

EXECUTIVE DECREE 42227-MP-S
THE PRESIDENT OF THE REPUBLIC
THE ACTING CHIEF OF STAFF OF THE OFFICE OF THE PRESIDENT
AND THE MINISTER OF HEALTH

In the exercise of the authorities conferred by articles 140, clauses 3), 6), 16), 18), 146, and 180 of the Political Constitution; articles 25, clause 1), 27 clause 1, 28 clause 2) subsection b), of the General Law of Public Administration, Law Number 6227 of 2 May 1978; Article 29 of the National Law on Emergency Management and Risk Prevention; Law Number 8488 of 22 November, 2005; Articles 1, 2, 4, 7, 147, 148, 149, 155, 161, 162, 163, 164, 165, 166, 167, 168, 169, 337, 338, 338 bis, 340, 341, 348, 378 of the General Health Law, Law Number 5395 of 30 October, 1973; Article 2 clauses b) and c), 6 and 57 of the Basic Law of the Ministry of Health, Law Number 5412 of 08 November 1973; Executive Decree Number 34048, formalizing the International Sanitary Regulations of 14 August 2007; and

WHEREAS

- I. Under Articles 21 and 50 of the Political Constitution, the people's right to life and health, and the welfare and safety of the people are basic rights, which are legally protected rights in the public interest, for which the State has the inexorable duty of custody. The duty to protect makes it necessary to adopt and implement immediate safeguards, whenever these legal rights are threatened or endangered, pursuant to the constitutional mandate stipulated in numeral 140, clauses 6) and 8) of the Constitution.
- II. The National Law on Emergency Management and Risk Prevention, Law Number 8488 of 22 November, 2005, section 29, establishes that the Executive Branch, in the face of public calamities caused by acts of man or nature, whether unforeseeable or inevitable if foreseeable, and which cannot be controlled, managed, or subdued through the use of the ordinary authorities of the Public Administration, possesses the authorities to declare a national emergency in order to integrate and define the functions of all bodies and entities, whether public or private, in order to provide a solution, consistent with the scale of the disaster. Furthermore, section 31 of the aforementioned Law, establishes that a declaration shall allow for the exceptional measures for the state of necessity and urgency, as a function of its nature, and, accordingly, the Government is granted the capability to expeditiously obtain sufficient economic, material, and other resources in the aid of endangered people, property, with the duty of ultimately accounting for any and all actions as it may take.
- III. Constitutional jurisprudence establishes strict criteria for the justification of a national emergency declaration, during states of necessity and national urgency, in order to safeguard basic legal rights. In ruling number 1992-3410, of 1445 hours of 10 November 1992, the constitutional court has defined the legal figure of a state of emergency, explaining that it concerns: "... *internal commotions*,

disturbances, foreign aggression, epidemics, hunger and other public calamities, as manifestations of what is known in Public Law doctrine as the state of necessity and urgency, by virtue of the principle “salus populi suprema lex est”, on the understanding that the weaker legal right (preservation of the normal order of legislative competence) must yield to the stronger legal right (preservation of the social and legal order, which, at certain times may brook no delay for the processing and enacting of laws)”. By virtue of the foregoing, the constitutional court over the years has held that such a declaration must be absolutely necessary in order to address the danger presented by the exceptional situation, and it may be extended solely for such time as is strictly necessary.

- IV. Along the same line of jurisprudence, in ruling Number 2001-1369 of 1430 hours of 14 February 2001, with regard to the qualification to the facts that would justify a state of necessity and urgency, the constitutional court has held that “(...) *through a declaration of the state of necessity and urgency, the administration shall be authorized to proceed to the utilization of exceptional administrative procedures ---for instance, changing the destination of a budget line item-- in order to resolve an event caused by acts of nature or human acts. Accordingly, a situation that justifies a “declaration of a national emergency” must be construed restrictively and shall be applicable only in the face of facts that qualify as force majeure, or at the most, as unforeseeable events (...) the concept of the state of necessity and urgency arises solely in consequence of facts that cannot be addressed through ordinary administrative procedure*”.
- V. In January 2020 the health authorities activated the international sanitary epidemiological emergency protocols due to the outbreak of novel coronavirus in China. The World Health Organization (WHO) alert of 30 January 2020 was issued after a novel type of coronavirus was detected in the city of Wuhan, Hubei Province, China, which has caused deaths in countries around the world. Coronaviruses (CoV) are a broad family of viruses that can cause a range of conditions, from the common cold to more serious diseases, such as Middle East Respiratory Syndrome (MERS), Severe Acute Respiratory Syndrome (SARS), and COVID-19.
- VI. In order to address the national situation caused by COVID-19, the Executive Branch issued Directive Number 073-S-MTSS of 09 March 2020, addressed to the Centralized and Decentralized Public Administration, through which it established a series of interagency coordination measures to ensure the enforcement and compliance with the protocols of the Ministry of Health, and to implement teleworking guidelines for government offices.
- VII. Through Number 42221-S, of 10 March 2020, Article 1, the Executive Branch temporarily provided for the suspension of events with crowds and in public meeting spaces. Furthermore, Article 4 of the decree covered public gathering spaces were covered by the temporary administrative measures addressing

events with crowds, as defined by the Ministry of Health, under the COVID-19 health alert.

- VIII. On 06 March 2020, the first case of COVID-19 was confirmed in Costa Rica, following results obtained from the Costa Rican Institute for Research and Health and Nutrition Education. On 08 March 2020, given the increasing number of confirmed cases, the Ministry of Health and the National Commission for Emergency Management and Risk Prevention decided to decree a yellow alert for the entire national territory, in the face of the emergency caused by COVID-19.
- IX. The Costa Rican Social Security Institute has expanded disability coverage for insured workers who are isolated due to suspected contagion by SARS-CoV2, based on the decision of the Board of Directors of that institution, set forth in resolution Number 1 of session Number 9084, held on 11 March 2020.
- X. On 11 March 2020, the World Health Organization escalated the public health emergency situation caused by COVID-19 to the level of an international pandemic. The speed at which events have evolved, at both the national and international level, require the adoption of immediate and effective measures to face this crossroads. These extraordinary circumstances, without any doubt, constitute an unprecedented health crisis on an enormous scale, given the extremely high number of affected persons, as well as the extraordinary risk to their rights and their lives.
- XI. The measures adopted by the Executive Branch to address the situation, through Directive Number 074-S of 12 March 2020, in which the Executive Branch provided that “as part of the prevention and mitigation actions to address the COVID-19 sanitary alert, all ministries and their respective bodies are directed to immediately cancel all foreign travel by their officials, except for such travel as may be strictly indispensable for the continuity of the public services provided by the institutions and the nature of the functions performed by each public official or leader”.
- XII. The Ministry of Public Education issued resolution MEP-530-2020 of 1330 hours of 14 March 2020, which among other decisions, provided for a suspension of classes for 14 calendar days, as of 16 March 2020, as a necessary preventive measure within the effort to contain the spread of COVID-19 at the schools mentioned in that resolution.
- XIII. On 15 March 2020, the Ministry of Health confirmed 35 cases of COVID-19 in the provinces of San José, Alajuela, Heredia, Guanacaste, and Cartago, in persons ranging from 10 to 87 years of age.
- XIV. The Board of Directors of the National Commission for Emergency Management and Risk Prevention, at its extraordinary session of 15 March 2020, through resolution Number 046-03-2020, recommended that the President of the Republic

declare a national state of emergency, in accordance with Article 18 of the Law on Emergency Management and Risk Prevention, pursuant to the terms set forth in that Law.

- XV. It is a necessity to declare, by means of this Executive Decree, the existence of a national emergency due to the of necessity and urgency caused by COVID-19, given its magnitude as a pandemic, and its consequences within the national territory. This is an unusual situation of the human condition that cannot be controlled or addressed by the public administration through the exercise of ordinary administrative procedures. Accordingly, the public administration may temporarily apply extraordinary measures of exception, in accordance with the Political Constitution, as well as the National Law of Emergency Management and Risk Prevention, in order promptly to provide due attention to the events arising do to the exceptional situation of COVID-19 and to mitigate its consequences.

Therefore,

THEY DECREE:

Article 1.- A state of emergency is declared for the entire territory of the Republic of Costa Rica, due to the sanitary emergency caused by COVID-19 disease.

Article 2.- For all effects and purposes this declaration of emergency comprises the three phases set forth in Article 30 of the Law on Emergency Management and Risk Prevention, which are:

- a) **Response Phase:** In addition to the stipulations set forth in Law Number 8488 and its regulations, this shall include actions for the containment and control of outbreaks, to reinforce the health services, the water supply, for purchase and distribution of cleaning and disinfection supplies, in-depth cleaning actions at buildings, protection of health personal, primary responders, and the Costa Rican Red Cross, epidemiological surveillance, diagnostic needs and treatment of the disease in all its phases, and the humanitarian assistance required to properly addressing the emergency. Within the framework of their respective competences, institutions shall ensure the avoidance of shortages, hoarding, and speculation or constraints on the sale of goods and services.
- b) **Rehabilitation Phase:** In addition to the stipulations set forth in Law Number 8488 and its regulations, this includes expanding the capacity of services to care for patients, to include, without restriction: sustainability of the health services and expansion of the specialized units and laboratories required to reduce morbidity and mortality in the population.
- c) **Reconstruction Phase:** In addition to the stipulations set forth in Law Number 8488 and its regulations, this includes actions in the medium term geared for

reestablishing the normal operating conditions for health services, as well as potentially available medical treatments and procedures, as a function of such levels of impact as may be determined. All actions must be carried out in accordance with duly-prepared reporting for the General Emergency Plan.

Article 3.- This declaration of emergency shall be deemed to include all activities, work, and services necessary in order to resolve the problems set forth in the recitals of this Executive Decree, to safeguard the life and health of the population, to preserve public order, and to protect the environment. All of the foregoing must be set forth in the General Emergency Plan approved by the Board of Directors of the National Commission for Emergency Management and Risk Prevention, in order for them to be duly-addressed as a function of the definition of the emergency. The plan shall be prepared with technical inputs from the Ministry of Health as the governing and overarching institution for addressing the emergency being declared through this Executive Decree.

Article 4.- The Ministry of Health, along with the National Commission for Emergency Management and Risk Prevention, shall be the bodies in charge of planning, directing, controlling, and coordinating programs and activities for protection, life-saving and rescue, care, and rehabilitation of zones declared to be in a state of emergency. It shall take immediate and coordinate action for optimally address the response and rehabilitation phases. Once the General Emergency Plan has been approved, the appropriate executive units may be designated for specific projects.

The Costa Rican Social Security Institute, jointly with the National Commission for Emergency Management and Risk Prevention, shall establish contingency measures as necessary to ensure that the health services in the entire country remain operational and to safeguard the life and health of the population.

Article 5.- In accordance with Article 46 and 47 of the National Commission for Emergency Management and Risk Prevention, the Centralized Public Administration, Decentralized Public Administration, State enterprises, municipalities, and all other public bodies and entities, are authorized to provide contributions, donations, and transfers to the National Emergency Fund, and to provide all health and collaboration necessary to the National Commission for Emergency Management and Risk Prevention, the Ministry of Health, and the Costa Rican Social Security Institute.

They are likewise authorized to coordinate their contributions. In order to ensure that these efforts are successful, they may take all necessary measures to simplify or eliminate ordinary procedures or requirements that are not strictly necessary in order to positively assist victims and facilitate the phases for addressing the emergency, without any impairment of legality, as set forth in Article 4 and 10 of the General Law of Public Administration, Law Number 6227 of 2 May 1978, with a view to securing the most efficient response to the persons affected by this

emergency. In cases where such activities may require administrative contracting procedures, they are instructed to use the urgent procedures authorized by the Law of Administrative Contracting, regulated by Article 140 of the Regulations of the Law of Administrative Contracting, Executive Decree Number 33411, of 27 September 2006.

Article 6.- In accordance with Article 47 of the National Law on Emergency Management and Risk Prevention, for purposes of this emergency declaration, the National Commission for Emergency Management and Risk Prevention may disburse funds and accept donations from public and private entities. These shall be placed in the National Emergency Fund.

Article 7.- In order to address this national emergency, the National Commission for Emergency Management and Risk Prevention may utilize remaining unallocated funds from other emergencies that have been resolved or are in progress, as provided by the Board of Directors of that institution.

Article 8.- The agencies of the Central Administration are hereby instructed, and the institutions of the Decentralized Public Administration are urged, for the duration of this Executive Decree, and pursuant to the principle of interinstitutional coordination and the principles of public services set forth in Article 4 of the General Law of Public Administration, and to fullest extent of their capabilities, to facilitate the loan of officials, equipment, and assets to the National Commission for Emergency Management and Risk Prevention, the Ministry of Health, and the Costa Rican Social Security Institute, in order to address the national state of emergency, in any of the 3 phases of the emergency.

Article 9.- The institutions of the Centralized Public Administration shall execute all pertinent administrative and legal action in accordance with the Law on the Promotion of Competition and Effective Consumer Protection, Law Number 7472 of 20 December 1994, in such a way as to prevent situations of shortages, hoarding, speculation, or constraints on the sale of goods and services. The institutions of the Decentralized Public Administration are urged to apply this provision in accordance with their respective procedures.

Article 10.- In accordance with Law Number 8488, the Declaration of Emergency shall comprehend all administrative activities of the State in order to address, as strictly necessary, the imperative necessities of the people and to protect property and services, in all cases where there is an unequivocal causal nexus between the fact that caused the state of emergency and the harm caused by its effects. These actions shall be deemed to be such actions as may be taken under the General Law of Health, the General Law of Police, and the application of the State of Exception applicable to the declaration of the national emergency.

Article 11.- Within the framework of Law Number 8488, all public institutions are obligated to contribute technical support as necessary throughout the three phases

of the emergency. Specific tasks may be assigned to each institution within the framework of their respective competences.

Article 12.- Pursuant to the authorities established in chapter two, volume two, of the General Law on Health, Law Number 5395 of 30 October 1973, entitled “*On the Health Authorities, their Attributes, and Certain Measures*”, and based on this national emergency declaration, the Ministry of Health may proceed to close any and all establishments that fail to comply with provisions issued by that institution. To that end, the police corps of the nation are hereby granted authority to close said establishments at the direction of the Ministry of Health, whenever such action is required during times or in places where officials of that Ministry are not present.

Article 13.- In accordance with Article 37 of the National Law of Emergency Management and Risk Prevention, the Executive Branch shall declare the cessation of the national state of emergency upon the completion of the phases of the emergency defined in Article 30 of said Law, and in Article 2 of this Executive Decree, and the National Commission for Emergency Management and Risk Prevention has issued the technical criteria to support said declaration.

Article 14.- This Executive Decree enters into force as of 16 March 2020.

Issued at the Office of the President of the Republic, San José, on the sixteenth day of March of two thousand and twenty.

[Great Seal of the Republic of Costa Rica:
THE PRESIDENT OF THE REPUBLIC – SAN JOSE, COSTA RICA]

[Signature]
CARLOS ALVARADO QUESADA

[Signature]
SILVIA LARA POVDENA
ACTING CHIEF OF STAFF OF THE OFFICE OF THE PRESIDENT

[Signature]
DANIEL SALAS PERAZA
MINISTER OF HEALTH