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## EMPLOYEE RECORDS DIGITISATION - WHERE TO START?

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27.11.2020

Keeping employee digital records is an effective way to streamline HR processes. In the long run, it brings a reduction in the cost of these processes by saving space and money used to store employee records. There are two types of employers when it comes to implementing such a system - those who are about to start keeping employee records and those who want to switch from paper to digital.

An employer can only switch to keeping electronic records if they have an electronic signature. The employer must let employees know about the intended changes using their normal communication channels and give them 30 days to retrieve their paper records.

Therefore, all employees must be allowed to do so. The Labour Code stipulates that an employer can destroy documents not collected by employees within a set deadline. There is no risk that the employee will "block" the digitization of a file by not collecting their documents and thus forcing the employer to keep them forever.

On the other hand, employers who are to keep the employee records for the first time must meet several technical requirements related to data security and integrity. This stage of implementing electronic documentation will call for close cooperation between IT security specialists and lawyers.

Furthermore, using electronic documentation requires either a qualified electronic signature for employees who are authorized to keep records or an electronic seal for the employer. This is necessary for submitting paper documents as digital records. If an employee submits, for example, an employment certificate from a previous employer to confirm a longer period of service for annual leave purposes, the employer may submit such a document as a digital record by making a scan of the document and putting a qualified electronic signature or seal on it to confirm it is a certified copy. The question then arises - what to do with the paper document? According to the regulation on employee documentation, an employee must be allowed to retrieve such a document within a certain period. If the deadline

cannot be set or the employee fails to meet it, the employer has the right to irreversibly destroy the document. Entrepreneurs should, therefore, not fear that they will be obliged to keep unnecessary documents in paper form.

To digitalize already existing files, it is necessary to make their digital copies (scans) in compliance with technical requirements set out in the regulation. Such a scan must be provided with a qualified electronic signature or an electronic seal to confirm it is a certified copy. Such a document can then be entered into digital resources as a legitimate part of employee records.



**AUTHOR: Jakub Grabowski**

# REMOTE WORKPLACE BULLYING

04.12.2020

The pandemic forced many employees to work remotely. Some of them have been working from home since the very beginning of the pandemic and for almost a year have only been communicating with their supervisors, colleagues or customers by the Internet or telephone. Even though remote working has many obvious advantages, there are some drawbacks, too, such as difficulties with proper organisation of work and working time management, lack of real contact with co-workers and superiors, general anxiety caused by the disease, long-term confinement, unfavorable working conditions at home or limited opportunities to relax due to lockdown. Unfortunately, all this leads to conflicts, agitation and changes in team dynamics, which, in turn, can lead to workplace bullying. So, is remote bullying possible?

Yes, bullying can also occur when working remotely. The definition of bullying does not stipulate that the unwanted behavior towards an employee has to occur with actual and direct contact with other people. According to the Labour Code,



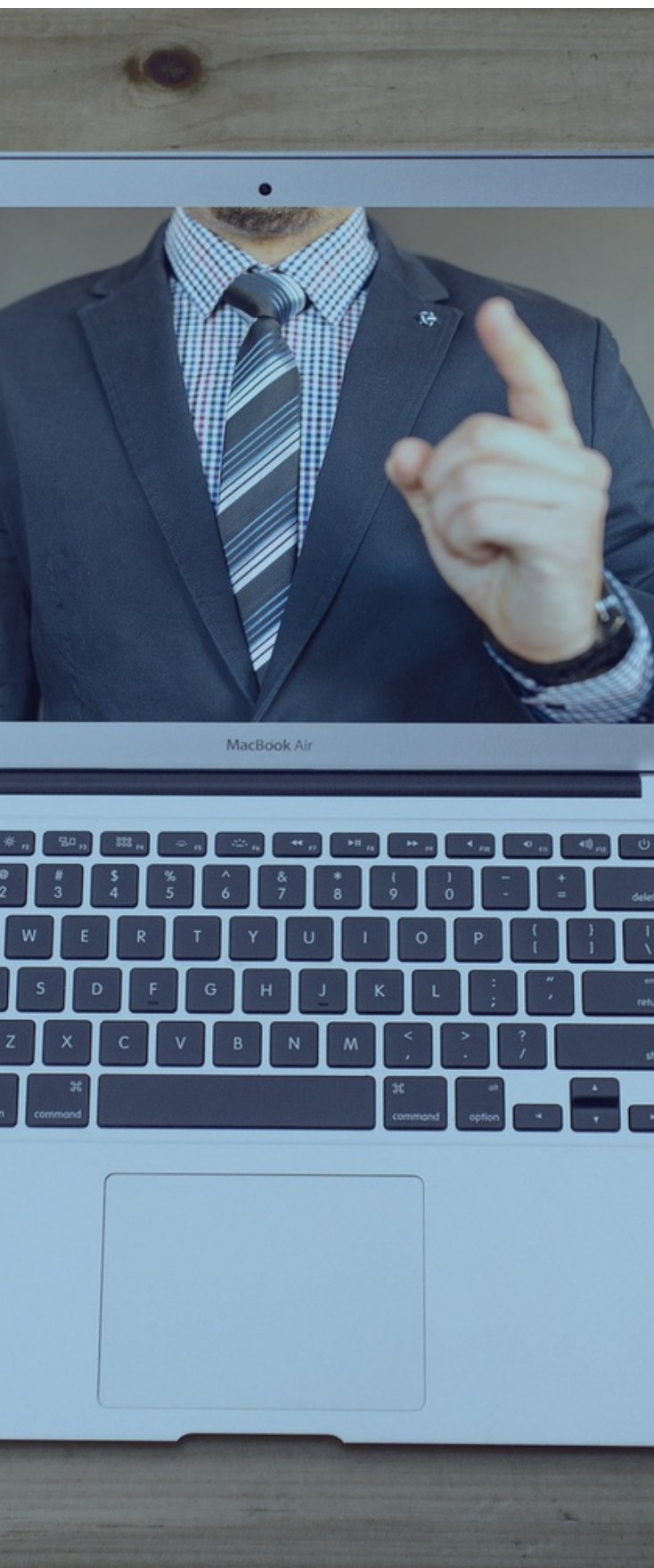
workplace bullying includes acts or behavior towards an employee or directed against an employee, with the effect of persistent and long-term harassment or intimidation of an employee, resulting in a decreased evaluation of his professional abilities, or which is aimed at or results in the humiliation or ridicule of the employee, or the isolation or elimination of the employee from the group of co-workers. Therefore, if the behavior of one employee towards another meets the above conditions, it may be qualified as workplace bullying, even if the employees were in contact only by the Internet or telephone.

Many of the actions that can be qualified as bullying do not require face-to-face contact. For example, persistent phone calls at out-of-office hours, ridiculing an employee during a phone conversation or video conference, ostentatiously interrupting an employee, not allowing an employee to speak, humiliating an employee in front of co-workers or customers, making inappropriate remarks about an employee's appearance or home working space, writing inappropriate emails, chat messages or messages in internal project groups, making inappropriate comments about employee's private life or health, not inviting an employee to video conferences, swearing or using offensive language in telephone conversations or correspondence, etc. may be considered workplace bullying.

It is noteworthy, however, that isolated actions or behavior towards an employee do not constitute bullying as long as other conditions stipulated in the definition of bullying are not met (persistent, done with the purpose of humiliating or ridiculing a person, resulting in a lowered self-esteem, etc.). It is only when all these conditions are met that bullying takes place. As soon as an employer becomes aware of such behavior, an internal investigation should be instigated immediately. Neither the pandemic nor remote working should prevent an employer from taking any

necessary steps, such as convening an anti-bullying committee and carrying out its meetings online. Nor should an employer wait to have a disciplinary meeting with an employee who behaves inappropriately, impose a disciplinary penalty or even terminate the employment contract for this reason.

It is also important that, when working remotely, employers ensure that they have procedures in place to report misconduct, adjust the procedures if necessary and carry out information campaigns. Some companies have special boxes or "whistleblower hotlines" that can be used to inform the employer about any irregularities in the company - it is recommended that the employer ensures such mechanisms are also in place when employees switched to remote working. Furthermore, employers should make their employees and managers aware that some unacceptable behaviors which lead to bullying can also happen during remote working. The results of such cyberbullying may be exacerbated by the current pandemic situation. Some actions that might have had little or no effect in face-to-face contact can trigger a completely different reaction in an employee who has been working remotely for a long time, struggling with isolation, uncomfortable conditions and fear for their health or losing their job, or suffering from pandemic-induced depression.



When assessing the potential bullying cases, an objective standard of a 'reasonable victim' should be the point of reference to eliminate the cases of excessively sensitive employees. Nonetheless, the feeling of being underestimated at work or health deterioration are the basic constituents of bullying. On the other hand, people who behave inappropriately may vent their feelings on their co-workers, which might have never happened at the workplace.

However, regardless of whether bullying occurs during face-to-face contact, over the phone or online communication between employees, an employer must take any necessary action to stamp it out.

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# BUILDING ONLINE RELATIONSHIPS WITH EMPLOYEES

11.12.2020

Those entrepreneurs who are long past the stage of implementing remote working are now asking themselves whether relationships with employees developed and fostered online are as strong as those created in the office? How to manage these relationships, how to maintain a sense of unity with the company and the team?

Employers are particularly concerned that employees who regularly perform their duties from home will cease to identify with the company, and they become indifferent to personal relations at work. High staff turnover generates high costs for employers in terms of recruitment and onboarding. Moreover, it may affect the quality of the work process and harm the company's image in the eyes of contractors and business partners. Staff instability is the last thing entrepreneurs need in the time of pandemics.

Fostering a sense of belonging among

the employees has a direct impact on employee relationships with customers, the effectiveness of their work and increasing the company's competitive edge. Business partners pay attention not only to the price and quality of the offer but also to the image of the company as an employer. Dissatisfied employees who do not identify with their workplace can easily contribute to a negative image of the company. In contrast, employees who are committed and connected to their employer are more loyal to the company, even in bad times.





Daily team meetings at a specified time, one-to-one conversations between managers and employees, clear priority setting and adapting the remote working organisation to employees' needs are examples of steps that employers can take to balance the negative effects of remote working and strengthen the sense of identity in the team.

### Virtual Christmas party?

This problem becomes particularly pressing during the run-up to Christmas. Just a year ago employees could meet and connect with their superiors and co-workers at the same table during a company Christmas party. Now, in many cases, this is not possible. Remote working, maintaining social distance and wearing masks are certainly not conducive to organising the Christmas team-building events. Adapting to the current situation requires a lot of creativity from both employers and employees. To foster relationships between employees and continue an annual tradition of many companies, employers may choose to organise virtual Christmas parties for employees. Christmas gifts can be delivered to employees by post and Christmas dinner can be replaced with virtual gingerbread baking workshops or online team games. COVID-19 doesn't have to ruin company traditions.



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## CHATBOTS IN RECRUITMENT

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18.12.2020

The automation and digitization of company processes can bring many benefits to businesses, however basic those processes are. First and foremost, it saves time and, as a result, the resources that are necessary to organize a given process. This is why the use of solutions AI-based solutions is gaining popularity.

An example of such a solution are chatbots, which are increasingly involved in the recruitment process. The main reason for their increased use is, first of all, reducing the recruitment time, without a significant loss in the quality of the process so as not to discourage potential candidates right at the beginning. It is important to remember that the role of chatbots is only supportive since they can be used mainly to answer candidates' questions. However, they can not only support but sometimes even replace recruiters at the early stages of the process.

### **Benefits go hand in hand with duties**

Artificial intelligence can take over a range of activities in the recruitment process - from analyzing the documents sent by candidates to ensure they match the employer's expectations, to scheduling meetings with candidates. Shifting a significant part of repetitive activities to algorithms frees up the recruiters to focus on selecting a candidate who is the best fit for the company. Moreover, it is undoubtedly more convenient for job seekers. Accelerating the recruitment process shortens the waiting time for a decision on accepting or rejecting candidates for jobs.

However, introducing such a solution triggers certain obligations under personal data protection laws. An automated decision-making mechanism can be used if one of three conditions

are met. A necessary condition for recruitment purposes is to obtain a candidate's consent.

Although a candidate cannot be forced to give such consent, demonstrating the advantages of an automated procedure can persuade candidates to give their consent. It goes without saying that job seekers want to reduce the time between submitting their application and receiving feedback or an interview invitation as much as possible. Thanks to the automation of the process, the waiting time for the final response concerning a job offer will be significantly reduced. This is because the candidate would not have to wait for the recruiter to analyse all the applications and then respond to each candidate individually, as the AI-based mechanism can handle many processes simultaneously. Another positive aspect of using artificial intelligence in the recruitment process is that it avoids making decisions based on non-substantive criteria. A properly set algorithm will pre-select those candidates who meet specific and objective criteria, identical for all applicants for a given position.

However, in most situations, it will not be possible to base the entire recruitment process on artificial intelligence. Human involvement is still a necessary component of the recruitment process, at least partially.

It stems from the fact that a recruitment process is too complex. Its purpose is to evaluate not only concrete and quantifiable criteria, such as specific education or qualifications, but also the soft skills, which can only be assessed by another human being. Even the best psychological tests are not able to fully evaluate such skills. This can be done in the course of an online interview.

Human involvement is also necessary because of the obligation under the data protection legislation to ensure the right to obtain human intervention, to express one's point of view, and to challenge the decision reached in the assessment process. As a result, it is necessary to organise a twin-track recruitment process where one alternative is a fast-track procedure operated by a chatbot, which would be used upon the candidate's consent. Otherwise, the candidate will be referred to the normal recruitment procedure.

Nevertheless, whether or not candidates give their consent must not affect their chances of obtaining employment. Candidates who do not consent cannot be automatically rejected. However, the employer may encourage the use of the automated process by presenting its benefits to the candidates.

Another important duty is adjusting the content of information clauses. Whenever decisions on accepting or rejecting the application are made by automated means, the controller, in compliance with the information duty, must let the applicants know about the automated decision making and provide key information about the rules for making such decisions, its significance and the expected consequences of such processing. Therefore, the information clause should specifically identify the decision criteria.

### **Special categories of data**

Special categories of data, namely sensitive data, are generally excluded from automated decision-making. Whenever sensitive data are involved, automated decision-making cannot be used, unless the data subject consents to that or it is justified by vital public interest. However, appropriate measures to protect the rights, freedoms and legitimate interests of the data subject must be in place. In practice, the subject of sensitive data is often overlooked in the recruitment process, and thus should not be a significant obstacle for chatbots use.

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# OHS DUTIES VS REMOTE WORKING

12.02.2021

Switching to remote working on a wide scale enables businesses to carry on as usual. One of the challenges faced by employers organizing remote or hybrid working processes is health and safety at work.

None of the COVID-19 regulations modified an employer's responsibility for occupational health and safety (OHS) in the case of remote working. Therefore, the employer is obliged to provide safe and hygienic working conditions for employees, including at the place where remote working is carried out. However, we believe that requiring the employer to take full responsibility for the conditions at the location where the employee performs remote work is excessive and unfeasible. This is because companies, especially those with many employees, are not able to directly and continuously control conditions in, for example, employee private homes. The situation is similar for mobile workers or other employees working outside the office – it is only reasonable to consider the employer's OHS duties in terms of the nature of such work and the lack of the employer's direct, ongoing supervision over the remote workplace.

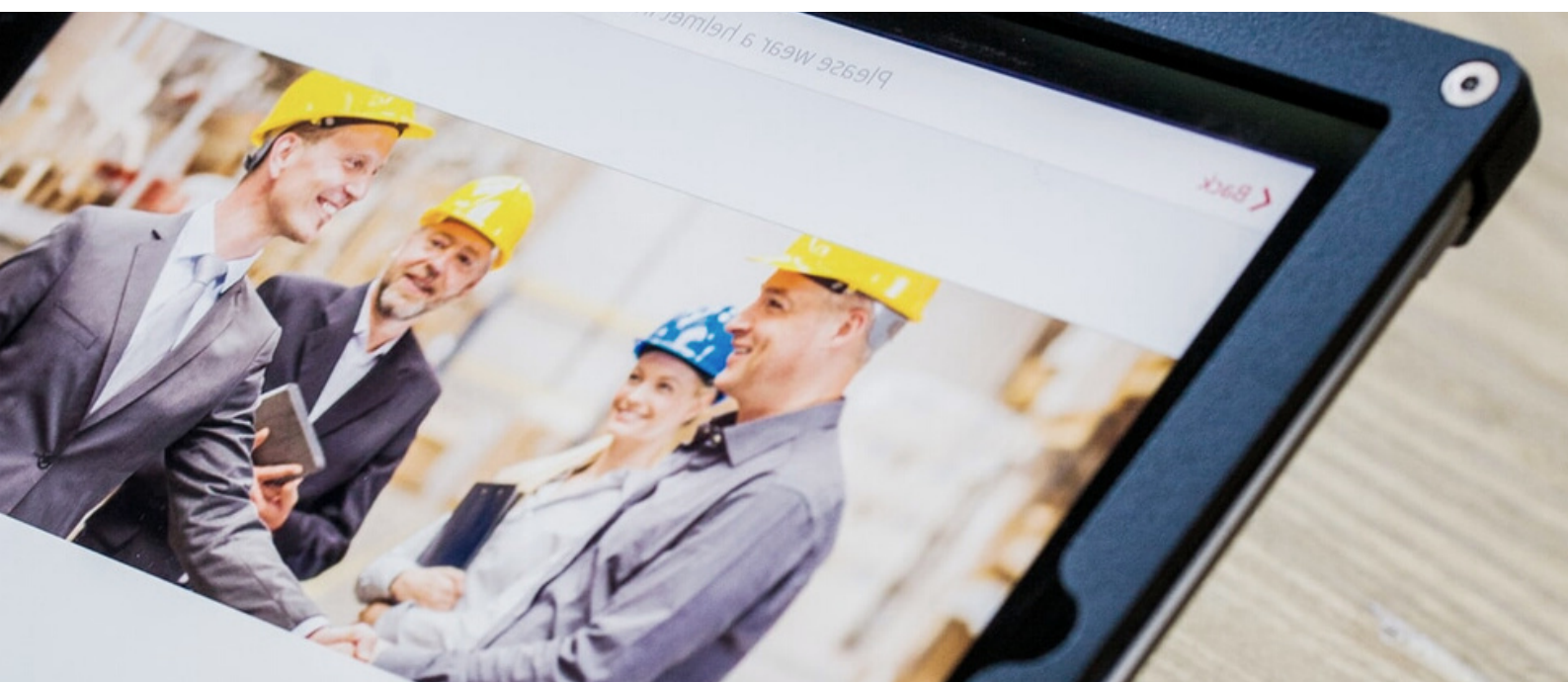
In recent months, we have supported our clients with introducing and managing remote working in their organisations and we have developed several procedures and measures to effectively prevent accidents while working remotely and to limit any related liability of the employer.

First of all, to systematise the rules for remote working and, as a result, minimise the risk of accidents, employers need to introduce remote working regulations. The regulations should set out clear rules defining the rights and duties of remote workers. For example, an employer may oblige an employee to carry out remote work only from their place of residence. Then, if such employees wanted to carry out their duties from outside their homes, they would have to notify the employer about their intent or request the employer's permission. It gives employers greater control over where and under what working conditions the employee is.

Another recommended preventive measure is to create a set of practical and technical rules that must be strictly observed when performing remote work and require employees to sign a declaration of compliance with such rules. Even if such a declaration does not transfer full responsibility for health and safety to the employee, it is proof that the employer has been diligent in ensuring safe and healthy working conditions for the employee. Even though employers are not able to constantly monitor remote working conditions, they should exercise the utmost care in this respect and ensure that adequate conditions are maintained.

Properly drafted remote working regulations should allow the employer to "visit" the employee at the place of work, in particular when the employee reports a remote working accident. Carrying out a thorough investigation may require that the accident investigation team visit the place where the work-related accident occurred. Even if it is the employee's private flat or home.

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# KEEPING REMOTE EMPLOYEES MOTIVATED

19.02.2021

The outbreak of the COVID-19 pandemic has forced employees to change their working ways and employers to change their style of work process management. It is now a year since the transition from the traditional way of working to remote working. We have extensively covered this topic but here we want to focus on managing the work process and motivating employees in times of pandemic and remote working.

Employers should pay particular attention not only to the quality of work provided remotely but also to maintaining an adequate level of employee motivation. There is a wide array of measures that can be used to that end, such as ensuring proper communication channels within the organisation, maintaining constant contact with employees (also in the form of videoconferencing), organizing one-to-one conversations, providing regular feedback, and effectively dividing duties among the whole team - these are the key issues to focus on every day.

Furthermore, any benefits offered to employees should also be adjusted to the new reality - solutions facilitating work from home or in isolation should take precedence over a gym pass or fruit in the office. For example, some companies decide to equip employees with professional, soundproof headphones, grant subsidies for comfortable office chairs and provide training or workshops on the use of online communicators and other software useful for remote working.



It is also important to have a proper approach to health and safety at work. However, not only in the traditional sense, i.e. in terms of working conditions, provision of necessary equipment, etc. According to the guidelines of the National Labour Inspectorate, employers should also bear in mind the psychosocial risks that working in the new reality brings.

Recently, emotions have run high because of the regulation called "the right to be offline", which is a response to the new challenges faced by employees in the pandemic reality.

Keeping employees motivated can be also achieved by refraining from sending work messages or additional requests outside regular working hours by supervisors, thus respecting each employee's right to rest. But, in turn, employees should refrain from performing non-work related activities during traditional working hours, leaving these activities for a later time. This can be managed appropriately under current working time legislation.

**AUTHOR: Michał Zabost**





# EMPLOYEE PAYROLL DEDUCTIONS DURING THE PANDEMIC

26.02.2021

Employees who use company benefits such as sports cards, private medical care or life insurance must often co-finance those benefits in some part. The simplest and most effective way of settling such payments is to make monthly deductions from employee remuneration.

According to the law, deductions from an employee's salary can only be made upon employee written consent. Although this provision has been in the Labour Code for years, it still raises doubts as to whether the phrase "in writing" is equivalent to "in a written form" or "in the form of document"?

During the pandemics many employees work from home on a daily basis and obtaining written consent from them is difficult. Therefore, HR departments are looking for new ways to make deductions from employees' salaries efficiently and in compliance with the law, with no need to physically collect new consent from them each time the amount of deduction is modified or the employee intends to use some other benefits.



We believe that it is possible to collect employee consent for deductions in a form other than written form. For example, in the beginning, an employer may obtain a general written consent from employees to make deductions from their salaries up to a certain amount, on condition that specific deductions can only be made upon employee consent given by email or through an internal company IT system.



Such a solution seems to be in line with the aim of the legislation. It is justified especially during the COVID-19 pandemic when companies work remotely and the flow of documents should be limited. The point is that consent should be given in such a way that, if necessary, it can be unambiguously established that the employee agreed on deductions in a specific amount. The initial general consent given in writing further safeguards the employer's interest.

Employee consent can be given electronically using a multi-level verification such as two-step verification, for example, giving consent first through an electronic system and then confirming it through SMS verification.

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# OVERTIME WHILE WORKING REMOTELY

05.03.2021

Remote working, apart from its obvious advantages, entails risks for the employer in terms of accounting for working time. Firstly, remote working makes it difficult to separate professional and private life. It goes without saying that this boundary is blurred and work duties intertwine with non-work related activities, such as shopping, preparing meals, child care, etc. it has been widely discussed in the context of the proposed "right to be offline". Secondly, performing work outside the office or regular workplace may be challenging in terms of monitoring and recording working time.

The former issue requires understanding and determining what is and what isn't overtime work. The Labour Code defines overtime work as work performed in excess of the standard working time binding an employee, as well as work performed in excess of an extended daily working time resulting from the system and schedule of working time binding the employee. Such work is permissible in two situations: where it is necessary to perform a rescue operation or to meet the special needs of an employer. In the case of remote working, it is natural for employees to perform several non-work-related activities during working hours. As a result, work is performed over a longer period than 8 hours. This, in turn, leads to employees claiming overtime pay. It is worth remembering, however, that according to the applicable law, working off time granted to an employee to take care of personal matters does not constitute overtime work. Therefore, if the reason for exceeding a daily norm of remote working time is that an employee was occupied with (e.g. household duties), then working after hours constitutes working this time off, for which no overtime pay is due.

As for the issue of time recording, employers who request employees to work remotely should consider using tools to help them maintain control over employee working hours. For example, under the anti-crisis legislation, at the employer's request, an employee performing remote work is required to keep records of performed activities, including a description of those activities together with the date and time of their performance. Another way to deal with employees claiming excessive overtime may be to cover them with the task-based working time system. If an employee performs work remotely, the introduction of a task-based system would be a reasonable measure. Of course, such a system is not a 'one-size-fits-all' remedy for overtime - if there is too much work to do, overtime may occur anyway. And even though using such a system does not exempt an employer from the duty of keeping working hours records, it makes managing the working time of remote workers much easier. To keep control over working hours, an employer may ask remote workers to record the number of hours they worked. However, under a task-based system there is no obligation to record specific work start and end times.



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## EMPLOYMENT OF FOREIGNERS STAYING IN POLAND

12.03.2021

Employing non-nationals in Poland is time-consuming and often hampered by bureaucratic red tape - especially in the age of remote working, when personal meetings and document flow are problematic. No wonder employers are looking for ways to simplify it. One solution is to employ people who are already in Poland and have the required permits.

The initial challenge faced by employers who employ non-nationals is the assessment of the candidates' documents in terms of their ability to start work. It often happens that a foreigner provides a residence card with a note "access to the labour market" and the employer, convinced it means unlimited access, is willing to employ the candidate as soon as possible.

Unfortunately, the matter is not that simple, especially for companies working remotely and with limited possibility of personal meetings. If a non-national has obtained the provincial governor's (wojewoda)

decision allowing them to stay and work for a specific employer at a specific position, then the note "access to the labour market" means, as a rule, that such a person has the right to perform work only under the conditions specified in the governor's decision. The employment of a foreigner on conditions other than those specified in the decision may require the fulfilment of many formalities, such as obtaining a new decision of the provincial governor allowing a non-national to stay and work for a new employer or amending the decision.

However, this is not a rule - the note "access to the labour market" is also put on the residence cards of non-nationals who actually have free access to the labour market and can take up employment without additional permits, for example, non-nationals residing in Poland due to family reunification, full-time students or PhD students, as well as holders of a residence permit for EU long-term residents and a permanent residence permit.

Another exception is the "permit for temporary residence for the purpose of highly qualified employment" (EU Blue Card). Non-nationals who have been granted this type of permit, can change their employer and/or job position through a simplified procedure after they have lived and worked two years based on the EU Blue Card, which significantly simplifies the process of their employment. The EU Blue Card holders obtain a relevant annotation on their residence card, informing about it.

Before employing a non-national, an employer should first read the decision of the provincial governor, based on which the residence card was issued and the non-national is allowed to stay in Poland. This is the only way for the employer to know for certain what is the basis of the foreigner's stay in Poland and to correctly assess the formalities necessary to legally employ the candidate.

**AUTHORS: Sara Jagiełło-Witas,  
Ewa Wysocka**



# DIGITAL DOCUMENT VS PAPER DOCUMENTATION

19.03.2021

Digital documents can be submitted to paper employee records. The Ministry of Development, Labour and Technology allowed it by the decision issued on 25 February 2021. It is a welcomed solution for many employers.

Employers have the choice between keeping employee documentation in digital or paper form. Therefore, if they decide to keep employee records in an electronic system, digitizing them should not be a problem. As for keeping paper records, the way they are collected has not raised any doubts so far. However, the position of the Ministry of Labour and Social Policy of 25 February 2021 introduces a significant change: an employer who keeps paper records and sends a digital document to an employee should, according to the Civil Code, convert such digital document into a paper document and attach it to the employee paper records.

The Ministry's position is undoubtedly a favorable interpretation for employers, as it makes the storage of employee records easier and allows employers to avoid recording original documents on separate CDs or DVDs each time. Notably, the Ministry's position concerns only compliance with the employee records legislation but does not modify the regulations on the forms of legal transactions. A qualified electronic signature requires a qualified certificate, which exists only in digital form. Therefore, each document submitted to personal files must be checked in terms of whether or not it requires a written form (which is equivalent to a qualified electronic signature) or else it would be considered invalid.

Nonetheless, employers should consider the full digitisation of employee records as an answer to the challenges posed by the pandemic times.

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## REMOTE HANDOVER OF EQUIPMENT

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26.03.2021

Remote working has been a new reality for businesses in Poland and all around the world for over a year now. The infection rates and global trends suggest that "back to the office" so awaited by many employees is not yet within arm's reach. This, in turn, may be a compelling argument in favour of introducing long-term solutions for remote working organisation.

There is no doubt that employment contract can be entered into and terminated remotely. In the age of coronavirus, when employers are looking to reduce face-to-face meetings, the digitization of HR processes is not only useful but often necessary solution. However, this would be far less effective if the actual handing over of the business

equipment (e.g. computer, phone) to a new employee would require a traditional meeting.

Employers may therefore choose to hand over business equipment to new employees in a manner that does not require face-to-face contact. In such a case the following points should be borne in mind.

The equipment should be sent to an employee by insured courier, preferably using a reliable courier service tried and tested by the employer.

An employee should check the content of the delivered parcel. In the event of any shortages or damage, an appropriate protocol (which should be



provided by the courier) must be drawn up together with the courier. If there are no objections to the completeness and condition of the equipment, the employee should sign a delivery and acceptance protocol. The employer can send an employee such a document electronically in advance.

We recommend sending at the same time a declaration that an employee knows the rules for using the entrusted equipment and a declaration of liability for any damage or loss of the equipment.

Having read the contents of such documents, an employee should sign them and send a scan or photos of them to the employer's e-mail address and the originals should be sent to the employer by post. Of course, an employee may also use a qualified electronic signature if they have one.

The entrusted equipment should be ready to use by an employee, namely it should include all necessary software to guarantee, among other things, information confidentiality and security.

Log-in details to a company computer or telephone should be given to the employee with the greatest caution. An employer's representative may give them to an employee by telephone, after confirming the employee's identity, or by e-mail, with the login and password in two separate e-mails, in case they are intercepted or mistakenly sent to the wrong recipient.

The employee should be made aware of the importance of maintaining the highest standards of information security. Employers may point out to employees incorrect, and therefore prohibited, practices, such as connecting to unknown Wi-Fi networks or sharing work equipment with an employee's household members or third parties.



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# REMOTE LABOUR INSPECTION

09.04.2021

Despite the current epidemiological situation, the National Labour Inspectorate (NLI) can still carry out inspections. The Chief Labour Inspector has issued guidelines for remote inspections.

According to the new rules, the NLI can, upon the consent of an employer, carry out inspections in a fully remote manner (for example, by video-conference or telephone calls) or in a hybrid manner, where part of the inspection is conducted remotely and part is carried out face-to-face. The option of fully remote inspections can only be used if the nature of the employer's business activity does not require the inspector to personally appear at the employer's premises and the inspection can be carried out by analyzing submitted documentation.

In principle, the labour inspectors themselves should come forward with the proposal of a remote inspection. However, if the inspector does not propose such a form of inspection, an employer has the right to request ask for it - such a request may be supported by an argument that it is necessary for ensuring safety of not only employees but also the inspector.

Since the inspector visits many companies on a daily basis, it seems reasonable to limit the inspector's personal presence (sometimes completely unnecessary) at the workplace and to carry out the inspection remotely.

However, giving consent to a remote inspection or submitting a relevant application to the NLI cannot be automatic - each time an employer should consider the advantages and disadvantages of such a solution. There is one issue that is especially worth underlying - in the event of a remote inspection, the employer cannot directly verify and monitor the inspection process and react immediately if there are issues that need to be addressed. If there are no doubts as to whether the remote manner of carrying out an inspection can harm its reliability, it is certainly reasonable to conduct the inspection in this form.

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# REMOTE ONBOARDING - IS IT POSSIBLE?

16.04.2021

The new pandemic reality forced employers to look for new ways to carry out HR processes. In our #HRinCloud series we have looked at this issue from many angles, for example by discussing the use of chatbots in online recruitment process or the feasibility of concluding employment contracts remotely. Another point in this discussion is remote onboarding, i.e. the process of introducing a new employee to the company.

Such a process, also if carried out remotely, always covers several areas, including two most important ones: familiarizing an employee with work culture, new tasks and company objectives, as well as with various company policies, procedures and internal regulations.

The latter may be quite a challenge, as it is crucial for an employee not only to become familiar with internal regulations but also to understand and apply them.

If the onboarding takes place in the office, an employee receives such documents before starting work, undergoes necessary training, and has the opportunity to talk to colleagues about it. Remote working makes it more complicated. In order to carry out the remote onboarding properly it is necessary to develop alternative methods of confirming that the employee has been familiarized with the applicable company regulations. Some employers require employees to confirm that they have read the regulations using electronic signatures (not necessarily qualified signatures). Confirmation of the remote onboarding completion can also be done in other forms, for example, by using special software that allows employees to remotely confirm that they have read the documents. Finally, there are more standard methods available, for example, sending an e-mail to the employee, the receipt of which the employee will have to confirm.

However, it is one thing to read documents and regulations and another to understand and comply with them. To this end, it is worthwhile to conduct an online training course focusing on key issues from the employer's point of view.

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## eMAILBOX - HYBRID TERMINATION OF EMPLOYMENT CONTRACTS

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23.04.2021

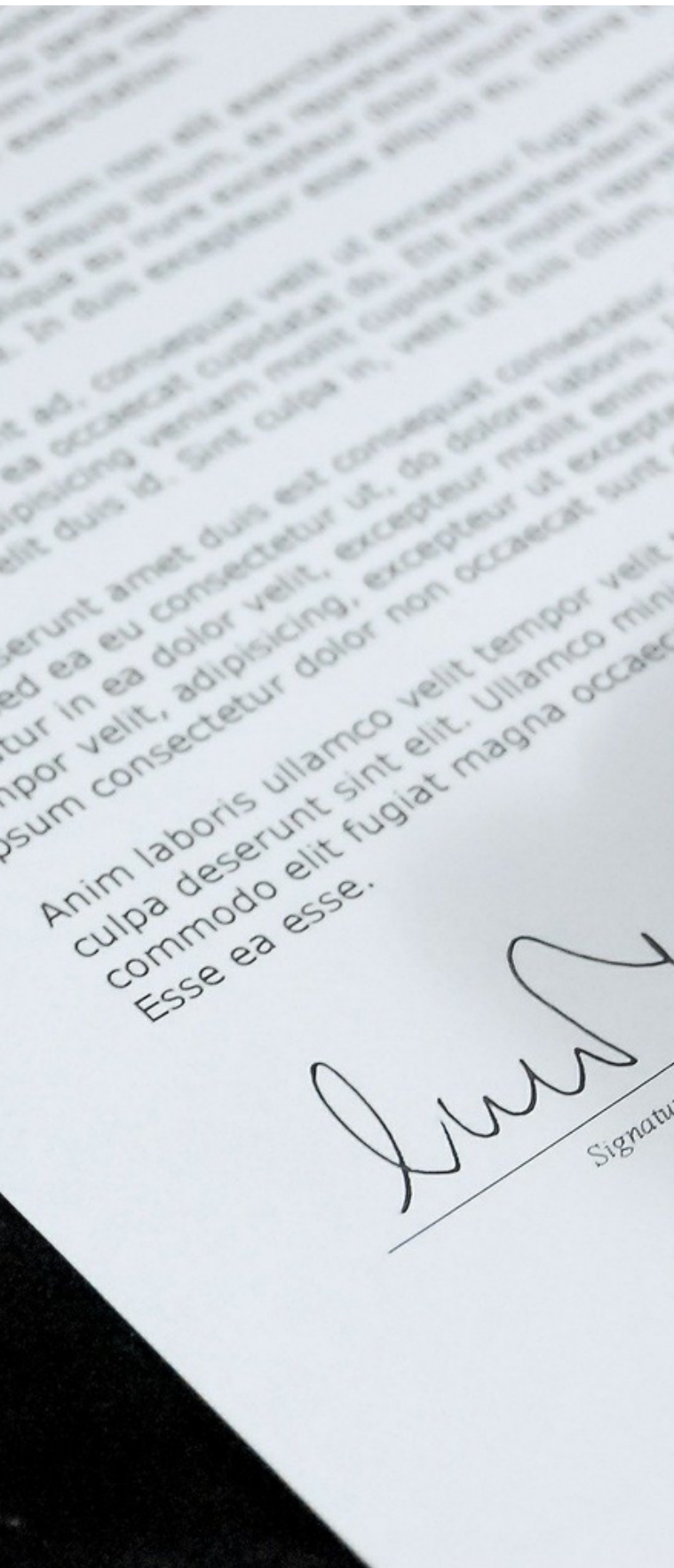
The COVID-19 regulations lift the presumption of letters delivery during the state of pandemic or pandemic threat and up to 14 days after its abolition.

Does this mean that employers are now deprived of the option to terminate employment contracts remotely by letter in the event that an employee fails to collect the notice of intent to terminate the employment contract?

Not at all - the contract can still be terminated remotely and in a much simpler way than by post, which is inherently problematic and risky.

If, however, despite all of the difficulties involved, an employer elects to end an employment relationship by serving a declaration of intent by electronic mail, it may be effective even if the employee in question avoids receipt of that mail.

How is that possible? It is sufficient for an employee to utilize the eMail Box offered by the Polish Post. eMail Box is a service supporting the remote receipt of registered mail using a trusted profile. This is an attractive alternative to traditional service by e-mail. This is because a digitized electronic document has the same power as the hardcopy document from which it has been transformed.



With eMail Box the fiction of service has been left intact – if the recipient fails to review an electronic document, the said document is deemed to have been served after the elapse of 14 days from the date of its placement in the eMail Box. In this case the sender receives confirmation that the recipient has not reviewed the document – this however does not at all affect the effectiveness of service. The sender also receives return information about electronic service if the recipient reviews the document sent in the form of a letter with confirmation of receipt.

Unfortunately, it is not possible for the employer to obtain information from the Polish Post on whether an employee holds an eMail Box. The Polish Post does not provide such information. An employer may obtain that knowledge solely informally, for instance, during a conversation with an employee. In turn, relying solely on an employee's alleged usage of an eMail Box may be risky. The employer should obtain confirmation of that. Otherwise, terminating an employment relationship by using a qualified electronic signature is a better solution offering greater certainty.

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# VACCINATIONS IN WORK ESTABLISHMENTS – REMOTE PROMOTION OF VACCINATIONS AND REGISTRATION

07.05.2021

The program to organize a vaccination campaign in work establishments is gradually taking effect. In the face of remote work and the lack of physical contact with employees how can they be encouraged to participate in vaccinations and how can they be registered to participate?

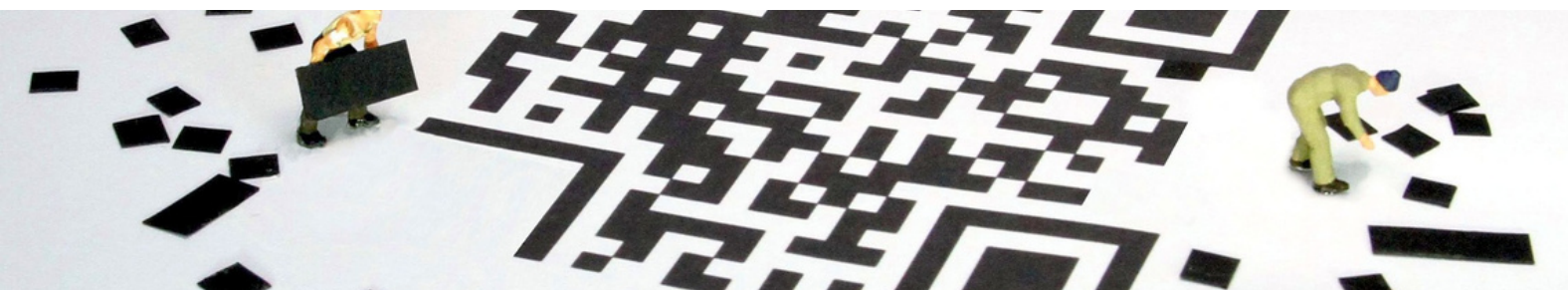
We recommend preparing a short announcement for employees in which the employer can present basic information in an easy to grasp way concerning the important issues related to COVID-19 vaccinations. That is because the internet is full of untrue and misleading claims e.g. about the origins of vaccines. That is why it is important to dispel employee doubts by providing them with information confirming the safety and efficacy of vaccines and basic technical information on how the vaccination process will be administered.

It is also worthwhile to consider holding online informational meetings with physicians or other health care representatives who could present the most important information concerning vaccines and respond to employees' questions. Another interesting idea would be to set up a dedicated intranet page on the most important issues related to vaccination in the work establishment and vaccinations in general.

For instance, in the form of questions and answers.

When it comes to voicing an interest in being vaccinated, physically signing declarations or other documents to confirm participation in a vaccination program are unnecessary. It would suffice to create an internet form distributed to employees for an employer to state the number of people interested in being vaccinated. Importantly, such a list should only include the basic data (such as the full name, PESEL number and contact data) to identify the interested persons and organize the entire process surrounding the vaccination campaign in the work establishment. Even more simply, applications can be accepted using official electronic mail. As a result, physical contact with an employee can be limited solely to the time of the vaccination itself.

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## QR CODES CAN FACILITATE THE MANAGEMENT OF HR PROCESSES AND COMMUNICATION WITH EMPLOYEES

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14.05.2021

Bar codes can significantly streamline employee communication. They are especially useful during the pandemic because they transmit information remotely without having to use paper.

To read QR codes it is enough to have a device outfitted with a camera (e.g. a tablet or a smartphone), which all employees most certainly have at their disposal. After scanning the QR code, the person (employee) gains access within a few seconds to specific information which may be conveyed to that person in the form of a text, a graphic or an internet address displayed after scanning that code.

QR codes can be used extensively in the workplace during this time of rapid development of new technology and digitization. By using QR codes employees can download employee bulletins, newsletters or other announcements. This approach is also very effective.

Today, employees are more likely to acquaint themselves with information downloaded on their handset using a QR code than taking a look at a physical announcement board or reading a general e-mail.

QR codes can also be used for onboarding (i.e. orientation for new employees on the rules in a company and organizational culture), especially during the coronavirus pandemic when many employers have elected to enter into contracts with employees remotely using qualified electronic signatures. By giving employees the pertinent QR codes employers can acquaint them with a company's internal rules and regulations and its vision and values.

QR codes can also prove to be a good solution in a company whose employees have to use a special magnetic card to enter its premises or specific office areas.

An employer can make it possible for its employees to replace their physical magnetic card with a special QR code, which when scanned will allow them to enter the company's premises or a given area.

Recently we have attentively observed and supported businesses in modernizing their HR departments and searching for better technological solutions to streamline and diversify their work – especially since employees are widely working remotely. The lockdown period and social distance have proven that digitization of the workplace is not so much a last resort as it is the future. If we can provide employees with information on a contactless basis and in a more environmentally-friendly manner, then why shouldn't we do that?

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# EMPLOYEES WILL BE ABLE TO SUMIT ALL OF THEIR APPLICATIONS IN ELECTRONIC FORM

21.05.2021

The provisions of the Labor Code currently anticipate that some employee applications must be submitted to their employers in writing. This includes, among others, applications pertaining to the following:

- working time (e.g. to set an employee's individual work schedule),
- parental rights (e.g. to give paternal or parental leave), or
- unpaid leave.
- According to the draft amendment to the Labor Code published this week introducing permanent regulations concerning remote work, the foregoing regulations will become more flexible.

## Employee applications in electronic form...

According to the draft regulations, the applications submitted by an employee working remotely for which the currently binding regulations of the Labor Code require the written form may also be submitted electronically.

After the new regulations take force, all remote work employee applications can be submitted in hardcopy form or in electronic form. Importantly, the regulations do not require the signing of these applications with qualified electronic signatures. This means that an employee application may be submitted by e-mail or through a dedicated HR system.





### ...only during remote work

The current wording of the regulations indicates that the option to submit applications in hardcopy or softcopy will be available only to employees who do remote work. The law does not contemplate limitations, and thus employees hired on a hybrid basis (in part remote work and in part on-site) will also be available for them to take advantage of this option.

According to the current regulations, this type of preferential treatment may also be applicable to employees who do remote work only from time to time. According to the draft amendments, this would make it possible to work remotely for 12 days a year in response to an employee's application.

Moreover, this law does not regulate whether the option of submitting these types of applications pertains to the actual period of doing work remotely, or generally to an employee doing remote work. In our opinion every employee doing remote work (in one form or another) can submit an application to the employer in electronic form even if he or she is in the office that day.

Laws in force as of 21 May 2021

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**PCS Paruch Chruściel Schiffter | Littler Global** is the **HR law** firm providing comprehensive and pragmatic support to companies within HR laws, including employment and labor law, global mobility and immigration, employment disputes and litigation, trade unions relations and collective bargaining, mobbing and harassment, data protection, social security, employees' savings plans, social fund and others.

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