



Date: 1 March 2020

CORONAVIRUS SARS-COV-2

Organisational and Legal Guidelines Summary Checklist and Emergency Action Plan

The appropriate handling of the new coronavirus SARS-CoV-2 is a major challenge for companies. **The management team is legally obliged to prepare adequately for the crisis and to take appropriate precautions.** It must respond to the crisis appropriately, prudently, and above all with foresight, by taking organisational, operational and legal measures. The balance between the legal requirements, operational necessities and the degree of realisation depends on the individual case, and is naturally shaped by the characteristics of the respective company. For example, different measures are necessary and feasible in a production company compared to a company in the service industry.

For your convenience, we have summarised the most important organisational and legal guidelines companies need to consider in cases of crisis or emergency, and provided a short checklist to support you when implementing an emergency action plan.

1

Set up a crisis task force in the company!

The crisis task force core team should consist of well-trained and reliable employees from HR, Legal, IT, Corporate Communications, Employee Representation (Works Council) and the respective operational staff. If necessary, it must be ensured that additional experts can be called in and released from their current work. Sufficient authority to issue instruction or necessary resources (IT, rooms, working materials) also must be ensured. Some companies have established crisis rooms, which are available on an ad hoc basis for the crisis task force and are equipped with necessary communications equipment. There are many benefits to implementing this as part of your emergency action plan, and in situations beyond the current coronavirus situation.

2

Identify the core functions in the company and ensure their operational capability!

The identification of core areas is a principal component of all crisis plans. Depending on the type or area of the company, home office or shift-working systems should be considered for continued business operations in case of a crisis. In individual cases, key employees need special technical and organisational support – for example, a key employee needs access to back-office solutions if his or her own back-office fails.

3

Identify the most important contractual relationships and establish an effective crisis (contract) management!

With regard to customers, suppliers, authorities and other third parties, a business must prioritise which contractual relationships must be fulfilled in a crisis. This depends on the contractual rules and the operational importance.



4

Ensure the availability of external/replacement personnel!

The availability of external staff must be checked: In which part of the company external staff can be called upon for short-term cover in cases of illness or quarantine? How secure and how efficient is the service provider?

5

Communicate in an intelligent way!

Both internally and externally, communication with escalation levels must be established. For example, it may become necessary to reach employees immediately due to emergency status and/or official orders. This may require, for example, an entry in an emergency precautionary list. The same applies to key customers or key contractual partners.

Cooperation with the authorities and third parties is also a priority in crisis communication. For example, in cases of potential infections, the authorities should be informed of the containment measures implemented to ensure an appropriate response and no drastic measures are enforced unnecessarily through lack of communication or information.

External communications through statements to the media and corresponding communications via social media channels business hold should be considered as appropriate. Employees must also be informed, given guidelines or reminded of existing policies to ensure that social media channels are not inadvertently used in ways that could negatively impact the company.

6

Identify operational risk groups!

Operational weaknesses and risk groups must be identified. It is advisable to have a flow chart describing the procedure for isolating the 'chain of contact' when suspicious cases or confirmed virus infections are identified. This will help ensure employees can be examined quickly.

Since, in the worst case entire departments can be lost to illness, a secondary system must also be considered. In cooperation with the company physician and the occupational safety specialist, it must be clarified which preventive measures are sensible for the company.

7

Train procedures in a crisis!

Training, guidelines and instructions for employees are a legal obligation. Practice makes perfect and preparation overcomes fear! Depending on the department, companies should already have carried out coronavirus simulation exercises in order to be able to fall back on well-established processes in the event of a crisis, and in some instances to comply with reporting regulations. .



8

Create adequate legal conditions for the ability to act in the crisis!

Management often must ensure the ability to act in the event of a crisis by means of a resolution that any necessary legal prerequisites have been met. It is advisable to ensure the legal capacity to act by means of a review of the existing regulations and to identify legal weak points and where there is the need for action. The following regulations should typically be reviewed within the company:

- ▶ **Risk assessment**
Is there an up-to-date risk assessment?
- ▶ **Emergency plans**
Are there emergency plans that also depict escalation scenarios and exercises?
- ▶ **Home office regulations/shift operation**
Can home office regulations or shift working systems be expanded and used for the crisis?
- ▶ **Instruction of employees**
Are employees specifically instructed because of the crisis, e.g. regarding infection prevention?
- ▶ **Delegation of duties in the event of a crisis**
Is it ensured that the company employees being entrusted with the fulfilment of duties in the crisis have the necessary resources and are sufficiently skills/qualified? It may become necessary to bring employees up to date quickly – e.g. through training or participation in webinars.
- ▶ **Business interruption insurance**
Is there a business interruption insurance?
- ▶ **Contracts with key customers/key suppliers**
Is there a sufficient contractual crisis mechanism in case of a delivery failure?
- ▶ **Short-time work/temporary shutdowns**
Is there a crisis mechanism for short-time work/temporary shutdowns, e.g. in the form of a company agreement? Can short-time work be ordered and are the prerequisites fulfilled?
- ▶ **Media and digital channels**
Is there a media policy policy in place that covers social media rules, so that employees do not communicate inappropriately via social media in emergency and crisis situations?



Brief checklist for an emergency plan

Management is required to review contingency plans on a regular basis and on an ad hoc basis. With the increased press attention in the case of the coronavirus, the management team is obliged to review them. If the management team remains inactive, fines and civil liabilities may be imposed. The legal issues associated with an emergency plan concern not only “classical” labour and co-determination law, but also data or contract law.

- ### 1 General

Are all employees included? Are crisis scenarios defined? Is there an opening clause for the “unknown worst case”?
- ### 2 Ensuring the ability of the crisis task force to act

Is there a crisis task force? Do they have the necessary material resources at their disposal? Is it authorized to issue operational directives? Are there clear and fast procurement channels, e.g. to ensure sufficient IT support? Sufficient authorisations should be considered!
- ### 3 Reporting processes and communication

Is there a clear reporting process if an emergency is identified in the company? How is internal communication to employees ensured in the event of a crisis, e.g. in the event of immediate evacuation? Are there hotlines for employees? How is it ensured that employees know exactly what information is correct? Fake news can cause considerable damage and in individual cases even hinder official measures. Are there instructions for conduct regarding communication with third parties/authorities?
- ### 4 Operational emergency plan

Are key persons identified who are capable of acting to maintain operations in crisis mode? Is there sufficient IT support for them? Are there operational emergency solutions for work functionality, e.g. special shift schedules, emergency deployment plans, special overtime or emergency remote and home-working solutions? Are there sufficient possibilities for external staff deployment? Are there special leave arrangements (e.g. for childcare)? Are there sufficient substitution regulations?
- ### 5 Training

Are employees familiar with the emergency plan? What does the instruction look like? Are there emergency drills?



Our expert task force of Dr. Oliver Bertram, Dr. Kilian Friemel, Dr. Michael Pils, Dr. Johannes Höft and Guang Li (China) can support you with any further advice on preparing for a crisis or emergency. Please don't hesitate to contact us if you have any questions.

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Webinars/Info:

Further information and guidance from recent webinars can be found on our website <https://deutschland.taylorwessing.com/de/webinar-das-arbeitsrechtliche-handling-des-corona-virus>.