



Strasbourg, 23 March 2020

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NOTE VERBALE

The Secretariat General of the Council of Europe (Treaty Office) presents its compliments to the Ministry of Foreign Affairs and has the honour to enclose a copy of a Note verbale from the Permanent Representation of Georgia to the Council of Europe, dated 21 March 2020, transmitted to the Secretary General of the Council of Europe on 23 March 2020, concerning Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5).

This information is transmitted in pursuance of Resolution (56) 16 of the Committee of Ministers.

The Secretariat General of the Council of Europe (Treaty Office) avails itself of this opportunity to renew to the Ministry the assurances of its highest consideration.

Encl.



Note to all member States.
Copy Georgia.

No. 24/9861

The Permanent Representation of Georgia to the Council of Europe presents its compliments to the Secretary General of the Council of Europe and pursuant to Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms informs that Georgia exercises right of derogation from its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms in the entire territory of Georgia.

Following the announcement of World Health Organization of 11 March 2020 characterizing COVID-19 as pandemic, taking into account the danger the spread of COVID-19 has posed to public health and in order to restraint the spread of the virus, on 21 March 2020, the President of Georgia declared the State of Emergency in the entire territory of Georgia, which was approved by the Resolution N5864 of the Parliament of Georgia on the same day.

Since the first case of COVID-19 was detected on the territory of Georgia on 26 February 2020, the Government has been taking concrete measures to protect public health, including suspension of education process, shifting of public servants to remote work and issuing same recommendations to public sector, gradual restriction of air as well as land traffic, establishment of quarantine procedures and self-isolation, closure of ski-resorts, cancellation of various large-scale cultural and sporting events, closure of all retail facilities apart from those designated within the framework of strategic infrastructure, as well as grocery shops. However, the increase in number of infected persons necessitated adoption of additional measures. The current epidemic situation in the State, has reached the point of *public emergency threatening the life of the nation* under Article 15(1) of the Convention necessitating further and now exceptional measures to ensure safety and protection of public health.

The Decree N1 of 21 March 2020 of the President of Georgia on the Measures to be Taken in Relation to the Declaration of the State of Emergency in the Entire Territory of Georgia adopted in accordance with the Georgian Constitution and the Law of Georgia on the State of Emergency, includes the emergency measures considered necessary in order to limit the spread of the virus and ensure public health. The Presidential Decree restricted certain fundamental human rights and freedoms enshrined in Articles 13, 14, 15, 18, 19, 21 and 26 of the Constitution of Georgia. In particular, the measures adopted by the Decree, among others, include establishing special rules of isolation and quarantine; suspension of international passenger air, land and sea traffic; special regulations on passenger transportation inside Georgia; suspension of visiting of penitentiary institutions; special regulations on public service delivery and administrative proceedings; restriction of assembly, manifestation and gathering; establishment rules and conditions of education other than those established by the relevant laws of Georgia, restrictions on the right to property. Application of these measures give reasons for the necessity to derogate from certain obligations of Georgia under Articles 5, 8 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 1 and 2 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 2 of Protocol No.4 to the Convention for the Protection of Human Rights and Fundamental Freedoms. In particular, these derogations apply to the obligations only to the extent strictly required by the exigencies of the situation as underscored in the Presidential Decree. The Permanent Representation of Georgia to the Council of Europe attaches to this Note the unofficial translations of the

Order N1 of the President of Georgia on the Declaration of the State of Emergency in the Entire Territory of Georgia of 21 March 2020, the Decree N1 on the Measures to be Taken in Relation to the Declaration of the State of Emergency in the Entire Territory of Georgia of 21 March 2020, the Resolution N5864 of the Parliament of Georgia on the Approval of the Order N1 of the President of Georgia of 21 March 2020 on the Declaration of the State of Emergency in the Entire Territory of Georgia and the Resolution N5865 of the Parliament of Georgia on the Approval of the Decree N1 of the President of Georgia on the Measures to be Taken in Relation to the Declaration of the State of Emergency in the Entire Territory of Georgia of 21 March 2020.

We also clarify that the derogations are consistent with the State's other obligations under international law as Georgia makes the same derogation from the relevant UN treaty.

The Permanent Representation of Georgia to the Council of Europe kindly asks that this Note to be considered as notification for the purposes of Article 15 paragraph 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The State of Emergency has been instituted for the period of 30 days, the emergency situation commenced on 21 March 2020 and shall remain into force until 21 April 2020. Pursuant to Article 15, paragraph 3, of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Permanent Representation of Georgia to the Council of Europe will subsequently inform of any changes that might occur in relation to the situation.

The Permanent Representation of Georgia to the Council of Europe uses this opportunity to reiterate to the Secretary General of the Council of Europe the assurances of its highest consideration.

Strasbourg, 21 March 2020

(seal)

To Ms. Marija Pejcinovic Buric
Secretary General
Council of Europe

(*) Declaration registered at the Secretariat General on 23 March 2020 – Or. Engl.

The Order of the President of Georgia N1 of 21 March 2020

On the Declaration of State of Emergency in the Entire Territory of Georgia

Considering the announcement of the new Coronavirus (COVID-19) pandemic by the World Health Organization on March 11, 2020, in light of the Coronavirus (COVID-19) mass spread and pandemic readiness announced by the World Health Organization and the growing challenge our country is facing, to normalize the situation so that the State fulfils its constitutional obligation - the necessary public safety in a democratic society to be ensured and the potential threat to the life and health of the country's population to be reduced, according to Paragraph 2 of Article 71 of the Constitution of Georgia and Paragraph 1 of Article 2 of the Law of Georgia on State of Emergency:

1. The State of Emergency to be declared in the entire territory of Georgia.
2. The State of Emergency shall remain into force until 21 April 2020.
3. The Order to be immediately passed to the Prime-Minister for co-signature.
4. The Order co-signed by the Prime-Minister of Georgia shall be immediately made public through all available media and its content shall be transmitted throughout the day.
5. The Order co-signed by the Prime-Minister of Georgia shall be immediately presented to the Parliament of Georgia for approval.
6. The Ministry of Foreign Affairs of Georgia should immediately notify the Secretary-General of the United Nations on the declaration of the State of Emergency in Georgia.
7. The Order is in force from the moment of its declaration.

The President of Georgia

(signed and sealed)

Salome Zourabichvili

The Prime-Minister of Georgia

(signed)

Giorgi Gakharia

Decree of the President of Georgia N1 of 21 March 2020

**On the Measures to be Taken in Relation
to the Declaration of the State of Emergency in the Entire Territory of Georgia**

Article 1. In connection with declaration of the State of Emergency in the entire territory of Georgia, in view of the massive spread of the new coronavirus (COVID-19), of the readiness to battle the pandemic declared by the World Health Organization and of the growing challenge the country is facing, in order for the State to fulfil its constitutional obligation, to ensure the necessity of public safety in a democratic society, reduce the threat to the life and health of the country's population and to manage the situation, in accordance with Paragraphs 3 and 4 of Article 71 of the Constitution of Georgia and Paragraphs 3 and 4 of Article 2 of the Law of Georgia on Emergency, the rights envisaged in Articles 13, 14, 15, 18, 19, 21 and 26 of the Constitution of Georgia shall be to restricted and limited for the whole period of the State of Emergency in the entire territory of Georgia:

1. Article 13 of the Constitution of Georgia:

Relevant agencies authorized by the legislation of Georgia shall be entitled to transfer any person for breach of the rules of isolation or quarantine established by the Government of Georgia to a special place designated by the Government of Georgia.

2. Article 14 of the Constitution of Georgia:

- a) The Government of Georgia shall be authorized to lay down rules on isolation and quarantine.
- b) All international passenger air, land and sea traffic shall be stopped, except as otherwise provided by the Decree of the Government of Georgia.
- c) The Government of Georgia shall be authorized to regulate passengers and freight transportation on the territory of Georgia in a manner different from the legislation of Georgia.

3. Article 15 of the Constitution of Georgia:

All the rights related to visiting the penitentiary institutions under the Code of Imprisonment shall be suspended.

4. Article 18 of the Constitution of Georgia:

The Government of Georgia should be authorized to establish by the Resolution the different rules from the current legislation of Georgia for the performance of public services and administrative proceedings.

5. Article 19 of the Constitution of Georgia:

The Government of Georgia shall be authorized, in case of necessity, to restrict property rights and to use the property of natural persons and legal entities for quarantine, insulation and medical purposes in accordance with the rules established by it.

6. Article 21 of the Constitution of Georgia:

Any kind of assembly, manifestation and gathering of people shall be restricted, except as otherwise provided by the Decree of the Government of Georgia.

7. Article 26 of the Constitution of Georgia:

- a) Private law entities shall be prohibited, restricted, or tasked to perform certain activities by the Decree of the Government of Georgia in accordance with the procedures provided in the same regulation.
- b) Special regulations for protection of sanitary and hygienic rules by natural persons, legal entities and public institutions, shall be specified by the Decree of the Government of Georgia.
- c) The Government of Georgia in case of necessity shall ensure regulation of prices for medicines, services and primary/essential products of importance to human life and health.

- d) The Government of Georgia should be authorized to establish different rules and terms from the current laws of Georgia on "Early and Preschool Education", "General Education", "Professional Education", "Special Professional Education", "Higher Education".
- e) The Government of Georgia shall be authorized to mobilize persons with appropriate medical education and qualifications in accordance with the procedure established by the Resolution of the Government of Georgia.

Article 2. The percentage limitations envisaged by Paragraphs 3 and 4 of Article 31 of the Budget Code of Georgia should be suspended for the whole duration of the State of Emergency.

Article 3. The Government of Georgia shall be entitled to increase the maximum amount of the Reserve Fund up to 5% of the total allocations of the 2020 State Budget.

Article 4. The Government of Georgia shall be entitled to use the exceptional rights envisaged by Paragraph 7 of Article 2 of the Organic Law of Georgia on the Economic Freedom, also, if necessary to submit to the Parliament of Georgia the Emergency Budget in accordance with Article 32 of the Budget Code of Georgia.

Article 5. Georgian Government shall be authorized to suspend the power to spend appropriations of the State budget, republic budgets of the autonomous republics and budget of municipalities, in accordance with the budget classification codes and provisions, as well as to suspend or limit state procurements in accordance with the unified procurement codes (CPV).

Article 6. The Minister of Justice of Georgia is hereby authorized to regulate the regime defined by the law to be observed by conditionally sentenced person and person released on parole. The Minister is also authorized to regulate the schedule of those persons established by the probationary officer in a different manner than it is defined by legislation of Georgia.

Article 7. Court sessions under the Criminal Procedural legislation of Georgia may be held remotely using the electronic means. In such cases, party to the case has no right to deny conduct of remote session while requesting direct participation in it.

Article 8. Every individual and legal entity is obliged to observe the State of Emergency regime. Any breach of the State of Emergency regime defined by this Decree and the Decision of the Government of Georgia shall result in:

1. Administrative responsibility – fine for individuals amounting to 3000 GEL, fine for legal entities amounting to 15000 GEL.
2. Recurrence of the same activity by the person already held responsible according to administrative regulations shall result in criminal responsibility, in particular, with imprisonment for a term of 3 years. Same action committed by the legal entity shall be punishable by the deprivation of the right to or carry out activities or by liquidation and fine.

Article 9. Responsibility prescribed in Article 8 shall be imposed by persons designated in the decision of the Government of Georgia in compliance with the rules envisaged in the legislation of Georgia.

Article 10. The law enforcement agencies shall apply coercive measures stipulated by the legislation of Georgia in order to protect the regime established during the State of Emergency.

Article 11. The Decree shall be submitted to the Parliament of Georgia for approval immediately after the Prime Minister's signature.

Article 12. The Decree is effective from the moment of its publication and is effective until the State of Emergency is lifted.

The President of Georgia (signed and sealed)

Salome Zourabichvili

The Prime-Minister of Georgia (signed)

Giorgi Gakharia

[Seal of the Parliament of Georgia]

Resolution of the Parliament of Georgia

**On the Approval of the Order N1 of the President of Georgia of 21 March 2020
on the Declaration of the State of Emergency in the Entire Territory of Georgia**

The Parliament of Georgia,

Pursuant to Article 71, paragraphs 2 and 7 of the Constitution of Georgia, Article 2, paragraph 1 of the Law of Georgia on the State of Emergency and Article 83, paragraphs 2 and 4 of the Rules of Procedure of the Parliament of Georgia,

Declares:

1. The Order N1 of the President of Georgia of 21 March 2020 on the Declaration of the State of Emergency in the Entire Territory of Georgia is hereby approved.
2. This resolution is effective upon its adoption.

Signed by the Chairperson of the Parliament of Georgia

Mr. Archil Talakvadze

Tbilisi
21 March 2020
N5864-ss.

[Seal of the Parliament of Georgia]

Resolution of the Parliament of Georgia

On the Approval of the Decree N1 of the President of Georgia on the Measures to be Taken in Relation to the Declaration of the State of Emergency in the Entire Territory of Georgia of 21 March 2020

The Parliament of Georgia,

Pursuant to Article 71, paragraphs 3, 4 and 7 of the Constitution of Georgia, Article 2, paragraphs 3 of the Law of Georgia on the State of Emergency and Article 83, paragraph 2 of the Rules of Procedure of the Parliament of Georgia,

Declares:

1. The Decree N1 of the President of Georgia on the Measures to be Taken in Relation to the Declaration of the State of Emergency in the Entire Territory of Georgia of 21 March 2020 is hereby approved.
2. This resolution is effective upon its adoption.

Signed by the Chairperson of the Parliament of Georgia

Mr. Archil Talakvadze

Tbilisi
21 March 2020
N5865-ss.