

International Bar Association

Topic: How in-house lawyers should be responding to the Coronavirus pandemic.

Spokespeople Region Required: Italy, Spain, Australia, Canada and US

Deadline: 9th April, 6pm GMT

Questions:

- What should in-house lawyers be doing now while most of the world is in lockdown?

Most Italian in-house lawyers are working full steam ahead these days even in a lockdown situation. We are working with our clients' GC site by site on a broad range of topics, also assisting HR managers in implementing temporary workforce reductions and in obtaining the related social plans by following the mandatory trade Union consultations.

Most of our clients had little or no time to prepare for the Coronavirus rampage; moreover, in the first few weeks the government and local authorities issued one order after the other, making compliance difficult.

During the first days of the general shut down, most of the activities of the in-house lawyers were focused on ensuring that the measures were respected to minimize the spread of the infection, working together with HR and trade unions.

Another substantial part of the activity concerns actions aimed at preventing the disruption of the supply chain and liabilities for breach of contract. Sometimes, different actions taken, not only by different countries but also within the Italian territory by local authorities, have complicated things in a material way, working through different orders and legislations has created several problems.

Dealing with new, at least for Italy, work models and structures, like remote working, has also created some challenges; for example, there were concerns on the real capabilities of the communication infrastructure and the diffusion of computers in private Italian households is still not optimal.

- What should they be doing to prepare for when the workforce comes out of lockdown?
 - The answers should briefly outline how the virus is affecting businesses in your jurisdiction and incorporate anything you think important including (but not limited to): business continuity, HR issues (such as managing a remote workforce, staff wellbeing, health & safety, pay, leave, laying staff off, etc); contractual issues; force majeure; cyber-security; data protection; keeping the company solvent; taking advantage of government help; rebuilding the company after lockdown, etc.

It appears that the lockdown order will be lifted gradually, for those who will restart operations, there are difficult times ahead.

In general, in-house counsel face an increasing number of statutory provisions that suspend, modify or amend current legislation; understanding the applicable provision/s will be challenging in some cases. It will be vital to closely follow legislative developments to face the next few months and win.

The main topics will be the workforce, both from a legal and an organizational perspective. For the time being, layoffs are not permitted, but a reorganization of the workforce will definitively be a matter of discussion and planning.

Remote working became an important tool during the crisis and, even though it was initially not exactly welcomed in Italy, after the lockdown it will most probably remain an important option. This will open new challenges for in-house lawyers to consider, like strengthening cybersecurity, respect of privacy and data collection, availability of devices and connections to company networks, etc. etc.. Moving in advance on such issues will most probably prove important for smooth transition into the new era.

Another issue will be accessing governmental relief measures; hopefully, the administrative process to obtain funds will be limited in time as well as for the documents that will have to be produced. A key factor will be understanding the right measure and procedural steps to undertake.

Finally, a revision of the supply chain contractual structure will also be necessary to prevent that other events like the COVID 19 outbreak harm or endanger industrial activities, especially if, there should be another wave of infections in autumn.