



Royal Decree 463/2020, of March 14, declaring the alarm state for the management of the health crisis situation caused by COVID-19

March 15, 2020

The measures adopted by the Government of Spain to address the health crisis in the country due to the "Coronavirus"

The declaration of the alarm state.

A few hours ago, Royal Decree 463/2020 of March 14, (hereinafter "the Royal Decree") was published in the Official State Gazette, declaring the alarm state for the management of the health crisis situation caused by COVID-19, also known as "Coronavirus".

The disease caused by this pathogen has led to the declaration by the World Health Organization (WHO) of an international pandemic, causing the vast majority of countries in the world to take extreme measures to curb the contagion curve and the collapse of their respective health systems.

The Government has resorted to a constitutional mechanism used only once before, in 2010: the alarm state. The Government acts under Article 116 of the Spanish Constitution and Article 4.1.b) of Organic Law 4/1981 of June 1st, on alarm state, exception and siege, which allows for the restriction of citizens' rights and freedoms, with inevitable effects on the national economy and commercial activity in this particular case.

The declaration of the alarm state affects the entire national territory.

Measures taken by the Government to implement the alarm state. Duration of the validity of the Royal Decree

The Royal Decree contains a series of measures aimed at limiting the spread of the virus and improving the response capacity of the national health system due to this crisis situation.

These measures can be grouped into five categories:

- Measures aimed to centralize control of authorities and decision-making: decision-making power is concentrated in the Government and four of its ministries: Defense; Interior; Transportation, Mobility and Urban Agenda; and Health.
- Measures aimed at guaranteeing the availability of supplies, goods and services necessary for the protection of public health: the necessary decisions may be taken to ensure compliance with the aims of the Royal Decree, such as requisitions of goods, compulsory personal services and the intervention and temporary occupation of industries, factories, workshops, operations or premises of any kind, including privately owned health centers, services and establishments, as well as those operating in the



pharmaceutical sector.

- Measures to strengthen the national health system: military or private facilities and their personnel may be made available to the health system. The Ministry of Health will now exercise its competence over the entire national territory, guaranteeing equity in the provision of health services.
- Measures to limit the spread of the disease: the most relevant of the measures of the Royal Decree is the limitation of the free movement of citizens, which may only be exercised individually and for certain purposes (work, acquisition of basic goods, banking, care of dependent persons, return to normal residence, situations of force majeure or necessity, visit to a health center, or similar situations); it will also be possible to limit movement in certain ways for public health reasons; Companies are also obliged to adopt the necessary measures to facilitate working remotely from home, whenever possible; the dispatch of means of transportation is also limited, and the maximum possible distance between passengers must be guaranteed; it is also agreed that any type of trade other than food or pharmaceutical products may be closed to the public, as well as leisure, cultural, sports, restaurant and cafeteria establishments, etc.
- Measures aimed at complying with the provisions of the Royal Decree itself: failure to comply with the provisions of the Royal Decree will lead to legal consequences for those who do so. These consequences may involve fines of between 100 and 60,000 euros, and even criminal liability, depending on the seriousness of the infringement. Likewise, the Forces and Security Forces, both state, autonomous and local, are at the disposal of the Ministry of the Interior to ensure compliance with the provisions of the Royal Decree.

These measures came into force with the publication of the Royal Decree, which will be in force for 15 calendar days, extendable by express decision of the Congress of Deputies (as provided for in Article 6.2 of Organic Law 4/1981 of July 1st, on alarm states, exception and siege).

Specific measures in the field of transportation

In the field of transportation, the Royal Decree provides the following measures:

- For public road, rail, air and maritime passenger transportation services not subject to public contracts or public service obligations (PSOs), transportation operators shall reduce the total supply of operations by at least fifty percent.
- State-owned road, rail, air and maritime public passenger transportation services that are subject to public contracts or PSOs shall reduce their total offer of operations by at least fifty percent.
- Local rail services will maintain their service offerings.
- Public passenger transportation services by road, rail and sea under regional or local jurisdiction which are subject to a public contract or PSO, or are publicly owned, will continue to be offered.

- Specific criteria will be established for transportation between the Peninsula and non-peninsular territories, as well as for transportation between islands.
- Operators of passenger transportation services will be obliged to carry out a daily cleaning of the transportation vehicles.

Administrative procedures and legal proceedings.

The most relevant provisions in this area are as follows:

- Terms are suspended and the deadlines for the processing of administrative procedures in the entire public sector defined in Law 39/2015 of October 1st, on the Common Administrative Procedure of Public Administrations.
- The periods of prescription and expiry of any actions and rights will be understood to be suspended during the period of validity of the alarm state and its possible extensions.
- The time limits provided for in the procedural laws for all jurisdictional orders are suspended and interrupted, with the following exceptions
 - In the criminal justice system, suspension and interruption shall not apply to habeas corpus proceedings, proceedings entrusted to the guard services, proceedings with detainees, protection orders, urgent prison surveillance proceedings and any precautionary measures relating to violence against women or minors.
 - The procedure for the protection of the fundamental rights of the person foreseen in articles 114 and following of Law 29/1998, of July 13, regulating the Contentious-Administrative Jurisdiction, and the processing of judicial authorizations or ratifications foreseen in article 8.6 of the mentioned law.
 - The procedures for collective conflict and for the protection of fundamental rights and public freedoms regulated by Law 36/2011, of October 10, which regulates social jurisdiction.
 - The judicial authorization for non-voluntary detention on grounds of mental disorder provided for in Article 763 of Law 1/2000 of January 7, on Civil Procedure.
 - The adoption of measures or provisions for the protection of minors as provided for in article 158 of the Civil Code.
 - The courts may also agree to take any legal action necessary to avoid irreparable harm to the rights and legitimate interests of the parties to the proceedings.

What does this situation mean? What can we expect?

The Royal Decree will have serious effects on the lives of both citizens and companies, since the restrictions it imposes will lead to a drastic decrease in consumption and production capacity in general.

The measure that will have the greatest impact on the national economy will be the closure of any type of trade other than food, pharmaceutical products and basic necessities; leisure establishments, public shows, gambling, sports, art, culture, etc.;

hotels, cafeterias and restaurants except for home services (provided for in Articles 10 and 11 of the Royal Decree). This will affect the activity of thousands of SMEs, as well as large companies.

At the press conference following the approval of the Royal Decree, the President of the Government anticipated that another series of measures would be taken at the next Council of Ministers to alleviate these negative effects of the restrictions contained in the Royal Decree. There will be four groups of measures to support companies, which will basically consist of support for SMEs; the relaxation of the forms of maintenance or termination of employment contracts (ERTES); measures aimed at ensuring the liquidity of companies and, finally, the promotion of innovation and research for the creation of the COVID-19 vaccine.

The main feature that characterizes the current situation is its volatility, it is not a static circumstance, since as we have seen in recent days, everything changes in a matter of hours. It is for that very reason that the Royal Decree allows the Government to extend the measures provided for in the Decree, or even to relax the restrictions once the situation improves.

We reiterate that non-compliance or resistance to the orders of the competent authorities in the alarm state will be punished in accordance with the law, under the terms established in Article 10 of Organic Law 4/1981 of July 1st, with fines of between 100 and 60,000 euros and even criminal liability, depending on the seriousness of the offence.

Finally, it should be borne in mind that Article 3.2 of said Organic Law recognizes the right to be compensated for those who suffer, directly or in their person, rights or property, damages or harm for acts that are not attributable to them, as a result of the application of the acts and provisions adopted during the alarm state.

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