



Requirements

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IACHR RESOLUTION AND COMPLIANCE



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Inter Inter-American Commission on Human Rights ("IACHR") Resolution 01/2020 states that companies have a key role to play in the health crisis and warns of the risks of restricting their rights. At the same time, it requires companies to be monitored by governments and held accountable for their abuses, recommending that they adopt human rights due diligence processes.

On April 10, 2020, the IACHR adopted Resolution 01/2020 on the COVID-19 Pandemic ("Resolution") warning that it may seriously affect the validity of human rights and that poses significant challenges for the States of the Americas. At the same time, it notes that pandemic containment measures have involved the suspension and restriction of rights through declarations of "state of emergency" issued by presidential decrees.

In view of the above, the Resolution declares among others that States should:

- Immediately adopt a human rights approach in all strategies, policies and measures aimed at addressing the COVID-19 pandemic and its consequences, including plans for social and economic recovery. Measures taken and resulting in restrictions of constitutional rights must be subject to the pro homine principle which implies their proportionality, temporality and legitimate purpose.
- Respect and guarantee human rights in the context of business activities, in accordance with inter-American standards.

It also stresses the importance of having the support, participation and cooperation of civil society including the private sector so that the governmental efforts to attend the pandemic are effective.

The IACHR recommends the protection of jobs, wages, freedom of association and collective bargaining, pensions and other social rights related to labor and trade union. Prior and informed consent of all persons is necessary in processing all individual health matters in the context of the pandemic, as well as the protection of personal data.

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In the economic field, it warns of the need to ensure accountability mechanisms and access to justice against possible impacts on economic, social, cultural and environmental rights ("DESCA"), which may result from abuses by private actors and acts of corruption to the detriment of human rights. The IACHR demands that the governments in the Americas ensure that companies respect human rights and adopt due diligence processes and be accountable for the potential negative impacts on these rights, particularly on the DESCA of vulnerable populations. In this regard, in 2019, the IACHR issued the Business and Human Rights Standards Report which is particularly relevant in the current context. In order to comply with the Resolution, the "Guiding Principles on Business and Human Rights: Implementation of the United Nations Framework for Protecting, Respecting and Remediating", recognized by the United Nations system will be useful for Compliance Officers and Business Compliance Committees in order to implement due diligence mechanisms to protect human rights in general, and in particular in the context of COVID-19.

The IACHR recognize the need for control over the restriction or limitation imposed on human rights in connection with the COVID-19 pandemic, which can impact both citizens and businesses. So, it requires compliance with the principle of legality that is central to any democratic State, as well as the immediate reporting in these cases to the other member countries of the American Convention, through its Secretary-General.

The Resolution warns of the abuse of exceptional powers in which governments may incur. To this end, the IACHR emphasizes the duty of States facing the COVID-19 pandemic to refrain from suspending the procedures that ensure the fullness of the exercise of individual and business rights and freedoms, including habeas corpus actions and the amparo process that are necessary to control arbitrary actions of the authorities.

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Finally, the IACHR emphasizes that Democracy and the Rule of Law are necessary conditions for the validity and respect of human rights, and therefore reaffirms the necessity to protect the independence of control institutions, in particular the judiciary and legislative branches, the functioning of which must be secured in the context of the COVID-19 pandemic.

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Any questions or comments, we remain at your service.

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