

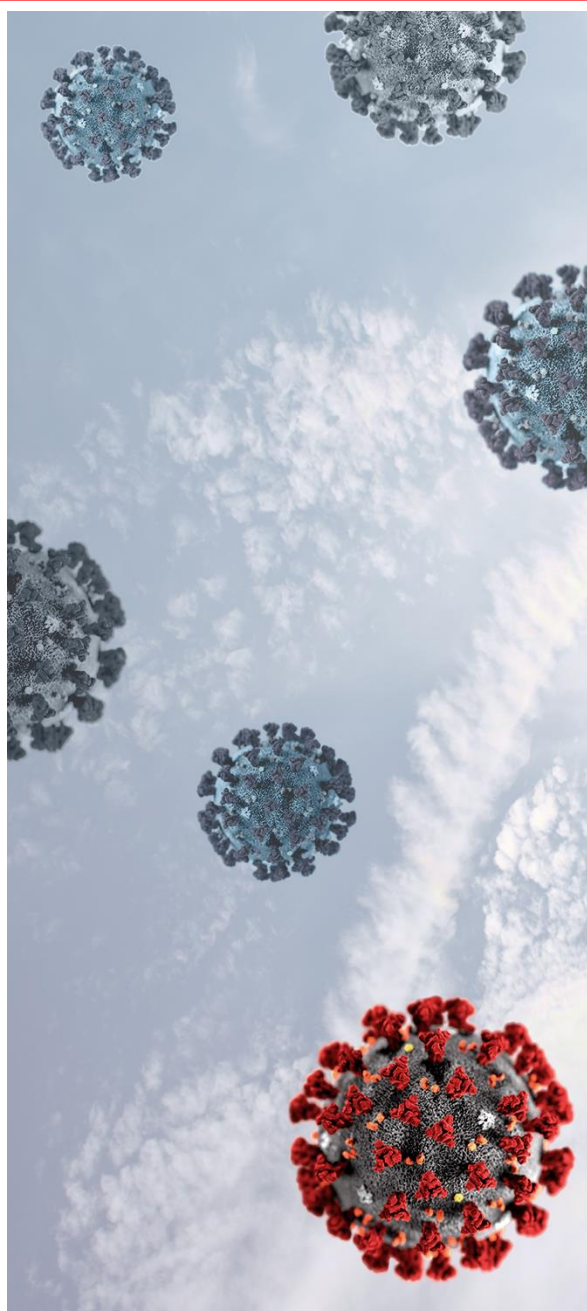
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# COVID-19: New exceptional measures on electronic communications

Newsletter | Portugal

February 25, 2021

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- > **New exceptional measures on electronic communications**



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## New exceptional measures on electronic communications

As in the first wave of the pandemic, the imposition of a general lockdown, in force since January 15, 2021, has resulted in a substantial increase in traffic in fixed and mobile networks of telecommunications services, due to more intense use of entertainment and interactive services and the mass adoption of remote working and teaching, once again for an indefinite period.

As the country is going through a public health emergency that is worse than the previous situation, it is essential, above all, to ensure electronic communication services continue to be provided to priority customers, namely healthcare providers, security forces, and public administration services.

Therefore, on February 12, 2021, Decree Law 14-A/2021 was published, which aims to (i) identify the critical electronic communications services and priority customers, and (ii) define the exceptional and urgent measures that companies providing network and electronic communications services should adopt to ensure these services continue to be provided.

These measures are almost identical to those adopted during the first wave of the pandemic, by Decree Law 10-D/2020, of March 23, which we covered in our COVID-19 Legal Flash 11, of March 26, subsequently updated on August 10, which you can see [here](#).

Despite the similarities, we want to highlight the measures adopted.

### Critical electronic communication services

- > Companies offering public communication networks or electronic communication services accessible to the public must be given priority to continue providing critical services. The following are considered critical services:
  - Voice and short message (SMS) services supported on fixed and mobile networks
  - Uninterrupted access to emergency services, including information about the location of the person who made the call and the uninterrupted broadcasting of notices to the population
  - Data services supported on fixed and mobile networks in conditions that ensure access to a group of fixed broadband and mobile broadband access services, defined in the annex to Decree Law 14-A/2021
  - Distribution of online television and digital terrestrial television signals
- > In providing these services, priority must be given to priority customers, such as:
  - the services, agencies and departments of the Ministry of Health and the entities providing healthcare as part of the National Health Service network, as well as the corresponding services and organizations of the autonomous regions;



- the entities responsible for managing, operating and maintaining the Emergency Integrated System and Security Networks in Portugal, regarding the functioning of this system;
- the Ministry of Internal Affairs regarding the functioning of the National Internal Security Network and the National Emergency and Civil Protection Authority;
- the National Security Office, regarding the functioning of the National Cybersecurity Center;
- the Media Supervisory Authority, the Bank of Portugal, and independent administrative entities; and
- the operators of essential services relating to cyberspace security, regarding the provision of essential services.

### **Continuity of service: exceptional measures**

- > To prioritize the continuity of critical services, companies can, when necessary, implement exceptional network and traffic management measures, including reserving capacity on the mobile network and prioritizing the resolution of malfunctions and disturbances in electronic communication networks and services.

During the state of emergency, and only if strictly necessary, critical service providers will be able to throttle the network, increasing and decreasing bandwidth according to the nature and priority of the traffic.

- > To preserve the integrity and security of electronic communication networks, companies should, whenever strictly necessary, prioritize the routing of certain categories of traffic, whether mobile or fixed networks, as well as limit or inhibit certain functionalities, namely non-linear audiovisual services, such as video and on-demand TV, access to online video game services, and point-to-point (P2P) connections.
- > Companies are also authorized to carry out other measures such as blocking, slowing down, altering, or restricting content or degrading its quality on specific applications or services or their categories. They are also authorized to reserve network capacity and resources on mobile networks for voice and SMS services.

### **Procedures for exceptional measures**

- > Companies may only adopt the previously mentioned network and traffic management measures to meet the objectives referred to above, and they must communicate them to the Government and the National Communications Authority (ANACOM) before implementing them. If the urgency of the measure does not allow for this communication, companies must inform the Government and ANACOM of the measure adopted within 24 hours.



- > Companies offering public communication networks and publicly available electronic communications services are obliged to maintain a comprehensive, up-to-date, transparent and auditable register, identifying entities, dates and geographical areas of each case in which these limitations and occurrences are implemented.

### **Simplification measures**

- > To ensure comprehensive and speedy compliance with Decree Law 14-A/2021:
  - The presence of police forces is dispensed, unless the owners do not accept it, when (i) replacing essential services; (ii) ensuring priority customers' special requests are answered; and (iii) installing temporary infrastructures to increase capacity or extending service networks to important locations. The obligation of temporarily licensing a station or radiocommunications network, as established in section 13 of Decree Law 151-A / 2000, of July 20, in its current wording, is also dispensed when its purpose is to support the mobile network and provide services to priority customers.
  - Also, to guarantee the interventions necessary to ensure critical services continue to be provided and priority customers' needs are met, workers and agents whose work involves managing or operating the security and integrity of networks and services are authorized to move freely throughout the country, including restricted access areas.



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Cuatrecasas has set up a Coronavirus Task Force, a multidisciplinary team that constantly analyses the situation emerging from the COVID-19 pandemic. For additional information, please contact our Task Force by email [TFcoronavirusPT@cuatrecasas.com](mailto:TFcoronavirusPT@cuatrecasas.com) or through your usual contact at Cuatrecasas. You can read our publications or attend our webinars on our [website](#).

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