

CODEBOOK STATE OF EMERGENCY MAPPING (STEM) regarding the ICCPR

Date declaration of state of emergency

This is the date at which the declaration of the state of emergency has come into full effect. Often this means that it is the date on which the state of emergency declaration has been published in the Official Gazette of that country. If such a date could not be found, the effectuation date mentioned in the official declaration itself is used.

Extension

Under this heading it is specified whether or not the declared state of emergency is a renewal of a previous state of emergency, or whether it is one that has been newly declared.

Date of report on derogation of human rights to the Human Rights Committee

Under art. 4 of the International Covenant on Civil and Political Rights (ICCPR) States are allowed to derogate from human rights during a state of emergency period when a country is experiencing distress. However, the state is required to report to the Human Rights Committee, the supervising body of the ICCPR, if it intends to be derogating from human rights during the state of emergency. States can report their derogations via a depositary notification to the United Nations' Secretary-General. The Secretary-General will then forward this information to the Human Rights Committee, which will inform all states signatory to the Covenant. The date used in the database is the day on which the date has been forwarded by the Secretary-General to the Human Rights Committee, as this is the day that the Human Rights Committee is informed of the derogation and all other states can be informed.

Date lifting state of emergency

The ensuing day after the final day that the state of emergency is in effect, is the day on which the state of emergency is lifted. This date was taken as it clearly signifies the end of a specific period during which the state of emergency was effective.

Duration

This moment is measured in days and is counted from the date that the state of emergency becomes effective until the day before the state of emergency is lifted. This means that if a state of emergency is declared on the 1st of June and it is lifted on the 15th of June, the duration of the state of emergency is 14 days.

Country

This heading specifies the state in which the state of emergency declaration has been made. The state's official name is specified within brackets when relevant.

Derogations

As specified before under art. 4 of the ICCPR states may derogate from human rights articles of the ICCPR. However, art. 4 of the ICCPR also clarified the exact articles that may be derogated from as the derogation measures should not be inconsistent with their other obligations under international law and should not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. Therefore, no derogations are allowed to be made from the following articles: 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18. For this reason the relevant articles 8 (3), 9 (2), 9(3), 10, 12 (1), 12 (2), 13, 14, 17 (1), 17 (2), 19 (1), 19 (2), 20, 21, 22 (1), 22 (2), 23, 24, 25, 26, and 27 have been included in this database.

With regards to the specified articles that have been included in the database, three different types of entries have been used:

1. Yes, if the country's state of emergency declaration states that this ICCPR article will be derogated from.
2. No, if the country's state of emergency declaration states that this ICCPR article will not be derogated from or that other articles will be derogated from that are specifically mentioned.
3. Unknown, if the country's state of emergency declaration does not specify which articles will be derogated from.

Derogation 8 (3)

Paragraph 3 of art. 8 of the ICCPR states that no one shall be required to perform forced or compulsory labour, after that statement it is further specified under which conditions forced labour can be understood as such and when something is not understood as forced or compulsory labour. According to art. 4 of the ICCPR, this paragraph of art. 8 can be derogated from. This heading has been filled in with a yes, a no or unknown when appropriate.

Derogation 9 (2)

Article 9 of the ICCPR comprises of five different paragraphs. The paragraphs have been specified separately in the database as specific derogations from a single paragraph of art. 9 could be found. Art. 9 (2) states that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. This heading has been filled in with yes, no or unknown when appropriate.

Derogation 9 (3)

Article 9 of the ICCPR comprises of five different paragraphs. The paragraphs have been specified separately in the database as specific derogations from a single paragraph of art. 9

could be found. Art. 9 (3) states that anyone who is arrested shall be promptly brought before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. This heading has been filled in with yes, no or unknown when appropriate.

Derogation 10

Article 10 of the ICCPR comprises of three different paragraphs. The paragraphs have not been specified separately in the database as no specific derogations from a single paragraph of art. 10 could be found. Therefore, they will be discussed in de codebook together. Art. 10 states that (1) all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person. (2) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons, and accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. (3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status. This heading has been filled in with yes, no or unknown when appropriate.

Derogation 12 (1)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 12 (1) states that everyone lawfully within the territory of a state shall within that territory, have the right to liberty of movement and freedom to choose his residence. This heading has been filled in with yes, no or unknown when appropriate.

Derogation 12 (2)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 12 (2) states that everyone shall be free to leave any country, including his own. This heading has been filled in with yes, no or unknown when appropriate.

Derogation 13

Article 13 states that an alien lawfully in the territory of a state party to the present Covenant may be expelled there from only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority. This heading has been filled with yes, no or unknown when appropriate.

Derogation 14

Article 14 of the ICCPR comprises of seven different paragraphs. The paragraphs have not been specified separately in the database as no specific derogations from a single paragraph of article 14 could be found. Therefore, they will be discussed in the codebook together as well, similar to art. 10. Art. 14 states that (1) all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children. (2) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. (3) In the determination of any criminal charge against him, everyone shall be entitled to minimum guarantees, in full quality. These minimum guarantees can be found as further specified in the official ICCPR document. (4) In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. (5) Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. (6) When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him. (7) No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country. This heading has been filled in with yes, no or unknown when appropriate.

Derogation 17 (1)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 17 (1) states that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. This heading has been filled with yes, no or unknown when appropriate.

Derogation 17 (2)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 17 (2) states that everyone has the

right to protection of the law against such interference or attacks as mentioned in paragraph 1. This heading has been filled with yes, no or unknown when appropriate.

Derogation 19 (1)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 19 (1) states that everyone shall have the right to hold opinions without interference. This heading has been filled with yes, no or unknown when appropriate.

Derogation 19 (2)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 19 (2) states that everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. This heading has been filled with yes, no or unknown when appropriate.

Derogation 20

Article 20 of the ICCPR comprises of two paragraphs. The paragraphs have not been specified separately in the database, as no specific derogations from a single paragraph of art. 20 could be found. Therefore, they will be discussed in de codebook together as well, similar to art. 10 and 14. Art. 20 states that (1) any propaganda for war shall be prohibited by law. (2) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. This heading has been filled with yes, no or unknown when appropriate.

Derogation 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This heading has been filled with yes, no or unknown when appropriate.

Derogation 22 (1)

Article 22 of the ICCPR comprises of three paragraphs. As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 22 (1) states that everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. This heading has been filled with yes, no or unknown when appropriate.

Derogation of Article 22 (2)

As there have been accounts of a single derogation from paragraph 1 and 2 of this article, the article's paragraphs are mentioned separately. Art. 22 (2) states that no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition

of lawful restrictions on members of the armed forces and of the police in their exercise of this right. This heading has been filled with yes, no, unknown or blank when appropriate.

Derogation 23

Article 23 of the ICCPR comprises of four paragraphs. The paragraphs have not been specified separately in the database, as no specific derogations from a single paragraph of art. 23 could be found. Therefore, they will be discussed in de codebook together as well, similar to art. 10, 14, and 20. Art. 23 states that (1) the family is the natural and fundamental group unit of society and is entitled to protection by society and the state. (2) The right of men and women of marriageable age to marry and to found a family shall be recognized. (3) No marriage shall be entered into without the free and full consent of the intending spouses. (4) States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children. This heading has been filled with yes, no or unknown when appropriate.

Derogation 24

Article 24 of the ICCPR comprises of three paragraphs. The paragraphs have not been specified separately in the database, as no specific derogations from a single paragraph of art. 24 could be found. Therefore, they will be discussed in de codebook together as well, similar to art. 10, 14, 20, and 23. Art. 24 states that (1) every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society, and the State. (2) Every child shall be registered immediately after birth and shall have a name. (3) Every child has the right to acquire a nationality. This heading has been filled with yes, no or unknown when appropriate.

Derogation 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot guaranteeing the free expression of the will of the electors; (c) to have access, on general terms of equality, to public service in his country. This heading has been filled with yes, no or unknown when appropriate.

Derogation 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, political or other opinion, national or social origin, property, birth or other status. This heading has been filled with yes, no or unknown when appropriate.

Derogation 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. This heading has been filled with yes, no or unknown when appropriate.

Source

The source that provides the official state of emergency declaration will be provided under this heading. Sources cited are the Depository Notification sent to the UN Secretary-General on the basis of art. 4 ICCPR and United Nations Human Rights Committee's Annual Reports.

1. Depository notifications are cited as follows:

Firstly, it is stated that the source is a depository notification. Then the number that the reporting government has attached to the state of emergency declaration is stated, if available. After this the document number of the depository notification is mentioned so that it can be found at the UN's Office for Legal Affairs. The entry will thus look as follows: Depository Notification of Government Decree 1-2013, C.N.151.2013.TREATIES-IV.4.

- C.N. stands for depository notification;
- 151 refers to the document number;
- 2013 is the year;
- TREATIES-IV.4 specifies that the notification relates to chapter IV-4 of the collection of all UN treaties and international agreements, which is the International Covenant on Civil and Political Rights (ICCPR).

2. Human Rights Committee's Annual Reports are cited as follows:

Firstly, it is stated that the source is a report of the Human Rights Committee. Then the number that the reporting government has attached to the state of emergency declaration is stated, if available. After this the document number of the report of the Human Rights Committee is mentioned, so that it can be found at the database of the Human Rights Committee. The entry will thus look as follows:

Report of Human Rights Committee of Supreme Decree 077-2003-PCM, A/59/40 (vol.1).

- A stands for General Assembly Official Records;
- 59 refers to the session;
- 40 stands for supplement number;
- (vol.1) clarifies which of the two volumes the document entails.

Declaratory organ

The declaratory organ is the executive body that is capable of deciding upon the declaration of a state of emergency. The body that is capable of declaring such a state is determined by the national constitution. Often the body that is allowed to declare these emergency powers is the highest executive in the state, e.g. the President.

Declaratory person

This is the individual who declared the state of emergency. After the position of the individual is specified under the heading of 'declaratory organ', his/her name is specified here.

Region

Under this heading the region within the state where the state of emergency declaration is in effect is clarified. This can be either nation-wide, meaning that no specific area has been

appointed by the declaratory person but that the declaration is meant to cover the entire national territory, or a specific province/region/town/location.

Trigger

Under this heading the trigger of the state of emergency declaration will be specified. The entry can either be a man-made disaster or a natural disaster. This differentiation is made to clarify the different types of state of emergency declarations. All state of emergency declarations that are triggered because of a natural event, such as an earthquake or flood, are understood to have been triggered by a natural disaster. Those state of emergency declarations that are proclaimed due to human behaviour are understood as triggered by man-made disasters.

News sources

Under this heading, the sources are specified that are used in research to determine both the trigger of the state of emergency declaration and the details of the occurring events. These news sources are most often international news sources, as they attempt to take a country-neutral perspective to the matter.

National/sub-national

Under this heading the region in which the state of emergency is in effect is clarified. Under the heading 'region' the exact location is specified. With this heading, however, a categorization is made between a state of emergency that is declared at the national level and those that are declared at a sub-national level, in order to further differentiate between emergency declarations.

Details

This heading allows for specific information related to the trigger that lead to the declaration of a state of emergency. It is used to further elaborate on the actual events that triggered the declaration. No categorization has been generated thus far to specify the different circumstances under which the state of emergency declaration operates.

Duration and other limitations of the state of emergency according to constitution or other law

It is important to assess the basis on which the state of emergency declaration has been made, since the legal basis determines the content and the consequences of the emergency declaration. If there are temporal limitations stipulated in the constitutional clauses dealing with emergency powers, this has been included in the database. In this way, a deeper understanding of the use of emergency powers can be established. Furthermore, constitutional clauses may specify spatial limitations and a limited objective that are attached to the emergency powers. If this is the case, it will also be mentioned in the database to establish an encompassing overview of the emergency powers' legal basis.