

Reference: C.N.117.2017.TREATIES-IV.4 (Depositary Notification)

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

PERU: 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 22 February 2017.

(Translation) (Original: Spanish)

The Permanent Mission of Peru to the United Nations presents its compliments to the Treaty Section of the Office of Legal Affairs, United Nations Secretariat, and, in accordance with article 4 of the International Covenant on Civil and Political Rights has the honour to inform it that by Supreme Decree No. 010-2017-PCM, issued on 7 February 2017, the state of emergency declared in the districts of Huanta, Ayahuanco, Santillana, Chaca, Sivia, Llochegua, Canayre, Uchuraccay and Pucacolpa in the Province of Huanta, in the districts of San Miguel, Anco, Ayna, Chungui, Oronccoy, Santa Rosa, Tambo, Samugari and Anchiuay in the Province of La Mar, Department of Ayacucho; in the districts of Pampas, Huachocolpa, Quishuar, Salcabamba, Salcahuasi, Surcubamba, Tintay Puncu, Roble, Santiago de Tucuma and Andaymarca in the Province of Tayacaja, Department of Huancavelica; in the districts of Echarate, Megantoni, Kimbiri, Pichari, Vilcabamba, Inkawasi, Villa Kintiarina and Villa Virgen in the Province of La Convención, Department of Cusco; in the districts of Llaylla, Mazamari, Pampa Hermosa, Pangoa, Vizcatán del Ene and Rio Tambo in the Province of Satipo, in the districts of Andamarca and Comas in the Province of Concepción, and in the districts of Santo Domingo de Acobamba and Pariahuanca in the Province of Huancayo, Department of Junín, has been extended for sixty (60) days, with effect from 8 February 2017.

It should be recalled that the Permanent Mission has duly reported to the Secretariat previous extensions of the state of emergency in the aforementioned places, the most recent communication being note No. 7-1-SG/105.

¹ Refer to depositary notification C.N.986.2016.TREATIES-IV.4 of 13 January 2017 (Notification under article 4 (3): Peru).

During the state of emergency, the constitutional rights relating to liberty and security of person, the inviolability of the home and freedom of assembly and movement within the territory recognized in article 2, paragraphs 9, 11, 12 and 24 (f) of the Political Constitution of Peru are suspended.

The Permanent Mission of Peru to the United Nations takes this opportunity to convey to the Treaty Section of the Office of Legal Affairs, United Nations Secretariat, the renewed assurances of its highest consideration.

New York, 22 February 2017

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Extension of the state of emergency in the districts of the Provinces of Huanta and La Mar (Department of Ayacucho), in the Province of Tayacaja (Department of Huancavelica), in the Province of La Convención (Department of Cusco) and in the Provinces of Satipo, Concepción and Huancayo (Department of Junín)

Supreme Decree No. 010-2017-PCM

The President of the Republic

Considering:

That, by Supreme Decree No. 091-2016-PCM, issued on 8 December 2016, the state of emergency was extended for a period of sixty (60) calendar days, with effect from 10 December 2016, in the districts of Huanta, Ayahuanco, Santillana, Chaca, Sivia, Llochegua, Canayre, Uchuraccay and Pucacolpa in the Province of Huanta, in the districts of San Miguel, Anco, Ayna, Chungui, Oronccoy, Santa Rosa, Tambo, Samugari and Anchiuay, in the Province of La Mar, Department of Ayacucho; in the districts of Pampas, Huachocolpa, Quishuar, Salcabamba, Salcahuasi, Surcubamba, Tintay Puncu, Roble, Santiago de Tucuma and Andaymarca in the Province of Tayacaja, Department of Huancavelica; in the districts of Echarate, Megantoni, Kimbiri, Pichari, Vilcabamba, Inkawasi, Villa Kintiarina and Villa Virgen in the Province of La Convención, Department of Cusco; in the districts of Llaylla, Mazamari, Pampa Hermosa, Pangoa, Vizcatán del Ene and Rio Tambo in the Province of Satipo, in the districts of Andamarca and Comas in the Province of Concepción, and in the districts of Santo Domingo de Acobamba and Pariahuanca in the Province of Huancayo, Department of Junín;

That in accordance with the report of the Chief of the Joint Command of the Armed Forces, in note No. 032-JCCFFAA/OAJ of 18 January 2017, the circumstances that gave rise to the declaration of a state of emergency in the aforementioned districts still prevail, and that it is therefore necessary to extend the said state of emergency which is about to expire, in order to enable the population, through the presence and appropriate action of the armed forces, to identify with the ends or objectives sought by the national Government, namely the consolidation of peace in the area and in the country as a whole;

That article 137, paragraph 1, of the Political Constitution of Peru provides that the extension of a state of emergency requires a new supreme decree and that, if the President of the Republic so orders, the armed forces shall maintain public order during a state of emergency;

That Legislative Decree No. 1095 establishes the legal framework governing the principles, forms, conditions and limits concerning the use of force by the armed forces in the national territory; article 4 thereof provides that the action of the armed forces in defence of the rule of law and to protect society shall be conducted within the national territory with the aim of resisting a hostile group carrying out military operations, subject to the declaration of a state of emergency, when the armed forces are in charge of maintaining public order;

That article 12 of the above-mentioned Legislative Decree No. 1095 establishes that throughout the state of emergency the Joint Command of the Armed Forces shall appoint the operational command responsible for maintaining public order, with the participation of the National Police of Peru which, after coordination, shall carry out the measures ordered by the Operational Command;

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That, in accordance with article 3 thereof, hostile groups are defined as a plurality of individuals in the national territory who meet three conditions (i) have a minimum degree of organization; (ii) have the capacity and intention of confronting the State in a prolonged manner by means of firearms; and (iii) participate in hostilities or collaborate in their realization;

That, accordingly, the conduct of the remaining terrorists means that they constitute a hostile group in that they meet the aforementioned conditions;

That furthermore paragraph 13.2 of article 13 of the aforementioned decree lays down that the use of force by the Armed Forces against a hostile group during a state of emergency is subject to the rules of engagement, the operations being carried out in conformity with international humanitarian law;

That paragraph 4.14 of article 4 of Legislative Decree No. 1136 of the Joint Command of the Armed Forces provides that the Joint Command of the Armed Forces shall, among other functions, assume the Unified Command of the Armed Forces and the National Police when the President of the Republic declares a state of emergency and places the armed forces in charge of maintaining public order, in accordance with its regulation approved by Supreme Decree No. 007-2016-DE of 18 July 2016;

That article 1 of Supreme Decree No. 004-2013-DE of 21 June 2013 stipulates the scope of the Command in respect of military actions or operations in areas where the state of emergency has been declared, when the armed forces are responsible for maintaining public order and provides that the planning, organization, leadership and conduct of military actions or operations shall be carried out under a Unified Command, led by the respective Operational Command of the Armed Forces;

In accordance with article 118, paragraphs 4 and 14, of the Political Constitution of Peru; and

With the approval of the Council of Ministers and subject to the notification of the Congress of the Republic;

Hereby decrees:

Article 1: Extension of the state of emergency

The state of emergency in the districts of Huanta, Ayahuanco, Santillana, Chaca, Sivia, Llochegua, Canayre, Uchuraccay and Pucacolpa in the Province of Huanta, in the districts of San Miguel, Anco, Ayna, Chungui, Oronccoy, Santa Rosa, Tambo, Samugari and Anchiuay, in the Province of La Mar, Department of Ayacucho; in the districts of Pampas, Huachocolpa, Quishuar, Salcabamba, Salcahuasi, Surcubamba, Tintay Puncu, Roble, Santiago de Tucuma and Andaymarca in the Province of Tayacaja, Department of Huancavelica; in the districts of Echarate, Megantoni, Kimbiri, Pichari, Vilcabamba, Inkawasi, Villa Kintiarina and Villa Virgen in the Province of La Convención, Department of Cusco; in the districts of Llaylla, Mazamari, Pampa Hermosa, Pangoa, Vizcatán del Ene and Rio Tambo in the Province of Satipo, in the districts of Andamarca and Comas in the Province of Concepción, and in the districts of Santo Domingo de Acobamba and Pariahuanca in the Province of Huancayo, Department of Junín, is hereby extended for a period of sixty (60) calendar days, with effect from 8 February 2017.

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Article 2: Suspension of the exercise of constitutional rights

During the state of emergency and in the locations referred to in the preceding article, the constitutional rights relating to liberty and security of person, the inviolability of the home and freedom of assembly and of movement within the territory, recognized in article 2, paragraphs 9, 11, 12 and 24 (f) of the Political Constitution of Peru, shall be suspended.

Article 3: Maintenance of public order

The armed forces shall be responsible for maintaining public order during the state of emergency declared in article 1 hereof.

The National Police of Peru shall support the armed forces with a view to achieving this objective in the districts where a state of emergency has been declared.

Article 4: The action of the armed forces

The action of the armed forces shall be governed by the rules of international humanitarian law, in pursuance of Legislative Decree No. 1095.

Article 5: Unified Command

The Joint Command of the Armed Forces shall assume the Unified Command of the Armed Forces and the National Police in the districts specified in article 1 hereof, in accordance with Legislative Decree No. 1136, the Legislative Decree of the Joint Command of the Armed Forces, and Supreme Decree No. 004-2013-DE, which stipulates the scope of the Command in respect of military actions or operations in areas in which a state of emergency has been declared, in cases where the armed forces are responsible for maintaining public order.

Article 6: Endorsement

The present Supreme Decree shall be endorsed by the President of the Council of Ministers, the Minister of Defence, the Minister of the Interior and the Minister of Justice and Human Rights.

Done at Government House, Lima, on 1st February 2017.

Pedro Pablo Kuczynski Godard
President of the Republic

Fernando Zavala Lombardi
President of the Council of Ministers

Jorge Nieto Montesinos
Minister of Defence

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Carlos Basombrio Iglesias
Minister of the Interior

María Soledad Pérez Tello
Minister of Justice and Human Rights

2 March 2017

A handwritten signature in black ink, consisting of several loops and a horizontal line at the bottom.

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