

Forum: Social, Humanitarian and Cultural Committee (GA3)

Issue: Assessing Covid-19 Restriction Measures as to avoid a Hygiene Dictatorship

Student Officer: Filippou-Akylas Kaloudis

Position: Co-Chair

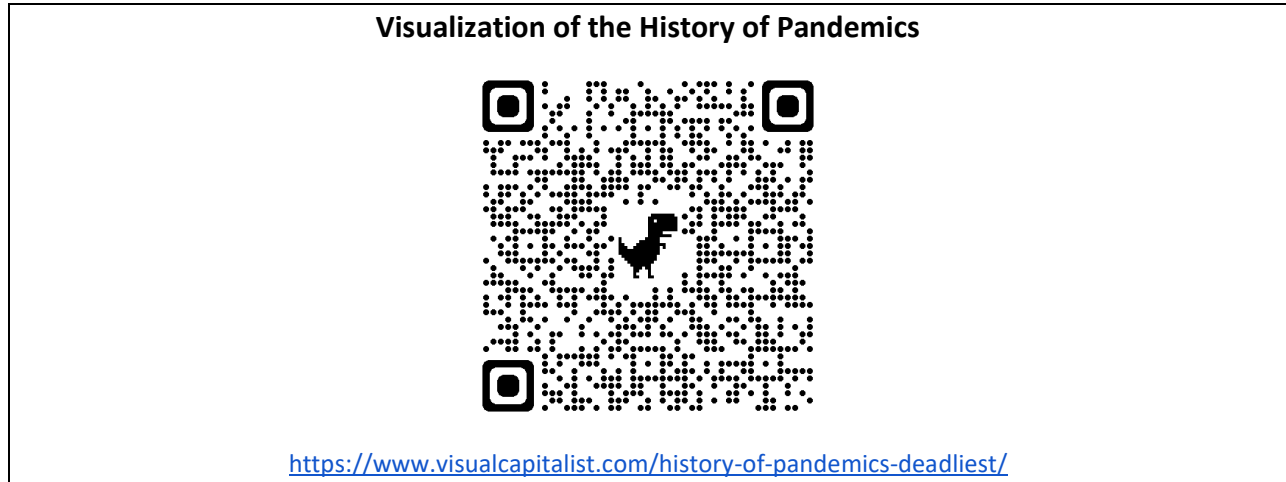
INTRODUCTION

Humanity throughout history has evolved in many ways. Early humans around 11.000 to 12.000 years ago were hunter-gatherers, relying mainly on animal hunting and fishing. Hunter-gatherers had a nomadic mobile lifestyle, moving to find the food they needed to survive, in groups ranging in size but not exceeding 100 people. At the beginning of Neolithic Revolution, humans began to domesticate plants and animals. The development of agricultural practices resulted in the development of permanent establishment which could provide for larger populations. Such lifestyle shift favored the spread of diseases in human populations. In parallel the trade between communities facilitated the interaction between humans and animals resulting to a certain extent in the transmission of zoonotic pathogens, while further expansion of cities increased travels to the extended trade territories leading to higher risks for the expansion of infections and diseases.

The emergence hence of a pandemic is not a modern phenomenon. Deadly pandemics are recorded in history from ancient times up to date and have caused deaths, destruction of political regimes as well as financial and psychosocial burdens to societies and citizens.

The spread of infectious diseases with a potential pandemic effect occurred throughout history. Further to medical considerations regarding the origins, symptoms, transmission, treatment and scientific research, organizations and states are requested to adopt response plans to prevent and control further spread of infections. From the medieval times up to date implementation of measures such as quarantine, social distancing/isolation or border control are mechanisms used to contain the spread of diseases, secure public health and maintain the societal structure and coherence. In the recent case of Covid -19 similar type of containment measures had been adopted such as lockdowns, which essentially entails stay-at-home orders, curfews, and quarantines, closing of workplaces and schools, cancellation of public events alongside with the obligatory use of face coverings/masks, sanitization/personal hygiene measures etc. Advancement of technology also resulted in the creation of tools and applications which had been used in the context of the response measures to Covid -19 pandemic, such as infection tracking applications etc. Although the ratio of such type of measures is to contain the spread of the pandemic, to the benefit of public health and subsequently to global economy and people's

wellbeing, there is a challenge as regards the balance between such rights on the one side and the restriction of civil liberties on the other side which inevitably occurred, in the context of the application of the said response plan.



DEFINITION OF KEY-TERMS

Covid-19

Coronavirus disease (COVID-19) is an infectious disease caused by the SARS-CoV-2 virus.

Endemic

The occurrence of a disease at a predictable rate among a population. An endemic is limited to a particular region, making thus the spread and rates predictable.

Epidemic

The occurrence of a disease, affecting many people at once, spreading rapidly which may occur in a geographical location or across several countries.

Human Rights

Rights that are inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status, including indicatively the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression and more.

Human Rights Violation

The non-protection or disregard of human rights is considered a violation. A state may commit a violation directly or indirectly, intentionally or in case the state fails to prevent a violation and protect the human rights of the affected citizens.

Hygiene Dictatorship

The establishment or consolidation of authoritarian powers, undermine of liberal democracy, suspension of parliamentary principles and restriction of human rights due to a health crisis.

Outbreak

The sudden occurrence of an event, usually a disease or something else dangerous or unpleasant.

Pandemic

A pandemic is a disease outbreak that spreads across countries or continents. It impacts more people and causes more deaths. It refers to illnesses that are highly contagious and spread quickly over a wide area on a global scale.

Public Goods

Commodities or services provided to all members of a society, such as public health, education, law enforcement etc. These services are administered by the governments and funded collectively through taxation.

State of Emergency

An extraordinary situation, with feeble to a certain extent Constitutional foundation, consisting in the introduction of special measures by a government or other authority for the safety and protection of its citizens due to a civil disorder, armed conflict, natural disaster, or medical pandemic or epidemic.

BACKGROUND INFORMATION

History of Pandemics

Pandemics have occurred from the ancient years up to date, affected populations and civilizations and resulted in the adoption of preventive measures which had evolved through the centuries to the measure used to fight contemporary pandemics. In parallel the enhancement of science and medicine resulted also in the discovery of medical treatments and vaccines which also contribute to the fight of a pandemic.

The Athenian Plague occurred during the Peloponnesian War (430BC), originated in Ethiopia, and spread through Egypt and Greece. It is estimated that it killed around 25% of Athenians while survivors usually suffered from partial paralysis, amnesia, or blindness. The cause of the plague is unknown, because it had been spread due to the overcrowding of the war. The outburst of the Antonine Plague (165 to 180 AD) and subsequently Justinian Plague (541 AD) resulted in the declination of the Roman and Byzantine empire respectively, to be followed by the Black Death (1346-1353). The Black Death, also known as the Plague, was a global outbreak of a bubonic plague, considered as the most fatal pandemic recorded in human history as within a year, it killed approximately 200 million people and as per estimations, 60% of Europe's population. Initially, it was attributed to the alignment of three planets and further on poisoned air. After decades of research, it had been discovered at the late 19th century that the plague was due to a massive *Yersinia pestis* pandemic (rat fleas). Considering the belief that the spread was due to poisoned air, doctors were wearing beaked masks which were filled with theriac and a mixture of herbs which supposedly cleaned the air in the beak before inhaling. Furthermore, medieval societies recognized the connection between the lapse of time and the onset of symptoms, noting, after a period of observation that people who had not developed symptoms would likely not be affected and hence spread the disease and started instituting mandatory isolation (quarantine)¹.

Humanity suffered from seven cholera pandemics between 1817 and 1923 and smallpox pandemics from 1520 onwards, which led to the world's first vaccine in 1798. The Spanish flu (1918-1920) was the first true global pandemic which occurred in the settings of modern medicine. It was caused by H1N1 strain of influenza virus; it was spread all over the world, affected over 1/4 of the global population, with a higher mortality rate among young individuals, likely due to their cytokine storm response to the virus. Measures like quarantine and personal hygiene were the implemented ones for prevention as no vaccine was developed yet. The Spanish flu had an enormous impact on the society worldwide, while it had been the first

¹ The origin of the word is the venetian term "quarantena", meaning forty days.

pandemic with observable and quantifiable long lingering effects, as evidenced by subsequent medical studies.

HIV/AIDS, Severe Acute Respiratory Syndrome (2002 -2003), Swine Flu - H1N1 (2009), Ebola Virus Disease (2014-2016) were amongst the contemporary pandemics which occurred from the end of the 20th century up to date, leading to Coronavirus Disease 19 (2019). Covid -19 is caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV2). The first case was reported to WHO from Wuhan province in China in December 2019 and initially considered to be from zoonotic source, from Huanan seafood market. It spread rapidly resulting throughout the world in the declaration of a pandemic by WHO on March 11th, 2020. The virus spread quickly throughout the world. Symptoms of Covid -19 include amongst others fever, cough, sore throat, breathlessness, headache, anosmia, dysgeusia, fatigue etc. From the first incident up to date, the virus which causes Covid-19 is constantly changing and new variants of the virus occur. The emergence of Covid -19 and its global effects in public health, as presented hereunder in the WHO – Global Overview and economy, ignited scientific research to enhance diagnostics, vaccines, and therapeutics for Covid -19.



The outbreak of Covid -19

Covid-19 first appeared in Wuhan, China, when several cases of pneumonia were detected and reported. According to Wuhan Municipal Health, these cases occurred between December 12 and 29 2019. It was initially thought by local authorities that the source of the virus could have been wild animals, although there had been also suspicions that the virus leaked from a lab. In January 2020, after it was verified that the cases of pneumonia in China are not SARS or MERS, two previous coronaviruses, Chinese authorities confirmed the identification of a novel coronavirus, initially named 2019-nCov by WHO.

Infections shifted from China to Europe, with Italy and the United States becoming COVID-19 hotspots. However, the WHO had not yet declared the novel coronavirus an international public health emergency. Covid-19 cases then started to emerge globally, with infections and deaths becoming increasingly frequent. On January 30th, 2020, WHO issued the highest level of alert, as established by the International Health Regulations, by declaring the outbreak of the disease caused by the new coronavirus a Public Health Emergency of International Importance, this being the sixth case in the history of such an event, with previous five cases being the H1N1 pandemic in 2009, the international poliovirus spread in 2014, the Ebola outbreak in West Africa in 2014, the Zika virus in 2016, and the Ebola outbreak in the Democratic Republic of Congo in 2018.

On March 11, 2020, the disease was ultimately declared a pandemic by WHO, becoming thus the first coronavirus to be a pandemic. Covid -19 variants had further emerged onwards resulting in new waves of infections around the world.

With China being a forerunner as the country with the first confirmed cases of Covid-19, States internationally implemented several restrictions, so as to prevent the transmission of Covid-19. Even though the said measure severely affected the national and global economy and restricted citizen's human rights, were considered to be effective in the containment of the disease. It is noteworthy to state that two years after the Covid -19 outbreak and even if scientific research provided humanity "tools" to confine the disease, lockdowns are still adopted as a country response plan against Covid -19. When the Covid -19 Omicron variant outbreak occurred in the city of Shanghai in February 2022, Chinese authorities, aiming to uphold China's zero – covid policy, responded with mass Covid -19 testing and a strict lockdown which was lifted several months later. on June 1st, 2022. The said outbreak and country response plan caused substantial economic and social disruption and created an atmosphere of continuous anxiety in the population of Shanghai for potential new measures as there is an increase in the number of infections, just weeks after the end of the last lockdown.

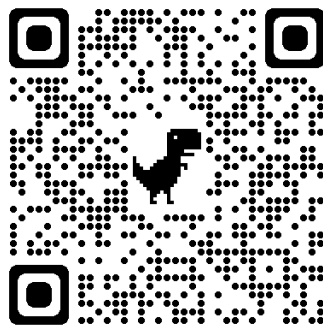
Scientific Research for the development of a Covid -19 Vaccine

The identification of a new type of coronavirus, SARS-Cov-2, whose genetic sequence was published a few days later on the 11th January 2022, triggering intense global research and development (R&D) activity and the rush to develop a vaccine against the disease. The advancement of vaccine technologies in conjunction with financing, medicine regulatory flexibility, and Research and Development strategies adopted by relevant stakeholders (international organizations, governments, research institutes, and pharmaceutical companies) have contributed to the rapid development of COVID-19 vaccines and relevant vaccine licensing, bringing thus an important breath of hope for humanity in the effort to confront the pandemic.

Furthermore, the key consideration relevant to the development of Covid -19 vaccination, was to establish a vaccination plan, enhancing the vaccination of the vast majority of the population in order to achieve herd immunity, ensuring thus that even those who are not immune are considered protected because the likelihood of an outbreak is small. States adopted different policies as regards (compulsory) vaccination, while it is noteworthy to address the limited access to vaccination in low-income countries, which could pose a risk for the of Covid -19 variants.

Currently, 66,8% of the World population has received at least one dose of the Covid-19 vaccine, while only 19,1% of such population originates from low–income countries.

Share of People vaccinated against Covid-19, as of July 11, 2022



<https://ourworldindata.org/covid-vaccinations>

Organizations' recommendations – State Responses and Measures undertaken

The Covid 19 - pandemic was an unprecedented event, which created an urgent need to adopt measures in order to address its impact. Through countless strategy statements, WHO described its overall policy, both regarding state measures and means of personal protection against COVID-19. Most notably, through the United Nations Comprehensive Response to Covid-19, the Secretary-General aimed to ensure global recovery from the immense impact of Covid-

19, as well as protection of societies and post-pandemic development and primarily the attainment of the United Nations Sustainable Development Goals (SDGs), set to be achieved until 2030. Although international organizations laid out the path to addressing Covid-19 through their continuous suggestions, state responses to the pandemic have been significantly diverse. More than half of the States proceeded in the declaration of a State of Emergency², a status which allowed the countries to make urgent use of emergency powers with doubtful constitutional basis, having suspended meetings of national parliaments, operation of courts, mobilizing the army for the enforcement of measures and suppressing freedom of press while other States addressed the topic in the context of their ordinary legislation.

Although in both cases the measures adopted were based on proposals of the scientific community and WHO, aiming to effectively confine the pandemic and ensure the public health, they raised concerns regarding potential abuse of the exercise of civil liberties, human rights and democracy in general.

Lockdown/Stay at Home/Curfew Restrictions

Stay at home, also known as a lockdown or curfew restrictions, was one of the primary measures implemented, so as to prevent the spread of the pandemic. Such restrictions involve a state order that regulates the movements of a population through a mass quarantine or a prohibition after a specific hour or movement only for specific reasons with a special tracking process³.

International and Domestic Travel

Governmental authorities imposed regulations for global and domestic travel, so as to avoid the contagion of the Covid-19 pandemic. States restricted the entrance of foreign citizens into the national territory and/or introduced various measures such as quarantines to visitors from specific countries, the entry in a country with a Passenger Location Form (PLF), Vaccination Certificate, Negative Covid -19 Molecular Diagnostic (PCR Testing), while restrictions had been imposed also to national traveling.

School and Workplace Closures

The increasing number of Covid-19 cases internationally and its transmission resulted in the inevitable closure of schools and workplaces to contain the spread of the disease. This measure had an immense impact on education and the global economy, while simultaneously

² Italy was the first State to declare a State of Emergency on January 31st, 2020, and many States followed during March 2020.

³ In Greece during lockdown, movement was allowed only for specific purposes, indicated by special ad hoc legislation along with the use of tracking system (SMS)

launching a new era in the field, with online education and remote working raising in parallel various concerns as regards their utilization.

Cancellation of Public Events and Protests

The Covid-19 pandemic inevitably led to the cancellation of many public events, ceremonies, and gatherings including also protests in an attempt to prevent the contagion of the pandemic.

Face Coverings/ Masks

The use of protective face coverings/masks is a critical public health tool that, depending on its type can be used for the protection of healthy people or prevent onward transmission, or both. The utilization of protective face covering was part of a comprehensive strategy of measures to contain Covid -19 along with personal hygiene measures and social distancing. During the various stages of the pandemic, their utilization was obligatory in certain cases and/or certain locations.

Testing, Tracking, and Contact Tracing

Testing and Contacting Tracing were used on one side as a means to confine Covid -19 aiming to identify infected people, track them to ensure that they do not infect others and spread the disease and trace their contacts and on the other side as a means to safely perform certain activities. Various surveillance technologies (mobile data and associated technologies, custom-made applications such as the color code health applications through social platforms in China, “Warn-App”, in Germany, “Immuni” in Italy or the ad hoc SMS in Greece etc.) have emerged to monitor changes in the mobility of the population in response to social distancing and quarantine policies.

Vaccination Policy

Further to the development of the Covid -19 vaccines, States, considering the spread of resorted to the approach of compulsory vaccination, introducing different levels of compulsory vaccination on the basis of relevant risk factors such as profession, age, and existing medical condition, while obligatory vaccination in many cases was a condition for access to certain public places and exercise of certain activities.

Income Support and Debt Relief

The unprecedented economic shock of Covid -19 pandemic urged States to adopt financial measures to support individuals and businesses to survive the economic impact of the pandemic. There had been a variety of measures such as income support for affected individuals,

the introduction of adequate fiscal support schemes including deferred payments, repayable advance payments to businesses affected by the Covid-19 outbreak, support to primary sector farmers and producers, wage subsidies to self-employed, loan deferred payments, etc. States have also reallocated public funding to Covid crisis priorities, strengthening the health care systems, supporting vulnerable populations, and enhancing digitalization.

Public Information Campaigns

Public information campaigns were used by the States in order to promote preventing measures (use of face coverings and masks, sanitization and frequent hand washing, social distancing etc.) and voluntary vaccination and also to address misinformation, aiming to enhance thus the implementation of the State response plans in the context of fight the pandemic.

Enforcement

The implementation of State policies, in general, is affected by a combination of enforcement and voluntary compliance of the citizens. In their effort to contain the spread of the pandemic, the States had to resolve to what extent they would rely on voluntary as opposed to enforced compliance hence, the level of enforcement may vary and there may be specific rules and exceptions to the measures. Enforcement may be implemented either by the deprivation of a right or by the imposition of a fine etc. but should always take into consideration the principle of proportionality.

The Impact of Covid – 19 Pandemic and Measures adopted by States on the global economy

The emergence of the Covid -19 pandemic disrupted lives across all countries and communities and in conjunction with the response measures adopted by the States, affected the global economy. A direct financial impact of the pandemic was the increase in healthcare expenditures as the States were coping to address increased hospitalization and health treatment requirements. Lockdowns, closure of workplaces, curfews, and stay-at-home restrictions affected a vast majority of the population as they resulted either in loss of jobs or minimization and worse, loss of income for the period the citizens were deprived of work .

Consequently, the supply and demand chain was massively hit due to the factory and operational facilities closures resulting on the one side in the lack of raw materials required for the production of goods and limitation of production and on the other side in global price increases in technological products. With the closure of manufacturers and companies and reduced travel rates, usage of oil decreased significantly, also impacting the mining industry, which is a critical sector in several developing countries. The tourism industry and airlines

suffered losses, while world stock markets declined as investors were concerned about the economic impacts of the COVID-19 pandemic.

Although States introduced special financial measures for bailouts, improved social protection and businesses and job support to ensure a strong recovery, two years after the outbreak of the pandemic, the outlook does not seem prominent: New Covid -19 variants and new waves of infection, persistent labor market, supply chain challenges, and inflation are some of the new challenges that the global economy is currently facing in the context of the overall political and financial landscape. Such considerations had been addressed by the UN Department of Economic and Social Affairs (DESA) in the context of its 2022 World Economic Situation and Prospects (WESP) report and also the latest World Bank's Economic Prospects, which concluded that Covid -19 pandemic will continue to disrupt global economic activity.

The Impact of Covid – 19 Pandemic and Measures adopted by States on civil liberties and human rights

In the context of political philosophy, one of the main concepts that can be traced back to the Greek Sophists but had been populated in the 17th and 18th centuries, associated with the famous philosophers Thomas Hobbes, John Locke, and Jean Jacques Rousseau is the concept of “social contract”. In this respect, individuals/citizens agree to surrender some of their freedom to the State to ensure that the latter will effectively protect their remaining rights and liberties, namely “public goods” which are protected by state action and intervention.

The balance between the protection of civil liberties, such as the freedom of expression and the right to privacy and public goods can be challenging in times of crisis since States tend to adopt extreme measures and response plans to address the issue, imposing massive restrictions on civil liberties and rights of the people. The Covid -19 pandemic is the most recent example of the restriction of civil liberties for the benefit of public health. Most States, facing this unprecedented spread of the pandemic, adopted, without extensive deliberation, response plans consisting of measures restricting individual rights and democracy overall in an effort to enhance public health conditions.

Namely, the various measures adopted were considered to have created restrictions on the civil liberties of the individuals having an impact on the individuals' rights of self -determination, freedom of movement, freedom of expression, freedom of assembly, and right of privacy.

In the context of the pandemic, the right of self-determination had been restricted due to compulsory vaccination measures adopted by the States, the freedom of movement as well

due to the lockdown restrictions imposed by the States. Freedom of expression had on the one side been restricted by governments and authorities' actions imposing to a certain extent a quasi "censorship" on Covid relevant information and controlling the content of the relevant information, while on the other side "suffered" the overflow of information which severely impacted people's ability to timely access accurate information in an effort to cope with the health crisis. The most characteristic example is the one of China. Further to the death of the Chinese physician Li Wenliang whose early warnings over a SARS-like outbreak in Wuhan City were ignored and repressed by the authorities, there had been a long-standing debate as to whether the Covid -19 outbreak could have been more effectively addressed and contained nationally and internationally if China had freedom of expression and did not suppress the relevant information flow.

The freedom of assembly was also one of the civil liberties which had been affected since the restrictions on public gatherings resulted in the discontinuation of protests. Further on, the right of assembly was exercised for issues relevant to racial justice, democracy, and so on, while there had been also numerous protests over the state responses to pandemics, lockdowns, and the measures imposed by various States in the effort to protect public health. Moreover, the use of technology that aimed to support the implementation and enhancement of Covid 19 protective measures also restricted the individuals' right to privacy. The use of drones to monitor individual activities, the use of applications to track ill citizens and citizens in quarantine aiming to ensure abidance to the measures and digital health passes are some of the technological advancements that although meant to enhance Covid -19 measures to the benefit of public health severely violated the individuals' right of privacy.

International organizations such as the United Nations (UN) and the Council of Europe voiced the concerns of "putting human rights in quarantine" in the context of the potential indefinite extension of restrictions to basic freedoms along with the "willingness" of the citizens due to fear of the severity of the pandemic to accept such restrictions as inevitable, as "new normal" for the benefit of public health.

One of the numerous relevant studies, which had been performed during the pandemic, as regards the citizens' views about the restriction of their civil liberties to the benefit of public health is cited hereunder⁴. The said study took place in 15 countries (Australia, Canada, China, France, Germany, India, Italy, Japan, the Netherlands, Singapore, Spain, South Korea, Sweden, the UK, and the US) with more than 400.000 people. As per the consolidated results of the study,

⁴Marcella Alsan, Luca Braghieri, Sarah Eichmeyer, Minjeong Joyce Kim, Stefanie Stancheva, David Yang. "Civil liberties during the COVID-19 pandemic", *VoxEU*, 13 November 2020, <https://voxeu.org/article/civil-liberties-during-covid-19-pandemic>

more than 80% of the citizens reported to be being willing to sacrifice their rights and freedoms to improve public health conditions during the COVID-19 pandemic, ranked though by the level of importance: citizens were more willing to accept personal restriction or economic losses than give up their right to privacy or rights which they considered as connected to democracy or democratic principles.

Citizens Views
**Citizens in different countries that, for the sake of public health,
are unwilling to sacrifice certain civil liberties**



<https://voxeu.org/article/civil-liberties-during-covid-19-pandemic>

The responses of the citizens varied based on political, health, socioeconomic and personal parameters. Citizens with connections to countries that historically did not extensively protect civil liberties and human rights were less willing to accept restrictions on their civil liberties for the benefit of public health. Furthermore, citizens more vulnerable to Covid 19 due to their demographic characteristics or pre-existing health condition were keener to accept restrictions on their civil liberties to ensure improved health conditions. On a socioeconomic level, citizens with a fragile economic position (unemployed, citizens with low income), were less willing to compromise their civil liberties (such as the freedom of movement), as it could have a direct economic effect, i.e., on their ability to find a job and/or to work. Finally, the timing of the measures and the level of risk that the citizens felt was also important as regards their stance toward the response plan. Citizens tended to be more willing to accept restrictions on their civil liberties during times of Covid 19 waves, as they become more worried about the risks associated with the expansion of the pandemic. This could be also relevant to the level of information flow as regards Covid-19 and content thereof, as it could enhance the risk sentiment of the citizens.

Restrictions of human rights during Covid -19 pandemic according to the European Court of Human Rights (ECHR) case law

The reported willingness of citizens to accept restrictions on their civil liberties does not necessarily mean a universal acceptance: The measures adopted by the States and respective challenges and human rights contemplated violations had been brought before the courts in national and international level. The European Court of Human Rights (ECHR) addressed the topic in the context of its adjudicating function in cases referring to restrictions on human rights during the Covid-19 pandemic.

Case law relevant to lockdown, confinement, and curfew measures

ECHR addressed various cases relevant to lockdown, confinement, and curfew measures as restrictive -in the principle of the freedom of movement⁵. It is noteworthy to state that in one of its decisions (Terheş v. Romania, no. 49933/20) the Court ruled that the restrictive measures had been imposed under a state of emergency, aiming to isolate and confine the entire population on account of a public-health situation which the competent national authorities had deemed to be serious and urgent. Furthermore, applying a ratio of proportionality with respect to the level of intensity of the restrictions, it had been considered that the applicant could not be said to have been deprived of his liberty.

Case law relevant to Freedom of assembly, association, and religion

The freedom of assembly and association is of great importance in democratic societies and had been one of the issues brought before ECHR for adjudication in the context of the restrictive effect of Covid -19 measures⁶. ECHR considered the allegations on the basis of proportionality, adjudicating in certain cases that the measures were indeed disproportionate, while in parallel there are pending cases regarding the restriction of the said right in connection to religion.

Case law relevant to vaccination, health passes and other sanitary measures

The rollout of vaccination and health passes was one of the major tools of States in their effort to contain Covid -19 pandemic, raising concerns as to the extent States may justifiably

⁵ Indicatively, Magdić v. Croatia, no. 17578/20, E.B. v. Serbia, no.s 50086/20 and 50898/20, Bracci v. San Marino, no. 31338/21 (https://www.echr.coe.int/Documents/Seminar_background_paper_2022_ENG_01.pdf)

⁶ Indicatively, Association of orthodox ecclesiastical obedience v. Greece, no. 52104/20, Central Unitaria De Traballadores/AS v. Spain, no. 49363/20, Jarocki v. Poland, no. 39750/20, Nemytov v. Russia, no. 1257/21 (https://www.echr.coe.int/Documents/Seminar_background_paper_2022_ENG_01.pdf)

render such schemes mandatory for the benefit of public health. ECHR acknowledged⁷ that according to the States and international specialized bodies vaccination was one of the most successful and cost-effective health interventions – means to address the pandemic, hence each State should aim to achieve the highest possible level of vaccination. In light of the above, in case a voluntary vaccination policy was not sufficient to achieve an appropriate level of immunity, it would be considered reasonable to introduce a compulsory vaccination policy, which would be considered as a proportionate measure to the legitimate aim of protecting public health. From a citizen’s perspective, the value of social solidarity had been addressed in the context of protecting the health of all members of society and especially the health of vulnerable citizens, by assuming vaccination. Further to the vaccination and health passes, States have adopted additional measures for the purpose of confinement of Covid-19 such as social distancing, obligation to wear masks, testing obligations, etc. The said measures restrict individual freedoms, and the main challenges brought before ECHR was relevant to their enforcement, which should be proportionate and compliant with human rights guarantees.

Case law relevant to data protection and privacy

States have utilized innovative technologies such as contact tracing applications, and digital health passes as an effort to track and confine the spread of Covid -19 and also to measure the outcome of public health initiatives. Alongside the use of the said technologies, the overall enhancement of digital tools due to lockdown added to the concerns regarding potential implications for the protection of the individuals’ personal data and privacy. ECHR had so far little opportunity to assess and adjudicate on such cases, yet it is noteworthy to state that Council of Europe bodies, such as the Chair of the Committee of Convention 108 and the Data Protection Commissioner of the Council of Europe, acknowledge the importance of the topics, had issued respective guidelines to ensure respect of the data protection principles.

Case law relevant to freedom of expression, information disorder, and the media

The ECHR had to address cases⁸ where regulations in the framework of the States’ Covid -19 response plan were considered restrictive of the freedom of information, ranging from concerns regarding misleading information which could create panic between citizens and also hinder public health initiative to the fear that the Covid -19 crisis could be used as a “tool” in order to restrict media freedom and access of the citizens to information.

⁷ Indicatively, *Zambrano v. France*, no. 41994/21, *Livi and Others v. Italy*, no. 59682/21, *Abgrall and 671 Others v. France*, no. 41950/21, *Kakaletri and Others v. Greece*, no. 43375/21, *Grgičin v. Croatia*, no.s 6749/22 and 7154/22 (https://www.echr.coe.int/Documents/Seminar_background_paper_2022_ENG_01.pdf)

⁸ Indicatively, *Avagyan v. Russia*, no. 36911/20, *Jeremejevs v. Latvia*, no. 44644/21, (https://www.echr.coe.int/Documents/Seminar_background_paper_2022_ENG_01.pdf)

Financial damage to businesses

The pending cases before ECHR⁹ are relevant to alleged deprivation of the peaceful enjoyment of possession of individuals and relevant pecuniary damage and loss of future income since due to Covid -19 restrictive measures various business had closed in the framework of Covid -19 restrictive measures to confine the pandemic.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

China

China fostered the initial outbreak of the pandemic. It imposed some of the strictest measures to prevent the contagion of the pandemic. Limitations to freedom of expression in China deterred the implementation of the appropriate measures, so as to prevent the spread of Covid-19. China was quick to react to Covid-19, immediately imposing lockdowns, cancelling all public events, and suspending industrial production, affecting thus the global economy. These restrictions, with the case of the recent quarantine in Shanghai being an exemplary case, were notoriously strict, hence violating some of the fundamental human rights of the citizens. For instance, freedom of movement was absolutely restricted, whilst freedom of expression was suppressed even more. China reacted to even the slightest Covid threats, with the imposition of local lockdowns at one Covid case.

USA

The US became one of the first countries to impose travel restrictions internationally, by prohibiting the arrival of flights from China, under the Trump administration. Although having imposed lockdown restrictions, the US was generally quite lenient with Covid measures, as it first withdrew its stay-at-home order. Covid restrictions were never as strict as in other states. Hence, there were no major human rights violations due to Covid Cases in the country. The US also fostered the development of many of the vaccines available internationally today. Finally, through organizations, such as the US Centers for Disease Control and Prevention (CDC), and the US Food and Drug Administration (FDA), it has generally managed to cope with the Covid-19 health crisis, despite some notable spikes in cases.

India

Due to its immense population, as well as poor sanitary conditions in some areas, India was particularly vulnerable to Covid-19. Much like other countries, India imposed an extended

⁹Indicatively, Toromag, S.R.O. v. Slovakia, no. 41217/20
(https://www.echr.coe.int/Documents/Seminar_background_paper_2022_ENG_01.pdf)

lockdown, so as to prevent the spread of the pandemic. However, the country's recent economic slowdown further deteriorated, leading to the violation of the rights of migrant workers. Moreover, with factories and workplaces shutting down, millions of them lost their job and hence experience food shortages. The government's food distribution system failed to be effective. Although the government tried to respond to the threat of Covid-19, some human rights violations were inevitable.

Italy

Italy was the first European country to be hit by Covid-19. It is known for an extremely high Covid-19 death toll. This is attributed to the inadequate and ineffective measures that were initially implemented to prevent contagion. Italy conducted several legal amendments to halt the unprecedented spread of the virus after the declaration of a state of emergency. Additionally, the increasingly restrictive measures that were implemented for Covid-19 led to several violations of civil liberties, with more vulnerable groups of the community experiencing significant economic problems. Italy's lockdown heavily impacted the Country's economy, as it affected industrial production, exports, and also tourism.

South Africa

South Africa was also amongst the countries with the strictest Covid-19 lockdowns, so as to prevent the spread of the disease. As an African country, it had experience with AIDS/HIV and other infectious diseases. However, the stay-at-home order had a financial impact on many communities. Many vulnerable citizens in South Africa faced economic hardships as a result. Similarly, many equity issues were observed in South Africa's vaccination rollout, although it was initially very successful, with the country securing a notable number of doses. Therefore, many of the citizens have confronted a vicious circle since the start of the pandemic, with many of their civil liberties being violated. Additionally, two covid variants, beta, and omicron originated from South Africa, which further escalated the situation.

Australia

Australia was also a country that reacted quickly and effectively to the threat of the pandemic, with quarantines/lockdown restrictions, travel bans etc., managing to address successfully the pandemic. However, these measures were maintained for a very long time. Australia implemented restrictions, even when the number of cases was very low, so as to prevent contagion. In addition, these restrictions were significantly strict, hence preventing the movement of people and thereby violating their fundamental civil liberties. Even after lifting travel bans, vaccination was a prerequisite for entering the country, which significantly restricted the number of people which could travel freely to Australia.

World Health Organization (WHO)

The World Health Organization (WHO) is the United Nations agency, established in 1948, that connects nations, partners, and people to promote health, keep the world safe and serve the vulnerable. With respect to Covid-19, further to the first signal of the emergence of the disease on December 31st, 2019, WHO activated the relevant processes and protocols and proceeded in the publication of the Strategic preparedness and response plan (SPRP), designed to achieve three simple goals: to control the transmission of the virus, to save lives, and to protect the vulnerable. In the context of the pandemic, concerns had been voiced by certain States as regards potential mismanagement of the Covid -19 spread and delays in the investigation of the first incidents in China in December 2012, and WHO agreed to an independent investigation on its handling of the pandemic.

European Medicines Agency (EMA)

The European Medicines Agency (EMA) is a decentralized agency of the European Union (EU) responsible for the scientific evaluation, supervision, and safety monitoring of medicines in the EU. The mission of EMA is to foster scientific excellence in the evaluation and supervision of medicines, for the benefit of public and animal health in the European Union. EMA contributed to global efforts to save lives during the COVID-19 pandemic by expediting the development and approval of safe and effective treatments and vaccines, supporting the continued availability of medicines in the European Union, and providing reliable information to patients and healthcare professionals.

UN Educational Scientific and Cultural Organization (UNESCO)

Commitment to children's education and the need to fight Covid -19 misinformation were amongst the main priorities of UNESCO in the context of the pandemic. UNESCO addressed the issues of inequality in the access to education since a vast percentage of the students who were out of school did not have access to a computer or lacked internet connection at home, while in the context of a Global Education Coalition with UNICEF and the World Bank issued guidelines regarding the safely reopening of schools.

UN Human Rights Council (UNHRC)

The protection of individual human rights had been the cornerstone of actions of the UNHRC, as the organization in the context of its operations stressed that States further to the public health and emergency measures to address Covid -19 pandemic, must respect the fundamental individual human rights.

TIMELINE OF EVENTS

DATE	DESCRIPTION OF EVENT
December 31, 2019	Cases of pneumonia detected in Wuhan, China, are reported to WHO.
January 7 th , 2020	Chinese authorities confirmed that the virus is a novel coronavirus, which is initially named by WHO as 2019-nCoV.
January 23 rd , 2020	WHO states that the new coronavirus does not yet constitute a public health emergency of international concern.
January 30 th , 2020	WHO states that the outbreak constitutes a Public Health Emergency of International Concern (PHEIC).
February 6 th , 2020	First Covid-19 death in the United States (which had been confirmed as a Covid case on April 21 st , 2020).
February 11 th , 2020	WHO names the new coronavirus Covid-19.
February 14 th , 2020	First Covid -19 death in Europe and announcement of the first case in Africa.
March 11 th , 2020	WHO declared the novel coronavirus (Covid -19) a global pandemic. As of that date, the organization confirmed 118.000 cases and more than 4.000 deaths in all continents except Antarctica.
March 23 rd , 2020	UN Secretary-General called for an immediate global ceasefire in an effort to fight "the common enemy".
May 19 th , 2020	WHO agreed to hold an inquiry into the global response to the covid pandemic, upon the request of Member states.

<p>December 31, 2020 – April 30, 2021</p>	<p>WHO validated several COVID-19 vaccines for use by providing Emergency Use Listing (EUL), a process used for the assessment of unlicensed vaccines during public health emergencies aiming at expediting the availability of the vaccines to the public. Amongst others:</p> <ul style="list-style-type: none"> • <u>The Pfizer/BioNTech Comirnaty vaccine</u>, 31 December 2020. • <u>The SII/COVISHIELD and AstraZeneca/AZD1222 vaccines</u>, 16 February 2021. • <u>The Janssen/Ad26.COV 2.S vaccine developed by Johnson & Johnson</u>, 12 March 2021. • <u>The Moderna COVID-19 vaccine (mRNA 1273)</u>, 30 April 2021. <p>Official regulatory approvals with Regulatory Bodies (FDA, EMA etc.) were also pursued/obtained in parallel.</p>
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RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

UN Comprehensive Response to Covid-19¹⁰

The UN could not remain inactive in this global health, economic, humanitarian, security, and human rights crisis. Action has been undertaken in various forms by the UN Secretary-General, the General Assembly, and various UN bodies. On an operational level, the UN Secretary-General issued the UN Comprehensive Response to Covid -19, “Saving Lives, Protecting Societies, Recovering Better”, which had been further updated over time respectively. The Response promotes three pillars of operation. The first pillar focused on the delivery of a

¹⁰ “Un Response to Covid-19.” United Nations, United Nations, www.un.org/en/coronavirus/UN-response#:~:text=The%20Response%20promotes%20three%20pillars,process%20that%20builds%20back%20better.

large-scale, coordinated, and comprehensive health response. The second pillar aimed at the adoption of policies that address the devastating socioeconomic, humanitarian, and human rights aspects of the crisis, while the third pillar provided for a corresponding recovery process. The said global response should be inclusive aiming to overcome inequalities exposed by the pandemic, reducing in parallel vulnerability to future pandemics and building resilience to future shocks. Furthermore, the UN Secretary General, issued policy briefs to provide recommendations to governments on how to address the consequences of the pandemic. This has failed in many cases, where vulnerable groups of a community were significantly impacted by the Covid-19 pandemic and had little to no access to health care and essential supplies.

UN General Assembly Resolution A/RES/74/270 (April 2nd, 2020) on 'Global solidarity to fight the coronavirus disease 2019 (COVID-19)¹¹

By virtue of the said resolution, the General Assembly reaffirmed its commitment to international cooperation and multilateralism, emphasizing the need for respect of human rights along with its commitment to help the vulnerable and called upon the United Nations System, led by the UN Secretary General to work with all relevant actors to mobilize a coordinated global response to the pandemic and its adverse social, economic and financial impact on all societies. The resolution was not action oriented, it had a rather declaratory nature aiming to emphasize that the United Nations system has a central role in the coordination of the global response to the pandemic, in order to address not only short-term but also long-term consequences of the pandemic with economic and social impact. Although it did not address specific actions, it was the first global response urging for unity and cooperation.

UN General Assembly Resolution A/RES/74/274 (April 20nd, 2020) “on 'International cooperation to ensure global access to medicines, vaccines, and medical equipment to face COVID-19’¹²

By virtue of the said resolution, which was drafted by the Mexican Mission and was ultimately co-sponsored by 179 countries, the General Assembly urged international cooperation on equitable global access to medical equipment, treatment, and vaccines. UN Members States acknowledged the need for international cooperation, the role of international organizations, and the involvement of nonstate factors in international cooperation, parameters which

¹¹ “ODS - Sédoc - United Nations.” *United Nations General Assembly*, 2 Apr. 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/087/28/pdf/N2008728.pdf?OpenElement>.

¹² “ODS - Sédoc - United Nations.” *United Nations General Assembly*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/101/42/pdf/N2010142.pdf?OpenElement>.

although on certain occasions were less coordinated¹³ or criticized¹⁴, contributed to the global combat against the pandemic. Although the resolution strengthens the concept of international cooperation, concrete references to actions to be undertaken by the Member States were only relevant to their national framework¹⁵, lacking concrete actions relevant to States' active engagement in international cooperation.

UN General Assembly Resolutions A/RES/74/306 on 'Comprehensive and coordinated response to the COVID-19 pandemic'¹⁶ and A/RES/74/307 on the 'United response against global health threats: combating COVID-19'¹⁷ (September 11th, 2020)

The resolution, which was adopted 169-2 with two abstentions, identifies international cooperation, multilateralism, and solidarity as the only way for the world to effectively respond to global crises such as Covid -19 pandemic. Although most of the actions that Member States are called on, are to be adopted at a national level, it should be noted that the UN by virtue of the said resolution addresses, in general, the impact of the pandemic, the needs of vulnerable groups, and aims to provide an outlook for the future by reaffirming its full commitment to the 2030 Agenda for Sustainable Development as the blueprint for building back better after the pandemic.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

Previous attempts to ensure the protection of civil liberties and human rights, during the Covid-19 era are essentially the UN response to the pandemic. When implementing Covid-19 restrictions, governments internationally primarily aim at maintaining their country intact through this health crisis. Therefore, the consequences of such measures are easily neglected, when considering the scale of the Covid-19 threat. Therefore, the UN has actively engaged in resolving this issue, through various propositions. Initially, the UN Comprehensive Response to the Covid-19 pandemic aimed to initiate a collective attempt to address the health crisis, in a sustainable and just manner that would protect human rights, civil liberties, as well as avoid interference with a country's development. It is very crucial to address the pandemic efficiently,

¹³ Different response plans from various States as regards traveling restrictions etc.

¹⁴ US attacks on WHO, as expressed in the US Explanation of Position

¹⁵ States are encouraged to partner with relevant stakeholders and are called upon to take steps to prevent speculation and stockpiling

¹⁶ "ODS - Sédoc - United Nations." *United Nations General Assembly*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/236/00/PDF/N2023600.pdf?OpenElement>.

¹⁷ "ODS - Sédoc - United Nations." *United Nations General Assembly*, 11 Sept. 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/236/13/pdf/N2023613.pdf?OpenElement>.

which calls for a common effective response that will hinder the prospective implications of the restrictions imposed.

POSSIBLE SOLUTIONS

Enhancement of the legal framework for the protection of civil liberties and human rights.

In times of crisis, such as in the case of a pandemic, civil liberties and human rights are at risk. The enhancement of international and national legal frameworks is essential in this respect, to prevent unjustified and unproportional restrictions on human rights. In parallel, the enhancement of the role of international and national organizations and their empowerment as regards the coordination and further assessment of the state response plans are important to ensure that emergency powers and restrictive measures are utilized for legitimate health purposes and hence impede redundant violations of civil liberties and human rights.

Providing a platform for cooperative dialogue

A possible solution for the issue would be to provide a platform between states and international organizations in order to ensure cooperative dialogue and particular support toward the objective of containing Covid-19. Such a measure would be necessary, in order to protect fundamental civil liberties, whilst also addressing the health crisis. Through this cooperation, in which the WHO should definitely play an important role, states can implement Covid-19 restrictions, when necessary, in a manner that is both effective for the prevention of contagion, as well as efficient, whilst protecting civil liberties.

Formation of State Response Plans and assessment of implemented Covid restrictions

Member States should timely prepare State Response Plans, addressing the actual situation and impending risks of Covid 19 or any future pandemic taking into consideration experts' recommendations from relevant organizations, such as WHO and the scientific community. Furthermore, UN bodies, such as the Human Rights Council, UN High Commissioner for Human Rights should overview such response plans to ensure that the restrictions do not severely affect civil liberties and human rights.

Ensuring inclusivity in healthcare

The introduction of an inclusive approach to health strategies can ensure both the prevention of the spread of Covid-19, as healthcare will be provided to a larger proportion of a state's population, but also deter the prospective human rights consequences of measures implemented as a part of overall health response. Hence, inclusivity in healthcare can ensure that states do not only focus on the medical aspect of the problem but also consider human rights and civil liberties, which are also severely impacted in such a crisis.

Consideration of vulnerable and affected groups and Covid-19 measures

During the implementation of strict restrictions to halt the spread of the disease, vulnerable groups of a state's community are severely affected. Hence, when implementing Covid-19 restrictions and in general restrictions to address a pandemic, states should try to take these groups into account in order to protect them from the consequences of the pandemic. In general, governments should try to consider how citizens and businesses are affected by Covid-19 restrictions and adopt the appropriate financial, social security, and fiscal measures to support them.

Scientists' freedom of expression – Monitoring the number of cases

During such an unprecedented health crisis, scientists should have the essential freedom of expression, so as to voice their opinions, regarding the measures that should be implemented by authorities, hence ensuring the appropriate action of states and the prevention of further escalation. In that respect, states can both ensure an effective response to a possible increase of cases in their country, as well as protection of the rights of this group of people. Additionally, countries should closely monitor the number of Covid-19 cases, in order to be adequately prepared in case of a wave of infections and therefore, avoid impulsive measures that may constitute a threat to civil liberties and human rights, as well as prevent an immense increase in the number of cases. Finally, states should support scientific research to facilitate finding a solution to the Covid-19 health crisis.

Public Information/Awareness

Another important step is to ensure public information/awareness of the pandemic. It is imperative that states constantly inform their citizens regarding the condition of the pandemic and developments, to ensure compliance with the imposed Covid restrictions, as well as prevent violations of the citizens' rights to remain informed in a very severe and dangerous health crisis.

Application of Principle of Proportionality

The principle of proportionality foresees that the legality of an action shall be determined depending on the respect of the balance between the objective and the means and methods used, as well as the consequences of the action. Such a policy would ensure the prevention of severely strict measures that would negatively impact human rights and civil liberties.¹⁸

¹⁸ "The Practical Guide to Humanitarian Law." *Doctors without Borders | The Practical Guide to Humanitarian Law*, guide-humanitarian-law.org/content/article/3/proportionality/.

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