

Research Article

CENTRAL AND EASTERN EUROPE'S CONSTITUTIONAL REVIEW DURING PUBLIC HEALTH EMERGENCIES: ANALYSIS BASED ON THE CONSTCOVID DATABASE

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ABSTRACT

Background: Although significant scholarly assessments have been made regarding the conditions for restricting fundamental rights under extraordinary circumstances and the impact of public health emergencies on the separation of powers, the literature has not yet been able to fully rely on the systematization of the extensive recent constitutional court jurisprudence—particularly in the Central and Eastern European (CEE) region. In recent years, constitutional courts (or supreme courts with constitutional review powers) have addressed many aspects of the COVID-19 pandemic. A thorough examination of this case law can contribute both theoretically and practically to the legal framework governing public health emergencies, the limitations of fundamental rights, the evolution of the separation of powers, and the reinterpretation of the constitutional effects of the global pandemic. Nevertheless, scholars have repeatedly noted the difficulty in accessing relevant materials, which has hindered further research in this field.

Methods: The ConstCovid project aims to close this gap by offering systematic access to global constitutional case law related to COVID-19, thereby expanding the potential for comparative research. Several specific examples from the CEE region will be used to demonstrate the regional usefulness of the ConstCovid database. Based on this case law, the regional tendencies and shortcomings of constitutional practice during public health emergencies will be identified. Utilising the ConstCovid database, this study contributes to the broader understanding of the constitutional ramifications of the COVID-19 pandemic and explores its potential implications for managing future public health emergencies in CCE.

Results and conclusions: *This contribution draws some conclusions from the analysed constitutional case law stemming from ConstCovid, which may be valuable for preparing potential unwanted future public health emergencies. First, it examines strands of case law that applied general constitutional standards to the extraordinary circumstances. Second, it illustrates that these ways of argumentation were combined inconsistently with the elaboration of new frameworks of constitutional interpretation, resulting in meaningful uncertainty across the region. Third, the analysis highlights the absence of constitutional remedies specifically established to address public health challenges.*

1 INTRODUCTION

While working on a research project aimed at systematising constitutional case law related to the COVID-19 pandemic, several decisions by constitutional and supreme courts (hereinafter: CC and SC) from the Central and Eastern European (hereinafter: CEE) region emerged as particularly noteworthy. The project sought to create a global, English-language, publicly accessible database (hereinafter: ConstCovid) to organise and analyse these rulings.

The constitutional questions that emerged from the public health crisis sparked a heated scholarly debate that, among other things, considered the function of constitutional review in numerous ways.¹ Although the extraordinary nature of the pandemic significantly impacted the functioning of this constitutional instrument, regional tendencies of constitutional review remained an understudied field during the period of exceptional legal order. Key areas of inquiry include the assessment of extraordinary restrictions on fundamental rights, weighing conflicting fundamental rights and interests in times of public health emergency, developing proportionality analysis in these situations, and forming the separation of emergency powers within the constitutional framework.²

This article examines the principal constitutional disputes adjudicated by CCs and SCs in the CEE region during the COVID-19 pandemic, building upon the methodological framework underpinning the ConstCovid database.³ In doing so, it seeks to elucidate the specific role of constitutional review in public health emergencies and to identify the unique weight of constitutional review to clarify the applicable constitutional standards in a public health emergency.

1 Monika Florczak-Wator, Boldizsár Szentgáli-Tóth and Iván Halász, 'Popular Sovereignty during the Covid-19 Pandemic: Lessons from the Visegrád Countries. National and Local Elections in the Shadow of the Coronavirus' (2024) 32(5) *Studia Iuridica Lublinensia* 307-8, doi:10.17951/sil.2023.32.5.305-332.

2 Alessandra Spadaro, 'Covid-19: Testing the Limits of Human Rights' (2020) 11 *European Journal of Risk Regulation* 317, doi:10.1017/err.2020.27.

3 Institute for Legal Studies, 'Covid and Constitutionalism Project' (*HUN-REN Centre for Social Sciences*, 2023) <<https://covid-and-constitutionalism.tk.hun-ren.hu/en>> accessed 19 April 2025.

The central hypothesis guiding this inquiry is that most public health emergency-related decisions by CCs in the CEE region were grounded in constitutional standards originally developed for normal periods. However, the unique circumstances of the public health emergency necessitated a number of deviations from these standards, without clearly defined points of reference. This legal uncertainty underscores the need for more robust preparedness. In particular, countries in the CEE region may benefit from adopting tailored constitutional remedies to meet the needs of emergency constitutionalism and ensure timely judicial oversight during future crises.

Although the acute phase of the COVID-19 pandemic has passed, this academic article is part of the ongoing strand of constitutional scholarship dedicated to learning from the pandemic and preparing for potential unwanted future public health emergencies.⁴

2 METHODOLOGY

This study is grounded in the ConstCovid research project, which seeks to establish a global, English-language database focused on constitutional review practices during the COVID-19 pandemic. The database compiles relevant case law, accompanied by keywords and a concise case synopsis. By developing a globally accessible, user-friendly, English-language search tool, ConstCovid facilitates comparative constitutional research.⁵

In contrast to broader projects with more expansive aims, ConstCovid's limited thematic scope enhances its capacity to gather a greater proportion of relevant case law in constitutional review. This narrower scope enables the collection of more directly comparable data within a specific legal field.⁶

Given the inherent similarities between the issues encountered by countries with diverse constitutional cultures⁷ during the global health crisis, scholarly and practical interest in such databases increased considerably.⁸ In response, several databases were established following the outbreak of COVID-19, aiming to gather decrees and laws,⁹ the pertinent

4 Katinka Beretka and Áron Ősze, 'Constitutional Court Attitudes and the Covid-19 Pandemic: Case Studies of Hungary, Serbia, and Croatia' (2025) 7 *Frontiers in Political Science* doi:10.3389/fpos.2025.1540881.

5 Ginevra Peruginelli, Sara Conti and Chiara Fioravanti, 'Covid-19 and Digital Library Services: An Overview on Legal Information' (2021) 37(1) *Digital Library Perspectives* 65, doi:10.1108/DLP-07-2020-0064.

6 András Jakab, Arthur Dyeve and Giulio Itzcovich, 'Comparing Constitutional Reasoning with Quantitative and Qualitative Methods' in András Jakab, Arthur Dyeve and Giulio Itzcovich (eds), *Comparative Constitutional Reasoning* (CUP 2017) 18-9, doi:10.1017/9781316084281.

7 Ladislav Vyhnánek and others, 'The Dynamics of Proportionality: Constitutional Courts and the Review of Covid-19 Regulations' (2024) 25(3) *German Law Journal* 389, doi:10.1017/glj.2023.96.

8 Qingyu Chen, Alexis Allot and Zhiyong Lu, 'LitCovid: An Open Database of Covid-19 Literature' (2021) 49(D1) *Nucleic Acids Research* D1534, doi:10.1093/nar/gkaa952.

9 *COVID-19 Law Lab* <<https://covidlawlab.org/>> accessed 19 April 2025.

judicial case law,¹⁰ parliamentary responses,¹¹ effects on access to justice,¹² and restrictions on freedom of expression.¹³ Additionally, a number of Covid-19-related legal databases¹⁴ continue to emerge, further contributing to the ongoing effort to organise and analyse the principal dilemmas prompted by the crisis.

Unlike previous collections that broadly catalogued COVID-19-related case law, ConstCovid specifically examines the function of constitutional review by mapping the rulings of CCs and SCs in this area. The project thus contributes to the above-mentioned systematising and stimulating tendency by offering a well-organised research resource that focuses on the function of constitutional review. The systematic assessment of constitutional review as a factor of adaptation to the extraordinary public health challenges remains an underdeveloped area of scholarship. This contribution aims to bridge that gap by analysing relevant case law and outlining fundamental elements for broader topical study, particularly in the CEE area.

In constitutional discourse, various expressions are used to describe the control of constitutional conformity over the legislation and other lower-ranked norms with slightly different meanings,¹⁵ for example, "constitutional adjudication," "judicial review," or "constitutional review."¹⁶

The idea of constitutional adjudication,¹⁷ typically understood as the assessment by CCs regarding the legality of certain legislation, laws, or norms, was only partially applicable to the methodological approach employed in this study.¹⁸ In contrast to this definition, the research also included decisions establishing constitutional violations by omission, recognising that in many cases, unconstitutional situations stemming from the pandemic resulted from an incomplete or absent legislative environment.

10 'Open-Access Case Law Database' (*Covid-19 Litigation*, 2023) <<https://www.covid19litigation.org/>> accessed 19 April 2025.

11 'Parliaments in a Time of Pandemic' (*Inter-Parliamentary Union*, 2020) <<https://www.ipu.org/parliaments-in-time-pandemic>> accessed 19 April 2025.

12 'Impacts of Covid-19 on Justice Systems' (*Global Access to Justice*, 2020) <<https://globalaccesstojustice.com/global-access-to-justice/>> accessed 19 April 2025.

13 'Covid-19 Triggers Wave of Free Speech Abuse' (*Human Rights Watch*, 11 February 2021) <<https://features.hrw.org/features/features/covid/index.html?#censorship>> accessed 19 April 2025.

14 'Covid-19 Policy Trackers' (*Lukas Lehner*, 2020) <<https://lukaslehner.github.io/covid19policytrackers/#11-civic-freedom-human-rights-media>> accessed 19 April 2025.

15 Gerhard Dannemann, 'Constitutional Complaints: The European Perspective' (1994) 43(1) *The International and Comparative Law Quarterly* 142.

16 Maartje De Visser, *Constitutional Review in Europe: A Comparative Analysis* (Bloomsbury Publishing Plc 2015) 78.

17 Arne Marjan Mavčič (ed), *Constitutional Review Systems Around The World* (Vandeplas Publishing 2018) 5-32.

18 Luís Roberto Barroso, 'Counter-majoritarian, Representative, and Enlightened: The Roles of Constitutional Courts in Democracies' (2019) 67(1) *American Journal of Comparative Law* 109, doi:10.1093/ajcl/avz009.

Beyond constitutional adjudication, the concept of constitutional review itself warranted reconsideration. Constitutional review, as a subset of judicial review, traditionally refers to examining whether an administrative measure complies with the constitution or the laws. Although the two terms are frequently used interchangeably in academic literature, the study adopts a more nuanced understanding.¹⁹

It draws upon the definition proposed by Versteeg and Ginsburg, who define constitutional review as “the formal authority of a national court or other judicial forum with jurisdiction covering the entire country to annul certain laws due to incompatibility with the national constitution.”²⁰ However, this definition is only partially adopted.²¹ For the purposes of this research, constitutional review is defined as the formal competence of the CC or SC of a given country to review the compliance of a law or court decision with the national constitution.

Decisions are eligible for inclusion in the ConstCovid database if rendered after 1 March 2020 and address constitutional dilemmas generated by the global pandemic. Eligible decisions must originate from a country's CC or SC and directly relate to COVID-19 measures. In the CEE region, most rulings are delivered by CCs, with some exceptions. In Greece, constitutional decisions are delivered by the Council of State; in Cyprus, Estonia, and Israel, such decisions fall under the jurisdiction of SCs.²² Additionally, numerous SC rulings with constitutional significance have been added from Poland, where the CC has had limited operation in recent years.

The analysis of the collected case law reveals two principal directions, each comprising several subcategories. The first concerns the constitutional framework governing public health emergencies. This includes rulings on the operation of constitutional bodies (e.g., online court hearings and parliamentary sessions), the extraordinary distribution of powers among constitutional actors, and the scope of the separation of powers during the special legal order. The second category concerns the constitutionality of certain fundamental law restrictions introduced due to extraordinary circumstances.

Having outlined the methodological foundation of ConstCovid, the main constitutional findings around the CEE region will now be revealed and discussed. This analysis highlights the most paramount controversies before CCs and SCs during the pandemic.

19 Spadaro (n 2) 318.

20 Tom Ginsburg and Mila Versteeg, ‘Why Do Countries Adopt Constitutional Review?’ (2014) 30(3) *Journal of Law, Economics, and Organization* 587, doi:10.1093/jleo/ewt008.

21 *World Justice Project* <<https://worldjusticeproject.org/>> accessed 19 April 2025.

22 ‘Venice Commission’ (*Council of Europe*, 2025) <<https://www.venice.coe.int/webforms/courts/>> accessed 19 April 2025.

3 RESEARCH

As mentioned, the case law emerging from the CEE region reveals two primary themes, each comprising several subcategories that further delineate the structure of the ConstCovid database. Many rulings have focused on the constitutional framework of the public health emergency itself, including the boundaries of the separation of powers during the extraordinary period, the influence on the sharing of competences among constitutional actors, and how the various branches of government managed their everyday operations during these difficult times (e.g., online court trials or parliamentary sittings).²³

The second category of rulings pertains to the legitimacy of some limitations on fundamental rights imposed as a result of the emergency circumstances. The next two subsections outline these categories and offer specific examples, emphasising the concerns most commonly addressed in the CEE region.

3.1. The Constitutional Framework of The Public Health Emergency: The Separation of Powers During the Pandemic

During the public health emergency period, a number of constitutional challenges—previously unknown or unacknowledged in this specific context—surfaced around the CEE region. An indicative list of these controversies can be seen below.

It is always questionable whether a public health emergency may be constitutionally declared. Accordingly, decisions issued by the SC of Israel²⁴ and the CCs of Bulgaria,²⁵ the Czech Republic,²⁶ Moldova,²⁷ Romania,²⁸ Serbia,²⁹ and Slovakia³⁰ affirmed the validity of the public health emergency.

At one end of the spectrum, the Czech CC ruled that, due to the extraordinary circumstances, constitutional review should not be carried out over the introduction of a special legal order. By contrast, the Romanian CC highlighted that the same principles should govern the public health emergency as ordinary constitutionalism; therefore, the emergency order of the government severely restricting fundamental rights was annulled, and the Parliament was requested to enact a law on the emergency framework of fundamental rights. Similarly, the CC of Moldova declared unconstitutional a

23 Peter Smuk, 'Crisis and Constitutional Politics in Central Europe' (2025) 7 *Frontiers in Political Science* doi:10.3389/fpos.2025.1545816.

24 Case no HCJ 5314/20 (Supreme Court of the State of Israel, 3 December 2020).

25 Case no 10/2020 (Constitutional Court of Republic of Bulgaria, 23 July 2020).

26 Case no Pl. ÚS 12/21 (Constitutional Court of the Czech Republic, 16 March 2021).

27 Case no 17/2020 (Constitutional Court of the Republic of Moldova, 23 June 2020).

28 Case no 157/2020 (Constitutional Court of Romania, 13 May 2020).

29 Beretka and Ōsze (n 4).

30 Case no HCJ 5314/20 (n 24).

statutory provision that excluded judicial review of emergency measures on the grounds of exceptionality.

One of the central questions that arose concerned the extent of extraordinary authorisation required by lawmakers to obtain unassailable legitimacy for restrictions that significantly limited the activities of daily life and resulted in the unprecedented combination of limitations on fundamental rights was one of the main questions that arose.³¹ A ministerial decree was deemed an inappropriate legal form in such cases, as demonstrated by the CCs of Romania,³² Slovakia³³ and Kosovo,³⁴ which invalidated respective public health ministry decrees on the grounds that the government itself cannot impose severe limitations on fundamental rights even during public health emergencies unless extraordinary parliamentary authorisation was given for this. Additionally, the Romanian CC concluded that the government had overreached its competences by enforcing excessively stringent public health regulations without parliamentary permission.³⁵

Upon the initiation of 30 parliamentarians, the CC of Slovakia confirmed the constitutionality of the special authorisations provided by the Public Health Act for enacting emergency regulations with quasi-constitutional force.

Moreover, the Kosovar CC provided the most detailed analysis in this regard. Complaints were heard against four government decisions to classify certain Kosovar towns as quarantine zones. The claims alleged that these decisions violated the constitutional rights to freedom of movement and the separation of powers enshrined by the Constitution of Kosovo, as these measures should have been rendered by the Parliament rather than the Ministry of Health. The CC held that the law duly authorised the governmental authorities to enact special measures to combat the COVID-19 pandemic, and individual decisions on the classification of certain towns as quarantine zones were based on this authorisation. However, it found that the Ministry of Health had overstepped its competence when it used a ministerial decree to regulate minor administrative offences and associated sanctions during the public health emergency. These provisions were thus declared unconstitutional.

Official legislative requirements also created certain legal questions when some procedures were neglected or carried out incorrectly because of the purported need for urgency. A notable example is a ruling by the Slovenian CC invalidating several ministerial decrees on educational matters for failing to publish them in Slovenia's official

31 Gabor Kecso, Boldizsar Szentgáli-Toth and Bettina Bor, 'Emergency Regulations Entailing a Special Case of Norm Collision: Revisiting the Constitutional Review of Special Legal Order in the Wake of the COVID-19 Pandemic' (2024) 14(1) *Juridical Tribune* 23-6, doi:10.62768/TBJ/2024/14/1/01.

32 Case no 458/2020 (Constitutional Court of Romania, 25 June 2020).

33 Case no PL. ÚS 14/2021-107 (Constitutional Court of the Slovak Republic, 7 April 2022).

34 Case no 214/IV/2020 (Constitutional Court of the Republic of Kosovo, 5 May 2020); Case no 01/15 (Constitutional Court of the Republic of Kosovo, 6 April 2020).

35 Case no 672/2021 (Constitutional Court of Romania, 20 October 2021).

gazette, as required by the constitution.³⁶ The government subsequently reissued and duly published the decrees in the Official Gazette.

The Georgian³⁷ and Turkish³⁸ CCs considered the neglect of parliamentary supermajority requirements. The CC of Georgia held that the limitations imposed on labour rights were unconstitutional on formal grounds, as these amendments were made to the Public Health Act—an ordinary law—instead of the Labour Code of Georgia, which constitutes an organic law.

In Turkey, Parliament enacted a law in April 2020 to release several prisoners early to reduce overcrowding during the first wave of the COVID-19 pandemic. However, certain crimes were left out of the scope of this benefit, such as the most serious crimes, as well as terrorism and crimes committed against the constitutional order. Parliamentarians from an opposition parliamentary group challenged the validity of this statute on formal grounds, arguing that it should have been adopted as an amnesty rule rather than as a statute on the execution of penalties. As such, a three-fifths majority would have been necessary for its enactment, meaning the governing coalition could not have passed the bill without opposition support. The Turkish CC held that the impugned law concerned the execution of penalties rather than their scope. Therefore, it amended only the execution policy, which could be amended by a simple parliamentary majority.

To ensure that parliamentary operations could continue, parliamentarians were compelled to halt their operations or adopt digital solutions. However, CCS across the CEE region underlined the paramountcy of normal parliamentary operation, even during a declared public health emergency.³⁹ A general prohibition on in-person parliamentary sittings was declared an unjustified limitation by the SC of Estonia in December 2021.⁴⁰ Furthermore, during the main waves of the global pandemic, the Latvian Parliament adopted a law that explicitly banned non-vaccinated parliamentarians from attending in-person parliamentary meetings. A former deputy attacked this law before the CC, which was struck down. The CC argued that public health restrictions should not interfere with parliamentarians' rights to participate effectively in parliamentary work. It argued that maintaining public trust in Parliament should take precedence over the exceptional solidarity required by public health challenges.⁴¹

Raising additional arguments against emergency restrictions on parliamentary operations, the Croatian CC reviewed an amendment to the parliamentary Rules of

36 Case no U-I-445/20 (Constitutional Court of the Republic of Slovenia, 3 December 2020).

37 Case no 1/1/1505 (Constitutional Court of Georgia, 1 December 2021).

38 Case no 2020/41 (Constitutional Court of the Republic of Türkiye, 17 July 2020).

39 Boldizsár Szentgáli-Tóth, 'The Role of Constitutional Review to Determine the Emergency Operation of Parliaments' (2024) 4(2) *International Journal of Parliamentary Studies* 109, doi:10.1163/26668912-bja10090.

40 Case no 5-21-32 (Supreme Court of the Republic of Estonia, 23 December 2021).

41 Case no 2022-20-01 (Constitutional Court of the Republic of Latvia, 7 December 2023).

Procedure in such a way that allowed Parliament to continue its work with a temporarily reduced number of deputies to mitigate infection risks.⁴² Only the chairs of parliamentary groups could appear in person at the sittings; in addition, a specific distribution mechanism ensured that no more than a quarter of all representatives could be present in the session hall at any one time. In its reasoning, the Croatian CC stated that less restrictive alternatives, such as remote communication tools, were presumably available to maintain the operation of the legislative body during even the most serious epidemic waves. However, the Parliament failed to identify them.

On the contrary, the resolution of the Romanian Senate regarding the amendment of its standing orders to legalise online parliamentary sittings was also challenged before the CC, but the case was dismissed without examination on the merits.⁴³

In several countries, traditional in-person trials were replaced by online hearings, raising constitutional concerns.⁴⁴ CCs, like Belgium's, had previously shown reluctance to accept the constitutionality of such measures before the global pandemic.⁴⁵ Although significant CC rulings from other regions have addressed these important issues, the subject has not yet been presented before CCs in the CEE region.

In addition, courts must not overlook the safeguards of criminal proceedings during public health emergencies—a principle reinforced by the Serbian CC.⁴⁶ Several initiatives challenged the constitutionality of a Serbian ministerial decree establishing a misdemeanour for those violating the quarantine regime during the public health emergency. Claimants argued that the executive may restrict fundamental rights only with explicit constitutional authorisation, which was absent in this case. Moreover, criminal proceedings had already been initiated against those violating the quarantine, and the concurring application of misdemeanours conflicted with the prohibition of double punishment, as enshrined by the Serbian Constitution and the European Convention on Human Rights. Consequently, the CC accepted the arguments of the claimants and abrogated the impugned governmental measure.

The pandemic also impacted municipalities' legal position, and the Constitution may require the central government to ensure that these entities continue to operate effectively during these extraordinary circumstances. For instance, the Hungarian CC heard a dispute regarding the funding given to local councils during the public health emergency.⁴⁷ The municipality of Göd, a smaller village close to Budapest, challenged the

42 Case no U-I-4208/2020 (Constitutional Court of the Republic of Croatia, 20 October 2020).

43 Case no 156/2020 (Constitutional Court of Romania, 6 May 2020).

44 Nora Chronowski, Boldizsár Szentgáli-Tóth and Bettina Bor, 'Resilience of the Judicial System in the Post-Covid Period: The Constitutionality of Virtual Court Hearings in the Light of the Covid-19 Pandemic' (2024) 64(3) Hungarian Journal of Legal Studies 429, doi:10.1556/2052.2023.00468.

45 Case no 76/2018 (Constitutional Court of Belgium, 21 June 2018).

46 Case no IUo-45/2020 (Constitutional Court of the Republic of Serbia, 17 September 2020).

47 Case no IV/3261/2021 (Constitutional Court of Hungary, 2 February 2021).

governmental decision issued during the public health emergency and maintained even after the COVID-related measures were lifted. The government established a specific economic zone within the territory of Göd and transferred the right to property of the municipal lands in that particular field to the regional self-government. The municipality argued that this measure infringed its right to property and lacked the right to a sufficient preparatory period. The CC held that the municipality should have been aware of the limits of its right to property over public land, and that the government did not have the authority—during the public health emergency—to transfer the right to property of particular lands to the regional self-governments. Nevertheless, such measures must not undermine the fulfilment of essential local public tasks of the municipality. If such a measure causes significant financial loss that impedes the municipality's capacity to perform its core duties, due compensation should be provided.

Another point of contention involved a series of rulings by the Croatian CC addressing whether planned elections should proceed during a public health emergency or whether postponement would be appropriate.⁴⁸ The issue of how to manage such temporary periods was also subject to scrutiny.⁴⁹

3.2. Restrictions on Fundamental Rights Throughout the Pandemic

In addition to the constitutional implications of the measures described, another major category of COVID-19-related constitutional cases concerned the most severe restrictions placed on fundamental rights during the public health emergency. The most vulnerable of these rights—many of which are protected by the Universal Declaration of Human Rights—are outlined below. This list is by no means exhaustive, though, as public health emergencies enabled an infinite number of state interventions around the CEE region.

CCS specifically examined whether vaccination laws—required for the general public or particular professions—were compatible with the right to human dignity during immunisation campaigns.⁵⁰ Challenges were raised concerning the forced vaccination of firefighters,⁵¹ teachers, and students in Greece;⁵² the operation of catering services in Bosnia-Herzegovina;⁵³ public personnel in Slovenia;⁵⁴ and public health workers in Lithuania.⁵⁵

48 Case no U-VII-3311/2020 (Constitutional Court of the Republic of Croatia, 16 July 2020); Case no U-I-1925/2020 (Constitutional Court of the Republic of Croatia, 14 September 2020).

49 Todd Landman and Luca Di Gennaro Splendore, 'Pandemic Democracy: Elections and Covid-19' (2020) 23(7-8) *Journal of Risk Research* 1060, doi:10.1080/13669877.2020.1765003.

50 For instance: Case no IV/4110/2021 (Constitutional Court of Hungary, 10 March 2022).

51 Case no 133/2021 (Council of State of Hellenic Republic, 29 June 2021).

52 Case nos 1758-1759/2021 (Council of State of Greece, 26 October 2021).

53 Case no AP-3932-21 (Constitutional Court of Bosnia and Herzegovina, 23 February 2022).

54 Case no U-I-210/21 (Constitutional Court of the Republic Slovenia, 29 November 2021).

55 Case no KT79-N8/2022 (Constitutional Court of the Republic of Lithuania, 21 June 2022).

The Lithuanian CC upheld the impugned mandatory vaccination policy's validity and acknowledged that, due to exceptional circumstances, governmental decrees could impose severe restrictions on individual rights. Besides this, the Greek Council of State confirmed the constitutionality of the vaccination mandate imposed on firefighters, noting that non-compliance merely resulted in reassignment to another department within disaster management, rather than dismissal.

By contrast, the Slovenian CC upheld the rationality of the vaccine requirement but invalidated the challenged provision as it was issued by governmental decree rather than law. Additionally, two cantonal authorities' vaccination requirements for catering services were overruled by the CC of Bosnia and Herzegovina because they exceeded their constitutional authority. Even in cases of public health crisis, such restrictive measures should be based on legislation rather than cantonal orders.

The unequal treatment of vaccinated and non-vaccinated people has sparked concerns about the discriminatory nature of pandemic-related policies.^{56,57} A key question was whether the distinction between "protected" and "non-protected" was arbitrary, and whether the limitations placed on the unvaccinated go beyond what is considered an acceptable degree of differential treatment.

In this regard, the CC of North Macedonia heard a case concerning the limitation of freedom of movement for individuals who were neither vaccinated nor had recently recovered from COVID-19. Access to various public spaces was permitted when one could show a vaccination certificate or a recovery certificate from COVID-19 within 45 days. The claimants considered that this amounted to an unnecessary limitation of freedom of movement. The CC said that, in light of the extraordinary public health concerns, the state intervention was reasonable; the law did not impose a direct vaccination duty on the citizens, and the decision was left for individuals to make regarding vaccination. Therefore, the implemented measure was deemed constitutional.

The Hungarian CC affirmed the legitimacy of an amendment to the Criminal Code in a case pertaining to freedom of expression. The amendment penalised individuals who disseminated misleading information that could undermine the effectiveness of collective efforts to combat the pandemic.⁵⁸ Parliament had revised the Criminal Code to introduce imprisonment for those who spread knowingly false information during a state of emergency, particularly if such actions could undermine the efficiency of the protective

56 Case no HCJ 5322/21 (Supreme Court of the State of Israel, 14 September 2021); Case no Y.6p.101/2021 (Constitutional Court of the Republic of North Macedonia, 16 February 2022); Case no U-I-180/21 (Constitutional Court of the Republic of Slovenia, 14 April 2022); Case no 5-22-4 (Supreme Court of the Republic of Estonia, 31 October 2022).

57 Case no Pl. ÚS 106/20 (Constitutional Court of the Czech Republic, 9 February 2021); Case no IV/03010/2021 (Constitutional Court of Hungary, 22 December 2021); Case no KT83-N9/2023 (Constitutional Court of the Republic of Lithuania, 4 October 2023).

58 Case no IV/00699/2020 (Constitutional Court of Hungary, 8 July 2020).

measures or the credibility of the public authorities. The claimants contested the constitutionality of the amendment, arguing that it lacked foreseeability, granted authorities excessive discretion to prosecute, and created a chilling effect on free speech. The CC found that the amendment employed legal terminology already present in the Hungarian CC, enabling a coherent standard for its application. The court ruled the amendment as constitutional, stating the wording was sufficiently precise and that the level of state intervention was reasonable in an emergency. However, it emphasised that its application in practice should be scrutinised to avoid unnecessary limitations on freedom of expression. Similar concerns have surfaced in other countries regarding pandemic-related limitations to freedom of expression.⁵⁹

During the pandemic, several countries prohibited or severely restricted political assemblies, and many parties challenged the validity of these directives. The Albanian,⁶⁰ Slovenian,⁶¹ and Hungarian⁶² CCs all examined broad prohibitions on assemblies. The Hungarian and Albanian CCs found that a complete ban on public assemblies was reasonable under the exceptional circumstances. In contrast, the Slovenian CC ruled that a complete ban on public protests or—the limitation of participants to 10 individuals during the first months of 2021 was unconstitutional. The court considered that these measures were unnecessary, as public health could have been protected through less intrusive measures such as the distribution of masks and social distancing.

In the framework of religiously justified exemptions under public health regulations, the Croatian⁶³ and Czech⁶⁴ CCs evaluated restrictions on religious ceremonies. The Czech CC held that limiting participation to 100 persons and prohibiting singing at these ceremonies were constitutional during the public health emergency. The Croatian CC reached similar conclusions.

Individuals who were under quarantine faced difficulties in exercising their right to vote during elections.⁶⁵ In addition, foreign-resident citizens may have been partially or entirely disenfranchised due to policies restricting their freedom of movement.⁶⁶ The Croatian CC delineated the responsibilities of the State to implement unique voting procedures in light

59 Boldizsár Szentgáli-Tóth and others, 'Freedom of Expression and Misinformation Laws During the Covid-19 Pandemic and the European Court of Human Rights' (2023) 21(1) *Lex Localis: Journal of Local Self-Government* 215, doi:10.4335/21.1.213-236(2023); Case no 2018/6707 (Constitutional Court of the Republic of Türkiye, 26 May 2022).

60 Case no 11/2021 (Constitutional Court of the Republic of Albania, 9 March 2021).

61 Case no U-I-50/21 (Constitutional Court of the Republic of Slovenia, 17 June 2021).

62 Case no IV/00839/2020 (Constitutional Court of Hungary, 13 July 2021).

63 Case no U-II-5709/2020 (Constitutional Court of the Republic of Croatia, 23 February 2021).

64 Case no Pl. ÚS 102/20 (Constitutional Court of the Czech Republic, 8 December 2020).

65 For more detailed analyses of the relevant issues please see: Richard L Hasen, 'Three Pathologies of American Voting Rights Illuminated by the Covid-19 Pandemic, and How to Treat and Cure Them' (2020) 19(3) *Election Law Journal: Rules, Politics, and Policy* 288, doi:10.1089/elj.2020.0646; Florczak-Wator, Szentgáli-Tóth and Halász (n 1) 309.

66 Case no AP 542/21 (Constitutional Court of Bosnia and Herzegovina, 7 April 2021).

of the public health emergency for quarantined persons,⁶⁷ while the CC of Poland upheld the constitutionality of postal voting as a primary polling method during the same period.⁶⁸ This Polish decision was highly criticised, as most constitutional judges involved were former politicians. Previously, a ruling of the Warsaw Provincial Administrative Court held that the extensive use of postal voting for the purpose of the presidential elections was unconstitutional, even if public health concerns justified extraordinary solutions.

The CCs of Croatia,⁶⁹ Hungary,⁷⁰ Latvia,⁷¹ Lithuania,⁷² and Slovenia⁷³ provided examples of how to balance the legitimate interests of private entrepreneurs against restrictions on economic activity. These courts examined potential infringements of property and business rights brought on by the urgent need for extraordinary measures. The rulings of the Baltic countries, in particular, focused on important legal nuances. The CC of Lithuania held that the prohibition of beauty services and the postponement of all dental treatments—except for very urgent cases—during the public health emergency complied with the Constitution.

By contrast, the CC of Latvia merged three cases involving retail closures in the spring of 2021. With distinct external access for customers, the first applicant operated a business selling domestic items within a large supermarket. The other two candidates leased commercial space and owned big-box stores. Under the contested rule, all supermarkets larger than 7,000 square meters were to close, except those selling essential goods. Both the claimants' rights to equality and property were allegedly violated. The CC held that smaller retailers located inside bigger supermarkets—provided they had isolated exterior access—were in the same predicament as smaller stores outside larger supermarkets. Therefore, the regulation violated the right to equality. However, the prohibition on big-box stores was found to be lawful and reasonable, and thus, it was sustained.

Strict quarantine rules, travel bans, and border closures severely restricted individuals' freedom of movement, leading to flagrant violations of their rights. The CCs of Slovenia,⁷⁴ Ukraine,⁷⁵ Lithuania,⁷⁶ Georgia,⁷⁷ and Bosnia-Herzegovina⁷⁸ and the SC of Cyprus⁷⁹ and

67 Case no I NSW 304/20 (Supreme Court of the Republic of Poland, 24 July 2020).

68 Case no K-27-23 (Constitutional Court of the Republic of Poland, 21 May 2024).

69 Case no 6087/2020 (Constitutional Court of the Republic of Croatia, 23 February 2021).

70 Case no IV/02062/2022 (Constitutional Court of Hungary, 25 October 2023).

71 Case no 2021-37-03 (Constitutional Court of the Republic of Latvia, 10 March 2022).

72 Case no KT8-N1/2023 (Constitutional Court of the Republic of Lithuania, 24 January 2023).

73 Case no U-I-39/23 (Constitutional Court of the Republic of Slovenia, 12 September 2024).

74 Case no U-I-83/20 (Constitutional Court of the Republic of Slovenia, 27 August 2020); Case no U-I-178/22 (Constitutional Court of the Republic of Slovenia, 16 March 2023).

75 Case no 92-u/2020 (Constitutional Court of Ukraine, 10 December 2020); Hryhorii Berchenko, Andriy Maryniv and Serhii Fedchyshyn, 'Some Issues of Constitutional Justice in Ukraine' (2021) 4(2) Access to Justice in Eastern Europe 130-2, doi:10.33327/AJEE-18-4.2-n000064.

76 Case no KT116-A-S108/2020 (Constitutional Court of the Republic of Lithuania, 2 July 2020).

77 Case no N1/5/1499 (Constitutional Court of Georgia, 16 December 2021).

78 Case no 1217/20 (Constitutional Court of Bosnia and Herzegovina, 20 April 2020); Case no 3683/20 (Constitutional Court of Bosnia and Herzegovina, 22 December 2020).

79 Case no CY:AD:2022:D365 (Supreme Court of the Republic of Cyprus, 26 September 2022).

Estonia⁸⁰ heard cases involving severe limitations on the right to free movement. The outcomes of these controversies suggest that CCs in the CEE region showed significant deference towards movement restrictions during the public health emergency. The notable exception might be found in Cyprus, where a Greek citizen submitted a successful request for remedy.

The claimant requested a Cypriot district court to revoke a European arrest warrant against him after being accused of several offences by Cypriot police. The Greek national demonstrated his desire to work with the Cypriot authorities by offering to testify virtually, as he was apparently unable to visit Cyprus due to public health constraints. The Nicosia District Court issued the European arrest warrant in spite of this offer. However, the SC recognised the applicant's argument, deemed it plausible, and directed the district court to review the warrant.

In many countries, government regulations tightly controlled the movement of citizens, necessitating the handling and storage of vast amounts of personal data.⁸¹ In Slovakia, parliamentarians filed a petition with the CC of Slovakia, challenging a statute granting the public health authority access to sensitive personal data of customers gathered by telecommunication service providers. This data included both anonymised information for statistical purposes and identifiable data for alerting individuals about required public health actions and safeguarding their health. The CC emphasised the importance of safeguards in protecting personal data, including obligations to delete data after a specific period of time, clear definitions of the data's purpose, supervision by a court or other appropriate body, and notification of the individuals involved. Although the court acknowledged that it was reasonable for authorities to gather data for special public health measures, it ultimately repealed the provision requiring telecommunications service providers to grant such access upon request.⁸²

Lastly, the CC of Montenegro developed norms for protecting privacy—a right that faced unprecedented intrusion during the pandemic.⁸³ One notable case concerned the decision of the Coordinating Body for Contagious Diseases to publish online the names and addresses of people who were ordered to be in self-isolation. This included both foreigners entering Montenegro and Montenegrin nationals targeted by this measure. As medical data falls within the category of personal data requiring heightened protection, the CC contended that this policy did not properly balance the right to privacy with the preservation of public health. The decision was subsequently revoked due to its

80 Case no 5-20-10 (Supreme Court of the Republic of Estonia, 20 May 2021).

81 For further assessment of data protection issues during the pandemic please see: Andrej Zwitter and Oskar Josef Gstrein, 'Big Data, Privacy and Covid-19: Learning from Humanitarian Expertise in Data Protection' (2020) 5(1) *Journal of International Humanitarian Action* 4, doi:10.1186/s41018-020-00072-6.

82 Case no PL. ÚS 13/2020 (Constitutional Court of the Slovak Republic, 13 May 2020).

83 Case no U-II 22/20 (Constitutional Court of the Republic of Montenegro, 23 July 2020).

unconstitutionality. The government pledged to compensate people whose residences and identities had already been made public.

The author acknowledges that the proposed taxonomy does not encompass all pertinent topics and that certain situations may be more appropriately addressed within additional thematic sections. Nevertheless, this classification may help structure the gathered case law and comprehend the primary paths of constitutional review in times of public health crises in the CEE region.

4 DISCUSSIONS

The cases described under sections 3.1-3.2 underline the special role of constitutional review in the CEE region during public health emergencies. It should be stressed that this case law focuses on public health emergencies rather than the special legal order itself, since several countries in the CEE region ordered far-reaching extraordinary measures without formally declaring a state of emergency.

First, it may be concluded that these cases reaffirm fundamental principles at the core of constitutionalism, the rule of law, and democracy—principles rarely discussed to such an extent, even outside emergencies.⁸⁴ CCs in the CEE region have relied on constitutional review as an important constitutional tool for supervising the legality of introducing a special legal order and formulating the separation of powers among the constitutional actors during public health emergencies. Apart from this, the investigated case law also underlines the special importance of constitutional review in determining the standards applicable for exceptional fundamental rights restrictions.⁸⁵

The jurisprudence examined demonstrates a clear distinction between the two main alternatives adopted by CCs in response to the unprecedented constitutional implications. Some rulings applied general constitutional standards to the exceptional circumstances, while others advocated for the elaboration of special constitutional requirements tailored to the review of emergency measures.

This ambiguity has shaped constitutional practice in the CEE region during the recent public health emergency and highlighted the need for further noteworthy clarifications. Questions remained for further constitutional analysis regarding the essential components of the rule of law, separation of powers, constitutional democracy, and

84 Ittai Bar-Siman-Tov, 'Covid-19 Meets Politics: The Novel Coronavirus as a Novel Challenge for Legislatures' (2020) 8(1-2) *The Theory and Practice of Legislation* 11-3, doi:10.1080/20508840.2020.1800250.

85 Jessika Eichler and Sumit Sonkar, 'Challenging Absolute Executive Powers in Times of Corona: Re-Examining Constitutional Courts and the Collective Right to Public Contestation as Instruments of Institutional Control' (2021) 6(1) *Review of Economics and Political Science* 4, doi:10.1108/REPS-08-2020-0132.

fundamental rights protection, including how necessity and proportionality assessments and balancing mechanisms should function under extraordinary measures. On the contrary, where derogations from ordinary constitutional norms are considered, CCs in the CEE region have failed to establish exact tools of interpretation outlining the acceptable level of this derogation.

While general constitutional tests such as necessity and proportionality may serve as initial reference points for evaluating constitutional disputes arising during public health emergencies, this does not provide a reasonable ground for differentiation. The extensive public health impact on constitutional actors' daily operations, the complex involvement, and the far-reaching, systemic restrictions on paramount fundamental rights require the clarification and development of public health emergency standards.

Despite certain attempts in the CEE region, no Constitutional Court succeeded in developing an alternative interpretation of key constitutional principles—such as the separation of powers, legal security, or the tests of necessity and proportionality—applicable during public health emergencies. This absence of predictability regarding the constitutional reflections around the CEE region led to controversial outcomes of constitutional analyses, such as the Slovenian CC enforcing the same formal demands on emergency regulations as on ordinary ones. While the Lithuanian CC acknowledged the need for urgency as a reasonable argument when an emergency governmental decree imposed severe restrictions on fundamental rights.

Turning to the main conclusions, the emergency application of general constitutional standards highlights an urgent need for clarification. CCs in the CEE region should clearly identify the principles and tests that remain non-derogable, even if declared during a public health emergency.⁸⁶ Similar to other constitutional controversies linked to exceptional legal orders, CCs should consider necessity and proportionality during public health emergencies; however, with different highlights than during other forms of emergencies.⁸⁷

On the one hand, additional justification may be necessary due to extraordinary interference with the operation of constitutional actors. On the other hand, the intimate connection between emergency measures and the severe restrictions on the fundamental rights of individuals should be duly considered.⁸⁸ Therefore, constitutional review should

86 Monika Florczak-Wątor and others, 'States of Emergency and Fundamental Rights in Books and in Action: The Visegrad Countries and the Covid-19 Pandemic' in Monika Florczak-Wątor and others (eds), *States of Emergency and Human Rights Protection: The Theory and Practice of the Visegrad Countries* (Routledge 2024) 14, doi:10.4324/9781032637815-1.

87 Pavel Ondřejek and Filip Horák, 'Proportionality During Times of Crisis: Precautionary Application of Proportionality Analysis in the Judicial Review of Emergency Measures' (2024) 20(1) *European Constitutional Law Review* 7-12, doi:10.1017/S1574019624000051.

88 Joelle Grogan, 'Covid-19, The Rule of Law and Democracy: Analysis of Legal Responses to a Global Health Crisis' (2022) 14(2-3) *Hague Journal of Rule of Law* 359, doi:10.1007/s40803-022-00168-8.

aim to delineate the scope of discretion available to constitutional actors in implementing public health restrictions imposed on individuals with constitutional means.

Many of the most pertinent constitutional rulings resonate with the scholarship of Hans Kelsen,⁸⁹ Hermann Heller,⁹⁰ and Giorgio Agamben,⁹¹ emphasising that the essential components of democracy and the rule of law must not be overruled—even in the face of public health concerns. This position implies that any adaptations to parliamentary operation should be limited by constitutional standards. However, as the controversial constitutional practice in the CEE region experienced during the global pandemic demonstrates, a clear consensus on these standards has yet to emerge.

Regarding the second point, this contribution proposes some points of reference that might orient CCs to assess the constitutionality of emergency operations. Three aspects of balancing should be crystallised for the sake of constructing a well-founded review mechanism tailored to emergencies: first, which constitutional actor has the competence to order far-reaching emergency measures; second, how far such state interventions could go; and third, how competing rights and interests of concerned stakeholders should be compensated for the legitimate harm caused by the exceptional state interference. While the CCs in the CEE region have made undeniable steps toward articulating such a system of criteria for public health measures, more questions have been left open than closed by these attempts.

A third main conclusion highlights the importance of timeliness in constitutional adjudication. Given the scale and urgency of the constitutional challenges posed by public health emergencies, CCs—as primary guardians of constitutional review—must deliver promptly. This requirement is grounded in two considerations. First, the frequent introduction of virulent measures with very short notice cannot be reviewed effectively unless CCs deliver their rulings within a short deadline. Second, ConstCovid shows that despite the low success rate of emergency-related constitutional submissions around the CEE region, several of these countries are among those on a global scale that produced the most relevant rulings focusing on the implications of the public health emergency.⁹² Specifically, out of approximately 1,000 constitutional rulings from more than a hundred countries included in the ConstCovid database, the CEE region accounts for 173 decisions, of which only 41 claims were clearly upheld. Based on this, one can argue that although the CEE region has a relatively strong record of emergency constitutional review from a comparative perspective, the substantial analysis of the judgments shows the limited efficiency of this constitutional review. In light of these findings, CEE countries might consider implementing a special constitutional remedy that allows for the expedited review of emergency measures.

89 Hans Kelsen, *Reine Rechtslehre* (Mohr Siebeck, Verlag Österreich 2017) 38-9.

90 Hermann Heller, *Gesammelte Schriften*, vol 2 (Sijthoff 1971) 249-78.

91 Giorgio Agamben, *State of Exception* (University of Chicago Press 2005) 36.

92 Arianna Vidaschi and Chiara Graziani, 'New Dynamics of the "Post-Covid-19 Era": A Legal Conundrum' (2023) 24(9) German Law Journal 1632-7, doi:10.1017/glj.2023.116.

These orientations might be worthy of consideration not only in light of the recent public health emergencies but also regarding the cumulative contemporary crises, including the climate, economic, demographic, and military conflicts, assuming the growing importance of emergency solutions⁹³ that should affect constitutionalism around the CEE region as well. The global pandemic brought to the forefront emergency solutions that had not been previously known to the public, such as virtual parliamentary sittings, remote court hearings, heightened data protection and privacy concerns, and the spread of disinformation caused by the increased online presence during the public health emergency. Due to technological development and social changes, such tendencies are likely to persist beyond the pandemic regardless of the public health circumstances.⁹⁴

Such examples illustrate that the constitutional implications of public health emergency issues will endure, even as the acute phase of the pandemic has passed. Although most of the relevant case law emerged during or shortly after the pandemic, the constitutionality of some public health emergency measures is likely to be further assessed in the forthcoming years. The present contribution seeks to serve as a starting point for further scientific discussion on these pressing constitutional issues in the CEE region.

5 CONCLUSIONS

This research shows that, despite a number of meaningful, relevant decisions—as well as a strong comparative record on a global scale—constitutional remedies rarely provided effective redress for claimants in the CEE region. Many cases addressed either the constitutionality of certain limitations on fundamental rights or organisational issues and aspects of the separation of powers. Even so, the CCs/SCs in the CEE region played an important role during the period of public health emergency. Nevertheless, the substantial uncertainty and lack of predictability relativised the efficiency of this constitutional review.

This was mainly due to the inconsistent manner in which CCs attempted to reconcile existing constitutional standards with the specific challenges posed by the public health crisis, as well as the uneven development of new frameworks of interpretation tailored to the exceptional situation. Moreover, the lack of a special constitutional remedy to be submitted against emergency measures with very short notice further weakened the efficacy of constitutional oversight. With the help of the ConstCovid database, this article aims to highlight these systemic inconsistencies and formulate some policy recommendations for CCS/SCS in the CEE region to tackle these constitutional challenges.

93 Yuriy Prytyka and others, 'Legal Challenges for Ukraine under Martial Law: Protection of Civil, Property and Labour Rights, Right to a Fair Trial, and Enforcement of Decisions' (2022) 5(3) *Access to Justice in Eastern Europe* 219-20, doi:10.33327/AJEE-18-5.2-n000329.

94 Caryn Devins and others, 'The Law and Big Data' (2017) 27(2) *Cornell Journal of Law and Public Policy* 357.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

КОНСТИТУЦІЙНИЙ КОНТРОЛЬ У КРАЇНАХ ЦЕНТРАЛЬНОЇ ТА СХІДНОЇ ЄВРОПИ ПІД ЧАС НАДЗВИЧАЙНИХ СИТУАЦІЙ У СФЕРІ ГРОМАДСЬКОГО ЗДОРОВ'Я: АНАЛІЗ НА ОСНОВІ БАЗИ ДАНИХ «CONSTCOVID»

Болдіжар Сентгали-Тот

АНОТАЦІЯ

Вступ. Незважаючи на значні наукові дослідження щодо умов обмеження основних прав та впливу на поділ влади у сфері охорони здоров'я за надзвичайних ситуацій, у літературі ще не можна повною мірою покладатися на систематизацію нещодавно поширеної практики конституційних судів, особливо в регіоні Центральної та Східної Європи (ЦСЕ). Протягом останніх років конституційні суди (або верховні суди з повноваженнями конституційного контролю) розглядали багато аспектів пандемії COVID-19. Ретельне вивчення цього прецедентного права допоможе зробити теоретичний і практичний внесок у правову базу, що регулює надзвичайні ситуації у сфері охорони здоров'я, обмеження основних прав, еволюцію поділу влади та переосмислення конституційних наслідків глобальної пандемії. Проте науковці неодноразово відзначали труднощі у доступі до відповідних матеріалів, що перешкоджає подальшим дослідженням у цій сфері.

Методи. Проект «ConstCovid» має на меті усунути цю прогалину, пропонуючи систематичний доступ до глобальної конституційної судової практики, пов'язаної з COVID-19, у такий спосіб розширюючи потенціал для порівняльних досліджень. Кілька конкретних прикладів із регіону Центральної та Східної Європи будуть використані для демонстрації регіональної корисності бази даних «ConstCovid». На основі цієї судової практики будуть визначені регіональні тенденції та недоліки конституційної практики під час надзвичайних ситуацій у сфері громадського здоров'я. Використання бази даних «ConstCovid» у дослідженні сприяє ширшому розумінню конституційних наслідків пандемії COVID-19 та допомагає з'ясувати її потенційні наслідки для управління майбутніми надзвичайними ситуаціями у сфері громадського здоров'я в Центральній та Східній Європі.

Результати та висновки. У цьому матеріалі зроблено деякі висновки з проаналізованого конституційного прецедентного права, що впливає з «ConstCovid», які можуть бути корисними для підготовки до потенційних небажаних майбутніх надзвичайних ситуацій у сфері громадського здоров'я. По-перше, тут було розглянуто напрямки судової практики, які застосовували у загальних конституційних стандартах щодо надзвичайних ситуацій. По-друге, дослідження ілюструє, що ці способи аргументації поєднувалися непослідовно з розробкою нових меж конституційного тлумачення, що призвело до значної невизначеності в усьому регіоні. По-третє, аналіз підкреслює відсутність конституційних засобів правового захисту, спеціально створених для вирішення проблем громадського здоров'я.

Ключові слова: конституційний контроль, надзвичайна ситуація, Центральна та Східна Європа, правова база даних, доступ до конституційних судів, «ConstCovid».