

DECREE OF THE PRESIDENT OF THE REPUBLIC NO. ... /2020

The evolution of the COVID-19 pandemic, as well as the lessons learned from it, justify reinforced guarantees of the legal security of measures adopted or to be adopted by the competent authorities for the corresponding prevention and response, in areas such as the convening of human resources for screening, the control of people's state of health, freedom of movement, and the use of private and social or cooperative sector means.

This reinforced guarantee requires the declaration of a State of Emergency of very limited scope and largely preventive effects.

Under these terms, the President of the Republic decrees, in accordance with articles 19, 134, paragraph d) and 138 of the Constitution and Law No. 44/86 of 30 September 1986, as amended by Organic Law No. 1/2011 of 30 November and Organic Law No. 1/2012 of 11 May, upon proposal and after consulting the Government and obtaining the necessary authorization from the Assembly of the Republic, through Assembly Resolution No. (...)/2020 of 6 November, the following:

1.º

The State of Emergency is declared on the basis of a public calamity.

2.º

The declaration of the State of Emergency shall cover the whole of the national territory, without prejudice to Article 4(a).

3.º

The State of Emergency shall last 15 days, beginning at 00h00 on 9 November 2020 and ending at 23h59 on 23 November 2020, without prejudice to possible renewals, in accordance with the law.4.º

The following rights are partially limited, restricted or conditioned:

- a) Rights to liberty and freedom of movement: the restrictions necessary to reduce the risk of contagion and to implement measures to prevent and combat the epidemic, particularly in municipalities with a higher level of risk, may be imposed by the competent public authorities, as well as, to the extent strictly necessary and proportional, a ban on movement on public roads during certain periods of the day or certain days of the week, and a ban on movements that are not justified, namely by performing professional activities, obtaining health care, assisting third parties, attending educational establishments, producing and supplying goods and services, and for other ponderous reasons, in which case the Government shall specify the situations and purposes in which individual freedom of movement, preferably unaccompanied, is maintained;
- b) Private, social and cooperative initiative: the resources, means and facilities for providing health care integrated in the private, social and cooperative sectors may be used by the competent public authorities, preferably by agreement, subject to fair compensation, depending on what is necessary to ensure the treatment of patients with COVID-19 or the maintenance of care activity in relation to other pathologies;

c) Workers' rights: Any collaborators of public, private, social or cooperative sector entities may be mobilized by the competent public authorities, regardless of their type of bond or functional content and even if they are not health professionals, namely public servants in prophylactic isolation or covered by the exceptional protection regime for immunosuppressed and chronically ill patients, to support the health authorities and services, namely in the carrying out of epidemiological surveys, in the tracing of contacts and in the follow-up of people under active surveillance;

d) The right to free development of personality and the negative side of the right to health: body temperature controls may be imposed, by non-invasive means, as well as diagnostic tests for SARS-CoV-2, namely for access to and permanence in the workplace or as a condition of access to public services or institutions, educational establishments and commercial, cultural or sports spaces, in the use of means of transportation or in relation to institutionalized persons or persons housed in residential structures, health establishments, prison establishments or educational centres and their workers.

5.º

It is the responsibility of the Armed and Security Forces to support the health authorities and services, in particular in carrying out epidemiological enquiries, tracing contacts and following up persons under active surveillance.

6.º

The bodies responsible, under Law No. 44/86 of 30 September 1986, for implementing the declaration of the State of Emergency shall keep the President of the Republic and the Assembly of the Republic permanently informed of the acts in which such implementation consists.

7.º

This Decree shall enter into force immediately and shall take effect under the terms defined in Article 3.

Signed on November 6, 2020.

To publish.

THE PRESIDENT OF THE REPUBLIC,

Referendum held on 6 November 2020

THE PRIME MINISTER,