



WHITE & CASE

IFRC COVID-19 Emergency Decree Pro Bono Research:

- **Kyrgyzstan**

White & Case Team:

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

Coordination between state and non-state actors is currently taking place in Kyrgyzstan. The government has declared a state of emergency on 24 March 2020 in the three major cities of Bishkek, Osh and Jalal-Abad. The state of emergency was also extended to three other provincial districts, the Nookat and Kara-Suu districts of Osh region and the Suzak district of Jalal-Abad region.¹ President Sooronbai Jeenbekov signed a Presidential emergency decree to impose the state of emergency, following a registered total number of 42 cases of COVID-19 across the country at that time.

The Presidential emergency decree was declared in accordance with Articles 3, 4 and 7 of the constitutional laws of the Kyrgyz Republic regarding “emergency state”. In particular, Item 2 of part 9 of Article 64 of the Constitution of the Kyrgyz Republic states that “emergency state” measures should be exclusively applied in order to ensure the protection of the health and safety of citizens, as well as to prevent the spread of the virus in other parts of the country.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?

The Presidential emergency decree imposes a number of restrictions to people’s freedom of movement, including limiting the movement of vehicles and forbidding gatherings such as sporting events, street demonstrations or meetings.³ Whilst the Presidential decree does not specifically mention the role of the Red Cross (RC) or humanitarian actors in the context of the emergency, it imposes to use resources of the state or organizations for the prevention of the spread of COVID-19. This provision of the decree suggests that the role of organizations such as

¹ ‘Kyrgyzstan’s MPs support presidential decree on state of emergency’ (24 KG, 24 March 2020) available at: https://24.kg/english/147832_Kyrgyzstans_MPs_support_presidential_decree_on_state_of_emergency/.

² Presidential Decree of the Kyrgyz Republic of March 24, 2020, unitary enterprise No. 55, available at: <https://cis-legislation.com/document.fwx?rgn=123125>.

³ Ibid.

the RC should be taken into account by citizens to take preventive measures against the spread of the virus.⁴

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?

The RC and other accredited humanitarian relief teams are exempted from the travel restrictions adopted by Kyrgyz Republic through the Order of the Government of the Kyrgyz Republic of March 17, 2020.⁵ The Order of the Government provides an exception for the accredited or appointed staff of the international organizations and their representatives located in the territory of the Kyrgyz Republic.⁶ Additionally, it also exempts members of delegations of international organizations going to the Kyrgyz Republic by the invitation of the Ministry of Foreign Affairs of the Kyrgyz Republic.⁷

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 Presidential emergency decree does not specifically provide an exemption for the RC and humanitarian organizations from quarantines, curfews and other restrictions. The presidential decree implements restrictions, including the establishment of curfews, prohibiting certain citizens from leaving their homes and quarantines.⁸ The decree also declares that that in the territory where there is a state of emergency declared, the relevant authorities shall render assistance to public authorities and organizations in the prevention of the spread of coronavirus infections.⁹ As such, even though RC and other humanitarian organizations are not referenced specifically in the Presidential emergency decree, there is an emphasis that these groups be given aided by the government in conducting their activities which likely means these will be considered exempted from the restrictions on movement.

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?

The Presidential emergency decree does not specifically put in place exemptions for the importation of medical aid or other relief items of personnel in Kyrgyzstan. The decree refers to the commitment of the Ministry of Health, the Ministry of Internal Affairs and the State committee, as well as the General Staff or Armed Force, to protect by any means the safety and health of citizens and prevention of the spread of COVID-19.¹⁰

Despite the absence of specific reference to medical aid exemptions in its emergency decree, Kyrgyzstan's President Sooronbay Jeenbekov has requested financial aid from international organizations including the World Bank and the Asian Development Bank. In particular, the President raised concerns over the need for funding to sponsor public health and food safety. On

⁴ Ibid.

⁵ Order of the Government of the Kyrgyz Republic of March 17, 2020 No. 84-r (as amended by the Order of the Government of the Kyrgyz Republic of 22.03.2020 No. 95-r), available at: <https://cis-legislation.com/document.fwx?rgn=123125>.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Presidential Decree of the Kyrgyz Republic of March 24, 3003 unitary enterprise No. 55, available at: <https://cis-legislation.com/document.fwx?rgn=123125>.

23 March 2020, the International Monetary Fund responded to the President's request by offering over \$120 million to Kyrgyzstan to fight the coronavirus in the country.¹¹

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?

As partly set out in Question 2, humanitarian organizations *per se* are not mentioned in the list of bodies exempted from restrictive measures, set out in the Presidential emergency decree. However, the decree makes reference to the duty of citizens to use resources by state companies and organizations for the prevention of the spread of COVID-19.¹² This suggests that citizens are being pushed to using the resources provided by humanitarian organizations such as RC and to follow the preventive measures implemented by such organizations. This would make bodies such as the RC exempt from the restrictions imposed by other business operations.

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

The Presidential emergency decree has set out a number of measures for governmental actors, communities, and others, most of which are listed above. Other than those, the decree authorizes the expulsion of disorderly persons who are not inhabitants of this area including foreign citizens, at their expense to the place of the permanent stay or out of area limits where state of emergency is declared, which may apply to the RC if determined not to be inhabitants of the Kyrgyz Republic. The decree seeks to ensure that companies and organizations are engaged only in activities for production and deliveries of products, so the RC may or may not be allowed to move freely based on the determination of the particular activities in which they are engaged, such as to provide products to emergency workers, or otherwise help economic activity to continue. The decree also mentions that the government can require that certain person enter quarantine and that the government may hold other sanitary and anti-epidemic events, which may also involve the RC.

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

There appear to be no restrictions on the export of protective medical equipment from the country. The Kyrgyz Republic has received donations of protective personal equipment (PPE) from the WHO, the United States and Switzerland to date.¹³ The equipment comes at the request of the Kyrgyz government, and the Kyrgyz Republic's Sanitary and Epidemiological Service will manage the distribution of the equipment to targeted medical facilities and international points of entry. In addition to this emergency assistance, the United States, World Health Organization, and other partner organizations work in close partnership with the Kyrgyz Government and citizens of the Kyrgyz Republic on a range of initiatives to combat the COVID-19.

¹¹ 'Kyrgyz leader asks for financial aid to combat COVID-19' (AA, 27 March 2020), available at: <https://www.aa.com.tr/en/asia-pacific/kyrgyz-leader-asks-for-financial-aid-to-combat-covid-19/1782063>.

¹² Presidential Decree of the Kyrgyz Republic of March 24, 3003 unitary enterprise No. 55, available at: <https://cis-legislation.com/document.fwx?rgn=123125>.

¹³ "Switzerland donates protective equipment for Kyrgyzstan medical workers to fight COVID-19, available at <https://www.timesca.com/index.php/news/22297-switzerland-donates-protective-equipment-for-kyrgyzstan-medical-workers-to-fight-covid-19>; "U.S. Government and World Health Organization donate personal protective equipment to the Kyrgyz Republic in Response to Coronavirus Outbreak", available at <http://www.med.kg/en/news/604-pravitelstvo-ssha-i-voz-peredali-kyrgyzstanu-sredstva-individualnoj-zashchity-dlya-reagirovaniya-na-vspyshku-koronavirusa-3.html>.

