

The impact the establishment of the state of emergency had on the medical system in the context of the pandemic generated by the SARS CoV-2 virus (Note I)

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Abstract

The premises for adopting Decree no. 195 of March 16, 2020 regarding the establishment of the state of emergency on Romanian territory were the evolution of the epidemiological situation in Romania and the assessment of public health risks for the next period. This indicated a massive increase in the number of people infected with the SARS-CoV coronavirus 2, and considering the fact that failure to take urgent, exceptional social and economic measures to limit the infection with SARS-CoV-2 coronavirus among the population would have had a particularly serious impact, mainly on the right to live, and, alternatively, on the individuals' right to health.

Keywords: epidemiological situation, public health, presidential decree, execution of sentences.

Introduction

Decree no. 195 of March 16, 2020 regarding the establishment of the state of emergency on Romanian territory was adopted considering the evolution of the international epidemiological situation determined by the spread of SARS-CoV-2 coronavirus at a level of more than 150 countries, in which approximately 160,000 people were infected and more than 5,800 died, and also considering the experience of the countries which were severely affected by the virus evolution and the measures which had a positive impact on limiting the spread (3).

The measures established by the Decree targeted actions in the field of public health, together with limiting or discontinuing non-essential socio-economic activities, but especially restricting the exercise of certain fundamental rights and liberties by establishing certain exceptional states with the aim of preventing the spread of the infection within the community, without which the other actions performed could not have had the intended impact, in the context of measures adopted at the European level.

Taking note of the evolution of the epidemiological situation on Romanian territory and assessing the public health risk for the next period, which indicates a massive

increase in the number of people infected with the SARS-CoV-2 virus, it became obvious that failure to take urgent, exceptional social and economic measures to limit the infection with the SARS-CoV-2 coronavirus among the population would have a particularly serious impact, mainly on the right to live, and, alternatively, on the individuals' right to health (2).

The establishing of the state of emergency was necessary in order to reduce the negative effects on the economy caused by the measures adopted both at a national and at an international level in order to fight the spread of the SARS-CoV-2 coronavirus, considering the fact that the aforementioned elements define an exceptional context which could not have been foreseen, and which concern the general public interest (2); (3).

Restricting the exercise of certain rights must not affect their substance, but has a legitimate purpose, being necessary in a democratic society and being proportional to the aim, as it was based on the Resolution of the Supreme Council of National Defense no. 30/2020 regarding the necessity to establish the state of emergency, also considering the proposition to institute the state of emergency issued by the Government (1); (3); (4).

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Medical services for the treatment of COVID-19 for all persons on Romanian territory

The enforceability of the legislative acts regarding the provision of medical services and medicine within the health insurance system, national health programs – preventive and curative, valid until March 31, 2020, was extended by the decree for the duration of the state of emergency. The presidential decree specifies that medical services for the treatment of COVID-19 cases and their complications are to be provided to all persons on Romanian territory and shall be borne by the budget of the Unique National Fund of Health Insurances (FNUASS).

The prescription of “off-label” treatments is authorized for patients infected with the SARS-CoV-2 virus, after such treatments are approved by the commission of drug policy within each sanitary unit. These measures also refer to the prescription of drugs by family physicians, including restricted drugs from the List of drugs approved by Government Resolution no. 720/2008, for chronic patients (3); (5).

It is also set out that medical services and medicine may be granted and validated without using the national health insurance card and without the obligation to report within 3 working days from the date of provision of services.

According to the Decree, the settlement of medical leaves granted to individuals quarantined for COVID-19 shall be done with priority by ensuring additional sums to the FNUASS budget at the necessary level.

Thus, Article 17 of the Decree provides for the extension of the enforceability of legislative acts valid until March 31, 2020, regarding the provision of medical services and medicine within the health insurance system, national health programs - preventive and curative, for the duration of the state of emergency, with the modification of provisions, if necessary, as follows: a) medical services for the treatment of COVID-19 cases and their complications are provided for all persons on Romanian territory and borne by the FNUASS budget; b) medical services and drugs can be granted and validated without using the national health insurance card and without the obligation to report within 3 working days from the date of provision of services; c) settlement of sums contracted and settled from the FNUASS budget or the Ministry of Health budget for sanitary units with contractual relation to health insurance authorities, regardless of the number of cases realized or, if applicable, at the level of actual activity performed if it exceeds the contracted amount; d) settlement of medical services in sanitary units of primary medical assistance and clinical ambulatory care at the level of actual activity performed, with a maximum of 8 consultations/hour; e) prescription of drugs by family physicians, including of restricted drugs from the List of drugs approved by Government Resolution no. 720/2008, for chronic patients (3); (5).

During the state of emergency, the structural modifications within sanitary units will be notified by local public health directorates depending on necessity, and new health programs and medical services for the prevention and fight against COVID-19 can be introduced through an Ordinance of the Minister of Health.

Furthermore, the Decree provides the possibility to limit the activity of public hospitals to hospitalization and treatment of urgent cases. In this regard, there can be emergencies of the first order which include patients hospitalized through emergency admission units/ compartments who could lose their life in 24 hours, emergencies of the second order which include patients who must be treated within the same hospital stay (once diagnosed cannot be released) and, thirdly, patients infected with the SARS-CoV-2 virus, namely diagnosed with COVID-19. The state secretary, chief of the Department for Emergency Situations, or their substitute shall issue orders with regard to these measures.

Employment without an admission contest for doctors, nurses and pharmacists

Heads of sanitary units, public health directorates, health insurance authorities, ambulance services, as well as of local and central public authorities and institutions with duties in the assistance and social protection fields can be suspended from power for failing to perform their work duties during the state of emergency, regardless of their status. It is not necessary that the persons assigned to perform these duties temporarily be public officials (3).

It is also specified that contractual medical personnel, auxiliary personnel, pharmacists, laboratory personnel and other categories of necessary contractual personnel can be employed without an admission contest in the structures of the Ministry of Internal Affairs, in sanitary units and in social assistance services if necessary, for a limited period of 6 months. The FNUASS budget bears the financial influences determined by the salary increase for medical and non-medical personnel in public sanitary units and those who have as sole associate territorial administrative units.

According to Article 20 of the Decree, during the state of emergency, transfers between the Ministry of Health budget and the Unique National Fund of Health Insurances are allowed (in both ways), as well as between the different budgetary lines of the Ministry of Health or the Unique National Fund of Health Insurances, depending on the requirements (3).

Criteria for first emergency measures with gradual enforceability

The presidential decree sets out that all these measures shall be adopted as a result of the assessment performed by the National Committee for Emergency Situations, with the approval of the prime minister. This Committee shall take account of the intensity with which COVID-19 is transmitted within the community, the frequency with which outbreaks appear in a geographical area, and the number of critical patients compared to the capacity of the sanitary system.

The assessments mentioned will take into account the capacity and continuity to ensure social and utility services for the population, the public authorities' capacity to maintain and ensure public safety and order measures, and the capacity to ensure measures for placement in quarantine. Certainly, the Committee will also monitor

the measures adopted by other states which impact on the Romanian population or economic situation and the occurrence of new emergency situations.

Public procurement

According to Article 27 of the Decree, the prescription of “off-label” treatments is authorized for patients infected with the SARS-CoV-2 virus, after these treatments are approved by the commission of drug policy within each sanitary unit (3).

The amounts in the Ministry of Health budget required in order for public health directorates to purchase necessary materials during the pandemic are ensured by transfers from the Ministry of Health, and the purchase will be performed by the public health directorates by means of direct procurement.

Ministries with their own health system can make direct purchases for their own sanitary units from the budgets of competent ministries, as well as from the budgets of the sanitary units.

Support measures for individuals in home isolation as a result of measures to limit the spread of COVID-19 are established through a Ministry of Health Ordinance. Support measures are applied by local public administration authorities. The necessary expenses are ensured through transfer between the state budget, the Ministry of Health budget and local budgets.

In case drugs are purchased by sanitary units for the treatment of COVID-19 patients, the prices of drugs can exceed the maximum prices approved by the Ministry of Health.

Article 23 of Decree 195/2020 states that for medical services, medicine, paraclinical investigations performed during the state of emergency, the amounts committed will not be limited to the ones approved for the first trimester of the year 2020 (3).

Statement of the National Health Insurance Authority (CNAS) regarding the provision and settlement of medical and pharmaceutical services

A series of modifications of legal provisions will be applied during the state of emergency regarding the manner of providing and settling medical and pharmaceutical services, as follows:

1. Medical services for the treatment of COVID-19 cases and their complications are granted to all persons on Romanian territory and are borne from the FNUASS budget;

2. Medical services and medicine may be granted and validated without using the national health insurance card and without the obligation to report within 3 working days from the date of provision of services;

3. Settlement of sums contracted and settled from the FNUASS budget or the Ministry of Health budget for sanitary units with contractual relation to health insurance authorities, regardless of the number of cases realized or, if applicable, at the level of actual activity performed if it exceeds the contracted amount;

4. Settlement of medical services in sanitary units of primary medical assistance and clinical ambulatory care at

the level of actual activity performed, with a maximum of 8 consultations/hour;

5. Prescription of drugs by family physicians, including restricted drugs from the List of drugs approved by Government Resolution no. 720/2008, for chronic patients (5).

Also, the National Health Insurance Authority considers the fact that measures will be needed in order to facilitate the access of ill persons to treatments in the next period. Thus, family physicians can issue medical prescriptions for patients with chronic illnesses and stabilized treatment without a new evaluation from specialized doctors during this period.

During this period, the family physician shall be allowed to issue prescriptions for patients with chronic illnesses who are undergoing treatment with drugs regularly prescribed by specialized doctors, including drugs subjected to cost-volume and cost-volume-result agreements which are sold in open-circuit pharmacies, based on medical documents (discharge papers, medical referral letter) and/or registration confirmation of the specific prescription form.

The measures adopted in health units ensure special circuits with limited interaction with other people - medical personnel or patients - for patients who require moving to health units in order to continue treatment within the aforementioned curative national health programs.

Particularly patients with oncologic diseases, spinal muscular atrophy or other rare diseases who started the specific treatment benefit from facilities to continue their treatment, as discontinuation of therapy cancels the therapeutic effects obtained, with implications on the health status of the patient.

First emergency measures with gradual enforceability

1. Isolation and quarantine of persons coming from risk areas, as well as those who came in contact with such individuals; quarantine measures for certain buildings, cities, or geographical areas;

2. Gradual closing of border crossing points;

3. Limiting or forbidding the circulation of vehicles or people in/to certain areas at certain hours, as well as exit from such areas;

4. Gradual interdiction of road, railway, maritime, fluvial or aerial traffic on different routes and of the subway;

5. Temporary closure of certain restaurants, hotels, coffee places, clubs, casinos, association headquarters and of other public establishments;

6. Ensuring institutional guarding and protection of water, energy, and gas supply stations, of economic operators who have capacities of national strategic importance;

7. Identification and requisition of stocks, production and distribution capacities, protection equipment, disinfectants and drugs used/useable in the treatment of COVID-19;

8. Limiting the activity of public hospitals to hospitalization and treatment of urgent cases:
(i) emergencies of the first order - patients hospitalized

through emergency admission units/compartments who could lose their life in 24 hours; (ii) emergencies of the second order - patients who must be treated within the same hospital stay (once diagnosed cannot be released); (iii) patients infected with the SARS-CoV-2 virus, namely diagnosed with COVID-19.

Military ordinances adopted during the state of emergency with direct impact on the medical system

By *Military ordinance no. 1 of March 17, 2020 regarding some first emergency measures concerning gatherings of individuals and cross-border circulation of certain goods* certain medical measures were adopted, which we convey verbatim. We want to mention that by military ordinance, the measures prescribed in Addendum 2 of the Decree to establish a state of emergency no. 195/2020, which is an integral part of the decree, are adopted. (3); (9):

1. Starting on March 8, 2020 interns in the specializations emergency medicine, anesthesia and intensive care, infectious diseases, will suspend their practice stages in all other sections they are assigned to and come to the guidance centers for inclusion in the shifts and watches of the sections in their specialization.

2. Interns in the specializations internal medicine and family medicine will also suspend their training stages and come to the Public Health Directorates for distribution to County Ambulatory Services, emergency admission units, emergency rooms or hospital sections, depending on necessities.

3. Interns from medical specializations other than the ones listed will be taken into account for distribution according to necessities.

4. Interns in centers other than the guidance centers will come to the internship representatives for recording and distribution according to necessities.

5. In cities with more hospitals, the interns will be distributed according to the requirements of each hospital unit, in collaboration with Public Health Directorates.

6. The training program for obtaining the certificate in pre-hospital emergency medicine shall be suspended and the trainees will return urgently to the units they belong to.

7. Students starting from the fourth study year in the faculties of medicine will be recruited at the level of each university center on a volunteering basis, in order to provide support to emergency room activities. The students recruited perform support activities only in case the medical units' current capacity is exceeded.

Similar recruitments will be carried out in each county where there are post-secondary sanitary schools, starting with students in the second year. Similarly, the students recruited will perform support activities only in case the medical units' current capacity is exceeded. County and local emergency committees will ensure the accommodation and food of the recruited students.

The order of the action commander also established that the National Public Health Institute is the authority responsible for monitoring the testing and integrated reporting of the situations generated by the new type of coronavirus.

In addition, by order of the action commander, the National Intervention Coordination and Leadership Center was made operational.

Furthermore, 162 special tents were installed for medical triage and for a smooth traffic flow at border crossings.

At the same time, the Ministry of National Defense will build and operationalize a new building on the premises of the *Ana Aslan Hospital*, which will serve as a ROL II military hospital.

The activity in dental practices is temporarily suspended by *Military ordinance no. 2 of March 21, 2020 regarding measures to prevent the spread of COVID-19*, taking into account the provisions of article 24 of the Government Emergency Ordinance no. 1/1999 regarding the state of siege and the state of emergency, considering the assessment performed by the National Committee for Special Emergency Situations, approved by Resolution no. 13 of March 21, 2020, article 1 (10). Emergency dental interventions are excepted, the measure coming into force on March 22, 2020, 10 PM EET.

A series of measures concerning the medical system were prescribed by *Military ordinance no. 2 of March 21, 2020 regarding measures to prevent the spread of COVID-19*, taking into account the provisions of article 24 of the Government Emergency Ordinance no. 1/1999 regarding the state of siege and the state of emergency, considering the assessment performed by the National Committee for Special Emergency Situations (11):

Article 1 - (1) The movement of persons who have reached the age of 65 outside their home/household is also allowed outside the timeframe 11 AM – 1 PM if it is done *for taking care of medical issues, such as planned oncological treatments, dialysis, etc.* using their own means of transport or those of their family/caretakers or, if applicable, specialized medical means of transport. In order to check the reason for travelling in the situations prescribed in paragraph (1), a statutory statement filled out in advance must be presented, containing the first and last name, date of birth, home address, reason and place of travel, date and signature (11).

Article 7 - (1) Ministries with their own sanitary network and local public authorities who have in their subordination or who coordinate sanitary units *will supply upon demand hotel spaces destined for the personnel in the public sanitary system to rest between shifts*, in order to prevent the spread of the COVID-19 virus among health professionals or their families. (2) The measure comes into force on March 31, 2020 (11).

Article 10 - (1) The Center for Medical-Military Scientific Research, the Center of Scientific Research for CBRN Defense and Ecology, the Agency for Military Technique and Technology Research and the "Cantacuzino" National Medical-Military Research and Development Institute are authorized for the endorsement/approval of materials, components, equipment and medical devices necessary for the prevention and combat of the spread, as well as for the treatment of the infection with the SARS-CoV-2 virus, namely biocides, during the state of emergency (11).

The National Committee for Emergency Situations declares the State of alert at a national level for a period of 30 days, starting from May 15, 2020 through *Resolution no.24 of May 14, 2020* (6).

The resolution is adopted considering the analysis and propositions formulated by the Technical-Scientific Support Group for managing highly contagious diseases on Romanian territory, regarding measures which must be maintained/established for the prevention and control of the spread of infection and taking into account the persistence of an increased number of infected persons on national territory, as well as the daily appearance of new cases of infected individuals, which maintain a constant pressure on the managing ability of administrative-territorial units and the sanitary system.

The state secretary, chief of the Department for Emergency Situations within the Ministry of Internal Affairs, can dispose of any measures necessary for the situations in which there is an imminent risk for public health, in connection with the need to create the socio-economic conditions required for a gradual relaunch of the national economy, while maintaining an adequate degree of alertness at the component level of the National System for the Management of Emergency Situations.

References

- (1) Codul Civil din 2009 (Legea nr. 287/2009) - Republicat.
- (2) Constituția României, actualizată și republicată în Monitorul oficial nr. 767 din 31 octombrie 2003.
- (3) Decretul nr. 195 din 16.03.2020 privind instituirea stării de

- urgență pe teritoriul României, 2020
- (4) Hotărârea Consiliului Suprem de Apărare a Țării nr. 30 din 2020.
- (5) Hotărârea de Guvern nr. 720 din 2008 pentru aprobarea Listei cuprinzând denumirile comune internaționale corespunzătoare medicamentelor de care beneficiază asigurații, cu sau fără contribuție personală, pe bază de prescripție medicală, în sistemul de asigurări sociale de sănătate, precum și denumirile comune internaționale corespunzătoare medicamentelor care se acordă în cadrul programelor naționale de sănătate – Republicată.
- (6) Hotărârea nr. 24 din 14.05.2020 a Comitetului Național pentru Situații de Urgență.
- (7) Legea 95 din 2006 privind reforma în domeniul sănătății – Republicată
- (8) Ordonanța de urgență nr. 1 din 1999 privind regimul stării de asediu și regimul stării de urgență.
- (9) Ordonanța militară nr. 1 din 17.03.2020 privind unele măsuri de primă urgență care privesc aglomerările de persoane și circulația transfrontalieră a unor bunuri.
- (10) Ordonanța militară nr. 2 din 21.03.2020 privind măsuri de prevenire a răspândirii COVID -19
- (11) Ordonanța militară nr. 4 din 29.03.2020 privind măsuri de prevenire a răspândirii COVID-19.
- (12) Ordonanța militară nr. 5 din 2020 privind măsuri de prevenire a răspândirii COVID-19.
- (13) Ordonanța militară nr. 7 din 2020 privind măsuri de prevenire a răspândirii COVID-19.
- (14) Ordonanța militară nr. 8 din 2020 privind măsuri de prevenire a răspândirii COVID-19.
- (15) Ordonanța militară nr. 9 din 2020 privind măsuri de prevenire a răspândirii COVID-19.
- (16) Ordonanța militară nr. 12 din 2020 privind măsuri de prevenire a răspândirii COVID-19.