EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 48973/20
Vesna PEŠIĆ against Serbia
and 3 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 19 May 2026 as a Committee composed of:

Darian Pavli*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications against the Republic of Serbia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by four Serbian nationals, whose relevant details are listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to give notice of the complaints concerning a restriction of freedom of movement, alleged discrimination and the lack of an effective remedy to the Serbian Government ("the Government"), represented by their Agent, Ms Z. Jadrijević Mladar;

the observations submitted by the Government and the observations in reply submitted by the applicants;

the comments submitted by Dr Ayelet Berman and Dr Marija Jovanović, who were granted leave to intervene by the President of the Section in applications nos. 48973/20, 54565/20 and 54676/20;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns measures adopted by the Serbian government to combat COVID-19 which were in force from 18 March until 6 May 2020.

2. Following the declaration of a state of emergency on 15 March 2020, the authorities introduced a set of extraordinary measures, including temporary restrictions on the freedom of movement of the population. Some of those measures specifically targeted the elderly population – that is, persons aged 65 or over in areas with more than 5,000 inhabitants, and aged 70 and over in areas with up to 5,000 inhabitants. The measures ranged from an initial three-day total ban on leaving one's home to a prohibition on being out except at certain times and within a certain radius (with activity outside the home initially allowed once a week, then three times a week and finally every day).

3. During the relevant period the remainder of the population was subject to lockdown measures during the night, weekends and public holidays, except in exceptional circumstances and with prior authorisation from the competent authorities. Individuals who failed to comply with those regulations could be held liable for a misdemeanour. Following the lifting of the state of emergency on 6 May 2020, the measures in question ceased to be in force.

A. The applicants' situation

4. The first and second applicants were over 65 years old and the third and fourth applicants were over 70 years old at the relevant time.

5. The second applicant was twice held liable for a misdemeanour on account of violating restriction measures. In the first set of proceedings she was fined approximately 420 euros; in the second set, she was given a judicial warning. On 22 December 2021 the Constitutional Court rejected an appeal that she had lodged against the decision in the first set of proceedings as unfounded.

6. On 13 May 2020 the third and fourth applicants lodged constitutional appeals, alleging that the impugned measures had disproportionately restricted their right to liberty, freedom of movement and a legal remedy, and had discriminated on the basis of age. The Constitutional Court treated their appeals as initiatives for the review of the legality and constitutionality of the restriction measures, as they had been lodged against a general legal act, and on 16 October 2020 it sent the applicants copies of a decision it had taken on 17 September 2020 (see paragraph 10 below).

7. On 22 September 2023 the second applicant's representative informed the Court that the applicant had died on 13 June 2022. On 3 November 2023 her heir, Mr Jovan Mandić, expressed his wish to continue the proceedings before the Court.

8. The applicants complained that the measures in question had breached their right to freedom of movement and to liberty, and had been imposed on the basis of discriminatory criteria. They relied on Articles 5 and 14 of the Convention, while the first applicant also relied on Article 2 of Protocol No. 4

to the Convention. The third and fourth applicants further complained under Article 13 of the lack of an effective domestic remedy for their complaints.

B. Other relevant information

9. On 6 April 2020 the Ministry of Foreign Affairs of Serbia informed the Secretary General of the Council of Europe that Serbia intended to avail itself of the right of derogation under Article 15 of the Convention. On 9 October 2020 the Secretary General was informed of the various measures adopted for the prevention of the spread of COVID-19 and of the fact that the state of emergency had been lifted.

10. On 17 September 2020 the Constitutional Court examined several initiatives lodged by non-governmental organisations and individuals for the assessment of the constitutionality of various restriction measures and their compliance with the constitutional right to liberty and security of person, the prohibition of discrimination, and judicial protection of human and minority rights. In so far as restriction measures targeting the elderly population were concerned, the Constitutional Court terminated the proceedings on the basis that the impugned measures were no longer in force and that the arguments presented in the initiatives were unfounded.

11. On 4 November 2020 the Belgrade Centre for Human Rights, a non-governmental organisation based in Belgrade, lodged a discrimination claim against the State with the Belgrade Higher Court, seeking to establish that the impugned restriction measures had been imposed on the basis of discriminatory criteria. On 3 November 2021 the Belgrade Higher Court found that the difference in treatment had been justified by the need to safeguard the interests of the particularly vulnerable age group to which persons over 65 years of age belonged and dismissed the claim as unfounded. On 3 February 2022 the Belgrade Court of Appeal upheld that judgment. There is no information in the case file as to whether an appeal on points of law or a constitutional appeal was lodged against that judgment.

THE COURT'S ASSESSMENT

A. Joinder of the applications

12. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Preliminary question of the *locus standi* of the second applicant's heir

13. The Court notes that the second applicant, Ms Ljubica Mandić, died on 13 June 2022 while the application was pending before it and that her heir,

Mr Jovan Mandić, has expressed his wish to continue the proceedings (see paragraph 7 above). In a number of cases where an applicant died during the proceedings, the Court has taken account of the wish expressed by heirs or close relatives to continue them (see, among other authorities, *López Ribalda and Others v. Spain* [GC], nos. 1874/13 and 8567/13, § 73, 17 October 2019).

14. In the present case, the Court finds that the heir of the second applicant may have a sufficient interest in the continued examination of the application and thus recognises his capacity to act in her stead.

C. Alleged violation of Article 2 of Protocol No. 4 to the Convention

15. Relying on various provisions of the Convention (see paragraph 8 above), the applicants complained that the restriction of their right to freedom of movement had been disproportionate and unjustified. The Court, being master of the characterisation to be given in law to the facts of the case, gave notice of this complaint to the parties under Article 2 of Protocol No. 4 to the Convention (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

16. The Government raised several objections to the admissibility of this complaint. Notably, they argued that the applications amounted to an *actio popularis* and that the applicants could not claim to be the victims of the alleged violations.

17. The Court considers that it is not necessary to examine all the objections raised by the Government as the applications are in any event inadmissible on the following grounds.

18. In view of the nature of the measures in question, which ranged from a total ban on leaving one's home to the possibility of going out on designated days and within certain time frames and areas, the Court considers that they must be regarded as a restriction of freedom of movement and concludes, as the parties have done, that Article 2 of Protocol No. 4 is applicable (see *Pagerie v. France*, no. 24203/16, §§ 152-61, 19 January 2023, and *Terheş v. Romania* (dec.), no. 49933/20, § 45, 13 April 2021, where the Court concluded that Article 5 of the Convention was not applicable in view of the degree of the restrictions of liberty).

19. The general principles concerning the right to freedom of movement have been summarised in *De Tommaso v. Italy* ([GC], no. 43395/09, §§ 104-09, 23 February 2017) and *Pagerie* (cited above, §§ 171-77 and 193-96).

20. The restriction measures in question were imposed by legislative acts introduced by the government and other relevant authorities during the state of emergency. Accordingly, the interference in the present case was in accordance with law. What remains to be established is whether the impugned measures pursued a legitimate aim and were "necessary in a democratic society".

21. The Court notes at the outset that there was a particular context to the measures complained of by the applicants. Specifically, they were introduced during the state of emergency that had been declared in Serbia on 15 March 2020 for public health reasons (see paragraph 2 above). In the Court's view, there is no doubt that the COVID-19 pandemic was capable of having very serious consequences not just for health but for society, the economy, the functioning of the State and life in general, so that the situation had to be characterised as one of "exceptional and unforeseeable circumstances" (see *Terheş*, cited above, § 39, and *Nemytov and Others v. Russia*, nos. 1257/21 and 2 others, § 112, 27 May 2025, with further references). The Court observes that extraordinary measures were imposed nationwide – and not only on the elderly population (see paragraph 3 above) – in response to what the competent national authorities had judged to be a serious and urgent public health situation.

22. The Court further notes the Government's submission that the measures were introduced with the legitimate aim of suppressing the spread of the pandemic and protecting the most vulnerable groups. They were adopted on the basis of assessments carried out by the competent authorities, who relied on the scientific data available at the time and on the recommendations of the World Health Organisation, which indicated that this category of the population was particularly exposed to a heightened risk of contracting the new virus as well as of fatal outcomes. The Court is mindful that the measures were not based on any individualised assessment of health conditions or other relevant circumstances, but rather on the general assumption that the elderly population faced a higher risk of developing severe forms of COVID-19. It also cannot overlook the fact that the restrictions imposed on the elderly were stricter than those applied to the rest of the population (see paragraphs 2 and 3 above), and that they were undoubtedly burdensome for the applicants.

23. However, the measures were limited to the duration of the state of emergency, were subject to regular review and were adjusted in accordance with the level of risk posed by the infectious disease. They were gradually eased as the epidemiological situation in the country improved (see paragraph 2 above). Having regard to the unprecedented and highly sensitive context created by the COVID-19 pandemic, as well as the margin of appreciation afforded to States in matters of public health policy (see *Nemytov*, cited above, § 117, with further references), the Court considers that the interference at issue was proportionate to the legitimate aim pursued – namely, the protection of the health of a vulnerable group. It further finds that the reasons adduced by the national authorities in support of the measures were "relevant and sufficient".

24. Accordingly, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

D. Alleged violation of Article 14 taken in conjunction with Article 2 of Protocol No. 4 to the Convention

25. The applicants complained that they had suffered discrimination because of their age. The Court has recognised that age might constitute "other status" for the purposes of Article 14 of the Convention (see, for example, *Ferrero Quintana v. Spain*, no. 2669/19, § 74, 26 November 2024).

26. It is clear that the restriction measures at issue differentiated explicitly between individuals aged 65 and over and the rest of the population. However, the Court has already concluded that the impugned measures pursued the legitimate aim of protecting the health of the vulnerable group to which the applicants belonged (see paragraph 23 above). This was also the conclusion of the domestic courts (see paragraph 11 above). In view of those findings and the wide margin of appreciation afforded to States in the area of public health policies, the differential treatment in the present case must be regarded as objectively and reasonably justified.

27. Accordingly, this complaint is inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded, and must be rejected pursuant to Article 35 § 4.

E. Other alleged violations of the Convention

28. The third and fourth applicants also relied on Article 13 of the Convention. Having regard to all the material in its possession, and in so far as it falls within its jurisdiction, the Court finds that this complaint does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

29. Lastly, the Court notes that it was Serbia's intention to derogate, under Article 15, from its obligations under the Convention without explicitly mentioning which Articles were to form the subject of that derogation (see paragraph 9 above). In any event, the Court's conclusion in relation to the applicants' complaints obviates any need to consider the validity of the derogation filed by Serbia with the Council of Europe (see *A.A. v. Serbia* (dec.), no. 50898/20, § 50, 14 October 2025, and *Terheş*, cited above, § 46).

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 11 June 2026.

Olga Chernishova Deputy Registrar	Darian Pavli President

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of birth	Represented by
1.	48973/20	Pešić v. Serbia	27/10/2020	**Vesna PEŠIĆ** 1940	Vladica ILIĆ
2.	51319/20	Mandić v. Serbia	13/11/2020	**Ljubica MANDIĆ** 1945 (died on 13/06/2022) (pursued by heir: **Jovan Mandić)**	Duško AVRAMOV
3.	54565/20	Đorđević v. Serbia	02/12/2020	**Dragica ĐORĐEVIĆ** 1954	Dušan MITIĆ
4.	54676/20	Ilić v. Serbia	02/12/2020	**Dragiša ILIĆ** 1954	Dušan MITIĆ