

After the November 13 Paris attacks: What France's state of emergency means in practice

Wednesday 18 November 2015, by [PRACONTAL Michel de](#) (Date first published: 15 November 2015).

French President François Hollande announced a nationwide state of emergency on Saturday, granting the government exceptional powers in the wake of Friday's terrorist attacks in and around Paris that left at least 132 people dead. The powers initially last for 12 days, and Hollande announced on Monday he will seek parliamentary approval to prolong it for a period of three months. So just what are the special powers announced on Saturday? Michel de Pracontal explains.

In France, a state of emergency is an exceptional system which gives the government reinforced powers for the purposes of ensuring security. It can be applied to all or part of the country.

It allows for restrictions on free circulation, meetings and speech, all in the framework of a law dating back to April 3rd 1955. The constitution states that a state of emergency can be called "either in case of imminent peril resulting from a serious breach of public order, or in the case of events which, by their nature or their gravity, represent a public calamity".

The state of emergency decided overnight on Friday can last up to 12 days – November 26th – after which any prolongation must be decided by parliamentary approval of a law to that effect.

Addressing an extraordinary joint congress of the lower and upper houses in Versailles on Monday, President François Hollande announced he will ask parliament to approve a three-month prolongation of the powers.

A state of emergency is not the only system granting exceptional powers to government. There is also that of a state of siege, which can only be declared in the case of an imminent threat from a foreign army or an armed insurrection. The highest level of exceptional powers that can be given to government is defined by article 16 of the French constitution and which can be enacted when "the institutions of the Republic, the independence of the Nation, its territorial integrity or the execution of its international engagements are threatened in a grave and immediate manner".

Even if the current state of emergency does not contain the highest level of exceptional powers, it nevertheless carries a very high degree of security powers.

The precise conditions of a state of emergency must be announced by decree. Two decrees were issued for the current state of emergency on November 14th, (2015-1475 and 2015-1476). The first of these says that the first paragraph of article 11 of the 1955 law will apply throughout: this gives the interior minister and regional prefects "the power to order house searches day and night".

Article 11 contains a second paragraph which allows the same authorities "to take all measures to

ensure control of the press and publications of every kind as well as radio programmes, cinema projections and theatrical performances". Because this paragraph is not mentioned in either of the decrees issued on November 14th, the current state of emergency gives no powers for curtailing the freedom of the press and wider media.

The second decree published on Saturday gives the prefect present in each département (equivalent to a county) significant powers concerning the restrictions of freedom of movement. These are detailed in article 5 of the April 1955 law, which allows them: "1) to prohibit the circulation of individuals or vehicles in places and at hours that are defined by [prefectoral] decree. 2) To set up, by decree, protection or security zones where the residence of people is regulated. 3) To prohibit in part of or in all the département the residency of any person who seeks to obstruct, in whatever manner, the action of the public authorities."

Furthermore, the decrees issued on November 14th also allow for establishing across all of Paris and the Greater Paris Region a series of measures, detailed in articles **6, 8 and 9** of the April 1955 law.

According to **article 6**, the interior minister can place under house arrest any individual "whose activity proves to be dangerous for public order and security". The article stipulates that "the ordering of house arrest must not have the effect of creating camps where the people targeted are held" and that the administrative authorities must "ensure the subsistence of the persons under house arrest as well as for their families".

Article 8 is mostly concerned about leisure activities, and gives the interior minister and prefect present in each département the power "to order the provisional closure of performance halls, drinking establishments and meeting places of all types". The article does not mention any requirement for a motive for doing so. However, it also states that "meetings of a nature to provoke or maintain disorder may also be prohibited, in either a general or particular manner".

Article 9 gives the authorities the power "to order the handing over of weapons of first, fourth and fifth categories". The first category concerns war weapons, the fourth concerns weapons of self-defence and the fifth category refers to hunting weapons (full details, in French, are available [here](#)). Weapons in the second and third category are not mentioned because they concern unusual arms, such as those employed in chemical warfare.

The 1955 law governing the conditions of a state of emergency was prepared in face of events in Algeria during the country's war of independence from French rule. President Charles de Gaulle first used the powers by declaring a two-year state of emergency in Algeria, when still a French-governed colony, from 1961 to 1963. Since then a state of emergency has been called in France on two occasions. The first of these was in 1984, when the socialist government of then-president François Mitterrand established a state of emergency in French-ruled New Caledonia during deadly confrontations between independence militants and white settlers. The second was in 2005, during extensive rioting in the suburbs of Paris and other major cities and towns in France, when then-president Jacques Chirac called a state of emergency in 25 départements.

MICHEL DE PRACONTAL

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<http://www.mediapart.fr/en/journal/france/161115/what-france-s-state-emergency-means-practice>

* English version by Graham Tearse. The French version of this article is available on ESSF too.