



COVID-19 Consequences for Contractual Arrangements

1 Confrontation

The Corona virus (COVID-19) is rapidly spreading and almost the entire world is currently being confronted with its consequences. Travel advisories are being adjusted, schools are being closed and the spread of the virus is confronting employers and employees, among other things, with the question of what is expected of them as a 'good employer' or 'good employee'.

2 Impact on Trade

The Corona virus also has a huge impact on the trade of many Dutch companies, for instance in relation to imports from China. Due to government measures, Chinese suppliers are working on a lower capacity or are closed down, directly impacting trade flows to the Netherlands.

If Chinese companies are unable to deliver their goods (in time) due to all such measures, Dutch companies are facing the consequences just the same. To what extent can they, for example, invoke force majeure towards their customers if the latter, in turn, cannot meet their own (contractual) obligations?

3 Force Majeure

Force majeure is a circumstance which makes it impossible for a party to meet its (contractual) obligations. Force majeure applies where a party's failure was not caused by its own fault and where he cannot be held accountable on the basis of the law, legal act or the common opinion.

In the event of force majeure the other party cannot, in principle, claim performance or compensation from the defaulting party. Government measures dictated by the Corona virus may cause such a situation of force majeure.

Many contracts and general terms and conditions further substantiate to the concept of force majeure or provide for specific warranties. It therefore depends, among other things, on the contractual wording whether force majeure can be invoked by the defaulting party and what the precise consequences will be.

Apart from force majeure, a party can also try to (partially) annul or amend the consequences of a certain agreement if full performance can reasonably not be demanded by the other party due to unforeseen circumstances, be it in exceptional cases only

It requires careful analysis to determine if force majeure or unforeseen circumstances can be relied upon.

What we can do for you:

- ▶ Contract review and risk assessment
- ▶ Legal stress test
- ▶ Restructurings / advice on insolvencies
- ▶ Legal assistance with (re)financing

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