



Prepared by: **WHITE & CASE**

## **IFRC COVID-19 Emergency Decree Research: Poland**

**White & Case Team:** Michał Subocz, Aleksandra Orzeł-Jakubowska, Jakub Żelazny (Warsaw) and Jowita Mieszkowska (London)

- **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?**

Under the Act of March 2, 2020, on Extraordinary Measures Aimed at Preventing, Countering, and Combating COVID-19, Other Infectious Diseases and the Crisis Situations Caused by Them<sup>1</sup> (the “**COVID-19 Act**”), there are two basic mechanisms which can be used for coordinating the activities of state and non-state actors:

#### 1) Prime Minister’s Orders Issued in Connection with Countering COVID-19

Article 11(2) of the COVID-19 Act authorizes the Prime Minister to issue orders to private entities in connection with countering COVID-19.<sup>2</sup> The orders should be issued in the form of an administrative decision (for which reasons are not required) and be immediately enforceable upon their delivery or announcement. Such orders may be issued orally, by telephone, by means of electronic communication or by other means of communication, but a written note of their issuance should be recorded. The COVID-19 Act does not precisely outline the scope of such orders.

#### 2) Chief Sanitary Inspector’s Decisions Issued during the Time of Epidemic Emergency

During the time of epidemic emergency, Article 17 of the COVID-19 Act authorizes the Chief Sanitary Inspector (or the Regional Sanitary Inspector acting on his behalf) to issue administrative decisions addressed to private entities (including individuals) imposing a duty:

- a) to take certain preventive or control measures and request information from them in this respect,*
- b) to distribute:*

<sup>1</sup> Ustawa z dnia 2 marca 2020 r. o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych.

<sup>2</sup> „The Prime Minister, at the request of a voivode, after informing the minister in charge of economy, may, in connection with counteracting COVID-19, issue orders binding on legal persons and organizational units without legal personality, other than those which section 1 refers to [it refers to public authorities – W&C], and entrepreneurs. Orders shall be issued by way of an administrative decision, shall be immediately enforceable upon their delivery or announcement and shall not require any justification.”

- medicinal products, special purpose foodstuffs or medical devices – in relation to pharmaceutical wholesale
  - personal protection equipment – in relation to manufacturers, distributors or importers,
- c) to cooperate with other public administration authorities and the State Sanitary Inspectorate's authorities – in relation to decisions addressed to entities other than these authorities.”

The Chief Sanitary Inspector's decisions are immediately enforceable upon their delivery or announcement. They may be issued orally and then confirmed in writing. Reasons are not required. The decisions can be appealed within 2 days from their delivery or announcement.

There is no information in the public domain that such orders or decisions have already been issued.

Moreover, since 1997, the National Firefighting and Rescue System (the “KSRG”) has been operating in Poland as part of the emergency response mechanism. The KSRG is a network of professional and voluntary rescue services, supplemented by numerous agreements with agencies, associations and other entities (including the Polish Red Cross). It is organized in such a way that provides for satisfactory response times, backup for larger or simultaneous emergencies, as well as expertise and capacities for rare types of emergencies. Currently, the KSRG is regulated by the Act of August 24, 1991, on Fire Protection<sup>3</sup> and is managed by professional firefighters. The latest COVID-19 legislation has not amended the laws on the KSRG.

**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 Red Cross or other humanitarian actors in the COVID-19 Act or the decrees issued in connection with the COVID-19 Act or the epidemic. The new legislation does not impose obligations on the Red Cross.

**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?**

From March 15, 2020, for a period of 10 days the movement of foreign nationals to Poland is prohibited.<sup>4</sup> This period may be extended.

According to § 3(2) of the Regulation of the Minister of the Interior on the temporary closure or limitation of cross-border movement at certain border checkpoints dated March 13, 2020 (as amended, the “**Regulation on Closure of Cross-Border Movement**”), only the following categories of persons can enter the territory of Poland:

1. *Citizens of the Republic of Poland*
2. *Foreigners who are the spouses or children of citizens of the Republic of Poland or are dependents of citizens of the Republic of Poland*
3. *Holders of a Polish Card (“Karta Polaka”)*
4. *Heads of diplomatic missions or members of staff of the diplomatic-consular missions, i.e., persons holding diplomatic rank and members of their family*
5. *Foreigners permitted to permanently or temporarily reside in the Republic of Poland*
6. *Foreigners permitted to work in the territory of the Republic of Poland, i.e., foreigners with rights to work on the same basis as citizens of Poland, holders of work permits, holders of cards evidencing their right to seasonal work, or evidence of holding a work permit as foreigners in the Republic of Poland who:*
  - a. *Work in the territory of the Republic of Poland*

<sup>3</sup> Ustawa z dnia 24 sierpnia 1991 r. o ochronie przeciwpożarowej.

<sup>4</sup> <https://www.gov.pl/web/koronawirus/zamykamy-granice-przed-koronawirusem>.

- b. *Hold documents which show that they are permitted to work inside the boundaries of the Republic of Poland*
7. *Foreigners who drive goods or people in and out of the territory of the Republic of Poland and their entry into Poland is for the purpose of transportation of goods or people.*<sup>5</sup>

In general, humanitarian relief teams are not excluded from the prohibition on entry. However, pursuant to § 3(3) of the Regulation on Closure of Cross-Border Movement, “*in particularly justified cases, the Commander of the Border Guard, after obtaining the consent of the Commander-in-Chief of the Border Guard, may allow foreigners, other than those mentioned in section 2 [listed above – W&C], to enter the territory of the Republic of Poland.*” Thus, the RC and other humanitarian organizations can request that the Commander of the Border Guard allow their teams to cross the border. There are no requirements as to the form of such a request and the decision in this regard is discretionary. Humanitarian relief teams allowed to enter Poland can be released from the general 14-day quarantine obligation (see Question 5).

Moreover, foreigners can drive humanitarian aid (goods) to the territory of Poland. Such drivers are excluded from the general 14-day quarantine obligation applicable to all people coming to Poland from abroad.<sup>6</sup> As there are a limited number of border points where one can cross the border and tightened border control was introduced, there are huge lines at the Polish borders. In case of urgent transport, humanitarian organizations can request that the Commander-in-Chief of the Border Guard allow them to cross the border through another border point.<sup>7</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)?**

Since March 15, 2020 (until it is revoked), people returning from abroad<sup>8</sup> or those who have been in close contact with persons testing positive for COVID-19 are subject to a 14-day quarantine period.<sup>9</sup> The quarantine can also be imposed by way of an individual administrative decision (see Question 1). The rules on the course of the quarantine are rather vague. In particular, there are no rules regulating the access of humanitarian organizations to vulnerable populations.

It is generally assumed, based on the information provided on the Chief Sanitary Inspector’s website, that during the quarantine, all visits outside the place of quarantine and from others are prohibited.<sup>10</sup> According to the governmental website, vulnerable persons are subject to special attention of the police and the

---

<sup>5</sup> Regulation of the Minister of Interior Affairs and Administration on the Temporary Closure or Limitation of Border Crossings at Specified Border Points dated March 13, 2020 (as amended)

[*Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 13 marca 2020 r. w sprawie czasowego zawieszenia lub ograniczenia ruchu granicznego na określonych przejściach granicznych*].

<sup>6</sup> § 2(5)(1) of the Regulation of the Minister of Health on the Announcement of the State of Epidemic Emergency on the Territory of the Republic of Poland dated March 13, 2020 (as amended) [*Rozporządzenie Ministra Zdrowia z dnia 13 marca 2020 r. w sprawie ogłoszenia na obszarze Rzeczypospolitej Polskiej stanu zagrożenia epidemicznego*].

<sup>7</sup> According to § 4a of the Regulation of the Minister of Interior Affairs and Administration on the Temporary Re-introduction of Border Control on Persons Crossing the National Border dated March 13, 2020 (as amended) [*Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 13 marca 2020 r. w sprawie przywrócenia tymczasowo kontroli granicznej osób przekraczających granicę państwową stanowiącą granicę wewnętrzną*], in specific circumstances, the Commander-in-Chief of the Border Guard may permit people and goods to cross the border at other points than those specified in the order.

<sup>8</sup> § 2(1)(2) of the Regulation of the Minister of Health on the Announcement of the State of Epidemic Emergency on the Territory of the Republic of Poland dated March 13, 2020 (as amended).

<sup>9</sup> § 1(1)(4) of the Regulation of the Minister of Health regarding the Type and Duration of Quarantine Measures and Monitoring Arising from a List of Contagious Diseases dated March 7, 2020 (as amended) [*Rozporządzenie Ministra Zdrowia z dnia 7 marca 2020 r. w sprawie wykazu chorób powodujących powstanie obowiązku kwarantanny lub nadzoru epidemiologicznego oraz okresu obowiązkowej kwarantanny lub nadzoru epidemiologicznego*].

<sup>10</sup> <https://gis.gov.pl/aktualnosci/koronawirus-co-trzeba-wiedziec-o-kwarantannie/>

state sanitary inspectorate's staff who control individuals subject to quarantine. However, any psychological help is provided remotely.<sup>11</sup>

**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 Regulation of the Ministry of Health on Medicinal Products used in Humanitarian Aid dated January 16, 2004,<sup>12</sup> provides simplified rules on the import and export of medicinal products for humanitarian purposes. These rules may be summarized as follows:

- medicinal products must be authorized either in Poland or in the country of the donor;
- the packaging of the medicinal product must be labelled in English, German, French or another language easily understood in the recipient country;
- donors are obliged to inform the recipient of the consignment of medicinal products in writing about the consignment (the notice on the consignment must be accompanied by the relevant documents, including the statement of the donor confirming that the medicinal products are authorized either in Poland or in the country of the donor);
- the recipient of a consignment of medicinal products must submit the documents received from the donor to the competent voivodeship pharmaceutical inspector in order to confirm that the medicinal products meet the requirements set out in the Regulation;
- confirmation from the voivodeship pharmaceutical inspector is the basis for introducing medicinal products into the Polish customs territory;
- medicinal products used in humanitarian aid must be distributed under the supervision of a pharmacist with acknowledgement of receipt.

Moreover, pursuant to § 2 (6) of the Regulation of the Minister of Health on the Announcement of the State of Epidemic Emergency on the Territory of the Republic of Poland dated March 13, 2020 (as amended; the "**Regulation on the Epidemic Emergency**"), "*the State Sanitary Inspector competent for the place of residence or stay, in which the person is quarantined, (...) decides, in justified cases, to shorten the quarantine or to release the person from the quarantine obligation*". Therefore, humanitarian organizations can request that the State Sanitary Inspector release their personnel from the quarantine obligation or shortens its duration. The decision in this regard is discretionary.

**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 Regulation on the Epidemic Emergency provides restrictions on business operations in relation to:

- preparing and serving food and drinks (please see below for more information),
- organizing and holding events,
- entertainment or cultural activities,
- sports and fitness,
- film projections,
- consumption of beverages,
- tourist accommodation,
- casinos,
- libraries and museums,

---

<sup>11</sup> <https://www.gov.pl/web/rodzina/na-co-moga-liczyc-osoby-objete-kwarantanna-sprawdz>

<sup>12</sup> Rozporządzenie Ministra Zdrowia z dnia 16 stycznia 2004 r. w sprawie produktów leczniczych będących przedmiotem pomocy humanitarnej.

- spas,
- religious events,
- businesses selling non-essential items such as clothing or furniture.

The prohibition on providing food and drinks covers places where guests can sit down or order a meal from a menu. It does not include establishments which provide take-out food or food which can be delivered. This may mean that food kitchens, which are operated by humanitarian organizations, are restricted to providing only take-out meals or delivering meals. We assume that all other activities of humanitarian organizations are performed as normal, provided that they do not involve gatherings of over 50 people (See Question 7).

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

Under the Regulation on the Epidemic Emergency, from March 14, 2020, until it is revoked:

- a) shopping malls with over 2000 m<sup>2</sup> of retail space are closed except for pharmacies and grocery stores;
- b) organization of mass events is prohibited;
- c) gatherings of more than 50 people are prohibited (whether indoors or outdoors);
- d) patients that are referred for medical examinations do not have to submit such referrals in writing for the time of the epidemic emergency and 21 days thereafter.

Moreover, schools and universities are closed until March 25, 2020. However, based on statements made by government officials, schools and universities will most likely remain closed until April 14, 2020 (as of the date of this memorandum no such official regulation has been adopted). Additionally, the activities of the courts and access thereto are being limited; in particular, hearing dates scheduled for March 2020 are being rescheduled and access to court files is restricted.

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

Under the Regulation on the Epidemic Emergency, from March 14, 2020, until the state of epidemic emergency is revoked:

- a) export from Poland of respirators and cardiac monitors is prohibited; and
- b) the exporter must notify the competent voivodship governor if it intends to export any of the following products: (i) protective goggles, (ii) TYVEK protective suits, (iii) FFP2/FFP3 protective masks, (iv) surgical masks, (v) shoe protectors, (vi) latex gloves, (vii) nitrile gloves, or (viii) hand, surface and room disinfectants.

Under the Minister of Health notice on the list of medical products, foodstuffs for particular nutritional uses and medical devices at risk of lack of availability on the territory of the Republic of Poland dated March 17, 2020,<sup>13</sup> from March 17, 2020, until it is revoked, the exporter must notify the Chief Pharmaceutical Inspector about the intention to export the following products: (i) medical caps, (ii) surgical gowns, (iii) non-woven gowns, (iv) surgical masks, (v) oxygen dispensing masks, (vi) medical shoe protectors, (vii) surgical clothing, (viii) surgical gloves, (ix) surgical gloves used during surgery, and (x) electronic thermometers. The Chief Pharmaceutical Inspector may issue an objection to the export within 30 days after the notice is filed. Such an objection is immediately enforceable.

<sup>13</sup> [http://dziennikmz.mz.gov.pl/api/DUM\\_MZ/2020/23/journal/6012](http://dziennikmz.mz.gov.pl/api/DUM_MZ/2020/23/journal/6012)