be imposed.

In this document, we answer the most common questions in the context of employment and data privacy laws.

Our team provides the full scope of advice related to the topics in this document.
If you would like to know more, please contact our experts:

Dora Gaži Kovačević
Partner
+385 99 7320 174
dora.gazi@wolftheiss.com

Ira Perić Ostojić
Consultant
+385 1 4925 400
ira.peric@wolftheiss.com

Berislav Drašković
Associate
+385 1 4925 476
berislav.draskovic@wolftheiss.com

Matea Lažeta
Associate
+385 1 4925 476
matea.lazeta@wolftheiss.com

Common questions among employers

#1 **Can an employer ask its employees or job candidates if they have been vaccinated?**

- No.

- Vaccination status is considered as a matter of private choice which means that:

  – Employees / job candidates should not be asked about their vaccination status and may only voluntarily notify the employer thereof; certain exceptions may apply e.g., in the health care and public sector.

  – Vaccination status may not be set as an employment precondition (e.g., in the company's internal bylaws) and/or in hiring evaluation criteria.

#2 **Can an employer introduce the mandatory vaccination of employees?**

- No.

- It is not permissible to sanction employees for not being vaccinated. Termination may also be not based on such grounds.

- However, employers may request employees to comply with Covid-19 related health and safety measures (e.g. social distancing, wearing masks, Covid-19 testing etc.). Non-compliance with such measures may result in certain disciplinary measures.

#3 Can an employer keep internal records on employee vaccination status?

- No. Certain exceptions may apply (see #5).

- Keeping records may be permissible based on employees' explicit consent in order to facilitate mandatory Covid-19 testing of employees introduced by the employer as a health and safety measure (such view should still be confirmed by the regulator; see #4).

#4 Can employers require their employees to get regular Covid-19 testing? Who should pay for it?

- Yes.

- In accordance with the most recent decision of the Croatian authorities, employers may introduce Covid-19 testing as a health and safety measure and require employees (and business visitors) to get regularly Covid-19 tested in order to enter their business premises.

- The costs of Covid-19 testing related to performance of work should be borne by the employer.

#5 Can an employer incentivise employees to get vaccinated?

- Yes.

- In practice employees are typically incentivised to get vaccinated with financial incentives (in the range of non-taxable incentive amounts) and/or additional vacation days. If, for that purpose, employees have voluntarily shared their vaccination status with the employer, exceptionally – internal records on the employee's vaccination status may be kept (but only until incentives have been granted).

- We expect to see an increase of such practice due to the most recent state aid measures introduced for specific sectors affected by the Covid-19 pandemic (e.g., the hospitality sector). One of the criteria for employers to be eligible for a higher amount of state aid is that over 70% of their employees have an EU Covid certificate. The employer should not deliver employees' vaccination data in the course of the aid application procedure. Instead, the authorities will independently check their status based on official records.