



## WHITE & CASE

### IFRC COVID-19 Emergency Decree Pro Bono Research: Paraguay

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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?**

Yes, the National Emergency Secretariat (S.E.N. - for its acronym in Spanish) of Paraguay, an institution which reports directly to the President of Paraguay and whose role and mission is to manage and reduce disaster risks, ensures and promotes the coordination of activities carried by all public, departmental, municipal and private institutions to minimize threats, vulnerabilities and risks.<sup>1</sup> Particularly, Article 4 (j) of Law 2.615 provides that in order for S.E.N to accomplish its mission, it shall procure mutual international cooperation to reduce risks and undertake reciprocal assistance to protect civilians in cases of emergencies or disasters and participate with bilateral or multilateral organisms that seek the same purpose.<sup>2</sup> S.E.N. has an Executive Committee composed of various representatives of governmental and non-governmental actors, including the President of the Red Cross in Paraguay.<sup>3</sup> The Executive Committee shall submit and recommend to the Executive Branch the cases in which a declaration of health emergency shall be made.<sup>4</sup>

Moreover and although there is no express mention of non-state actors in the decrees mentioned below, the Government of Paraguay has ensured through Decrees 3465 and 3537 (as defined below) issued in connection with country's health emergency, that representatives of international organizations will be (i) exempted from compliance with the quarantine measures imposed, and (ii) allowed to enter the country during the health emergency.

On March 9, 2020, Decree 3442<sup>5</sup> established preventive actions to control the risk of spread of COVID-19 throughout the national territory. Articles 1 through 3 particularly provide that all offices from the Executive, Judicial, and Legislative branch as well as the police and the army shall collaborate with the Ministry of Public Health and Social Welfare for the execution of the National Coronavirus (COVID-19) Response Plan.

On March 16, 2020, the Government issued Decree 3456/2020 declaring the health emergency across the country and authorizing the Ministry of Public Health and Social Welfare to issue quarantine measures

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<sup>1</sup>Law 2.615 of 2005 ("Law 2.615") which creates the National Emergency Secretariat:  
[http://www2.congreso.gob.pe/sicr/cendocbib/con4\\_uibd.nsf/9E78B673112B152F05257E2F0070C721/\\$FILE/1.C-Ley\\_2615\\_creacion\\_SEN\\_jyuqsi61.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/9E78B673112B152F05257E2F0070C721/$FILE/1.C-Ley_2615_creacion_SEN_jyuqsi61.pdf)<http://www.rimd.org/organizacion.php?id=200>

<sup>2</sup>[http://www2.congreso.gob.pe/sicr/cendocbib/con4\\_uibd.nsf/9E78B673112B152F05257E2F0070C721/\\$FILE/1.C-Ley\\_2615\\_creacion\\_SEN\\_jyuqsi61.pdf](http://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/9E78B673112B152F05257E2F0070C721/$FILE/1.C-Ley_2615_creacion_SEN_jyuqsi61.pdf)

<sup>3</sup> Article 7 of Law 2.615.

<sup>4</sup> Article 8 e) of Law 2.615.

<sup>5</sup> Available in Spanish:

[https://www.mtess.gov.py/application/files/4415/8392/7375/DECRETO3442\\_724d4w8w.PDF](https://www.mtess.gov.py/application/files/4415/8392/7375/DECRETO3442_724d4w8w.PDF)

for sanitary reasons for the time determined by such entity. Subsequently, the Government has issued various decrees with the purpose of extending the term of the health emergency and providing limitations to the free movement of people and vehicles during the emergency state, subject to the special provisions indicated in question 4 below. Armed forces are allowed to restrict the mobility of people and vehicles, and they are entitled to impose sanctions on the vehicles detained and persons arrested prior judicial intervention. According to the special guidelines and exceptions (as amended from time to time through Decrees 3478/2020, 3525/2020 and 3537/2020) issued by the Government, members of diplomatic missions and International Organizations are exempted from compliance on the mobility restrictions currently in force in the country.

**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 Red Cross of Paraguay (“RCP”) has been recognized as a non-profit institution for purposes of Paraguayan law since 1921.<sup>6</sup> In 2016, the Congress of Paraguay adopted Law 5656,<sup>7</sup> which explicitly recognizes the RCP as a public auxiliary in the humanitarian field. In accordance with Article 1, the purpose of Law 5656 is to grant RCP public powers as well as provide benefits and incentives directed to optimize their management and capacity in the provision of humanitarian assistance. Particularly, Article 3 of Law 5656 authorizes RCP to provide their collaboration and humanitarian assistance to the competent authorities in Paraguay in times of peace and armed conflict in accordance with the relevant international conventions, and grants it the power to request assistance to the International Red Cross organizations. Moreover, Article 3 of Law 5656 grants RCP the authority to act in order to mitigate risks, prevent disasters and provide humanitarian assistance by offering health assistance services in communities and to vulnerable people and responding to emergencies, as well as focusing their actions especially on the care of the sick, wounded or individuals in a state of risk.

As result of this special status, it was not necessary for RCP to be specifically named in any of the exemptions provided in the Decrees issued by the Government in connection with the health emergency. By its status as a public auxiliary in the humanitarian field, RDP is exempted from compliance with the quarantine measures and mobility restrictions imposed by the national government during the health emergency.

**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?**

Mobility restriction within the country

As explained in question 1 above, on March 16, 2020, the Government issued Decree 3456 that declared a health emergency across the country and such has been extended from time to time, incorporating severe mobility restrictions applicable to the population and vehicles in general and subject to the special provisions explained in question 4 below. According to the special guidelines and exceptions issued by the Government, members of International Organizations are exempted from compliance with the mobility restrictions currently in force in the country. Pursuant to Decree 3537 dated as of April 18, 2020, the mobility restrictions are in force until April 26, 2020.

On the other hand, on April 7, 2020, the National Directorate of Civil Aeronautics announced that all public or private flights operated in aircrafts of any type (including planes and helicopters) to any domestic destination would be subject to the express authorization of the Aeronautics Authority, and that such authorization will be granted on a case-by-case basis. The authorization would be obtained after submitting a petition in writing to the Airport Directorate at least 24 hours in advance of the scheduled departure, informing about the reasons to carry out the flight, and informing about the passengers and

<sup>6</sup> Resolution 13.666 of August 3, 1921.

<sup>7</sup> [http://www.impuestospy.com/Leyes/Ley%205656\\_16.php](http://www.impuestospy.com/Leyes/Ley%205656_16.php)

tripulation that would be on board. Flights operated by governmental entities, sanitary, relief or rescue flights that assist aeronautic emergencies, flights transporting food, medicines or any product related to the health emergency, flights transporting financial assets (*transporte de caudales*) and humanitarian flights are exempted from compliance with this measure, being such flights immediately and verbally authorized by the Aeronautic Authority in each case<sup>8</sup>. Recently, the National Directorate of Civil Aeronautics has relaxed this measure and now all public and private aircrafts operators are allowed to resume flights to any domestic destination, subject to compliance with the sanitary measures issued by the government.<sup>9</sup>

#### Mobility restrictions in the borders and immigration checkpoints of Paraguay

On March 16, 2020, the Government of Paraguay issued Decree 3458 declaring the temporary and partial closure of its borders and immigration checkpoints to prevent the spreading of COVID-19 in the country. Article 3 of such Decree allows the entry of members of international organizations authorized to enter the country. Subsequently, through Decree 3465 issued on March 17, 2020, the Government modified the extent of Article 3 of Decree 3458 to prohibit the exit of members of international organizations from the country while the health emergency is in force.

Pursuant to Resolution DINAC No. 286-2020, the Government banned the entry of foreign passengers who are not legal residents in the country, except for members of International Organizations duly accredited and authorized to enter the country. Furthermore, through Resolution DINAC No. 313-2020, the Government placed a temporary ban to commercial and private aircrafts coming from abroad, except for:

- cargo service aircrafts transporting essential goods and medical supplies needed for the pandemic
- aircrafts providing medical and relief services; and
- aircrafts from foreign countries that try to repatriate their citizens during the health emergency.

On March 24, 2020, the Government announced the total closure of its borders and allowed the exit of foreign visitors who wished to leave the country<sup>10</sup>. Also, the Government allowed the gradual entry into the country of Paraguayan citizens facing humanitarian challenges or vulnerability, on a case by case basis, subject to the approval of the Inter-institutional Coordination Center to Support the Ministry of Health and Welfare.<sup>11</sup> Furthermore, based on the measures provided in Decrees 3458 and 3465 as well as in Resolution DINAC No. 286-2020, we understand that foreign nationals legally residing in Paraguay facing humanitarian challenges or vulnerability would also be allowed to enter the country. These measures will remain effective until April 26, 2020.<sup>12</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)?**

Decree 3537 contains the recent exceptions to quarantine measures, which include a total mobility restriction on the free movement of the people and vehicles across the country during the health

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<sup>8</sup> Available in Spanish: <http://www.dinac.gov.py/v3/index.php/component/k2/item/1807-comunicado-operacion-de-aerovanes>

<sup>9</sup> Available in Spanish: <http://www.dinac.gov.py/v3/index.php/component/k2/item/1808-comunicado-operacion-de-aerovanes-2>

<sup>10</sup> Available in Spanish: <http://www.migraciones.gov.py/index.php/noticias/comunicado-gobierno-nacional-establece-el-cierre-total-de-fronteras-hasta-el-sabado-28-de-marzo-de-2020>

<sup>11</sup> Available in Spanish: <http://www.migraciones.gov.py/index.php/noticias/migraciones-recuerda-que-el-cierre-de-fronteras-y-aeropuertos-se-extiende-hasta-el-12-de-abril>

<sup>12</sup> Available in Spanish: <http://www.migraciones.gov.py/index.php/noticias/cierre-de-fronteras-se-extiende-por-una-semana-mas>

emergency, except for performing necessary activities such as buying food, medicines or cleaning products.

Article 2 of Decree 3537 exempts from compliance individuals working on fourteen (14) specific activities. Below are the most relevant exemptions:

1. Diplomatic, national, regional and municipal authorities and representatives of international organizations that carry out functions that cannot be postponed, as well as health workers in general.
2. Individuals who must assist to the elderly, persons with disabilities, children and teenagers.
3. Individuals who work in supermarkets, convenience stores, pharmacies or are involved in the production and distribution of food, medicines, medical supplies (uniforms and face masks) and pet clinics (only for attention of urgent cases).
4. Individuals who work in the maintenance of public services (water, electricity and telecommunications).
5. Individuals who work providing funeral services, subject to special restrictions provided due to the emergency state.
6. Individuals working in public works and its logistic chain, provided that they preserve social distancing.
7. Individuals who work in the recollection, transportation and treatment of solid waste.
8. Individuals who work in ports, airports, cargo transportation, river ships and maritime lines, and loading and unloading merchandise.
9. Individuals involved in agricultural, farming, fishing and forestry activities, including logistic activities such as provision of supplies, machinery, etc.

These exemptions do not apply to individuals younger than 18 or older than 60 years, unless they provide urgent healthcare services or essential services. All exempted individuals must also comply with all sanitary measures and noncompliance is subject to penalties. Also, they must provide documentation to accredit their working status and the performance of their roles/duties in any of the relevant activities.

Furthermore, Article 3 of Decree 3537 allows the partial mobility of vehicles within certain days of the week and subject to the last number of their license plate, only for use in essential mobility to acquire food, medicines or hygiene products. Vehicles related to any of the activities listed in Article 2 of the decree and vehicles used to assist medical emergencies are exempted from this restriction.

**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?**

On March 20, 2020, Decree 3477 established a special regime applicable to the value added tax (VAT) to basic products required for implementing prevention protocols, both at home and in places that health services are provided, in connection with the sanitary measures issued to prevent the spread of COVID-19. Specifically, Article 1 provides that the special regime to the VAT shall apply to imported medical aid or other relief products such as sodium, surgery supplies, face masks made with and without non-woven fabric, among others, that are commercialized and sold in the local market. According to Article 2 of Decree 3344, the applicable VAT for the products considered under this special regime will be reduced from 10% to 5%. The special regime will be in force until June 30, 2020.

On April 13, 2020, the Ministry of Finance issued Decree 3528 whereby it modified the current national tariff (Arancel Nacional Vigente –ANV for its acronym in Spanish) for certain products listed in the Annex of Decree 6655 of December 30, 2016, some of which are items that may be used for medical aid or relief. Decree 6655 establishes the applicable tariffs to the import of products made by countries that are not members of the MERCOSUR alliance. Therefore, according to Article 2 of Decree 3528, the ANV for

the products listed in the Annex of Decree 6655 shall be 0%. The exemption of these tariffs will be in force until December 31, 2020.

Likewise, the Ministry of Finance through Decree 3529 of April 13, 2020 included additional medical aid products and relief items such as alcohol, gloves, face masks, alcohol in gel, syringes, intravenous catheters, among others, that shall benefit from the VAT's special regime established by Decree 3477 and from the current tariff benefits approved in Decree 3528. The tax and tariff benefits will be applicable to all products listed in the Annex of Decree 3529 and they will be in force until September 30, 2020.

**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?**

Yes. Although Article 7 of Decree 3537 provides exceptional business hours for public officials of Government Agencies and Entities that report directly to the Executive Branch, which are from Monday to Friday from 9:00 until 14:00 during the term of the decree, public officials and employees who provide medical or health services are exempted from this restriction.

Accordingly and as described in questions 1 and 2 above, the special status (public auxiliary in the humanitarian field) of RCP ensures that it falls into all applicable categories for international organizations and for those who provide public health services. This categorization includes exemptions from the restrictions on business operations and opening hours.

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

Below there is a shortlist of the most important measures taken by the Government of Paraguay in response to the outbreak of COVID-19 in the country:

**Resolution S.G. No. 90 (March 10, 2020)**

Suspension of activities and events

- Public and private massive activities and events, such as concerts, sport events, religious activities, etc.
- All activities held in closed spaces such as theaters, clubs, conference rooms, cultural centers, etc.
- All educational activities, which have been undertaken in coordination with the Ministry of Education, universities and all educational institutions.
- Sport events may take place without the presence of public.

The suspension of these activities were mandatory for 15 days starting on March 10, 2020. However, this term is subject to further extensions. Currently, we understand these activities remain suspended at least until April 26, 2020 based on the extension of the health emergency approved through Decree 3537.

Hygiene, safety and sanitation measures

All work places, malls, public offices, industries, public transportation, transportation terminals, penitentiary centers and similar establishments should implement hygiene, safety and sanitation measures to mitigate the spread of COVID-19.

Essential public services

The measures issued herein will not affect the provision of essential public services.

Measures to avoid crowds and preferential use of technologies

Authorities and private institutions must undertake appropriate measures to avoid crowding, and ensure the functioning of public offices and private institutions. The use of technology and remote working is encouraged.

#### Penalties

In case of non-compliance with the measures issued by this resolution, the penalties established in Law No.836/1980 (Sanitary Code) will apply.

#### **Decree 3456 (March 16, 2020, as amended from time to time)**

#### Public Works

Quarantine measures will not affect the public works in execution. Continuity of public works is subject to the compliance of the sanitary protocols in force.

#### **Law No. 6524 (March 26, 2020)**

#### Extraordinary compensation for health workers

Article 5 provides for an extraordinary special compensation for health workers dealing directly with the pandemic, up to an amount of three (3) minimum wages. According to the financial conditions of the government, a second extraordinary compensation up to the amount of two (2) minimum wages could be granted.

#### Hiring of additional personnel

Article 6 authorizes to the Ministry of Public Health and Wellness, Social Welfare Institute (Instituto de Prevision Social – IPS for its acronym in Spanish), Clinics Hospital (Hospital de Clínicas), Police and Army Hospital and the Ministry of Justice, to hire personnel that they consider necessary to deal with the pandemic for a period of six (6) months. This term could be extended until the end of the fiscal year prior authorization of the National Economic Team<sup>13</sup>. Also, these entities are authorized to hire health workers and retirees without the need of complying with Article 251 of the Administrative Organization Law<sup>14</sup>. All personnel hired under this Article 6 are exempted of participating in public competition procedures.

#### Expedited procedures for acquisition of goods and services needed to deal with the pandemic

Article 10 authorizes the adoption of administrative measures to facilitate public contracts in the case of goods and services for the Ministry of Health and Wellness, Social Welfare Institute (Instituto de Prevision Social – IPS for its acronym in Spanish), Clinics Hospital (Hospital de Clínicas) and all public institutions directly affected by the emergency.

Furthermore, Article 11 authorizes the Ministry of Health and Wellness to acquire goods and contract services and proceed with the construction of public works through a direct and simple contracting procedure without competitive bids from international or local providers, while seeking efficiency and transparency. The Ministry of Health and Wellness shall issue a resolution determining the procedure. The resources to fund these acquisitions and services will come from the Sanitary Emergency Fund, which will be funded by public resources and donations received. All contracts must be published within ten (10) working days after the execution of the contract.

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<sup>13</sup> This team is comprised by: (i) the Minister of Finance, (ii) the Minister of Commerce and Industry, (iii) the Minister of Agriculture and Livestock, (iv) the Minister of Public Works and Communications, (v) the Minister of Foreign Affairs, (vi) the President of the Central Bank of Paraguay, (vii) the Minister – Executive Secretary of the Technical Secretariat for Economic of Social Development Planning, and (viii) Minister – General Secretary of the Presidency of the Republic. Spanish version available: <https://www.economia.gov.py/index.php/dependencias/equipo-economico-nacional>

<sup>14</sup> “Article 251°. Retirees who return to occupy any job or public position, whether national or municipal, without exception, must choose between retirement and the remuneration of the position or job they accept by returning to the retirement and pension funds the amount of the remuneration they choose to stop receiving.”

Finally, Article 12 authorizes to the National Economic Team to constitute ad-hoc purchasing units that collaborate with healthcare public entities to streamline the processes of acquisition of goods or supplies needed to deal with the pandemic.

#### Remote work

Article 20 establishes the remote working regime (*regimen jurídico de teletrabajo*) for the private and public sector, subject to the rules of each governmental entity, provided that the nature of the existing employment relationship allows it.

#### Implementation of digital channels

Article 21 provides that the governmental entities must inform to the Ministry of Information Technologies and Communication (Ministerio de Tecnologías de la Información y Comunicación – MITIC for its acronym in Spanish), within fifteen (15) days of the date of publication of the law, the services and procedures that could be affected by the pandemic. Entities must indicate the services and procedures that require greater attention for the benefit of the citizens, in order to establish the conditions and procedures to supply them through the implementation and use of digital channels.

#### Approval of non-reimbursable financial resources

Article 39 authorizes the Executive Power to accept and approve non-reimbursable financial resources (donations, subsidies, financial cooperation or assistance, among others) by decree, granted by foreign governments, international and national organizations to finance the sanitary emergency, provided that such aid does not require the execution of agreements and does not imply tax, customs, immigration or any other administrative benefit.

#### Sick Leave Allowance and Economic Compensation benefits for Social Welfare Institute's active contributors

Article 46 authorizes the Ministry of Finance to transfer USD \$100 million to the Social Welfare Institute (Instituto de Previsión Social – IPS for its acronym in Spanish) for the payment of the Sick Leave Subsidy and the granting of an economic compensation to the workers who are active contributors when, due to the COVID-19 sanitary emergency, the temporary suspension of employment contracts or the total cessation of activities of the affected economic sectors occur.

#### Non-seizure of assets owned by Non-profit organizations

Article 50 establishes that all financial donations, assets and bank accounts owned by foundations and non-profit organizations who are providing assistance within the framework of the health emergency and are duly registered in the Ministry of Public Health and Social Welfare are not subject to seizures.

### **Decree 3526 (April 9, 2020)**

#### Temporary Shelters

The Ministry of Public Health and Welfare has implemented temporary shelters to isolate people infected with COVID-19 and prevent its spreading among the population.

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

No. The Government has not adopted any measures banning the export of protective medical equipment. However, on March 13, 2020, Decree 3455 ordered the use of a special exportation license and the creation of the Exporters Registry applicable only to exporters regarding the following items: (i) 3808.94.19 Alcohol in gel, (ii) 3808.94.29 Alcohol in gel, (iii) 6307.90.10 face masks, and (iv) 90.20.00.90 face masks with filter. Exporters can obtain the exportation license prior registration in the Exporter

Registry. The National Customs Directorate will authorize the shipping of the products indicated above only if the exporter has the corresponding exportation license. The use of the license and the Exporters Registry will be in force until March 13, 2021.