

COVID-19 – APRIL 2020



COVID-19 and International Law

Quarantine of International Travelers¹

IS IT LEGAL TO QUARANTINE INTERNATIONAL TRAVELERS?² Yes, but only if certain conditions are met. Countries are allowed under international law to quarantine international travelers, provided that the quarantine is **strictly necessary** to slow or stop the spread of COVID-19 and it is implemented in a **humane and equitable³ manner**. “Quarantine” refers to the separation of asymptomatic people who may have been exposed to the novel coronavirus, whereas “isolation” refers to separation of people with symptoms or positive tests for COVID-19.

As a freedom-restricting measure, quarantine needs to be **provided for and carried out in accordance with national law and subject to judicial or administrative review**.

HOW DO YOU EVALUATE WHETHER A QUARANTINE IS STRICTLY NECESSARY?

A quarantine of international travelers may be legal if it is strictly necessary, meaning it is:

- 1 based on scientific evidence;
- 2 serving a legitimate public health objective;
- 3 the least intrusive and restrictive option available;
- 4 neither arbitrary nor discriminatory in application; and
- 5 limited in duration⁴ and scope.

WHAT DOES “HUMANE” MEAN IN THE CONTEXT OF QUARANTINED INTERNATIONAL TRAVELERS?

Countries should treat all travelers with respect for their dignity, human rights, and fundamental freedoms, and minimize any discomfort or distress. Taking into consideration the travelers’ gender and sociocultural, ethnic or religious concerns, countries must provide or arrange for

- ✓ adequate food and water;
- ✓ appropriate accommodation;
- ✓ appropriate clothing;
- ✓ appropriate medical treatment;
- ✓ protection of baggage and other possessions,
- ✓ means of necessary communication if possible in a language that they can understand; and
- ✓ other appropriate assistance.⁵

1 An international traveler means a natural person undertaking a voyage involving entry into the territory of a State other than the territory of the State in which that traveler commences the voyage. See World Health Organization, International Health Regulations (2005), Article 1.

2 See World Health Organization, International Health Regulations (2005), and United Nations Economic and Social Council. Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights.

3 Implementing quarantine in an equitable manner requires the measure to be impartial and fair. Quarantine should be based on science, and applied in a transparent and non-discriminatory manner.

4 In the context of COVID-19, WHO recommends a quarantine duration of up to 14 days (i.e. the known incubation period of the virus). “Key considerations for repatriation and quarantine of travellers in relation to the outbreak of novel coronavirus 2019-nCoV” at <https://www.who.int/news-room/articles-detail/key-considerations-for-repatriation-and-quarantine-of-travellers-in-relation-to-the-outbreak-of-novel-coronavirus-2019-ncov>

5 World Health Organization, International Health Regulations (2005), Article 32.



WHO SHOULD PAY FOR QUARANTINE?⁶ The government is responsible for all international travelers' costs related to appropriate quarantine or isolation requirements, as well as the costs related to medical or supplementary examination, certificates, and health measures applied to baggage accompanying the traveler, and any new vaccinations or other prophylaxis requirements that have been published for less than 10 days. Countries may, however, seek reimbursement for expenses incurred from conveyance operators or owners regarding their employees or from applicable insurance sources.

The International Health Regulations (2005) does allow governments to charge travelers for measures, including quarantine and isolation requirements, if the travelers are seeking temporary or permanent residence; however, such charges must be published at least 10 days before the imposition of the measures, not exceed the actual cost of the service, and be charged equally regardless of nationality, domicile or residence. Countries shall not, however, deny travelers the ability to depart from their territory pending payment of the charges.

While it is technically legal under international law in the situations noted above, governments should avoid charging immigrants, citizens, or any resident for measures designed to curb the spread of disease. Quarantine places a significant burden on the quarantined individuals for the benefit of society as a whole. Most people under quarantine will face financial hardship if they are unable to work, personal hardship if they are separated from their family and friends, and emotional hardship if they are locked in quarantine alone. The ethical principle of reciprocity urges governments to show their appreciation to people in quarantine by easing the burden as much as possible, including by not charging them additional costs.

WHERE SHOULD TRAVELERS BE QUARANTINED? Quarantine can be implemented at a traveler's place of stay or in designated facilities. Designated facilities should be located away from the county's points of entry if possible. In either case, the facilities should be designed, and other measures should be taken, to limit the risk of potential disease transmission. Quarantined travelers should be separated from symptomatic individuals or contaminated goods. Travelers' place of stay shall be recorded for potential follow-up in case of illness.

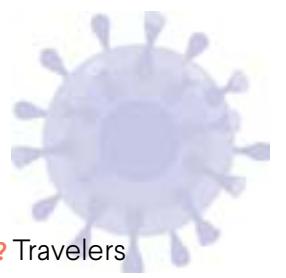
WHAT FOLLOW-UP MEASURES ARE REQUIRED? Travelers becoming ill or with underlying medical conditions might be at increased risk if quarantine alone. Medical and other monitoring should be provided throughout the enforcement of quarantine. Individuals developing symptoms while in quarantine should be able to seek appropriate care and be separated from others.

Trained personnel should be assigned for the observation and follow-up of quarantined travelers. They should be equipped with the basic personal protective equipment and commodities needed to deal with the suspected cases.⁷ A specific disease commodity package was developed by WHO in the context of COVID-19.⁸

6 World Health Organization, International Health Regulations (2005), Article 40.

7 World Health Organization Coronavirus disease (COVID-19) technical guidance for infection prevention:
<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/infection-prevention-and-control>

8 World Health Organization disease commodity package - Novel Coronavirus (nCoV):
[https://www.who.int/publications-detail/disease-commodity-package---novel-coronavirus-\(ncov\)](https://www.who.int/publications-detail/disease-commodity-package---novel-coronavirus-(ncov))



WHAT INFORMATION SHOULD BE COMMUNICATED ABOUT QUARANTINE MEASURES?

Travelers must be provided with clear, up-to-date, transparent and consistent guidelines, and reliable information about quarantine measures. WHO recommends that countries properly engage communities and communicate quarantine measures in order to reduce panic and improve acceptance and compliance.

People in quarantine have a right to privacy. Data collection should not have a negative impact on them. Their personal information should not be disseminated or published, except when imperative for public health purposes. This privacy also helps avoid stigmatizing individuals or groups.

WHAT IS THE LEGAL BASIS FOR THESE PRINCIPLES? Countries are required to adhere to the International Health Regulations (2005) when legislating or implementing legislation in pursuance of their health policies. The International Health Regulations (2005) is a legally binding international instrument designed “to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.”⁹ In addition to national law and constitutional provisions, countries must also abide by other international and regional human rights instruments.

HOW CAN COUNTRIES COMPLY WITH THESE INTERNATIONAL OBLIGATIONS?

In order to comply with the above-mentioned obligations, countries should:

- 1 assess their current legal framework and practices regarding quarantine of international travelers and revise to fill potential gaps;
- 2 consider and mitigate social and economic impacts of quarantine measures; and
- 3 disseminate information to front-line implementers, security forces, court officials and other administrative review authorities about the public health rationale, legal basis, and boundaries of the quarantine measures.

When revising their current legal framework, countries may consider other countries' legislation that incorporate partly or fully the above-mentioned obligations. See for instance:

Quarantine Order and Provision of Information

[Hong Kong SAR – Section 26 of Cap. 599A Prevention and Control of Disease Regulation](#)

Limitation of the Duration of Quarantine

[Colombia - Article 43 of Decree No. 3518 Establishing and Regulating the Public Health Surveillance System and Laying Down Other Provisions, 2006 \(in Spanish\)](#)

Judicial Review

[Georgia – Article 11\(2\) of Public Health Law, 2007](#)

⁹ World Health Organization, International Health Regulations (2005), Article 3.



Humane Treatment and Needs of Quarantined Individuals

United States – Section 144.419.2 of the Minnesota Statutes Health (Ch.144-159), 2015

United Kingdom – Section 9 of The Health Protection (Coronavirus) Regulations, 2020

Financial Compensation

Germany – Section 56 of Infection Protection Act, 2012 (in German)

Protection Against Infection

Switzerland – Article 35(3) of Law on Epidemics, 2012 (in French)