

Reference: C.N.159.2022.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 20 June 2022.

(Original: English)

“No. 4132/28-194/508-42891

The Permanent Mission of Ukraine to the United Nations presents its compliments to the Secretary-General of the United Nations and, with the reference to its previous communications No. 4132/28-110-17626 of 28 February 2022, No. 4132/28-194/600-17987 of 4 March 2022, No. 4132/28-194/501-19782 of 16 March 2022, No. 4132/28-194/501-19782 of 28 March 2022, No. 4132/28-194/501-29977 of 29 April 2022 and No. 4132/28-194/501-39692 of 8 June 2022 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 2 pages

17 June 2022”

¹ Refer to depositary notifications C.N.115.2022.TREATIES-IV.4 of 29 April 2022 and C.N.145.2022.TREATIES-IV.4 of 10 June 2022 (Notifications under article 4 (3): Ukraine).

“Annex

I

Derogation measures

1. The Law of Ukraine of April 14, 2022 No. 2201 ‘On Amendments to the Criminal Procedure Code of Ukraine to Improve the Procedure for Conducting Criminal Proceedings within Martial Law Regime’ (hereinafter - Law No. 2201) sets out a new wording in Article 615 ‘Special Regime of Criminal Proceedings in Martial Law’ of the Criminal Procedure Code of Ukraine, according to which during martial law if:

- there is no objective possibility of further conduct, completion of pre-trial investigation and appeal to the court with an indictment, request for coercive measures of medical or educational nature, request for release from criminal liability - the term of pre-trial investigation in criminal proceedings is suspended on the basis of a reasoned decision of the prosecutor outlining the relevant circumstances and is subject to renewal if the grounds for suspension cease to exist. Prior to the suspension of the pre-trial investigation, the prosecutor is obliged to decide on the extension of the detention period (subparagraph 3 of part 1 of Article 615);
- there is no objective possibility to perform procedural actions within the time limits specified in Article 220 ‘Consideration of petitions during the pre-trial investigation’, Article 221 ‘Acquaintance with the materials of the pre-trial investigation before its completion’, Article 304 ‘Deadline for filing a complaint against the decision, action or inaction of the investigator, coroner or prosecutor, its return or refusal to initiate proceedings’, Article 306 ‘Procedure for reviewing complaints against decisions, actions or inaction of the investigator, coroner or prosecutor during the pre-trial investigation’, Article 308 ‘Appeal for failure to meet reasonable deadlines’, Article 376 ‘Proclamation of a court decision’, Article 395 ‘Procedure and terms of appeal’, Article 426 ‘Procedure and terms of cassation appeal’ of the Criminal Procedure Code, - such procedural actions shall be carried out immediately if possible, but not later than 15 days after the cessation or abolition of martial law (subparagraph 5 of the part 1 of Article 615);
- there are cases for detention of a person without the decision of the investigating judge, the court, defined by Article 208 ‘Detention by an authorized official’ of the Criminal Procedure Code, or there are reasonable circumstances that suggest that escape is possible in order to avoid criminal responsibility of a person suspected of committing a crime — an authorized official has the right without the decision of the investigating judge, court or resolution of the head of the prosecutor’s office to detain such a person. The term of detention of a person without the decision of the investigating judge, court or resolution of the head of the prosecutor’s office during martial law may not exceed 216 hours from the moment of detention, which is determined in accordance with Article 209 of the Criminal Procedure Code (subparagraph 6 of the part 1 of Article 615);
- testimony obtained during the interrogation of a witness, victim, including the simultaneous interrogation of two or more interrogated persons, in criminal proceedings conducted in martial law, may be used as evidence in court only if the course and results of such interrogations were recorded using available technical means of video recording. Testimony obtained during the interrogation of a suspect, including the simultaneous interrogation of two or more persons already interrogated, in criminal proceedings conducted in martial law may be used as evidence in court only if the defense counsel participated in such interrogation, and the course and results of the interrogation were recorded using available technical means of video recording (subparagraph 11 of the part 1 of Article 615);
- coroner, investigator, prosecutor ensures the participation of the defense counsel in a separate procedural action, including in case of impossibility of the defense counsel’s appearance — with the use of technical means (video, audio) to ensure remote participation of the defense counsel. Coroner, investigator, prosecutor ensures the participation of an interpreter to translate the explanations, testimony or documents of the suspect, the victim at the earliest opportunity. In the presence of circumstances that make it impossible for an interpreter to participate in criminal proceedings, coroner,

investigator, prosecutor has the right to personally translate explanations, testimony or documents if he/she speaks one of the languages of the suspect, victim (subparagraph 12 of part 1 of Article 615).

Provisions of Article 87 'Inadmissibility of evidence obtained as a result of significant violation of human rights and freedoms', Article 95 'Indications' of the Criminal Procedure Code are applied taking into account the features specified in Article 615 of the Criminal Procedure Code (as amended by Law No. 2201).

The application of Law No. 2201 necessitate derogation in respect of Articles 2 (paragraph 3), 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.

II

Regarding the time and territory covered by the derogation from commitments

The Law No. 2201 entered into force on May 1, 2022 and is valid during martial law, which was imposed throughout Ukraine from 05 hours 30 minutes on February 24, 2022 and extended on May 25, 2022 for 90 days by the Law of Ukraine of April 21, 2022 No. 2212 'On approval of the Decree of the President of Ukraine 'On the extension of martial law in Ukraine'.'

27 June 2022

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