

MANDATORY ISOLATION IN COLOMBIA



POSSE | HERRERA | RUIZ

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The National Government, in exercise of its extraordinary powers, issued Decree 457 on March 22, 2020 (the "Decree"), through which it ordered the mandatory preventive isolation of all the inhabitants of the Colombian territory as of zero hundred hours (00:00 a.m.) on Wednesday, March 25 until zero hundred hours (00:00 am) on Monday, April 13.

In addition to the general order of preventive isolation, the Decree contains a list of 34 industries, activities and special circumstances (the "Exceptions"), to which the order of preventive isolation will not apply. Even though the text of the Exceptions may be very generic, it is of utmost importance to note that the Exceptions must be interpreted and applied in a restrictive manner and in any case in consonance with the purposes and rationale of the Decree, namely (i) preserving health and life, avoiding contact and the spread of the Coronavirus (COVID-19) and, at the same time, (ii) guaranteeing the supply and provision of basic food and services that, by their very nature, should not be interrupted without the risk of affecting the right to life, to health and survival.

Considering the above, it is possible that there are companies, the activities or lines of business of which fall within the Exceptions and therefore, are allowed to continue operating and transiting; however, not all their operations may be included within the Exceptions.

It is also important to emphasize that the Decree authorizes Governors and Mayors to issue additional orders (which could create or expand some of the

Exceptions at a local level), as long as such orders are previously coordinated with the National Government.

Continuing with the ordinary course of activities in contravention of the provisions of the Decree could lead to the imposition of fines, and such actions could constitute conduct classified as criminal in the legal system.

Regarding the foregoing, please keep in mind that, without prejudice to other possible criminal conduct, our legislation contemplates several crimes that could become relevant during the current crisis from COVID-19. On the one hand, crimes against public health could be committed, such as the violation of sanitary measures including the provisions of the Decree (resulting in imprisonment of up to 8 years) or the spread of an epidemic (resulting in imprisonment of up to 10 years); the former is committed when someone violates an officially enacted sanitary measure; the latter occurs when a person intentionally spreads a contagious and dangerous disease.

Finally, if your activity is within the Exceptions, keep in mind that the people who will transit pursuant to the Exceptions must be accredited and identified as acting in the exercise of their functions. For such purposes, we recommend providing each of these people with a certification, signed by an authorized legal representative, clearly indicating the name of the company, the activity and the explanation as to why such activity falls within the Exceptions, the identity of the person in transit and their position within the company.

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We understand that there may be difficulties in determining in specific cases whether or not a specific activity falls within the Exceptions. We will remain at your disposal in order to work together to determine if any activity is among the Exceptions or to raise the corresponding queries to the Government individually or through the guilds or unions.

Below we include, for each one of the following economic sectors, the circumstances under which movement is authorized, as they are set forth in the Decree. We anticipate that some of these categories may require clarification or supplementation.

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12. Health and pharmaceutical.
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1. Authorization for movement applicable to all sectors

- Circumstances of force majeure or fortuitous event.
- Activities strictly necessary to operate and carry out the essential maintenance of companies, industrial plants or mines, of the public or private sector, that due to the nature of their production process require their operation to be carried out uninterruptedly.

2. Agroindustry

- The chain of production, supply, storage, transportation, commercialization and

distribution of essential goods (including food) and the supplies to acquire them.

- The chain of sowing, harvesting, production, packaging, import, export, transport, storage, distribution and trading of seeds, supplies and agricultural, fish, livestock and agrochemical products (fertilizers, pesticides, fungicides, herbicides); agricultural, fish and livestock products, and animal feed, maintenance of animal health, the operation of primary and secondary food processing centers, the operation of trading infrastructure, major and minor irrigation for the supply of water for population consumption and agricultural purposes, and technical assistance.

3. Food and drinks

- The chain of production, supply, storage, transportation, trading and distribution of: (i) supplies to produce essential goods; (ii) essential goods, (iii) pet food and beverages, and other items and goods necessary to address the health emergency, as well as the supply chain related to the production of these goods.
- Face-to-face trading shall be carried out in food markets, warehouses, markets, and wholesale and retail supermarkets in commercial establishments and venues nationwide, and may sell products through e-commerce platforms and/or home deliveries.
- The trading of products from gastronomic establishments and venues through e-commerce platforms or by home delivery.
- The restaurants located within hotel facilities may only provide services to their guests.
- The supply and distribution of food and basic necessities under state or private welfare programs. Governors and Mayors are instructed to prohibit the consumption of alcoholic beverages in open spaces and commercial establishments.
- The mobilization of people for the acquisition of food and beverages is authorized.

4. Education

- The movement of directors and teaching personnel in public and private educational institutions strictly necessary to prevent, mitigate and address the health emergency.



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5. Energy

- Activities carried out by public utilities and contractors of the State that are strictly necessary to prevent, mitigate and address the health emergency, and guarantee the operation of the essential services of the State.
- Activities necessary to guarantee the operation, maintenance, storage and supply of electricity and public lighting services.

6. Hospitality

- The activities carried out by the hotel industry in order to serve its guests that are strictly necessary to prevent, mitigate and address the health emergency.
- Restaurants located within hotel facilities may only provide services to the hotel guests.

7. Infrastructure

- The review of and attention to emergencies and road affectations, and the infrastructure works that cannot be suspended.
- The intervention of civil and construction works, which, due to the state of progress of the work or its characteristics, present risks of technical stability, threat of collapse or require structural strengthening actions.
- Construction of health infrastructure strictly necessary to prevent, mitigate and address the health emergency.

8. Real Estate (Real Estate Business) and Construction

- The provision of notarial services. The Superintendence of Notaries Public and Registry will determine the working hours and shifts in which notarial services shall be provided, guaranteeing the provision of the service to the most vulnerable people and those under special constitutional protection.
- Private security and surveillance services, and services provided by cleaning companies in common areas of buildings and the buildings in which these activities are performed.
- The intervention of civil and construction works, which, due to the state of progress of the work or its characteristics, present risks of technical stability, threat of collapse or require structural strengthening actions.
- The mobilization of people to notary public's offices is authorized.

9. Logistics and transportation

- The activities of public and private service ports, exclusively for cargo transportation.
- Maritime and river dredging activities.
- Review of and attention to emergencies and road affectations, and the infrastructure works that cannot be suspended.
- Activities necessary for air transport and airport operations.

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- The public service of land, cable, river and maritime passenger transport, postal services and parcel distribution that are strictly necessary to prevent, mitigate and address the emergency must be guaranteed in the national territory. Cargo transportation, storage and logistics for import and export cargo must be guaranteed. Domestic air transport is suspended from 0:00 on March 25 to 00:00 on April 13, except for: (a) humanitarian emergencies, (b) transportation of cargo and merchandise, and (c) circumstances of force majeure and fortuitous event.

10. Mining

- The activities necessary to guarantee the operation, maintenance, storage and provision of the supply chain for the production, supply, import, export and provision of minerals.
- In line with the general authorization, the activities strictly necessary to operate and carry out the essential maintenance of mines that, due to the nature of their production process, require their operation to be carried out uninterruptedly.

11. Oil and gas

- The necessary activities to guarantee the operation, maintenance, storage and provision of the supply chain for the production, supply, import, export and provision of hydrocarbons, liquid fuels, biofuels, natural gas, liquefied petroleum gas - LPG.

12. Health and pharmacist

The following are authorized:

- The production, supply, storage, transport, trading and distribution chain of medicines, pharmaceuticals, supplies, and cleaning, disinfection and personal hygiene products for homes and hospitals, health equipment and technological devices, as well as the maintenance and support required to guarantee the continuous provision of health services.
- Commercial establishments and venues destined for the trading of medicines,

- pharmaceuticals, supplies and health equipment and technological devices.
- Activities related to emergency services, including veterinary emergencies.
- Funeral services, burials and cremations.
- The supply and distribution of basic necessities (among them, medicines, medical devices, and cleaning products) under state or private welfare programs.

The movement of people is authorized:

- To make use of these services.
- To provide assistance and care to children, adolescents, people over 70 years of age, people with disabilities and patients with special treatments that require assistance from trained personnel.
- In medical missions of the Pan American Health Organization – PAHO – and all international health organizations, the provision of public and private professional, administrative, operational, and technical health services.

13. Financial services

- The provision of banking and financial services, postal payment operations, credit reporting agencies and securities transportation.
- The mobilization of people to access financial services, banking and payment operators.

14. Public services, state services and accessories

- Activities carried out by public utilities and contractors of the State that are strictly necessary to prevent, mitigate and address the health emergency, and guarantee the operation of the essential services of the State.
- Activities carried out by the personnel of diplomatic and consular missions strictly necessary to prevent, mitigate and address the health emergency.
- Activities carried out by the military, national police and state security agencies.
- Defense and military industry.
- Prison and penitentiary services and companies that provide cleaning services in public buildings, common areas of buildings and the buildings in which these activities are carried out.



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- Activities necessary to guarantee the operation, maintenance, storage and provision of the public services of aqueduct, sewerage, electricity, public lighting, cleaning (collection, transportation, use and final disposal, including biological or sanitary waste).

15. TMT

- Operations of critical infrastructure – computers, computer systems, communication networks, data and information whose destruction or interference can weaken or impact the security of the economy, public health or a combination of both.
- Operations of call centers, contact centers, technical support centers and data processing centers that provide services in the national territory and of e-commerce platforms.

- The activities necessary to guarantee the operation, maintenance, storage and provision of internet and telephone services.
- The operation of radio, television, press and distribution services offered by the media.
- Activities carried out by operators of payments of wages, contractual fees, pension fees, public and private economic benefits, periodic social economic benefits -BEPS-, and those corresponding to the Social Security and Social Protection systems and subsystems.

16. Others

- Inter-religious sector activities related to institutional emergency programs and humanitarian, spiritual and psychological aid.

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