



June 2021

This Factsheet does not bind the Court and is not exhaustive

COVID-19 health crisis

Applications relating to the Covid-19 health crisis before the European Court of Human Rights raise questions under a number of provisions of the [European Convention on Human Rights](#), in particular in terms of the right to life, the prohibition of torture and inhuman or degrading treatment, the right to liberty and security, the right to a fair trial, the right to respect for private and family life, freedom of religion, freedom of expression, freedom of reunion, the protection of property and freedom of movement.

Victim status

[Le Mailloux v. France](#)

5 November 2020 (decision – inadmissible)

This case concerned the applicant's objections to the handling by the French State of the Covid-19 health crisis. Relying on Article 2 (right to life), Article 3 (prohibition of inhuman or degrading treatment), Article 8 (right to respect for private and family life) and Article 10 (right to freedom of expression) of the European Convention on Human Rights, the applicant complained of the failure by the State to fulfil its positive obligations to protect the lives and physical integrity of persons under its jurisdiction. He complained in particular of restrictions on access to diagnostic tests, preventive measures and specific types of treatment, and interference in the private lives of individuals who were dying of the virus on their own.

Firstly, the Court recalled that, although the right to health was not as such among the rights guaranteed under the European Convention on Human Rights and its Protocols, States had a positive obligation to take appropriate steps to safeguard the lives of those within its jurisdiction and to protect their physical integrity, including in the public-health sphere. In the present case, however, the Court considered that it did not have to determine whether the State had failed to fulfil these positive obligations, in that the application was **inadmissible**. Indeed, the Court observed that the applicant was complaining about the measures taken by the French State to curb the propagation of the Covid-19 virus among the whole population of France, but had not shown how he was personally affected. It reiterated that it did not recognise an *actio popularis*: meaning that applicants cannot complain about a provision of domestic law, a domestic practice or public acts simply because they appear to contravene the European Convention. In order for an individual to be able to claim to be a victim of a violation of the Convention, in the meaning of Article 34 (individual applications), the individual concerned must be able to show that he or she was "directly affected" by the measure complained of, that is he or she must produce reasonable and convincing evidence of the likelihood that a violation affecting him or her personally will occur. In the present case, however, the Court found that the applicant was complaining in *abstracto* about the measures taken by the French Government to deal with the Covid-19 virus. Beside the fact that he had raised these complaints only when intervening in support of an urgent application before the *Conseil d'État*, he had also not provided any information about his own condition and had failed to explain how the alleged shortcomings of the national authorities might have affected his health and private life. The Court considered, moreover, that if the applicant was ever denied assistance or care in the context of the



general health measures that he complained of, he would be able to contest the compatibility of such refusal with the Convention in the domestic courts. In these circumstances, the Court found that the application amounted to an *actio popularis* and the applicant could not be regarded as a victim, within the meaning of Article 34 of the Convention, of the alleged violations.

Right to life and prohibition of torture and inhuman or degrading treatment

Feilazoo v. Malta

11 March 2021 (Chamber judgment)¹

This case concerned, *inter alia*, the conditions of the immigration detention of a Nigerian national, including time spent in *de facto* isolation and a subsequent period where the applicant had been placed with new arrivals in Covid-19 quarantine.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention on account of the applicant's inadequate conditions of detention. In particular, the Court was concerned about the applicant's assertion, not rebutted by the Maltese Government, that following an isolation period the applicant had been moved to other living quarters where new arrivals (of asylum seekers) had been being kept in Covid-19 quarantine. There was no indication that the applicant had been in need of such quarantine – particularly after an isolation period which, moreover, had lasted for nearly seven weeks. Thus, the measure of placing him, for several weeks, with other persons who could have posed a risk to his health in the absence of any relevant consideration to that effect, could not be considered as a measure complying with basic sanitary requirements.

Pending applications

Hafeez v. the United Kingdom (no. 30379/20)

Application communicated to the Government of the United Kingdom on 24 March 2020

This application concerns the risk of life imprisonment without parole and inadequate conditions of detention due to the Covid-19 pandemic in case of the extradition to the USA of an sixty year old man with a number of health conditions, which include diabetes and asthma.

The Court gave notice of the application to the Government of the United Kingdom and put questions to the parties under Article 3 (prohibition of inhuman or degrading punishment or treatment) of the Convention.

Maratsis and Others v. Greece (no. 30335/20) and Vasilakis and Others v. Greece (no. 30379/20)

Applications communicated to the Greek Government on 25 February 2021

This case mainly concerns the conditions of detention of HIV-positive prisoners and, in particular, it raises the issue whether the authorities took adequate steps to protect the health of the applicants, as persons living with HIV, in the context of the Covid-19 health crisis.

The Court gave notice of the applications to the Greek Government and put questions to the parties under Article 3 (prohibition of inhuman or degrading treatment), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy) of the Convention.

Fenech v. Malta (no. 19090/20) (see also below, under "Right to liberty and security")

Complaints communicated to the Maltese Government in March 2021

In November 2019 the applicant was arrested and detained on remand on suspicion of involvement in murder. He complains in particular of his conditions of detention and the

¹. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the [European Convention on Human Rights](#).

State's alleged failure to protect his health with regard to the Covid-19 pandemic and his vulnerable status.

In its [partial decision](#) of 23 March 2021, the Court considered that it could not, on the basis of the case file, determine the admissibility of the applicant's complaints under Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment) of the Convention, and that it was therefore necessary to give notice of them to the Maltese Government, together with [questions](#). The Court consequently decided to adjourn the examination of the applicant's complaints as to the conditions of detention and the risk to his life due to the pandemic and his vulnerable status.

[Vlamis and Others v. Greece \(no. 29655/20\) and four other applications \(nos. 29689/20, 30240/20, 30418/20 and 30574/20\)](#)

Applications communicated to the Greek Government on 16 April 2021

These cases concern the applicants' conditions of detention at Korydallos Prison (Greece). The applicants complain in particular about the lack of protective measures against the propagation of the Covid-19 virus.

The Court gave notice of the applications to the Greek Government and put questions to the parties under Article 3 (prohibition of inhuman or degrading treatment), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy) of the Convention.

[Rus v. Romania \(no. 2621/21\)](#)

Application communicated to the Romanian Government on 11 June 2021

The applicant complains that he was infected with the Covid-19 virus while in prison. He sees the cause for this in his conditions of detention, in particular the overcrowding.

The Court gave notice of the application to the Romanian Government and put questions to the parties under Article 3 (prohibition of inhuman or degrading treatment) and Article 35 (admissibility criteria) of the Convention.

Right to liberty and security

[Fenech v. Malta](#) (see also above, under "Right to life and prohibition of inhuman or degrading treatment")

23 March 2021 (partial decision on the admissibility)

In November 2019 the applicant was arrested and detained on remand on suspicion of involvement in murder. Due to the propagation of the Covid-19 virus, national measures were introduced which led to the suspension of the criminal proceedings, and which were to remain in force until lifted on order of the competent authority. Domestic courts retained discretion to hear urgent cases or related matters. The proceedings resumed three months later. The applicant made several unsuccessful applications for bail.

The Court declared **inadmissible**, as being manifestly ill-founded, the applicant's complaints under Article 5 (right to liberty and security) of the Convention. In particular, as to whether the authorities had acted with due diligence, the Court noted that the applicant had not referred to any failings, delays or omissions on behalf of the authorities, apart from the time the proceedings had been suspended due to the emergency measures. That temporary suspension had been due to the exceptional circumstances surrounding a global pandemic which, as held by the Constitutional Court, justified such lawful measures in the interest of public health, as well as that of the applicant. It followed that it could not be said that the duty of special diligence had not been observed.

[Terheş v. Romania](#)

20 May 2021 (decision on the admissibility)

Elected as a member of the European Parliament in 2019, the applicant was in Romania at the time of the events. The case concerned the lockdown which was ordered by the Romanian government from 24 March to 14 May 2020 to tackle the Covid-19 pandemic and which entailed restrictions on leaving one's home. The applicant contended that the

lockdown imposed in Romania, with which he had been required to comply, amounted to a deprivation of liberty.

The Court declared the application **inadmissible**, finding that it was incompatible with the provisions of the Convention. It considered, in particular, that the measure complained of could not be equated with house arrest. Moreover, the level of restrictions on the applicant's freedom of movement had not been such that the general lockdown ordered by the authorities could be deemed to constitute a deprivation of liberty. In the Court's view, the applicant could not therefore be said to have been deprived of his liberty within the meaning of Article 5 § 1 (right to liberty and security) of the Convention. In this case, the Court also attached importance to the fact that the applicant had not explained what specific impact the measure complained of had had on his personal situation. He did not allege that he had been confined indoors for the entire duration of the state of emergency. More generally, the Court noted that he had not provided any specific information describing his actual experience of lockdown.

Pending application

[Khokhlov v. Cyprus \(no. 53114/20\)](#)

Application communicated to the Cypriot Government on 10 February 2021

This application concerns the applicant's ongoing detention since October 2018 for the purpose of his extradition to Russia to stand trial. In October 2020 he was informed that, due to the restrictive measures relating to Covid-19 in place by both Cyprus and Russia, the two states had decided to suspend his extradition. The applicant complains, in particular, that he has been unlawfully and arbitrarily deprived of his liberty, as a result of unjustified delays on the part of the domestic authorities in effecting his extradition.

The Court gave notice of the application to the Government of Cyprus and put questions to the parties under Article 5 (right to liberty and security) of the Convention.

Right to a fair trial

Pending applications

[Association of orthodox ecclesiastical obedience v. Greece \(no. 52104/20\)](#)

Application communicated to the Greek Government on 25 February 2021

See below, under "Freedom of religion".

[Avagyan v. Russia \(no. 36911/20\)](#)

Application communicated to the Russian Government on 4 November 2020

See below, under "Freedom of expression".

Right to respect for private and family life

[D.C. v. Italy \(no. 17289/20\)](#)

15 October 2020 (decision – striking out)

The applicant complained that the Italian authorities had not taken provisional and urgent measures to ensure the maintenance of the family tie with his five-year-old daughter during the confinement. In September 2020, he informed the Court's Registry that he no longer wished to maintain his application, as the Italian Government had anticipated the first hearing in June 2020 in order to take urgent interim measures in the interests of the child.

In the light of the information available, and in the absence of any special circumstances affecting the observance of the rights guaranteed by the Convention and the Protocols thereto, the Court considered that there was no longer any justification for continuing the examination of the application and decided to **strike it out** of its list of cases.

Freedom of thought, conscience and religion

Pending applications

[Spînu v. Romania \(no. 29443/20\)](#)

Application communicated to the Romanian Government on 1 October 2020

This case concerns the Romanian authorities' refusal to allow the applicant, a prisoner, member of the Seventh-Day Adventist Church, to go to a church in Bucharest to hold Sabbath services. The first-instance court rejected his request on the grounds that, due to the Covid-19 epidemic, only absolutely necessary activities could be carried out outside the prison and moral and religious assistance to prisoners had been interrupted.

The Court gave notice of the application to the Romanian Government and put questions to the parties under Article 9 (freedom of religion) of the Convention.

[Association of orthodox ecclesiastical obedience v. Greece \(no. 52104/20\)](#)

Application communicated to the Greek Government on 25 February 2021

This case concerns the prohibition on collective worship in the context of Covid-19.

The Court gave notice of the application to the Greek Government and put questions to the parties under Article 6 (right to a fair trial) and Article 9 (freedom of religion) of the Convention.

[Magdić v. Croatia \(no. 17578/20\)](#)

Application communicated to the Croatian Government on 31 May 2021

This case concerns the measures adopted by the Croatian authorities in the context of prevention of the spreading of the Covid-19 virus. The applicant alleges that the measures in question breached his right to freedom of religion, freedom of assembly and freedom of movement.

The Court gave notice of the application to the Croatian Government and put questions to the parties under Article 9 (freedom of religion) and Article 11 (freedom of assembly and association) of the Convention and under Article 2 (freedom of movement) of Protocol No. 4 to the Convention.

Freedom of expression

Pending application

[Avagyan v. Russia \(no. 36911/20\)](#)

Application communicated to the Russian Government on 4 November 2020

In May 2020, the applicant posted an online comment on *Instagram*, alleging inter alia that there had been no real cases of Covid-19 in the Krasnodar Region of Russia. She was subsequently convicted for disseminating untrue information on the Internet, and sentenced to a fine of 30,000 Russian roubles (approximately 390 euros), against which she appealed unsuccessfully.

The Court gave notice of the application to the Russian Government and put questions to the parties under Article 6 § 1 (right to a fair trial) and Article 10 (freedom of expression) of the Convention.

Freedom of assembly and association

Pending applications

[Communauté genevoise d'action syndicale \(CGAS\) v. Switzerland \(no. 21881/20\)](#)

Application communicated to the Swiss Government on 11 September 2020

This case concerns the ban on demonstrations in the context of the Covid-19 pandemic.

The Court gave notice of the application to the Swiss Government and put questions to the parties under Article 11 (freedom of assembly) of the Convention, with preliminary questions regarding victim status and exhaustion of domestic remedies.

[Magdić v. Croatia \(no. 17578/20\)](#)

Application communicated to the Croatian Government on 31 May 2021

See above, under “Freedom of religion”.

Protection of property

Pending applications

[Toromag, s.r.o. v. Slovakia and four other applications \(nos. 41217/20, 41253/20, 41263/20, 41271/20 and 49716/20\)](#)

Applications communicated to the Slovakian Government on 5 December 2020

The applicants are the owners of fitness centres which were closed by virtue of measures taken by the Public Health Authority of the Slovak Republic from March until June 2020 in the context of prevention of the propagation of the Covid-19 virus. They complain in particular about the alleged pecuniary damage incurred and the loss of future income as well as clientele.

The Court gave notice of the applications to the Slovakian Government and put questions to the parties under Article 1 (protection of property) of Protocol No. 1 to the Convention, with a preliminary question regarding exhaustion of domestic remedies.

Freedom of movement

Pending application

[Magdić v. Croatia \(no. 17578/20\)](#)

Application communicated to the Croatian Government on 31 May 2021

See above, under “Freedom of religion”.

Interim measures² under Rule 39 of the Rules of Court

The Court received around 350 interim measures requests related to the Covid-19 health crisis, mainly brought by persons detained in prison or kept in reception and/or detention centres for asylum seekers and migrants, and lodged against, in particular, Greece, Italy, France and Turkey, but also against other countries such as the United Kingdom and Spain. These requests were very diverse. While requests under Rule 39 of the Rules of Court usually concern deportations or extraditions, those received since mid-March 2020 are mainly from applicants requesting the Court to take interim measures to remove them from their place of detention and/or to indicate measures to protect their health against the risk of being infected by Covid-19.

In the vast majority of cases, these are individual applications. Many of them were rejected. In a number of other cases, the Court adjourned its decision and requested information from the Government concerned. In some cases, Rule 39 was applied in line with the usual criteria, in the case of very vulnerable persons (unaccompanied minors or persons with serious medical conditions, pregnant women, in particular).

A minority of requests for general measures reached the Court (for example: to enforce a complete lockdown in certain cities). These requests were rejected.

². These are measures adopted as part of the procedure before the Court, under Rule 39 of the [Rules of Court](#), at the request of a party or of any other person concerned, or of the Court’s own motion, in the interests of the parties or of the proper conduct of the proceedings. See also the factsheet on [“Interim measures”](#).

Further reading

See in particular:

- ["Health" factsheet](#)
 - [Notifications under Article 15 \("Derogation in time of emergency"\) of the European Convention on Human Rights](#) in the context of the Covid-19 pandemic
 - ["Council of Europe and Covid-19"](#), Covid-19 special page
 - Council of Europe Commissioner for Human Rights, Thematic Work, ["Covid-19"](#)
 - [Parliamentary Assembly of the Council of Europe and Covid-19 | Safeguarding democratic health in times of health crisis](#), Covid-19 special page
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