



## WHITE & CASE

**IFRC COVID-19 Emergency Decree Pro Bono Research:** Republic of Ecuador

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- **Questions to be answered by close of business Friday, 24 April 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?**

The Government of Ecuador declared a state of public health emergency on March 12, 2020, pursuant to Ministerial Resolution No. 00126-2020<sup>1</sup> of the Ministry of Health of Ecuador (the "Resolution") and convened a working group to discuss the technical response to COVID-19, to be chaired by the Viceminister of Public Health (*Viceministro de Gobernanza y Vigilancia de la Salud*), together with representatives of the various institutions forming part of the Public Health Network and the Complementary Private Network (*Red Pública Integral de Salud y de la Red Privada Complementaria*).

In addition, it activated a working group (*mesa de trabajo 2*) of the National Emergency Operations Committee (*Comité de Operaciones de Emergencia* or "COE")<sup>2</sup> for the coordination by the federal government with the Decentralized Autonomous Governments (*Gobiernos Autónomos Descentralizados*).

Furthermore, the Resolution requires that the National Health Authority (*Autoridad Sanitaria Nacional*) issue regulations for prevention and safety in the education, tourism, production, labor, telecommunications, transport, economy and finance, and other sectors so that the relevant agencies take necessary measures to address COVID-19, and coordinate with hospitals for the tracking of cases and with the Immigration Control Authority (*Autoridad de Control Migratorio*) in connection with measures for the entering and exiting of individuals to and from Ecuador. Pursuant to the Resolution, health providers, both from the Public Health Network, the Complementary Private Network and other private health facilities, must guarantee timely and effective medical care and the availability of related resources for the diagnosis and comprehensive treatment of COVID-19 patients.

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

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<sup>1</sup> Attached in pdf (Spanish version only).

<sup>2</sup> The COE is an agency of the National Service of Risk Management and Emergencies (*Servicio Nacional de Gestión de Riesgos y Emergencias* or the "SNDGR") of Ecuador, which is the regulating agency in charge of leading the Decentralized National Risk Management System to guarantee the protection of people and communities from the negative effects of disasters of natural or anthropogenic origin, through the development of policies, strategies and regulations that promote capacities aimed at identifying, analyzing, preventing and mitigating risks to face and manage disaster events; as well as to recover and rebuild the social, economic and environmental conditions affected by eventual emergencies or disasters. See <https://www.gestionderiesgos.gob.ec/valores-mision-vision/>.

No mention of the Red Cross or humanitarian actors is made in (a) the Resolution, (b) Presidential Decree No. 1017<sup>3</sup> issued on March 16, 2020 (the “Decree”), (c) the DGAC communications to the public made to date, (d) the Interministerial Accords 0001, 0002 and 0003<sup>4</sup> issued by the Ecuadorian Ministry of Government (*Ministerio de Gobierno*) together with the Ministry of Exterior (*Ministerio de Relaciones Exteriores y Movilidad Humana*) relating to travel restrictions or (e) the Official Bulletin 1335, dated March 14, 2020,<sup>5</sup> issued by the COE (the “Bulletin 1335”); other than with respect to exemptions (i) for travel related to humanitarian reasons and cargo included in Interministerial Accord 0003<sup>6</sup> and for “vulnerable” individuals<sup>7</sup> and (ii) to mandatory national curfew for individuals providing essential services that help combat the spread of COVID-19 and medical, sanitary or emergency personnel included in the Decree.

No responsibilities have been ascribed to either the Red Cross or humanitarian actors in the above-referenced documents. However, the Red Cross has been involved in relief provided to Guayaquil, the epicenter in Ecuador for COVID-19. On April 7, 2020, the Ecuadorian Armed Forces transported a Red Cross mobile hospital from Quito to Guayaquil with a capacity of 40 beds to serve patients infected with COVID-19. According to the Ministry of Defense, the mobile hospital has several health services, including a 40-bed hospitalization module to be used for patients with respiratory pathologies that require observation in isolation, as well as a pharmacy module and other modules.<sup>8</sup>

**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?**

Following the declaration of a national state of public health emergency, the Ecuadorian Ministry of Government, together with the Ministry of Exterior, issued the Interministerial Accords 0001, 0002 and 0003, on March 12, 2020,<sup>9</sup> pursuant to which they progressively instituted restrictions on travel and mandatory preventative isolations for travelers. Initially, the restrictions applied only to travelers entering Ecuador from Denmark, China, France, Iran, Germany, Italy, South Korea, the Netherlands, Spain, Norway, Sweden, Switzerland and the United States of America. Beginning on March 17, 2020 until April 5, 2020, the total suspension of flights carrying international passengers into Ecuador was ordered, as well as any entry by sea or land. Bulletin 1335 further prohibited all entry of individuals from outside of

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<sup>3</sup> [https://www.defensa.gob.ec/wp-content/uploads/downloads/2020/03/Decreto\\_presidencial\\_No\\_1017\\_17-Marzo-2020.pdf](https://www.defensa.gob.ec/wp-content/uploads/downloads/2020/03/Decreto_presidencial_No_1017_17-Marzo-2020.pdf) (Spanish only).

<sup>4</sup> Interministerial Accord 0001 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/ACUERDO-INTERMINISTERIAL-0000001.pdf.pdf.pdf.pdf>) (Spanish version only), Interministerial Accord 0002 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/AI-0002-Traducido.pdf>) (English translation), and Interministerial Accord 0003 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/Acuerdo-Interministerial-0003-traducido.pdf>) (English translation).

<sup>5</sup> <https://www.aviacioncivil.gob.ec/wp-content/uploads/downloads/2020/03/BP-Anuncios-COVID-14-Mar-2020.pdf> (Spanish only).

<sup>6</sup> Interministerial Accord 0003 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/Acuerdo-Interministerial-0003-traducido.pdf>) (English translation).

<sup>7</sup> According to DGAC’s communication from March 25, 2020 (<https://www.aviacioncivil.gob.ec/comunicado-7-dgac-brindara-facilidades-arribo-ecuatorianos/> (Spanish only)), vulnerable individuals includes: (i) children and adolescents who are outside the country without their parents or legal guardians, (ii) pregnant women, (iii) people with disabilities and (iv) the elderly.

<sup>8</sup> <https://www.ecuavisa.com/articulo/noticias/nacional/587741-ffaa-traslada-quito-guayaquil-hospital-movil-cruz-roja> (Spanish only).

<sup>9</sup> Interministerial Accord 0001 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/ACUERDO-INTERMINISTERIAL-0000001.pdf.pdf.pdf.pdf>) (Spanish version only), Interministerial Accord 0002 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/AI-0002-Traducido.pdf>) (English translation), and Interministerial Accord 0003 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/Acuerdo-Interministerial-0003-traducido.pdf>) (English translation).

Ecuador, the closure of land entry, increased restrictions on public activities and fines for violations of regulations.

The following are permitted to continue:

- Flights solely carrying goods, products, mail or for humanitarian or sanitary assistance (see Interministerial Accord 0003).<sup>10</sup>
- Flights into Ecuador for repatriation of Ecuadorian nationals until March 16, 2020 (see protocol issued by the Ecuadorian General Directorate of Civil Aviation (*Dirección General de Aviación Civil del Ecuador* or “DGAC”) on March 17, 2020).<sup>11</sup>
- Regular operations of cargo flights (see DGAC protocol issued March 17, 2020).
- Private flights and charters flying ferry flights (e.g., flights with no passengers and only skeleton crew) into Ecuador with the aim of repatriating foreign nationals outside of Ecuador (see DGAC protocol issued March 17, 2020)
- Certain limited domestic flights that have been previously authorized by DGAC (see DGAC protocol issued March 17, 2020).

Beginning on March 13, 2020, any individual entering Ecuador (except for crew members) is required to comply with mandatory preventative isolation for a continuous period of 14 days for all and must complete a Special Immigration Form (see Interministerial Accord 0001).<sup>12</sup>

Furthermore, on March 25, 2020, DGAC<sup>13</sup> authorized humanitarian flights of Ecuadorian citizens deemed as vulnerable to travel into Ecuador with companions provided that a certificate issued by the Ecuadorian consulate or embassy in the country from which vulnerable individual comes must be obtained: (i) children and adolescents who are outside the country without their parents or legal guardians, (ii) pregnant women, (iii) people with disabilities and (iv) the elderly. The process for authorization of such individuals is set out in the communication from March 25, 2020.<sup>14</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)?**

The Decree approved the declaration of a national public health emergency due to the presence of COVID-19 in Ecuador and suspended, beginning on March 17, 2020 and for a period of 60 days, the rights of freedom of movement, freedom of transportation and right of association, subject to the rules and protocols to be established by COE, for the purpose of maintaining a mandatory community quarantine to contain the spread of the virus among the population.

In addition, the Decree instituted a daily curfew that was expanded via a Twitter announcement from the President<sup>15</sup> from 2:00 pm to 5:00 am. Exceptions to the mandatory quarantine order include:

- Individuals and public servants that provide essential services, security, firefighters, airports, air/land/sea/river terminals, banking, groceries providers or other essential services, particularly those that help combat the spread of COVID-19
- National police and military

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<sup>10</sup> Interministerial Accord 0003 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/Acuerdo-Interministerial-0003-traducido.pdf>) (English translation).

<sup>11</sup> <https://www.aviacioncivil.gob.ec/comunicado-6-disposiciones-para-operaciones-aereas-en-ecuador/> (Spanish only).

<sup>12</sup> Interministerial Accord 0001 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/ACUERDO-INTERMINISTERIAL-0000001.pdf.pdf.pdf.pdf>) (Spanish only).

<sup>13</sup> <https://www.aviacioncivil.gob.ec/comunicado-7-dgac-brindara-facilidades-arribo-ecuatorianos/> (Spanish only).

<sup>14</sup> <https://www.aviacioncivil.gob.ec/comunicado-7-dgac-brindara-facilidades-arribo-ecuatorianos/> (Spanish only).

<sup>15</sup> <https://twitter.com/Lenin/status/1242495584352849920>.

- Accredited social communications (*comunicadores sociales acreditados*)
- Members of diplomatic missions accredited in the country
- Medical, sanitary or emergency personnel
- Individuals going to a medical center due to health reasons
- Individuals purchasing groceries (restricted by license plates for certain days), necessities and pharmaceutical products
- Any other individual as determined by the Ministry of Government, the Ministry of Health and COE

**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 Interministerial Accord 0003<sup>16</sup>, all flights to Ecuador transporting passengers from international destinations were suspended, with the exception of flights solely carrying goods, products, mail or humanitarian or sanitary assistance. On March 16, 2020, through a nationwide broadcast, Ecuador's President announced preventive measures that were implemented beginning on March 17, 2020 at 6:00 am. Such measures include the elimination of tariffs on medical products that are necessary to address the public health emergency.<sup>17</sup>

In addition, the Decree provides for the freedom of movement of all entities of public administration, including the National Police, the Armed Forces, the Ministry of Public Health (*Ministerio de Salud Pública*) and the SNDGR so that they can coordinate efforts within the framework of their respective competencies in order to execute the necessary actions to mitigate the effects of the coronavirus throughout the country and to provide effective access to the rights of individuals (*acceso efectivo a los derechos de las personas*). As a result, these governmental actors may take any actions that are necessary to address the effects of COVID-19. For example, all the institutions under the SNDGR have implemented their contingency plans and precautionary measures in light of the declaration of a national public health emergency.<sup>18</sup> The actions carried out by the SNDGR sectors have included using the Red Cross's assistance to provide nutritional kits for homeless individuals and, in coordination with the Ecuadorian Red Cross, the Armed Forces will transport pints of blood, as needed.<sup>19</sup> In addition, the Ecuadorian Red Cross was tasked with drafting a mental health protocol and, in connection with that effort, has carried out a mental health communication campaign related to COVID-19.<sup>20</sup> The Ecuadorian Red Cross is also establishing operational response capacity in mental health volunteers to assist COVID-19 patients, relatives and the vulnerable population, establishing a baseline of mental health volunteers who can provide care virtually, and controlling and monitoring the application of a protocol for mental health treatment by teleconferencing.<sup>21</sup>

Within the framework of the travel protocols established by DGAC and other regulatory authorities, the government has been allowing the importation of medical aid and other relief items. On April 10, 2020, an AeroRegional flight returned with 123 Ecuadorians from Mexico and humanitarian aid from the Red Cross

<sup>16</sup> Interministerial Accord 0003 (<https://www.cancilleria.gob.ec/wp-content/uploads/2020/03/Acuerdo-Interministerial-0003-traducido.pdf>) (English translation).

<sup>17</sup> [https://www.defensa.gob.ec/wp-content/uploads/downloads/2020/03/Decreto\\_presidencial\\_No\\_1017\\_17-Marzo-2020.pdf](https://www.defensa.gob.ec/wp-content/uploads/downloads/2020/03/Decreto_presidencial_No_1017_17-Marzo-2020.pdf) (Spanish only); See also <https://www.youtube.com/watch?v=yqhFvfsKN4w> (Spanish only).

<sup>18</sup> [https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/03/Informe-de-Situaci%C3%B3n-No019-Casos-Coronavirus-Ecuador-25032020\\_17.pdf](https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/03/Informe-de-Situaci%C3%B3n-No019-Casos-Coronavirus-Ecuador-25032020_17.pdf) (Spanish only).

<sup>19</sup> [https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/03/Informe-de-Situaci%C3%B3n-No019-Casos-Coronavirus-Ecuador-25032020\\_17.pdf](https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/03/Informe-de-Situaci%C3%B3n-No019-Casos-Coronavirus-Ecuador-25032020_17.pdf) (Spanish only).

<sup>20</sup> [https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/03/Informe-de-Situaci%C3%B3n-No019-Casos-Coronavirus-Ecuador-25032020\\_17.pdf](https://www.gestionderiesgos.gob.ec/wp-content/uploads/2020/03/Informe-de-Situaci%C3%B3n-No019-Casos-Coronavirus-Ecuador-25032020_17.pdf) (Spanish only).

<sup>21</sup> [https://www.salud.gob.ec/wp-content/uploads/2020/03/MTT2-PRT-005-Protocolo-de-salud-mental\\_2020.pdf](https://www.salud.gob.ec/wp-content/uploads/2020/03/MTT2-PRT-005-Protocolo-de-salud-mental_2020.pdf) (Spanish only).

in Panama. The cargo shipped included medical supplies, consumable products and tents, totaling about two tons. This was the second time that humanitarian aid had been sent from Panama. The plane also returned 45 Mexicans from Quito.<sup>22</sup>

**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?**

There is no mention of the Red Cross or humanitarian actors made in (a) the Resolution, (b) the Decree, (c) the DGAC communications to the public made to date, (d) the Interministerial Accords 0001, 0002 and 0003 relating to travel restrictions or (e) Bulletin 1335. Thus, it does not appear that the RC or humanitarian organizations are expressly categorized as “essential” or “emergency” services.

However, businesses or organizations that provide public or private services related to the provision of essential, health, security services or other essential services, particularly those that help combat the spread of COVID-19, are exempt from the restriction on freedom of movement, in order to guarantee the accessibility, regularity and continuity of essential services. Similarly, these businesses or organizations are exempt from the mandatory quarantine order and may maintain working hours in person.

In addition, medical, health or relief personnel, members of accredited diplomatic missions in the country, and other subjects or vehicles as determined by the Ecuadorian Ministry of Government in coordination with the Ministry of Public Health and the COE are also exempt from the restriction on freedom of movement.

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

Pursuant to Bulletin 1335<sup>23</sup>, the following additional measures were implemented:

- In order to prevent gathering of crowds, all large events, including those related to religious celebrations and ceremonies, have been suspended.
- The operation of movie theatres, gyms, circus, meetings and similar establishments has been restricted.
- All public shows with more than 30 persons have been suspended.
- All visits to nursing home centers have been prohibited at a national level.
- In order to guarantee the provision of medical attention, any person that denies, limits or prevents medical attention will be sanctioned according to the Organic Penal Code.
- With respect to the protocol of management of corpses of individuals with COVID-19, it established the obligation to cremate the bodies.
- Individuals affected by COVID-19 or those who have lost a family member as a result of COVID-19 will receive mental health support from professionals in that field.
- Public buses will be disinfected every three hours with the collaboration of Decentralized Autonomous Governments.

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<sup>22</sup> <http://www.lanotaenlinea.com/nota-de-actualidad/593-123-ecuatorianos-regresaron-desde-mexico-en-vuelo-de-aeroregional> (Spanish only).

<sup>23</sup> <https://www.aviacioncivil.gob.ec/wp-content/uploads/downloads/2020/03/BP-Anuncios-COVID-14-Mar-2020.pdf> (Spanish only).

The Resolution provides the following additional measures:

- The health establishments belonging to the Public Health Network must prioritize economic resources, medical personnel and take any other measures deemed necessary to address the public health emergency.
- Health providers, both from the Public Health Network, the Complementary Private Network and other private health facilities, must guarantee timely and effective medical care and the availability of related resources for the diagnosis and comprehensive treatment of COVID-19 patients.
- The Public Health Network will contract, directly or through proposals, the projects and constructions of expendable and nonexpendable property or the services that are required to overcome the emergency situation.
- The National Health Authority will periodically issue the COVID-19 health guidelines and prevention measures for widely attended events so that the competent authorities can proceed with the proper regulations and controls for such events.
- The National Health Authority will update and issue the protocols, technical standards and other applicable instruments with respect to the emergency.
- The National Agency for Health Regulation, Control and Surveillance (*Agencia Nacional de Regulación, Control y Vigilancia Sanitaria*) must update regulations regarding the national production of medicines and medical equipment necessary for emergency care.

During the nationwide broadcast from March 16, 2020<sup>24</sup>, the President announced the following preventive measures:

- Commercial activities of establishments that assemble more than 30 people have been suspended, with the exception of those that provide the following: essential, pharmaceutical, medical, orthopedic and similar products; banking services; and pet food vendors and telecommunication service providers.
- Restaurants and cafeterias have been suspended, but will be authorized to provide delivery service.
- Food service / catering in hotels, lodges and hostels is limited exclusively for the attention of guests.
- Time spent at commercial establishments has been limited only to the time needed to obtain necessary groceries or products.
- The consumption of food and products within establishments authorized to operate has been prohibited.
- Crowds in establishments authorized to operate must be avoided and clients and employees must maintain a distance of at least one meter between them.
- Tests for the detection of the coronavirus must be provided free of charge for people with symptoms and for people who are within the epidemiological circle of a positive case, with priority given to the elderly.
- In order to avoid price gouging, permanent price controls have been implemented.
- Classes/schools have been suspended at a national level with education to be provided virtually/remotely.
- No residential services will be terminated as a result of non-payment and the payment of taxes for the months of April, May and June will be deferred.

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<sup>24</sup> [https://www.defensa.gob.ec/wp-content/uploads/downloads/2020/03/Decreto\\_presidencial\\_No\\_1017\\_17-Marzo-2020.pdf](https://www.defensa.gob.ec/wp-content/uploads/downloads/2020/03/Decreto_presidencial_No_1017_17-Marzo-2020.pdf) (Spanish only); See also <https://www.youtube.com/watch?v=yqhFvfsKN4w> (Spanish only).

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

Through official letter No. MPCEIP-CCOMEX-2020-0044-O (the “Official Letter”), on March 2, 2020, the Foreign Trade Committee (*Comité de Comercio Exterior* or “COMEX”) notified the Ecuadorian National Customs Service (*Servicio Nacional de Aduana del Ecuador* or “SENAE”) of the ban on the export of protective masks for a period of one year or as determined by the Ministry of Public Health.<sup>25</sup> The Official Letter explains that the Ministry of Public Health communicated to COMEX that the prohibition was necessary in order to strengthen response measures in the event of a possible increase of COVID-19 cases in Ecuador and to ensure that there is no shortage of protective masks at a national level that could affect the health care of the Ecuadorian population. Through official letter No. MPCEIP-CCOMEX-2020-0054-O, on March 12, 2020, the Ministry of Production, Foreign Commerce, Investments and Fisheries (*Ministerio de Producción, Comercio Exterior, Inversiones y Pesca*) notified the SENAE of an expansion of the measure previously announced by the Official Letter to include a temporary ban on the export of all protective medical equipment listed in Table No. 01 therein, which includes safety goggles and soap, among others.<sup>26</sup> Such prohibition will be for a period of 60 days or as determined by the Ministry of Public Health. Furthermore, the Resolution expressly states that the National Health Authority insists on the need to prohibit the export of protective medical equipment in order to guarantee their supply in the National Health System.

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<sup>25</sup> <http://noticias-wdecuador.com/boletines/wp-content/uploads/2020/03/MPCEIP-CCOMEX-2020-0044-O.pdf.pdf> (Spanish only).

<sup>26</sup> <https://www.produccion.gob.ec/wp-content/uploads/2020/03/MPCEIP-CCOMEX-2020-0054-O-1.pdf> (Spanish only).