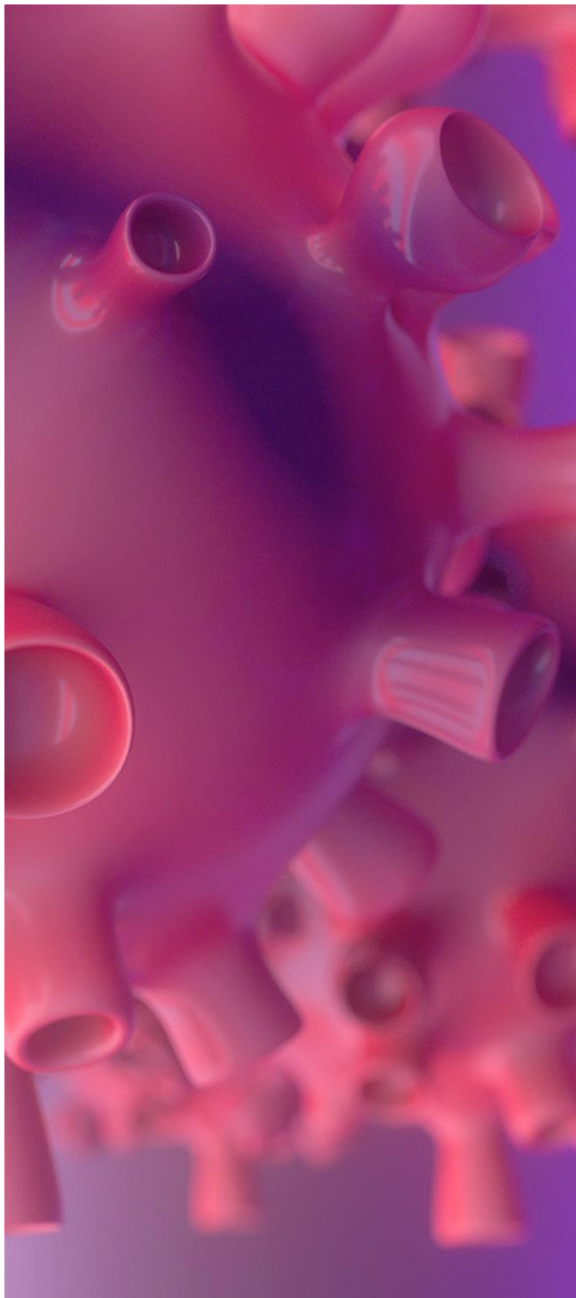

COVID-19 (No. 34)

Legal Flash | Portugal

November 9, 2020



- > **New state of emergency measures – Decree 8/2020 of November 8**



New state of emergency measures – Decree 8/2020 of November 8

By Decree 51-U/2020 of November 6, the President of the Republic reestablished the state of emergency to assure the legal framework required to implement new restrictive measures, as required by the worsening epidemiological situation in Portugal.

This time, the declaration of the state of emergency has a much more limited scope than it did during the first stage of the pandemic, and it mainly has preventive effects.

The new measures relate to four areas: i) freedom of movement; ii) checking people's state of health; iii) the use of private and social or cooperative health care; and iv) the use of human resources to reinforce tracking.

The declaration of the state of emergency covers all of Portugal, so the measures now implemented apply not only in mainland Portugal, but also in the Autonomous Regions of the Azores and Madeira.

However, the new freedom of movement restrictions only apply to the 121 municipalities with the highest level of epidemiological risk specified in the Council of Ministers Resolution 92-A/2020, of November 2 (the "Affected Municipalities," as listed in our [COVID-19 Legal Flash no. 32](#) of November 3).

Measures previously implemented, provided they are compatible with the new measures, also remain in force. Therefore:

- a) In the Affected Municipalities, the restrictions established in Decree 8/2020 of November 8 apply in addition to the special restrictive measures established in Council of Ministers Resolution 92-A/2020, of November 2, on gatherings and events, business hours for commercial establishments and restaurants, and remote working, which you can read about in our [COVID-19 Legal Flash no. 32](#) of November 3.
- b) In the other municipalities in mainland Portugal, measures established during the state of calamity declared on October 15, 2020, continue to apply. We reported on these measures in our [COVID-19 Legal Flash no. 31](#) of October 15.
- c) In the autonomous regions, in addition to the measures now adopted, which apply to all of Portugal and which we will specify below, the restrictive measures established by the autonomous governments during the locally declared states of calamity continue to apply.
- d) Throughout Portugal, the use of face masks in public areas and thoroughfares by all individuals over the age of 10 became mandatory on October 28.



This new state of emergency will last 15 days, starting at midnight on November 9, 2020, and ending at 11.59 p.m. on November 23, subject to extension.

Restrictions on freedom of movement

A curfew between 11 p.m. and 5 a.m., as well as between 1 p.m. and 5 a.m. on Saturdays and Sundays, comes into force in the Affected Municipalities.

During curfew hours, people may only move in public areas and thoroughfares, or private areas and thoroughfares equivalent to public thoroughfares, for the following reasons:

- a) Traveling to carry out professional or equivalent functions, justified by a certificate:
 - i) issued by the employer or equivalent;
 - ii) issued by the individual, in the case of freelance workers, individual business owners, and statutory body members; or
 - iii) given *bona fide* by agricultural, livestock, and fishing sector workers.
- b) Traveling to carry out one's duties or due to them, with no need for a certificate issued by the employer or equivalent:
 - i) for health professionals and other workers in health care and social support institutions;
 - ii) for civil protection, security forces and services, military and militarized agents and civil personnel in the Armed Forces, and Food and Economic Safety Authority inspectors;
 - iii) for representatives of the sovereign bodies, leaders of social agents and of the political parties with representation in Parliament and bearers of a legally issued *laissez-passer*;
 - iv) for religious ministers, accredited by the relevant bodies in their church or religious community; and
 - v) for diplomatic and consular personnel and members of international organizations in Portugal carrying out their official duties.
- c) Traveling for health reasons, including to purchase pharmacy products or for health care and to transport individuals who require that care.
- d) Traveling to grocery stores, supermarkets and other establishments that sell food and hygiene products for humans and animals (other products available in these establishments may also be purchased).
- e) Traveling to provide emergency housing to victims of domestic violence or human trafficking, at-risk children and youths, implementing a measure ordered by a court or the Committee for the Protection of Children and Youths (*Comissão de Proteção de Crianças e Jovens*).
- f) Traveling to assist vulnerable persons, persons with disabilities, children, parents, seniors, and dependents.



- g) Traveling for other imperative family reasons, particularly shared parental duties, as established by agreement between the parents or by the relevant court.
- h) Travel by veterinarians or animal keepers for urgent veterinary medical assistance; travel by colony caregivers recognized by municipalities; travel by volunteers from zoo associations with dependent animals who need to go to animal shelters and travel by animal rescue teams for urgent assistance of animals.
- i) Traveling as required to express press freedom.
- j) Short walks to spend time outdoors, either alone or with members of the same family group living together.
- k) Short walks with pets.
- l) Other reasons of *force majeure* or imperative need, provided it is shown that they are unavoidable and justified.
- m) Returning home in the context of the travel specified in the previous paragraphs and travel and activities allowed outside the curfew period.

The use of private vehicles is permitted for any of the above reasons and to refuel.

During all authorized movements, the recommendations and orders given by the health authorities and the security forces and services must be followed, particularly regarding the **distance between people**.

Checking people's state of health

Body temperature checks: It is now possible to take people's body temperature by non-invasive means at access controls in the workplace, public services and institutions, educational establishments, and commercial, cultural, and sports facilities, as well as on public transport and at residential structures, health care establishments, prisons, and educational centers.

Taking people's body temperature does not affect the right to individual data protection. It is expressly forbidden to record the body temperature associated with an individual's identity unless they specifically authorize it.

If an individual refuses to have their body temperature taken or their temperature is equal or higher than 38°C (100.4°F), their access to the facilities specified above may be denied. If the temperature taken is equal to or higher than 38°C and this prevents a worker's access to their workplace, their absence is considered justified.



SARS-CoV-2 diagnostic testing: Conducting SARS-CoV-2 tests for workers, users, and visitors at health care establishments, educational establishments, and residential structures, as well as prison inmates and young people who are residents in educational centers and their respective workers, is also permitted. Anyone intending to enter or exit mainland Portugal or the autonomous regions by air or sea may also be required to undergo tests, as well as anyone intending to access certain facilities provided for this purpose by the Directorate-General of Health (DGS). If the outcome of these tests prevents a worker from accessing their workplace, their absence will be considered justified.

These measures apply across Portugal.

Exceptional public health measures to reinforce tracking

Following the decision of the Health minister, preferably following an agreement, private and social or cooperative health care means may be used.

Human resources, including the Armed Forces, may also be requisitioned to reinforce tracking, particularly to conduct epidemiological surveys to track those who have come into contact with COVID-19 patients and to monitor people under active surveillance.

These measures apply across Portugal.



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Cuatrecasas has created the Coronavirus Task Force, a multidisciplinary team that focuses on analyzing the current crisis caused by the COVID-19 pandemic. For more information on the contents of this document, you can contact our Task Force at TFcoronavirusPT@cuatrecasas.com or get in touch with your usual contact person at Cuatrecasas. You can read our publications or attend our webinars on our [website](#).

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