

Reference: C.N.984.2016.TREATIES-IV.4 (Depositary Notification)

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

FRANCE: NOTIFICATION UNDER ARTICLE 4 (3)

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

The above action was effected on 21 December 2016.

(Translation) (Original: French)

FD/No. 2016 920396

New York, 21 December 2016

Sir,

In a letter dated 23 November 2015, I brought to your attention the declaration of a state of emergency in France following coordinated attacks in Paris on 13 November 2015 and requested you to consider my letter a notification for the purposes of article 4 of the International Covenant on Civil and Political Rights.

The French Government, by Decree No. 2015-1475 of 14 November 2015, decided to implement Act No. 55-385 of 3 April 1955 concerning the state of emergency.

The seriousness of the attacks, their simultaneous nature and the ongoing unprecedented threat within our borders then necessitated an extension of the state of emergency, of which I informed you: for a period of three months, with effect from 26 November 2015 (by Act No. 2015-1501 of 20 November 2015); then for a further three months, with effect from 26 February 2016 (by Act No. 2016-162 of 19 February 2016); then for a further two months, with effect from 26 May 2016 (by Act No. 2016-629 of 20 May 2016); and finally for a period of six months, with effect from 22 July 2016 (by Act No. 2016-987 of 21 July 2016).

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The terrorist threat, representing “an imminent danger arising from serious breaches of public order”, which constituted the reason for the initial declaration and extensions of the state of emergency, remains at a highly alarming level, making it necessary to have strengthened administrative measures in place to combat terrorism within our borders.

Twelve attempted attacks have been thwarted since the attack in Nice on 14 July 2016, including, in late November, a major attack masterminded from within the Syrian territory.

This very high threat is now taking place in a pre-electoral context involving numerous public gatherings, which could be exploited by terrorist organizations or by individuals inspired by them, because of the targets that these gatherings represent, as well as the importance of this period in the democratic life of the Nation.

Assessment of the measures taken since 14 November 2015 in the context of the state of emergency has confirmed the need for such measures to prevent further attacks and to disrupt terrorist networks.

The legislative and regulatory provisions adopted in recent months have, in addition to providing further human and material resources, significantly strengthened the legal tools to combat terrorism, as demonstrated by the results of these efforts. However, the measures permitted under the state of emergency remain indispensable to address the threat and are complementary to, rather than competing with, those of general law.

For this reason the state of emergency was extended by Act No. 2016-1767 of 19 December 2016, extending the application of Act No. 55-385 of 3 April 1955 concerning the state of emergency until 15 July 2017.

Measures that could be taken in the context of the state of emergency include warrantless searches (article 11, section I, of the Act of 3 April 1955 concerning the state of emergency), which shall be authorized until 15 July 2017. In addition, the Act of extension provides that the duration of house arrests shall be limited to 12 months. Beyond that, the Minister of the Interior may request a judge's authorization to extend the house arrest for a period of three months if there are serious reasons to believe that the behaviour of the person in question continues to pose a threat to public security and public order.

The French Government wishes to recall that the measures taken in the context of the state of emergency are subject to effective judicial monitoring as well as to particularly close oversight and monitoring by Parliamentary machinery. Lastly, the French Government ensures that local elected officials are consulted and kept fully informed and intends to continue its dialogue with civil society.

The text of Act No. 2016-1767 of 19 December 2016 is appended herewith.

Accept, Sir, the assurances of my highest consideration.

(Signed) François Delattre

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Act No. 2016-1767 of 19 December 2016 extending implementation of Act No. 55-385 of 3 April 1955 concerning the state of emergency ⁽¹⁾
NOR: *INTX1633947L*

The National Assembly and the Senate have adopted,
The President of the Republic promulgates the following Act:

Article 1

I. - The state of emergency that was declared by Decree No. 2015-1475 of 14 November 2015 implementing Act No. 55-385 of 3 April 1955 and Decree No. 2015-1493 of 18 November 2015 implementing Act No. 55-385 of 3 April 1955; and most recently extended by Act No. 2016-987 of 21 July 2016 extending implementation of Act No. 55-385 of 3 April 1955, concerning the state of emergency and measures to strengthen counter-terrorism, is extended, with effect from 22 December 2016, until 15 July 2017.

II. - While it remains in force, the state of emergency shall trigger the application of article 11, section I, of Act No. 55-385 of 3 April 1955 concerning the state of emergency.

III. - The state of emergency may be terminated by decree of the Council of Ministers before the expiry of the extension period. In this case, Parliament shall be so informed.

Article 2

I. - Article 6 of Act No. 55-385 of 3 April 1955 concerning the state of emergency shall be supplemented by the following four paragraphs:

“The decision to place a person under house arrest shall be renewed after a period of extension of the state of emergency in order to continue to be in force.

From the declaration of a state of emergency and during the entire time that it is in effect, the same person may not be placed under house arrest for a total of more than twelve months.

The Minister of the Interior may, however, request authorization from the judge-in-chambers of the Council of State to extend house arrest beyond the period mentioned in the twelfth paragraph. The request shall be submitted no earlier than fifteen days prior to the expiry of this period. The judge shall issue a ruling in the manner provided for in book V of the Code of Administrative Justice and within 48 hours of its submission, on the basis of evidence produced by the administrative authority supporting serious grounds to believe that the person’s behaviour continues to pose a threat to public security and public order. An extension authorized by the judge may not exceed three months. The administrative authority may, at any time, terminate the house arrest or reduce its associated obligations in accordance with the provisions of this article.

The request mentioned in the penultimate paragraph may be renewed under the same conditions.”

II. - Notwithstanding the last four sections of article 6 of Act No. 55-385 of 3 April 1955 concerning the state of emergency, any person who, within ninety days of the entry into force of this Act, has been placed under house arrest for more than 12 months on the basis of a state of emergency declared by Decree No. 2015-1475 of 14 November 2015 implementing Act No. 55-385 of 3 April 1955 and Decree No. 2015-1493 of 18 November 2015 implementing Act No. 55-385 of 3 April 1955 overseas, may be subject to a new house arrest measure if there are serious reasons to believe that the person’s behaviour

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poses a threat to public security and public order. The new period of house arrest may not exceed 90 days. During this period, if he wishes to extend the house arrest, the Minister of the Interior may bring the matter before the Council of State on the basis of the last four sections of article 6 of Act No. 55-385 of 3 April 1955 above.

Article 3

In article 15 of Act No. 55-385 of 3 April 1955 on the state of emergency, the words: "No. 2016-987 of 21 July 2016 extending the implementation of Act No. 55-385 of 3 April 1955 concerning the state of emergency and measures to strengthen counter-terrorism" are replaced by the words, "No. 2016-1767 of 19 December 2016 extending the implementation of Act No. 55-385 of 3 April 1955 concerning the state of emergency."

Article 4

During the extension period provided for in article 1 of this Act, article 4 of Act No. 55-385 of 3 April 1955 concerning the state of emergency is not applicable in the event of the resignation of the Government following election of the President of the Republic or of members of the National Assembly.

This Act shall be executed as a law of the State.

Done at Paris, 19 December 2016.

François Hollande

By the President of the Republic:

Bernard Cazeneuve
Prime Minister,

Jean-Jacques Urvoas
Keeper of the Seals and Minister of Justice

Bruno Le Roux
Minister of the Interior

Minister for Overseas Territories
Ericka Bareigts

⁽¹⁾ *Preparatory work*: Act No. 2016-1767.

National Assembly:

Bill No. 4295;

Report No. 4298 by Mr. Pascal Popelin, on behalf of the Law Commission;

Discussion and adoption, following application of the accelerated procedure, on 13 December 2016 (TA No. 858).

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Senate:

Bill No. 215 (2016-2017), adopted by the National Assembly;
Report No. 220 (2016-2017) by Mr. Michel Mercier, on behalf of the Law Commission;
Commission text No. 221 (2016-2017);
Discussion and adoption on 15 December 2016 (TA No. 37, 2016-2017).

9 January 2017

A handwritten signature in black ink, consisting of stylized, overlapping letters, positioned below the date.

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