



WHITE & CASE

IFRC COVID-19 Emergency Decree Pro Bono Research: Argentina

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- **Questions to be answered by close of business Friday, 27 March are listed below.**
- **Please be sure to include English translations of relevant text where possible.**

1. Is there coordination between state and non-state actors, e.g. through a national emergency response mechanism?

Yes, there is ongoing coordination between state and non-state actors. Specifically regarding the coronavirus pandemic, the national and provincial executive branches are working in coordination their respective cabinets and ministries, with the support of a committee comprised of doctors, healthcare experts, and specialists in infectious diseases.¹ The committee advises the President on policy matters surrounding the containment of the disease.

Additionally, Argentina relies on a number of inter-ministerial and support mechanisms to coordinate its public health efforts, including the coronavirus relief effort. In 2019, the Argentinian National Ministry of Health (“**Ministry of Health**”) established the Commission for the Implementation and Monitoring of the International Health Regulations and Basic Capacities, consistently with the 2005 Global Health Safety Agenda. Through the Commission, the Ministry of Health coordinates actions with other ministries, Argentinian provinces, and key non-state actors regarding the implementation of strategies to promptly respond to public health emergencies. In addition, the National System for Comprehensive Risk Management and Civil Protection (SINAGIR, for its acronym in Spanish) coordinates the activities of national, provincial and municipal government agencies, as well as non-governmental organizations (“**NGOs**”) and the public in general, regarding crisis risk reduction, crisis management and recovery.

2. Is there mention of the role of Red Cross (RC) or humanitarian actors? In what areas/sectors? What responsibilities are ascribed to RC?

The Red Cross is not one of the entities listed as a primary NGO collaborator with SINAGIR. The NGOs listed on the SINAGIR portion of the Argentinian national website are Adventist Development and Relief Agency (ADRA), Evacuation Corps and First Aid (CEPA), Argentine Federation of Nutrition Graduates (FAGRAN), Argentina to the Nations Path to Truth Foundation (FANCY), Jevar Hatzalah Argentina, Medicos del Mundo, and SCOUTS.

However, while the Red Cross does not appear on the SINAGIR website as a formal collaborator, there is a history of collaboration between the Red Cross, SINAGIR and Argentina’s Civil Protection Department, such as during the severe flooding that affected northern Argentina in early 2019.

Additionally, in the coronavirus context, the Argentine Red Cross was mentioned in the media in numerous awareness and fundraising campaigns.²

¹ https://www.clarin.com/sociedad/coronavirus-argentina-integran-comite-expertos-asesora-alberto-fernandez_0_D5ZVoVBW1.html

3. Are there exceptions to travel restrictions that will facilitate the movement of RC/humanitarian relief teams and/or aid across borders? What (if any) quarantine requirements or other conditions are attached?

Decree No. 260/2020 issued by the Argentine Executive Power ("**Decree 260/2020**") stated that any foreigner or resident arriving in Argentina from a country of active transmission must self-isolate for 14 days.³ Provincial authorities are introducing additional quarantine measures and travel restrictions. The Government of Argentina also announced that the national quarantine established by Decree No. 297/2020, issued by the Argentine Executive Power ("**Decree 297/2020**"),⁴ has been extended through April 26.⁵

The latest Argentine government policy was Decree No. 274/2020 and Decree No. 313/2020 ("**Decree 274/2020**"⁶ and "**Decree 313/2020**"⁷), which closes down the borders and restricts access into the country to both foreigners and Argentines.⁸ The National Directorate of Immigration may establish exceptions to these rules on an as-needed basis, and the National Aviation Administration (ANAC) may also make exceptions for humanitarian workers and for aid across borders.⁹

4. Are there exceptions to quarantines, curfews and other restrictions on movement that allow RC/humanitarian organizations access to vulnerable populations (including for psychosocial or non-medical aid)?

Yes, there are exceptions to quarantines and movement restrictions that involve the Red Cross and other humanitarian organizations.

By means of Decree 297/2020¹⁰ it was established a mandatory quarantine and prohibition to circulate. However, article 6 of Decree 297/2020 provides that Red Cross and White Helmets personnel are exempted from its compliance:

Excluded from compliance with the "social, preventive and obligatory isolation" and the prohibition of circulation, are the persons affected to the activities and services declared essential in the emergency, as detailed below, and their circulation must be limited to the strict compliance of those activities and services : [...] Foreign diplomatic and consular personnel accredited to the Argentine government, in the framework of the Vienna Convention on Diplomatic Relations and the Vienna Convention of 1963

² See for example https://www.clarin.com/sociedad/coronavirus-argentina-paciencia-pacientes-campana-concientizacion-cruz-roja-famosos_0_wgwlj5Ubr.html; <https://www.lanacion.com.ar/deportes/champly-desafio-mundial-play-solidario-cruz-roja-nid2354539>; <https://www.infobae.com/teleshows/infoshows/2020/04/05/minuto-a-minuto-todo-lo-que-pasa-en-el-especial-unidos-por-argentina/>.

³ Decree 260/2020, article 7. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335423/texact.htm>

⁴ Decree 297/2020. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335741/norma.htm>

⁵ Decree 297/2020 was extended by Decree No. 324/2020 ("**Decree 325/2020**") and by Decree No. 355/2020 ("**Decree 355/2020**").

⁶ Argentine Executive Power Decree No. 274/2020. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335479/norma.htm>

⁷ Decree 313/2020. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335894/norma.htm>

⁸ By means of Decree No. 331/2020 and Decree No. 365/2020 ("**Decree 331/2020**" and "**Decree 365/2020**"), the Argentine Executive Branch extended the prohibition that applies to foreigners through April 26 and ordered to gradually schedule repatriation flights for Argentines. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335978/norma.htm> and <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336213/norma.htm>

⁹ In accordance with article 17 of Argentine Aviation Code, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/20000-24999/24963/texact.htm#3>

¹⁰ Decree 297/2020, article 2.

*on Consular Relations and the personnel of the international organizations accredited to the Argentine government, of the Red Cross and White Helmets.*¹¹

The provision is broadly drafted and does not refer to the type of activity that is exempted (as in other sections of the same article). Therefore, it would be reasonable to conclude that it includes psychosocial and non-medical aid.

5. Have any special legal facilities or exemptions been put in place for the importation of medical aid or other relief items or personnel (International Disaster Response Law)? What (if any) quarantine requirements or other conditions are attached?

Yes, measures have been adopted to facilitate the import of certain emergency-related items through the simplification of import licensing procedures, exceptions to prior interventions and exemptions from customs duties.

In particular, Disposition No. 5/2020 issued by the Ministry of Productive Development (“**Disposition 5/2020**”)¹² provides that certain critical sanitary supplies (such as disinfectants, hygiene articles and chemical products) will now be subject to an Automatic Import License, thus reducing import clearance timing. In turn, Decree No. 333/2020 issued by the Argentine Executive Power (“**Decree 333/2020**”)¹³ and General Resolution No. 4696/2020 issued by the Argentine Tax Authority (“**Resolution 4696/2020**”)¹⁴ exempt a list of sanitary and medical articles (such as ethyl alcohol, disposable masks, latex gloves, and oxygen therapy equipment) from import duties and Added Value Tax.

Additionally, according to publicly available information, the Minister of Transport signed a framework agreement with the Argentine Red Cross. Within that framework agreement, Aeropuertos Argentina 2000 and the Argentine Red Cross signed a cooperation agreement to provide the Red Cross with a storage facility at Ezeiza Airport. Aeropuertos Argentina 2000 will also make available operators and technology to facilitate the import of supplies to combat the pandemic.¹⁵

6. Is the RC (or humanitarian organizations) categorized as 'essential' or 'emergency' services, for the purposes of exemptions to restrictions on business operations and opening hours?

Yes, the Red Cross is categorized as an “essential” service for purposes of exemptions to restrictions on business operations. While Decree 297/2020 provides for the closure of all shops and establishments,¹⁶ article 6 exempts certain activities and services declared “essential in the emergency”,¹⁷ among which the Red Cross is mentioned.¹⁸ It is worth noting that article 6 includes exemptions to both the quarantine and the prohibition to operate businesses (as in the case of pharmacies, supermarkets and hardware stores, among others¹⁹).

¹¹ Decree 297/2020, article 6.4 (unofficial translation).

¹² Disposition No. 5/2020. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335690/norma.htm>

¹³ Decree 333/2020. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336009/norma.htm>

¹⁴ Resolution 4696/2020. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336336/norma.htm>

¹⁵ Support from the Ministry of Transport to the Red Cross for storage of supplies, 16 April 2020. Available in Spanish at <https://www.argentina.gob.ar/noticias/apoyo-del-ministerio-de-transporte-la-cruz-roja-para-el-almacenaje-de-insumos>

¹⁶ Decree 297/2020, Article 5.

¹⁷ Decree 297/2020, Article 6 (unofficial translation).

¹⁸ Decree 297/2020, Article 6.4.

¹⁹ Decree 297/2020, Article 6.11.

As explained in Question No. 4 above, the section exempting Red Cross personnel is broadly drafted and, thus, it would be reasonable to conclude that it constitutes an exception not only to the prohibition to circulate but also to the restrictions on business operations.

7. What other measures are provided in the emergency decrees? (for governmental actors, for communities, for health workers, etc).

The measures issued by the Argentine Government regarding coronavirus are numerous. Here we summarize the most relevant measures related to the public health emergency, the quarantine and its exemptions, and regulations related to health workers.

Decree 260/2020 extended the public health emergency declared by Law No. 27,541.

Decree 260/2020 was later amended by Decree No. 287/2020, issued by the Argentine Executive Power ("**Decree 287/2020**"). By means of the later, the Argentine central administration, decentralized agencies and entities owned or controlled by the State were authorized to enter into direct procurement contracts necessary to attend the emergency, without complying with the applicable governmental procurement proceedings.²⁰

Decree 297/2020 mentioned above, which established the mandatory quarantine and the general prohibition to circulate and operate business, also prohibited any cultural, recreational, sportive or religious event.²¹ As a rule, as of today in Argentina it is only permitted to circulate in order to get food, medicine and cleaning products.

Among the excepted individuals and services, article 6 of Decree 297/2020 not only mentions the Red Cross, but also others, such as health workers; police; armed forces; firefighters and other services, such as, migratory services, funeral services, telecommunications services, pharmacies, supermarket and grocery stores, and delivery of food, medicines, hygiene and cleaning products.

Regarding governmental actors, article 6 exempts high ranked governmental officials of the national, provincial, municipal and the City of Buenos Aires governments; on shift personnel of the judiciary; personnel of international organizations, and foreign diplomatic and consular personnel.

With respect to the community in general, the same article exempts, among others, people who must assist others, people involved in force majeure situations and people affected to the attention of school and community canteens.

Administrative Decisions No. 429/2020 and No. 490/2020 ("**Decision 429/2020**" and "**Decision 490/2020**") expanded the exempted activities and services.²²

The Argentine Executive Power issued Decree No. 300/2020 ("**Decree 300/2020**") which established a differential treatment for health employers regarding contributions to the national social security system and to the tax on credits and debits in bank accounts.²³ The Executive Power also granted to certain health workers involved in treating coronavirus cases a payment of AR\$ 5,000 by means of Decree No. 315/2020 ("**Decree 315/2020**").²⁴

²⁰ Decree 287/2020, article 3, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335613/norma.htm>

²¹ Decree 297/2020, article 5.

²² Decision 429/2020, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335789/norma.htm>, and Decision 490/2020, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336214/norma.htm>

²³ Decree 300/2020, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335745/norma.htm>.

²⁴ Decree 315/2020, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335895/norma.htm>

Additionally, the Ministry of Health and the Ministry of Productive Development issued Resolution No. 1/2020 (“**Resolution 1/2020**”), which defined as “critical sanitary products” certain equipment and goods, such as ventilators, hospital beds, hand sanitizer and masks, and ordered, among other things, that companies which commercialize and distribute these products shall grant priority to health entities.²⁵

Finally, it may be relevant to mention that, regarding employment, Decree 297/2020 established that employees must be entitled to full compensation, and Decree No. 329/2020 (“**Decree 329/2020**”)²⁶ temporarily stated that employers shall not suspend any employment agreements.

8. Have restrictions been adopted or put in place that ban the export of protective medical equipment?

Yes, as consequence of the public health emergency, the Argentine Government adopted measures to restrict exports of protective medical equipment.

Decree No. 301/2020 issued by the Argentine Executive Power (“**Decree 301/2020**”) states that oxygen therapy appliances, as well as its parts and accessories, can only be exported with an export permit issued by the Ministry of Productive Development with the necessary intervention of the Ministry of Health.²⁷

In the same vein, Decree No. 317/2020 issued by the Argentine Executive Power (“**Decree 317/2020**”) enumerates other medical goods that will need an export permit issued by the Ministry of Productive Development with the necessary intervention of the Ministry of Health, to be exported. These medical goods include ethyl alcohol, paracetamol, hand sanitizer, surgical gloves and masks, and other medical equipment.²⁸

The proceedings to be followed in order to obtain an export permit under Decree 301/2020 and Decree 317/2020 are regulated by Resolution No. 140/2020 issued by the Ministry of Productive Development (“**Resolution 140/2020**”). According to this resolution, the export permit will only be granted if the local supply necessity of these goods and equipment are completely covered.²⁹

²⁵ Resolution 1/2020, article 3, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335809/norma.htm>

²⁶ Decree 329/2020, article 2, available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335976/norma.htm>

²⁷ Decree 301/2020, article 1. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335744/norma.htm>

²⁸ Decree 317/2020, article 1. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/335927/norma.htm>

²⁹ Resolution 140/2020, whereas No. 6 and article 4. Available in Spanish at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/335000-339999/336123/norma.htm>