

Colombia



DRT COLOMBIA

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POST-PANDEMIC LEGAL PRACTICE: IS THERE REALLY A CHANGE?

The pandemic has certainly impacted our legal profession. This is undeniable. In Colombia, for example, the pandemic brought many changes. First, it forced attorneys to litigate in ways they were not used to. Online hearings, electronic petitions and online meetings with counterparties are now the general rule for legal practitioners in our country. Second, like many other countries in the world, the pandemic forced us to consider digital transformation and remote working as imperative resources that law firms must now have to resort to in many cases.

But are these changes going to permanently affect the legal practice in Colombia? In our opinion, they will not, and legal practice, in many aspects will basically stay as we knew it before the pandemic. Efficient and durable changes in the legal profession cannot come from a pandemic, but from technological and market changes, and, on the contrary, we believe that the evolution of our profession will be slower than what has been predicted.

Remote working will last while it is strictly necessary because lawyers need their offices; partners need to interact with their associates and associates need to show up if they want to learn and work on their path to become partners. Additionally, even though law firms can have certain flexibility regarding remote working, it is a fact that working from home is very difficult for some legal areas. For instance, when it comes to dealing with criminal matters, face-to-face meetings are usually crucial. As the pandemic weakens, in Colombia, these kind of meetings are starting to be held as they used to.

Regarding digital transformation, the truth is that it will not be boosted within the law firms by the pandemic but rather by the clients, because as long as clients continue choosing their attorneys based on their prestige and reputation, the use of technological tools will be a matter for the experts and their webinars. Notwithstanding the above, we acknowledge that there have been transformations in these matters for our profession and law firms must be constantly updated. However, we do not believe clients will choose their attorneys strictly based on their technological resources but on the effective results and confidence that law firms can offer.

On a structural level, virtual litigation in Colombia is purported to function just as a traditional litigation. However, conducting lawsuits through a screen has resulted in particular logistical challenges because electronic trials require more logistical pre-planning and good technological tools. For example, a clear protocol that covers the technology to be used is necessary; it is also necessary to determine the way in which documents will be submitted, reviewed and shared with the witnesses; there must be clarity on the set-up and rules for witnesses appearing virtually;

whereas these matters are already subject to standard practices when trials are done in presence. Unfortunately, in Colombia, most of the courts still lack the technological tools and training to properly conduct these online hearings; in addition, the courts do not have the same online platform to hold hearings which means that they will not have the same capabilities to guarantee that the evidence received will not be contaminated. Thus, every judge is managing virtual litigation differently and without minimum standards.

The undeniable truth is that it is not possible to substitute the hearings in presence, for instance, regarding the personal cross-examination of a witness in the stand or the introduction of evidence. For these reasons, even though virtual litigation brings benefits to attorneys because in-person appearances are no longer necessary, it is unlikely that the litigation process will ever become fully virtual on a permanent basis in Colombia. That said, we have to acknowledge that it is entirely possible that the trend of online litigation continues for hearings that do not require witnesses, such as appeals and certain motions, after the coronavirus has disappeared.

In conclusion, even though there is a general notion that the pandemic will change everything, we believe that time will show that these assumptions are baseless. The pandemic will end and the legal profession in Colombia will not undergo any significant changes as some people have said. Transformations will come, definitely, but they will be slower than we had thought and less severe than what they have predicted.

ABOUT DRT COLOMBIA

DRT Colombia is well-known for its white collar, compliance, and corporate practices. Our team of bilingual attorneys certified in anti-money laundering and qualified in Colombia and the U.S. represents individuals and corporations in matters involving criminal law, fraud, corruption, money laundering laws, and economic sanctions. We also represent clients from various industries in capitalizations, entity selection and formation, operating and partnership agreements, securities, contracts and governance matters. The Firm also conducts internal investigations and assessments for clients with concerns that their business practices or certain specific transactions may violate international, U.S. and Colombian legal standards, regulations, and best practices. Our Firm stands out among the rest because it brings to its practice legal experience in the U.S. and Colombia. The Firm also provides access to an international network of attorneys, experts, and private investigators, including a team of former U.S. prosecutors and government agents, and Board-Certified lawyers in international, criminal, and immigration law. With the support of its global network of experts, the Firm is also ready to navigate the rules and dynamics of highly specialized industries and disciplines. Further, the Firm is knowledgeable in handling complex and multi-jurisdictional proceedings, including non-criminal parallel law enforcement actions.