

How to make strong international organisations after COVID-19

This is a primer for discussion. It identifies four issues that International Organisations will need to think about now to emerge stronger after COVID-19.

As COVID-19 continues to grab the main headlines, it is important that international organisations (IOs) and their staff are and remain alert to the many consequences this pandemic will cause. Already, IOs took extraordinary measures, including putting staff on administrative or special leave, ordering “work from home” and stopping all travel. But many consequences will not be limited to the duration of the pandemic. Rather, they will continue to unfold even after the world returns to normality. Their early identification now is paramount to start preparing for such post-pandemic consequences.

Grotius Chambers has started this process. We are looking for those issues where early preparation can make a real difference. Ongoing discussions with clients and within our networks and our understanding of IOs and their regulatory environments help us. For this Client Brief, we identify four issues that we understand are already, or could become soon, priorities for many IOs and their staff.

“Working from Home” Arrangements

“Work from home” arrangements have steadily evolved. The private and public sector increasingly embrace the many advantages these arrangements offer, while managing some of their risks through policies that clearly define the rights and responsibilities of the employee, of supervisors and the employer, any indemnity arrangements, working times, availability, but also rules concerning the health and safety of employees while working off-premises.

IOs certainly have been much slower to embrace “work from home” arrangements, and if they do, they often limit these to certain categories of staff. Also, the policies that govern such arrangements are often missing or significantly underdeveloped and so, many IOs were largely unprepared when social distancing and lockdowns were mandated. Now, there is uncertainty on the side of staff, contractors, consultants, locally employed staff and others as well as the IO, requiring IOs to adapt rapidly and provide much needed clarity and certainty surrounding the “work from home” arrangements. Of immediate importance seem to be following aspects:

- Minimum conditions for a home office, including ergonomic workstations as well as computer, software and telecommunication needs;
- Minimum workplace, health and safety requirements for the home office;
- Clear definition of regular working hours, overtime and mandatory contact times;
- Applicable record keeping requirements, including time recording;
- Adequate insurance coverage for the home office (illness, death and injury);
- “Work from home” appropriate performance indicators and their translation into the annual performance evaluation;
- Comprehensive staff protection measures that are suitable for home offices, including against harassment but also for employees in a difficult family situation;
- Availability of staff services, including employment hotlines and repatriation assistance; and
- Clear rules governing leave arrangements for “work from home” (e.g. annual leave, home leave, special leave).



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Clear and adequately tailored rules which offer suitable guidance are required to protect both the IOs as well as their staff and others from disruptive and costly future disagreements.

Crisis Management Groups: characteristics, roles and functions

IOs have been quick to establish crisis management groups or task forces to cope with the many issues they face due to the COVID-19 pandemic. They play an essential role in limiting present and future risks to the IOs. Their respective roles, functions and responsibilities vary considerably and while this variance is necessary, some roles, functions and responsibilities ought to be universal to mitigate risks to the IO during the COVID-19 pandemic and beyond. These include that these groups and task forces:

- Are given a mandate to seek, when appropriate, relevant legal advice to mitigate risks associated with, or the result of, the COVID-19 pandemic;
- Are adequately integrated into internal processes that develop new, or strengthen existing legal frameworks of the IO, in response to the pandemic;
- Provide guidance, and can facilitate, alternative or individualised work processes and schedules adapted to the special circumstances that exist through the pandemic;
- Have appropriate means to communicate effectively and efficiently with all categories of staff;
- Are inclusive and represent the entire IO, including management, finance, corporate and HR, but also staff representatives and, where applicable, staff associations and unions;
- Have strategies to build, maintain and strengthen stakeholders trust;
- Have a mandate to review work processes and, where necessary, develop new, or enhance existing communication, collaboration and other work tools; and
- Take appropriate measures to retain their experience and knowledge as developed during this pandemic to ensure early future responses and to inform reforms projects that future prove the operations of IOs.

Exceptional measures due to budget constraints

It is highly likely that some IOs will experience financial stress as their Members throttle funding as a result of the COVID-19 pandemic. This will impact the budgetary situation of IOs and, with that, their work force. We anticipate a possibly even significant impact on staff, contractors, consultants and others working with IOs in the short, medium and long-term.

When this impact will materialise, and how significant it will be, will depend entirely on the IOs' internal laws and their staff contracts. While some IOs are clearly better equipped to take on the current circumstances, and others could adapt their internal laws to make specific allowances for it, it is now the time to take strategic actions and plan responses not only in the short term, but in particular for the post-COVID-19 period. With appropriate strategic planning, and the intelligent use of tools such as staff transfer, mobility, reassignment or reserve lists, it is possible to manage, and limit, the impact of budgetary constraints on IOs.

Insuring access to justice

Maintaining during this pandemic adequate means to gain access to justice, including informal and formal means of dispute resolution, has become a global issue. With courts closing, and associated justice services such as process servers and independent experts, becoming more difficult to access; and with arbitral panels and mediators not being able to conduct face-to-face hearings and mediations, the call for the increased and better use of online tools to ensure continued access to justice has become louder and louder. Many see an even stronger digitalisation of the justice system as an appropriate response to the pandemic, even though issues such as confidentiality, data security or privacy require special attention and possibly solutions.

This is clearly a path IOs should pursue, too, and their internal dispute resolution mechanisms should be assessed carefully whether they were developed technology-neutral and are thus readily adaptable to an online environment. If so, this should be clearly communicated to staff, and appropriate technology that can support such internal dispute resolution mechanisms should be developed or purchased. If not, we suggest making appropriate amendments to the IO's internal laws so that such systems can be put into place. Here, it is paramount to consider that all staff has easy and unimpeded access to such systems. Importantly, any such reform of the internal dispute resolution mechanisms is an investment into providing those working for IOs with appropriate access to justice – even after and independent of COVID-19 or future disruptive events.

The above can not necessarily be said, however, for external dispute resolution mechanisms, i.e. those of last resort before administrative tribunals. These may not be easily accessible in the current circumstances, because even though some administrative tribunals now use e-filing systems and secure e-platforms for the transmission of applications and other documents, such use is not widespread, with some continuing to require the filing of paper copies.

In times where registries are closed and even mail delivery is impacted, this seems to a potentially significant impediment on gaining access to justice.

More questions? Then contact us!