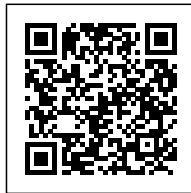


# SIDE EFFECTS

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Category: [Special focus: Latin America](#)



**As the COVID-19 pandemic pummels Latin America, the current human tragedy will slowly give way to an economic collapse that will plunge the region's countries into crisis. Lawyers in Brazil, Colombia, Chile, Mexico and Peru talked to The Latin American Lawyer about the challenges to**

## come as the side effects of the pandemic emerge.



The human impact of COVID-19 across Latin America is barely unfolding, but it will be devastating. The region's health services are stretched to the limit and in many countries will be overwhelmed, people's livelihoods have been stalled as they are unable to work, a situation exacerbated by the large number of people living day-to-day in the informal economy, while prices of basic products rise as supply chains are affected by the global shutdown.

And the knock-on effect on the region's economies will also be hard-felt, a seismic jolt that will be felt for many months to come as countries strive to rekindle their industries amid a slump in demand, while reduced government revenues, given the fall in tourism and the collapse of oil prices, will likely stymie investment in healthcare, education, public works and infrastructure projects, potentially putting the region's development on hold for a number of years.

Law firms across the region are facing a number of challenges as a result, as their clients struggle to maintain their businesses afloat, decide to restructure or downsize, and face the day-to-day challenge of operating in the context of the global pandemic, requiring compliance with government directives regarding safety in the workplace, adapting to a remote working environment and facing lawsuits and other actions from workers and trade unions amid the need to rejig their personnel structure.

And while there is talk that the ensuing economic crisis will present opportunities, in the shape of M&As and restructuring, lawyers we spoke to are largely focusing on the here-and-now, helping their clients navigate these challenging times while preparing for the side effects the coronavirus pandemic will inevitably generate at a global level.

### 'AN UNPRECEDENTED IMPACT'

"The effects of the COVID-19 pandemic have had an unprecedented impact on the entire Brazilian economy," according to Alexandre Bertoldi (pictured, above), managing partner at Pinheiro Neto in São Paulo.

"On top of that, the political and economic crises have pushed uncertainties to a higher level," he says, as Brazil's woes are worsened by the political crisis that threatens to engulf President Jair Bolsonaro, who has lost two health ministers in the past month as well as seeing the resignation of his justice minister, the latter now making allegations of improper conduct against the president that could see Bolsonaro face impeachment.

"As we are a full-service firm acting in several areas of legal practice and for a wide array of business segments, it was expected that each of them would respond to the crisis in a different way," Bertoldi says.

"Some of our areas of practice have not been negatively impacted, or have even seen an increase in demand, but the number of billable hours has fallen as the economy has come to a near halt and the judiciary is adjourned," he says.

But the crisis has also opened the opportunity for the firm to lend a helping hand, he says.

"Because we believe it is time to offer help, the COVID-19 pandemic has prompted us to intensify

the donation of hours of legal work to provide legal guidance to companies that wish to make donations.”

“Migrating the whole staff to the work-from-home regime was part of our strategy from the very outset, so we managed to adapt in a smooth way and the remote environment itself did not affect our ability to work,” he says. And despite the expected economic impact, Bertoldi predicts a short recovery time post-pandemic.

“When the pandemic recedes, businesses will take some time to recover, but probably in a short time span, of six months,” he says.

“M&A activity will grow as the sharp devaluation of the Brazilian real will make Brazilian assets very inexpensive. Good opportunities will come up because companies will be in need of capital and, as it will take some time for the access to capital markets private equity and debt to get back to normal, such companies may opt for a transaction or sale,” he says.

“We know from experience that deep crises tend to lead to market concentration, so the impact of the crisis may be different even within the same sector. In general, companies linked to consumer activity are likely to be hit hardest.”

Bertoldi says that, to mitigate the negative effects of the crisis, the Brazilian government will have to deploy “dynamic and fast responses to generate the conditions necessary for economic recovery once the pandemic abates”.

However, “the economic crisis is likely to increase social inequality in the country, and the self-employed and those who lost their jobs will need support policies and a financial cushion,” he adds.

He also called for the government to temporarily relax tax obligations and offer credit facilities for the financial survival of companies and jobs.

#### ‘MAJOR CHALLENGES’



“Many of our clients in Mexico are facing major challenges, such as how to quickly transition to remote working, and the uncertainties they face due to the lack of clear direction from the government during the pandemic,” Luis Rubio Barnetche (pictured, left), a partner at Holland & Knight in Mexico, says.

“That uncertainty definitely affects our work, but we are fortunate to have a good technological infrastructure allowing us to work remotely in a much more efficient way, and invest a good amount of our time into determining the legal impacts that the crisis could have on our clients’ businesses. We are currently working with them, as far as possible, to help them survive this moment of such uncertainty,” he says.

“The drop in M&A activity in Mexico has been a result of government policies and the lack of trust in investment in our country, and which is also due to the global economic crisis, the replacement of NAFTA [the North American Free Trade Agreement, which will be superseded from June 1 by the US-Mexico-Canada Agreement, or USMCA], and in the delay in the implementation of USMCA,” he says.

"Geopolitical and macroeconomic factors will have the biggest impact on M&A in 2020, and which are affecting transactions in Mexico, a result of the coronavirus pandemic, and it's very probable that we will not see much movement in M&A this year. In Mexico, investors are more and more cautious as President Andrés Manuel López Obrador seeks to completely transform the country and eliminate important legal reforms, independent regulatory bodies and policies that are seen as positive by the market," he says.

The firm has seen an increase in work in certain industries affected by the pandemic, but the workload in other areas has diminished, he says.

"The labour practice is very busy, but investment and M&A are less active practices, along with transactional work, litigation and work related to governmental entities, a result of the health emergency," Rubio says.

"Clients require constant legal advice to respond correctly to the circumstances generated by the pandemic."

Governmental authorities are obliged by law to inform their employees of the measures being taken in the face of COVID-19 and the safeguards put in place to guarantee safe working conditions. Employers must guarantee that proceedings established by the federal labour law are followed and the required protection measures implemented, Rubio explains. But the challenge of containing the pandemic is made more difficult by Mexico's deficient public health service, he says.

"Mexico's health system is going through one of the worst crises in its history, according to specialists, and the COVID-19 pandemic only makes that crisis more acute, obligating the authorities to adopt urgent measures such as proposing to build new hospitals. In addition, there is an increased demand for medicine due to the rise in chronic diseases and the need to find effective medicines and a vaccination to fight COVID-19," Rubio says. And beyond the death toll and the health crisis, Mexico's economy is facing serious challenges, along with Latin America's other economies.

Exports and trade, the banking sector and technology, media and communications are also sectors that are keeping his team busy, Rubio says. "Given the current circumstances and the complexity of the supply chain, auto manufacturers are cranking up the pressure on the Mexican government so that USMCA norms do not come into effect until January 2021, instead of July 1 of this year," he says. Banks have stepped in to help consumers, offering deferred debt payments for between four and six months, which will benefit the automotive and housing sectors, in mortgage payments, personal credit and credit to businesses in the agricultural and fisheries sectors, and banks are also offering interest-free credit on health payments, he says.

The Mexican government also announced the disbursement of three million loans of 25,000 pesos (around \$1,200) in April to low-income families. But the government's actions have fallen short, Rubio says.

"Unfortunately, in Mexico the government's reaction to the pandemic and the economic impact it will have has been practically null," he says. "Unlike in other countries, Mexico's government has not announced fiscal stimulus plans or financial aid packages for small and medium-sized companies. Investment in non-essential infrastructure announced by the government before the pandemic, such as a new oil refinery in Dos Bocas, Tabasco, or the 'Tren Maya', a tourist train that will traverse the Yucatán peninsula, continue unchanged, which is incongruent with the circumstances the country is going through."

'BECOMING OUR CLIENTS' ALLIES'



In Colombia, Holland & Knight is also aiding its clients wade through the uncertainty the pandemic has created, according to Enrique Gómez-Pinzón (pictured, left), the firm's executive partner in Bogotá.

"Law firms haven't been immune to the uncertainty the virus has caused in Colombia, and we are seeing clients are much more cautious with their expenditure and doing all they can to reduce it, and that includes a reduction in the legal expenses they were used to paying," he says.

"Our strategy is to become our clients' allies during this crisis and counsel them in practice areas that are key at this time, such as labour law, taxes, litigation, advising on supply contracts for medical equipment and services, focusing our business on what the market requires and remaining alert and active, trying to be affected by the crisis as little as possible," Gómez-Pinzón says.

Like his colleague in Mexico, Gómez-Pinzón acknowledges his firm's cutting-edge technology that allows his team to work from home, "as if we were in the firm's offices," and which has minimised the effect of the pandemic on their ability to perform their roles. Looking beyond the pandemic, he says it is still too early to say where this situation will take us in terms of how the focus of the law firm's business will shift, but it is clear that the Colombian peso-US dollar exchange rate and the drop in oil prices will affect companies operating in the country.

"For sure there will be companies that find interesting opportunities in Colombia as a result of company closures and downsizing, and we'll be there to assist them and offer them our services," he says. He says that the Colombian government has been focusing on helping the poorest sectors of society by maintaining movement restrictions in place and by injecting funds into the health sector to increase its capacity to attend to patients.

"Let's hope the economy is not too seriously affected this year. According to estimates by international analysts, Colombia's growth will be less affected, and so we are optimistic here. Public spending needs to be maintained so that the economy continues to grow, and we'll be providing companies with counsel in tax and labour matters," Gómez-Pinzón says.

## EARLY DAYS

It's still early to gauge the real impact of the pandemic, given that COVID-19 came to Latin America late, according to Rafael Mínguez Prieto (pictured, below left) and Agustín Cerdá Masip, both of whom are partners at Cuatrecasas in Madrid, a firm which has a presence in Latin America in Chile and Peru.



"At the moment we are not seeing a reduction of the workload, in fact, with our opening of an office in Chile and the consolidation of our project in Peru, we expect an increase in our regional activity," Mínguez Prieto says.

"We are seeing a considerable increase in cases of litigation, debt restructuring and advice regarding labour laws in the context of the consequences of COVID-19," he says. "The firm in Latin America shifted to remote working at the same time as the offices in Spain, and the process was a complete success," he says.

"The impact has not been negative and is something from which we expect to learn good lessons to apply them to our methods of organization in the future." He says that, post-pandemic, the energy and natural resources sectors are likely to be where an increase in M&A deals will be seen.

Governments in Latin America are adopting similar measures to their European counterparts to mitigate the negative effects of the pandemic on their economies, with financial assistance to small businesses, but there could be some temporary nationalisation processes, he says.

Jaime Carey, a founding partner at Carey, Chile's largest law firm, says his firm has yet to see any significant impact on the firm from the pandemic, and the firm is advising companies on labour laws, taxation and restructuring are providing the most work.

He foresees an increase in M&A activity once the pandemic is behind us.

"But It's very early to know how big that will be and when it might start," he says.