

Reference: C.N.416.2015.TREATIES-IV.4 (Depositary Notification)

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

UKRAINE: 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 5 June 2015.

(Courtesy Translation) (Original: Ukrainian)

“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 the Article 4 of the International Covenant on Civil and Political Rights, has the honour to transmit herewith the text of the Declaration of the Verkhovna Rada (Parliament) of Ukraine ‘On derogation from certain obligations under the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms’ adopted 21 May 2015.

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

5 June 2015

Declaration of the Verkhovna Rada of Ukraine
on Derogation from Certain Obligations under the International Covenant on Civil and Political Rights
and the Convention for the Protection of Human Rights and Fundamental Freedoms

I

Derogation from Obligations

1. Due to the annexation and temporary occupation by the Russian Federation of the integral part of Ukraine the Autonomous Republic of Crimea and the city of Sevastopol as a result of armed aggression against Ukraine, the Russian Federation is fully responsible for respect for human rights and implementation of the relevant treaties in annexed and temporary occupied territory of Ukraine.
2. In view of armed aggression of the Russian Federation against Ukraine involving both regular Armed Forces of the Russian Federation and illegal armed groups guided, controlled and financed by the Russian Federation, an anti-terrorist operation is being conducted by the units of the Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine and the Armed Forces of Ukraine since April 2014, on the territory of certain areas of the Donetsk and Luhansk oblasts of Ukraine. The anti-terrorist operation is a part of the inalienable right of Ukraine to individual self-defense against aggression according to Article 51 of the UN Charter. The Russian Federation, which actually occupies and exercises control over certain areas of the Donetsk and Luhansk oblasts, is fully responsible for respect for and protection of human rights in these territories under international humanitarian law and international human rights law.
3. Ongoing armed aggression of the Russian Federation against Ukraine, together with war crimes and crimes against humanity committed both by regular Armed Forces of the Russian Federation and by the illegal armed groups guided, controlled and financed by the Russian Federation, constitutes a public emergency threatening the life of the nation in the sense of Article 4, paragraph 1, of the International Covenant on Civil and Political Rights, and Article 15, paragraph 1, of the Convention for the Protection of Human Rights and Fundamental Freedoms.
4. In order to ensure the vital interests of the society and the State in response to the armed aggression of the Russian Federation, the Verkhovna Rada of Ukraine, the Cabinet of Minister of Ukraine and other authorities have to adopt legal acts, which constitute the derogation from certain obligations of Ukraine under the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms.
5. On 12 August 2014, the Verkhovna Rada of Ukraine adopted the Law of Ukraine 'On Amendments to the Law of Ukraine *'On Combating Terrorism' regarding the preventive detention of persons, involved in terrorist activities in the anti-terrorist operation area for a period exceeding 72 hours*'. According to the Law, in the area in which a long-term anti-terrorist operation is being conducted, persons involved in terrorist activities may be detained, as an exception, for a period exceeding 72 hours but not exceeding 30 days, with the consent of a prosecutor and without a decision of the court. The application of the provisions of this Law gives reasons for the necessity to derogate from certain obligations of Ukraine under paragraph 3 of Article 2 and Articles 9 and 14 of the International Covenant on Civil and Political Rights and Articles 5, 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms. At the same time, the application of this Law

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depository notifications are issued in electronic format only. Depository notifications are made available to the Permanent Missions to the United Nations in the United Nations Treaty Collection on the Internet at <https://treaties.un.org>, under "Depository Notifications (CNs)". In addition, the Permanent Missions, as well as other interested individuals, can subscribe to receive depository notifications by e-mail through the Treaty Section's "Automated Subscription Services", which is also available at <https://treaties.un.org>.

exclusively while the anti-terrorist operation is being conducted in exceptional cases for the purpose of the prevention of grave crimes is the limit required by the acuteness of danger caused by the armed aggression of the Russian Federation and actions of the terrorist groups backed by the Russian Federation.

6. On 12 August 2014, the Verkhovna Rada of Ukraine adopted the Law of Ukraine '*On Amendments to the Criminal Procedure Code of Ukraine regarding the special regime of pre-trial investigation under martial law, in state of emergency or in the anti-terrorist operation area*'. According to the Law, a special regime of pre-trial investigation is introduced for the time during which the anti-terrorist operation is being conducted. In the framework of this regime, the powers of investigating judges, prescribed by the Criminal Procedure Code in force, are temporarily transferred to respective prosecutors, who obtain additional procedural rights. The special regime of pre-trial investigation is applied only in the area of the anti-terrorist operation, and under the condition of impossibility of the investigating judge to perform his duties prescribed by the Criminal Procedure Code in force. The application of the provisions of this law gives reasons for the necessity to derogate from certain obligations of Ukraine under paragraph 3 of Article 2 and 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. However, the fact that courts do not actually function in certain areas of the Donetsk and Luhansk oblasts because of the armed aggression of the Russian Federation and actions of terrorist groups backed by the Russian Federation is the limit, which allows to transfer powers from investigating judges to prosecutors under condition of threat to the life of the nation.

7. On 12 August 2014, the Verkhovna Rada of Ukraine adopted the Law of Ukraine '*On Administering Justice and Conducting Criminal Proceedings in Connection with the Anti-terrorist Operation*'. According to the Law on the period of conduct of the anti-terrorist operation, the territorial jurisdiction of court cases amenable to the courts located in the anti-terrorist operation area and investigative jurisdiction on criminal offences, perpetrated in the anti-terrorist operation area, in case of impossibility to conduct pre-trial investigation, was changed. The application of the provisions of this law gives reasons for the necessity to derogate from certain obligations of Ukraine under Article 14 of the International Covenant on Civil and Political Rights, and Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, the fact that courts and pre-trial investigation bodies do not actually function in certain areas of the Donetsk and Luhansk oblasts caused by the armed aggression of the Russian Federation and actions of terrorist groups backed by the Russian Federation is the limit which allows to change the territorial jurisdiction of court cases and investigative jurisdiction on criminal offences under condition of threat to the life of the nation.

8. On 3 February 2015, the Verkhovna Rada of Ukraine adopted the Law of Ukraine '*On Military and Civil Administrations*'. In accordance with this Law, the military and civil administrations were established as temporary state bodies functioning in the Donetsk and Luhansk oblasts, within the Anti-Terrorist Centre of the Security Service of Ukraine, and were intended to provide for the operation of the Constitution and law of Ukraine, ensuring the security and normalization of the life-sustaining activity of the population, provision of the rule of law, participation in the prevention of sabotage and terrorist acts, and the prevention of the humanitarian disaster in the area of the anti-terrorist operation. The abovementioned Law grants powers to military and civil administrations, in particular, to set limits on remaining on the streets and in other public places within a period of 24 hours without specific documents; to temporarily restrict or prohibit the movement of vehicles and pedestrians on the streets, roads and terrain areas; to organize the checking of identification documents of individuals; and, if

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depository notifications are issued in electronic format only. Depository notifications are made available to the Permanent Missions to the United Nations in the United Nations Treaty Collection on the Internet at <https://treaties.un.org>, under "Depository Notifications (CNs)". In addition, the Permanent Missions, as well as other interested individuals, can subscribe to receive depository notifications by e-mail through the Treaty Section's "Automated Subscription Services", which is also available at <https://treaties.un.org>.

necessary, the searching of personal belongings, vehicles, baggage and cargo, office premises and private dwellings of citizens, except the restrictions established by the Constitution of Ukraine. The application of the provisions of this law gives reasons for the necessity to derogate from certain obligations of Ukraine under Articles 9, 12 and 17 of the International Covenant on Civil and Political Rights, Articles 5 and 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 2 of Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms. However, the anti-terrorist operation being conducted in order to prevent the threat of destruction of the nation because of the Russian Federation armed aggression is the limit, which allows to temporarily restrict freedom of movement and the right to private life.

9. Therefore, Ukraine exercises the right of derogation from its obligations established in Article 2, paragraph 3, and Articles 9, 12, 14 and 17 of the International Covenant on Civil and Political Rights, Articles 5, 6, 8 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, in certain areas of the Donetsk and Luhansk oblasts of Ukraine, which is determined by the Anti-Terrorist Centre of the Security Service of Ukraine in connection with the anti-terrorist operation, for the period until the complete cessation of the Russian Federation armed aggression, the restoration of constitutional order and orderliness in the occupied territory of Ukraine and until further notification to the Secretary-General of the United Nations and the Secretary General of the Council of Europe of the resumption of the application in full of the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms.

10. At the same time, without any prejudice to the application of the remaining provisions of the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms, and bearing in mind the continued existence of the dangerous situation, henceforth while the anti-terrorist operation is being conducted in response to the armed aggression of the Russian Federation, Ukraine reserves the right to take measures that may constitute grounds for derogations from its obligations under other Articles of the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms, on the basis of, and in the manner determined by the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms and this Regulation. In such case, Ukraine will inform thereof the Secretary-General of the United Nations and the Secretary-General of the Council of Europe in due course.

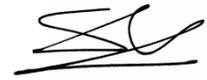
Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depositary notifications are issued in electronic format only. Depositary notifications are made available to the Permanent Missions to the United Nations in the United Nations Treaty Collection on the Internet at <https://treaties.un.org>, under "Depositary Notifications (CNs)". In addition, the Permanent Missions, as well as other interested individuals, can subscribe to receive depositary notifications by e-mail through the Treaty Section's "Automated Subscription Services", which is also available at <https://treaties.un.org>.

II

Information on the state of security in the Donetsk and Luhansk oblasts and changes to the territory covered by the derogation

Ukraine shall inform the Secretary-General of the United Nations and the Secretary-General of the Council of Europe about the state of security in the Donetsk and Luhansk oblasts in due course, and on the change of the territory covered by the derogation of Ukraine from the obligations under the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms.”

16 July 2015

A handwritten signature in black ink, consisting of several stylized, overlapping loops and lines, positioned below the date.

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depositary notifications are issued in electronic format only. Depositary notifications are made available to the Permanent Missions to the United Nations in the United Nations Treaty Collection on the Internet at <https://treaties.un.org>, under "Depositary Notifications (CNs)". In addition, the Permanent Missions, as well as other interested individuals, can subscribe to receive depositary notifications by e-mail through the Treaty Section's "Automated Subscription Services", which is also available at <https://treaties.un.org>.