

Reference: C.N.111.2024.TREATIES-IV.4 (Depositary Notification)

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

UKRAINE: 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 25 March 2024.

(Original: English)

“No. 4132/28-194/501-41539

The Permanent Mission of Ukraine to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to its previous communications No. 4132/28-110-17626 of 28 February 2022, No. 4132/28-194/600-1798[8] of 4 March 2022, No. 4132/28-194/501-19782 of 16 March 2022, No. 4132/28-194/501-[22806] of 28 March 2022, No. 4132/28-194/501-29977 of 29 April 2022, No. 4132/28-194/501-39692 of 8 June 2022, No. 4132/28-194/501-42891 of 17 June 2022, No. 4132/28-194/501-63210 of 19 August 2022, No. 4132/28-194/501-104500 of 16 December 2022, No. 4132/28-194/501-16855 of 14 February 2023, No. 4132/28-194/501-60498 of 25 May 2023, No. 4132/28-194/501-103419 of 30 August 2023, No. 4132/28-194/501-533 of 2 January 2024 and No. 4132/28-194/501-22561 of 16 February 2024, has the honour to enclose herewith a further communication on derogation in accordance with the obligations of the Government of Ukraine under Article 4, paragraph 3, of the International Covenant on Civil and Political Rights.

The Permanent Mission of Ukraine to the United Nations avails itself of the opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

Enclosure, on 4 pages

New York, 25 March 2024”

¹ The text of Article 615 of the Criminal Procedure Code of Ukraine (CPC) as amended by the Law of Ukraine of 27 July 2022 No. 2462-IX, attached to the notification, is on file with the Secretary-General and available for consultation.

Enclosure

“I

Regarding measures derogating from obligations

Article 615 of the Criminal Procedure Code of Ukraine (CPC) as amended by the Law of Ukraine of 27 July 2022 No. 2462-IX shall provide that in the event of martial law:

- in the absence of the possibility to draw up procedural documents about investigative (search) or other procedural actions, recording is carried out by technical means with subsequent drawing up the protocol no later than 72 hours after the completion of these actions (*para two of part one*);
 - in the absence of the possibility for further proceeding, completion of the pre-trial investigation and submission an indictment, a request for the application of coercive measures of a medical or educational nature, a request to discharge a person from criminal responsibility to the court – the term of the pre-trial investigation in criminal proceeding is suspended on the basis of a motivated resolution of the prosecutor with a statement of the relevant circumstances and is subject to renewal if the grounds for suspension no longer exist. Before suspension of the pre-trial investigation, the prosecutor is obliged to decide on the issue of extending the term of detention (*para seven of part one*);
 - in the absence of the possibility for performing procedural actions within the time limits specified by the CPC such actions are carried out immediately, where possible, but no later than 15 days after the termination or cancellation of martial law (*para nine of part one*);
 - in the case of impossibility for holding a preparatory court session, the preventive measure in the form of detention selected by the investigating judge, the head of the prosecutor’s office during the pre-trial investigation is considered to be extended until the relevant issue is resolved in the preparatory court session but for not longer than for 2 months (*part five*);
 - in the case of the expiration of the court decision on detention and the impossibility of consideration by the court of extending the period of detention in accordance with the procedure established by the CPC, the chosen preventive measure in the form of detention is considered extended until the relevant issue is resolved by the court but not longer than for 2 months (*part six*);
 - testimony obtained during the interrogation of a suspect in criminal proceedings can be used as evidence in court, if the defender participated in the interrogation, and its course and results were recorded by technical means of video recording. Video recording of witness’ and victim’s testimony obtained during interrogation is also allowed (*part eleven*);
 - the inquiring officer, the investigator, the prosecutor shall ensure: (i) remote participation of the defender in a separate procedural action using technical means of video and audio communication if his/her appearance is impossible; (ii) participation at the earliest opportunity of an interpreter to translate explanations, statements or documents of the suspect, the victim. In the presence of circumstances that make his/her participation impossible, the inquiring officer, the investigator, the prosecutor shall have the right to personally carry out the appropriate translation, in the case of knowledge of one of the languages spoken by the suspect, the victim (*part twelve*);
- The possibility of applying the above-mentioned norms provided for in Article 615 of the CPC makes it necessary to continue derogation from Ukraine’s obligations under para 3 of Article 2, Articles 9, 14 and 17 of the International Covenant on Civil and Political Rights and Articles 5, 6, 8 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms without prejudice to the fundamental principles of a fair trial and legal protection, including the principle of *ne bis in idem*.

II

Regarding the time and territory to which the derogation applies

The above-mentioned norms of the CPC can be applied during the martial law imposed on the territory of Ukraine from 05:30 on February 24, 2022.”

28 March 2024

