

European Countries Mandate Masks in the Workplace

By Leah Shepherd

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Most countries in Europe are enforcing face mask requirements during the COVID-19 pandemic. Employers need to fully understand the local laws, because the rules vary by country and change as the coronavirus situation evolves in each place.

Some masks are more effective than others at preventing the spread of disease, and in some countries, the latest government rules require the use of specific kinds of masks.

The French government recently mandated that citizens wear single-use surgical filtering facepiece (FFP) 1 masks, FFP2 respirators or fabric masks that meet certain specifications—including blocking more than 90 percent of particles—in all public places.

The German government recently required everyone to wear an FFP1 or FFP2 mask while in workplaces, in shops and on public transport.

In the United Kingdom, people must wear a mask when in stores, in banks and on public transit. Recent guidance from the office of London's mayor, Sadiq Khan, stated, "Londoners should wear a face covering in all public indoor spaces and whenever you can't keep a two-meter distance from others." If an individual doesn't wear a mask in public, he or she might be charged a fine of 200 pounds—approximately 280 USD—or be refused service or entry to an establishment.

"We know there is a long way to go in our fight against coronavirus, and it's crucial we do not take our foot off the pedal now," Khan said in a press release.

A Feb. 15 report from the European Centre for Disease Prevention and Control recommends wearing masks to prevent the spread of COVID-19. "The appropriate use of face masks and promoting compliance with their use when recommended as public health measures are key to the effectiveness of the measure and can be improved through education campaigns," the report states.

The pandemic has raised legal questions about how far governments and employers can go to require people to wear masks and adhere to other health and safety protocols without violating an individual's personal rights.

Recent Court Ruling in the Netherlands

In the Netherlands, employers can be fined if their employees fail to wear a mask properly in the workplace. Employees can lose their job or wages if they don't wear a mask while at work.

In January, the District Court of Utrecht ruled that a deliveryman for a confectionery company, who was suspended because he repeatedly refused to wear a mask, is not entitled to his salary, according to Eric van Dam, an attorney with Littler in Amsterdam.

The employee had sued the company after it suspended him and temporarily halted his salary after he refused to wear a mask. The deliveryman argued that the mask requirement infringed on his right to privacy, but the court held that the company could require mask wearing for health and safety reasons. The company does not require its workers to wear a mask while driving in their vans.

Van Dam said, "I believe that, in general, workers are prepared to comply with their employer's request to wear masks. A lot of people wish COVID-19 to be history as soon as possible and are prepared to do [their] part. However, there are always cases in which employees do not want to cooperate. Furthermore, I guess that it is also a bit of the Dutch mentality that people do not want to be told what to do."

Communicate Clearly to Workers

It's important for employers to set clear expectations and avoid confusion. It may be helpful to distribute a Q&A sheet that outlines in plain language rules on mask wearing, hand-washing, social distancing and other protocols.

Communications are similar in the United States and European Union. Employers "need to message the importance of masks, social distancing and hand-washing to continue to reduce transmissions and protect our communities," said Dr. Nancy Messonnier during a Society for Human Resource Management webcast (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-cdc-encourage-worker-vaccinations.aspx). She is the director of the National Center for Immunization and Respiratory Diseases and lead for the U.S. Centers for Disease Control and Prevention's efforts on COVID-19 vaccines.

Van Dam said, "Set clear rules and communicate them in a transparent way. Make sure that workers know who to contact in case they have questions or concerns about the rules."

When employees don't wear masks as required, a supervisor or HR representative should tell them that they are breaking the rules.

"However, given the strange situation that we are currently in with COVID-19 and the many uncertainties and limitations on everybody's freedom as a result thereof, a softer approach might have a better effect," van Dam said.

"The employer could ask why the worker did not wear the mask. ... If the worker has fundamental reasons not to wear a mask, it might be helpful to appeal to his or her sense of responsibility."

In the Netherlands, certain qualifying workers can get an official exemption from having to wear a mask because of a health condition or disability. Employers can stipulate in their company policy and internal communications that employees who have an official exemption do not have to wear a mask at work.

Enforcing the corporate mask policy fairly and consistently will minimize the risk of spreading the virus.

"The employer has an obligation to provide a sound and healthy working environment for all its employees, and as a consequence, it should take precautions to prevent employees being exposed to COVID-19 by requesting employees to wear a mask and take measures against noncompliance of the guidelines," van Dam said. "The employee, on the other hand, should also live up to his or her responsibilities."

Most safety measures designed to protect employees also prevent an organization's customers and clients from contracting the virus.

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