

Mexico's Federal Government could take measures derived from the spread of the virus known as COVID-19. It is important to consider the regulatory framework in our country regarding these measures, as well as the consequences in case of not following them.

As the information is constantly being updated, we suggest reviewing the latest newsletter published and, in case of doubt, contact us directly.

On March 11, 2020, the World Health Organization ("WHO") determined that the spread of the virus known as COVID-19, has to be considered a pandemic¹. Therefore, several countries have issued sanitary measures to prevent the spread of the virus, such as restrictions on internal and international travels. Following the recommendations of the WHO, the Federal Government could enforce similar sanitary measures.

It is relevant to analyze, in a general manner, the regulatory framework applicable to the declaration and enforcement of said measures, as well as the consequences of non-compliance with them.

I. Possible sanitary measures.

It is the Ministry of Health ("MoH") responsibility *to immediately impose the necessary preventive measures*, in the event of a pandemic or danger of invasion of exotic diseases into the territory, according to section 73, section XVI, sections 2 and 3, of the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*).

The sanitary measures that the MoH may enforce are as broad as necessary and could be decreed to a region or regions, or at a national level, during the period of time which may be necessary. Specifically, it is possible to expect, among others, the establishment of the following measures:

- Isolation of patients, suspects and germ carriers;
- Activity limitation of patients, suspects and germ carriers;
- Observation, to the extent required, of human and animal contacts;
- Application of serums, vaccines and other preventive and therapeutic resources;
- Microbial or parasitic decontamination, disinfection, and disinsection of zones, rooms, clothes, utensils and other objects exposed to contamination;

¹ WHO information. <https://reliefweb.int/report/world/who-director-generals-opening-remarks-media-briefing-covid-19-11-march-2020> Last visit March 2020.

- Inspection of passengers who may be germ carriers, as well as that of luggage, means of transportation, merchandise and other objects that may be sources or vehicles of pathogens agents;
- Temporary closure of premises or meeting centers of any kind;
- Impose of sanitary measures related to people's meetings, entry and exit of them in urban areas and special hygienic regimes -as appropriate;
- Regulate land, sea, and air traffic, as well as freely dispose of all means of transportation owned by the state and public service; and
- Priority and free use of telephone, telegraph and postal services, as well as radio and television broadcast.

Since COVID-19 is a transmissible disease, as it is considered a severe disease of the respiratory system, there is an obligation to immediately notify to the MoH in case of becoming aware of such disease. This obligation is for laboratories' heads or managers; medical units, schools, factories, workshops, asylums Directors; heads of offices, commercial facilities or of any other nature and, in general, any person who by ordinary or accidental circumstances becomes aware of any case of the disease.

The measure to be imposed are obligatory for private parties and the sanitary authorities are entitled to use any necessary legal measures, including the use of public force, for imposing applicable sanctions and safety measures.

The administrative sanctions for not complying with these measures, among those civil and labor responsibilities, may be:

- Fine of up to sixteen thousand times the Unit of Measure and Update ("UMA"), and in case of recidivism, it will be doubled;
- Temporary or definitive, partial or total closure of the activity or facility. In cases of definitive closure, the authorizations that, if applicable, have been granted to the facility, premises, factory or building will be null and void.
- Detention for up to thirty-six hours to those:
 - Who interferes or opposes to Health Authority's duties performance, and
 - Who, defaulting, refuses to comply with the requirements and provisions of the Health Authority, thereby causing danger to people's health.

II. Other measures.

In the past, several Federal Governmental entities, as the Ministry of Public Education, have taken specific measures in accordance with MoH. For example, on the night of April 23, 2009, the Head of the MoH announced the suspension of all educational activities at all levels, public and private, in Mexico City and the metropolitan area of Mexico City.

In this regard, given the past experiences and taking into consideration what is happening in other countries, we call the attention that it is highly possible that in the next days could be imposed:

- *Travel restrictions.* Although measures have not yet been taken in Mexico, there are already restrictions that limit traveling possibility to other countries. Companies must review their travel needs and define policies to avoid those to places where there is a contingency, as well as to take all preventive measures for those who have been to those places or must travel to them, as necessary;
- *School activities suspension.* As these decisions are made, parents will see their family dynamics distorted, so it is important to anticipate and design support policies for those who have to stay home, including the option of remote work. For this, it is important to map and define processes and minimum essential personnel, to establish plans that allow business continuity with a family and gender perspective; and
- *Restrictions to on-site work.* In the case of influenza, for example, the Health Alert System² establishes that, in the event of the status of (i) "alert" (that is, the existence of cases in different cities or states), gradual suspension of activities could be carried out, priority activity areas only working, while the economic activities that promote human agglomerations (cinemas, theaters, shows, sports, religious events, etc.), could be suspended or, in specific cases, carried out at closed doors without public assistance, while (ii) in the "Pandemic" state, non-essential economic activity could be suspended.

It is important, then, to take into account that, according to the Federal Labor Law, employers have the obligations, among others: (i) to provide to the employee with working conditions that ensure life and health; (ii) suspend activities and order employees the evacuation in the event of an imminent risk to safety and health; and (iii) if health authorities determine the suspension of work due to a declaration of health contingency, comply with the measures ordered to avoid affecting employees' health.

In summary, companies must preventively and proactively define essential jobs and processes (and, by exclusion, non-essential ones) and human and material resources associated with them, to be able to abide by these possible measures and, above all, protect employees' health.

² Please see the Spanish version of the National Plan for Preparedness and Response to the Intensification of Seasonal Influenza or an Influenza Pandemic (*Plan Nacional de Preparación y Respuesta ante la Intensificación de la Influenza Estacional o una Pandemia de Influenza*) http://www.cenaprece.salud.gob.mx/programas/interior/emergencias/descargas/pdf/Plan_Nacional_Influenza.pdf

III. Additional Considerations.

In addition to these measures, companies must, preventively, make an inventory of the different technological tools that may be used for allowing remote work. Likewise, cybersecurity conditions shall be reviewed.

On the other hand, it is advisable for companies to review their customers' and suppliers' contracts, for determining their obligations in case of a fortuitous event, force majeure, government action, government force majeure and similar events, as the referred possible measures could fit into any of these assumptions.

* * *

This document is a summary for disclosure purposes only. It does not constitute any opinion nor can it be used or quoted without our prior written authorization. We assume no responsibility for the content, scope or use of this document. For any comments regarding this newsletter, please contact any partner of our firm.