Subject matter of the application

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the four-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E, F and G). It is not acceptable to leave these sections blank or simply to refer to attached sheets. See Rule 47 § 2 and the Practice Direction on the Institution of proceedings as well as the "Notes for filling in the application form".

E. Statement of the facts

58.
All applicants are Italian healthcare workers (e.g. doctors, nurses, pharmacists etc.). This has been proven during the proceeding before the Tribunal of Rome. The plaintiff and the intervening parties filed the documents proving their jobs as healthcare workers. Such documents have not been challenged by the defendants and the Tribunal accepted them. Owing to the bulk of the documents (between 5,000 and 10,000 sheets) we do not enclose them with this first filing of the application. However, should the Court deem these documents as useful or necessary they will be filed if requested. All documents are at the Court's disposal as pdf-files.
On April 1st, 2021, the Italian government issued a law-decree (n. 44/2021) that obliged each professional healthcare worker and each worker who exercises a profession related to healthcare to undergo a mandatory Covid-19 vaccination (Folder 5, doc. 26, 27). Such vaccination is described in the law-decree as aimed at preventing the diffusion of the SARS-CoV-2 virus. The vaccinations authorized in Italy, however, are described as aimed at the prevention of the Covid-19 disease. We enclose hereby a copy of the law-decree 44/2021, both in the original text of April 1st, 2021, and in the text which is valid as of the date of the filing [Folder 5, doc. 26, 27]. Further we enclose the technical annexes in their latest version as published on https://ec.europa.eu/health/documents/community-register of all five vaccines authorized in Italy where the producers clearly state that the aim of the vaccines is to prevent the Covid-19 disease and not the spread of the virus [Folder 5, documents 28-52].
According to the procedure described in the first version of the law-decree 44/2021, all healthcare workers would have received a letter by the competent health authorities, regardless of their employment by some company or entity (such as nurses or doctors working for public or private hospitals) or their activity as self-employed independent workers (such as private practitioners). By means of such letter the healthcare authority would ask the individual healthcare worker to state his/her situation regarding the vaccination (already performed, appointment taken for a certain date or impossibility according to medical reasons). The law does not recognize any objection of conscience but merely exempts from vaccination those healthcare workers who can demonstrate by a medical certificate that the vaccination would pose a serious threat to their health if performed. All healthcare workers who resulted as unvaccinated and who could not allege medical reasons militating against vaccination, were obliged to fix an appointment with a vaccine-hub and undergo the treatment. For those who did not, the competent authority would issue a deed of ascertainment that the healthcare worker in question did not comply with the vaccine mandate and inform the employers and professional associations accordingly. Both the employers and professional associations were consequently required by the law to issue an order of suspension of the healthcare worker who resulted as non-compliant and this in turn would lead to very harsh consequences: - all employed healthcare workers without vaccines are suspended from their jobs, although they cannot be fired, and are not entitled to receive any payment; they simply have the right to resume their jobs after the vaccine mandate will have expired (at present the final date is set for June 15th 2022); - the self-employed healthcare workers (such as independent doctors, psychologists, biologists etc.) are obliged to refrain from working due to their suspension form the professional register kept by the professional associations. Any healthcare professional who works without being duly listed in a professional register commits a criminal offence punished according to art. 348 of the penal code: the punishment consists of six months to three years prison, the confiscation of the professional equipment used to commit the crime and the further prohibition to exercise the profession for a time ranging between one and three years. In other words, all those who did not accept to get vaccinated against Covid-19 were ousted from their jobs and from the possibility to earn a living. It may be worth adding that the same treatment devised for the healthcare professionals has been extended to school and university teachers, police forces and the military, all workers born on June 15th, 1972, or before [see Folder 5, doc. 27 current version of the Law-decree 44/2021, art. 4 ter and quater].
On May 27th, 2021, the first of the applicants, the pharmacy employee Mrs. Paola Gatti, filed a request for injunctive relief with the Tribunal of Rome. The claim may be summarized as follows. The plaintiff explained that the obligation to undergo a vaccination against Covid-19 was a violation of her human rights as set forth in the Italian Constitution, the European Charter of Fundamental Rights, a number of international covenants such as the Universal Declaration of Human Rights and, as far as the present application is concerned, the rights to life (art. 2), freedom (art. 5), privacy (art. 8), freedom of thought, conscience and religion (art. 9), and non-discrimination (art. 14 and Protocol no. 12) of the European Convention of Human Rights.The plaintiff sought injunctive relief by means of an order against the Italian government, the Italian medicines agency AIFA, and the Ministry of Health to refrain from obliging the plaintiff to undergo the vaccination as a condition to keep her job [see Folder 1, doc. 1 Claim filed by Mrs. Paola Gatti and the Exhibits hereto doc. 2].

Statement of the facts (continued)

59.
During the proceeding a number of other applicants filed more briefs of intervention that had the same content and sought the same relief as the first claim [see Folder 3, doc. 7, 8, Interventions].
The defendants were all represented by the office of the state's attorneys (Avvocatura dello Stato) who denied the claim basing on the argument that the vaccines had been authorized by the European Medicines Agency and were thence to be considered safe and effective and that according to the Italian laws and constitution the Italian government had the right to impose compulsory vaccinations as it had been decided by different rulings of the Constitutional Court [see Folder 4, doc. 13, 14]. Other questions regarding territorial competence are not of interest and have been anyway resolved in favour of the plaintiff and intervening parties.
On June 23rd, 2021, the case was orally discussed [Folder 4, doc. 15].
The Tribunal decided the case on July 19th with an ordinance that rejected the plaintiffs' demands as inadmissible and ill-founded [Folder 4, doc. 16]. The Tribunal argued that the defendants were not legitimated in the case raised because they should have impugned not the obligation in general as an infringement on their rights but each and any single act that determined their suspension from their jobs. Hence, not the government and the Ministry of Health but the single healthcare authorities and the professional associations were the correct defendants to be summoned before the competent courts for any single case. Further, the Tribunal deemed the questions raised by the plaintiffs as ill-founded because the relevant dispositions of the European Charter of Fundamental Rights (art. 3) purportedly did not apply to healthcare questions that belonged to the exclusive competence of EU Member States and therefore could not limit the possibility of the member States to adopt vaccine obligations and hereby infringe on the right to medical self-determination. No argument was exposed by the Tribunal as far the violations of the European Human Rights Convention were concerned. The Tribunal considered the plaintiffs' arguments relating to the ECHR absorbed by the other reasons for the dismissal of their claim.
Against the Tribunal's decision the plaintiffs filed an appeal (reclamo) [Folder 4, doc. 17].
The appellants criticized the decision of the Tribunal explaining that the object of their claim had been and was the fundamental rights to medical self-determination and to earn a living by their jobs. They had asked for protection of a fundamental right that could and should be protected as such, independently form an administrative order applying the law that infringed the right. Further the appeal was concentrated on art. 3 of the European Charter of Fundamental Rights and its necessary and direct application within the member states. The appellants insisted that the disregard for their human rights entailed the violation of the ECHR.
The Tribunal of Rome rejected the appeal [Folder 4, doc. 25]. On page 86 of the appeal decision the Tribunal mentioned that the plaintiffs and appellants objected to the vaccine mandate owing to its contrast with the European Convention of Human Rights. However, the Tribunal did not examine the arguments related to the European Convention of Human Rights on the merits because the question was again declared as absorbed, and hence irrelevant, by the other reasons for the dismissal. Further, the Tribunal recognized that object of the claim was the right to medical self-determination or the right of private property on one's body and the connected right to dispose of one's body without any possibility of a legal interference with these rights. However, the Tribunal did not consider these alleged violations a sufficient reason for deciding the issues on the merits.
The only reason for the dismissal is explained on pages 95 to 97 of the ordinance and it is a merely formal argument. It may be noted incidentally that the reasoning of the Tribunal is obviously wrong even according to the mentioned Italian legal principles. This explanation, that the plaintiffs offer to the European Court of Human Rights, if need be, is out of the scope of the present application which deals only with the violations of the human rights set forth by the Convention. Hence, we'll reserve a further explanation hereto to a prospective further brief to be submitted at a later stage.
The Tribunal of Rome stated that the compulsory vaccination law (law-decree 44/2021) belongs to a particular category of laws namely the laws that have the content of an administrative order. Such laws can only be impugned together with a particular order or administrative decision regarding an individual case. In the course of such proceeding the plaintiff is entitled to raise the question regarding the compatibility of the law with the Constitution. Hence, according to the ordinance, the plaintiffs' motion must be dismissed. The Tribunal awarded the defendants a hefty indemnification for lawyers' fees amounting to a total of 103.500,00 Euros. This is obviously a hidden punitive measure meant to chastise the appellants. The defendants were not private parties but ministries and public bodies that by law are defended by the office of the state's attorneys.

Statement of the facts (continued)

60.
Such office is composed of public employees who earn their wages independently of the number of cases they deal with and thus it is not possible to think that the appellees may have incurred in lawyers costs. Further, the award for legal fees is disproportionately high in comparison with normal standards before Italian Courts, especially, as in this case, if new and yet undecided legal issues are discussed.
The decision by the appeal panel was issued on October 18th, 2021, and on the same day it was served by registered e-mail to the appellants' attorney.
The ordinance infringes on a number of the plaintiffs' fundamental rights as set forth in the European Convention of Human Rights.

F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments

61. Article invoked	Explanation
Art. 2	The Italian government consciously accepts the certainty that several healthcare workers will lose their lives or be permanently impaired or suffer serious disease because this is considered an acceptable cost in the interest of public safety. Thus there is an intentional violation of the right to life.
Art. 5	The right to liberty encompasses not only the right not to be unjustly incarcerated but also the right to moral and personal freedom. Healthcare workers are posed before the alternative between getting vaccinated against their will and convictions and losing their jobs. This is an unreasonable duress that infringes on the right to personal liberty.
Art. 8	The vaccine mandate violates the applicants' right to private life and privacy. The choice wether to be vaccinated or not cannot be taken privately and together with one's physician but is subject to public scrutiny and shame because the unvaccinated healthcare workers are excluded form their workplaces and professions.
Art. 9	The applicants are Christians and Catholics. Their religion prohibits not only abortion but also the use of cells taken from aborted foetuses in order to manufacture medicines and vaccines. Hence they have an objection of conscience against vaccines based on religious reasons. The law and the final decision by the Tribunal of Rome disregarded their religious scruples as irrelevant.
Art. 14, Protocol 12	The applicants are discriminated against owing to their choice not to accept the Covid-19 vaccine. The choice not to trust the Covid-19 vaccines, which are still experimental and in the phase of the clinical trials, results in a discrimation and the prohibition to work. The punishment meted out to the vaccine skeptics among the healthcare workers is very harsh and consists in their discrimination. Who does not accept the vaccine will be hindered from working and keeping his or her job. (Please refer to the explanatory note about the infringement of the rights set forth by the ECHR attached hereby)

Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments (continued)

62. Article invoked	Explanation

- Please ensure that the information you include here does not exceed the space provided -

G. Compliance with admissibility criteria laid down in Article 35 § 1 of the Convention

For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the four-month time-limit.

63. Complaint	Information about remedies used and the date of the final decision
Ascertainment of the defendants' fundamental rights to life, liberty, and security, to respect for private and family life, freedom of thought, conscience, and religion and to their right not to be discriminated; connected request for injunctive relief (suspension of the vaccine mandate)	The claim was filed by the first applicant [redacted] on May 25th 2021. During the proceeding the other plaintiffs intervened. The decision in the first instance was issued on July 22nd 2021. Against ths decision all plaintiffs filed an appeal (reclamo) on August 4th 2021. The finale decision of the appeal was filed with the registrar of the Tribunal and delivered to the appellants' attorney on October 18th 2021. The decision is inappallable. In injunction proceedings (articles 669 bis and following of the Italian code of civil procedure) there are two degrees of jurisdiction. In the first degree the Tribunal decides through a single judge. In the appeal proceeding a panel of three judges decides. The decision of the panel is final, and no further appeals are possible as stated by art. 669 terdecies of the said code that expressly states that the decision of the appeal is issued with an unappealable ordinance. The plaintiffs may, and will in this case, file the same requests in an ordinary proceeding. Such a proceeding, however, may not be construed as an impugnation of the ordinance. The decision was issued before entry into force of the new four-month time-limit and thus the deadline for the present application is six months, namely April 18th 2022.

- Please ensure that the information you include here does not exceed the space provided -

64. Is or was there an appeal or remedy available to you which you have not used?

- ○ Yes
- ◉ No

65. If you answered Yes above, please state which appeal or remedy you have not used and explain why not

H. Information concerning other international proceedings (if any)

66. Have you raised any of these complaints in another procedure of international investigation or settlement?

- ○ Yes
- ◉ No

67. If you answered Yes above, please give a concise summary of the procedure (complaints submitted, name of the international body and date and nature of any decisions given)

68. Do you (the applicant) currently have, or have you previously had, any other applications before the Court?

- ○ Yes
- ◉ No

69. If you answered Yes above, please write the relevant application number(s) in the box below

I. List of accompanying documents

You should enclose full and legible *copies* of all documents. No documents will be returned to you. It is thus in your interests to submit copies, not originals. You MUST:

- **arrange the documents in order by date and by set of proceedings;**
- **number the pages consecutively; and**
- **NOT staple, bind or tape the documents.**

70. In the box below, please list the documents in chronological order with a concise description. Indicate the page number at which each document may be found

1.	Claim [redacted], POA, and index of the bundle (Folder 1)	p.	1-66
2.	Exhibits to the claim (numbers 1-23) (Folder 1)	p.	67-412
3.	Exhibits to the claim (mubers 24-57) (Folder 2)	p.	413-894
4.	Brief filed by the plaintiff's attorney (Folder 3)	p.	895-919
5.	Index of the further documents submitted (Folder 3)	p.	920
6.	Exhibits 1-17 (Folder 3)	p.	921-1183
7.	Index Intervention (Folder 3)	p.	1184-1185
8.	Briefs of intervention, first to sixth (Folder 3)	p.	1186-1316
9.	Powers of attorney for the Italian Court (samples) (Folder 3)	p.	1317-1322
10.	Further explanatory brief by the interveners (Folder 3)	p.	1323-1346
11.	Filing of the powers of attorney (sample) (Folder 3)	p.	1347-1352
12.	Filing of the documents proving that the interveners are healthcare professionals (Folder 3)	p.	1353-1357
13.	Defence brief of the defendants and attached document (Folder 4)	p.	1358-1398
14.	Further brief of the defendants (Folder 4)	p.	1399-1413
15.	Writ of summons and protocol of the hearing (Folder 4)	p.	1414-1415
16.	Decision by the Tribunal in the first instance 19.07.2021 (Folder 4)	p.	1416-1425
17.	Appeal (reclamo) (Folder 4)	p.	1426-1535
18.	Exhibits with the appeal (1-8) (Folder 4)	p.	1536-1596
19.	Writ of summons (Folder 4)	p.	1597
20.	Defence brief and attached document (Folder 4)	p.	1598-1647
21.	Brief for the hearing (Folder 4)	p.	1648-1663
22.	Documents attached to the brief (Folder 4)	p.	1664-1683
23.	Hearing protocols (Folder 4)	p.	1684-1685
24.	Request for filing of the decision (Folder 4)	p.	1686-1687
25.	Final decision by the Tribunal of Rome 18.10.2021 (Folder 4)	p.	1688-1784

Any other comments

Do you have any other comments about your application?

71. Comments

The folders of the attached documents are in chronological order, folder 1 being the oldest and folder 6 the newest. The documents attached to the original claim and other procedural documents form Italy had their own numbers that could not be changed; to distinguish these numbers from the new numeration for the ECHR you will find the original documents listed as 1), 2) etc. and the new ones as 1., 2. etc.

Declaration and signature

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

72. Date

2	2	0	3	2	0	2	2
D	D	M	M	Y	Y	Y	Y

e.g. 27/09/2015

The applicant(s) or the applicant's representative(s) must sign in the box below.

73. Signature(s) ○ Applicant(s) ◉ Representative(s) - tick as appropriate

Confirmation of correspondent

If there is more than one applicant or more than one representative, please give the name and address of the one person with whom the Court will correspond. Where the applicant is represented, the Court will correspond only with the representative (lawyer or non-lawyer).

74. Name and address of ○ Applicant ◉ Representative - tick as appropriate

Avv. Alessandro Fusillo
Viale delle Milizie n. 22
00192 Roma
Italia

The completed application form should be signed and sent by post to:

The Registrar
European Court of Human Rights
Council of Europe
67075 STRASBOURG CEDEX
FRANCE

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