



WHITE & CASE

IFRC COVID-19 Emergency Decree Pro Bono Research: Panama

White & Case Team: Jessica Zhou, Jessica Marroquin, Adriana Zhan, and Nina Yu

- **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?

In January 2020, Panama's Ministry of Health ("MOH") published a national plan setting forth measures and guidelines for the prevention and control of the spread of COVID-19 (the "National Plan").¹ The National Plan contemplates collaboration and cooperation with non-state actors (including the general public, private companies, and international agencies).

On January 23, 2020, Panama activated the health emergency operations center within the framework of the International Health Alert declared by the Pan American Health Organization ("PAHO")/World Health Organization in connection with the COVID-19 outbreak.²

On January 28, 2020, the President of Panama signed Executive Decree No. 64 (the "Executive Decree") granting the MOH authority to adopt all measures set forth in the National Plan, as well as other measures the Ministry of Health deems necessary to prevent and control the spread of COVID-19.³ The MOH is mandated to coordinate with all participating public authorities, such as Social Security Fund, Ministry of Education, and Ministry of Labor, to formulate and execute measures in responses to the outbreak of COVID-19. In addition, the Executive Decree calls upon private companies to collaborate with the MOH as the MOH deems necessary and the media to coordinate with the MOH to broadcast and disseminate information regarding COVID-19.⁴

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

Although the National Plan mentions collaboration between the Ministry of Health and international agencies and non-state actors, there does not appear to be any mention of a particular role or roles to be ascribed to RC or humanitarian actors in the National Plan or based on our research of publicly available information, other governmental decrees, regulations or directives.

¹ National Operational Plan of the Health System for Prevention and Control of the COVID-19, available at http://www.minsa.gob.pa/sites/default/files/publicaciones/plan_coronavirus_0.pdf.

² See Resolution No. 75 of Jan 23, 2020, available at http://www.minsa.gob.pa/sites/default/files/normatividad/resolucion_075_de_23_de_enero_de_2020_activacion_del_centro_de_operaciones_de_emergencia_0.pdf.

³ See Article 1 of Executive Decree No. 64 of Jan 28, 2020, available at http://www.minsa.gob.pa/sites/default/files/normatividad/decreto_ejecutivo_64_de_2020.pdf.

⁴ See Executive Decree No. 64 of Jan 28, 2020, available at http://www.minsa.gob.pa/sites/default/files/normatividad/decreto_ejecutivo_64_de_2020.pdf.

Our research indicates that RC and other humanitarian actors are providing COVID-19 related assistance to Panama. For example:

- It was reported on April 9, 2020 that the Red Cross and the United Nations were preparing more than 16 tons of supplies, including masks and gloves, for distribution from their collection center in Panama for the combat of COVID-19 across Latin America and the Caribbean;⁵
- Red Cross Panama participated in a series of trainings addressing infection prevention and control measures relating to COVID-19;⁶ and
- The relevant Panama government authorities participated in meetings with the PAHO, health ministers from the region and international experts to exchange experiences and recommendations for reducing the impact of COVID-19.⁷

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?

Based on our research of publicly available information, the following travel restrictions have been implemented in Panama:

- All cruise ships, yachts and passenger vessels are banned from disembarking in Panama⁸;
- All international and domestic commercial passenger and domestic charter flights have been suspended;⁹
- Official visits to and from Panama have also been suspended, other than visits that are absolutely necessary for health or national security issues¹⁰; and
- All persons entering Panama must complete a mandatory 14-day quarantine.¹¹

However, cargo, humanitarian relief, medical supplies, medical evacuation, and government aircraft flights are exempt from the travel restrictions.¹²

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)?

Based on our research of publicly available information, the following movement restrictions have been put in place in Panama:

- Quarantine has been implemented nationwide, effective from March 25, 2020.¹³ People who break health regulations and quarantines could be sanctioned. The movement restrictions provide

⁵ Coronavirus: From Panama, UN, Red Cross Prepare 16.5 Tons of Aid, available at <https://www.barrons.com/news/coronavirus-from-panama-un-red-cross-prepare-16-5-tons-of-aid-01586454904>.

⁶ Ministry of Health prepares health personnel and institutions against the Covid-19, available at <http://www.minsa.gob.pa/noticia/ministerio-de-salud-prepara-personal-de-salud-y-instituciones-frente-al-covid-19>.

⁷ Advisory Commission begins accompaniment process to minimize effects of COVID-19, available at <http://www.minsa.gob.pa/noticia/comision-de-asesores-inicia-proceso-de-acompanamiento-para-minimizar-efectos-del-covid-19>.

⁸ See Executive Decree No. 472 of Mar 13, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_472.pdf.

⁹ See US Embassy in Panama: COVID-19 Panama Information, available at <https://pa.usembassy.gov/covid-19-information/>.

¹⁰ See Executive Decree No. 472 of Mar 13, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_472.pdf.

¹¹ See Resolution No. 5893 of Mar 16, 2020, available at <https://sites.morimor.com/newmorimor/panama-covid-19-labor-and-immigration-update-2/>.

¹² See US Embassy in Panama: COVID-19 Panama Information, available at <https://pa.usembassy.gov/covid-19-information/>.

¹³ See Article 1 of Executive Decree 504 of Mar 23, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/decreto_ejecutivo_504_de_23_de_marzo_de_2020.pdf.

windows of time for grocery shopping, medicines purchase and other essential activities based on gender and the last digit of their national ID cards for Panamanians and passports or diplomatic ID for foreign nationals.¹⁴ All persons must stay home on Sunday;¹⁵

- Sporting events, festivals, and all gatherings larger than 50 people, as well as public spaces and venues, have been banned.¹⁶ Entertainment and recreational spaces and businesses, whether public or privately owned, have been closed;¹⁷
- Non-essential businesses are closed.¹⁸ Only markets, supermarkets, drug stores, gas stations, health facilities, among other exceptions, will be able to operate.¹⁹ There is also an exception for the manufacturing, supplying and maintenance of medical equipment, medications, vaccines and any other public health supplies.²⁰ Health and sanitary requirements are imposed on businesses that remain open, such as restaurants, pharmacies, supermarkets, and banks;²¹
- All construction projects, except for those required by the health authorities, have been suspended.²² and
- There is a nationwide curfew from 5pm to 5am, with exception for public service personnel, essential businesses and humanitarian transport.²³

Public service personnel exempted from the nationwide curfew appears to be broadly defined and includes public servants, representatives and other essential public service personnel to attend to emergencies. Given the evident nature of the exception, it is not unreasonable to conclude that RC/humanitarian organizations will be exempt from the nationwide curfew.

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?

Certain medicines and medical supplies, such as masks, disinfectants and protective clothing, are exempt from import tariffs.²⁴ The National Customs Authority has established temporary procedures to expedite importation of humanitarian relief items, including vehicles and other means of transportation, medicines, clothing, blankets, tents, premade homes, water purifications systems and other goods necessary or that are sent for providing aid.²⁵ It is not clear from the publicly available information we reviewed whether there are quarantine requirements or other conditions attached to the importation of such items.

¹⁴ See US Embassy in Panama: COVID-19 Panama Information, available at <https://pa.usembassy.gov/covid-19-information/>.

¹⁵ Id.

¹⁶ See Article 2 of Executive Right No. 472 of Mar 13, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_472.pdf.

¹⁷ See Executive Decree 489 of Mar 16, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_489_covid19_ampliando.pdf.

¹⁸ See Article 1 of Executive Decree No. 500 of Mar 19, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/decreto_ejecutivo_500_de_19_de_marzo_de_2020.pdf.

¹⁹ Id.

²⁰ Id.

²¹ See Executive Decree 489 of Mar 16, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_489_covid19_ampliando.pdf.

²² See Executive Decree No. 506 of Mar 24, 2020, available at <https://latinlawyer.com/article/1225496/panama-covid-19-information-hub>.

²³ The policy of curfew is adopted by Executive Decree No.490 of Mar 17, 2020, available at https://www.gacetaoficial.gob.pa/pdfTemp/28983_A/77907.pdf, amended by Executive Decree No.505 of Mar 23, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/decreto_ejecutivo_505_de_23_de_marzo_de_2020.pdf, and extended by Executive Decree No.507 of Mar 24, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/decreto_ejecutivo_507_de_24_de_marzo_de_2020.pdf.

²⁴ See Cabinet Decree No. 7 of Mar 18, 2020; Cabinet Decree No. 10 of Mar 31, 2020; and Cabinet Decree No. 12 of Mar 31, 2020, available at <https://latinlawyer.com/article/1225496/panama-covid-19-information-hub>.

²⁵ See Resolution 118 of Mar 23, 2020, available at <https://latinlawyer.com/article/1225496/panama-covid-19-information-hub>.

As noted in our response to question 3 above, humanitarian relief and medical supplies are exempt from the ban on entry into Panama, though personnel must complete the 14-day quarantine.

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?

Based on our research of publicly available information, there is no specific mention of the RC (or humanitarian organizations) being categorized as “essential” or emergency” services. *[Internal Note – Please confirm that’s what this sentence is meant to say].*

However, as noted above in our response to question 4, RC/humanitarian organizations are likely to be exempt from the nationwide curfew. In addition, “humanitarian transport” is exempt from to the nationwide curfew pursuant to Executive Decree No.490.²⁶

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

In addition to the measures described above, there are certain other measures provided in the relevant executive decrees in response to the outbreak of COVID-19, which apply to public entities, private companies, health workers, communities and the media, including:

- A number of measures have been provided in the executive decrees to ensure adequate funding and resources for controlling the spread of COVID-19. The Ministry of Economy and Finance is responsible for appropriating funding to the MOH, and to allocate budget among other supportive public entities, such as Ministry of Presidency, Ministry of Education and Ministry of Social Development, to cover the expenses incurred in the adoption and execution of sanitary measures aimed at minimizing the spread of COVID-19.²⁷ The MOH, the Social Security Fund and other public entities, subject to certain limitations, are authorized to contract by special procedures for the acquisition of goods, works and the services when necessary;²⁸ The executive decrees and resolutions also cover the regulation of information, advice and or recommendations in relation to COVID-19. The Multidisciplinary Commission, the members of which are mostly doctors, is a spokesperson commission for advice within the framework of prevention and control of COVID-19. It issues periodic recommendations based on the progress and changes of the COVID-19.²⁹ While the MOH is the only official entity that has the official authorization to disclose information regarding COVID-19, the mass media, such as radio, television and the press, are urged to coordinate with the Public Relations Office of the MOH, to ensure that the information regarding COVID-19 provided to the public is scientific and accurate. Social media are urged to refrain from disseminating information about COVID-19 from unauthorized sources;³⁰

²⁶ See Executive Decree No.490 of Mar 17, 2020, available at https://www.gacetaoficial.gob.pa/pdfTemp/28983_A/77907.pdf; Executive Decree No.507 of Mar 24, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/decreto_ejecutivo_507_de_24_de_marzo_de_2020.pdf.

²⁷ See Article 2 of Resolution No.6 of Jan 28, 2020, available at <https://latinlawyer.com/article/1225496/panama-covid-19-information-hub>, and Article 5 of Cabinet Resolution No. 10 of Mar3, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/resolucion_de_gabinete_ndeg10_de_3_de_marzo_de_2020_que_eleva_a_muy_alta_la_amenaza_de_propagacion_del_brote_del_nuevo_coronavirus_0.pdf.

²⁸ See Article 3 of Resolution No.6 of Jan 28, 2020, available at <http://www.minsa.gob.pa/sites/default/files/general/resolucion.pdf>, and Article 8 of Cabinet Resolution No. 10 of Mar 3, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/resolucion_de_gabinete_ndeg10_de_3_de_marzo_de_2020_que_eleva_a_muy_alta_la_amenaza_de_propagacion_del_brote_del_nuevo_coronavirus_0.pdf.

²⁹ See Article 1 and 2 of Resolution No. 233 of Mar 2, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/resolucion_no_233_de_2_de_marzo_de_2020_que_crea_la_comision_multidisciplinaria_para_el_asesoramiento_de_los_procesos_para_la_prevenccion_y_control_de_coronavirus.pdf.

³⁰ See Article 9 and 10 of Executive Decree No. 64 of Jan 28, 2020, available at http://www.minsa.gob.pa/sites/default/files/normatividad/decreto_ejecutivo_64_de_2020.pdf.

- Regional and local health authorities are ordered to establish mechanisms of surveillance that assure the execution of the sanitary measures. The regional administrative, judicial and security authorities are to work together to assist healthcare authorities regarding the execution of such surveillance mechanisms.³¹ The MOH is empowered to designate in each province or area, a liaison which will coordinate directly with deputies, governors, mayors, and representatives of such province or area,³²
- The MOH may summon any health professional that it requires to strengthen the response capacity of healthcare facilities according to the level of risk of the affected areas.³³ Healthcare entities are supported by the National Police, the Panama Fire Department and the National System of Civil Protection, which are instructed to provide all the cooperation required for the care of this emerging COVID-19;³⁴ and
- The Panama Canal Authority (the “ACP”) requires that ships coming from countries with a confirmed case and with a crewmember exhibiting symptoms must notify the ACP at least 30 days before its arrival and of any crew changes within 14 days of arrival. In the event a crewmember is a confirmed COVID-19 case, the vessel will not be permitted to transit and must quarantine for 14 days. Travelers from countries affected or at risk will be monitored by the MOH. All natural or legal persons have the obligation to notify to the Department of Epidemiology of the MOH on information regarding travelers from countries or areas affected or at risk.³⁵ The Informed Consent to the Risk of the Outbreak of the COVID-19 (the “Form”) has been approved to collect personal information from all the people who entered the national territory coming from countries with transmission and contacts of confirmed cases of COVID-19. Such people is obligated to provide the information requested by the Form.³⁶

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

Based on our review of the resolutions and/or executive decrees in relation to the COVID-19 available at the official website of the MOH, there is no restriction on the export of protective medical equipment.³⁷

³¹ See Article 11 of Executive Right No. 472 of Mar 13, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_472.pdf.

³² See Article 5 of Executive Decree No. 489 of Mar 16, 2020, available at http://www.minsa.gob.pa/sites/default/files/publicacion-general/decreto_ejecutivo_489_covid19_ampliando.pdf.

³³ See Article 7 of Cabinet Resolution No. 10 of Mar 3, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/resolucion_de_gabinete_ndeg10_de_3_de_marzo_de_2020_que_eleva_a_muy_alta_la_amenaza_de_propagacion_del_brote_del_nuevo_coronavirus_0.pdf.

³⁴ See Article 12 of Executive Decree No. 64 of Jan 28, 2020, available at http://www.minsa.gob.pa/sites/default/files/normatividad/decreto_ejecutivo_64_de_2020.pdf.

³⁵ See Article 3 of Executive Decree No. 64 of Jan 28, 2020, available at http://www.minsa.gob.pa/sites/default/files/normatividad/decreto_ejecutivo_64_de_2020.pdf.

³⁶ See Article 1 and 2 of Resolution No. 177 of Feb 13, 2020, available at http://www.minsa.gob.pa/sites/default/files/general/resolucion_177_de_13_de_febrero_de_2020.pdf. The Informed Consent to the Risk of the Outbreak of the COVID-19 is reproduced in Annex I and is part of Resolution No.177 of Feb 13, 2020.

³⁷ See the official website of the MOH: CORONAVIRUS COVID-19-CODES Decrees and Resolutions, available at <http://www.minsa.gob.pa/contenido/decretos-y-resoluciones-codes>.