



Prepared by: **WHITE & CASE**

**IFRC COVID-19 Emergency Decree Research:** Germany

**White & Case Team:** Ingrid Wijnmalen, Constantin Teetzmann, Einat Goldstein

**Important Note:**

**- This Statement is an overview reflecting the situation as per 20 March 2020 and is not to be understood as conclusive. Constant additions and alterations to the measures currently in place are to be expected -**

- *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?

Competence for disease control measures lies primarily with local (municipal) and Federal State (*Bundesland*) authorities. On the national level, the Federal Government has issued several (non-binding) guidelines as well as some legally binding decrees (such as the reinstatement of border checks by the Federal Ministry of the Interior, see below question 3).

In addition, the German national health system is a multi-stakeholder-System with several private actors (profit and non-profit private as well as public insurances and profit and non-profit private as well as public hospital operators). Mobile medical support is relying heavily on voluntary organizations. As such, the German Red Cross has been involved in measures concerning COVID-19 from the very beginning. Volunteers provided transport and medical and social supply for the first two group quarantines.

There is no overarching regulation in place yet either on the Federal or on State levels regarding the coordination between state and non-state actors. However, some States have decided to adopt legislation on Corona-relevant services provided by non-state actors. The State of Berlin e.g. has issued a decree in which it rules that (state and non-state) hospitals have to use all means and capacities, as far as possible, for the (preparation for) treatment of COVID-19 patients.<sup>1</sup> The State of North Rhine Westphalia has taken similar measures.<sup>2</sup>

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<sup>1</sup> Available in English at <https://www.berlin.de/corona/en/measures/directive/>.

<sup>2</sup> [https://www.land.nrw/sites/default/files/asset/document/200315\\_erlass\\_weitere\\_kontaktreduzierende\\_massnahmen.pdf](https://www.land.nrw/sites/default/files/asset/document/200315_erlass_weitere_kontaktreduzierende_massnahmen.pdf) (sec. 2).

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

There is no specific mention of the role of the Red Cross or other humanitarian actors in COVID-19 legislation yet.

However, as described under 1), the German Red Cross has been involved in various measures concerning COVID-19 from the beginning of the outbreak in Germany. It is responsible for a fair share of medical transport in Germany and runs hospitals. Some of those hospitals have established designated COVID-19 examination centers. The German Red Cross also provides ambulances that are specially equipped to protect against infections.<sup>3</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?

On 16 March 2020, the Federal Ministry of the Interior has reinstated border controls on the German borders with Austria, Switzerland, France, Luxemburg and Denmark. However, it is still possible to cross those borders for travelers who are able to prove a valid reason for travel.<sup>4</sup> The responsible Federal Ministry of the Interior has issued a general information<sup>5</sup> that entry into the country for non-citizens without permanent residence in Germany is granted on a case-by-case basis, however in general medical treatment is recognized as a valid reason. We assume that necessary humanitarian aid of any kind may also be considered a valid reason.

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)?

There is no general nation-wide curfew in Germany yet. Discussions are ongoing as to whether the current Federal Act on Disease Control (*Infektionsschutzgesetz*, "IfSG") allows such a curfew and whether such a curfew would be constitutional.

We assume that in a balancing of the fundamental rights involved, any personal movement required in the light of an imminent threat of significant psychological or physical harm to individuals would outweigh the public interest in maintaining the strict curfew. However, group exemptions such as allowing free movement to humanitarian organizations as such are not yet being discussed.

On 20 March, an official from the Federal Government announced in a Der Spiegel interview that the population's behavior over the weekend of 21/22 March would decide whether a general curfew would

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<sup>3</sup> <https://www.drk.de/presse/pressemitteilungen/meldung/das-deutsche-rote-kreuz-gibt-praktische-hinweise-zum-coronavirus/>

<sup>4</sup> Cf. <https://www.bmi.bund.de/SharedDocs/faqs/EN/topics/civil-protection/coronavirus/travel-restrictions-border-control/travel-restrictions-boarder-control-list.html>.

<sup>5</sup> [https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/2020/hinweise-vorueberg-binnengrenzkontrollen.pdf?\\_\\_blob=publicationFile&v=1](https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/2020/hinweise-vorueberg-binnengrenzkontrollen.pdf?__blob=publicationFile&v=1)

have to be put in place.<sup>6</sup> On a local/State level, however, authorities have started decreeing the first curfews for their communities:

For the State of Bavaria, the State government issued on 20 March a general order prohibiting leaving one's accommodation without a compelling reason. This general order is based on the IfSG.<sup>7</sup> According to sec. 5a) of the order, the curfew does i.a. not apply to those who have to leave their accommodation for professional activities. In particular, RC and other humanitarian staff will therefore be exempted from the curfew to fulfill their jobs. Furthermore, sec. 5d) specifically allows leaving the accommodation in order to visit old, sick or dying persons as well as those with disabilities.

Also on 20 March, the city of Freiburg issued general order prohibiting access to public areas<sup>8</sup>. These public areas comprise roads, sidewalks, squares, parks. According to sec. 2 b) however, access to these areas is allowed for the purpose of medical, psychotherapeutic and other comparable treatment. This order is also based on the IfSG.

For those in quarantine, according to sec. 30 para. 4 IfSG, the doctor in charge as well as any person in charge of nursing are granted free access to the quarantined person. Authorities may grant access to further persons. Access for pastoral care has to be granted. We assume that authorities would therefore allow access for humanitarian care purposes that are equally important for the individual as pastoral care.

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?

So far, we are not aware of restrictions to the working hours of the emergency services.

According to the German Customs, there are no restrictions on goods arriving from China, as the infection via imported goods is considered highly unlikely (according to the Robert Koch Institute).

They also specify that there are no restrictions on importations in terms of customs. Regarding the importation of mouth protection masks and disinfectants: if the goods are released for free circulation, the normal import conditions apply.<sup>9</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?

The German RC provides emergency services and is covered in that capacity by corresponding regulations. However, with the exception of the above-mentioned curfew in **Bavaria** and in the city of **Freiburg**<sup>10</sup>, which has also declared a partial curfew in the meanwhile as of 21 March 2020, we are currently not aware of any such exemption.

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<sup>6</sup> <https://www.spiegel.de/politik/deutschland/corona-ausgangssperren-helge-braun-cdu-samstag-ist-ein-entscheidender-tag-den-haben-wir-besonders-im-blick-a-ca3d4468-b115-4e9a-bb13-e19724e62305>

<sup>7</sup> <https://www.bayern.de/wp-content/uploads/2020/03/20-03-20-ausgangsbeschraenkung-bayern-.pdf>

<sup>8</sup> [https://www.freiburg.de/pb/site/Freiburg/get/params\\_E1472406393/1531825/Allgemeinverf%C3%BCgung%20der%20Stadt%20Freiburg%20%C3%BCber%20ein%20Betretungsverbot%20f%C3%BCr%20%C3%B6ffentliche%20Orte%20vom%2019.03.2020.pdf](https://www.freiburg.de/pb/site/Freiburg/get/params_E1472406393/1531825/Allgemeinverf%C3%BCgung%20der%20Stadt%20Freiburg%20%C3%BCber%20ein%20Betretungsverbot%20f%C3%BCr%20%C3%B6ffentliche%20Orte%20vom%2019.03.2020.pdf)

<sup>9</sup> [https://www.zoll.de/SharedDocs/Fachmeldungen/Aktuelle-Einzelmeldungen/2020/uebergreifend\\_coronavirus.html](https://www.zoll.de/SharedDocs/Fachmeldungen/Aktuelle-Einzelmeldungen/2020/uebergreifend_coronavirus.html)

Regarding exemptions to restrictions on business operations and opening hours:

The states of Bavaria and North Rhine-Westphalia, for example, refer to rescue services / emergency medical services as part of the “critical infrastructures”. In order to support the employees of the critical infrastructure some employees of the respective sectors are still allowed to send their children to the kindergartens and schools –despite the general closure of such institutions.

**In the State of North Rhine-Westphalia:** Some employees of the emergency services can send their children to kindergartens and schools, so that the personnel is free to work.<sup>11</sup>

- **Condition 1:** both parents or a single parent work in organisations/institutions of the critical infrastructure;
- **Condition 2:** the employees are professionally active and indispensable there.

In the State of **Bavaria:** similar conditions, and **also, the child:**<sup>12</sup>

- Must not have symptoms of disease;
- has not been in contact with an infected person or 14 days have passed since the contact with an infected person and the child shows no symptoms of disease;
- has not stayed in an area that was declared a risk area by the Robert Koch Institute (RKI) at the time of stay or was declared a risk area within 14 days thereafter, or 14 days have passed since the return from the risk area and the child shows no symptoms of disease.

The “critical infrastructures” in Germany are divided into 8 sectors according to the European Commission directive no. EU COM (2006) 786.

Critical infrastructures (The German critical-infrastructure protection program – KRITIS) are defined as organisations or institutions with important significance for the state community, whose failure or impairment would result in lasting supply shortages, major disruptions to public security or other dramatic consequences.<sup>13</sup>

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

*a. Other important measures*

- The above mentioned curfews in the state of Bavaria and the city of Freiburg (Baden-Wuerttemberg).
- Closing of schools and public places, introduction of “social distancing”.<sup>14</sup>

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<sup>10</sup> <https://www.sueddeutsche.de/gesundheit/krankheiten-freiburg-im-breisgau-freiburg-erlaesst-ausgangssperre-fuer-gruppen-dpa.urn-newsml-dpa-com-20090101-200319-99-400731>

<sup>11</sup> <https://www.mags.nrw/pressemitteilung/neue-leitlinie-bestimmt-personal-kritischer-infrastrukturen>

<sup>12</sup>

[https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200313\\_allgemeinverfuegung\\_stmgp\\_schulen\\_kitas.pdf](https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200313_allgemeinverfuegung_stmgp_schulen_kitas.pdf)

<sup>13</sup> [https://www.kritis.bund.de/SubSites/Kritis/DE/Einfuehrung/einfuehrung\\_node.html](https://www.kritis.bund.de/SubSites/Kritis/DE/Einfuehrung/einfuehrung_node.html)

<sup>14</sup> E.g in Bavaria:

[https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200313\\_allgemeinverfuegung\\_stmgp\\_schulen\\_kitas.pdf](https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200313_allgemeinverfuegung_stmgp_schulen_kitas.pdf), <https://www.stmgp.bayern.de/vorsorge/infektionsschutz/infektionsmonitor-bayern/> (several general orders)

- Prohibition of larger events and gatherings, obligation to create a list of participants for every small gathering.<sup>15</sup>
- Closing of sports facilities, amusement venues, cultural institutions, prostitution establishments, retail shops with several exceptions.<sup>16</sup>
- Execution of the run-off elections on 29.03.2020 exclusively as postal votes (Bavaria).<sup>17</sup>
- Ban on entry to universities (e.g Berlin, Bavaria<sup>18</sup>).
- There is no regular employment and care for people with disabilities in any of the workshops for people with disabilities or support facilities (Bavaria).<sup>19</sup>
- Postponement of elective procedures and planned treatments in hospitals (Bavaria).<sup>20</sup>

#### *b. Measures with regard to “vulnerable” groups*

To protect groups especially vulnerable to the Covid-19 Virus, the State emergency decrees heavily limit visits to hospitals (e.g. Berlin allows only visitors to the most seriously ill and to minors under 16 years, maximum one hour and one person), nursing homes (e.g. Berlin allows maximum one hour and one person per resident and no visits by persons under 16 or persons with symptoms of respiratory diseases) and institutions for disabled persons (e.g in Bavaria).

Ambulatory care in Baden-Württemberg is reduced to care given due to compelling medical reasons.<sup>21</sup>

While the State of Baden-Württemberg generally has closed schools, teaching institutions in foster homes and teaching institutions for advanced students in several health- and care-professions are exempted.<sup>22</sup>

#### *c. Medical measures*

- The State of Bavaria has obliged clinics of general practitioners to notify if they have respiratory equipment in their clinics.<sup>23</sup>

<sup>15</sup> See for Berlin ordinance of 17 March 2020: <https://www.berlin.de/corona/en/measures/directive/>.

<sup>16</sup> Shops for food and beverages, including late sale outlets, pick-up and delivery services, weekly markets, pharmacies, establishments with medical supplies and for the purchase of hearing and sight aids, drugstores, petrol stations, banks and savings banks, post offices, hairdressers, dry cleaners, laundries, newspaper and book sales, retail shops for building, horticultural and animal supplies, bicycle shops, funeral parlours, craft and artisan shops and wholesale stores, see for Berlin ordinance of 17 March 2020, <https://www.berlin.de/corona/en/measures/directive/>.

<sup>17</sup> <https://www.stmgp.bayern.de/wp-content/uploads/2020/03/stichwahlen-als-briefwahl.pdf>

<sup>18</sup>

[https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317\\_allgemeinverfuegung\\_hochschulen.pdf](https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317_allgemeinverfuegung_hochschulen.pdf)

<sup>19</sup>

[https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317\\_allgemeinverfuegung\\_stmgp\\_wfbm.pdf](https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317_allgemeinverfuegung_stmgp_wfbm.pdf)

<sup>20</sup> <https://www.stmgp.bayern.de/wp-content/uploads/2020/03/verbot-elektive-faelle-in-kh-v-19-03-2020.pdf>

<sup>21</sup> See § 1 decree of 18 March 2020, [https://sozialministerium.baden-wuerttemberg.de/fileadmin/redaktion/m-sm/intern/downloads/Downloads\\_Gesundheitsschutz/200318\\_SM\\_CoronaVO\\_71\\_SGBXI.pdf](https://sozialministerium.baden-wuerttemberg.de/fileadmin/redaktion/m-sm/intern/downloads/Downloads_Gesundheitsschutz/200318_SM_CoronaVO_71_SGBXI.pdf).

<sup>22</sup> See § 1 Abs. 2 decree of 17 March 2020, [https://sozialministerium.baden-wuerttemberg.de/fileadmin/redaktion/m-sm/intern/downloads/Downloads\\_Gesundheitsschutz/200317\\_StM\\_VO\\_IfSG\\_Corona\\_deutsch.pdf](https://sozialministerium.baden-wuerttemberg.de/fileadmin/redaktion/m-sm/intern/downloads/Downloads_Gesundheitsschutz/200317_StM_VO_IfSG_Corona_deutsch.pdf): „Schools for the care of the elderly, geriatric care, nursing care, nursing assistance, paediatric care, maternity care (midwives), emergency paramedics as well as schools for the training of medical-technical assistants and pharmaceutical-technical assistants, insofar as pupils are tested and taught there, the completion of which is to take place by 30 May 2020 at the latest, and for further training for intensive care nurses.“

<sup>23</sup>

[https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317\\_stmgp\\_allgemeinverfuegung\\_beatmungsgeraete\\_korrektur.pdf](https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317_stmgp_allgemeinverfuegung_beatmungsgeraete_korrektur.pdf)

- The State of Bavaria obliges laboratory operators to report the number of swabs and samples tested and the number of positive and negative results to the State Office for Health and Food Safety.<sup>24</sup>

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

The German Ministry for the Economic Affairs and Energy's general orders of 4 and 12 March 2020 had limited the export of certain protective medical equipment into EU- and non EU-States. However, there were some exceptions to this ban. In particular, humanitarian actors could apply for an authorization to export such equipment for the purpose of humanitarian work abroad that falls under the actor's charter and which is protected by the Geneva Conventions.

The German general order has been substituted by Commission Implementing Regulation (EU) 2020/402 of 14 March 2020.<sup>25</sup> The following protective equipment cannot be exported outside the EU without prior authorization:

- Protective spectacles and visors
- Face shields
- Mouth-nose-protection equipment
- Protective garments
- Gloves

Authorization has to be requested with the Member State where the exporter is established. Decision has to be taken within 5 working days, extendable to 10. The Member State has to consider whether the export serves "to support the statutory activities of support companies abroad that enjoy protection under the Geneva Convention, and in so far as they do not impair the ability to work as a national support company". We assume that this refers to the several privileges for National Red Cross Societies in the 1949 Geneva Conventions of 12 August 1949.

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<sup>24</sup>

[https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317\\_allgemeinverfuegung\\_stmgp\\_labor\\_betreiber.pdf](https://www.stmgp.bayern.de/wp-content/uploads/2020/03/20200317_allgemeinverfuegung_stmgp_labor_betreiber.pdf)

<sup>25</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1584650379009&uri=CELEX:32020R0402>