



PrivacyRules is the first and largest global alliance of data privacy legal, cybersecurity and cyber crisis communications experts

Privacy, Covid19 vaccinations and return to work comparative chart

Contributing PrivacyRules members



Headquarters:
3491 Forestoak Court
Cincinnati, Ohio 45208, United States of America
Website: www.privacyrules.com
Email: info@privacyrules.com
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Background

About PrivacyRules

PrivacyRules was formed in 2017 by a group of legal and tech experts across Europe and America (<https://www.privacyrules.com/>) to address the growing demand for data protection and cybersecurity services.

Launched in 2018, PrivacyRules is the world's only leading professional alliance of data privacy experts from the legal, tech and cyber crisis communications disciplines. We formed this alliance to provide integrated and effective assistance and services to multinational companies and institutions.

In just 3 years we have grown dramatically, now gathering leading members with offices in 58 jurisdictions in all 6 continents. PrivacyRules brings together and coordinates a global network of trusted member firms to ensure client organisations receive comprehensive advice and solutions for legal, cybersecurity, and cyber crisis communications matters on any aspect related to data privacy – and beyond.

In the fall of 2021, our alliance is launching 7 different data privacy related services worldwide, including a data breach prevention and response mechanism, outsourced data privacy coordination, a cybersecurity partnership programme and e-training on data protection and cybersecurity.

PrivacyRules also disseminates independent information on data privacy matters via all its platforms, by organising webinars, podcasts, in person conferences and e-conferences. In this way, our alliance contributes to the global awareness about privacy and is an active contributor to the international dialogue on data protection and cybersecurity. We regularly meet institutional interlocutors at national and international level.

To find out more about us, please visit our [website](#) or [LinkedIn](#).



About this document

PrivacyRules recognises the relevance and complexity of privacy issues in the context of the interlink between anti-Covid19 vaccinations and the possibility to return to work. This matter is sensitive because it affects at the same time the processing of health data and the potential discriminatory effects that an employee's choice not to get vaccinated may have. It also involves the duty of care of employers, towards their entire workforce and customers.


To offer clear information to companies and employees, nearly 30 specialised legal practitioners of PrivacyRules have contributed to a comparative chart which summarises how different countries in all continents are balancing individuals' right to privacy, public health protection and the need for businesses to resume office operations.


This comparative chart answers the following two core questions:


- 1. Does your country allow employers to impose vaccination?**
- 2. Are there criteria to be met to impose vaccination, and what could be the consequences for employees who decide not to get vaccinated?**

The chart has been coordinated by Alessandro Di Mattia, Legal & Executive Officer of PrivacyRules.



PrivacyRules member expert	In the context of "return to work": does your country allow employers to impose vaccination?	Are there criteria to be met to impose vaccination and what could be the consequences for employees who decide not to get vaccinated?
 <p>Shajjan & Associates A Full Service Law Firm</p> <p>AFGHANISTAN</p>	<p>No.</p>	<p>The Afghani laws do not provide for employers to mandate employees for vaccination against Covid-19. However, public authorities have encouraged people to get vaccinated.</p>

 <p>ARGENTINA</p>	<p>No.</p>	<p>Vaccination remains voluntarily; thus, as a general rule employers are not entitled to force vaccination. Imposing such an obligation might be deemed illegal and have consequences under Labor Law.</p>
 <p>AUSTRALIA</p>	<p>Employers have no general right to demand their workers get vaccinated.</p>	<p>Employers have no general right to demand proof of vaccination from their employees, unless the workers are in identified 'high risk' industries (eg, aged care and hospitals), or other limited exceptions apply.</p> <p>The exceptions will be looked at on a case by case basis, including consideration of what vaccination it is, and where they work, etc.</p> <p>Some individual States (eg, New South Wales) are looking at introducing requirements, but these have not yet progressed</p>

<p style="text-align: center;">TIMELEX</p> <p style="text-align: center;">BELGIUM</p>	<p>No. In Belgium, employers are not allowed to impose vaccination on their employees before returning to the workspace.</p>	<p>Upon now, Belgium has decided not to impose vaccination against the Covid-19 virus. Everyone remains free to choose whether or not to take the Covid-19 vaccine. However, it is strongly recommended to be vaccinated in order to achieve group immunity. The government decided to give priority to certain groups (health workers, elderly people, persons with an increased risk, etc.)</p> <p>In order to allow employers to impose/ask their employees to get vaccinated, a legal basis must be adopted. If an employer nowadays asks its employees to prove whether they are vaccinated, this will be against the rules of data protection. The rules of labour law that oblige employers to ensure safety in the workplace are not considered as an exception to this principle either.</p> <p>Employees who decide not to be vaccinated should not be adversely affected by this choice. The choice still remains free.</p>
 <p style="text-align: center;">BOLIVIA</p>	<p>No.</p>	<p>Employers have no general right to demand proof of vaccination from their employees. Medical professionals have been the first to be vaccinated back in March - April, 2021. Currently the jobs schedule has covered ages from 80 to 40 and today vaccination of the 30 year group has been activated.</p>



ASBZ
ADVOGADOS

BRAZIL



Yes. This is according to recent guidelines from the Public Labour Prosecution Office, although there is no provision under Brazilian law


Employers may use their directive power and dismiss an employee who refused to be vaccinated with just cause upon prior (i) inclusion of vaccination in the company's Occupational Health Medical Control Program (PCMSO), (ii) information to employees on the requirements under the PCMSO and the consequences of rejecting vaccination, (iii) employees' guidance on the scientific evidence and safety of the vaccine, and (iv) clinical evaluation of employees by the occupational physician.

Dismissal with cause is always the maximum penalty, so the employer must first understand the reason why that employee is refusing to be vaccinated, considering their political and religious convictions and their social context, and then try to clarify any doubts and/or insecurities of the employee. Thus, if even after all the attempts the employee persists in his refusal, the employer can adopt the dismissal with cause with greater certainty and then demonstrate that his attitude was based on common sense and reasonableness, always ensuring the collective safety of the staff.

 <p>VM VANEGAS MORALES Consultores COLOMBIA</p>	<p>No.</p>	<p>There is no clear criteria by which vaccination to COVID-19 can be imposed by employers in Colombia:</p> <p>Decree 109/2021 (National Vaccination Plan against COVID-19) does not impose an obligation to get the vaccine, as it focuses on prioritizing the groups that will need to get the vaccine.</p> <p>The Decree 660/2021 (June 18) and Resolution 840/2021 (June 22) focus on strategies by means of which private companies (and state companies that have a private regime) can acquire vaccines to offer them to their employees and families.</p> <p>Although COVID-19 vaccines are not mandatory, the General National Vaccination Plan (Law 1626/2013, applicable for other vaccines) in Colombia states that vaccination is mandatory and free of charge.</p>
 <p>R ROWAN LEGAL COLOMBIA</p>	<p>No.</p>	<p>Employers may use their directive Although employees in some industries (social and medical professions) are highly recommended to be vaccinated, there is no legal duty to do so.</p>

<h1>LEXIA</h1> <p>FINLAND</p>	<p>No. Employer may not impose vaccination in general.</p>	<p>Employers have no general right to demand proof of vaccination from the employees. Regarding healthcare professionals some narrow exceptions may imply, but this does not apply to Covid-19. Highly recommend.</p>
<h1>VDÈS</h1> <p>FRANCE</p>	<p>No. Employer shall not impose vaccination in general..</p>	<p>Based on the fact that (1) vaccination against Covid -19 is not mandatory by law and (2) such kind of information is a sensitive data, employers have no right to require proof of vaccination from the employees. Regarding healthcare professionals some narrow exceptions may imply but this does not apply to Covid-19. Vaccination is nevertheless strongly recommended.</p>

 <p>Wodianka privacy legal</p> <p>GERMANY</p>	<p>No.</p>	<p>In nursing or some other medical professions, staff who have not been vaccinated sometimes cannot do their work because the risk for the patients would be too high (intensive care units, cancer units etc.).</p> <p>Although employees in these areas are highly recommended to be vaccinated, there is no legal duty to do so.</p>
 <p>HONG KONG</p>	<p>In general, no.</p> <p>There is currently no legislation or case precedent relating to whether employers can impose vaccination obligations on their employees, apart from the duty to provide a safe working environment for their employees.</p> <p>However, under Hong Kong legislation, the government has implemented measures for certain businesses such as restaurants and bars, which can increase operation levels to different "operating modes" only if their staff are vaccinated, with the exemption of those who are unfit to get vaccinated to get a Covid-19 test every week instead. Depending on the circumstances, employers of these businesses may be entitled to impose a vaccination obligation on those employees who are medically fit to get one.</p> <p>The government has not issued any regulation mandating Covid-19 vaccination for office workers although this does not preclude the government from doing so in the future.</p>	<p>Imposing vaccination obligations will depend on whether the requirement is "reasonable". Employers have a common law and statutory duty to be reasonable and prudent in providing a safe working environment. The statutory duty also includes the duty to provide a workplace without risks to health - however only "so far as reasonably practicable." "Reasonably practicable" requires a holistic proportionality exercise of the benefits of the precaution against the feasibility of implementing it, as well as economic and time costs.</p> <p>If the risk to health is obvious or predictable, then imposing a vaccination requirement may be reasonable. However, this is highly fact sensitive. Similarly, employees must comply with a "lawful and reasonable" direction from their employers to avoid a breach of their contract which may result in termination. The lack of any precedent on mandatory vaccinations makes it difficult to assess what is to be deemed as "reasonable."</p> <p>Under the current rules applying to bars and restaurants, it may be that depending on the risks of contracting Covid-19 and the contractual terms of their employment, employers of certain industries may be able to impose a vaccination obligation.</p>

 <p>K KOCHHAR & Co. ADVOCATES & LEGAL CONSULTANTS</p> <p>INDIA</p>	<p>No.</p>	<p>While Indian courts have recognised that COVID vaccinations are the need of the hour, a recent High Court judgment suggests that vaccination by force or being made mandatory by adopting coercive methods, vitiates the very fundamental purpose of the welfare attached to it.</p> <p>Further, the Indian Ministry of Health and Family Welfare, which is the regulatory authority overseeing COVID-19 management in India, has also clarified that obtaining the vaccine is optional and voluntary.</p> <p>Presently, there is no prescribed criteria which needs to be met to permit or allow mandatory imposition of the vaccine. Employees who choose not to get vaccinated may be required to work from home till such time that the pandemic tapers down. It is reasonably unlikely that a court of law will accept any other remedial action which an employer may propose against an employee who chooses to not receive the vaccine.</p>
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INDONESIA

No. But according to the Minister of Health of the Republic of Indonesia Regulation Number 10 of 2021 (MHR 10/2021), every person who has been designated as the target recipient of the COVID-19 Vaccine based on the data collection of the target recipient of the COVID-19 Vaccine, both for Program Vaccination and Mutual Cooperation Vaccination, must participate in the COVID-19 Vaccination in accordance with the provisions of the legislation

Yes, there's a criteria and also priorities for vaccination. Vaccination is carried out in several stages in Indonesia and there are several criteria to be vaccinated. According to the Article 8 of the MHR 10/2021 the stage of giving vaccinations to priority groups of recipients of COVID-19 vaccines, which are as follows:

health workers, assistants for health workers, and supporting staff working in Health Service Facilities;

the elderly and public service personnel/officers;

vulnerable people from geospatial, social, and economic aspects;

other communities.

PEARL COHEN

Pearl Cohen Zedek Latzer Baratz

ISRAEL

No general right to compel employees to be vaccinated


Most of the adult population in Israel was vaccinated with the Pfizer-BioNTech vaccine. Overall, about 6.4 million Israelis (90% of the grown up population included) either received the two vaccine shots or recovered from COVID-19. The number amounts roughly to $\frac{2}{3}$ of the population.



Some employers impose limitations on employees who refuse to be vaccinated. They may be required to work from home or use up their unspent paid leave.


The Israeli Civil Service Rules provide that in some cases, the Civil Service Administration may ask an employee to present a green badge or negative COVID-19 test results if it determines this to be necessary for managing work arrangements in the unit or office.

While an employer cannot compel an employee to get vaccinated or undergo COVID-19 tests, an employee's refusal to do so may have consequences on their employment. For example, in a case brought before the



		<p>regional labor court in Tel-Aviv, the court held that unvaccinated workers are allowed to present a negative COVID-19 test every 72 hours. An employee who refuses to present this may be forced to use their unspent paid leave if it is not possible to ask them to work from home.</p> <p>If the employee does not agree to either solution, and there is no other alternative, then they may be dismissed. Other such interim decisions of regional labor courts indicate that it may be possible to bar employees' entry to the workplace and ask those who refuse to get vaccinated to either work from home or spend their annual allowance of paid leave. The decisions are case-specific and are not binding precedents.</p> <p>This is still an evolving issue with no clear and bright rules.</p>
 <p>IWATA GODO Established 1902</p> <p>JAPAN</p>	<p>No. An Employer may not impose vaccination upon employees</p>	<p>Although employees in some industries (e.g. medical professions) are highly recommended to be vaccinated, employers have no general right to demand proof of vaccination.</p>

<p style="text-align: center;">  FENECH + FENECH ADVOCATES MALTA </p>	<p>No.</p>	<p>The law does not provide for employers to have a general right to demand their employees are to be vaccinated.</p>
<p style="text-align: center;">  gonzalez calvillo meet new standards MEXICO </p>	<p>No, employers have no general right to demand their workers get vaccinated.</p>	<p>Employers can't sanction employees who decide not to get vaccinated.</p>

<p>BRÆKHUS ADVOKATFIRMA NORWAY</p>	<p>No, employers cannot compel employees to vaccinate.</p>	<p>Employers cannot compel their employees to get vaccinated nor require proof thereof. An employer may only inquire about an employee's vaccination status if justified on the basis of specific reasons. The employer will, inter alia, have to document that inquiring about the employee's vaccination status constitutes a necessary measure. Furthermore, the employer must consult with the employee representative prior to its inquiry.</p> <p>If the employee refuses to respond to the employer's inquiry or if the employee otherwise informs the employer that the employee is unvaccinated, the employer may be able to remove the employee from projects where the employee could come into contact with the employer's customers. Whether this right falls under the managerial prerogative of the employer will be subject to a case-by-case assessment</p>
<p>WKB  lawyers POLAND</p>	<p>No.</p>	<p>Although employees in some industries (e.g. medical professions) are highly recommended to be vaccinated, employers have no general right to demand proof of vaccination.</p>

<p>TUCA ZBARCEA ASOCIATII</p> <p>ROMANIA</p>	<p>Currently, employers have no legal basis in imposing vaccination upon employees.</p> <p>Nevertheless, please note that we cannot rule out the possibility for a court to deem as reasonable the imposing of vaccination in certain specific situations, especially as the imposition of vaccination is an extremely debated subject at the national and European level, consequently to the European Court of Human Rights ("ECHR") decision of April 2021 stipulating that mandatory vaccination of children does not infringe the provisions of the European Convention of Human Rights in Case Vavřička and Others v. the Czech Republic.</p>	<p>The law does not provide for a general right of employers to demand their employees to be vaccinated.</p>
<p>Taylor Vinters Via</p> <p>SINGAPORE</p>	<p>Employers have no general right to demand their employees be vaccinated before returning to work.</p>	<p>Employers have no general right to demand their their employees be vaccinated before returning to work. While strongly encouraged by the Government, vaccination remains voluntary.</p>

<p>MARIMÓN ABOGADOS SPAIN</p>	<p>No</p>	<p>Employers can't sanction employees who decide not to get vaccinated, as long as the vaccination is not required by Public health laws, it is a private decision within the private sphere of the employees and related to their fundamental rights in which Employers have no power. According to the COVID-19 national vaccination strategy, developed by the Interterritorial Council of the National Health System, vaccination against the COVID-19 virus is not mandatory. Employers can't impose the mandatory vaccination of their employees.</p>
<p>[datalex] SWITZERLAND</p>	<p>Employers do not have a right as such to impose vaccination to their employees. However, the Federal law on Epidemics allows the Swiss Confederation, or the cantons, to impose vaccination during particular situations (such as during a pandemic) and thus make vaccination mandatory in specific sectors (such as medical staff) to protect vulnerable people (hospitals, medical institutions, etc.). Switzerland has not used this prerogative yet and refused to impose the covid pass</p>	<p>In the absence of such federal or cantonal obligation, employers may only require vaccination if such measure remains compatible with the principles of necessity and proportionality and if other measures (remote work, social distancing, masks, etc.) cannot achieve the same purpose in order to protect its employees' health. Although imposing vaccination is usually regarded as disproportionate, employers may consider that they have an overriding private interest to impose vaccination, especially if the employee's role and duties require it (e.g.: for travelling). Companies deciding to make vaccination compulsory shall also inform and consult employees when implementing such measures in relation to health, and issue corporate employee guidelines. In the event of a refusal to vaccinate, employers shall reassign tasks to employees. Termination of an employee's contract may be possible, but could lead to indemnification of the employee if considered unlawful. Finally, employers may request new hires to be vaccinated, in particular in healthcare institutions or to protect vulnerable people.</p>

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TAIWAN

Employers have no general right to demand their workers get vaccinated. That said, Taiwan currently has a massive shortage of vaccines and is only now doing the highest-priority healthcare workers and elderly, and there is no expectation that employees will be vaccinated in significant numbers until late this summer. The Ministry of Labor has remained silent up to now.

Employers have no general right to demand proof of vaccination from their employees, and because the issue concerns medical care it will fall under Taiwans' PDPA Art. 6 requirements for written consent. A self-certification form in which the employee both gives consent and confirms their status is a potential solution.

SHAKESPEARE MARTINEAU

THE UNITED KINGDOM

No. An employer may not require an employee to be vaccinated without their consent. The UK Government is however planning to introduce legislation requiring workers in care homes to be vaccinated as a condition of their employment, subject to narrow exceptions.

The employer may in certain circumstances be able to justify requiring an employee to undertake different work or stay away from the workplace until vaccinated. The employer must take care however to avoid claims that this amounts to indirect discrimination, or a breach of the employee's right to work in accordance with their employment contract.

Note that the English, Scottish, Welsh and Northern Irish governments all have separate devolved powers in relation to setting rules for COVID risk assessments in the workplace, so it is unwise to assume that employees in each of the UK nations can be treated the same.

On behalf of PrivacyRules, I would like to express appreciation to our 24 contributing members for providing us and our readers with "food for thoughts" in this very delicate matter.

Each of our experts stand ready to provide additional clarifications regarding this or any other privacy related matter, please feel free to contact them directly (please find their contact list below) or to contact us at info@privacyrules.com

Also, if you need any privacy-related or cybersecurity assistance and you want to book a call, please feel free to contact us at info@privacyrules.com

We look forward to helping you with our expertise,

Alessandro Di Mattia

Legal & Executive Officer,





PrivacyRules Ltd.

E-mail: adimattia@privacyrules.com

Web: www.privacyrules.com



Contributing PrivacyRules members

COUNTRY	EXPERT	FIRM
Afghanistan	Saeeq Shajjan: shajjan@shajjanlaw.com	 Shajjan & Associates A Full Service Law Firm
Argentina	Mariano Peruzzotti: mperuzzotti@ojambf.com	 OJAM BULLRICH FLANZBAUM
Australia	Kelly Dickson: Kelly.Dickson@mk.com.au	 macpherson kelley.
Belgium	Geert Somers: geert.somers@timelex.eu	 TIMELEX
Bolivia	Paula Bauer: paula@rojas-lawfirm.com	 C.R. & F. ROJAS ABOGADOS Founded in 1900



Brazil

Luiza Sato: luizasato@asbz.com.br

ASBZ
ADVOGADOS

Colombia

Stella Vanegas Morales:
svanegas@vanegasmorales.com

VM
VANEGAS MORALES
— Consultores —

Czech Republic

Filip Beneš: benes@rowan.legal

R ROWAN | LEGAL

Finland

Markus Myhrberg: markus.myhrberg@lexia.fi

LEXIA



France

Jean-Christophe Chevallier:
ic.chevallier@ydes.com

YDÈS

Germany

Volker Wodianka:
volker.wodianka@privacy-legal.de

 Wodianka
privacy
legal

Hong Kong

Pádraig Walsh: padraigwalsh@tannerdewitt.com

 Tanner
DeWitt
solicitor

India

Stephen Mathias:
stephen.mathias@bgl.kochhar.com

 **K** KOCHHAR & CO.
ADVOCATES & LEGAL CONSULTANTS

Indonesia

Yudha Triariantho: yudha@siplawfirm.id

 SIP LAW FIRM
ATTORNEYS & COUNSELLORS AT LAW

Israel

Haim Ravia: HRavia@PearlCohen.com

 PEARL COHEN
Pearl Cohen Zedek Latzer Baratz



Headquarters:
3491 Forestoak Court
Cincinnati, Ohio 45208, United States of America
Website: www.privacyrules.com
Email: info@privacyrules.com
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Japan

Akira Matsuda: amatsuda@iwatagodo.com

IWATA GODO
Established 1902

Malta

Paul Gonzi paul.gonzi@fenechlaw.com

FENECH + FENECH
ADVOCATES

Mexico

Lucia Fernandez: lfernandez@gcsc.com.mx

gonzalez calvillo
meet new standards

Norway

Alexander Mollan: mollan@braekhus.no

BRÆKHUS
ADVOKATFIRMA

Poland

Agnieszka Wiercińska-Krużewska:
agnieszka.wiercinska-kruzewska@wkb.pl

WKB 
lawyers

Romania

Ciprian Timofte: ciprian.timofte@tuca.ro

TUCA ZBARCEA
/ ASOCIATII

Singapore

Yingyu Wang:
yingyu.wang@taylorvintersvia.com

Taylor Vinters Via 



Spain

Luis Marimon:
imarimon@marimon-abogados.com

MARIMÓN
— ABOGADOS —

Switzerland

Gabriel Avigdor: gabriel.avigdor@datalex.ch

[datalex]

Taiwan

John Eastwood: john.eastwood@eiger.law

eiger

The United Kingdom

Kim Walker: kim.walker@shma.co.uk

SHAKESPEARE
MARTINEAU

END of the comparative chart of [PrivacyRules](#) on privacy, Covid19 vaccinations and return to work.

