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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW ON
LEGAL REGIME OF THE STATE OF EMERGENCY
OF THE REPUBLIC OF ARMENIA

Article 1. The State of Emergency

1. State of emergency is a special legal regime regulating activities of public administration and local self-government bodies, legal entities (irrespective of their legal form) and their officials, which is declared pursuant to the Constitution of the Republic of Armenia throughout the territory of the Republic of Armenia or in certain territories thereof.

2. State of emergency shall be declared only under such circumstances that constitute imminent danger to the constitutional order of the Republic of Armenia, in particular, any attempt of violent change or overthrow of the constitutional order of the Republic of Armenia, seizure or usurpation of power, armed disturbances, mass disorder, terrorist acts, seizure or blockage of objects of special significance, arrangement and operation of illegal armed groups, national, racial and religious conflicts accompanied by violent actions, imminent threat to human life and health.

3. Where grounds stated in part 2 of this Article are present, state of emergency shall be declared only if it is impossible to eliminate the threat to the constitutional order of the Republic of Armenia without declaration of state of emergency and temporary limitation of separate rights and freedoms of the citizens of the Republic of Armenia, foreign nationals, stateless persons and legal entities, as provided for by this Law.

Article 2. Legislation on the State of Emergency

1. Legal regime of state of emergency is regulated by the Constitution of the Republic of Armenia, this Law, as well as the international treaties of the Republic of Armenia.

Article 3. The Procedure for Declaring the State of Emergency

1. In case of an imminent threat to the constitutional order of the Republic of Armenia the President of the Republic of Armenia, in consultation with the Chairperson of the National Assembly and the Prime Minister, shall — throughout the territory of the Republic of Armenia or in separate territories thereof — declare state of emergency, carry out actions dictated from the situation and address the people with a message thereabout.

2. In case of declaration of state of emergency, in accordance with the procedure prescribed by the Law of the Republic of Armenia "On Rules of Procedure of the National Assembly", a special sitting of the National Assembly of the Republic of Armenia shall be immediately convened.

3. Heads of diplomatic representations accredited to the Republic of Armenia, of consular offices and international organisations, as well as — in accordance with international treaties of the Republic of Armenia — representations and secretaries of the international organisations to the Republic of Armenia shall mandatorily be informed about the declaration of state of emergency.

Article 4. The Content of the Decree of the President of the Republic of Armenia "On Declaration of the State of Emergency"

1. The Decree of the President of the Republic of Armenia "On declaration of state of emergency" shall establish:

- (1) circumstances serving as a ground for declaring state of emergency;
- (2) rationale of the necessity for declaring state of emergency;
- (3) boundaries of the territory, where state of emergency is declared;
- (4) measures, means and forces securing the legal regime of the state of emergency;

(5) temporarily limited rights and freedoms of the citizens of the Republic of Armenia and foreign nationals, stateless persons, legal entities, as well as the level of limitations of rights and freedoms, pursuant to the requirements of Article 7 of this Law;

(6) special public authorities created during the period of state of emergency and scope of their competencies;

(7) public authorities and officials in charge of implementing actions applied under conditions of state of emergency;

(8) effective day, month, year of the state of emergency and effective period thereof.

2. The Decree of the President of the Republic of Armenia "On declaring state of emergency" shall be immediately publicised on television, radio and in press and shall enter into force within the time limit specified by the Decree of the President of the Republic of Armenia.

3. Amendments and supplements, strengthening the state of emergency regime, suspending rights or freedoms or otherwise deteriorating the state of the citizens of the Republic of Armenia and foreign nationals, stateless persons, legal entities, shall be made to the Decree of the President of the Republic of Armenia "On declaring state of emergency" through the procedure prescribed by this Law for declaring state of emergency.

Article 5. Effective Period of the State of Emergency

1. Effective period of the state of emergency to be declared throughout the territory of the Republic of Armenia may not exceed 30 days, and in separate territories of the Republic – 60 days.

2. At the end of the period specified in part 1 of this Article, the state of emergency shall be terminated. Where within the specified periods the circumstances, having served as a ground for declaring state of emergency, as well as the consequences of the state of emergency have not been eliminated, the effective period of the state of emergency may be extended by the Decree of the President of the Republic of Armenia by the procedure prescribed by this Law for declaring state of emergency and within the time limits not exceeding the periods established by part 1 of this Article.

Article 6. Termination of the State of Emergency

1. Where the circumstances having served as a ground for declaring state of emergency have been eliminated before the end of the effective period of the state of emergency, the state of emergency shall be terminated by the Decree of the President of the Republic of Armenia, about which the population shall be informed pursuant to the procedure prescribed by this Law for publicising the declaration of state of emergency.

2. State of emergency or any action thereof shall also be terminated where implementation of actions aimed at securing the legal regime of state of emergency is revoked by the National Assembly of the Republic of Armenia.

Article 7. Measures Taken and Suspension of Rights and Freedoms in Case of Declaration of the State of Emergency

1. In case of declaration of state of emergency, the following measures may be taken and temporarily limitation of rights and freedoms applied in the territory declared to be in the state of emergency during its whole period:

(1) limitation of freedom of movement in the territory declared to be in the state of emergency, as well as declaration of a special regime for entering and leaving the mentioned

territory, which includes limitations of entering and staying in the territory for foreign nationals and stateless persons;

(2) strengthening of maintenance of public order, of protection of objects under state protection, as well as of protection of objects supporting human activity and of those regulating the functioning of transport;

(3) limitation of carrying out of separate forms of financial-economic activities, including provision of services, turnover of goods and financial means;

(4) establishment by the RA Government of a special procedure regulating sales, acquisition and turnover of foodstuffs and essential commodities;

(5) limitation or prohibition of holding of assembly or public events;

(6) prohibition of strikes and other measures suspending or terminating the operation of legal entities;

(7) limitation of movement of transport means and conduct of search thereof;

(8) imposition of special state control over the operation of dangerous productions, organisations using explosive, radioactive, chemical and biological substances promoting the occurrence of circumstances for declaring state of emergency, as well as of those impeding the elimination of such circumstances;

(9) temporary limitation or suspension of competencies of public authorities and local self-government bodies, and of officials holding positions that are filled by appointment and election, except for the cases provided for by law;

(10) evacuation of tangible and cultural values, where there exists real threat of destruction, theft or damage thereof;

(11) imposition of a curfew, i.e. prohibition of staying outdoors and in other public areas without personal identification documents and special permits at a certain period of day;

(12) limitation of freedom of speech, scrutiny of print media, in particular, prohibition of publication of calls for incitement of mass disorder or violent usurpation of power or for violent overthrow or change of the constitutional order of the Republic of Armenia, as well as temporary seizure of printing equipment, radio broadcasting means, technical sound reinforcement devices, duplicating machines;

(13) suspension or termination of activities of the political parties obstructing the elimination of the circumstances having served as a ground for declaration of state of emergency, pursuant to Article 80 of the Law of the Republic of Armenia "On Constitutional Court";

(14) suspension or termination, as defined by law, of activities of public associations obstructing the elimination of the circumstances that served as a ground for declaring a state of emergency;

(15) verification of identification documents, inspection of personal articles and transport means;

(16) prohibition of sale of arms, ammunition, explosive and toxic substances, special means, establishment of a special regime of circulation of narcotic drugs and psychotropic substances, pharmaceuticals and preparations containing drastic substances, ethyl alcohol, alcoholic beverages, alcohol-based products. It shall also be allowed to temporarily seize arms and ammunition, toxic substances — acquired as defined by the legislation — from citizens, as well as arms and ammunition, military combat and training technology, explosive and radioactive substances from organisations;

(17) banishment of persons, violating the legal regime of a state of emergency and not residing in the given territory, at the latter's expense, and in case of the absence of such means — at the expense of the state budget provided that expenditure refund be paid in the future.

2. During a state of emergency the President of the Republic of Armenia has the right to suspend the legal acts of state and local self-government bodies, with the exception of laws and judicial acts.

3. The permitted limitations on the rights and freedoms referred to in this Law shall be applied exclusively for the purposes intended for, as well as be proportionate to the mentioned purposes.

Article 8. Special Bodies of State Administration in the Area of the State of Emergency

1. For the purpose of eliminating the circumstances having served as a ground for declaring a state of emergency as well as settling other pressing issues, upon a decree of the President of the Republic of Armenia, a commandant's office for the area of emergency (hereinafter referred to as "Commandant's Office for the Area") may be set up.

2. The Commandant's Office for the Area shall manage both the forces and means ensuring the legal regime of the state of emergency in the area declared to be therein. The Commandant's Office of the Area shall be governed by the Commandant, appointed by the President of the Republic of Armenia.

Article 9. The Means and Forces Ensuring the Legal Regime of the State of Emergency

1. The forces and means of the police, national security and defence, state authorised bodies may be used for the purpose of ensuring the legal regime of the state of emergency.

2. The forces and means of the police, the national security and defence, state authorised bodies shall be used with a view to performing the following tasks:

- (1) ensuring a special regime of entering and leaving the area of state of emergency;
- (2) protection of regime, special regime and objects under special protection, of objects supporting human activities of the population and the functioning of transport, as well as of those with risks to the life and health of the population and to the environment;
- (3) termination of the activities of illegal armed groups;
- (4) prevention of emergency situations, reduction and elimination of possible consequences, safeguarding of human life and health and preservation of tangible values;
- (5) ensuring the limitations envisaged by Article 7, part 1, clause 5 of this Law.

3. The Armed Forces of the Republic of Armenia may be involved in performing the tasks, referred to in clauses 1, 2, 3 and 4 of part 2 of this Article, only in cases when it is not possible to ensure performance of tasks with the forces of state authorised bodies of the police and national security.

4. The servicemen of the Armed Forces of the Republic of Armenia shall use physical force, special means, arms and combat technology pursuant to the conditions, procedure and limitation of using physical force, special means, arms and combat technologies as defined by the Law of the Republic of Armenia "On Police Troops".

Article 10. Limits of Means Applied in the State of Emergency and Extent of Temporary Limitations

1. The means applied in a state of emergency and the limitations of rights and freedoms of natural persons, the actions by state administration and local self-government bodies, as well as the additional obligations imposed on legal entities shall be within the limits proportional to the circumstances, which served as a ground for declaring a state of emergency.

2. Under state of emergency the measures and temporary limitations provided for by this Law shall be in line with the international commitments of the Republic of Armenia on derogating from obligations in emergency situations.

Article 11. The Guarantees of the Rights of Natural and Legal Persons During the Effective Period of the State of Emergency

1. The natural and legal persons injured in the result of the circumstances serving as a ground for declaring a state of emergency or of the activities aimed at eliminating the consequences thereof shall receive a refund for their losses and be provided with necessary assistance as prescribed by the Government of the Republic of Armenia.
2. The natural and legal persons, whose property and other tangible assets were used for eliminating the consequences of the state of emergency, shall be entitled to receive a refund in accordance with the Civil Code of the Republic of Armenia as prescribed by the Government of the Republic of Armenia.
3. The property seized during the state of emergency shall be returned to the owners within a week following the termination of the state of emergency.

Article 12: The Conditions and Limits of Use of Physical Force, Special Means, Arms and Combat Technology

1. In a state of emergency the conditions and limits of use of physical force, special means, arms and combat technology as prescribed by laws are not subject to amendment.

Article 13: The Procedure of Arresting Persons Violating the Rules of Curfew

1. The persons violating the rules of the curfew shall be arrested by the forces ensuring the legal regime of the state of emergency until the end of the curfew hours, and in the absence of identification documents – until the detection of their identity, but not longer than 48 hours, upon a decision by the head or deputy head of the police territorial body. The arrested persons, articles and transport means in their possession may be subject to search, as well as attachment may be imposed thereon until the end of the effective period of the state of emergency. A natural person may appeal the decision on the arrest in higher instances or through judicial procedure.

Article 14. Legal Consequences of Declaring Termination of the State of Emergency

1. Legal acts — adopted for ensuring the legal regime of the state of emergency and relating to temporary limitation of rights and freedoms of natural and legal persons — shall be applicable only during the effective period of the state of emergency and shall be recognised as repealed immediately upon declaring the state of emergency invalid, terminated through relevant legal acts of the persons or bodies having adopted the above-mentioned acts.

Article 15. Liability of Natural and Legal Persons, as well as Officials Violating the Requirements of Legal Regime of the State of Emergency

1. Natural and legal persons, as well as officials violating the requirements of legal regime of the state of emergency shall be liable as prescribed by the law of the Republic of Armenia.
2. Disproportionate use of physical force, special means, arms and combat technology by the employees of the bodies ensuring the legal regime of the state of emergency, as well as abuse of official powers by officials of such bodies shall entail liability as prescribed by law.

Article 16. This Law shall enter into force on the tenth day following that of the promulgation.