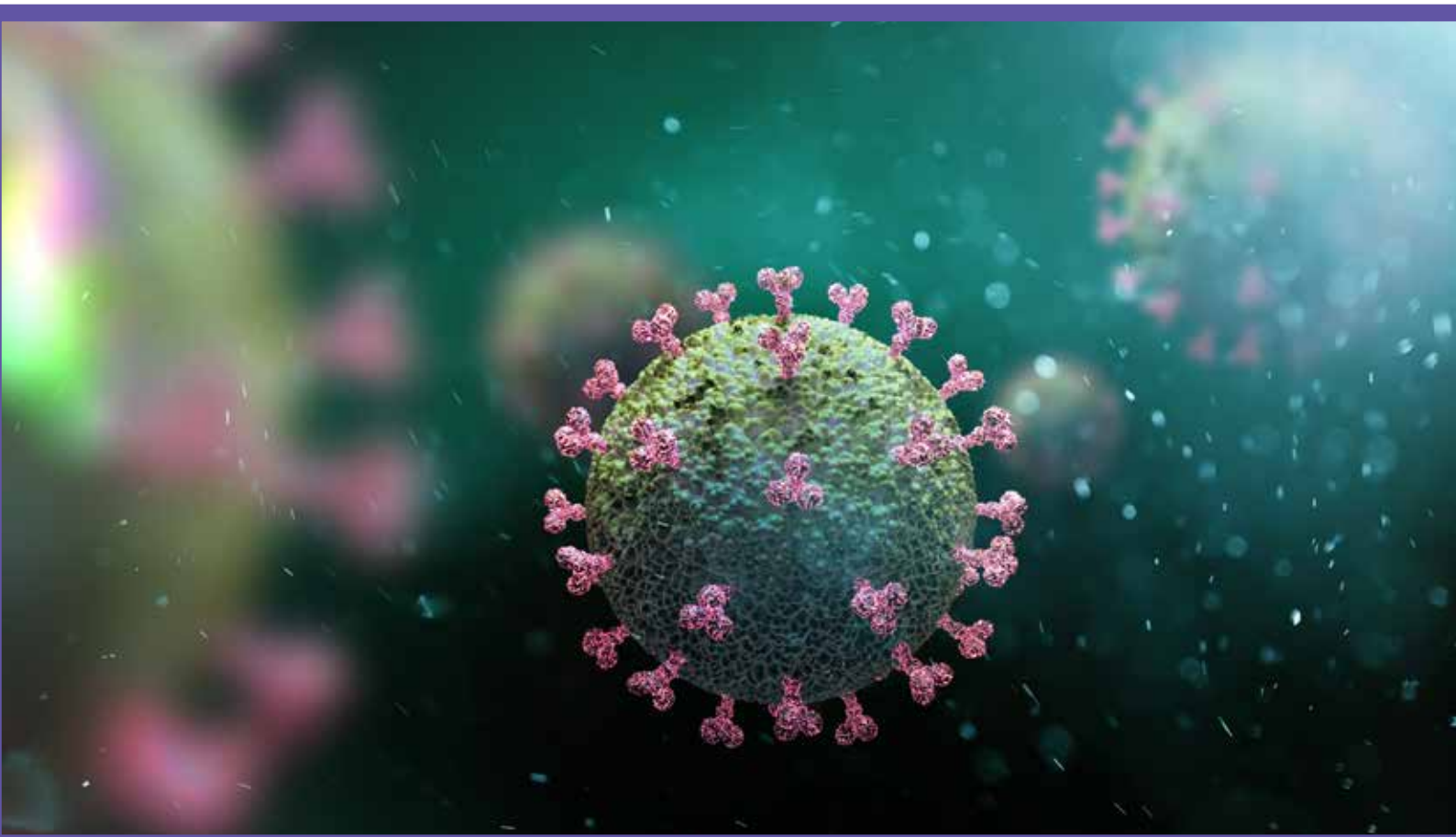




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International Bar Association

Bar Issues Commission: Covid-19 Survey Report



October 2020

IBA Bar Issues Commission: Covid-19 survey report

The International Bar Association (IBA) Bar Issues Commission (BIC) launched its global Covid-19 survey at the beginning of June 2020. In the two months that it was open, over 30 law societies and bar associations responded.

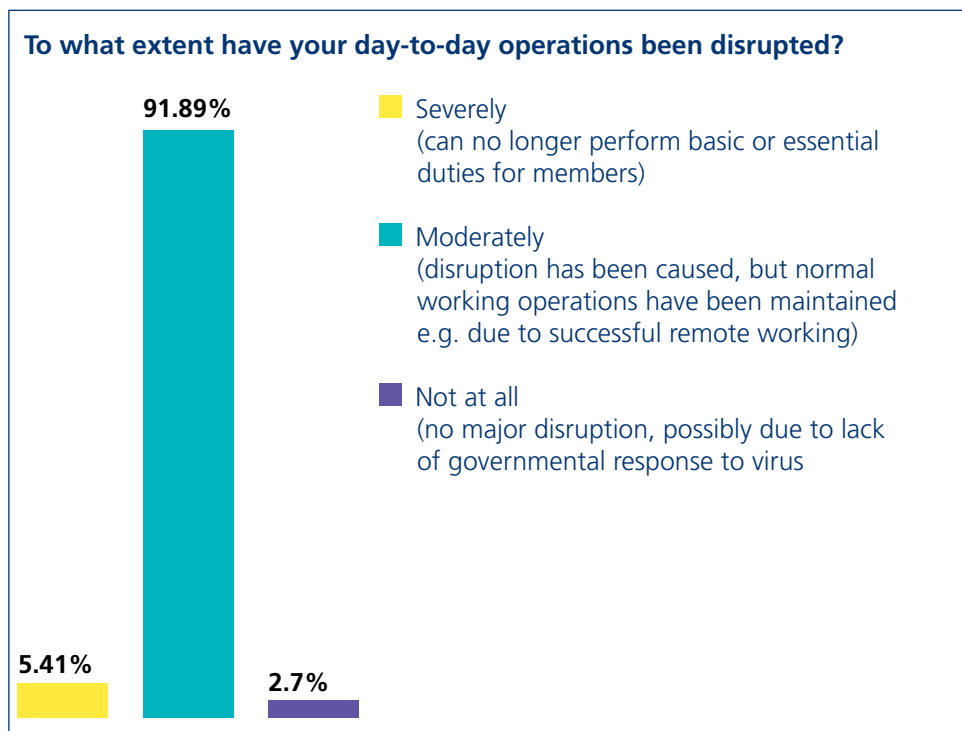
Further results were added following a decision to cooperate with the Council of Bars and Law Societies of Europe (CCBE), which allowed the BIC to add the responses from a further 16 European Bars where relevant. This means that in total, the survey includes insights from 50 organisations across the world, broken down by region as follows:

- Africa: 3
- Asia: 8
- Australasia: 1
- Central America: 1
- Europe: 25 (including responses to CCBE survey)
- North America: 5
- South America: 7

Summary of survey findings

Overall, Bars remain optimistic and resourceful despite the damage done by the Covid-19 storm, though the impact on courts and justice systems around the world continues to be serious.

Impact on Bars themselves



Bars have found that remote working has been a general success:

nearly 60 per cent say moving to remote working has been relatively straightforward, and will continue in some form in the future. Only five per cent have said the transition has been very difficult. Just over eight per cent have said the transition has been very difficult'

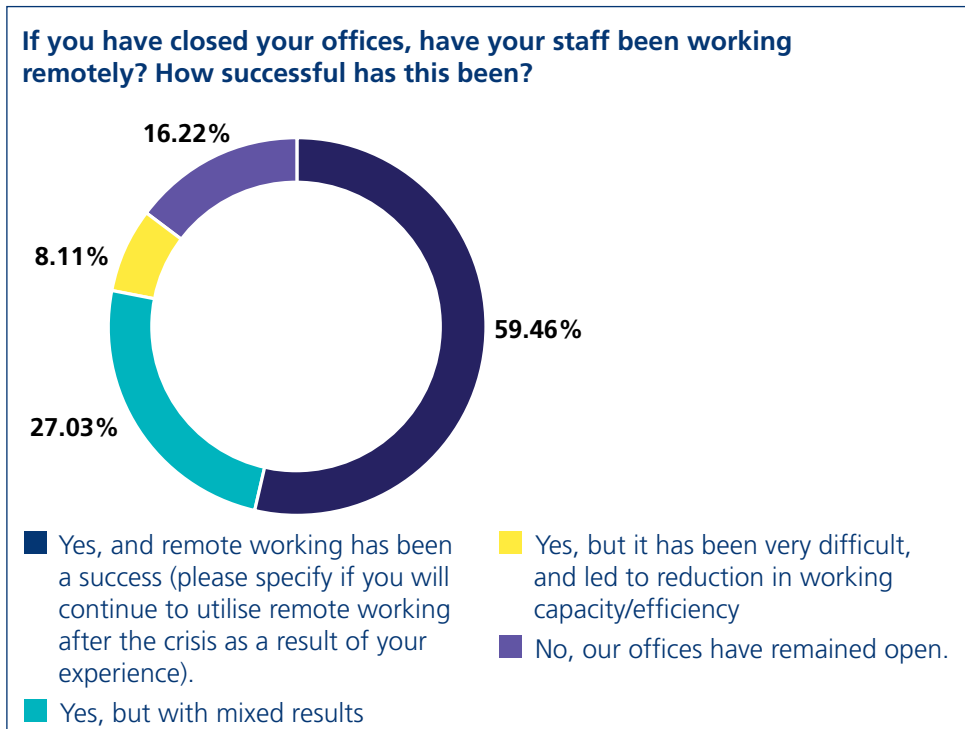
The Estonian Bar Association commented that 'even when the emergency situation in Estonia has passed ... [they] are considering implementing remote work more often, as it has been shown that all the necessary work could be done effectively in this way'.

This is similar to the Canadian Bar Association, who noted that even when normality resumes, 'there will be more openness to staff working remotely on some days'.

However, despite the success of remote working, other countries are more sceptical of it being the 'new normal', with the Association of Danish Law Firms commenting that 'for a number of our employees, it was difficult to work at home, because of the isolation and coordination with co-workers', with many hoping 'to work at the office, as soon as this was possible'.

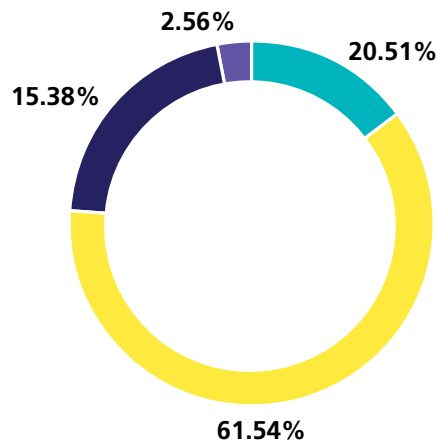
An interesting situation was detailed by the Japan Federation of Bar Associations, in which 'during the emergency declaration period from early April until late May, the work of the [Japan Federation of Bar Associations] secretariat was significantly

reduced. In principle, we had our staff stay at home (they were requested to stay home without working remotely, and to be prepared to work upon instructions when necessary). We had some staff work from home. In principle, the full salary was paid to all staff, including those who staying home without working'. Thus, while staff were no longer in the workplace, only some were requested to work remotely, while it seems others were not asked to work at all.



As expected, events have been disrupted, but Bars have been dynamic in their responses; the demise of the in-person meeting has also probably been exaggerated: nearly 30 per cent say most or all events for 2020 have been cancelled. Though 15 per cent say moving events and activities online has been 'very straightforward', nearly 62 per cent have moved events online'.

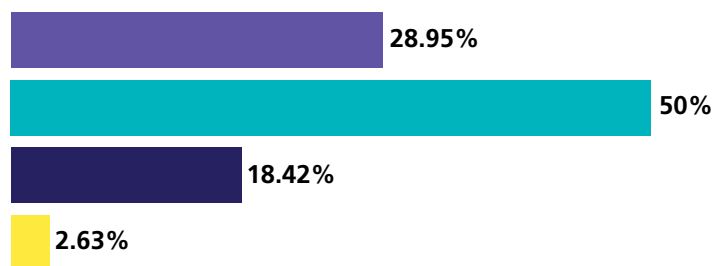
**Have you been able to move events and activities online?
How easy has this been?**



- Yes – this has been a very straightforward process, and we will look to plan for far more events to be held online in future
- Yes – but with difficulty. We hope to return to 'normal' as soon as possible, as most of our events rely on face-to-face interaction
- Yes – a mixed response. We realise now that many of our events can in fact be held online, but we also appreciate that there is no substitute for face-to-face meetings
- No – it has been impossible to replicate our events and activities online. What attempts have been made have been unsuccessful

Members have been turning to their Bars during the crisis, with a majority able to respond effectively: nearly 30 per cent have witness a large increase in appeals for help, to the point where they feel 'nearly overwhelmed'. 50 per cent have seen a minor increase in requests for assistance.

Have members been asking you for help? If so, has there been an increase in appeals for help from members?



- Yes, there has been a large increase in enquiries and appeals for help from members, to the point where we feel nearly overwhelmed
- No, we have not noticed any appreciable increase in enquiries
- Yes, but not in extraordinary numbers
- No – if anything we have been quieter than usual

When it comes to measures taken to support members, Bars have overwhelmingly been able to tailor their support to the crisis: 81 per cent have undertaken special Covid-19 assistance/guidance:

The Law Society of South Africa 'has created a separate landing page for Covid-19 financial assistance (state and private) and regulations and directions'.

Many bar associations have provided guidance on seeking government financial assistance, along with guidance on how to manage personal health.

The Faculty of Advocates (Scotland) give 'regular updates by email from Faculty office-bearers on a range of issues associated with Covid-19', with similar measures taken by other Bars such as the Lithuanian Bar Association, and in Central America, by the Colegio de Abogados y Abogadas de Costa Rica.

The Nepal Bar Association has provided a counselling service, along with 'some day-to-day needs and foodstuffs'.

The Japanese Federation of Bar Associations has made available 'examples of new law firm management measures under the emergency declaration due to Covid-19'.

Financially, nearly all Bars have taken a battering: all have suffered financially in some way, over 11 per cent severely.

The Law Society of South Africa has been particularly affected, and have been 'unable to continue training of candidates'. In addition, 'admission examinations have been postponed'.

The Nepal Bar Association is also 'facing trouble. All projects ... postponed or cancelled. Many members also face day-to-day problems'.

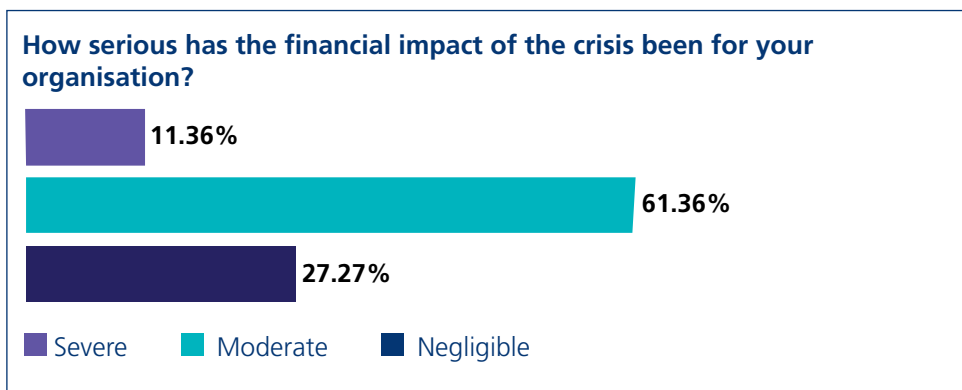
Some have not been as badly impacted, such as the Bermuda Bar Association, which, like many Bars, relies entirely on membership fees to finance itself. These were fortunately 'collected by the end of November in advance of the following practicing year ... There has [therefore] been no impact on our finances'. This story is similar for the Estonian Bar Association, and the Association of Danish Law Firms.

The Faculty of Advocates at the time of writing has only been moderately financially impacted, however they 'anticipate that the major financial impact will hit us in the coming months'.

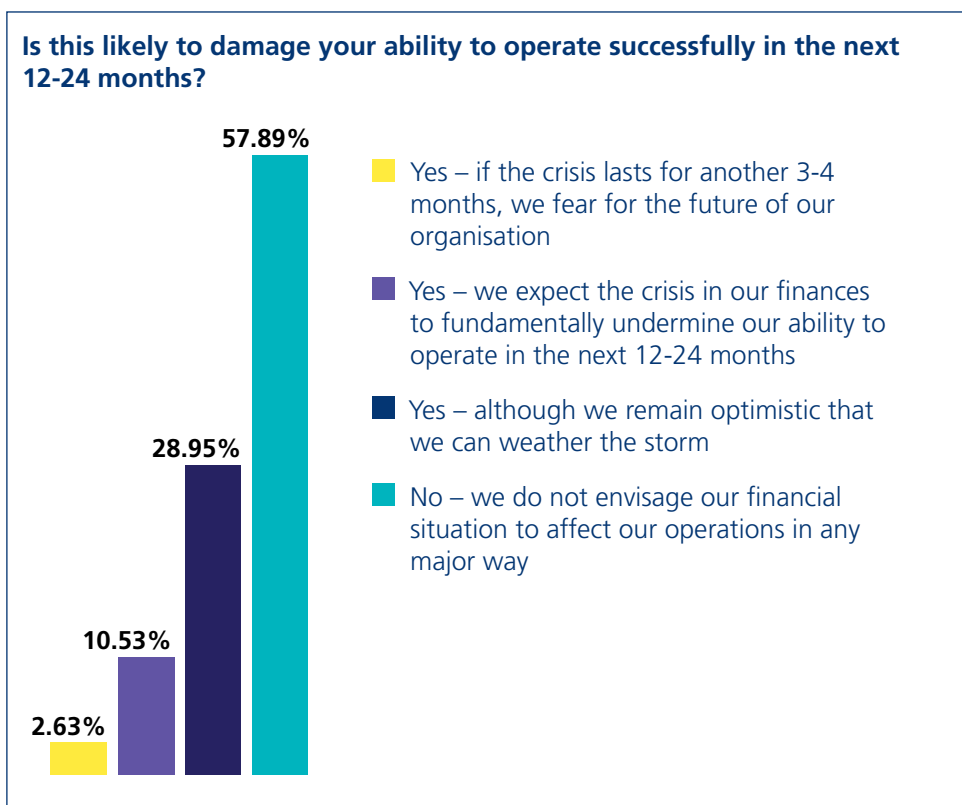
The Geneva Bar Association stated that 'it is premature to get any real idea of the financial consequences of the pandemic', in contrast to the Law Society of England and Wales, who are predicting a need 'to find around £3 million worth of savings across the next fiscal year'.

Others, such as the Law Society of Singapore have had to 'dip into financial reserves to implement some measures to help members, such as partial waiver of membership fees and provision of free webinars for members'.

Similarly, the impact of Covid-19 in Germany has caused the German Federal Government to initiate 'a package of measures with the possibility of immediate aid. Each person including lawyers that are economically affected by the pandemic situation in relation to the outbreak of Covid-19 can apply for tax reductions/relief at their local tax offices'.



Generally, Bars remain optimistic for the future: nearly 60 per cent do not envisage their financial situation negatively affecting operations in the next 12-24 months. Nearly 30 per cent anticipate some damage, but remain optimistic that they can 'weather the storm'.



Assisting the wider community, Bars have stepped up to do their part:

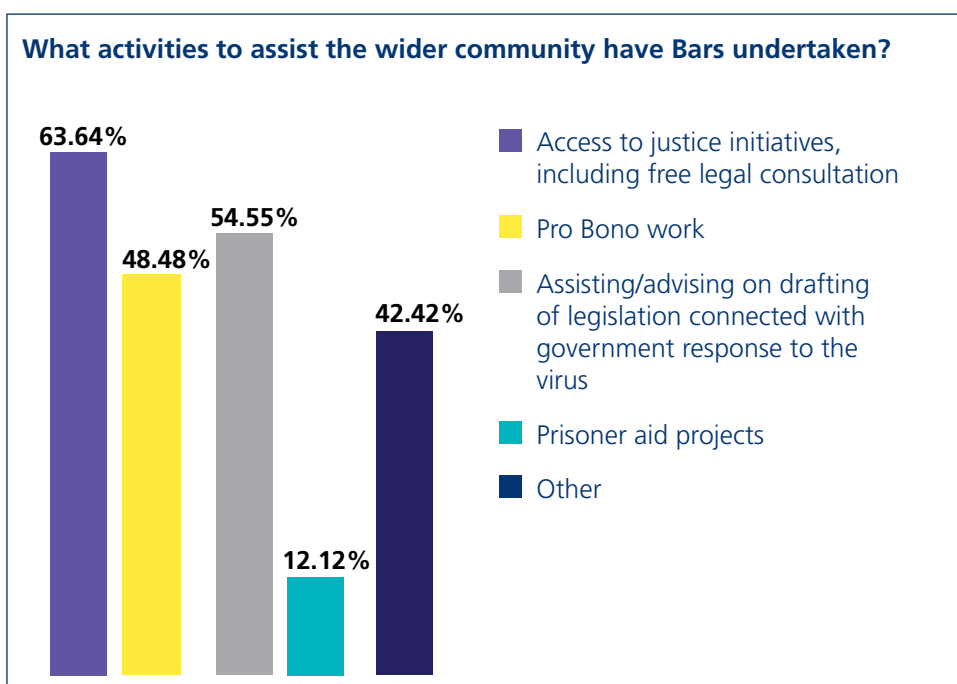
nine out of ten Bars surveyed have helped assist the wider community in tackling issues raised by the pandemic. Over half of those bars have assisted or advised on the drafting of government legislation in response to the virus, or helped with free legal consultation, with over 40 per cent engaging in community pro bono work or other initiatives.

Interestingly, the Nepal Bar Association is providing free masks and sanitiser to all traffic police for the past and coming months, along with providing counselling services.

The Law Society of Hong Kong have also 'donated around 35,000 masks to NGOs since March 2020'. In the same sphere, Brazil's Centro de Estudos das Sociedades de Advogados has 'created Central do Bem, supporting and spreading campaigns to raise funds for health institutions to fight the pandemic'.

The Colegio de Abogados y Abogadas de Costa Rica has provided 'donations to families in extreme poverty [and] to members and their families if affected by Covid-19'.

The Japanese Federation of Bar Associations has 'offered legal consultation about Covid-19 free of charge, setting dedicated phone lines and online application forms'. It has also 'provided information for citizens on Covid-19 and offered legal consultation at the Japan Legal Support Centre'.



Regulatory and wider impact on justice systems

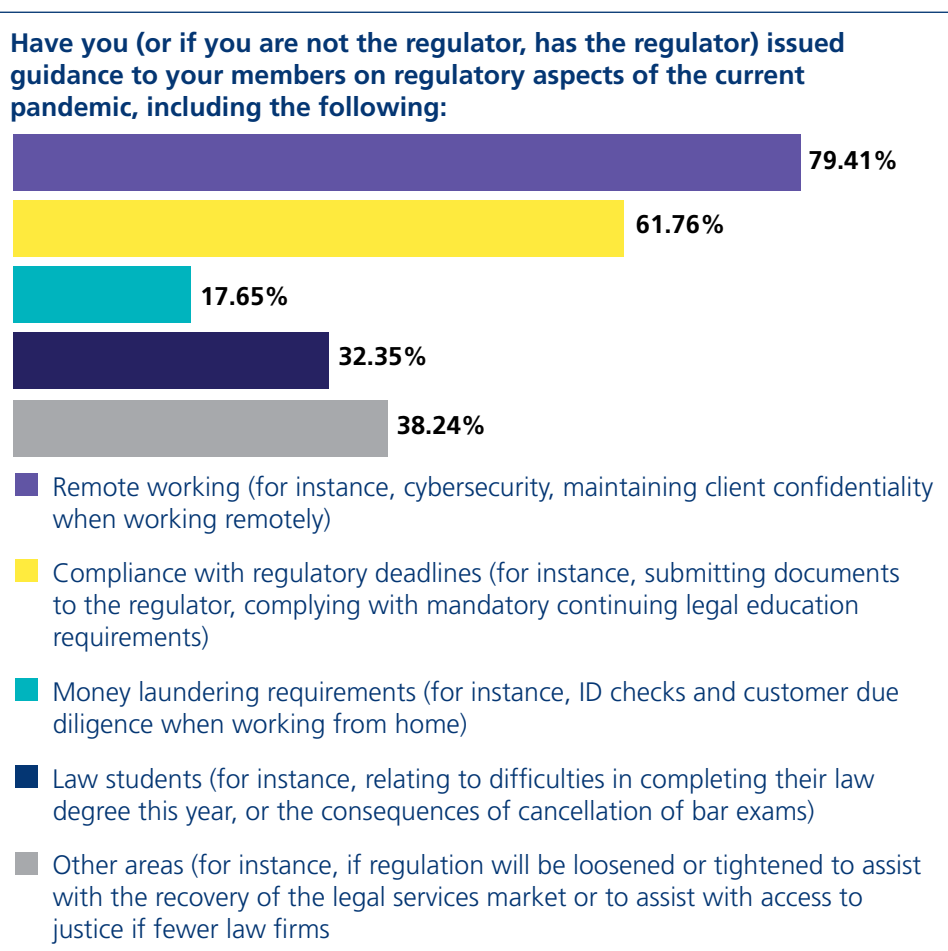
Bars and regulators have been busy issuing guidance on the regulatory aspects of the pandemic:

The largest issue has been remote working, with nearly 80 per cent of respondents saying they have issued guidance.

Next has been compliance with regulatory deadlines (for instance, submitting documents to the regulator, or complying with mandatory continuing legal education requirements), about which over 60 per cent say they have been advising.

The impact on law students' exams and degrees has also not escaped the attention of the Bars: just under a third have engaged with these issues.

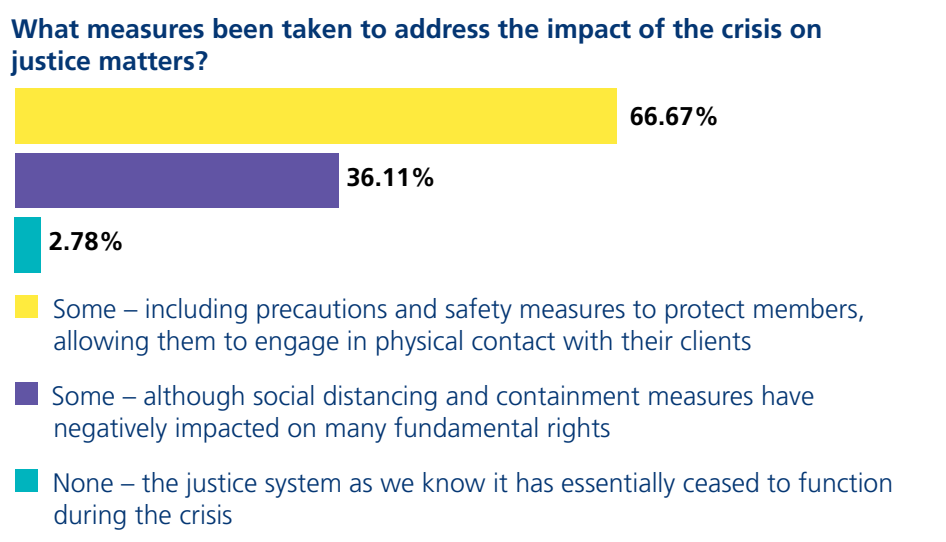
Only 17 per cent seem to have considered money laundering requirements (such as ID checks and customer due diligence when working from home) as worthy of particular comment.



The impact of government support for the profession has been mixed:

over 70 per cent of respondents say that the authorities have implemented fiscal or economic measures to reduce the financial impact of the crisis on lawyers (such as postponing tax-prepayments for the self-employed), though a third fear for the future survival of their members' businesses and livelihoods.

The impact on the justice system and court proceedings: another complicated picture, and an unclear position for lawyers:



Only 40 per cent of bars report that lawyers have been designated as 'key workers', allowing them unrestricted travel, although an almost equal number (38%) report that the position of lawyers in this regard remains unclear:

- For example, the Colegio de Abogados del Paraguay noted that lawyers were not key workers, 'except for criminal lawyers who were working with imprisoned persons, among a few others'.
- Many countries who defined their position as unclear had some travel restrictions imposed on lawyers, but were usually also defined as essential workers to a certain extent (eg Nepal Bar Association, Czech Bar Association, Victorian Bar, Asociacion Nacional de Abogados de Empresas and the Netherlands Bar).
- The Canadian Bar Association stated lawyers were essential workers but had to work remotely.

The majority of Bars (63 per cent) report precautions and safety measures being put in place to allow lawyers to engage in physical contact with their clients, though 34 per cent report social distancing measures as having undermined many fundamental rights.

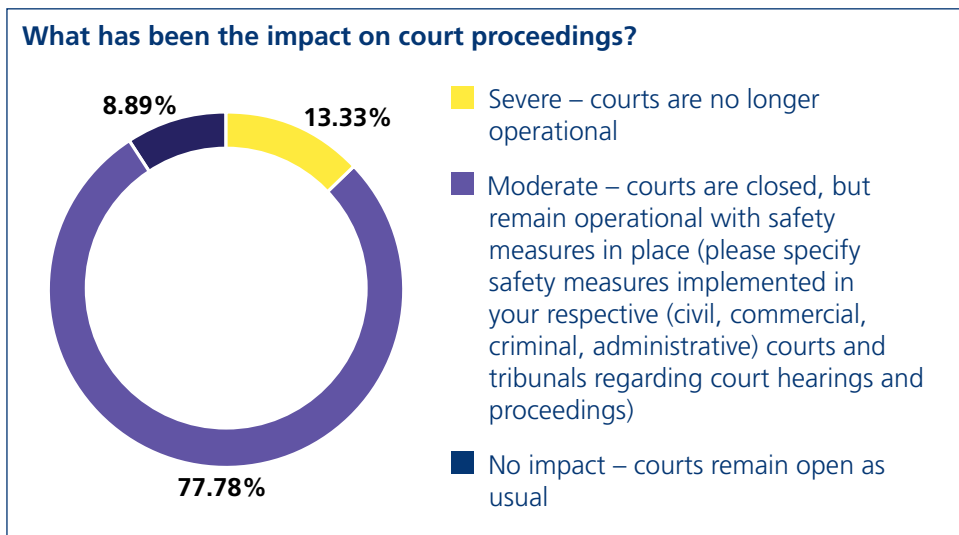
- As the Association of Danish Law Firms notes, ‘this means, among other things, that there must be a distance of two meters between the participants in the courtroom, that all rooms must be cleaned daily and there may be restrictions to the openness to the public etc’.

A majority of respondents (69 per cent) report that specific measures are in place to ensure prisoners have access to a lawyer, though less than half (45 per cent) say that it is possible for those accused of crimes to consult a lawyer through videoconferencing.

- Related to this, the Bar Association of Germany note that ‘in Berlin a lawyer has taken legal action against the Corona-lockdown-measures since they allow his clients to leave the house to see him only in urgent cases while, for example, going for a walk is still allowed. According to him, this rule threatens the access to a lawyer and limits his professional freedom. It is the most restrictive Corona related provision regarding seeing a lawyer in Germany’.

20 per cent of respondents report no precautions or safety measures being in place for lawyers involved in physical proceedings, though 75 per cent say specific safety measures are in place should one of the parties test positive for the virus.

Worryingly, over 13 per cent of respondents say their court systems are no longer operational. The vast majority (77 per cent) report courts operating at reduced capacity with safety measures in place.



Hearings via videoconferencing have, however, been permitted in over 85 per cent of respondent's jurisdictions.

- Some bars are underprepared for this, which is cause for concern. The Nepal Bar Association stated that 'our court and Bar is not ready for this due to some financial and technological problem ... very few courts and lawyers apply this technology'.

Conclusion

As we can see from this report, the impact of Covid-19 on Bars and justice systems around the world has been, and continues to be, severe. It also presents a mixed picture. Many Bars have requested international cooperation and assistance from the IBA in order to formulate best practice guidance to deal with the effects of the pandemic, and to share knowledge and information that can be used to help recover from its impact effectively.

The wider results of the survey and this report, the issues they raise, and the best ways to come together internationally to help deal with them, will be discussed at a special BIC Session at the IBA's 'Virtually Together' Annual Conference on Wednesday 25 November 2020. It is hoped that this session, and the information contained in this report, will form the basis of the foundation for the BIC's response to the Covid-19 crisis going into 2021 and beyond.

Acknowledgements

The BIC, and the BIC Project Lawyer in particular, would like to thank all those Bars that participated in the survey upon which this report is based. Special mention should go to BIC officer Alberto Navarro, and the staff of the IBA's Latin America office, whose determination and efforts furnished this report with many more responses than would otherwise have been received. We would also like to thank the CCBE for allowing the BIC access to the data of their own survey, which can be found at: <https://www.ccbe.eu/actions/covid-19/>



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