



Strasbourg, 2 March 2022

Ref.: JJ9325C CORRIGENDUM (•)
Tr./005-287

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 Note verbale No. 31011/32-017-3 from the Permanent Representation of Ukraine to the Council of Europe, dated 28 February 2022, transmitted to the Secretary General of the Council of Europe on 1 March 2022, 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.



Note to all member States.
Copy Ukraine.

COPIE (*)

Annex to the Notification JJ9325C Tr./005-287
dated 2 March 2022
ETS No. 5 - Article 15

PERMANENT REPRESENTATION OF UKRAINE
TO THE COUNCIL OF EUROPE

Nº 31011/32-017-3

NOTE VERBALE

The Permanent Representation of Ukraine to the Council of Europe presents its compliments to the Secretary General of the Council of Europe and has the honour to convey to the Secretary General the following information on behalf of the Government of Ukraine regarding the introduction from 24 February for a period of 30 days of: a state of emergency rule in separate regions of Ukraine and martial law on the entire territory of Ukraine and derogation measures from its obligation under the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Permanent Representation of Ukraine to the Council of Europe avails itself of this opportunity to renew to the Secretary General of the Council of Europe the assurances of its highest consideration.

Annex: as stated

(seal) Strasbourg, 28 February 2022

Secretary General of the Council of Europe
Strasbourg

(*) Derogation registered at the Secretariat General on 1 March 2022 - Or. Engl.

I

Regarding derogation measures

1. In connection with the military aggression of the Russian Federation against Ukraine, based on the proposal of the National Security and Defense Council of Ukraine, in accordance with paragraph 20 of the first part of Article 106 of the Constitution of Ukraine, Law of Ukraine "On Martial Law" by Presidential Decree of 24.02.2022 N° 64/2022, martial law was imposed in Ukraine.

Decree of the President of Ukraine as of 24.02.2022 N° 64/2022 "On the imposition of martial law in Ukraine" entered into force simultaneously with the entry into force of the Law of Ukraine "On Approval of the Decree of the President of Ukraine" On the imposition of martial law in Ukraine", adopted on 24.02.2022. This Law was immediately promulgated via the mass media and entered into force on the day of its publication on February 24, 2022.

According to Article 2 of the Decree of the President of Ukraine of 24.02.2022 N° 64/2022 "On the imposition of martial law in Ukraine" military command (General Staff of the Armed Forces of Ukraine, Command of the Joint Forces of the Armed Forces of Ukraine, command of species, certain types of troops (forces) Of the Armed Forces of Ukraine, Department of Operational Commands, Commanders of Military Units, Units of the Armed Forces of Ukraine, State Border Guard Service of Ukraine, State Special Transport Service, State Special Communications and Information Protection Service of Ukraine, National Guard of Ukraine, Security Service of Ukraine, Foreign Service Intelligence of Ukraine, the Department of State Protection of Ukraine) together with the Ministry of Internal Affairs of Ukraine, other executive bodies, local governments **authorized to implement and conduct measures and authority necessary to defend Ukraine, protect public safety and interests of the state under the Law of Ukraine "On Martial Law"**.

2. In accordance with Article 3 of the Decree of the President of Ukraine of 24.02.2022 N° 64/2022 "On the imposition of martial law in Ukraine" in connection with the imposition of martial law in Ukraine temporarily, for the period of martial law, may be limited constitutional rights and freedoms of man and citizen provided for in Articles 30 - 34, 38, 39, 41 - 44, 53 of the Constitution of Ukraine, as well as temporary restrictions on the rights and legitimate interests of legal entities within the limits and to the extent necessary to ensure implementation and execution of martial law are introduced, which are provided for in part one of Article 8 of the Law of Ukraine "On the Legal Regime of Martial Law".

2.1 Article 30 of the Constitution. Everyone is guaranteed the inviolability of their home. It is not allowed to enter a house or other property of a person, conduct an inspection or search in them other than by a reasoned court decision.

The restriction of this right necessitates a waiver of obligations under Article 17 of the International Covenant on Civil and Political Rights (hereinafter - Covenant) **and Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms** (hereinafter - Convention).

2.2 Article 31 of the Constitution. Everyone is guaranteed the secrecy of correspondence, telephone conversations, telegraph, and other correspondence.

The restriction of this right necessitates a waiver of obligations under Articles 19 to 20 of the Covenant and Article 10 of the Convention.

2.3 Article 32 of the Constitution. No one may be interfered with in his personal and family life, except as provided by the Constitution of Ukraine. The collection, storage, use, and dissemination of confidential information about a person without his or her consent is not permitted, except in cases specified by law and only in the interests of national security, economic well-being, and human rights.

The restriction of this right necessitates a waiver of obligations under Article 17 of the Covenant and Article 8 of the Convention.

2.4 Article 33 of the Constitution. Everyone who stays lawfully on the territory of Ukraine is guaranteed freedom of movement, free choice of residence, the right to leave the territory of Ukraine freely, except for restrictions established by law. A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.

The restriction of this right necessitates a waiver of obligations under Articles 12 to 13 of the Covenant and Article 2 of Protocol No. 4 to the Convention.

2.5 **Article 34 of the Constitution.** Everyone is guaranteed the right to freedom of thought and speech, to freely express their views and beliefs. Everyone has the right to freely collect, store, use and disseminate information orally, in writing, or otherwise - at their discretion.

The restriction of this right necessitates a waiver of obligations under (g) Article 19 of the Covenant and Articles 9 to 10 of the Convention.

2.6 **Article 38 of the Constitution.** Citizens have the right to participate in the management of state affairs, in all-Ukrainian and local referendums, to freely elect and be elected to state authorities and local self-government bodies. Citizens enjoy equal access to public service, as well as to service in local self-government bodies.

The restriction of this right necessitates a waiver of obligations under Article 25 of the Covenant and Article 3 of the Additional Protocol to the Convention.

2.7 **Article 39 of the Constitution.** Citizens have the right to assemble peacefully, without weapons, and to hold rallies, meetings, marches, and demonstrations, which are notified in advance to the executive or local government.

The restriction of this right necessitates a waiver of obligations under Article 21 of the Covenant and Article 11 of the Convention.

2.8 **Article 41 of the Constitution.** Everyone has the right to own, use and dispose of their property, the results of their intellectual and creative activities. No one may be unlawfully deprived of his property. The right of private property is inviolable.

The restriction of this right necessitates a waiver of obligations under Article 25 of the Covenant and Article 1 of the Additional Protocol to the Convention.

2.9 **Article 42 of the Constitution.** Everyone has the right to engage in entrepreneurial activity, which is not prohibited by law.

The restriction of this right necessitates a waiver of obligations under Article 17 of the Covenant and Article 1 of the Additional Protocol to the Convention.

2.10 **Article 43 of the Constitution.** Everyone has the right to work, which includes the opportunity to earn a living by work which he freely chooses or agrees to freely.

The restriction of this right necessitates a waiver of obligations under Articles 22, 25 of the Covenant, and Article 14 of the Convention.

2.11 **Article 44 of the Constitution.** Those who work have the right to strike to protect their economic and social interests.

The restriction of this right necessitates a waiver of obligations under Articles 21, 22 of the Covenant, and Article 11 of the Convention.

2.12 **Article 53 of the Constitution.** Everyone has the right to education.

The restriction of this right necessitates a waiver of obligations under Articles 24, 25 of the Covenant and Article 2 of the Additional Protocol to the Convention.

According to the first part of Article 8 of the Law of Ukraine "On the Legal Regime of Martial Law" in Ukraine or in certain localities where martial law is imposed, the military command together with military administrations (if formed) may independently or with the involvement of executive bodies, the Council Ministers of the Autonomous Republic of Crimea, local governments introduce and implement temporary restrictions of constitutional rights and freedoms of man and citizen, as well as the rights and legitimate interests of legal entities under the decree of the President of Ukraine on martial law, the measures of martial law are as follows:

- 1) to establish (strengthen) the protection of objects of state importance, objects of state importance of the national transport system of Ukraine, and objects that ensure the livelihood of the population, and to introduce a special regime of their work. The procedure for establishing (strengthening) the protection of such facilities and their inventory that are subject to protection with the imposition of martial law, as well as the procedure for the special regime of their work shall be approved by the Cabinet of Ministers of Ukraine;

- 2) to introduce compulsory labor for able-bodied persons not involved in work in the field of defense and livelihoods and not reserved for enterprises, institutions and organizations for the period of martial law in order to perform work of a defensive nature and eliminate the consequences of emergencies that arose during martial law, and to involve them in martial law in socially useful work performed to meet the needs of the Armed Forces of Ukraine, other military formations, law enforcement agencies and civil defense forces, ensuring the functioning of the national economy and life support system population and do not require, as a rule, special training of persons. For employees involved in the performance of socially useful work, the previous place of work (position) is retained for the time of such work. The procedure for involving able-bodied persons in martial law in socially useful work and issues of their social protection, taking into account the requirements of the law, shall be determined by the Cabinet of Ministers of Ukraine;
- 3) use the capacity and labor resources of enterprises, institutions and organizations of all forms of ownership for the needs of defense, change the mode of their work, make other changes in production activities and working conditions in accordance with labor legislation;
- 4) forcibly expropriate property in private or communal ownership, confiscate property of state enterprises, state economic associations for the needs of the state under the legal regime of martial law in the manner prescribed by law and issue appropriate documents of the prescribed form;
- 5) to introduce a curfew in accordance with the procedure established by the Cabinet of Ministers of Ukraine (ban on staying on the streets and in other public places during a certain period of the day without specially issued permits and certificates), as well as to establish a special light masking regime;
- 6) to establish, in accordance with the procedure established by the Cabinet of Ministers of Ukraine, a special regime of entry and exit, to restrict the freedom of movement of citizens, foreigners and stateless persons, as well as the movement of vehicles;
- 7) to check the documents of persons in the manner prescribed by the Cabinet of Ministers of Ukraine, and if necessary to inspect things, vehicles, luggage and cargo, office space and housing of citizens, except for restrictions established by the Constitution of Ukraine;
- 8) prohibit holding peaceful assemblies, rallies, marches and demonstrations, other mass events;
- 9) to raise in the manner prescribed by the Constitution and laws of Ukraine the issue of banning the activities of political parties, public associations, if it is aimed at eliminating Ukraine's independence, forcibly changing the constitutional order, violating the sovereignty and territorial integrity of the state, undermining its security, illegal seizure power, propaganda of war, violence, incitement of interethnic, racial, religious hatred, encroachment on human rights and freedoms, public health;
- 10) to establish, in accordance with the procedure established by the Cabinet of Ministers of Ukraine, a ban or restriction on the choice of the place of stay or residence of persons in the territory where martial law is in force;
- 11) regulate in the manner prescribed by the Cabinet of Ministers of Ukraine, the work of suppliers of electronic communications networks and / or services, printing companies, publishers, broadcasters, broadcasters and other enterprises, institutions, organizations and cultural institutions and the media, and use local radio stations, television centers and printing houses for military purposes and conducting outreach work among the troops and the population; prohibit the operation of transceiver radios for personal and collective use and the transmission of information via computer networks;
- 12) in case of violation of the requirements or non-compliance with the measures of martial law, to withdraw from enterprises, institutions and organizations of all forms of ownership, individual citizens electronic communication equipment, television, video and audio equipment, computers and, if necessary, other technical means of communication;
- 13) to prohibit, in accordance with the procedure established by the Cabinet of Ministers of Ukraine, trade-in weapons, strong chemical and poisonous substances, as well as alcoholic beverages and substances produced based on alcohol;

- 14) to establish a special regime in the field of production and sale of medical products containing narcotic drugs, psychotropic substances and precursors, other potent substances, the list of which is determined by the Cabinet of Ministers of Ukraine;
- 15) to seize from enterprises, institutions and organizations training and combat equipment, explosives, radioactive substances and materials, potent chemicals and toxic substances;
- 16) prohibit citizens who are on the military or special register at the Ministry of Defense of Ukraine, the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine, change residence (location) without the permission of the military commissar or head of the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine; limit the passage of alternative (non-military) service;
- 17) to establish military and housing conscription for individuals and legal entities for the accommodation of servicemen, members of the rank and file of law enforcement agencies, personnel of the Civil Protection Service, evacuated population and the location of military units, subdivisions and institutions;
- 18) to establish the procedure for using the fund of protective structures of civil protection;
- 19) to evacuate the population if there is a threat to their life or health, as well as material and cultural values, if there is a threat of damage or destruction, according to the list approved by the Cabinet of Ministers of Ukraine;
- 20) to introduce, if necessary, in the manner prescribed by the Cabinet of Ministers of Ukraine, standardized provision of the population with basic food and non-food goods;
- 21) take additional measures to strengthen the protection of state secrets;
- 22) intern (forcibly settle) citizens of a foreign state that threatens to attack or carry out aggression against Ukraine;
- 23) to carry out the obligatory evacuation of detained persons in temporary detention facilities in accordance with the procedure established by the Cabinet of Ministers of Ukraine; suspects, accused persons subject to precautionary measures - detention in pre-trial detention facilities; transfer of convicts serving sentences such as arrest, restriction of liberty, imprisonment for a term and imprisonment from penitentiary institutions located in areas close to the areas of hostilities to the relevant institutions located in a safe area.

The application of these measures necessitates a derogation from the obligations under Articles 3, 8 (paragraph 3), 9, 12, 13, 17, 19, 20, 21, 22, 24, 25, 26, 27 of the Covenant and Articles 4 (paragraph 3), 8, 9, 10, 11, 13, 14, 16, Articles 1, 2 of the Additional Protocol, Article 2 of Protocol 4 to the Convention.

II

Martial law in Ukraine was imposed from 05:30 on February 24, 2022, for a period of 30 days.

III

Regarding the security situation in Ukraine

(according to the General Staff of the Armed Forces of Ukraine as of 15:00 on February 26, 2022)

The Russian occupier continues the offensive operation against Ukraine in the previously selected areas with the support of long-range operational and tactical aircraft and with the use of high-precision long-range weapons.

The enemy insidiously inflicts air and artillery strikes on civilian infrastructure.

Enemy reconnaissance and sabotage groups operate insidiously, disguising themselves in civilian clothes and infiltrating cities to destabilize the situation by carrying out sabotage operations.

I

For derogating measures

1. In order to normalize the situation in the state, protect and guard the state border, combat crime, maintain public safety and order, create conditions for the proper functioning of public authorities, local governments and other civil society institutions, prevent attempts to seize state power or change the constitutional Ukraine by violence, pursuant to paragraphs 5 and 6 of the part 2 of Article 4 of the Law of Ukraine "On the Legal Regime of State of Emergency", based on the proposal of the National Security and Defense Council of Ukraine and in accordance with paragraph 21 of Article 106 of the Constitution of Ukraine of 23/02/2022 N° 63/2022 a state of emergency has been declared in Ukraine.

Decree of the President of Ukraine of 23.02.2022 N° 63/2022 "On imposition of emergency rule in separate regions of Ukraine" entered into force simultaneously with the entry into force of the Law of Ukraine "On approval of the Decree of the President of Ukraine "On imposition of emergency rule in separate regions of Ukraine" which was passed on 23.02.2022 for N° 2101. This Law entered into force on the day of its publication on February 23, 2022.

According to Article 3 of the Decree of the President of Ukraine of 23.02.2022 N° 63/2022 "On imposition of emergency rule in separate regions of Ukraine" Security Service of Ukraine, the Ministry of Internal Affairs of Ukraine, the National Guard of Ukraine, the National Police of Ukraine, the State Emergency Service, the Border Guard Service of Ukraine, the Armed Forces of Ukraine, the Military Law Enforcement Service of the Armed Forces of Ukraine, central executive bodies, which are subordinated to military formations formed in accordance with the laws of Ukraine, in accordance with its powers, is instructed to provide assistance in the implementation and enforcement of the state of emergency.

2. The following measures shall be implemented in the territory defined in Article 1 of this Decree:
- . establishment of a special regime of entry and exit (if necessary); restrictions on the movement of vehicles and their inspection (if necessary);
 - . to strengthen the defense of the public order and facilities ensuring the vital needs of the population and national economy;
 - . ban on holding mass events, except for measures which can be banned only by a court (if necessary); ban on strikes;
 - . temporary or irreversible evacuation of people from places dangerous to living, with the mandatory provision of them with permanent or temporary housing;
 - . introduction of curfew (prohibition to be on the streets and in other public places without specially issued permits and identity cards at set times of the day, if necessary);
 - . control the citizens' identification documents and, if necessary, carry out body searches and inspect personal belongings and vehicles.
 - . prohibition of recruits, conscripts and reservists to change their place of residence without notice of the relevant territorial center of recruitment and social support, the Central Office and/or regional body of the Security Service of Ukraine, the relevant unit of the Foreign Intelligence Service of Ukraine; ban on the production and dissemination of information materials that may destabilize the situation; ban on the operation of amateur radio transmitters and radio emitting devices for personal use; special rules for the use of communication and transmission of information over computer networks (if necessary).

The application of these measures necessitates a derogation from the obligations under Articles 12, 17, 19, 20, 21, 22, 26 of the International Covenant on Civil and Political Rights and Articles 8, 9, 10, 11, 14 of the Convention and Article 2 of the Protocol No. 4 to the Convention.

II

Regarding the territory covered by the derogation

A state of emergency in Ukraine was imposed on the territory of Vinnytsia, Volyn, Dnipropetrovsk, Zhytomyr, Zakarpattia, Zaporizhia, Ivano-Frankivsk, Kyiv, Kirovohrad, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Kherson, Khmelnytski, Cherkasy, Chernivtsi, Chernihiv regions, the city of Kyiv from 00 hours 00 minutes on February 24, 2022 for a period of 30 days.

III

Regarding the security situation

(as of 23.02.2022)

On February 21, 2022, the leadership of the Russian Federation recognized the independence of the self-proclaimed "LPR" and "DPR" and decided to introduce units of the Armed Forces of the Russian Federation in the temporarily occupied territories of Donetsk and Luhansk regions.

Such actions are a continuation of the Russian Federation's policy of escalating armed aggression against Ukraine, imposing separatism, provoking interethnic and interfaith conflicts, mass riots, which threatens the security, life and health of citizens, state sovereignty, constitutional order and territorial integrity of Ukraine.

The subversion of the special services of the Russian Federation, supporting the activities of separatist forces, criminal and illegal military groups in the occupied territories of Donetsk and Luhansk regions, their terrorist activities have become an armed confrontation and threaten to spread to other regions of Ukraine.

Links to the Annexes (English and Ukrainian only)

- [Decree of the President of Ukraine No. 63/2022](#) About introduction of a state of emergency in separate regions of Ukraine.
- [Law No. 2101-IX of Ukraine](#) on approval of the Decree of the President of Ukraine No. 63/2022 "About introduction of a state of emergency in separate regions of Ukraine".
- [Decree of the President of Ukraine No. 64/2022](#) On the imposition of martial law in Ukraine.
- [Law No. 2102-IX of Ukraine](#) on approval of the Decree of the President of Ukraine No. 64/2022 "On the imposition of martial law in Ukraine".

- [УКАЗ ПРЕЗИДЕНТА УКРАЇНИ № 63/2022](#) Про введення надзвичайного стану в окремих регіонах України
- [ЗАКОН УКРАЇНИ № 2101-ІХ](#) Про затвердження Указу Президента України "Про введення надзвичайного стану в окремих регіонах України".
- [УКАЗ ПРЕЗИДЕНТА УКРАЇНИ № 64/2022](#) Про введення воєнного стану в Україні.
- [ЗАКОН УКРАЇНИ № 2102-ІХ](#) Про затвердження Указу Президента України "Про введення воєнного стану в Україні".