

European Students' Union review of Human Rights Violations during the COVID-19 Pandemic

The World Health Organisation along with the United Nations stressed the importance that national leaders adopt a cooperative, global and human rights-based approach in overcoming the COVID-19 pandemic¹. The COVID-19 pandemic has not only shown society the importance of welfare systems, but more so the impact and repercussions that good or bad governance has on society at large.

The European Students Union, ESU, above all, commends governing bodies working to support healthcare staff on the national frontlines of defense and ensure that health services are accessible to all who need it. On the other hand, ESU is disturbed by governments that propagate denial, distrust in science and unnecessary fear during the pandemic^{2,3} as this risks setting society on a much longer and more painful path to normality.

Under the International Covenant on Economic, Social and Cultural Rights, which most countries have adopted, governments are obligated to take effective steps for the “prevention, treatment and control of epidemic [...] diseases” and authorities must ensure that everyone has access to the same rights and protection. National constitutions and international human rights treaties contain strict clauses that allow governments to invoke special powers in times of crisis. However, emergency measures breaching human rights must be invoked under legal and scientific basis with the scope of combatting the pandemic. They must be subject to a pre-fixed time limit and must not subvert or escape the work of oversight and scrutiny carried out by Parliaments and independent authorities. Everyone should be fully informed about emergency measures and no person or social group should be discriminated against by the arbitrary application of such measures⁴.

Many states are under “lockdown” as governments assumed added legislative powers to close non-essential businesses, enforce quarantine and isolation measures, restrict public gatherings, limit freedom of movement and association, and subject people to increased surveillance through street police patrols or mobile applications^{5,6}. In the following statement, ESU reviews the reprehensible damage being done to European democratic values and fundamental human rights and freedoms amidst the economic and social consequences of the global pandemic that is, in certain circumstances further aggravated by European leaders adopting emergency measures that only favour the ruling classes and that deepen social inequality.

¹ <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

² <https://www.chathamhouse.org/expert/comment/belarusians-left-facing-covid-19-alone>

³ <https://www.aljazeera.com/news/2020/04/covid-19-pandemic-testing-world-leaders-stepping-200402201221844.html>

⁴ <https://www.refworld.org/docid/4672bc122.html>

⁵ <https://theconversation.com/state-of-emergency-how-different-countries-are-invoking-extra-powers-to-stop-the-coronavirus-134495>

⁶ https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response#_Toc35446579

Democratic Rights

The European Students' Union stresses that finding the best collective solutions to the pandemic should seek to foster rather than erode trust between citizens and the government. Both national authorities and national research bodies should provide up-to-date and factual information about the virus, access to services, derogations of national laws or policies, and other aspects of the response to the outbreak that is readily available, accessible to all and open to scientific, academic and press review.

It is crucial that in this time, all democratic actors and institutions review and investigate emergency measures taken in response to the COVID-19 pandemic. The rights and freedoms of people, particularly those constituting vulnerable or minority social groups, and the autonomy of independent institutions (academia, media and civil society organisations) are only as strong as are Europe's founding values of human rights, democracy and the rule of law.

A strong collective European response towards overcoming the pandemic and its multi-sectoral challenges cannot be achieved if European leaders violate the rule of law, democracy and fundamental rights in their response to the pandemic.

One such example is the Hungarian emergency bill that gave right-wing Prime Minister Viktor Orbán powers to rule by decree. Unlike all other similar emergency bills passed in European democratic states, this bill was set with no expiration date and was followed by amendments to the Penal Code that set prison terms of up to five years for people who spread misinformation and up to eight years for people who violate orders that restrict movement⁷. This puts severe political pressure on what is left of the independent press in Hungary and represents the systematic abolishment of freedom of speech in the country.

It is further concerning that law changes tabled after the 'Coronavirus Act' included the removal of independent power and funding to municipalities, appointment of government officials onto the theatre supervisory board, a ban on gender reassignment and the forcing of trans people to have the gender they were assigned at birth⁸. Clearly, attacking the rights of the LGBT+ community, repressing political opposition and curtailing press and artistic freedom have nothing to do with combating the COVID-19 pandemic. ESU strongly condemns such flagrant coercive measures that are not only irrelevant to solving the pandemic but are clearly discriminatory and against European values of freedom, democracy and diversity. We are further concerned when in such times, military forces exceed the scope of maintaining public safety by being given added capacity to override decisions within the health sector⁹.

⁷ <https://balkaninsight.com/2020/05/11/the-last-days-of-independent-media-in-hungary/>

⁸ <https://thewire.in/world/viktor-orban-is-using-the-coronavirus-emergency-to-crush-minorities>

⁹ <https://redflag.org.au/node/7161>

The European Union has clear responsibilities to act upon grave violations with regards to the rule of law. ESU calls upon the European Commission to further investigate these clear violations of democratic minimum standards in the heart of our continent and community of values. It is unacceptable for the European Union to stay silent while one of its member states is actively transformed into a dictatorship.

Similar undemocratic measures are surfacing around Europe such as Azerbaijan's COVID-19 disinformation law that risks curbing press freedom¹⁰ and the Polish Government's attempts to proceed with organising the Presidential election through the postal vote for the first time in history. The improvised solution was unprecedented and nearly pushed forward along with undermining the role of National Electoral Commission and strong doubt of the vast part of the society into the legitimacy and transparency of the election process¹¹. Bulgaria was singled out by the World Press Freedom Index as a country where the media has been captured by oligarchs¹². The Israeli government garnered international concern with their decision to allow the Security Service to use private cell phone data to track people's movement and contacts in order to impose quarantine measures. In Montenegro, authorities detained a journalist while he was covering ongoing protests¹³ and also detained several persons on the grounds of their sharing of fake-news-related posts on social media¹⁴. This is especially worrying as declining standards of democracy in Montenegro have been an ever-growing reality¹⁵.

ESU flags serious concern in the dangerous precedent being set by the concentration of democratic powers into political executives. Furthermore, ESU strongly condemns pro-nationalist, populist and authoritarian minded leaders using the pretext of the pandemic to adopt anti-democratic and repressive measures for purposes unrelated to the pandemic. We stress the importance that European judiciary institutions, including the European Court of Human Rights and the Court of Justice of the European Union, set monitoring measures and take according actions where necessary.

Rights of Migrants and Refugees

The impact of the coronavirus pandemic has immensely aggravated the plight of people fleeing war, conflict and persecution. As countries battle to protect their populations and economies, fundamental norms of refugee and human rights law are at risk. An important yet heavily overlooked clause within international human rights law stipulates that restrictions on freedom of movement must not be discriminatory nor have the effect of denying people the

¹⁰ <https://www.rferl.org/a/azerbaijan-s-coronavirus-disinformation-law-could-curb-press-freedom-osce-says/30509266.html>

¹¹ <https://www.theguardian.com/commentisfree/2020/may/05/the-guardian-view-on-polands-presidential-election-call-it-off>

¹² <https://www.neweurope.eu/article/press-freedom-under-attack-amid-pandemic/>

¹³ <https://ipi.media/pii-condemns-arrest-of-journalist-covering-protest-in-montenegro/>

¹⁴ <https://balkaninsight.com/2020/04/10/montenegro-detains-opposition-activist-over-fake-news-about-president/>

¹⁵ <https://balkaninsight.com/2020/05/06/freedom-house-serbia-montenegro-hungary-no-longer-democracies/>

right to seek asylum nor of violating the absolute ban on being returned to where they face persecution or torture¹⁶. Despite this and according to the UNHCR, the UN Refugee Agency, 57 of 167 countries that have closed their borders to contain the spread of the Coronavirus make no exception for people seeking asylum¹⁷.

The European Students' Union expresses strong objection towards European leaders taking heavy-handed and inhumane security responses that tarnish international obligations set in post-war Europe to achieve international solidarity, peace and security. In early April, national decrees were issued in Italy and Malta in order to prevent vessels rescuing migrants and asylum seekers desperately crossing the Mediterranean Sea from seeking rightful aid within their harbours^{18,19}. Up to 12 people have lost their lives at sea in Maltese Search & Rescue zone as Maltese government officials chose to abandon and violate international human rights and maritime obligations by organising the push-back of 51 (originally 63) individuals to Libya^{20,21}.

Whilst recognising the particular challenges individual Member States are facing during the pandemic, the situation neither justifies nor excuses the violation of human rights most especially that which leads to the loss of human life. The COVID-19 pandemic should not be pitted against other global humanitarian crises that have and continue to see the suffering and devastation of millions of lives by conflict and disaster²². ESU calls upon the European Union and its Member States to meet their collective moral and legal obligations in sharing responsibility for refugees and migrants seeking international protection. Furthermore ESU echoes the UNHCR in calling on all state governments to manage border restrictions in ways that also respect international human rights and refugee protection standards including quarantines, health checks and remote methods (such as online forms and video conferences) to review asylum applications²³.

A solidarity-based reallocation mechanism is urgently needed however, as the past has shown, this is not likely to be easily achieved if governments adhere to far right and conservative politics and choose to neglect fundamental core values of the EU to respect human dignity and human rights. The failed EU quota system of distributing asylum seekers to different European countries back in 2015 threatened to upend the core of the European Union as the nationalist governments of the Czech Republic, Poland and Hungary had violated EU law when they refused to take in asylum seekers from Italy and Greece²⁴. The new EU Pact on Migration and Asylum must overhaul the current system and provide

¹⁶ <https://www.refworld.org/docid/5e7132834.html>

¹⁷ <https://www.unhcr.org/news/press/2020/4/5ea035ba4/beware-long-term-damage-human-rights-refugee-rights-coronavirus-pandemic.html>

¹⁸ <https://www.wsfs.org/en/articles/2020/04/23/medi-a23.html>

¹⁹ <https://www.infomigrants.net/en/post/24565/italy-impounds-migrant-rescue-ship-alan-kurdi>

²⁰ <https://www.thenewhumanitarian.org/news/2020/04/28/EU-migrants-Libya-Mediterranean-NGO-rescues-coronavirus>

²¹ <https://www.ecre.org/med-former-maltese-official-admits-push-back-while-another-62-people-are-left-stranded/>

²² <https://www.sida.se/English/how-we-work/our-fields-of-work/humanitarian-aid1/ongoing-humanitarian-crises/>

²³ <https://www.unhcr.org/news/press/2020/4/5ea035ba4/beware-long-term-damage-human-rights-refugee-rights-coronavirus-pandemic.html>

²⁴ <https://www.nytimes.com/2020/04/02/world/europe/european-court-refugees-hungary-poland-czech-republic.html>

sustainable joint policy responses that can withstand the challenges of the COVID-19 pandemic while building on the harsh lessons of attempted and failed reforms. ESU stresses the importance that all institutions of the European Union (Parliament, Commission and Council) act jointly in securing and executing the new EU Pact on Migration and Asylum that brings all member states and beyond to act on the basis of a humanitarian approach and solidarity with each other.

Asylum seekers, refugees and migrants who face restrictions to access public health services, who live and work in overcrowded or unsanitary facilities and camps or who lack access to housing, food and clean water are increasingly vulnerable to health, social and economic risks posed by the Coronavirus. The situation is particularly dire in refugee camps on the Aegean islands (Chios, Kos, Leros, Lesvos, and Samos) that have, since the escalation at the Greek-Turkish borders in March, held up nearly 40,000 people when the maximum capacity is 6,000 at most²⁵. While both the EU and the Greek government have been working to improve the conditions such as through financial, medical and accommodation assistance and reallocations^{26,27}, it is crucial that this support is seen, felt and heard on these islands and effectively communicated and explained to the general public in order to prevent harmful uprisings²⁸.

At all costs, governments must avoid exacerbating xenophobia, hate speech, exclusion and discrimination amongst their local populations. Reports highlight a disturbingly increase in racial abuse of Asians and of hate speech blaming minorities such as Roma, Hispanics as well as asylum seekers and migrants for the spread of the Coronavirus²⁹ or for adding onto the nation's economic burden³⁰. Anti-Semitic hate speech online is also increasing since the beginning of the crisis as conspiracy theories have spiked³¹. This emphasizes the responsibility of governments not to fuel such behaviour but rather to counter disinformation and protect vulnerable societal groups by ensuring they have access to the necessary resources and provisions that would allow them to participate in COVID-19 response operations.

This may be done following the example of Portugal, where all temporary residents, migrants, refugees and asylum seekers with impending requests are now considered permanent residents thus allowing them to have access to public services including health care, housing, welfare benefits, bank accounts, and work and rental contracts. Furthermore, increased localised support to non-governmental organisations working on the ground with vulnerable and marginalised people is essential to effectively monitor and minimise the impact of the pandemic while also encouraging community engagement and actions.

²⁵ <https://www.nature.com/articles/d41586-020-01219-6>

²⁶ <https://www.europarl.europa.eu/news/en/headlines/priorities/eu-response-to-coronavirus/20200402STO76413/meps-call-for-measures-to-prevent-covid19-crisis-in-refugee-camps>

²⁷ <https://greekcitytimes.com/2020/04/23/greece-and-uk-to-collaborate-on-tackling-migration-crisis/>

²⁸ <https://www.ecre.org/greece-fires-in-samos-camp-evacuations-on-hold-european-cities-offer-relocation/>

²⁹ <https://www.euractiv.com/section/global-europe/news/covid-19-crisis-triggers-eu-racism-against-asians-rights-agency-says/>

³⁰ <https://www.ecre.org/bosnia-and-herzegovina-security-minister-plans-to-deport-thousands-of-people/>

³¹ https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_861

Women's Rights

With health workers on the front lines of the pandemic response, and with various lockdown and safety measures implemented across Europe, women face some specific risks and dangers that need to be taken into account in adjusting policies going forward.

While clapping on our balconies in honour of health workers, we should keep in mind that in Europe, 78% of those workers are women³². On the front lines of health care systems, both as doctors and nurses in hospitals, as well as in personal care workers and other medical professionals - they are in vulnerable positions, most likely to be in direct contact with COVID-19, and taking on the most essential jobs of all right now. Proper access to personal protective equipment, prioritized access to testing, well-functioning systems of isolation and treatment, as well as adequate compensation need to be provided to everyone working in health care - from hospitals and nursing homes to personal care and therapy.

Along with taking care of health workers, governments must ensure that any pandemic response doesn't disproportionately affect women's access to health care services. Access to obstetrics and gynaecology cannot be deprioritized in restructuring health systems, and certain services related to reproductive health such as abortion and procedures necessary to ensure a healthy pregnancy can't be restricted during pandemic response. Similarly, unless absolutely necessary, women's preferences surrounding giving birth should be respected, including their having access to their families, midwives and doulas. Access to therapy related to reproductive health also needs to be maintained, if necessary through online means. In most of the UK, for example, medical abortion pills have been made available for home use after a teleconsultation with a doctor, and in France and Italy explicit policy has been stated that access to abortion is an essential health care service that has to remain available throughout the pandemic. At the same time, women in Malta have faced extreme hardship in abortion remaining illegal domestically, and travel restrictions denying them the option to travel abroad to access the medical procedure³³. There are also fears that the Polish government is using the lockdown and restrictions on rights to protest to pass a law that would place even more severe restrictions on access to abortion in that country than are currently in place³⁴.

With various lockdown measures put in place in most of Europe, and recommendations to stay at home prevalent everywhere else, there has been a worrying but predictable epidemic of domestic violence intensifying across the world³⁵. While this was widely predicted to happen as states prepared to keep people in their homes and away from outside contact, there has been a lack of substantial action to combat it across most countries.

³² <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20200409-2>

³³<https://www.doctorsforchoice.mt/post/impact-of-covid-19-on-women-in-malta-seeking-abortion-an-overview?fbclid=IwAR3Ik2CEDui9xlmUPVdZOdwx9t4Pjq0O1XhVVrk8CUEFilF7bmgg45QkYU>

³⁴<https://www.theguardian.com/world/2020/apr/14/concerns-over-polish-government-tightening-abortion-laws-during-covid-19-crisis>

³⁵<https://www.coe.int/en/web/commissioner/-/covid-19-ensure-women-s-access-to-sexual-and-reproductive-health-and-rights>

A time of families being locked inside together has provided fertile ground for abusers to intensify their use of common tactics of abuse such as isolating the victim from their friends and family, keeping them under constant surveillance and restricting their privacy, as well as subjecting them to prolonged emotional, psychological, and physical abuse. States across Europe have been too slow to act on rising reports of domestic abuse, with additional hotlines and shelters being set up only after a spike in reports of abuse in Italy, Spain and France. In other countries, the number of reports has stayed at the same level or even dropped, likely reflecting the impact of current movement restrictions and uncertainty³⁶. Furthermore, survivors everywhere face uncertainty and lack of access to complimentary services such as legal aid, divorce, and assistance in or ability to separate from their partners and keep their families safe from abuse.

Special attention needs to be paid to those who have been marginalised and excluded from state services already before the pandemic, such as women with disabilities³⁷, women with migrant or refugee backgrounds, and those women who, because of their citizenship or residence status, lack access to services or must fear deportation upon contact with state authorities. Italy has made a good example in this aspect, granting two-year residence permits on humanitarian grounds to those who are fleeing their abusers³⁸.

³⁶ <https://www.cfr.org/in-brief/double-pandemic-domestic-violence-age-covid-19>

³⁷ <http://www.internationaldisabilityalliance.org/blog/gender-COVID19-follow-up>

³⁸ <https://www.aljazeera.com/indepth/features/ominous-silence-domestic-violence-charities-fear-victims-200416110917230.html>