

## **Presidential Decree no. 49/2008**

**of 22 April**

The country's internal security has been evolving positively as a result of the effective operation lead by the joint command of the defence and security forces.

The state of exception that was declared in the wake of the serious incidents that took place on 11 February 2008, which put the life of the President of the Republic at risk and led to the Prime Minister being shot at, was an adequate response to the attempt at subverting the democratic order and contributed positively to guarantee public order and the trust of citizens and to safeguard their right to security.

The special measures that were adopted also contributed to social and economic stability, despite certain limitations to the latter caused by the partial restrictions imposed on the freedom of movement.

The exceptional measures that were adopted were deemed necessary to prevent new threats, and to create conditions for an investigation of the facts and to launch an operation aimed at capturing the perpetrators of the violent events of February, 11.

Some sources of disturbances still persist in the district of Ermera that could become a threat to constitutional order, as a group of men armed with military equipment remains at large. The group is led by Gastão Salsinha, and its members are suspect of having taken part in the attempts against the security of the State and the holders of two sovereign organs.

The group has so far resisted surrendering to the authorities, unlike many others who have already done so. The capture and the submission to justice of this group remains an imperative for maintaining public peace and guaranteeing democratic order.

The prolongation of a state of exception in the district of Ermera is the adequate response to ensure the necessary conditions for the continuation of the operation launched by the Joint Command, to hinder the movements and activities of the individuals sought by justice and hence provide better security to the people and property in the area.

The Council of State and the Superior Council of Defence and Security have met to discuss the security situation in the country and the level of the threats that persist against the State and constitutional order, as well as the most adequate means to address such threats, whilst using minimal force and reducing to the indispensable minimum any restrictions to citizen's rights, freedoms and guarantees.

Taking into account all the available information and having regard to the constitutional principles that the State has to uphold, acting on a proposal by the Government, having sought the views of the Council of State and the Superior Council of Defence and

Security, having been duly authorized by the National Parliament, the President of the Republic, in the use of powers that are exclusively incumbent upon him pursuant to article 85(g) of the Constitution of the Democratic Republic of Timor-Leste, enacts the following:

**Article 1**  
**(State of siege)**

The state of siege is renewed in the district of Ermera for an additional period of 30 (thirty) days, beginning at 22:00 hours on 22 April and ending at 22:00 hours on 21 May 2008.

**Article 2**  
**(Listing of rights)**

1. While the state of siege is in force, the following rights shall be suspended:
  - a) the right to freedom of movement, with a curfew being imposed between 22:00 hours and 6:00 hours, whilst safeguarding the rights provided for in article 3(1)(c) and (f) of Law no. 3/2008 of 22 February;
  - b) the right to assemble and demonstrate, whilst safeguarding the rights provided for in article 3(1)(d), (e) and (f) of Law no. 3/2008 of 22 February;
  - c) the right to the inviolability of a person's home, with house searches being authorized during the night as long as duly supported by a search warrant issued by a judge, and observing the provisions in article 3(1)(b) of Law no. 3/2008 of 22 February.

**Article 3**  
**(Security operations)**

1. It is incumbent upon the Joint Command, within the framework of its legal powers and functions and pursuant to Government Resolution no. 3/2008 of 17 February, to execute its specific mission, coordinating and conducting operations, including the measures required to restore democratic normalcy, as well as to promote the coordination with international forces.

2. The security operations shall moreover observe the provisions of Decree-Law no. 4/2006 of 1 March on *Special Arrangements within the Criminal Procedure Framework for Cases of Terrorism, Violent or Organized Crime*; Decree-Law no. 2/2007 of 8 March on *Special Crime Prevention Operations*; and Law no. 3/2008 of 22 February *On the Regulation of the State of Siege and Emergency*.

**Article 4**  
**(Citizens' guarantees)**

Under no circumstances shall the declaration of state of siege affect the following rights:

- a) the right to life
- b) the right to physical integrity
- c) civil capacity and citizenship
- d) the non-retroactivity of criminal law
- e) the right to defense in a criminal case
- f) freedom of conscience, religion and worship
- g) the right not to be subject to torture, slavery or servitude
- h) the right not to be subject to cruel, inhuman or degrading treatment or punishment
- i) the right to non-discrimination.

#### **Article 5**

##### **(Access to courts and to the Ombudsman for Human Rights and Justice)**

During the declaration of state of siege, citizen's right of access to the courts and to the Ombudsman for Human Rights and Justice will remain fully in force in accordance with the Law, for the protection of any rights, liberties and guarantees that might be affected or threatened by any unconstitutional or illegal provisions.

#### **Article 6**

##### **(Responsibility)**

Any person who violates the provisions included in the declaration of state of siege, namely as regards its implementation, shall be liable to prosecution pursuant to the Law.

To be published.

The President of the Republic

José Ramos-Horta

Palácio das Cinzas, 22 April 2008.