



Prepared by: **WHITE & CASE**

## **IFRC COVID-19 Emergency Decree Research: Belgium**

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- ***Questions to be answered by close of business Friday, 20 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?**

No. While there are no specific measures governing the relationship state and non-state actors as such, there are, however, various measures, including in guidelines from the Belgian public health institute, which extensively address the rules and guiding principles for interactions between state and non-state actors, and between individuals more generally. These are set out below from the immediate perspective of identifying infected patients and handling suspicious cases. Other measures, including how certain sectors have been ordered to offer certain services or – conversely – prohibited from carrying out certain activities, are addressed further down.

#### **A. Guidelines for healthcare workers in case of patients suspected of carrying COVID-19**

General practitioners (“GPs”) are required to refer patients with severe symptoms to a hospital. The GP warns the ambulance staff and the hospital that it concerns a potential COVID-19 patient with an alarming clinical condition.

If a GP cannot identify severe symptoms but believes that a clinical examination is necessary to assess the case properly, (s)he does not need to refer the patient to the hospital. (S)he can examine the patient if (s)he has the appropriate equipment or send the patient to a triage site specifically established to deal with potential patients. Otherwise, the GP needs to refer the patient to the hospital with the above-mentioned warning. If (s)he has the appropriate equipment, (s)he needs to make sure to avoid contact with other people by undertaking house visits or making sure the patient does not pass through the waiting room.

For potential patients working in healthcare (including paramedics who are in contact with elderly people, diabetics, cardiac or immune system patients), the procedure is different. If such person has infected airways with mild symptoms, (s)he is allowed to continue working with a surgical mask. If this person shows respiratory symptoms and fever symptoms, a GP should examine the patient as per the above procedure.

When a GP or other doctor has taken a sample of the patient (through a nasopharyngeal swab), (s)he can send or preferably deliver this to the National Reference Centre for Respiratory Pathogens in Leuven (Herestraat 49 – 3000 Leuven). Alternatively, the sample can be sent to a laboratory on [this list](#). In case of a positive diagnosis, discharge from hospital or the death of a patient, the doctor has to fill in an online

form and send it to Sciensano, the Belgian public health institute. (S)he also has to send information on deaths or potential patients in residential clusters to the regional health authorities.

Any potential patient will be isolated pending the result. The patient has to self-isolate at home in case there are no symptoms or only mild symptoms. In case of severe symptoms, the patient will be isolated in the hospital.

#### B. Helplines

For questions relating to the virus, there is the general helpline 0800 14 689, or the e-mail address [crisiscentrum@ibz.fgov.be](mailto:crisiscentrum@ibz.fgov.be).

The Flemish Minister for Labour and the Economy set up a separate helpline (0800 20 555) for companies with questions regarding the virus, especially on how to react if staff members are infected or have returned (or will return) from risk areas. The helpline is responsive through phone calls and on whatsapp.

### **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 Corona crisis measures adopted by the Belgian government in the last few weeks do not specifically mention the RC (or humanitarian actors). However, more generally (and not always explicitly), they acknowledge the key role of medical aid services and the importance of assistance to vulnerable groups. The Federal Public Service of Public Health ("FPS Public Health") explicitly acknowledged in a call on 20 March 2020 that Belgium has so far not adopted specific measures or guidelines for humanitarian actors. Consequently, RC's actions should comply with the general legal framework on COVID-19. However, the FPS Public Health has confirmed that guidelines for humanitarian actors will be issued if the measures for COVID-19 are prolonged. This underlines the fact that the framework on Belgian COVID-19 crisis measures is still evolving.

That said, to handle collective emergencies and manifestations of risks, the FPS Public Health has long had a strategic partnership with the Belgian Red Cross in place. This provides that the RC's tasks consist of logistical support, ambulance services and psychosocial intervention. A logistical task can include, for instance, the distribution of meals in care centres, hospitals and prisons. The FPS Public Health has acknowledged that this partnership remains in full force during the COVID-19 pandemic.

At the moment, Belgian Red Cross ambulances are transporting COVID-19 patients on a daily basis, between their homes and a hospital or between different hospitals, to strengthen the overloaded fleet deployed by hospitals or other institutions recognised by the Federal Public Service of Public Health. Other Corona-specific actions by the Belgian Red Cross include setting up tents to pre-sort patients in front of hospital emergency rooms, assistance with the testing of samples from potential patients in hospitals, counteracting the spread of false information on social media, and circulating hygiene tips and mental health tips.

### **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?**

Yes. On 20 March 2020, the Belgian government decided to close its borders in both directions for non-essential movements (and for non-essential movements within Belgium). Strict police controls started at 3pm the same day. While the official decree has not yet been published, communications by government officials in the press have stated that the border will remain open for doctors, nurses and other healthcare professionals (as well as for frontier workers holding an employer certificate) and freight trucks).

The national airport prior to this had already introduced measures to ensure that passengers arriving in Belgium are let into luggage claim areas in small groups, and this may delay movement of certain

individuals. We suspect that certain groups in the essential medical care sectors may be given priority access. In addition, the EU introduced border checks at the external borders of the Schengen zone as well.

All this means that movement of RC and humanitarian relief teams should still be possible, but may still be affected by measures at the border. Clearly, if a Red Cross team member shows signs of sickness, (s)he cannot escape the normal procedures for people considered as posing a public health risk. (S)he may therefore also be subject to further tests, isolation or quarantine and health care – either in the country of arrival or, by agreement among countries, in the country of departure..

**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)?**

Articles 5 and 8 of the Ministerial Decree of 18 March 2020 on emergency measures to limit the spread of the Coronavirus COVID-19 (the “Ministerial Decree”) include exceptions to the obligation to stay at home (i.e. quarantine) and the ban on gatherings.

It is only permitted to leave the house if this is strictly necessary. The following exceptions are particularly relevant for the activities of the RC: the prohibitions do not apply to (i) receive medical aid and (ii) provide assistance and care for older persons, minors, disabled people or vulnerable people. The FAQ of the FPS Public Health specifically confirm these exceptions by stating that “*you're only allowed to come out for the following things: (...) Go to the doctor; Helping vulnerable people.*”<sup>1</sup> As stated under Question 2, no specific exceptions apply to the RC. The FPS confirmed that humanitarian actors, such as RC individuals, can make use of these exceptions to access and provide assistance to vulnerable populations (even when the assistance is not related to medical aid). This is however subject to the general requirement that help is strictly necessary.

Moreover, it is permitted to go outside together with family living under the same roof and one other person as long as (i) this other person is always the same person, and (ii) a distance of 1.5 meters between each person is respected. While outdoor activities are thus permitted, measures adopted on 20 March 2020 have restricted such activities further to take place within close range of the home. Non-essential trips within Belgium (e.g. to the coast or the forests in the south) are no longer permitted.

**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?**

No, the legal framework implemented in Belgium specifically concerning COVID-19 does not have specific provisions in relation to the importation of legal aid, relief items or personnel.

In general, however, in accordance with the Royal Decree of 31 January 2003 establishing the disaster plan for crisis events and situations requiring coordination or management at national level, the Ministry of Internal Affairs is competent to adopt measures in this context. In addition, the regional authorities can take certain measures in their area of competence (e.g. offering aid to certain companies), but these measures would not allow deviations from the measures established at the Federal level.

For example, pursuant to the Royal Decree of 2 May 2019 “on emergency planning and management of emergency situations at municipal and provincial level and concerning the role of mayors and provincial governors in the event of crisis events and situations requiring coordination or management at national level”, the Director of Logistics, who is member of the Civil Protection service, is required to ensure the logistic support in case of a disaster, including support related to (additional) relief items and personnel.

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<sup>1</sup> <https://www.info-coronavirus.be/en/faqs/>.

The general provisions on disaster plans for crisis events and situations do not implement specific quarantine requirements or other conditions dealing with epidemics.

**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?**

The so-called “*crucial sectors and essential services*” are exhaustively listed in the annex to the Ministerial Decree (a rough translation of which is attached to this note).

Humanitarian organizations are not, as such, explicitly included but “medical aid and emergency medical aid services” are listed in the annex to the Ministerial Decree.

There is no doubt that as an (emergency) medical aid service, the RC should be categorized as a crucial or essential service even if some of its activities may be more focused on non-medical assistance to vulnerable groups. In any event, under its existing strategic partnership with the Belgian authorities, these more logistical tasks are clearly part of the package of services the RC is expected to offer (see Q 2 above).

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

The Ministerial Decree provides for the emergency measures set forth below, applicable from 18 March 2020, at noon until 5 April 2020 (Articles 13 and 14 of the Ministerial Decree). The measures adopted on 20 March 2020 (focusing on a prohibition of non-essential movements within or outside/into Belgium) are not described here, as at the time of writing have not yet been published.

The Ministerial Decree abolishes and replaces the ministerial decree of 13 March 2020 on Emergency Measures to Limit the Spread of the Coronavirus COVID-19, which contained the first set of more limited measures (Article 12 of the Ministerial Decree).

The police will ensure the enforcement of the emergency measures. Infringement thereto carries a potential penalty of imprisonment from 8 days to 3 months and/or a fine from 26 to 500 euros (Articles 10 and 11 of the Ministerial Decree).

A. General Measures

From 18 March 2020 until 5 April 2020, people are expected to stay home as much as possible. They are only allowed to leave their homes to work or execute a business trip (if tele-working is not possible), going to the grocery store or pharmacy, getting cash at an ATM, visiting a doctor or to help vulnerable people (Article 8 of the Ministerial Decree).

People are allowed (and encouraged) to go for a walk or carry out an outdoor sports activity. They can do so alone or with family living under the same roof, or with one friend.

In general, all gatherings, cultural, social, festive, folkloric, sporting or recreational activities are prohibited until 5 April 2020, whether private or public. Sports meeting, events, groups, competitions are prohibited. Gyms, swimming pools, recreation centers, amusement parks and playgrounds are also closed. Gatherings of youth movements and leisure camps have been cancelled (Article 5 of the Ministerial Decree).

B. Measures for shops and business companies<sup>2</sup>

(1) Shops

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<sup>2</sup> See also <https://www.info-coronavirus.be/en/faqs/>

All shops are closed 24/7 except (Article 1, § 1<sup>st</sup>, and § 4, of the Ministerial Decree):

- Food shops, including night shops (local markets are prohibited, unless essential to the food supply in the local area);
- Shops selling mainly pet food;
- Pharmacies;
- Newspaper shops;
- Petrol stations; and
- Hairdressers (provided they only receive 1 customer at a time, upon appointment).

The following precautions must be respected by the above shops (Article 1, § 2 and § 3, of the Ministerial Decree):

- The necessary measures must be taken so that a social distance of 1.5 metres can be guaranteed;
- In supermarkets, a maximum of 1 customer per 10m<sup>2</sup> can be allowed in, and only for a maximum duration of 30 minutes;
- Discounts and promotions are prohibited (as they encourage hoarding mostly);
- Food stores may be open from 7 .m-10 pm; and
- Night shops have to close at 10 pm.

All restaurants and bars have had to close, although their kitchens may remain open to allow delivery and take-away services. Snack bars and sandwich shops may remain open, but without eat-in possibilities. Hotels can remain open without providing access to any common areas (e.g. for breakfast, meals, social gatherings). The restaurant room must close but the hotel kitchen can remain open to offer room services (Article 1, §5, of the Ministerial Decree). Animal shelters can stay open.

## (2) Working methods

Where possible, teleworking is compulsory in all companies not belonging to the “essential services” category (Article 2 of the Ministerial Decree).

Where this is not possible, companies must ensure the respect of the 1.5 meter social distance (Article 2, second indent of the Ministerial Decree). Companies which are not able to respect this distance requirement must close (Article 2, third indent, of the Ministerial Decree). If after a first warning, a company still does not respect the social distance, it will be closed by the authorities and fines can be imposed.

This provision is not applicable for companies from crucial sectors or essential services, even though they must clearly also respect these rules, where reasonably possible. The crucial sectors and essential services are set out in an Annex to the Ministerial Decree, attached to this note in rough translation).

## C. Transportation and travel

Public transport remains active, but should only be used for essential journeys. It must be organized in such a way that the social distance of 1.5m can be guaranteed (Article 4 of the Ministerial Decree).

Taxis are allowed to remain active, but must limit the number of passengers.

Ships and cruise ships can no longer disembark their passengers in Belgium, but can be refuelled there. New cruises organised by ships or vessels flying the Belgian flag are prohibited.

All non-essential travel abroad is prohibited (Article 7 of the Ministerial Decree). (As noted above under the measures adopted on 20 March 2020, travel into Belgium is now also prohibited, except for healthcare professionals, frontier workers and freight trucks.)

Driving classes and driving license exams have been cancelled, and any binding deadlines for the pupils are being deferred.

#### D. Schools, day care and nurseries

Schools remain open, but classes and school activities are interrupted (Article 6, first indent, of the Ministerial Decree). A day care service is provided (Article 6, second indent, of the Ministerial Decree). The general principle is that schools should only take care of children whose parents work in the care sector or in essential services, or have no alternative care options other than with grandparents. Since the adoption of the Decree, teleworking parents have been asked not to send their children to the day-care facilities provided by schools. Hygiene measures in schools and day-care centres are being reinforced.

Day care systems organized by companies may remain operational but no new systems can be organized.

Special education establishments and boarding schools remain open. Nurseries also remain open.

Universities, higher education institutions evening courses and continuing education institutions must organize distance learning (Article 6, Third indent, of the Ministerial Decree).

#### E. Others

##### (1) Measures for hospitals and medical cares

According to the official information website on coronavirus in Belgium<sup>3</sup>, the following measures are implemented in hospitals and medical care:

- All planned non-urgent consultations, tests and operations in hospitals must be cancelled.
- All existing necessary therapies (chemotherapy, dialysis, etc.) will be continued. Patients may be accompanied by only one person if necessary.
- Only visits by trainees, parents of children in hospital and the immediate family of critically sick or palliative patients are allowed.
- Healthcare and ambulance workers can continue to work if they show only mild symptoms, provided they use a protective mouth mask. In case of fever (from 37.5°C), they cannot continue to work and are obliged to stay at home.

##### (2) Financial assistance to businesses

In parallel to the Ministerial Decree, the authorities are also adopting financial and social measures to support companies and independent businesses in financial difficulties due to the Coronavirus.

##### (3) Visiting prisoners

All visits to prisoners are cancelled, except professional visits. However, to ensure continued contacts with family and friends, prisoners receive additional call credit.<sup>4</sup>

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

Belgium has not adopted national restrictions on exports of protective medical equipment out of Belgium. However, as a Member State of the EU, Belgium is obliged to apply European Commission Implementing

<sup>3</sup> <https://www.info-coronavirus.be/en/faqs/>

<sup>4</sup> Official website of the Justice Public Service: <https://justice.belgium.be/fr/corona>

Regulation (EU) 2020/402 of 14 March 2020 making the exportation of certain products subject to the production of an export authorisation. Under this emergency EU Regulation, exports out of the EU (i.e. not to other Member States) must be authorised beforehand for certain essential personal protective equipment. The process for approving such applications includes binding consultations among EU Member States in certain cases.

According to Article 1 of the Implementing Regulation:

*“ 1. An export authorisation established in accordance with the form set out in Annex II shall be required for the export outside the Union of personal protective equipment listed in Annex I, whether or not originating in the Union. Such authorisation shall be granted by the competent authorities of the Member State where the exporter is established and shall be issued in writing or by electronic means.*

*2. Without the production of such export authorisation, the exportation is prohibited.”*

The protective equipment covered by this regulation includes protective spectacles and visors, face shields, mouth-nose-protection equipment, protective garments, and gloves. For the full list, see [here](#), at Annex I.

Although there is no published general export control/restriction on corona test kits, on 19 March 2020, a shipment of 180,000 corona test kits and related substances for the production of further test kits was compounded by the Belgian authorities near Liège as an exceptional measure, apparently for fear that these products would be sold abroad (at excessive prices). Press reports indicate that the company concerned fully cooperated and will be compensated for the products in due course. It is unclear if the products would have been destined for an EU or non-EU destination. In the former case, this Belgian action would run against the solidarity principle of the EU, as set out in Guidelines on the supply of essential goods issued on 16 March 2020.

**Appendix : list of crucial sectors and essential services for the application of the Ministerial Decree<sup>5</sup>**

“Private and public shops, businesses and services that are necessary for the protection of the vital needs of the Nation and the needs of the population, are as follows:

- The legislative and executive bodies, with all their services;
- Medical care institutions, including preventive health services;
- Institutions for the care, reception and assistance of the elderly, minors, disabled and vulnerable persons;
- Asylum and migration services, including reception and detention in the context of forced return;
- Integration and inclusion services;
- Telecommunications infrastructures and services and digital infrastructures;
- Media, journalists and communication services;
- Waste collection and treatment services;
- Rescue areas;
- Private and private security services;
- Police services;
- Medical aid and emergency medical services;
- Defense;
- Civil Protection;
- Intelligence and security services;
- Justice institutions and related professions;
- International institutions and diplomatic posts;
- Emergency planning and crisis management services;
- The General Administration of Customs and Excise;
- Day nurseries and schools, for the organization of reception of children whose care is otherwise not ensured);
- Universities and colleges;
- Taxi services, public transport services, airports and essential services in support of air transport, air traffic control and planning, rail transport, passenger transport and logistics.
- Suppliers and transporters of fuel, and fuel and firewood suppliers;
- Trades and businesses involved in the food chain, the food industry, agriculture and horticulture, fertilizer production and fisheries;
- Production chains that cannot be stopped for technical reasons;
- Packaging industry related to authorized activities;
- Pharmacies and the pharmaceutical industry;
- Hotels;
- Emergency vehicle breakdown and repair services;
- Essential services related to emergency repairs involving safety or health risks;
- Postal services;
- Funeral centres and crematoriums;
- Public services and public infrastructure that play a role in the essential services of the authorized categories;
- Water management;
- Inspection and control services;
- Social secretariats;
- The emergency centres and ASTRID (i.e. the operator of the national radio communications, paging and dispatching network designed for emergency and security services in Belgium);
- Meteorological services;
- Social benefit payment agencies;

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<sup>5</sup> This is our own unofficial translation of the Annex to the Ministerial Decree.



- The energy sector (gas, electricity and oil): production, transmission, distribution and marketing;
- The water sector: drinking water, purification, extraction and distribution;
- The chemical industry;
- The production of medical instruments;
- The financial sector: banks, electronic payments and all the services useful in this context, the transfer of bills of exchange, financial market infrastructure, foreign trade, cash supply services, transport of funds, fund managers and financial transfers between financial institutions;
- Ground stations of space systems;
- Radioactive isotope production;
- Scientific research of vital interest;
- International transportation;
- Ports; and
- The nuclear and radiological sector.”