

Germany: Union Can't Force Workers to Use the Local Language

By Leah Shepherd

February 3, 2021

A court in Germany ruled that employees can use a language other than German when communicating with a labor union, so long as translations are available. Nonetheless, a company may adopt a formal language policy in Germany if it has negotiated the policy in advance with the labor union and ensures the policy doesn't discriminate based on ethnicity.

In the case, a German labor union insisted that everyone communicate with the union only in German. In a legal decision last year, the Regional Labor Court of Nuremberg ruled that employees in Germany do not have to use German with other employees and the labor union if they provide suitable translations.

The court's decision clarified that employers may use foreign-language-speaking managers as a point of contact with the labor union. That's legal so long as communication between the union and the employer is mutually understood. When translations are provided, the employer bears the legal risk of any inaccurate translation.

The recent case involved a large, Spanish-owned international fashion company with a branch manager in Germany who conducted some meetings and personal conversations in English. In this scenario, it's possible that some foreign employees might speak and understand English better than German.

The company argued that communicating exclusively in German was not always reasonable due to the large number of nationalities and languages among the workforce. The labor union's German-only request restricted the company's freedom, since it would mean that only German-speaking people could be hired as managers in certain locations.

Corporate Language Policy

English often serves as a common language in business, and some large multinational companies have made English their official language. Frequently, the customers and clients of these companies are international.

In Germany, companies can establish a formal language policy within certain limits.

Corporations may choose whether their language policy will apply to internal or external communication, verbal or written communication, or only to certain departments or certain situations. The specific language rules can be spelled out in employment contracts if necessary.

If a company implements a formal language policy, the organization should be careful to make sure it does not discriminate against employees based on their ethnicity, knowing that ethnicity and language are often closely interconnected.

Context and Nature of Work

The best practice depends on the context and the nature of the work. Is there a need to communicate clearly with customers or suppliers on a regular basis? Is the conversation work-related or personal?

"If customers are only German-speaking, it would be considered an exercise of reasonable discretion to require employees to speak only German to customers," said Sandra Fredebeul, an attorney with Kliemt.Arbeitsrecht in Düsseldorf.

"Differentiation according to the tasks of the respective employee must always be taken into account," she added. For example, "an employee working in a warehouse without contact to customers or other international parts of the company cannot be required to speak English."

Consider how language affects the work processes and the relationships between supervisors and workers.

"For managers who do not speak the respective national or common company language, it is advisable to ensure that subordinate employees can understand the manager's instructions—for example, by using interpreters," Fredebeul suggested. "This helps safeguard work processes."

Employers should carefully consider whether a one-language policy might trigger disputes with the labor union, delays in the collaboration between business partners or other problems.

"If you introduce the language requirement, you need to make sure that the change is introduced in a way that gives the employees the chance to adapt to the new situation," said Barbara Geck, an attorney with Bird and Bird in Frankfurt. "If you have tolerated that an employee only has a passing knowledge of German for years, you have to have a reason why you are now requiring it."

Leah Shepherd is a freelance writer in Columbia, Md.

HR DAILY NEWSLETTER

News, trends and analysis, as well as breaking news alerts, to help HR professionals do their jobs better each business day.

Email Address

**CONTACT US (WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX) | 800.283.SHRM
(7476)**

© 2021 SHRM. All Rights Reserved

SHRM provides content as a service to its readers and members. It does not offer legal advice, and cannot guarantee the accuracy or suitability of its content for a particular purpose.

[Disclaimer \(www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer\)](http://www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer)