

CLIENT ALERT

Considerations for Global Employers During the COVID-19 Pandemic

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The World Health Organization, on March 11, 2020, officially declared the spread of COVID-19 a pandemic. By now, most multinational companies have already been grappling with the effects of the coronavirus and are considering the steps they should be taking to ensure the health and safety of their employees.

As most global employers are aware, when it comes to employees located around the globe, one size does not fit all. Implementing local workplace policies in response to COVID-19 is no different, and employers should seek legal advice before taking measures that may affect its employees. We identify below considerations for any global employer in the face of the pandemic.

1. Understanding the company's baseline obligations

- Governments have issued various orders, directives, guidance, and mandates in response to the spread of the coronavirus, and more are being issued every day; employers need to stay updated on local developments in real time.
- Many countries impose reporting requirements on employers and businesses relating to employee travel history and health status of employees and visitors.
- Local laws continue to apply, including data privacy laws that may restrict the sharing of personal information.
- Local company policies continue to apply, and changing them may require employee, union, or works council consultation and/or consent.

2. Imposing specific company measures to combat the spread of the coronavirus

- During these trying times, companies should remember that employees are looking to their employers for assurances and guidance; any communication to employees should demonstrate compassion and the measures to be implemented should be conveyed in a clear manner.
- Health and sanitary programs that do not affect the terms and conditions of employment and may support the employer's obligation to provide a safe and healthy workplace, such as installing hand sanitizer stations, requiring employees to keep a certain distance apart when interacting, and encouraging the use of telephone and video conference, are generally acceptable in most countries.
- Health checks are likely acceptable, especially when they further the local government's coronavirus directives and are not overly disruptive, although employers should be aware of any data privacy requirements that may apply.
- Remote work arrangements (and in cases where remote work is not possible, flexible work hours may be considered) should be discussed with employees or their representatives as work hours and work location generally are considered part of the terms and conditions of employment; consultation and consent may be necessary for local law compliance.

- Travel restrictions should be reasonable, and employees should not be forced to undertake any travel if an alternative arrangement (such as video conferencing or postponement of the meeting) is possible.
- Employers should direct managers to allow for flexibilities that take into account personal obligations such as caring for sick family members and dealing with child care issues when schools are closed; governments may have guidance or requirements in place that are relevant.

3. Using paid and unpaid leaves

- There is no uniformity in each country's requirements with respect to the use of paid and unpaid leaves during quarantine; employers should confirm local requirements.
- Generally if the quarantine is mandatory (such as when the employee is showing symptoms or is traveling back from high risk countries), the employer is obligated to pay at least a part of or full salary until the quarantine ends.
- If the quarantine is self-imposed, it may be possible for employers to require employees to use paid leaves (annual leave or sick leave), and if the paid leaves run out, use unpaid leave, although some countries have issued specific guidance that should be followed.

As the COVID-19 pandemic continues, the economic impact on multinational companies may become severe. We have already seen employers pulling expat employees out of high risk areas, delaying the start of expat assignments overseas, and suspending new hires. One effect of the pandemic we expect to see is the acceleration of plans to reevaluate supply chains, the process of which began during the trade wars over the last couple years. As employers prepare for global redundancies and closures, it is important to keep records of the adverse economic impacts as justifications for the employee redundancies and terminations.

Given the different requirements among various countries, employers should seek legal counsel advice before putting in place policies or measures in response to the impacts of the COVID-19 pandemic.

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