



Estado de alarma y libertad religiosa y de culto /

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Analítica

Resum: It is beyond doubt that the worldwide pandemic of COVID-19 constitutes an evident factual presupposition for resorting to the Right of exception. Of the three exceptional states contemplated in Article 116 EC, the Government through Royal Decree 463/2020, of March 14th, has chosen to declare a state of alarm for the management of the health crisis situation. In this case, unlike the states of emergency and siege, limitations can be established on the exercise of rights, but they cannot be suspended. In relation to the fundamental right of religious freedom, in what concerns here, the State can do nothing to hinder the manifestations of beliefs, the public exercise of worship and the possibility for the faithful to gather to celebrate their worship, although it is subject to the limitations established by law to preserve the security, order, health or public morality or the fundamental rights and freedoms of others. Royal Decree 463/2020, declaring a state of alarm, does not suspend worship or religious ceremonies, neither does it force the places of worship to close, nor does it prohibit attendance at places of worship. The legal provision is limited to conditioning religious celebrations and their attendance to the adoption of "organizational measures consisting of avoiding crowds of people, depending on the dimensions and characteristics of the places, in such a way as to guarantee attendees the possibility of respecting the distance between them of at least one meter?". Furthermore, in different subsequent Ministerial Orders, certain restrictions are relaxed depending on the corresponding phase, and attendance at places of worship is allowed provided that a certain capacity is not exceeded and that general hygiene are complied with physical distance measures, established by the health authorities.

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Título: Estado de alarma y libertad religiosa y de culto José Antonio Soler Martínez

Descripción física: 1 recurs en línia

Documento fuente: Revista General de Derecho Canónico y Derecho Eclesiástico del Estado . -- ISSN 1696-9669 . -- N°. 53 (2020), p. 10

Materia: Libertad religiosa- España Coronavirus

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