

PRESIDENCY OF THE REPUBLIC

Decree of the President of the Republic No 14-A/2020

of 18 March 2020

Summary: Declares the state of emergency, on the basis of a situation of public disaster.

On 11 March 2020, the World Health Organisation has characterised the public health emergency caused by the COVID-19 disease as an international pandemic and a public disaster.

The situation has evolved very quickly across the world in general and, in particular, in the European Union. Considering these facts, strong restrictions on rights and freedoms have been adopted, in particular with regard to free movement rights and economic freedoms, thereby seeking to prevent the transmission of the virus.

Portugal is not immune to this reality. On the contrary, there are growing cases of infection in our country. Today's knowledge and the experience of other countries call for the same measures to be taken in Portugal as a way to avoid the spread of the disease, always in close coordination with the European authorities.

A number of important containment measures have already been taken in Portugal, which were immediately promulgated by the President of the Republic. The state of alert has been declared under the provisions of the Framework Civil Protection Act.

However, as in other European countries, there is a need to strengthen the constitutional coverage of more comprehensive measures which need to be taken to combat this public disaster. That is why the President of the Republic finds the declaration of the state of emergency an indispensable measure.

Under the constitutional and legal provisions, the declaration is limited to what is strictly necessary for the adoption of the relevant measures. Their effects will end as soon as normality is recovered. In the meantime, measures that result in limitations on rights, freedoms and safeguards are granted a Constitutional support that only the state of emergency can provide, thus enhancing legal certainty and security, as well as institutional solidarity.

The positions of the National Health Authority have been taken into account, in articulation with the Government.

The Council of State has been heard.

Under these terms, the President of the Republic, in accordance with Articles 19, 134 (d) and 138 of the Constitution and with Law No 44/86 of 30 September 1986, as amended by Organic Law No 1/2011 of 30 November 2011 and by Organic Law No 1/2012 of 11 May 2012, after hearing the Government and obtaining the necessary authorisation from the Assembly of the Republic in its Resolution No 15-A/2020 of 18 March 2020, hereby decrees the following:

1.

The state of emergency is hereby declared, on the basis of a situation of public disaster.

2.

The state of emergency declaration covers the whole of the national territory.

3.

The state of emergency will last 15 days starting on 19th March 2020 at 0:00 AM and ending on 2nd April 2020 at 11:59 PM, without prejudice to the possibility of renewal(s), if any, in accordance with the law.



4.

The exercise of the following rights shall be partially suspended:

a) Right of movement and fixation anywhere in the national territory: the competent public authorities may impose the necessary restrictions so as to reduce the risk of contagion and enforce measures to prevent and combat the epidemic, including compulsory containment at home or in a health establishment, the adoption of sanitary fences as well as, to the strictly necessary and proportionate extent, the ban on unjustified travel and stay on public roads, in particular when not necessary for the performance of professional activities, for the acquisition of healthcare, the assistance to third parties, the supply of goods and services and for other important reasons. In this event, the Government shall specify the situations and purposes for which individual free movement right, preferably non-accompanied, is maintained;

b) Private property and economic initiative: the competent public authorities may request the provision of any services and the use of movable and immovable property, of healthcare facilities, of business and industrial establishments, of undertakings and of other production units, and may determine the compulsory opening, working and operation of undertakings, establishments and means of production, or their closure, and may impose other limitations or changes in their activity, including changes in the quantity, nature or price of goods produced and marketed, or in their distribution and marketing procedures and movements, as well as changes to their operating arrangements;

c) Workers' rights: the competent public authorities may determine that any staff of public or private entities, irrespective of the type of connection, shall present to the service and, if necessary, perform tasks in a different venue, for a different entity and under conditions and timetables other than those corresponding to the existing connection, in particular in the case of workers in the health, civil protection, security and defence sectors, as well as in other activities necessary for the treatment of patients, the prevention and fight against the spread of the epidemic, the production, distribution and supply of essential goods and services, the operation of vital sectors of the economy, the functioning of critical networks and infrastructures, and the maintenance of public order and democratic rule of law. The exercise of the right to strike shall be suspended insofar as it may compromise the functioning of critical infrastructures or health care facilities, as well as in economic sectors that are vital to the production, supply and provision of essential goods and services to the population;

d) International movement: in articulation with European authorities and in strict compliance with the European Union Treaties, the competent public authorities may establish border controls on persons and goods, including sanitary controls at ports and airports, in order to prevent the entry into national territory or to make such entry conditional upon compliance with the necessary conditions to avoid the risk of the epidemic spreading or the burden of the resources allocated to combating it, in particular by imposing compulsory containment of persons. Measures may also be taken to ensure the international movement of essential goods and services;

e) Right of assembly and demonstration: the competent public authorities may impose, based on the position of the National Health Authority, the necessary restrictions to reduce the risk of contagion and to implement measures to prevent and fight the epidemic, including the limitation or prohibition of meetings or events which, by the number of persons involved, potentiate the transmission of the new Coronavirus;

f) Freedom of religion in its collective dimension: the competent public authorities may impose the necessary restrictions in order to reduce the risk of contagion and implement measures to prevent and fight the epidemic, including the limitation to, or prohibition of religious celebrations and other religious events involving an agglomeration of persons;

g) Right of resistance: any act of active or passive resistance to orders issued by the competent public authorities in compliance with this state of emergency shall be prevented.

5.

1 — The effects of this declaration do not affect in any way the rights to life, personal integrity, personal identity, civil capacity and citizenship, the non-retroactivity of criminal law, the protection of defendants and the freedom of conscience and religion.

2 — The effects of this declaration do not affect in any way the freedoms of expression and information.

3 — In no case may the principle of the unitary State or the territorial continuity of the State be called into question.

4 — In accordance with the law, the General Public Prosecution Office (*Procuradoria-Geral da República*) and the Ombudsman (*Provedoria de Justiça*) remain in permanent session.

6.

Bodies responsible, in accordance with Law No 44/86 of 30 September 1986, for the implementation of the declaration of state of emergency shall keep the President of the Republic and the Assembly of the Republic fully informed on any implementing acts.

7.

All legislative and administrative measures taken in the context of the crisis, which are dependent on the declaration of the state of emergency, are hereby ratified.

8.

This Decree shall enter into force immediately and shall take effect as laid down in Article 3.

Signed on 18th March 2020.

To be published.

The President of the Republic, Marcelo REBELO DE SOUSA.

Countersigned on 18th March 2020.

The Prime Minister, *António Luís Santos da Costa*.

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