

THE MATTER OF HUMAN RIGHTS IN THE CONTEXT OF THE COVID-19 PANDEMIC

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Abstract:

Pandemia de COVID 19 a generat multe schimbări în modul în care oamenii obișnuiau să-și desfășoare activitățile zilnice. Pentru a proteja sănătatea oamenilor și a depăși criza, guvernele au implementat măsuri specifice care s-au reflectat negativ asupra drepturilor fundamentale ale omului. Astfel, lucrarea se axează pe evidențierea impactului măsurilor implementate de țări asupra drepturilor omului și în această lucrare susținem că, în încercarea de a asigura dreptul la sănătate, alte drepturi ale oamenilor au fost neglijate și restricționate. În acest sens, lucrarea abordează subiectul limitării dreptului la libertate, dreptului la educație, dreptului de a participa la viața culturală și descrie, de asemenea, problema procesului de prioritizare a vaccinului, care ridică întrebări referitoare la discriminarea oamenilor având la bază vârsta acestora sau domeniul lor de activitate. Lucrarea subliniază și că, în ciuda faptului că țările au încercat să promoveze comportamentul prosocial și să încurajeze oamenii să se vaccineze, prin oferirea de beneficii persoanelor vaccinate, persoanele care au refuzat vaccinul au fost discriminate. Prin urmare, punând accentul pe modul în care măsurile implementate de țări au restricționat drepturile oamenilor, lucrarea atrage atenția asupra corectitudinii și echității acestor măsuri și susține ideea că, până și în situațiile speciale, precum cele generate de o pandemie, guvernele ar trebui să elaboreze planuri strategice de răspuns menite să protejeze drepturile omului, nu să le limiteze.

Cuvinte cheie: drepturile omului, pandemie, prioritizarea vaccinării, libertate, educație, viață culturală

Résumé:

La pandémie de COVID 19 a généré de nombreux changements dans la façon dont les gens effectuaient leurs activités quotidiennes. Pour protéger la santé des personnes et surmonter la crise, les gouvernements ont mis en place des mesures spécifiques qui ont eu un impact négatif sur les droits humains fondamentaux. Ainsi, l'article se concentre sur l'impact des mesures adoptées par les pays sur les droits de l'homme. Nous soutenons que,

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dans une tentative de garantir le droit à la santé, d'autres droits de l'homme ont été négligés et restreints. Ainsi l'étude se penche sur le sujet de la limitation du droit à la liberté, du droit à l'éducation, du droit de participer à la vie culturelle et décrit également la question de la priorisation des vaccins, ce qui soulève la problématique sur la discrimination envers les personnes en fonction de leur âge ou de leur domaine d'activité. L'étude souligne également que, malgré le fait que les pays ont essayé de promouvoir un comportement prosocial et d'encourager les gens à se faire vacciner, en offrant des avantages aux personnes vaccinées, les personnes qui ont refusé le vaccin ont été discriminées. Par conséquent, en se concentrant sur la manière dont les mesures appliquées par les autorités ont restreint les droits de l'homme, le document attire l'attention sur l'impartialité et l'équité de ces mesures en soutenant l'idée que, même dans des situations particulières telles que celles causées par une pandémie, les gouvernements devraient élaborer des plans stratégiques, de riposte afin de protéger, et non pas de limiter, les droits de l'homme et non pour les limiter.

Mots-clés: droits humains, pandémie, priorisation de la vaccination, liberté, éducation, vie culturelle

1. Introduction

Since its outbreak, the COVID-19 pandemic has changed the way people live and carry out their daily activities. The first cases of people infected with the virus were found in China, and, in December 2019, a pneumonia outbreak in the city of Wuhan was reported to the World Health Organization, which, due to the severity of the disease, declared the pandemic in March 2020.¹

The virus is highly contagious, it commonly being transmitted through droplets, through direct contact with an infected person: by coming into contact with secretions from the sneeze or cough of an infected person.²

In order to prevent the spread of the virus, governments implemented policies and measures depending on the severity of the situation, on the population of the country and on the number of individuals infected with the virus. However, such measures resulted in tremendous changes in people's lifestyles. Whether we refer to their professional or personal lives, during the pandemic, people all over the globe had to adapt to a new way of life. Hence, from the way individuals used to work or study, to the way they used to spend their free time, almost every aspect of their lives was altered. While the measures were meant to help countries overcome the pandemic, having positive effects in this regard, we argue that, when it comes to people's rights and freedoms, the measures also had negative effects. In this regard,

¹ World Health Organization (WHO). Timeline of WHO's Response to COVID-19. [website]. Available at: <https://www.who.int/news/item/29-06-2020-covidtimeline>. Accessed May 15, 2021.

² Karia, R., Gupta, I., Khandait, H., Yadav, A., & Yadav, A. (2020). COVID-19 and its Modes of Transmission. *SN comprehensive clinical medicine*, 1-4, p. 4.

previous studies emphasized the idea that, certain types of measures, such as social distancing, may lead to an increased level of discrimination and may determine people to discriminate against each other, which is why countries should develop campaigns in order to raise awareness about the virus, and the misbeliefs that exist about it.³ Moreover, the way governments communicate with the citizens during the pandemic is very important, thus, the messages sent should be clear, they should contain words and terms that are specific to the field addressed⁴, however “when specialized terms are being used, they must be accompanied by short explanations.”⁵

In the context of policies and rules imposed by countries, a link between human rights and actions taken by countries to ensure citizens’ health can be observed, and governments should thus adopt measures that are necessary and non-discriminatory towards people and certain vulnerable groups.⁶ In this regard, considering the response of the countries to the pandemic, many questions related to human rights arise, questions such as: To what extent the measures taken to stop the spread of the virus have infringed human rights?; How do these measures restrict individuals’ freedom?; Was the vaccine prioritization process equitable and fair?

Taking into account these aspects, the paper provides a literature review on the matter of the impact of the COVID 19 pandemic on people’s life and on their fundamental rights, such as the right of freedom, equality or education. Particularly, after a brief description of the main human rights and of the policies taken against the spread of the virus in certain countries, we address issues such as people’s freedom of movement during the pandemic, equity and equality in the process of COVID 19 vaccine prioritization.

2. Fundamental human rights and COVID 19 measures

According to the Charter of Fundamental Rights of the European Union, fundamental human rights include the right to dignity, freedom, equality, solidarity, citizen rights such as the right to vote, and justice.⁷ Thus, in the

³ Mabuie, M. (2020). Human rights violations, gender inequality and social stigma in the context of COVID-19: A call for action. *American Research Journal of Humanities & Social Science*, 3 (9), pp. 8-14.

⁴ Goian, C. (2004). *Deprinderi in Asistenta Sociala*, Institutul European.

⁵ Goian, C. (2010). Zece categorii de inconsecvențe semantice prezente în limbajul asistenței sociale din spațiul românesc. *Revista de Asistență Socială*, (1), 79-90, p. 86.

⁶ Sekalala, S., Forman, L., Habibi, R., & Meier, B. M. (2020). Health and human rights are inextricably linked in the COVID-19 response. *BMJ Global Health*, 5(9), 1-7, p. 5.

⁷ Official Journal of the European Union (2012) Charter of Fundamental Rights of the European Union [website] available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT> accessed May 15, 2021

context of the pandemic, some of these rights might have been affected by certain policies implemented by governments in their attempt to overcome the crisis, and the rights that are tackled and discussed in this paper are: freedom of assembly and of association, described in article 11 of the Charter; the right to education (article 14); non-discrimination (article 21); the right of the elderly (article 25); healthcare (article 35)⁸; as well as the right to participate to cultural life, described in the article 15 of the *International Covenant on Economic, Social and Cultural Rights* adopted by the United Nations in 1966⁹.

Hence, countries must always adopt measures so as to ensure that people's fundamental rights are not violated, and the *International Covenant on Economic, Social and Cultural Rights*, states in article 12, that for the realization of "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", countries should take certain measures for "the prevention, treatment and control of epidemic, endemic, occupational and other diseases."¹⁰ However, during the COVID-19 pandemic, in order to ensure the physical health of the population, other rights of people might be temporarily restricted. Thus, by resorting to measures such as lockdown and social distancing, freedom of movement and the right of association or religious freedom were restricted.¹¹ In this regard, we support the idea emphasized in previous studies, that no matter the level of severity of a crisis situation, such as the situation created by the pandemic, the rules adopted by countries should not limit human rights. Thus, „pressing social demands concerning human rights and enduring injustice cannot wait. In that sense, the extraordinary nature of states of emergencies cannot and should not prevent human rights from performing their normal role in society, as usual”¹²

Acknowledging that human rights were affected by the way countries decided to implement policies during the pandemic, in November 2020, the European Parliament drafted a Resolution Proposal. The Proposal states that "the enforcement of COVID-19 related measures needs to respect EU fundamental rights and the rule of law and considers that equal treatment of

⁸ *Ibidem*.

⁹ United Nations (n.d) *International Covenant on Economic, Social and Cultural Rights*. [website] <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> accessed May 15, 2021.

¹⁰ *Ibidem*.

¹¹ Institutul Roman pentru drepturile omului (2021) *Semnal IRDO* [website] available at <http://www.irdo.ro/semnal.php?ideseu=62> , accessed May 15, 2020.

¹² Tzevelekos, V. P., & Dzehtsiarou, K. (2020). Normal as Usual? Human Rights in Times of Covid-19. *European Convention on Human Rights Law Review*. 1,(2), 141-149, pp. 148-149.

persons is crucial in that regard”¹³, and it contains several recommendations that governments should take into consideration in their crisis resolution plan. Some of the most important recommendations imply that countries should “restrict the freedom of assembly only where strictly necessary and justifiable in the light of the local epidemiological situation and where proportionate, and not to use the banning of demonstrations to adopt controversial measures”, to “provide the means for and a safe framework within which to guarantee the continuation of classes, and to ensure that every student has effective access”, and due to the increased level of discrimination and to discriminatory measures taken against certain groups of people, the European Parliament “calls on the Member States to counter such hate speech and to end and remedy such discriminatory measures”¹⁴.

2.1 Freedom of movement

When referring to people’s liberties in the context of the pandemic, special attention should be paid to the individual’s freedom of assembly and association. According to Article 12 of the Charter of Fundamental Rights of the European Union “everyone has the right to freedom of peaceful assembly and to freedom of association at all levels.”¹⁵

However, it can be observed that during the pandemic many countries adopted measures that restricted people’s freedom of movement, such as social distancing, or lockdowns. Whether the lockdown was implemented for shorter periods of time in countries such as Romania or for longer periods in countries like the United States of America, people had to adapt to a new way of life and change their daily habits. For example, in the United Kingdom, during the lockdown implemented on March 23 2020, people were allowed to leave their homes for very few purposes, such as for going to work– but only if their work could not be performed from home, for buying essential goods, for short sessions of exercises or for medical appointments. Even more, the government did not allow citizens to meet with more than two people unless they were already living with them.¹⁶ Simply put, lockdowns and quarantine

¹³ European Parliament (2020) Motion for resolution [website] available at https://www.europarl.europa.eu/doceo/document/B-9-2020-0343_EN.html accessed May 15, 2021.

¹⁴ *Ibidem*.

¹⁵ Official Journal of the European Union (2012) Charter of Fundamental Rights of the European Union [website] available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT> accessed May 15, 2021

¹⁶ King’s College London (2020). Life under lockdown: Coronavirus in the UK [website] available at <https://www.kcl.ac.uk/policy-institute/assets/coronavirus-in-the-uk.pdf> , accessed May 15, 2021.

periods, deprived people of their right to travel nationally and internationally, and also to “mix and gather with other people”.¹⁷

Similarly, in Romania, during the emergency state commercial centers were closed, people were allowed to leave their home only to go to work, to buy necessary goods, to exercise near their house, or to offer assistance to the older persons or other members of the family.¹⁸ Afterwards, in the alert state established in 2021, people could go outside and carry out their daily activities but only until 10 pm in areas where the infection rate was lower than 4 per 1000 inhabitants, and only until 8 pm in areas where the infection rate was between 4 per 1000 inhabitants and 7,5 per 1000 inhabitants or higher.¹⁹ Taking into account these aspects, citizens’ freedom of movement was restricted. Thus, considering that the vaccination process had already been started, the question that arises is whether the measure of limiting traffic and people’s movement at night was absolutely necessary for preventing the spread of the virus.

Moreover, while certain countries implemented lockdowns with very restrictive measures, other countries, such as Sweden or South Korea, did not impose total quarantine periods, but focused instead on adopting a strategy that implied quarantine for risk groups, large scale testing as well as social distancing measures.²⁰ Social distancing can be effective in situations like the one generated by the pandemic, previous studies highlighting that it can benefit communities, especially at the local level, for it can lead to fewer people getting infected with the virus.²¹ However, even if social distancing is a less restrictive measure than lockdowns, it can still be considered a measure that affects freedom of movement, because its purpose is to limit interaction between people who live and carry out activities in large communities in which people may carry the virus but they might not be aware of it, thus

¹⁷ Tengatenga, J., Tengatenga Duley, S. M., & Tengatenga, C. J. (2021). Zimitsani Moto: Understanding the Malawi COVID-19 Response. *Laws*, 10(2), 20, 1-14, p. 12.

¹⁸ Ministerul Afacerilor Interne (2020). Ordonanță militară privind măsuri de prevenire a răspândirii COVID 19 [website] available at <https://www.mai.gov.ro/wp-content/uploads/2020/03/Ordonanta-militar%C4%83-nr.-2-2020-m%C4%83suri-prevenire-COVID-19-1-1.pdf> accessed May 15, 2021.

¹⁹ Guvernul României (2021). Măsuri de prevenire și control a infecțiilor propuse a se aplica pe durata stării de alertă. [website] available at https://gov.ro/fisiere/pagini_fisiere/Anexa_nr_1_la_HCNSU_22_-_masuri.pdf accessed May 15, 2021.

²⁰ Ferreira, C. M., Sá, M. J., Martins, J. G., & Serpa, S. (2020). The COVID-19 contagion-pandemic dyad: A view from social sciences. *Societies*, 10(4), 1-19, p. 2.

²¹ Musinguzi, G., & Asamoah, B. O. (2020). The Science of Social Distancing and Total Lock down: Does it Work? Whom does it Benefit? *Electronic Journal of General Medicine*, 17(6), 1-3, p. 2.

leading to cancelation of certain gatherings, to the closure of schools and public markets.²²

In this regard, it is important for governments to take notice that people's movement, that their crave for freedom may not be easily monitored, and that by implementing non-pharmaceutical interventions such as banning the organization of public events, or restricting the number of people that could take part in social gatherings might not guarantee that people won't organize smaller events or meetings.

When discussing the right of freedom and the way it is restricted in the context of the pandemic, another element that could violate people's freedom of movement is the so-called vaccine passport, a proof that an individual was indeed vaccinated.²³ Many countries addressed the possibility of issuing a vaccine passport according to which people could travel to other countries and enjoy the cultural and social life of the destination country only if they are vaccinated.

Hence, considering the above mentioned aspects, we argue that countries, while trying to protect and ensure the physical health of the population during the pandemic, restricted other human rights, especially people's freedom of movement. Even more, while governments are allowed to resort to specific measures in the case of a pandemic, to what extent was freedom of movement restricted and how justified were the restrictions adopted remain subjects of debate.

2.2 Access to education

Another human right that has been affected during the pandemic was people's right to education. The Charter of Fundamental Rights of the European Union, states in article 14, that "everyone has the right to education and to have access to vocational and continuing training."²⁴

As part of the response strategies during the lockdown, the measure of closing schools and higher education institutions was implemented by many

²² Sadeghi, M. (2020). Isolation, quarantine, social distancing and community containment: pivotal role for old-style public health measures in the novel coronavirus (2019-nCoV) outbreak. *Biological Science Promotion*, 3(6), 168-171, p. 169.

²³ The Royal Society (2021). Twelve Criteria for the Development and Use of COVID-19 Vaccine Passports [online document] available at <https://royalsociety.org/-/media/policy/projects/set-c/set-c-vaccine-passports.pdf>, accessed May 15, 2021.

²⁴ Official Journal of the European Union (2012) Charter of Fundamental Rights of the European Union [website] available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>, accessed May 15, 2021.

countries such as the United Kingdom²⁵, Italy or Romania. This measure has brought with it many challenges for teachers, students, but also for parents. For example, during the pandemic, many parents were required to take time off in order to take care of their children and help them with their studies²⁶, especially in cases in which children did not have proper access to online education. Thus, since “thousands of children could not afford online learning”²⁷, their right to education was restricted. Even more, considering this aspect and the fact that when certain rules “do not necessary intent the exclusion of an individual or a group, but they affect people in one way or another”²⁸, an act of indirect discrimination can be observed, since many children did not have the necessary resources that online learning requires, it can be inferred that the policy of school closure also lead to discrimination.

In the aftermath of school closures, many schools and universities tried to adapt the educational process for the online environment, but as previous studies have shown, due to the technological divide between developed and less developed countries, children’s right to education was not fulfilled, and the issue of receiving education was emphasized not only by the lack of technology, devices or internet at home, but also by the schools’ lack of technology.²⁹ Taking into account the aforementioned aspects, it can be stated that, although the school closure policy was adopted in order to protect people’s health, it restricted children’s access to education, and thus, governments should have taken certain steps for ensuring that all children could continue to participate in the educational process.

2.3 The vaccine prioritization process

While measures such as lockdowns or social distancing raised issues regarding the violation of other human rights in the detriment of assuring the health of the population, another process that raises equity and equality related questions between people during the pandemic is the vaccine prioritization process.

²⁵ Cairney, P. (2021). The UK Government’s COVID-19 policy: Assessing evidence-informed policy analysis in real time. *British Politics*, 16(1), 90-116, p. 102.

²⁶ Keogh-Brown, M. R., Jensen, H. T., Edmunds, W. J., & Smith, R. D. (2020). The impact of Covid-19, associated behaviours and policies on the UK economy: A computable general equilibrium model. *SSM-population health*, 12, 1-10, p. 4.

²⁷ Pratiwi, F. I., & Salamah, L. (2020). Italy on COVID-19: Response and Strategy. *Jurnal Global & Strategis*, 14(2), 389-402, p. 398.

²⁸ Lăzărescu, L., Panait, A., Iordache, A. et al. (2015) Între discriminare, abuz si exploatare *apud* Coman, C. & Andronechescu, C. (2020). Discrimination of the Roma population in Romania. *Revista Universitara de Sociologie*, 2, 79-89, p. 82.

²⁹ Lorente, L. M. L., Arrabal, A. A., & Pulido-Montes, C. (2020). The right to education and ICT during Covid-19: An international perspective. *Sustainability*, 12(21), 1-16, p. 12.

After long tests and trials, many companies managed to develop and receive approval for the COVID-19 vaccines they developed, such as Pfizer BioNtech, Astra-Zeneca or Moderna.³⁰ However, even before the vaccines against COVID-19 were approved to be administered to the population, countries all over the world developed vaccine prioritization programs. Thus, these programs comprised certain phases and rules with respect to whom and under what circumstances should have priority in receiving the vaccine, rules that to some extent may have restricted the right to equality and non-discrimination.

Broadly, the main purpose of each country was to ensure a general state of well-being of the population and also to obtain maximum benefits for the vaccination process, and thus, the programs implemented could be approached from the perspective of utilitarianism, which implies the “maximization of the overall benefits at societal level.”³¹

For example, in the attempt to prevent the most vulnerable groups of people that could get infected, the older persons and healthcare workers, the United Kingdom developed a program in two phases. During the first phase, priority was given to home care patients and the people who take care of them, but also to people aged 80 and above and to people working in the frontline. Next, in phase one priority had people who were at a higher risk of contracting the virus. The second phase had the purpose of ensuring the health of the countries’ entire population, and priority was given to people at higher risk of developing severe symptoms, who did not receive the vaccine in the first phase.³² Even more, due to the fact that in the United Kingdom, the risk of developing severe symptoms and of needing hospitalization increased with age, the government was advised by The Joint Committee on Vaccination and Immunization, JCVI, to offer the vaccine firstly, in the second phase, to people aged people between 40 and 49 years old, followed by those aged between 30 and 39, and then by those aged between 18 and 29 years old.³³

³⁰ Ontario Ministry of Health (2021). About COVID-19 vaccines. [online document] available at https://www.health.gov.on.ca/en/pro/programs/publichealth/coronavirus/docs/vaccine/COVID-19_about_vaccines.pdf, accessed May 20, 2021.

³¹ Scheunemann, L. P., & White, D. B. (2011). The ethics and reality of rationing in medicine. *Chest*, 140(6), 1625-1632, p. 1627.

³² Department of Health & Social Care (2021) The UK COVID-19 vaccines delivery plan. [online document] available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/951928/uk-covid-19-vaccines-delivery-plan-final.pdf, last Accessed May 20, 2021.

³³ UK Government (2021) Independent report: JCVI interim statement on phase 2 of the COVID-19 vaccination programme. [website] Available at: <https://www.gov.uk/government/publications/priority-groups-for-phase-2-of-the-coronavirus-covid-19-vaccination->

In Romania however, the vaccination process comprised of three phases, the first phase being dedicated entirely to healthcare workers that work either in the private or the public sector. The second phase gave priority to population at risk represented by the older persons, especially those people aged 65 or above, but also to people with chronic diseases, with disabilities, to homeless people, and workers in key domains such as teachers. The third phase implied the vaccination of the entire population.³⁴

Considering the vaccine delivery plans described above, a discussion is necessary regarding the prioritization process and human rights. Thus, offering first the vaccine to healthcare workers and older persons is understandable, them being the people most prone to getting infected, but the question of equity and non-discrimination arises when we refer to other people. Since a major element around which the vaccination programs were elaborated is age, how fair was the process of deciding that old people should receive the vaccine in the detriment of younger people? Also, another question through which the restriction of the right to equality and non-discrimination can be highlighted, refers to the entire vaccination program, according to which, ensuring the health and the life of certain people was more important than ensuring the life of other people, on the basis of their age, perceived importance of their work and current health condition.

Furthermore, in the context of the vaccine prioritization process, we emphasize the fact that the action of receiving or not receiving the vaccine itself, can create inequalities between individuals, can lead to discrimination and create social stigma. In other words, vaccinated people could be discriminated for having the vaccine, and non-vaccinated people could be discriminated for refusing to vaccinate themselves, regardless of the reason.

Thus, generally, discrimination can be understood as the action that takes place when, “a person or a group is treated less favorably than others, due to their age, gender, disability, religion, etc.”³⁵ and social stigma was described firstly by Ervin Goffman as “an attribute that is deeply discrediting”³⁶, it also

programme-advice-from-the-jcvi/jcvi-interim-statement-on-phase-2-of-the-covid-19-vaccination-programme, Accessed May 20, 2021.

³⁴ Guvernul României (2021). Procesul de vaccinare în România. [website] Available at: <https://vaccinare-covid.gov.ro/vaccinarea-sars-cov-2/procesul-de-vaccinare-in-romania/>, Accessed May 20, 2021.

³⁵ Russell, H., Quinn, E., King O’Riain, R. and McGinnity, F. (2008). The Experience of Discrimination in Ireland. Analysis of the QNHS Equality Module. Dublin: Brunswick Press, p. 8.

³⁶ Goffman, E. (2009). Stigma: Notes on the management of spoiled identity. Simon and Schuster, p. 3.

being associated with the term stereotype. Associating these definitions with the matter of vaccine prioritization and the matter of being or not vaccinated, we can infer that the vaccination programs were discriminatory for the prioritization occurred on the basis of people's age or health conditions, and that the vaccine itself can be seen as the attribute that leads to social stigma.

Similarly, social stigma can be approached simply in the context of being of having been infected with the virus. Thus, stigma can “disrupt the harmony in a community and favor behaviors that determine social isolation”.³⁷ In other words, people who are or had been infected may be discriminated and treated differently: individuals may distance themselves from them, they may not accept them in certain groups or may no longer invite them to certain gatherings. In this regard, a discussion regarding stereotypes is also relevant. Usually, stereotypes exist at the “psychological level of people”, and they can be seen as outcomes, results of social stigma.³⁸ In the COVID-19 context, stereotypes can be approached from the point of view of which people are more prone to get infected and spread the virus, and from the point of view of vaccinated or non-vaccinated people. For example, in the first case, during the pandemic stereotypes circulated about the spread of the virus by the Roma population, and in the second case about non-vaccinated people exist stereotypes which refer to such people not being solidary, not contributing to the process of overcoming the pandemic, and even stereotypes about such people being more prone of spreading the disease. However, the issues of being vaccinated or not being vaccinated can also be discussed in the context of restricting people's right to culture and cultural life.

2.4 Discrimination of unvaccinated people

Together with the distribution of the vaccine to the large population, resilience and refusal to vaccination also appeared. There are many reasons why people may not be willing to get vaccinated, from conspiracy theories regarding the presence of chips in the serum to reasons referring to the short testing period of each of the vaccines and their unknown long term effects. Thus, studies focusing on this matter revealed that among the most common factors that determined people to refuse the vaccine were: *contextual factors*—such as being young, *individual or group factors*, which referred to people

³⁷ Government of Western Australia (2020). Social stigma and COVID 10. [website] Available at https://www.healthywa.wa.gov.au/~/_/media/Files/Corporate/general%20documents/Infectious%20diseases/PDF/Coronavirus/COVID19-Social-stigma.pdf , Accessed May 20, 2021.

³⁸ Frost, D. M. (2011). Social stigma and its consequences for the socially stigmatized. *Social and Personality Psychology Compass*, 5(11), pp. 824-839.

having no intention to take their flu vaccine, *COVID-19 related factors*, such as a decreased level of trust in the health system and its response strategy during the pandemic, and *vaccine related factors*, such as low level of trust in its the efficiency and safety.³⁹

According to the Handbook of parliamentarians, in the article 27 of the Universal Declaration of Human Rights, “everyone has the right freely to participate in cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.”⁴⁰ However, since the vaccine began to be distributed to the entire population, even if many people decided to get vaccinated, there were also people who refused to receive the vaccine. In this regard, in order to determine people to be willing to receive the vaccine, countries in general and Romania in particular, started to offer certain benefits to people who had already received the vaccine. For example, the bookshop Diverta launched a campaign in which vaccinated people could receive a free book as long as they presented the vaccination certificate in one of its subsidiaries. The aim of the campaign was to send the message that with the help of the vaccine people could have a more beautiful life again, them also receiving a free book.⁴¹ Even more, with regards to the right to cultural life, at certain cultural events organized in closed spaces, such as plays and stage shows, only vaccinated people were allowed to participate and buy tickets, or people with a negative PCR test result based on a sample collected 48 hours before the start of the event.⁴²

Considering these aspects, even though the purpose of such actions is to promote a prosocial behavior, to encourage people to get vaccinated in order to reach the imunization of the population, we argue that such measures restrict citizens’ right to participate to cultural life, and governments should resort to other types of measures for encouraging people to get vaccinated without limiting people’s access to cultural events.

³⁹ Soares, P., Rocha, J. V., Moniz, M., Gama, A., Laires, P. A., Pedro, A. R.,... & Nunes, C. (2021). Factors associated with COVID-19 vaccine hesitancy. *Vaccines*, 9(3), pp. 1-4

⁴⁰ Inter-Parliamentary Union (2016) *Handbook of parliamentarians*. Courand et Associés, p. 213.

⁴¹ Olaru, M. (2021) Cărți pe gratis pentru cine se vaccinează. Ce editură din București are această ofertă? [website] available at <https://www.gandul.ro/social/carti-pe-gratis-pentru-cine-se-vaccineaza-ce-editura-din-bucuresti-are-aceasta-oferta-19628770> , Accessed May 20, 2021.

⁴² G4Media (2021) Adeverință de vaccinare anti-COVID sau test RT-PCR negativ, printre regulile propuse la spectacole în spații închise. [website] available at <https://www.g4media.ro/adeverinta-de-vaccinare-anti-covid-sau-test-rt-pcr-negativ-printre-regulile-propuse-la-spectacole-in-spatii-inchise.html> , Accessed May 20, 2021.

3. Discussion and conclusions

The COVID 19 pandemic impacted drastically the way people all round the world used to carry out their day to day activities. While being an atypical and an ongoing crisis situation, the pandemic affected many domains such as healthcare, economy and education, and in order to overcome the crisis and prevent the spread of the virus, countries were in the need to resort to drastic measures. In this regard, in the paper we argued that the policies and measure implemented by the government reflected negatively upon the fundamental human rights, such as the right to freedom, education or the right to participate to cultural life. In other words, we support the idea that the measure taken during the pandemic are in contradiction with the obligation to respect human rights. Thus, even though the COVID 19 pandemic is a special type of crisis situation and measures that restrict human rights such as lockdowns were in some way justified and understandable, even so, given the fact that even in special situations like a pandemic, it is recommended to adopt policies so as to no limit human rights, it is debatable whether these measures were fairly implemented.

With regards to the right to education and the vaccination prioritization process, it can be observed that these rights were restricted during the pandemic. Thus, as a consequence of school closure, children's access to education was limited, because many of them did not have the necessary means and devices for online learning, and the act of deciding who should receive the vaccine first on the basis of people's age or work domain, lead to discrimination.

Furthermore, actions such as offering benefits only to vaccinated people, even if the purpose was to promote prosocial behavior, it can still be seen as a discriminatory act, due to the fact that the right to travel, or take part in cultural events was restricted in certain cases for unvaccinated people.

Therefore, through the literature review provided in this paper, and the matters highlighted and approached, we draw attention to the fact that, fundamental human rights should be protected regardless of the severity of the situation, and when critical measure are absolutely necessary, governments should still elaborate response strategies so as to affect as little as possible the rights of people.

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