

Reference: C.N.134.2020.TREATIES-IV.4 (Depositary Notification)

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
NEW YORK, 16 DECEMBER 1966

EL SALVADOR: NOTIFICATION UNDER ARTICLE 4 (3)¹

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

The above action was effected on 14 April 2020.

(Original: English)

“New York, April 14th, 2020

Excellency,

I have the honour to write to you in reference to my letters dated 26th and 31st March 2020, in which, based on the obligation established in article 4, paragraph 3 of the International Covenant on Civil and Political Rights, the Republic of El Salvador informed that, since March 14th of this current year, the Legislative Assembly has declared a national state of emergency, public calamity and disaster, for a period of 30 days, due to the imminent risk of the evolving COVID-19 pandemic.

In order to meet the specific requirements provided by the Treaty Section of the Office of Legal Affairs, I would like to bring to your attention the following information that consolidates the most important issues that were outlined in the aforementioned letters:

- The Republic of El Salvador reaffirms the importance of the principles proclaimed in the Charter of the United Nations, and the recognition of the inherent dignity, equal and inalienable rights of all humans as a foundation of freedom, justice and peace in the world.
- In this sense, article one of the Constitution of the Republic of El Salvador states that: ‘El Salvador recognizes the individual as the source and object of the activity of the State, which is organized for the attainment of justice, legal security and the common good’ (first paragraph).

Furthermore, article 65 establishes that *health* of the inhabitants of the Republic constitutes a common good, therefore the State and the people are obligated to safeguard its conservation and restoration.

¹ The text of Legislative Decree No. 593 and Executive Decree No. 12 of the Ministry of Health, and the text of various legislative decrees as well as executive decrees issued by the Ministry of Health relating to the state of emergency, attached to the notification, are on file with the Secretary-General and are available for consultation.

- In light of the statement from the World Health Organization (WHO) that declared COVID-19 pandemic, my Government committed to adopt the appropriate measures in order to reassure the protection of this fundamental right within its territory from any internal or external risks.
- On that basis and in view of international obligations, the Republic of El Salvador informed - through letter dated 26th March - that the Legislative Assembly had declared a national state of emergency, public calamity and disaster for a period of 30 days, effective since March 14th, due to the imminent risk of COVID-19 pandemic.
- The aforesaid provision is regulated in Legislative Decree No. 593, published in Official Journal No. 52, Volume 426 of 14 March 2020, which *inter alia* states that:
 - a) The Ministry of Health will execute all necessary actions in order to implement the National Plan of Prevention, Containment and Response to the COVID-19 pandemic, therefore it should provide the necessary public services to avoid its spread among the inhabitants of the Republic;
 - b) Any natural person, whatever their means of transport, should limit their circulation among affected areas which are properly identified by the sanitary cordons;
 - c) Crowd gatherings are prohibited and so are any public entertainment events, meetings or events that might put into risk the health of the inhabitants;
 - d) Salvadoran Consumer Protection Authority must control the prices set upon any article, goods and services that are related to the prevention, treatment, containment and attention to the COVID-19 pandemic in order to avoid any illegal hoarding upon them;
 - e) The Ministry of Health will provide medical examination, with trained and qualified personnel, to any suspected person who might show symptoms of the disease, anyone who has been exposed or tested positive for COVID-19. In this case, the Ministry has the responsibility to appoint this person into a compulsory quarantine according to the international health standards.
 - f) Quarantine facilities and centers must guard proper health conditions and infrastructure in order to provide medical assistance with dignity to everyone who is in them, considering their physical and mental health.
- Additionally, Executive Decree No. 12 emitted by the Ministry of Health, published in Official Journal No. 59, volume 426 of 21 March 2020, establishes extraordinary measures of prevention and containment of COVID-19 such as: a) the recognition of all national territory as an area subject to health inspection; b) Limitation of the freedom of movement to any natural person due to the rapidly evolving risk of the COVID-19, except those who gather the specific conditions defined within the provisions of the aforementioned Decree; c) A list of legal persons that are considered as an exception to such prohibition as long as their activities are focused to satisfy the need and health of all inhabitants: textile industry, call centers focused on supermarket home delivery schemes, food delivery, airline services, electricity, bank, financial and medical services; security and transport services.
- On 29th March 2020, the Legislative Assembly voted on a new *Law on the Temporary Restriction of Specific Constitutional Rights due to the imminent risk of the COVID-19 pandemic*. Similar to the aforesaid Legislative Decree No. 593, this norm expressed in a more detailed manner that the temporary restriction will remain in force for 15 days, meaning its application will be lifted on 13th April 2020.

- According to these new provisions, the temporary restriction applies on the following fundamental rights: 1) freedom of transit, 2) the right to assemble peacefully without arms for lawful ends, and 3) the right of not being forced to change domicile or residence.
- The respect of International Law on Human Rights, in particular, the International Covenant on Civil and Political Rights and the American Convention on Human Rights is essential to fully accomplish these provisions; therefore, the Republic of El Salvador acknowledges that such temporary restriction can only be executed within the context of the emergency declared due to the evolving COVID-19 pandemic situation and on the instruction of several principles, specifically, the *principle of notification* which compels the Government to notify immediately the Secretary-General of the United Nations and Secretary-General of the Organization of American States (OAS) about the circumstances relating to the restriction of rights protected under international human rights law.
- Furthermore, the new provisions rule other important principles to be accomplished when applying such restriction: principle of non-discrimination, proportionality, temporality, exceptional threat, necessity, legality, good faith, accountability of State officials, and legal reservation.
- Finally, as for the institutional framework that is created within this exceptional state of emergency, the aforementioned Law commends the Government to elaborate a protocol of integral application that guarantees the accomplishment of all provisions enclosed in such norm. In this regard, institutions such as the National Civil Police, Office of the Procurator for the Protection of Human Rights; Armed Forces and the General Inspectorate of Public Security will undertake functions in order to provide order and safety to all inhabitants and strictly supervise the respect of human rights.

Excellency,

In view of the foregoing, as provided in article 4, paragraph 3 of the International Covenant on Civil and Political Rights, the Republic of El Salvador wishes to avail itself the right of temporarily derogate its obligation under article 12 (the right to liberty of movement and freedom to choose his residence) and article 21 (the right of peaceful assembly) of the aforementioned treaty, due to the provisional measures that are being adopted by our Government related to the prevention, treatment, containment and attention to the evolving COVID-19 pandemic. Such temporary restriction will obey the legal deadlines defined by the decrees that were referenced above.

However, rest assure that El Salvador is highly committed to the protection of human dignity, even in the amid of these extraordinary circumstances. My Government recognizes that the international community is facing challenging times; so, it is now, more than ever, when States must focus all their efforts in reassuring the protection of human and fundamental rights in light of this pandemic.

The Government of the Republic of El Salvador reaffirms its willingness to maintain the respect of international law and human rights principles; therefore, it is our highest interest to respect all other fundamental rights and to inform you about subsequent provisions that will be adopted in this matter.

More detailed information is available in the Legislative and Executive decrees that are attached herewith.

Please accept, Excellency, the assurance of my highest consideration.

(Signed) EGRISSELDA LÓPEZ
Ambassador
Permanent Representative of El Salvador to the United Nations”

22 April 2020

A handwritten signature in black ink, consisting of stylized initials 'E' and 'L' followed by a horizontal line.