

**ASSOCIAÇÃO DOS MAGISTRADOS BRASILEIROS - AMB**  
**SECRETARIA DE RELAÇÕES INTERNACIONAIS**

**QUESTIONNAIRE**  
**ON THE IMPACT OF COVID-19 ON RULE OF LAW AND JUDICIAL**  
**ACTIVITY**

**1. What are the main problems the Judiciary experienced at a general level in your country as a consequence of the legal reforms approved in order to cope with the COVID-19 pandemic?**

The Brazilian government declared state of public calamity due to the COVID-19 pandemic since 03/20/2020. Laws were enacted to establish general measures to deal with the pandemic and create monthly emergency financial aid for self-employed workers. Several provisional executive acts have been published. These urgent diplomas are aimed, for example, at civil aviation, at credit facilitation and at the labor area, in this case establishing rules allowing flexibilization of employment contracts.

State governments (Brazil is a federation) have issued decrees imposing various "lockdown" / quarantine measures. Some of these decrees provide for fines or even imprisonment in case of non-compliance.

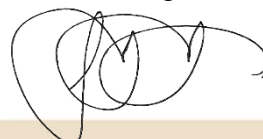
A law recently instituted a videoconference hearing on small claims lawsuits. There were no other legal reforms directly aimed at the judiciary.

The main impacts that the judiciary has experienced up to now have been the judicial questioning of labor regulations and the legality and constitutionality of fines and arrests established by decrees of the governments of the States.

**2. Did the legal reforms approved in your country in order to cope with the COVID-19 pandemic affect Rule of Law and Human Rights principles? If any, pls. enumerate them.**

No legal measure has been issued that could be considered to violate human rights. Workers' representatives claim that changes in labor legislation imply a social setback. The Supreme Court considers that the emergency measures are constitutional, with the exception of certain provisions.

The competence of state governments to issue decrees imposing fines or prison for non-compliance with quarantine measures is been debated, based on the idea that they would depend on the federal government to legislate. The Supreme Court determined that the States have jurisdiction to legislate on public health, which for the Supreme Court includes these rules.



**3. As to the judicial organization of your country, what impact had the legal reforms approved in order to cope with the COVID-19 pandemic? More specifically, what were their effects on the powers of the Minister of Justice, Council for Judiciary, Heads of Courts, Heads of Prosecution Services, Judges, Prosecutors, Court Administrators, Court Managers?**

No legal reforms with an impact on judicial organization have been published.

**4. As far as Court activity, Court proceedings and trials are concerned, what was the impact of legal measures adopted? Pls. provide relevant information distinguishing between civil, criminal and administrative cases.**

No laws have been published on the subject, except, very recently, a law authorizing conciliation hearings by videoconference on small claims lawsuits. The judiciary itself adopted measures to suspend procedural deadlines and presential acts, such as hearings, and adopting remote work. Initially, the courts themselves decided to independently edit the acts regulating such measures. Since March 19, the National Council of Justice issued a resolution regulating throughout the country and institutes the "Extraordinary Shift" regime. These rules do not apply to the Supreme Court and to the Electoral Justice.

In short, the resolution dealt with: 1) suspending presential work, with the exception of the minimum essentials (excluding risky groups); 2) adopted remote work in general; 3) the procedural deadlines have been suspended. The resolution guarantees, as a minimum, the processing of emergency measures, in general, provided for in the legislation. An illustrative list was presented, highlighting the actions of "habeas corpus", constitutional actions, general emergency measures, notification of arrest in flagrante delicto, requests on parole, among others.

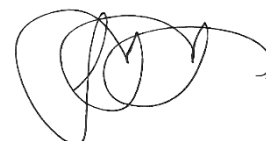
The list shows an emphasis on criminal proceedings. These measures, in general, have been extended until June 14. The deadlines in the electronic processes, however, resumed from May 4.

**5. Did “urgent” cases receive a different treatment and in this framework was a special legal definition or specification of “urgency” introduced for Court proceedings and trials?**

No. The resolution of the National Council of Justice guaranteed the examination of urgent cases provided for in the legislation.

**6. Did the amount of money and, more generally, the value at stake in the case play a role in the treatment of it?**

No.



**7. As far as criminal cases are concerned, did cases concerning arrested defendants receive a different treatment?**

Yes. The resolution of the National Council of Justice highlights in the list the hypotheses that involve arrested defendants, such as the "habeas corpus" action, notification of arrest in flagrante delicto, requests on parole, the imposition of measures other than the prison, requests for progression or regression of the criminal conviction regime, probation, among others. Although the list is illustrative, being among the hypotheses guarantees a greater certainty that the cases will be analyzed during the extraordinary shift period.

**8. What was the impact of such legal reforms on legal deadlines and procedural timeframes?**

The procedural deadlines were suspended throughout the country from March 19, in accordance with the resolution of the National Justice Council. In the electronic processes, they resumed from May 4.

**9. What is the role played in your country by IT, e-filing, smart and remote working in the management of cases as an effect of legal measures approved in order to cope with the COVID-19 pandemic? To what extent these measures are applicable also to the activity of Public Prosecutors?**

Currently, Brazil adopts the electronic process in almost all lawsuits. Thus, thousands of sentences were and continue to be published in the extraordinary shift period. Judges continue to produce with great intensity. In some cases, productivity has even increased. The work is carried out, almost entirely, remotely from the magistrates' residence. There are already several cases of videoconference hearing occurring. Information technology has been an essential tool to guarantee uninterrupted judicial activity. Similar measures were implemented by the Prosecutors, which continued to operate remotely while maintaining productivity.

**10. What is the role played by your Association in the drafting of such legal reforms? Was your Association consulted by the Government before adoption of the aforesaid measures?**

The President of the Association of Magistrates of Brazil, Renata Gil, integrates the committee of the National Council of Justice responsible for the rules related to COVID-19 and acts in the edition and revision of these rules.

**11. Did the Government consult the High Council for the Judiciary and/or other judicial institutional instances or representatives before adoption of the aforesaid measures?**

The existing rules were edited by the National Council of Justice itself.



## 12. What is the attitude of Bar Associations and Lawyers vis-à-vis such legal reforms?

The Brazilian Bar Association participated directly in the edition of the resolution of the National Council of Justice that established the “Extraordinary Shift” regime and agreed to the adoption of that exceptional measure.



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