

# THE RIGHT TO A HEALTHY ENVIRONMENT AND THE ESTABLISHMENT OF THE STATE OF EMERGENCY

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## Abstract

*The right to health and normal life is enshrined by Universal Declaration of Human Rights, a document from which all national and international regulations are derived.*

*Today it is very well known that the right to health is a fundamental human right.*

*The influence of environmental factors and not only, on modern man responds to the interest on correct information, which currently involves, as we have seen, knowledge from other fields: medicine, biology, sociology, sciences that try to clarify the cause-effect relationship in human life.*

*All political, social, legal and medical decision makers, as well as the population, must contribute to a healthy life.*

*In these conditions, I will try in this article to analyse the cause-effect rapport about the healthy life of the population given the conditions of establishing the State of Emergency.*

**Keywords:** *environment, state of emergency, healthy life.*

At the national level, the activity of environmental protection and ensuring a healthy life have long been regulated by a lot of laws that, even if they were not perfect, are perfectible over time.

Romania's environmental policy has registered a series of pluses and minuses, which are related both to the involvement of the institutions in these policies, but also to the country's population.

People do not have an ecological thinking [1]. The proven civic spirit on environmental protection is far away from what the EU expects from citizens.

The challenges we face today, in terms of population health, requires a coordinated and comprehensive feedback from all states. Communities around the world are trying to cope with Coronavirus pandemic, and in order to overcome this situation, certain exceptional measures must be taken, measures that restrict certain rights of citizens.

As we well know, Romania and the whole world are going through an unprecedented situation, the spread of an extremely dangerous virus, Covid-19. In

order to ensure a healthy life of the population, the State of Emergency was established and restrictive measures of rights were taken in this regard.

In Romania, according to the Constitution and its special laws, exceptional measures corresponding to exceptional situations may be implemented, both at local and national level: the state of alert, the state of emergency, the state of siege.

The magnitude of this virus spreading, in Romania and around the world, has forced the authorities to establish a state of emergency, for the first time in decades.

*The state of emergency* represents a set of exceptional measures of political, economic and public order applicable throughout the country or in some territorial administrative units in two different situations: if there are some current or imminent serious dangers to national security or in case of disasters necessary to prevent, limit or eliminate the consequences of such calamities.

This exceptional measure may be instituted by the President of Romania, only by decree and with the consent of the Parliament.

The state of emergency is regulated by the Romanian Constitution, Law no. 453 of November 1<sup>st</sup>, 2004 with approval of GEO no. 1/1999 regarding the state of siege and the regime of emergency state and GEO no. 21/2004 regarding the National Emergency Management System.

Article 93 of the Constitution explains the expression "exceptional measures".

The approval of establishment of the state of emergency must be requested by the President to the Parliament, within 5 days from its setting up.

The state of emergency is established for a maximum period of 30 days, according to art. 5 of GEO no. 1 / 1999, with the possibility of extension, if the situation requires it.

When establishing the state of emergency, some attributions of the specialized central public administration and of the local public administration passed to the competence of the military authorities and other central public authorities, laid down in the decree establishing the state of siege or emergency.

During the state of emergency, is forbidden the restriction of the right to life, except the cases where death is the result of acts of war, torture and inhuman or degrading treatment or punishment, conviction for crimes not stipulated under national

or international law and restriction of free access to justice, according to art. 3 of GEO no. 1/1999.

During the state of emergency, the exercise of some rights and freedoms may be restricted, except for human rights and fundamental freedoms, only if the situation requires it and in compliance with art. 53 of the Constitution.

According to GEO no. 1/1999 the invested authorities must apply a series of exceptional measures, among which: to limit or prohibit the movement of vehicles or persons in certain areas or between certain hours and to issue, in justified cases, free movement permits, to carry out controls, to exercise exclusively the right to authorize public meetings.

All these measures are necessary to ensure a healthy life of the population; they are necessary to reduce as much as possible the risk of disease.

In terms of health disparities, the EU has made significant progress, with health being a basic human need.

A good state of health of the population is a decisive factor for the quality of life and contributes to the creation of a sustainable economy.

Health is essential for the well-being of individuals and for creating a sustainable economy, as it is crucial for improving labor market participation and productivity. [2]

Access to health care needs to be improved to ensure a healthy life. It must be upgraded and have a humanist character.

During all this period of the State of Emergency, measures with immediate applicability were taken, but also measures with gradual applicability, depending on the situation.

To protect people's health, schools were closed, borders were gradually closed, road, rail and air traffic were also suspended. Health is the top priority in terms of allocated funds and mobilization.

As difficult as it is to adapt to certain limits, it is the only solution that proves that lives can be saved.

During the state of emergency, people must be properly informed, in order to be able to get over the severity of the period we are going through.

The *right to a healthy environment* implies for all also some obligations related to the protection and defense of this environment.

In terms of health, civilization has contributed either to overcoming diseases or has itself been a source of the development of diseases, diseases that we seem to be facing today.

Even before the outbreak of this pandemic, the civilized world was facing pollution, in various forms of manifestation: air pollution, soil, water and food pollution, phonic pollution and demographic pollution.

The phenomena interdependence in nature is also confirmed by the proven causal relationship between the vice of the human living environment and his state of health. [3]

Contemporary medicine defined *health* as "the state of the human body in which all physiological, mental and emotional functions are normal." For the human community, the term *public health* was created, defined as "a medical and social science dedicated to the study of preserving and improving the health of a community overall."

The improvement of living conditions has led to the decrease of infectious diseases, while urbanization and the development of industry have led to the vice of the environment (pollution) and the emergence of diseases related to human professional environment, respiratory diseases or allergies.

We tend to believe that the current pandemic situation is perhaps also influenced by excessive pollution.

The ecosystem undergoes rapid and irreversible changes, the human body hardly being able to adapt to the new living conditions.

„The earth is in our hands. Together we should start the necessary actions so that we can be proud of the fact that we are trying and maybe even succeeding in transmitting to our children and their children a clean and safe world. ”[4]

The World Health Organization has always recommended to all states to focus on protecting the lives and health of their citizens, preventing any type of mass disease of the population through epidemics or pandemics.

States have the obligation to take legal, administrative and any other kind of measures necessary for the implementation of the right to a healthy environment. [5]

During the state of emergency, the Ministry of Environment intensified the inspections at landfills to reduce pollution; the certificates of the companies that illegally exploit wood were withdrawn by ministerial order (the Order was published in the Official Gazette on 30.03.2020); discussions took place regarding the stopping of legal deforestation, during the state of emergency (07.04.2020) etc.

Also during the state of emergency, due to excessive pollution, the European Court of Justice issued a decision sentencing Romania for the constant exceedances of PM10 in Bucharest.

During the state of emergency, due to the fact that the freedom of the population was restricted or limited, the environment also had to gain. Pollution has decreased in many areas, nature is basically regaining its rights, wild animals could be seen approaching to the cities.

Therefore, even before the establishment of the State of Emergency, measures were taken to guarantee the right to a healthy environment. Thus, for example, Directive 2003/4 / EC of the European Parliament and the Council regarding the public access to environmental information [6] represents the fundamental framework regulation.

On the occasion of international summits such as the one in Rio (1992), Johannesburg (2002) [7], sustainable development strategies were adopted concerning the nature, as a legacy and life resource for future generations.

## **Conclusions**

As we can see, the quality of the environment has become an important issue for human rights, whether we are on a state of emergency or not. The right to a healthy and ecologically balanced environment is the fastest evolving of its generation, in terms of guarantee and effectiveness through justice.

The right to health remains a priority, regardless of the moment we are, so we must take all necessary measures to keep the environment clean and balanced from the ecological point of view.

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