

Strasbourg, 8 October 2020

Dear Sirs/Madams,

Thank you for your letter of 14 September addressed to the Secretary General of the Council of Europe.

The information which you kindly provided has been shared with relevant directorates of the Organisation.

As you rightly note, Italy has not made use of its prerogative under Article 15 of the European Convention on Human Rights (the Convention) in the COVID-19 context. This Article grants Contracting States a prerogative of derogating, in exceptional circumstances and in a limited and supervised manner, from their obligations to secure certain rights and freedoms under the Convention. Article 15 does not impose an obligation for states to make use of such right during a time of emergency. Ultimately, it is for the European Court of Human Rights to decide whether the measures taken were strictly required by the situation and compatible with member states' obligations. For high contracting parties which do not use their prerogative under Article 15, the Convention applies in full and its implementation is upheld by national courts and the European Court of Human Rights.

The Secretary General of the Council of Europe must be kept "fully informed of the measures which it has taken and the reasons therefor" and informed of "when such measures have ceased to operate and the provisions of the Convention are again being fully executed" by the member states who decide to make a derogation under Article 15. The Convention does not empower the Secretary General to ascertain any possible violation of the Convention (including of Article 15) and cannot take any initiative in this respect.

For additional information on derogations in times of emergency, you may see the [fact sheet](#) and the [case-law guide](#) published by the Registry of the European Court of Human Rights, as well as the [special page](#) from the Council of Europe Treaty Office.

We would also draw your attention to the [Observatory of situations of emergency in Venice Commission member states](#).

Yours faithfully,



Miroslav Papa

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