



## WHITE & CASE

### IFRC COVID-19 Emergency Decree Pro Bono Research: Dominican Republic

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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?**

Since 26 February 2020, a number of decrees have been issued by the Government of the Dominican Republic in response to COVID-19. There is no mention of any non-state organization in these decrees, other than the minor references set out below.

Decree No. 87-20 dated 26 February 2020 (“**Decree 87-20**”)<sup>1</sup> was issued in order to ensure the centralization of purchases of goods and services required to prevent COVID-19. It also created a commission (by Article 2) to supervise these purchases. Article 2 of Decree 87-20 provides that such commission shall request technical advice from the Pan-American Health Organisation (“**PAHO**”).

Decree No.132-20 dated 19 March 2020 (“**Decree 132-20**”)<sup>2</sup> establishes various inter-governmental commissions in order to manage and supervise the crisis. For example, Article 1 establishes the High Level Commission for the Prevention and Control of COVID-19. Article 2 sets out the establishment of the Economic Commission, and Article 3 establishes the Social Affairs Commission. Non-state organizations are not included in such commissions and there are no references either to any potential coordination with such organizations.

In addition, Decree No. 141-20 dated 1 April 2020 (“**Decree 141-20**”)<sup>3</sup> establishes an Emergency and Health Management Committee in order to advise the government on health matters. Article 1 of Decree 141-20 indicates who the relevant advisors are, however, there are no direct references to any non-state organizations. Article 5 sets out the objectives of this committee and amongst them, paragraph 5 thereof includes “promoting public-private alliances to increase the capacity of the health system”. This may therefore include the ability to work with non-state organizations.

On 3 April 2020, the Ministry of Public Health issued resolution No. 0000006-2020 (“**Resolution No. 0000006-2020**”)<sup>4</sup>, which provides specific measures for (i) pharmacological management of critically ill patients affected by COVID-19; and (ii) the

<sup>1</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=78dcbf2f-f6fe-49dc-919e-373d3d315e5d>

<sup>2</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=524d2496-9c41-4bbe-9021-e2dda4a26294>

<sup>3</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=8cace746-e893-40e7-b17c-0397867b3148>

referral, transfer and reception of patients affected by COVID-19. Article 4 expressly makes these measures mandatory to public, private and NGO health establishments.

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

As mentioned in our response to 1 above, the PAHO was mentioned strictly in relation to the technical advice that the PAHO may from time to time provide. No reference to the Red Cross or any other humanitarian actors were found in the relevant decrees reviewed.

**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?**

A state of emergency was declared in the Dominican Republic pursuant to Decree No. 134-20 dated 19 March 2020 (“**Decree 134-20**”)<sup>5</sup>. Article 1 declared the state of emergency for an initial period of 25 days throughout the Dominican Republic. Pursuant to Decree No. 148-20 dated 13 April 2020 (“**Decree 148-20**”)<sup>6</sup>, this state of emergency has been subsequently extended by 17 additional days, commencing on 14 April 2020.

With effect from 06:00 on 19 March 2020, we understand that the Dominican Republic has suspended the arrival of incoming passengers and has effectively closed the borders of the Dominican Republic for an initial period of 15 days. Whilst we have not been able to obtain details of the relevant decree providing for the closing of the borders, this has been widely reported by national and international media, including the advice provided by the U.S. Embassy in the Dominican Republic<sup>7</sup>.

**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)?**

A national curfew came into force on 20 March 2020 pursuant to Decree No. 135-20 (“**Decree 135-20**”)<sup>8</sup>. Article 1 of Decree 135-20 declared a curfew from 06:00 to 20:00. The curfew prohibits any travel or movement during those hours. Article 2 of Decree 135-20 establishes that the following categories of person are exempted from the curfew:

- health workers such as doctors, nurses, bio-analysts and paramedics;
- persons that require urgent medical help;
- private security personnel;
- journalists; and
- personnel of electricity distribution companies.

Subsequently, Decree No. 142-20 dated 2 April 2020 (“**Decree 142-20**”)<sup>9</sup> extended the curfew to 30 April 2020 on the same terms as set out in Decree 135-20.

<sup>4</sup> Available in Spanish: Articles 2 and 3 of Resolution no. 0000006-2020 issued by the Dominican Republic Ministry of Public Health: <https://www.msp.gob.do/web/Transparencia/base-legal-resoluciones/#1390-2020>.

<sup>5</sup> Available in Spanish: <https://presidencia.gob.do/sites/default/files/2020-03/Decreto%20134-20.pdf>

<sup>6</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=7954fb7a-c5b4-4b35-917e-1281cd8ed6d4>

<sup>7</sup> Available at: <https://do.usembassy.gov/covid-19-information/>

<sup>8</sup> Available in Spanish: <https://presidencia.gob.do/sites/default/files/2020-03/Decreto%20135-20.pdf>

<sup>9</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=6804eef3-2c45-4f9b-add3-274b90f3f6cc>

Decree 135-20, which instituted the curfew as outlined above, was amended by Decree No. 136-20 dated 23 March 2020 (“**Decree 136-20**”)<sup>10</sup> in order to broaden the list of subjects that can benefit from the exemption to the curfew restrictions. This amendment permits vehicles and people directly related to vital industries (please see complete list below) to travel to and from their place of work. Article 1 lists the people and vehicles which are considered vital for the purposes of Decree 136-20:

- vehicles used for transportation and distribution of fuel and commodities in cities and between cities;
- vehicles of companies and institutions used for transportation and distribution of energy, electricity, water, telecommunications and waste collection exclusively to address emergency situations;
- personnel employed at ports and airports, in transit to or from their places of work during curfew hours, provided they carry an identification card authorized by their company;
- personnel employed in the following industries and trades: foodstuffs, pharmaceuticals and medical supplies, in transit to or from their places of work during curfew hours, provided they carry a company identification card authorized by the High Level Commission for the Prevention and Control of COVID-19; and
- vehicles and personnel that provide funeral services, exclusively when they are in service.

Based on the exemptions provided in both decrees (i.e. Decree 135-20 and 136-20) Red Cross personnel would only be exempted if they fall under the category of either “*health workers*” or “*personnel that work with medical supplies*”.

In order to ensure that their personnel are indeed exempted, the Red Cross could consider engaging with the High Level Commission for the Prevention and Control of COVID-19.

**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?**

Pursuant to Article 1 of Decree No. 87-20, an emergency is declared to acquire any goods or services which are considered indispensable in order to implement any initiative to prevent COVID-19. Article 3 establishes that by virtue of this declaration of emergency only the Health Department can purchase those goods or services<sup>11</sup>. Article 4 further provides that this declaration of emergency shall have a duration of 120 calendar days from the date of issuance of Decree 87-20 (i.e. will last until 25 June 2020).

A supervisory committee was established pursuant to Decree No. 145-20 dated 5 April 2020 (“**Decree 145-20**”)<sup>12</sup> in order to supervise and monitor emergency purchases. Article 2 of Decree 145-20 establishes that the committee shall be made of:

- a representative of the National Council of Private Companies;
- a representative of the Dominican Small and Medium Enterprises Association;
- a representative of the Roman Catholic Church;

<sup>10</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=c2220d21-c233-47e9-a451-aabdd049d177>

<sup>11</sup> Available in Spanish: <https://www.dgcp.gob.do/wp-content/uploads/2020/03/decreto-87-20.pdf>

<sup>12</sup> Available in Spanish: <http://www.consultoria.gov.do/Documents/GetDocument?reference=8cace746-e893-40e7-b17c-0397867b3148>

- a representative of the Evangelical churches; and
- a representative of the Dominican Newspapers Association;

Separately, the Dominican Republic has published the Notice on the temporary waiving of Customs Duty and Tax on Transfers of Goods (VAT) to the articles contained in subheadings 6210.10.00, 4015.19.11, 6307.90.30 and 9019.20.00 (the “**Notice**”)<sup>13</sup>. The Notice includes temporary import support waiving direct and indirect duties and taxes on certain categories of critical medical supplies in response to COVID-19.

There were no other quarantine requirements that we found.

**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 Red Cross was not mentioned as an essential or emergency service.

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

The Dominican Government has adopted a number of measures in response to COVID-19. Listed below are some of the key ministerial resolutions that set out such measures:

- As stated in our response to 1 above, Resolution No. 0000006-2020 was issued by the Ministry of Public Health to provide guidelines for public, private and NGO health establishments in relation to (i) the pharmacological management of critically ill patients affected by COVID-19; and (ii) the referral, transfer and reception of patients affected by COVID-19. Some of the measures included in these guidelines are the use of rapid tests for the classification and isolation of COVID-19 cases and to authorize doctors to conduct tests for detection of COVID-19.
- On 28 March 2020, the Ministry of Public Administration issued Resolutions Nos. 061-2020 and 065-2020<sup>14</sup> which provide a special monetary incentive in the amount of RD \$5,000.00, payable for two (2) months to the public health servants of certain identified governmental institutions who carry out extraordinary humanitarian work in the prevention and mitigation of the effects of COVID-19 as compensation for their effort and commitment.
- On 18 March 2020, the Ministry of Labor issued Resolution No. 007/2020, which provides preventive measures to safeguard the health of working people and employers against the impact of COVID-19 (“**Res No. 007/2020**”)<sup>15</sup>. This resolution provided guidelines to employers on how to deal with their workers and ensure that they provide social distancing protocols. The resolution also provides instructions on dealing with vulnerable workers, which include the elderly, pregnant workers or workers with chronic diseases.

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

<sup>13</sup> Available in Spanish: <https://www.aduanas.gob.do/media/14050/aviso-eliminacion-temporal-impuestos-articulos-medicos.pdf>

<sup>14</sup> <https://map.gob.do/transparencia/base-legal-de-la-institucion/resoluciones/>

<sup>15</sup> <https://www.mt.gob.do/images/docs/RESOLUCION--07-2020.pdf>

Pursuant to Annex 1 to the COVID-19 Trade and Trade-Related Measures paper published by the World Trade Organization, the Government of the Dominican Republic has not adopted or put in place any restrictions that ban the export of protective medical equipment<sup>16</sup>.

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<sup>16</sup> For more details please see [https://www.wto.org/english/tratop\\_e/covid19\\_e/covid\\_measures\\_e.pdf](https://www.wto.org/english/tratop_e/covid19_e/covid_measures_e.pdf)