

DECREE OF THE PRESIDENT OF REPUBLIC N° / 2021

The situation of public calamity caused by the pandemic COVID-19 continues to worsen, as a result, according to experts, of the lack of rigor in complying with restrictive measures, as well as of new variants of the SARS-CoV-2 virus, which make it even more containment of the spread of the disease is difficult.

The country's hospital capacity is put to the test, even with the mobilization of all means of the NHS, the Armed Forces, the social and private sectors, so there is no alternative to reducing cases upstream, which is only possible with the decrease drastic contagion, which requires strict compliance with current health rules and the application of travel and contact restrictions.

Experts insist that the intensity and effectiveness of restrictive measures, in particular a more stringent confinement, is directly proportional to the effectiveness and speed of the deceleration of new cases, followed by hospitalizations and finally deaths.

In these terms, it is necessary to renew once again the state of emergency, to allow the Government to take the most appropriate measures to continue to combat this phase of the pandemic.

In these terms, the President of the Republic decrees, under the terms of articles 19, 134, paragraph d), and 138 of the Constitution and Law no. 44/86, of 30 September, as amended by the Organic Law no. 1/2011, of November 30, and by Organic Law no. 1/2012, of May 11, under proposal and after hearing the Government and obtained the necessary authorization from the Assembly of the Republic, through the Resolution of the Assembly of Republic No. (...), of (...) the following:

1st

The declaration of a state of emergency is renewed, based on the verification of a situation of public calamity.

2nd

The declaration of a state of emergency covers the entire national territory.

3rd

The renewal of the state of emergency lasts for 15 days, starting at 00:00 on January 31, 2021 and ending at 23:59 on February 14, 2021, without prejudice to possible renewals, under the terms of the law.

4th

During the entire period referred to in the previous article, the exercise of the following rights is partially suspended, in the strict terms set forth below:

1) Rights to freedom and movement:

a) The necessary restrictions may be imposed to reduce the risk of contagion and to implement measures to prevent and combat the epidemic, and the measures to be adopted may be calibrated according to the degree of risk of each municipality, and, for this purpose, the same be grouped according to the data and assessment of the competent authorities, based on the best scientific knowledge, including the ban on driving on public roads, as well as the ban on travel that is not justified under point c).

b) To the extent strictly necessary and proportionally, compulsory confinement may be imposed in a health establishment, at home or, where it is not possible, in another place defined by the competent authorities, of persons carrying the SARS-CoV2 virus, or active surveillance.

c) The restrictions referred to in subparagraph a) must provide for the indispensable rules for obtaining health care, for the support of third parties, namely the elderly, including those accommodated in residential structures, for travel to workplaces when indispensable and not replaceable by teleworking, for the production and supply of goods and services and for traveling for other ponderous reasons, and it is up to the Government, in this event, to specify the situations and purposes in which the freedom of individual circulation, preferably unaccompanied, remains.

2) Private, social and cooperative initiative:

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a) The resources, means and establishments of healthcare provision integrated in the private, social and cooperative sectors can be used by the competent public authorities, preferably by agreement, with fair compensation, depending on what is necessary to ensure the treatment of patients with COVID-19 or the maintenance of assistance activity in relation to other pathologies;

b) Appropriate and indispensable measures can be adopted to guarantee the conditions of normality in the production, transport, distribution and supply of goods and services essential to the activity of the health sector, namely with a view to ensuring access and regularity in the medication circuit and vaccines, medical devices and other health products, such as biocides, disinfectant solutions, alcohol and personal protective equipment;

c) The total or partial closure of establishments, services, companies or means of production may be determined by the competent public authorities and changes to the respective regime or hours of operation may be imposed, with the Government continuing to provide support and social protection mechanisms within the framework budgetary procedure in force. The closure of facilities and establishments, under this decree, cannot be invoked as a basis for resolution, denunciation or other form of extinction of non-housing lease contracts or other

contractual forms of exploitation of real estate. Advertising campaigns for commercial practices that, in particular through the disclosure of balances, promotions or settlements, may aim to increase the flow of people who frequent establishments that remain open to the public,

d) Price control measures and combating speculation or hoarding of certain products or materials may be adopted;

e) Service fees and commissions charged to economic operators and consumers may be limited by home delivery intermediary platforms when selling goods or providing services.

3) Workers' rights:

a) Employees of public or private entities, from the social or cooperative sector may be mobilized, by the competent public authorities and respecting their other rights, regardless of the respective type of bond or functional content and even if they are not health professionals, namely civil servants public in prophylactic isolation or covered by the exceptional protection regime for immunocompromised and chronically ill patients, to support health authorities and services, specifically in conducting epidemiological surveys, tracking contacts and following people under active surveillance;

b) The possibility of terminating, at the request of the interested parties, the employment contracts of workers in the services and establishments within the National Health Service, may be limited for a period not exceeding the duration of the state of emergency and for imperative service needs;

c) The adoption of the teleworking regime can be imposed, regardless of the employment relationship, whenever the functions in question allow and the worker has conditions to exercise them.

4) Right to the free development of the personality and negative aspect of the right to health: the use of a mask and the performance of body temperature controls can be imposed, by non-invasive means, as well as diagnostic tests for SARS-CoV-2, namely for the purpose of access and permanence in the workplace or as a condition of access to public services or institutions, educational or vocational training establishments and commercial, cultural or sports spaces, in the use of means of transport or in relation to institutionalized persons or accommodated in residential structures, health establishments, prisons or educational centers and their workers.

5) Freedom to learn and teach: they can be imposed by the competent public authorities, at any level of education in the public, private and cooperative sectors, and in the social and solidarity sector, including pre-school education and basic, secondary and higher education. , the necessary restrictions to reduce the risk of contagion and to implement measures to prevent and combat the epidemic, namely the prohibition or limitation of face-to-face classes, the postponement, alteration or extension of school periods, the adjustment of assessment methods and the suspension or recalendarization of exam tests.

6) International circulation: can be established by the competent public authorities, namely in conjunction with the European authorities and in strict respect for the Treaties of the European Union, border controls on people and goods, including sanitary and phytosanitary controls in ports and airports, for the purpose to prevent entry into national territory or to make that entry subject to compliance with the conditions necessary to avoid the risk of spreading the epidemic or overloading the resources associated with its fight, namely

suspending or limiting arrivals from certain sources, imposing the performance of a diagnosis of SARS-CoV-2 or the compulsory confinement of people in a place defined by the competent authorities.

7) Right to the protection of personal data:

a) Personal data may be processed to the extent strictly necessary for the implementation of the measures provided for in paragraph 3 and article 5, as well as for the purposes of paragraph 4 without, in this case, it is possible to store memory or record of body temperature measurements made or the results of the SARS-CoV-2 diagnostic tests;

b) Health data can be accessed and processed by health professionals, including laboratory technicians responsible for conducting SARS-CoV-2 diagnostic tests, by medical or nursing students, as well as by the professionals referred to in point a) of paragraph 3 and in article 5;

c) There may be the processing of personal data in the case of non-face-to-face teaching and to the extent necessary for the realization of learning by telematic means.

5th

1) It is the responsibility of the Armed and Security Forces to support health authorities and services, namely in conducting epidemiological inquiries, in tracking contacts and in following up people on active surveillance.

2) The Armed Forces and Security Forces' health care resources, means and establishments can also be mobilized to support and strengthen the National Health Service.

6th

Any retired health professionals and reservists or who have obtained their qualification abroad can be mobilized for the provision of health care.

7th

1) As provided for and under the terms of article 7 of Law no. 44/86, of September 30, in its current wording, the violation of the provisions of the declaration of the state of emergency, including in its execution, incurs the respective authors in a crime of disobedience.

2) When there is a place for the application of administrative offenses, the immediate collection of fines due for the violation of the containment rules is allowed.

8th

The bodies responsible, under the terms of Law No. 44/86, of September 30, in its current wording, for the execution of the declaration of state of emergency must keep the President of the Republic and the Assembly of the Republic permanently informed of the acts in which consist of that execution.

9th

This Decree enters into force immediately, taking effect under the terms defined in article 3.

Signed in

Publish yourself.

THE PRESIDENT OF THE REPUBLIC

Countersigned on

THE PRIME MINISTER