

State of emergency in Romania

General information

- ✚ On March 16, 2020, the Decree of the President of Romania no. 195 / 16.03.2020 on the establishment of the state of emergency on the territory of Romania, was published in the Official Gazette of Romania, Part I, which includes art. 42 para. (1) of Chapter V, Annex no. 1 - First aid measures applicable in the field of justice, which have a direct impact on the sub-domain of the execution of sentences and custodial measures.
Subsequently, the Decree of the President of Romania no. 240 of 14 April 2020 on the extension of the state of emergency on the Romanian territory was issued - by which, as of 15 April 2020, the state of emergency was extended for a 30-day period; in the justice sector, the measures issued previously were maintained.
- ✚ *Law no. 55 of 15 May 2020 on some measures to prevent and combat the effects of the COVID-19 pandemic*, published in the Official Gazette no. 396 of May 15, 2020, provides for certain measures to be taken during the state of alert.
At the same time, according to art.1 paragraph (1) of the Government Decision no.394 of May 18, 2020, published in the Official Gazette of Romania no.410 / 2020, regarding the declaration of the state of alert and the measures that are applied during it in order to combat the effects of the COVID-19 pandemic, starting with May 18, 2020, the state of alert was established throughout the country for a period of 30 days.

It should be noted that both the two decrees of the President and Law no.55/2020 contain specific derogating provisions regarding the field of execution of sentences, educational measures and other measures ordered by the judicial bodies during the criminal process.

Special measures on judicial activity

By the Decision no. 257 / 17.03.2020 of the Superior Council of Magistracy:

- the judicial activity of the courts in non-criminal matters was strictly limited to cases of extreme urgency, in non-criminal matters, the management colleges of the courts of appeal drew up the list of cases of extreme urgency, taking into account the types of cases:

a) whose suspension is likely to cause the applicant imminent, significant and irreparable damage or which is difficult to repair in the future,

b) those generated by the application of the measures provided in Decree no. 195/2020 of the President of Romania, including those related to the procurement procedure;

The cases that are judged without summoning the parties were taken into account when drawing up the lists.

- throughout the state of emergency established, the judicial activity of the courts in criminal matters concerns the cases provided in Decree no. 195/2020;

- the entry into force of the decree did not prevent the pronouncing of the decision in the cases in which the postponement of the pronouncement was ordered or a term for pronouncing was established, according to the Code of Criminal Procedure or the Code of Civil Procedure;
- during the state of emergency, the procedure provided by art. 200 and art. 201 of the Code of Civil Procedure has been suspended;
- decisions drafted in other cases than those of extreme urgency are also communicated;
- the particulars regarding the suspended files according to the Decree no. 195/2020 were operated in the Ecris application;
- in non-criminal matters no stay of court proceeding was ordered;
- in criminal matters, the list of cases of extreme urgency, other than those provided in art. 43 para. (2) of the Decree no. 195/2020, which were to be tried during the state of emergency, was posted on the courts' own websites and also for informing the bar associations and prosecutor's offices.

By the Decision no. 417 / 24.03.2020 of the Superior Council of Magistracy:

- during the state of emergency, the judicial activity of the courts in non-criminal matters aimed at:

At first instance courts: -protection order, guardianship / curatorship, involuntary medical hospitalization, presidential ordinance, temporary suspension of the enforcement, approval of the enforcement, precautionary measures, insurance of evidence.

At tribunals: - suspension of the execution of the judgment, suspension of the provisional execution, measures for the protection of minors, precautionary measures, suspension of the enforcement, presidential ordinance, insurance of evidence, guardianship / curatorship, protection order, detention of the ship, suspension of execution of the administrative act, litigation regarding public procurement concerning medical products and other purchases in the area of state of emergency, application for summons regarding the insolvency of the legal person based on art. 66 para. (11) of Law no. 85/2014, conflicts of jurisdiction and procedural incidents in cases that are judged during the state of emergency, including applications for summons for rectification, clarification and completion of the decision, other requests for exceptional situations that may be considered of extreme urgency.

At courts of appeal: suspension of the execution of the judgment, suspension of the provisional execution, measures for the protection of minors, precautionary measures, presidential ordinances, preservation of evidence, suspension of execution of administrative act, litigation regarding public procurements regarding strictly medical products and other acquisitions in the field of state of emergency, case transfer, conflicts of jurisdiction and procedural incidents in cases judged during the state of emergency, including applications for rectification, clarification and completion of the decision, disputes regarding the regime of aliens, other requests concerning exceptional situations, which can be considered of special urgency.

- The courts were able to solve other cases in non-criminal matters which, according to the law, are judged without summoning the parties.

- in first instance or in review proceedings, the courts were able to solve cases in the matter of postponement or interruption of the execution of the sentence or custodial educational measures, cases in the matter of parole, cases for changing the educational measure of internment in an education center or in a custodial center, appeals against the decisions of the judge supervising deprivation of liberty, challenges against enforcement, applications having as object changes in the enforcement of some court decisions, applications having as object the removal or modification of the penalty, applications regarding maintaining, replacement or termination of medical safety measures, cases having as object offenses - including in-the-act offenses - concerning the application of Decree 195/2020 or measures to prevent/combat the COVID -19 pandemic, extraordinary remedies considered urgent, case transfer applications, conflicts of jurisdiction and procedural incidents in cases that are resolved during the state of emergency. The requests having as object the extension of the right of circulation on the public roads are not resolved during the state of emergency.

By the Decision no. 479/31 March 2020 of the Superior Council of Magistracy :

- the judicial activity of the courts in whose territorial jurisdiction are located localities in which the quarantine measure is instituted or which are in protection zones aimed and aims at judging, in first instance or in review proceedings, only the applications regarding situations altogether exceptional, which can be considered of special urgency.

- the list of cases to be judged is established by the management board of the court of appeal, by decision, taking into account the traffic restrictions established by the normative acts establishing the quarantine measure and adjacent protection areas.