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Jan Adamowski
Jagiellonian University in Kraków, Poland
ORCID: 0009-0005-3326-3063
jan.adamowski@doctoral.uj.edu.pl

Pandemic-Related Cases before the European Court of Human Rights: An Overview of Jurisprudence and Identification of Key Issues*

Sprawy związane z pandemią przed Europejskim Trybunałem Praw Człowieka. Przegląd orzecznictwa i identyfikacja kluczowych problemów

ABSTRACT

This paper examines cases related to the COVID-19 pandemic brought before the European Court of Human Rights, highlighting key procedural and substantive issues. In the analysed cases, many of the filed applications were dismissed as inadmissible due to a lack of victim status and a reliance on abstract concerns rather than actual violations. Substantively, the cases reveal a fundamental tension between individual rights and public health measures. While some applicants argued that state-imposed restrictions excessively limited their rights, others claimed that governments failed to provide adequate protection, particularly regarding health and safety. This dual perspective underscores the challenge of balancing fundamental rights in times of crisis. The analysis demonstrates that both excessive limitations and insufficient safeguards were framed as disproportionate, reflecting the complexity of state obligations during emergencies. The study ultimately sheds light on the Court's role in adjudicating these disputes and the broader implications for human rights protection in future global crises.

Keywords: pandemic; European Convention on Human Rights; European Court of Human Rights; admissibility criteria; merit assessment; state obligations

CORRESPONDENCE ADDRESS: Jan Adamowski, PhD Candidate, Jagiellonian University in Kraków, Doctoral School in the Social Sciences, Rynek Główny 34, 31-110 Kraków, Poland.

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INTRODUCTION

Although six years have passed since the World Health Organization characterised COVID-19 as a global pandemic,[1] its consequences are still being felt across various areas of contemporary society. The rapid global spread of the novel coronavirus in late 2019 and early 2020 triggered an unprecedented global healthcare crisis. In response, governments worldwide implemented a range of preventive measures aimed at reducing infection rates and minimising mortality. These measures included mandatory vaccination, mask mandates, quarantines, economic lockdowns, and travel restrictions.[2] While designed to protect public health, they frequently imposed significant limitations on individual rights and freedoms guaranteed under constitutional and supranational law.

The European Court of Human Rights (ECtHR), as an international judicial body specialising in the protection of fundamental rights and freedoms guaranteed by the European Convention on Human Rights,[3] has played a key role in adjudicating disputes arising from the implementation of pandemic-related measures. Several cases brought before the Court involved alleged violations of the most fundamental freedoms and rights, including the right to life (Article 2), the prohibition of torture and inhuman or degrading treatment (Article 3), the right to liberty and security (Article 5), and the right to respect for private and family life (Article 8). The central issue in these cases was the challenge regarding the manner in which legislatures sought to strike a balance between the necessity of protecting public health and the restrictions imposed on individual rights and freedoms. Additionally, ten Member States of the Council of Europe[4] made declarations of derogation under Article 15 ECHR, which served as an important indicator of both the severity

[1] World Health Organization, *Timeline: WHO's COVID-19 Response*, 2019, https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline (access: 14.7.2026).

[2] See T. Hale, A. Petherick, T. Phillips et al., *Variation in Government Responses to COVID-19*, BSG-WP-2020/032, Version 15, June 2023, https://www.bsg.ox.ac.uk/sites/default/files/2023-06/BSG-WP-2020-032-v15.pdf (access: 14.7.2026); T. Hale, N. Angrist, R. Goldszmidt, B. Kira, A. Petherick, T. Phillips, S. Webster, E. Cameron-Blake, L. Hallas, S. Majumdar, H. Tatlow, *A Global Panel Database of Pandemic Policies (Oxford COVID-19 Government Response Tracker)*, "Nature Human Behaviour" 2021, vol. 5, pp. 529–538; E. Mathieu, H. Ritchie, L. Rodés-Guirao, C. Appel, D. Gavrilov, C. Giattino, J. Hasell, B. Macdonald, S. Dattani, D. Beltekian, E. Ortiz-Ospina, M. Roser, *COVID-19 Pandemic*, 2020, https://ourworldindata.org/coronavirus (access: 17.7.2026).

[3] Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005), as amended by Protocols Nos. 11 (ETS No. 155), 14 (CETS No. 194), and 15 (CETS No. 213), and supplemented by Protocols Nos. 1 (ETS No. 009), 4 (ETS No. 046), 6 (ETS No. 114), 7 (ETS No. 117), 12 (ETS No. 177), 13 (ETS No. 187), and 16 (CETS No. 214), hereinafter: ECHR.

[4] Albania, Armenia, Estonia, Georgia, Latvia, North Macedonia, Moldova, Romania, San Marino, and Serbia. See Council of Europe, *Derogations COVID-19*, https://www.coe.int/en/web/conventions/derogations-covid-19 (access: 14.7.2026).

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of the health crisis and its legal implications in the jurisprudence of the European Court of Human Rights.[5]

This paper aims to review and analyse pandemic-related cases that are either pending before or have already been decided by the European Court of Human Rights. A comprehensive examination of all cases in which applicants have alleged violations of their rights and freedoms guaranteed by the ECHR due to state actions during the global pandemic, would require extensive research, making it impossible to present such results within the scope of a single paper. Therefore, this study primarily focuses on cases included in the official thematic report prepared and published by the Press Unit of the European Court of Human Rights.[6] The article is structured into two main sections. The first section identifies key procedural issues concerning the admissibility of applications in pandemic-related cases. The second section explores the types of allegations raised by the applicants and the main substantive issues considered by the Court when assessing the merits of these applications.

RESEARCH AND RESULTS

1. Key procedural issues

The substantive examination of an individual application by the European Court of Human Rights is contingent on its procedural admissibility. Articles 34 and 35 ECHR outline the conditions an application must meet to be considered admissible.[7] An application may be dismissed as inadmissible on procedural grounds under Article 35 § 4 ECHR, if domestic remedies have not been exhausted (Article 35 § 1) or the four-month time limit has not been complied with (Article 35 § 1), as well as if it is anonymous (Article 35 § 2(a)), substantially the same (Article 35

[5] See S. Jovičić, *COVID-19 Restrictions on Human Rights in the Light of the Case-Law of the European Court of Human Rights*, "ERA Forum" 2021, vol. 21, pp. 545–560; A. Lebret, *COVID-19 Pandemic and Derogation to Human Rights*, "Journal of Law and the Biosciences" 2020, vol. 7(1), pp. 1–15; S. Molly, *COVID-19 and Derogations before the European Court of Human Rights*, 10.4.2020, https://verfassungsblog.de/covid-19-and-derogations-before-the-european-court-of-human-rights (access: 14.7.2026); J. Połatyńska, *Human Rights and SARS-CoV-2 – Some Observations on a Public Emergency Threating the Life of the Nation*, "Civitas Hominibus" 2021, vol. 16, pp. 73–83.

[6] European Court of Human Rights, *COVID-19 Health Crisis*, October 2024, https://www.echr.coe.int/documents/d/echr/fs_covid_eng (access: 14.7.2026).

[7] European Court of Human Rights, *Practical Guide on Admissibility Criteria*, 28.2.2026, https://www.echr.coe.int/documents/d/echr/admissibility_guide_eng (access: 14.7.2026); A. Pazura, *Uwagi na temat przesłanek skargi indywidualnej do Europejskiego Trybunału Praw Człowieka w Strasburgu*, "Przegląd Prawa Konstytucyjnego" 2014, no. 3, pp. 175–193.

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§ 2(b)), or abuses the right of application (Article 35 § 3(a)). The application must also comply with the Court's jurisdictional criteria of person (*ratione personae*), place (*ratione loci*), time (*ratione temporis*), and subject matter (*ratione materiae*). Additionally, the application must not be manifestly ill-founded, and the disadvantage suffered by the applicant must be significant, unless a substantive examination is warranted by the necessity of upholding human rights, regardless of the "extent" of the disadvantage (Article 35 § 3(b)). Furthermore, the applicant must be a victim within the meaning of Article 34 ECHR.

1.1. No victim status

In many of the analysed pandemic-related cases, the European Court of Human Rights was unable to examine the merits of the applications due to their procedural inadmissibility. The reasons for inadmissibility varied, with one prominent issue being the submission of applications by individuals who did not qualify as victims within the meaning of Article 34 ECHR, often accompanied by the formulation of the application as an *actio popularis*. A notable example is the case of *Le Mailloux v France*,[8] in which the applicant alleged violations of the rights guaranteed by Articles 2, 3, 8, and 10 ECHR. These allegations were based on the failure of the state to fulfil its positive obligations. Specifically, the applicant claimed that the French population's right to life was violated due to restricted access to coronavirus diagnostic tests and that the right to privacy was infringed because individuals who succumbed to the virus were forced to do so in isolation. Although the Court acknowledged that the right to healthcare was not expressly guaranteed by the ECHR, it affirmed, in line with previous judgments,[9] that states have a positive obligation to take measures to protect the life and physical integrity of individuals under their jurisdiction, including public health measures.[10] However, the Court found that the applicant failed to demonstrate that the measures in question resulted in a specific violation of the rights guaranteed by the ECHR in his individual circumstances. As the application was of an abstract nature and resembled an *actio popularis*, it was dismissed as inadmissible due to the lack of victim status.

[8] Decision of the ECtHR of 5 November 2020, *Le Mailloux v France*, Application no. 18108/20.

[9] Judgment of the ECtHR (Grand Chamber) of 19 December 2017, *Lopes de Sousa Fernandes v Portugal*, Application no. 56080/13; judgment of the ECtHR of 17 March 2016, *Vasileva v Bulgaria*, Application no. 23796/10.

[10] See O. Nawrot, J. Nawrot, V. Vachev, *The Right to Healthcare during the COVID-19 Pandemic under the European Convention on Human Rights*, "International Journal of Human Rights" 2023, vol. 27(5), pp. 789–808.

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Other pandemic-related cases dismissed on similar grounds, due to a lack of victim status, include *Árus v Romania*,[11] *Figeľ v Slovakia*,[12] *Magdić v Croatia*,[13] *Mittendorfer v Austria*,[14] *Pernechele and Others v Italy*,[15] and *Piperea v Romania*.[16]

1.2. Non-exhaustion of domestic remedies

Another common reason for the dismissal of pandemic-related applications was the failure to exhaust available domestic remedies before submitting a case to the European Court of Human Rights. An important example is the case of *Thevenon v France*,[17] in which the applicant, a fireman, refused to receive the COVID-19 vaccine, which was legally required for his profession. As a consequence, he was suspended from duty and deprived of his salary. Instead of pursuing the available domestic remedy (*recours pour excès de pouvoir*), the applicant filed a complaint directly with the Court, alleging a violation of his rights under Article 8 ECHR. The Court ruled that the applicant could have challenged not only the suspension order but also the legal basis for that order (the law and its implementing decree) through administrative proceedings in accordance with the ECHR. The Court further noted that the prior consultant opinion issued by the Council of State (Conseil d'État) on the relevant law did not absolve the applicant from pursuing this course of action, as the opinion was not binding on the judicial section of the Council of State. Consequently, the application in the case of *Thevenon v France* was dismissed as inadmissible due to its failure to exhaust domestic remedies.

The issue of non-exhaustion of domestic remedies was also raised in the cases of *Rus v Romania*[18] and *Narbutas v Lithuania*,[19] as well as in the just-cited cases of *Le Mailloux v France* and *Mittendorfer v Austria*.

1.3. Non-compliance with the four-month time limit

A third reason for the dismissal of certain applications was their submission outside the prescribed time limit. One case in which this issue arose was *Communauté*

[11] Decision of the ECtHR of 30 May 2023, *Árus v Romania*, Application no. 39647/21.
[12] Decision of the ECtHR of 3 July 2025, *Figeľ v Slovakia*, Application no. 12131/21.
[13] Decision of the ECtHR of 5 July 2022, *Magdić v Croatia*, Application no. 17578/20.
[14] Decision of the ECtHR of 4 July 2023, *Mittendorfer v Austria*, Application no. 32467/22.
[15] Decision of the ECtHR of 31 October 2023, *Pernechele and Others v Italy*, Application no. 7222/22.
[16] Decision of the ECtHR of 5 July 2022, *Piperea v Romania*, Application no. 24183/21.
[17] Decision of the ECtHR of 13 September 2022, *Thevenon v France*, Application no. 46061/21.
[18] Decision of the ECtHR of 9 May 2023, *Rus v Romania*, Application no. 2621/21.
[19] Judgment of the ECtHR of 19 December 2023, *Narbutas v Lithuania*, Application no. 14139/21.

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genevoise d'action syndicale (CGAS) v Switzerland.[20] The applicant, as an association dedicated to the protection of trade union rights and democratic freedoms, challenged restrictions on assemblies imposed during the COVID-19 pandemic. While the case also involved issues related to victim status and the exhaustion of domestic remedies, a key question before the Court was whether the application had been filed within the required time frame. During the proceedings before the Grand Chamber, the applicant association argued that the restrictions violated its rights under Article 11 ECHR, not only in relation to the right to peaceful assembly, but also from the perspective of trade union freedom. However, the Court found that this argument effectively introduced a new application rather than merely expanding the original complaint. Since this claim was raised more than two and a half years after the contested regulations had entered into force, the Court held that it had been submitted outside of the time limit under Article 35 § 1 ECHR. Consequently, this part of the application was declared inadmissible.

Another pandemic-related case in which the issue of compliance with the time limit arose was *Saakashvili v Georgia*.[21]

1.4. Abuse of the right of application

Some pandemic-related applications were dismissed by the Court on the grounds of abuse of the right of individual application. A notable example is *Zambrano v France*.[22] As in the case of *CGAS v Switzerland*, this case raised multiple questions regarding the admissibility of the application. The applicant alleged violations of Articles 3, 8 and 14 ECHR, as well as Article 1 of Protocol No. 12 to the ECHR. He challenged the health certificate (health-pass) system introduced by the French government, arguing that it effectively coerced individuals into accepting COVID-19 vaccinations, despite the vaccine being formally voluntary. Beyond the abstract nature of the application and the failure to exhaust domestic remedies, the Court found that the applicant had not genuinely sought to protect his rights guaranteed by the ECHR. Instead, he aimed to "paralyse" the Court's operations by encouraging the mass submission of identical applications, automatically generated via a website. These applications were abstract and anonymous. Since the application filed in the case of *Zambrano v France* served as a prototype for these mass filings,

[20] Judgment of the ECtHR (Grand Chamber) of 27 November 2023, *Communauté genevoise d'action syndicale (CGAS) v Switzerland*, Application no. 21881/20. See judgment of the ECtHR of 15 March 2022, *Communauté genevoise d'action syndicale (CGAS) v Switzerland*, Application no. 21881/20.

[21] Decision of the ECtHR of 1 March 2022, *Saakashvili v Georgia*, Application no. 6232/20 and 22394/20. See also judgment of the ECtHR of 23 May 2024, *Saakashvili v Georgia*, Application no. 6232/20 and 22394/20.

[22] Decision of the ECtHR of 21 September 2021, *Zambrano v France*, Application no. 41994/21.

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the Court concluded that the applicant's actions constituted an abuse of the right of individual petition, rendering his application inadmissible.

Similarly, in the case of *Toromag S.R.O. and Others v Slovakia*,[23] the Court dismissed the application as abusive. The applicants, businesses affected by economic restrictions introduced during the COVID-19 pandemic, alleged a violation of Article 1 of Protocol No. 1 to the ECHR. However, they withheld critical information from the Court, including the fact that they had simultaneously lodged constitutional complaints at the national level and had received state aid in relation to the matter. Given these omissions, the Court found that the applications constituted an abuse of the right of application and declared them inadmissible.

1.5. Manifestly ill-founded

It is also possible to identify from among the analysed applications those that were deemed manifestly ill-founded and consequently dismissed by the Court. Although the manifestly ill-founded nature of an application constitutes grounds for inadmissibility, this criterion is inherently substantive rather than procedural. For this reason, while the issue arose in some of the reviewed cases, it will be discussed in greater detail in the second part of the study. However, one illustrative example is *Bah v The Netherlands*.[24] In this case, the applicant alleged a violation of Article 5 § 3 ECHR. According to its plain wording, this provision applies only to individuals detained or arrested for the purposes outlined in Article 5 § 1(c). While the applicant had indeed been detained, his situation fell within the scope of Article 5 § 1(f), which meant that Article 5 § 3 was not applicable. As a result, no violation of the ECHR could be established, and the application was dismissed as manifestly ill-founded.

Other cases in which applications were rejected on similar grounds include *Faia v Italy*,[25] *Grgičin and Grgičin v Croatia*,[26] *Hafeez v The United Kingdom*,[27] *Lini S.R.O. v Slovakia*,[28] *Makovetskyy v Ukraine*,[29] *Rybár and Veselská v Slovakia*,[30] and *Ünsal and Timtik v Turkey*.[31]

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[23] Decision of the ECtHR of 28 June 2022, *Toromag S.R.O. and Others v Slovakia*, Application no. 41217/20 and four others.

[24] Decision of the ECtHR of 22 June 2021, *Bah v The Netherlands*, Application no. 35751/20.

[25] Decision of the ECtHR of 29 August 2023, *Faia v Italy*, Application no. 17222/20.

[26] Decision of the ECtHR of 12 December 2023, *Grgičin and Grgičin v Croatia*, Application no. 6749/22 and 7154/22.

[27] Decision of the ECtHR of 28 March 2023, *Hafeez v The United Kingdom*, Application no. 14198/20.

[28] Decision of the ECtHR of 9 November 2023, *Lini S.R.O. v Slovakia*, Application no. 7206/22.

[29] Decision of the ECtHR of 19 May 2022, *Makovetskyy v Ukraine*, Application no. 50824/21.

[30] Decision of the ECtHR of 31 August 2023, *Rybár and Veselská v Slovakia*, Application no. 60788/21.

[31] Decision of the ECtHR of 8 June 2021, *Ünsal and Timtik v Turkey*, Application no. 36331/20.

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2. Key substantive issues

Given that a number of pandemic-related cases are still pending before the Court, the most effective approach to analysing their substantive aspects is to identify the specific subject matter at issue (e.g., vaccination policies or prison conditions). However, these cases can also be classified according to an even more general criterion. The defining characteristic of pandemic-related cases is that applicants challenged the way in which states sought to balance restrictions on individual rights and freedoms against the imperative of protecting public health. While many applications were framed to suggest that state authorities had disproportionately restricted rights and freedoms in favour of public health measures, there were also cases in which applicants argued the opposite. In these cases, it was alleged that the state had failed to fulfil its positive obligations,[32] most notably, the duty to protect human life under Article 2 ECHR.[33]

2.1. Failure of the state to act

One significant example of a case in which the applicant alleged that the state had failed to fulfil its positive obligations and had provided insufficient public health protection was *Le Mailloux v France*, discussed above. However, this was not the only case of its kind. Another notable example is the case of *Faia v Italy*. In this case, the applicant, a blind person, alleged a violation of Article 3 ECHR. His complaint concerned both his placement in a particular prison (given his visual impairment) and the adequacy of the measures taken by the authorities to protect him from contracting COVID-19. The latter allegation was specifically related to the state's alleged failure to fulfil its positive obligations. The Court reiterated that Article 3 ECHR requires states to take effective measures to protect prisoners from infectious diseases and to provide them with adequate medical care in the event of infection.[34]

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[32] See J.-F. Akandji-Kombe, *Positive Obligations under the European Convention on Human Rights: A Guide to the Implementation of the European Convention on Human Rights*, 2007, https://rm.coe.int/168007ff4d (access: 14.7.2026).

[33] See L. Graham, *Challenging State Responses to the COVID-19 Pandemic before the ECtHR*, 18.10.2022, https://strasbourgobservers.com/2022/10/18/challenging-state-responses-to-the-covid-19-pandemic-before-the-ecthr (access: 14.7.2026); J. Kapelańska-Pręgowska, *Inadequate State Response to Protect Life and Health in Times of COVID-19 as a Violation of Human Rights Obligations – the Example of Poland*, 7.2.2022, https://www.ejiltalk.org/inadequate-state-response-to-protect-life-and-health-in-times-of-covid-19-as-a-violation-of-human-rights-obligations-the-example-of-poland (access: 14.7.2026); R. McQuigg, *The COVID-19 Pandemic and the European Court of Human Rights*, 11.4.2022, https://qpol.qub.ac.uk/covid-19-pandemic-the-european-court-of-human-rights (access: 14.7.2026).

[34] See judgment of the ECtHR of 1 March 2022, *Fenech v Malta*, no. Application 19090/20; judgment of the ECtHR of 24 July 2012, *Fülöp v Romania*, Application no. 18999/04.

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However, after assessing the circumstances of the case, the Court concluded that the authorities had taken appropriate steps to protect the applicant from contracting the coronavirus.

2.2. Disproportionate limitations on rights and freedoms

As previously noted, many applicants in the analysed pandemic-related cases accused states of imposing disproportionate restrictions on rights and freedoms guaranteed by the ECHR. These allegations arose in various contexts and were directed against different types of measures introduced by national authorities.

The first category of complaints concerned the compatibility of mandatory COVID-19 vaccinations with the ECHR. This also included cases where vaccination was formally voluntary but, according to applicants, functioned as a de facto obligation. This was often due to health-pass systems or employment-related consequences. While the *Zambrano v France*,[35] *Thevenon v France*, and *Mittendorfer v Austria* cases were dismissed on procedural grounds and were therefore not examined on their merits, the issue of vaccination was substantively addressed in the case of *Pasquinelli and Others v San Marino*.[36] In this case, the applicants, health and social care workers, refused to receive the voluntary COVID-19 vaccine. Although their refusal did not entail the threat of criminal or administrative sanctions, nor could it lead to disciplinary action, it resulted in employment measures, such as reassignment to different positions or temporary leave. The applicants alleged that these measures violated Article 8 ECHR. The Court acknowledged that voluntary vaccination does not inherently infringe Article 8 ECHR but considered whether the employment-related consequences affected the applicants' autonomy in making vaccination decisions. It emphasised the need to balance competing interests: individual rights and public health considerations. While recognising that the applicants had experienced financial losses, which generally did not exceed €10,000, the Court also underscored the state's positive obligation to protect public health and prevent the spread of COVID-19. Ultimately, it concluded that the measures fell within the margin of appreciation afforded to states and unanimously found no violation of Article 8 ECHR.

The second category of objections raised by applicants in pandemic-related cases concerned challenges to the health-pass systems introduced by states, as well as the associated obligations to wear masks and undergo COVID-19 testing. In addition to the case of *Zambrano v France* discussed earlier, these issues were central to the

[35] See J. Kapelańska-Pręgowska, *The (Still) Unresolved Question of COVID-19 Passes Compatibility with the ECHR: Comments on the ECtHR Decision of 7 October 2021 in Zambrano v France (Application no. 41994/21)*, "Polish Review of International and European Law" 2022, vol. 11(1), pp. 169–182.

[36] Judgment of the ECtHR of 29 August 2024, *Pasquinelli and Others v San Marino*, Application no. 24622/22.

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Piperea v Romania and *Makovetskyy v Ukraine* cases. The applicants in these cases formulated their allegations in different ways. In the first case, the applicant directly contested the protective measures introduced by the state, including the obligation to maintain social distance, wear masks and undergo isolation following a positive COVID-19 test. He argued that these measures violated his rights under Article 8 ECHR and Article 2 § 1 of Protocol No. 4 to the ECHR. Conversely, in the case of *Makovetskyy v Ukraine*, the applicant, who had been fined for not wearing a mask in a store, did not explicitly challenge the mask mandate itself, but instead questioned the fairness of the domestic proceedings. He alleged that, i.a., the imposition of a fine by a police officer, rather than by a judicial authority, constituted a violation of his right to a court established by law and was indicative of arbitrary enforcement.

The third major category of restrictions challenged by applicants in pandemic-related cases concerned lockdown measures. In this context, the complainants contested several types of limitations. First, restrictions on the freedom of movement were challenged, notably in the case of *Terheş v Romania*.[37] The applicant argued that the prohibition on leaving his home and, by extension, his inability to leave the country constituted an unlawful deprivation of liberty. However, the Court dismissed the application, emphasising that the applicant had failed to demonstrate how the lockdown had personally affected him. Moreover, the Court found that such restrictions on movement could not be interpreted as a deprivation of liberty within the meaning of the ECHR.[38] Second, closely related allegations concerned restrictions on the freedom of assembly. This issue was central to the case of *Central Unitaria de Traballadores/as v Spain*,[39] and was also raised in the case of *Nemytov and Others v Russia*[40] and in the still pending case of *Jarocki v Poland*.[41] Finally, another contested aspect of lockdown measures involved various restrictions on economic activity, which applicants generally alleged to be in violation of Article 1 of Protocol No. 1 to the ECHR.[42]

The fourth category of alleged violations raised by applicants in the analysed cases concerned the impact of the pandemic on judicial proceedings. Three main types of complaints emerged in this context. First, applicants accused states of excessively lengthy proceedings, both in terms of the right to a fair trial (Article 6

[37] Decision of the ECtHR of 13 April 2021, *Terheş v Romania*, Application no. 49933/20.

[38] See R. McWhirter, *The Right to Liberty in a Pandemic*, "The University of Queensland Law Journal" 2021, vol. 40(2), pp. 159–179.

[39] Judgment of the ECtHR of 17 October 2024, *Central Unitaria de Traballadores/as v Spain*, Application no. 49363/20.

[40] Judgment of the ECtHR of 27 May 2025, *Nemytov and Others v Russia*, Application no. 1257/21, 3244/21, and 46231/21.

[41] Case communicated on 17 November 2021, *Jarocki v Poland*, Application no. 39750/20.

[42] See decision of the ECtHR of 16 December 2025, *Scheffer and Others v Slovakia*, Application no. 16627/21 and forty-seven others; decision of the ECtHR of 7 May 2026, *Denim Retail S.R.O. and Others v Slovakia*, Application no. 21846/21, 34483/21, and 38283/21.

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§ 1 ECHR), as illustrated in the case of *Q and R v Slovenia*,[43] and in terms of the right to a prompt decision on the lawfulness of detention (Article 5 § 4 ECHR) in the context of extradition proceedings, as exemplified by the case of *Khokhlov v Cyprus*.[44] Second, applicants alleged violations arising from their inability to attend hearings in person and the failure of states to provide alternative participation via videoconferencing due to infrastructure limitations. A case highlighting this issue is *Bah v The Netherlands*. Third, some applicants argued that states violated their rights by holding hearings via videoconferencing instead of in public. Examples include the cases of *Alppi v Finland*,[45] *Kucera v Austria*,[46] and *Nichita v Romania*.[47] Another significant issue related to judicial proceedings is the automatic extension of pre-trial detention under statutory provisions. This matter was central to the case of *Ait Oufella and Others v France*,[48] which was ultimately struck out under Article 37 § 1(c) ECHR, following the government's submission of a declaration acknowledging the violation and undertaking to pay appropriate financial compensation.

The fifth distinguishable category of allegations concerned conditions in prisons, immigration detention centres,[49] and asylum facilities.[50] An analysis of these cases highlights the significant impact of the COVID-19 pandemic on the functioning of such closed institutions. A particularly problematic aspect was that the conditions in these facilities either facilitated or at least created a potential risk of the spread of the coronavirus.[51] Additionally, some applicants alleged violations of their rights due to mandatory quarantine placements.[52] The pandemic also affected prisoners' family life,[53] raising issues such as the inability to leave prison for significant family events, including funerals,[54] as well as restrictions on family visits.[55] Furthermore,

[43] Judgment of the ECtHR of 8 February 2022, *Q and R v Slovenia*, Application no. 19938/20.

[44] Judgment of the ECtHR of 13 June 2023, *Khokhlov v Cyprus*, Application no. 53114/20.

[45] Decision of the ECtHR of 28 November 2023, *Alppi v Finland*, Application no. 15736/22.

[46] Judgment of the ECtHR of 9 December 2025, *Stephan Kucera v Austria*, Application no. 13810/22.

[47] Case communicated on 28 May 2024, *Nichita v Romania*, Application no. 38200/22.

[48] Decision of the ECtHR of 13 June 2024, *Ait Oufella and Others v France*, Application no. 51860/20 and three others.

[49] See judgment of the ECtHR of 11 March 2021, *Feilazoo v Malta*, Application no. 6865/19.

[50] See decision of the ECtHR of 19 December 2024, *E.B. v Serbia*, Application no. 50086/20; decision of the ECtHR of 14 October 2025, *A.A. v Serbia*, Application no. 50898/20.

[51] See decision of the ECtHR of 9 May 2023, *Rus v Romania*, Application no. 2621/21; judgment of the ECtHR of 9 November 2023, *Riela v Italy*, Application no. 17378/20.

[52] See decision of the ECtHR of 18 March 2025, *Gözütok v Turkey*, Application no. 41412/21.

[53] See decision of the ECtHR of 15 October 2020, *D.C. v Italy*, Application no. 17289/20.

[54] See judgment of the ECtHR of 16 May 2024, *Crăciun and Others v Romania*, Application no. 512/21 and four others.

[55] See case communicated on 17 November 2021, *Guhn v Poland*, Application no. 45519/20; case communicated on 17 November 2021, *Michalski v Poland*, Application no. 34180/20.

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the complainants pointed to the lack of opportunities to attend religious services outside of prison.[56]

It is evident that the aforementioned categories do not encompass all the allegations raised in pandemic-related cases. Other notable claims include challenges to state measures on the grounds of violating the right to freedom of expression,[57] the right to education,[58] and restrictions on collective worship.[59]

DISCUSSION AND CONCLUSIONS

The global pandemic and the policies implemented by states in response posed significant challenges to fundamental rights and freedoms.[60] One of the key institutions where individuals sought protection was the European Court of Human Rights. While many applications submitted to the Court have already been adjudicated, some remain pending. Nevertheless, several key issues can be identified in this context.

A significant number of applications were deemed procedurally inadmissible, preventing them from being examined on their merits. Although the causes of such inadmissibility varied, the main reasons included: (a) a lack of victim status, (b) non-exhaustion of available domestic remedies before filing the application, (c) non-compliance with the time limit for filing the application, (d) abuse of the right of application, and (e) manifestly ill-founded applications. Notably, many applications were dismissed due to the absence of a direct infringement of the applicants' rights and freedoms, often taking the form of *actio popularis*, where applicants alleged potential rather than actual violations. This suggests a fundamental misunderstanding of the Court's general role. Instead of recognising the Court as a supranational judicial authority intervening in specific cases to restore justice regarding fundamental rights and freedoms, often through adjudicating appropriate financial compensation, many applicants viewed it as a mechanism for pre-emptively safeguarding their rights and freedoms.

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[56] See judgment of the ECtHR of 11 October 2022, *Constantin-Lucian Spînu v Romania*, Application no. 29443/20.

[57] See judgment of the ECtHR of 29 April 2025, *Avagyan v Russia*, Application no. 36911/20; decision of the ECtHR of 19 February 2026, *Jeremejevs v Latvia*, Application no. 44644/21; decision of the ECtHR of 18 June 2026, *Petrova v Bulgaria*, Application no. 938/21.

[58] See case communicated on 20 December 2022, *M.C.K. and M.H.K.-B. and Others v Germany*, Application no. 26657/22 and three others.

[59] See decision of the ECtHR of 25 February 2025, *Association of Orthodox Ecclesiastical Obedience and Others v Greece*, Application no. 52104/20 and 51020/22; decision of the ECtHR of 3 July 2025, *Figel' v Slovakia*, Application no. 12131/21; case communicated on 19 September 2022, *Mégard v France*, Application no. 32647/22.

[60] See J. Jaskiernia, *Challenges Posed by the COVID-19 Pandemic to the Protection of Human Rights*, "Stosunki Międzynarodowe" 2020, vol. 56(4), pp. 65–78.

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The substantive issues raised in the pandemic-related cases were diverse, with complainants alleging violations of nearly all rights and freedoms protected by the ECHR and its Protocols. Interestingly, similar pandemic regulations were sometimes assessed in opposing ways by different applicants. While some argued that state-imposed restrictions excessively limited their rights and freedoms, others claimed that these measures were insufficient to protect their lives and health. This highlights the difficult balancing act that public authorities faced in reconciling individual rights and freedoms with the need to safeguard public health. Although these two types of objections may seem fundamentally different, they share a common essence: both are rooted in the principle of proportionality.[61] Whether an applicant argued that a particular restriction on his or her rights or freedoms was excessive or that the state failed to provide sufficient protection due to its positive obligations, the core complaint remains the same: the contested regulation was not proportionate to its intended objective. In the first case, the measure is seen as overly restrictive, while in the second, it is deemed insufficient.

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ABSTRAKT

W artykule analizie poddano sprawy związane z pandemią COVID-19 wniesione do Europejskiego Trybunału Praw Człowieka, podkreślając kluczowe kwestie proceduralne i merytoryczne. W analizowanych sprawach wiele złożonych skarg zostało odrzuconych jako niedopuszczalne z powodu braku statusu ofiary lub oparcia na abstrakcyjnych zarzutach, a nie na rzeczywistych naruszeniach. Pod względem merytorycznym sprawy te ukazują fundamentalny konflikt między prawami jednostki a działaniami podejmowanymi w celu ochrony zdrowia publicznego. Podczas gdy niektórzy skarżący argumentowali, że ograniczenia nałożone przez państwo nadmiernie ograniczały ich prawa, inni twierdzili, że rządy nie zapewniły odpowiedniej ochrony, szczególnie w zakresie zdrowia i bezpieczeństwa. Ta dwoista perspektywa podkreśla wyzwanie, jakim jest zachowanie równowagi między prawami podstawowymi w czasach kryzysu. Analiza pokazuje, że zarówno nadmierne ograniczenia, jak i niewystarczające zabezpieczenia były postrzegane jako nieproporcjonalne, co podkreśla złożoność obowiązków państwa w sytuacjach nadzwyczajnych. Badania podkreślają rolę Trybunału w rozstrzyganiu takich sporów i wskazują na szersze konsekwencje dla ochrony praw człowieka w przyszłych globalnych kryzysach.

Słowa kluczowe: pandemia; Europejska Konwencja Praw Człowieka; Europejski Trybunał Praw Człowieka; kryteria dopuszczalności; ocena merytoryczna; obowiązki państwa