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

ARGENTINA: 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 1 June 2020.

(Translation) (Original: Spanish)

ENAUUN N° 286/2020

New York, 29 May 2020

Sir,

Pursuant to instructions from my Government, I have the honour to write to you in order to inform you of the exceptional measures to address the COVID-19 pandemic in the Argentine Republic, in accordance with article 4 (paragraph 3) of the International Covenant on Civil and Political Rights. The said information is attached to this Note.

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

(Signed)
Alejandro Verdier
Chargé d'affaires a.i.

The exceptional measures to address the COVID-19 pandemic in Argentina

On 11 March 2020, the World Health Organization (WHO) declared the outbreak of the new coronavirus as pandemic, following the increase in the number of people affected around the world and the number of deaths recorded. Since then, the crisis caused by COVID-19 has led to the saturation of health systems, the disruption of the global economy and to a widespread social paralysis.

In that context, the Argentine Republic, like other countries, is experiencing an exceptional situation, which has led its authorities to take a number of emergency measures to mitigate the spread of the disease, taking into account, in their actions, the unquestionable protection of human rights of all inhabitants of the country, in accordance with the appeals and recommendations of the regional and universal human rights protection system.

Accordingly, on 12 March 2020, pursuant to necessity and emergency Decree No. 260/2020, the public health emergency, declared under Act No. 27.541 of 21 December 2019, has been extended for a period of one year.

The recitals of the said Decree state “That, in recent days, the spread of cases of the new coronavirus COVID-19 has been observed in numerous countries on different continents, reaching our region and our country. That, in the current situation, it is necessary to adopt new appropriate, transparent, consensual measures based on scientific evidence, in addition to those already adopted since the beginning of this epidemiological situation, in order to mitigate its spread and health impact.”

Subsequently, on 19 March 2020, the National Executive Branch issued the necessity and emergency Decree No. 297/2020, which provided for a mandatory and preventive lockdown for all persons living or temporarily located in the country at the time of its issuance, in order to protect public health, which is an inalienable obligation of the State.

This decree provides that, during the mandatory and preventive lockdown, individuals must remain in their usual residences, refrain from going to their workplaces and from moving on roads, routes and public spaces, in order to prevent the spread and transmission of COVID-19 virus and the consequent impact on public health and other derived individual rights, such as the right to life and the right to physical integrity.

In addition, permanent checkpoints have been set up on roads, streets and public spaces, at access points and other strategic locations, in order to ensure compliance with the regulations adopted in the framework of the health emergency.

The recitals of the above-mentioned Decree refer to the exceptional nature of the situation: “That we are facing a potential health and social crisis without precedent, and it is therefore necessary to take appropriate, transparent, consensual measures that are based on available evidence, in order to mitigate its spread and impact on the health system. That, while there is no effective antiviral treatment nor vaccines that could prevent the virus, the mandatory lockdown and social distancing measures play a role of vital importance in addressing the epidemiological situation and mitigating the health impact of COVID-19. That, bearing in mind the experience of countries in Asia and Europe where the SARS-CoV-2 virus has spread earlier, it can be concluded that the success of the measures depends on the following variables: timeliness, intensity (drastic or gradual) and effective compliance with those measures.”

Likewise, Decree No. 297/2020 states “That article 14 of the national Constitution establishes that ‘all the inhabitants of the Nation are entitled to the following rights, in accordance with the laws that regulate their exercise, namely: to work and perform any lawful industry; to navigate and trade; to petition the authorities; to enter, remain in, travel through and leave the Argentine territory’. Although

this is one of the fundamental pillars guaranteed in our legal order, it is subject to limitations for reasons of public order, security or public health. Indeed, the International Covenant on Civil and Political Rights recognizes in its article 12, paragraph 1, the ‘... right to liberty of movement...’, and article 12, paragraph 3, provides that the rights set forth therein ‘shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant’... That the measures established in the present Decree are essential, reasonable and proportionate to the threat and the health risk that we are facing.”

It should be noted that the measure provided for in Decree No. 297/2020 was initially established until 31 March 2020, but was then successively extended by Decree No. 325/2020 until 12 April 2020, Decree No. 355/2020 until 26 April 2020, Decree No. 408/2020 until 10 May 2020, and lastly by Decree No. 459/2020 which provided for its extension until 24 May 2020 included.

The described exceptional situation demonstrates the legitimacy of the aims to be preserved. Indeed, the lockdown measures have been adopted in a reasonable manner, in accordance with medical information that demonstrated their importance for preventing the spread of the disease and the experience of other countries that had to address this serious situation earlier.

In this regard, it can be claimed that, after more than 50 days since the issuance of Decree No. 297/20, the mandatory and preventive lockdown ordered in Argentina has, to date, enabled the containment of the epidemic, a decrease in the speed of its spread being registered, preventing the saturation of the health system, as it happened in other parts of the world.

With regard to the proportionality of the measure, it should be noted that, from the beginning, movement of workers performing essential tasks was permitted in various situations, as well as for the assistance to children and adolescents, to elder persons and others who require it. Likewise, new exceptions to the lockdown and to the prohibition on movement were established, under complementary regulations, for persons performing different activities and services, so as not to interrupt the provision of essential services and to also include various economic activities. Since the issuance of the last decree – Decree No. 459/2020 – the lockdown has entered a new phase in which various activities in different regions of the country have been authorized, considering the favourable epidemiological trends in most part of the national territory. The conditions of the mandatory and preventive lockdown were not modified in large agglomerations, where the largest proportion of cases in our country is currently concentrated – more than 85%.

Without prejudice to the relevance of the measures set forth, the National Ministry of Health informed that, on 13 May 2020, 316 new cases of COVID-19 were confirmed in our country, bringing the total number of positive cases to 6,879. This demonstrates that, despite the effectiveness of the lockdown, we are still fighting the spread of the disease, without being possible to determine the exact moment when these circumstances will cease.

Furthermore, in addition to the mandatory and preventive lockdown, the Argentine Republic ordered a strict control of entry through the country’s borders, consistent with the restrictions established by other States.

Thus, necessity and emergency Decree No. 274/2020 of 16 March 2020 provided for the prohibition on entry into the national territory for non-resident foreign nationals, for a period of 15 days, through ports, airports, international border crossings, checkpoints and any other access points, in order to reduce the risks of infection. This period was successively extended by Decrees Nos. 331/2020, 365/2020, 409/2020 and 459/2020, until 24 May 2020 included.

Pursuant to necessity and emergency Decree No. 313/2020 of 26 March 2020, the National Executive Branch extended the scope of the prohibition on entry into the national territory to persons residing in the country and to Argentines residing abroad, through ports, airports, international border

crossings, checkpoints and any other access points established under Decree No. 274/2020, while providing for various exceptions to this prohibition.

The recitals of the former provide “That the COVID-19 pandemic continues to escalate, and its community transmission is currently taking place; therefore, bearing in mind the inflow of Argentine nationals and residents analysed above as well as the mode of transmission of the virus, it is considered necessary to introduce measures, in addition to those already adopted, that are reasonable, temporary and proportionate to the risk under consideration, to contribute to safeguarding the health of individuals and their families, both nationals and residents who wish to enter the country and those currently in the country, by minimizing the entry into the national territory of possible cases of potential contagion through its various points of access, for the shortest possible period of time, in order to adapt sufficient safety measures for their re-entry.”

Likewise, the text of the same Decree No. 313/2020 states that the measure constitutes a decision of a transitory nature, which responds not only to the imperative need to protect those located in the national territory from the spread of coronavirus COVID-19, but also to establish at points of access to the country the conditions necessary, in terms of infrastructure and health care, to receive those who are still abroad and who have to travel to their homes or confine themselves in the place where they arrive.

Subsequently, pursuant to necessity and emergency Decree No. 331/2020 of 1 April 2020, the competent State authorities were instructed to establish the relevant timelines and coordinate the actions necessary to enable the gradual entry into the national territory of persons resident in the country and of the Argentines resident abroad that could not have entered while Decree No. 313/2020 was in effect, paying particular attention to persons belonging to at-risk groups.

Under the said Decree, the Ministry of Foreign Affairs, International Trade and Worship was instructed to extend the validity of the Programme for the assistance of Argentines abroad in the context of the coronavirus pandemic, established pursuant to resolution MRECIC 62/2020 of 28 March 2020, in order to respond to the urgent needs for accommodation, food, health care and all other basic needs of the Argentines abroad, in all those cases where they are in a situation of vulnerability that does not allow them to resolve the issue by their own means. In that context, the respective funds were transferred to different consulates to respond to the above-mentioned needs, the State authorities making every effort to ensure the return of all persons who wish to re-enter the country in accordance with the aforementioned regulations.

At the same time, it should be noted that there are no restrictions at the land borders on Argentines or residents entering in private vehicles. On the other hand, the State regulates the number of Argentines and residents who may return on a daily basis to our country by air and by land using public transport, the entry of Argentines and residents following therefore an administered procedure.

Indeed, according to the information registered by the Ministry of Foreign Affairs, International Trade and Worship, as of 20 April 2020, approximately 90 % of Argentines who wanted to re-enter the country during the pandemic had been able to do so.

In this regard, 168,140 persons had returned to our country by air, land or river between 16 March and 17 April 2020, whereas an estimated total of 21,493 persons had expressed their intention to return to the country by 20 April 2020, therefore 90 % of all the Argentines or residents with intentions of returning to the country have already done so.

Thus, from the information reported, it is clear that the exceptional measures adopted by the national authorities to safeguard the rights to life and to health of the population of our country, limiting individual rights only to the extent strictly necessary, are proportionate, reasonable and relevant in the context of the enormous difficulties and challenges imposed by the current global situation.

Lastly, it should be noted that the Senate of the Nation, in its first special remote session held in our country on 13 May 2020, approved all the necessity and emergency decrees issued by the National Executive Branch since the mandatory and preventive lockdown had been declared because of the COVID-19 pandemic.

11 June 2020

A handwritten signature in black ink, consisting of the letters 'DN' with a horizontal line underneath.