

**EUROPEAN COURT OF HUMAN RIGHTS**  
**CRIMINAL LAW GROUP**

*in cooperation with Liverpool John Moores University, Department of Legal Studies of the University of Bologna,  
Zagreb Faculty of Law and 'Beyond Detention' Interest Group*

Webinar Training Series

**Webinar II: Detention during Pandemic**

Thursday 20.05.2021

4.00 pm (Rome time)

**The full programme of the event and registration are available on the [Event page](#).**

**Programme**

*Chair*

- [Fionnuala Ni Aolain](#) - UN Special Rapporteur on Counter-Terrorism and Human Rights.  
Professor at the University of Minnesota and at the Queen's University of Belfast

*Speakers*

- [Triestino Mariniello](#) - Reader in Law at Liverpool John Moores University
- [Roberto Chenal](#) - Lawyer at the European Court of Human Rights

*Discussant*

- [Liora Lazarus](#) - Professor in Law at University of British Columbia

**Description**

This event is the third in the webinar training series 'Punishment, Detention, Crisis: Academic Judicial Dialogues' (see below for further details, next appointments and previous events).

The purpose of the seminar is to reflect on the impact of the coronavirus pandemic and the attendant state of emergency declared by some States on a particular class of vulnerable individuals, namely, detainees. Deprivation of liberty has implied during the pandemic numerous restrictions on detainees' fundamental rights other than liberty, including their right to health and access to courts. In this context, it should be recalled that prisons are overcrowded in over 124 countries, 23 of which containing prisons at over 200% capacity (Penal Reform International). Prisons' severe congestion makes it often impossible to maintain any social distancing. Other shortcomings include little ventilation, poor nutrition, hygiene and sanitation, low level of well-trained staff, inability to quarantine, and medicine shortages.

The Court has repeatedly stated that prisoners in general continue to enjoy all the fundamental rights and freedoms guaranteed under the Convention save for the right to liberty. In the light of the Court's case law, speakers will explore, *inter alia*, human rights standards on the conditions of detention and treatment of prisoners during a pandemic; the compatibility with the Convention of domestic measures to contain the spread of the disease in detention centres; the scope of States' positive obligations (*Osman* test) in the context of a pandemic and, in this regard, the role of fundamental rights as either limits on the abuse of power or substantive criteria that must be complied with to justify the exercise of power.

Relevant cases:

[Hirst v. the United Kingdom \(no. 2\) \[GC\]](#)

[Blokhin v. Russia \[GC\]](#)

[Kudla v. Poland \[GC\]](#)  
[Muršić v. Croatia](#)  
[Cătălin Eugen Micu v. Romania](#)  
[Martzaklis and Others v. Greece](#)

This event is part of:

**Webinar Training Series – “Punishment, Detention, Crisis: Academic Judicial Dialogues”**

### **Next Events**

#### **Webinar IV – Police Power and National Emergency**

Thursday, 24 June, 4 pm

*Chair*

- Darian Pavli

*Speakers*

- Julie Alix

- Latif Huseynov

*Discussant*

- Manfred Nowak

### **Previous Events**

**Webinar I** – ‘Human Punishment: Life Imprisonment and the Right to Hope’, Monday, 22 March (Robert Spano, Ksenija Turković, Dirk van Zyl Smit, Bernard Harcourt, Paolo Lobba)

**Webinar II** – ‘Border Crossing and the Right to Liberty’, Thursday, 22 April (Ksenija Turković, Martin Mits, Cathryn Costello, Mariagiulia Giuffré, Triestino Mariniello)

The video recorded of all the events may be viewed [here](#).

### **Description of the Webinar Training Series**

The criminal law today is pushing its limits. Breaking through new frontiers, it extends beyond its traditional province, affecting increasingly more facets of individual liberty. As the criminal law flourishes in times of crisis, novel far-reaching provisions are incorporated into our legal systems. Emergency legislation has thus been normalised.

In this context, various questions arise as to the nature, aims and scope of punishment and detention. What makes punishment ‘human’ or ‘just’? When does a restrictive measure qualify as deprivation of liberty? To what extent, if any, does a pandemic impose additional limits to the resort to detention? Which restraints must remain in place in time of emergency to rein in the broad discretionary powers vested in the police?

This series of webinar offers a forum that brings together leading scholars, judges and practitioners to advance vibrant and constructive conversations between the Court and the academia on the tensions between deprivation of liberty and human rights standards. While the webinars are first of all training events for the Court’s staff, they warmly invite the active participation of the general public. The proposed audience includes scholars, students, and human rights law practitioners.

#### Webinar Training Series

*Scientific Director:* Judge Ksenija Turković

*Organizers:* Paolo Lobba and Triestino Mariniello