

Presidential Decree no. 45/2008

Of 22 February

The state of siege that was declared in the wake of the serious incidents that took place on 11 February 2008, putting the lives of the President of the Republic and the Prime Minister at risk, has been an adequate response to the attempt at subverting the democratic order that such incidents represented.

The state of exception contributed positively to guarantee public order and the trust of citizens and to safeguard their right to security, while maintaining the stability of social and economic life, despite the special circumstances and certain limitations to the latter which have resulted from the partial restrictions imposed on the freedom of movement.

These exceptional measures in democratic order have managed to deter new and serious threats to stability and have warranted the conditions for the indispensable actions to be undertaken with a view to carrying out an investigation of the facts and arresting the perpetrators of the violent incidents of February, 11.

However, significant threats to stability still exist. On the one hand, the armed group that launched the criminal attacks on the physical integrity of the President of the Republic and the Prime Minister is still at large. On the other hand, groups have been identified that are willing to engage in new acts and cause disturbances invoking the name of Alfredo Reinado, a situation that has so far been averted by the declaration of a state of siege.

Two weeks into the state of siege, the measures adopted by the Government within the framework of the execution of the declaration require additional time to fully come to bear on the situation, namely to bring about the detection and arrest of the authors of the violent acts.

The Government, as the organ entrusted with conducting the country's defense and security policies, requires more time to act and to restore once and for all the stability in the country, taking into account the characteristics of the armed group which make the individual arrest of all its members a difficult task.

The police and military actions aimed at capturing a fugitive armed gang require time for the measures already adopted or yet to be adopted to bear fruit. For that reason, it is essential that exceptional measures be kept in force.

Thus, the Acting President of the Republic, having regard to the highest constitutional principles that the State has to uphold, acting on a proposal by the Government, having consulted the Council of State and the Superior Council of Defense and Security, making use of the powers that are exclusively incumbent upon him pursuant to article 85(g) of the Constitution of the Democratic Republic of Timor-Leste, hereby decrees the renewal of the State of Siege for a period of 30 days, starting at 00:00 hours on 23 February 2008 and ending at 22:00 hours on 23 March 2008, across the whole of Timor-Leste, with the suspension of the following rights being enforced:

- a) The right to freedom of movement, with a curfew being imposed between 22:00 hours and 06.00 hours, without prejudice to any operations of humanitarian assistance or medical assistance that may be required;
- b) The right to assemble and demonstrate.

- 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.

It is incumbent upon F-FDTL and PNTL to execute the security operations warranted by the declaration of the state of siege, within the framework of their respective legal powers and functions and pursuant to Government Resolution no. 3/2008 of 17 February, including the measures required to restore the disturbed democratic normalcy, pursuant to article 25(6) of the Constitution of the Democratic Republic of Timor-Leste, as well as to promote the coordination with international forces.

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*, and of Decree-Law no. 2/2007 of 8 March on *Special Crime Prevention Operations*.

In no case shall the declaration of state of siege affect the right to life; the right to physical integrity; civil capacity and citizenship; the non-retroactivity of criminal law; the right to defense in a criminal case; freedom of conscience, religion and worship; the right not to be subject to torture, slavery or servitude; the right not to be subject to cruel, inhuman or degrading treatment or punishment; the right to non-discrimination.

During the declaration of a state of siege or a state of emergency, 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 or measures.

Any person violating the provisions included in this declaration shall be liable to prosecution pursuant to the Law.

It is incumbent upon the Government to execute the declaration of a state of siege. The Government shall keep the President of the Republic and the National Parliament informed of its acts.

Palácio das Cinzas, 22 February 2008

The Acting President of the Republic,

Fernando La Sama de Araújo