

DRAFT

THE IMPACT OF CORONAVIRUS MEASURES ON DEMOCRACY, RULE OF LAW AND FUNDAMENTAL RIGHTS IN THE EU

An overview of the measures taken by
EU Member States

Version nr 14 of 8 July 2020

*NB: this week's updates
are highlighted in yellow*



THE IMPACT OF CORONAVIRUS MEASURES ON DEMOCRACY, RULE OF LAW AND FUNDAMENTAL RIGHTS IN THE EU

An overview of the measures taken by
EU Member States

Abstract

This study, drafted by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Monitoring Group on Democracy, Rule of Law and Fundamental Rights of the LIBE Committee, aims at monitoring and providing an overview the measures adopted by EU Member States in the fight against the spreading of the Covid-19 virus and their impact on DRF. The research is based at this stage on open sources such as press articles, reports of national, European and international bodies, etc, in a rapidly changing situation.

This document was requested by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs for the Monitoring Group on Democracy, Rule of Law and Fundamental Rights.

AUTHOR

Ottavio MARZOCCHI, Policy Department for Citizens' Rights and Constitutional Affairs
(with the support of DG IPOL trainees and colleagues)

EDITORIAL ASSISTANT

Ginka TSONEVA

LINGUISTIC VERSION

Original: EN

ABOUT THE EDITOR

Policy departments provide in-house and external expertise to support EP committees and other parliamentary bodies in shaping legislation and exercising democratic scrutiny over EU internal policies.

***Disclaimer:** the document has been prepared on the basis of open source documents, press articles, press releases, institutional websites, etc. It is a work in progress document, providing an overview of a dynamically changing situation and it may contain errors, in which case you are welcome to inform us so that we can check and correct.*

To contact the Policy Department or to subscribe for updates, please write to:
Policy Department for Citizens' Rights and Constitutional Affairs
European Parliament
B-1047 Brussels
Email: poldep-citizens@europarl.europa.eu

Manuscript completed in June 2020
© European Union, 2020

This document is available on the internet at:
<http://www.europarl.europa.eu/supporting-analyses>

DISCLAIMER AND COPYRIGHT

The opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the official position of the European Parliament.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy.

CONTENTS

LIST OF ABBREVIATIONS	5
LIST OF TABLES	6
EXECUTIVE SUMMARY: GENERAL OVERVIEW OF MAIN ISSUES	7
1. INTRODUCTION	7
2. UN, COUNCIL OF EUROPE, OSCE	30
3. EUROPEAN UNION	38
4. AUSTRIA	52
5. BELGIUM	55
6. BULGARIA	63
7. CROATIA	68
8. CYPRUS	71
9. CZECH REPUBLIC	74
10. DENMARK	78
11. ESTONIA	82
12. FINLAND	86
13. FRANCE	90
14. GERMANY	107
15. GREECE	111
16. HUNGARY	117
17. IRELAND	129
18. ITALY	131
19. LATVIA	138
20. LITHUANIA	142
21. LUXEMBOURG	146
22. MALTA	153
23. THE NETHERLANDS	158
24. POLAND	161
25. PORTUGAL	172
26. ROMANIA	174
27. SLOVAKIA	179
28. SLOVENIA	182

29. SPAIN	185
30. SWEDEN	189
31. UNITED KINGDOM	192

LIST OF ABBREVIATIONS

App	Application
CoE	Council of Europe
DRF	Democracy, the Rule of Law and Fundamental Rights
ECRE	European Council of Refugees and Exiles
EP	European Parliament
EU	European Union
EU CJ	Court of Justice of the European Union
FRA	Fundamental Rights Agency
IPI	International Press Institute
IPU	International Parliamentary Union
LIBE	Committee on Civil Liberties, Justice and Home Affairs
MG	Monitoring Group
OSCE	Organisation for Security and Cooperation in Europe
PACE	Parliamentary Assembly of the Council of Europe
UN	United Nations

LIST OF TABLES

Table 1: Monitoring the exit from state of emergency or emergency powers 10

Table 2: Sanctions

EXECUTIVE SUMMARY: GENERAL OVERVIEW OF MAIN ISSUES

This section has been published as Briefing Note, see

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651343/IPOL_BRI\(2020\)651343_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651343/IPOL_BRI(2020)651343_EN.pdf)

1. INTRODUCTION

This document has been prepared upon request of the MG DRLFR of the LIBE committee to Pol Dep C of 25 March 2020 and is an overview of the coronavirus-related measures taken in the 27 EU Member States (and the UK), by the EU institutions and by the Council of Europe/OSCE/UN and having an impact or related to democracy, the rule of law and fundamental rights.

Nine issues have been examined through researches of open sources (mainly press articles, institutional communication on governmental websites, etc):

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliaments; the judiciary
2. Freedom of movement (internal and cross-border; sanctions)
3. Freedom of expression, media freedom, freedom of information (and sanctions),
4. Freedom of assembly (and sanctions)
5. Privacy and data protection
6. Asylum and migration and migration
7. Prisons
8. Discrimination
9. Any other issue relevant for Art. 2 TEU

When available and relevant, information has been provided.

The document is composed of a

- executive summary / general overview (also published as Briefing) highlighting the main issues in MSs that could be of interest for further analysis by the MG
- 30 *fiches* monitoring the initiatives and measures in the 27 EU MSs, the UK, the EU and the Council of Europe/OSCE/UN.

Other parallel initiatives are:

- a Policy Department [Briefing](#) was published, which summarizes the main findings of this overview;
- a Policy Department **external study** on the Covid 19 measures and their impact on DRF will be launched;
- **ECPRD** comparative briefings:
 - [Adjustment of Parliamentary Activity to COVID-19 Outbreak and the prospect of remote sessions and voting](#), ECPRD
 - [Preventive and sanitary measures in Parliaments](#), ECPRD
- **EPRS MEPs service** is carrying out and publishing **briefings** on the 9 issues addressed in this overview, as well as on others:
 - [States of emergency in response to the coronavirus crisis: Situation in certain Member States \(Belgium, France, Germany, Hungary, Italy, Poland, Spain\)](#), EPRS
 - [States of emergency in response to the coronavirus crisis: Situation in certain Member States II \(Bulgaria, Estonia, Latvia, Malta, Austria, Romania, and Slovenia\)](#), EPRS

- [Tracking mobile devices to fight coronavirus](#) April 2020, EPRS
- [Tackling the coronavirus outbreak: Impact on asylum-seekers in the EU](#), 22.4.2020, EPRS,
- [The impact of coronavirus on Schengen borders](#), 27.4.2020, EPRS
- [The impact of coronavirus on media freedom](#), 08-05-2020, EPRS
- [Coronavirus and elections in selected Member States](#), June 2020, EPRS
- [States of emergency in response to the coronavirus crisis: Situation in certain Member States III](#), 17-06-2020, EPRS
- [Coronavirus and prisons in the EU: Member-State measures to reduce spread of the virus](#), 22-06-2020, EPRS
- [States of emergency in response to the coronavirus crisis: Situation in certain Member States IV](#), 07-07-2020

Among those probably upcoming: possibly, Covid 19 and derogations to ECHR.

- **Pol Dep:** various studies already in process will include the Covid 19 perspective and impact: *Safety of journalists and the fighting of corruption in the EU; Hate speech and hate crime in the EU and the evaluation of national approaches to online content regulation; Protecting and strengthening freedom of association, civil society and NGOs in Europe ; Artificial intelligence in law enforcement and criminal justice. Impact on fundamental rights. Europeanisation of the European public space; Institutions and foreign interferences; Possible venues for further political integration – a more democratic and effective Union; How has the Schengen evaluation mechanism performed in its first multiannual programme 2014 - 2020? Special focus on an assessment of the 2020 COVID crisis and internal borders.*
- **cooperation and exchange of information** with FRA, the Commission, CoE, the Venice Commission, etc has been established. Among the most relevant documents are the following:

FUNDAMENTAL RIGHTS AGENCY

- FRA Bulletin 1 of 07 April 2020
[Coronavirus pandemic in the EU - Fundamental Rights Implications - Bulletin 1 \(2.64 MB\)](#) and Franet [country studies](#)
- FRA Bulletin 2 of 28.5.2020
[Coronavirus pandemic in the EU – Fundamental Rights implications: With a focus on contact-tracing apps](#) and Franet [country studies](#)
- FRA Bulletin 3 of 30.06.2020
[Coronavirus pandemic in the EU – Fundamental rights implications: with a focus on older people](#) and Franet [country studies](#)

COUNCIL OF EUROPE

- [Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis, A toolkit for member states](#) of 7 April 2020

VENICE COMMISSION

- [Report - Respect for Democracy Human Rights and Rule of Law during States of Emergency, Reflections](#), 26 May 2020, CDL-PI(2020)005rev-e
- [Compilation of Venice Commission Opinions and Reports on States of Emergency](#), 16 April 2020, CDL-PI(2020)003-e
- [Webpage on the states of emergency](#)

OSCE

[- Opinion on the Draft Act on Special Rules for Conducting the General Election of the President of the Republic of Poland Ordered in 2020 \(Senate Paper No.99\)](#)

OECD

- website to [track](#) States' policy measures in terms of containment measures, fiscal measures, monetary policy and prudential regulation, measures to promote burden sharing with the private sector, other measures

IDEA - International Institute for Democracy and Electoral Assistance (International IDEA)

- [Parliaments in Crisis: Challenges and Innovations](#) Parliamentary Primer
- [Elections and COVID-19: International IDEA Technical Paper 1/2020](#)

Other documents, studies and articles of interest:

Verfassungsblog:

- Michael Meyer-Resende, [The Rule of Law Stress Test: EU Member States' Responses to COVID-19](#), see also [Table](#) and [Map](#)
- Joelle Grogan, [States of emergency](#)
- Verfassungsblog website section dedicated to academic articles on [COVID 19 and States of Emergency](#) in Europe and around the world

Fondation Robert Schuman

- Le contrôle parlementaire dans la crise sanitaire : <https://www.robert-schuman.eu/fr/doc/questions-d-europe/qe-558-fr.pdf>

Various

- Impacts of COVID-19 – The Global Access to Justice Survey: <https://verfassungsblog.de/impacts-of-covid-19-the-global-access-to-justice-survey/>
- [Oxford COVID-19 Government Response Tracker](#) (OxCGRT) measuring the stringency of restrictive measures
- [ICNL COVID-19 Civic Freedom Tracker](#)

Disclaimer: the document has been prepared on the basis of open source documents, press articles, press releases, institutional websites, etc. It is a work in progress document, providing an overview of a dynamically changing situation and it may contain errors, in which case you are welcome to inform us so that we can check and correct.

TABLE 1: MONITORING THE EXIT FROM STATE OF EMERGENCY OR EMERGENCY POWERS**Explanation:**

- 11 MSs have **never** been in a State of emergency nor a similar state of emergency powers
AU, BE, CY, DK, DE, EL, IR, MT, NL, SL, SE

- 4 MSs were and are still in a state of **emergency powers**

HR, FR, IT, PL

- 5 MSs **exited** the State of emergency to enter a **lower** state of emergency powers:

BG, PT, RO, SK, HU

- All 5 MSs that were in a **State of emergency, exited it**

CK, FI, LT, LV, LU

- two MSs **exited** another state of **emergency powers**

EE, ES

- of the 9 MSs still in a State of emergency or emergency powers situation, **1 exited the state of emergency but is at lower levels of alarm, contingency and calamity depending on the area (PT), 4 in July (FR, IT, RO, BG), HU in December, while for the remaining 3 no precise date was found (HR, PL, SK).**

- **In the last week, PT - after exiting a state of emergency - entered lower levels of emergency powers depending on the area (see below table).**

Situation as of 8 July 2020

State	State of Emergency or similar used for Covid?	Entry	Exit
AU	NO	/	/
BE	NO	/	/
BG	(now) OTHER: epidemic situation (but YES initially)	- 13 March- 13 May: State of Exception - 14 May - June 14: epidemic situation; prolonged to end of June - further extended to mid-July	Mid-July
HR	OTHER: declaration of outbreak of the epidemic disease	11 March	n.a.
CY	NO	/	/
CK	YES	12 March	17 May
DK	NO	/	/
EE	OTHER: Emergency situation	12 March	17 May
FI	YES	16 March	16 June

FR	OTHER: State of sanitary emergency	23 March	exit in process: 10 June law on exit tabled, is being discussed in the National Assembly and Senate, possible exit before 10 July (some measures might remain in place until 10 November)
DE	NO (only at Länder level)	/	/
EL	NO	/	/
HU	OTHER: State of danger, now State of medical crisis	- 11 March - 18 June: State of danger - 18 June - 18 December: State of medical crisis	18 December
IR	NO	/	/
IT	OTHER: State of (sanitary) emergency	31 January	6 months expire on 31 July
LV	YES	12 March	9 June
LT	YES	25 February	16 June
LU	YES	18 March	24 June; loi Covid 19 approved
MT	NO	/	/
NL	NO	/	/
PL	OTHER: State of epidemic	20 March	?
PT	Now OTHER: Situation / State of calamity (but YES initially)	- from 18 March to 8 May: State of emergency - from 8 May - mid-June, and prolonged to end June: State of calamity - from 1 July: State of Alert (continental Portugal), State of Contingency (Lisbon), State of Calamity (in 19 parishes)	?
RO	Now OTHER: State of alert (but YES initially)	- 16 March - 15 May: State of emergency - 15 May - 14 June: State of alert; renewed from 17 June for 30 days	mid-July
SK	YES, and now OTHER	- 16 March - 13 June: State of emergency - 11 March - 16 March, and 13 June on: Extraordinary situation	13 June: end state emergency, extraordinary situation remains in place
SL	NO	/	/
ES	OTHER: State of alarm	14 March	21 June

SE	NO	/	/
----	----	---	---

TABLE 2 : COVID-19 SANCTIONS WITHIN THE 27 EU MEMBER STATES AND THE UK

Taking into consideration the average monthly salary within the 28 States (27 Member States + UK), possibly disproportionate sanctions have been detected in: **Austria, Bulgaria, Croatia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Romania, Spain**, in consideration of the **amount** of the sanctions. In this regard, two symmetrical and opposite problems have been identified:

- If the sanction is one and fixed for different behaviours, the risk is the breach of the principle of adequacy: the sanctions have to be adjusted to the concrete case.
- If the minimum and the maximum are too divergent in the amount, the risk is the breach of the principle of legality (*Nulla poena sine lege*). This principle means not only that the sanction has to be determined by the Rule of Law but also that the minimum and the maximum must oscillate between reasonable margins taking into account the importance of the legally protected right (right to life, right to health, right to assembly etc..) and the seriousness of the offence. By doing so, the excessive discretionality in applying the concrete sanction is avoided.

Concerning the criminal offences aimed to tackle COVID-19, while some Member States did not consider any criminal sanctions (**Estonia, Sweden**), others used provisions already in their Criminal Codes (**Austria, Belgium, Croatia, Czech Republic, Finland, Italy, Lithuania, Slovakia, Spain**) and some others introduced new crimes or increased the sanctions (**Bulgaria, France, Hungary**).

For instance, in Hungary two new crimes have been introduced: Obstructing epidemic containment Section 322/A (1) (up to 8 yrs of prison) and Scaremongering Section 337 (1) (up to 5 yrs of prison).

Sources: press articles, questionnaires ECPRD, institutional websites, FRA country reports;

* = no info available (yet)

yellow and green = sanction above the average monthly salary, or possibly disproportionate

Member State	Nr of controls? Time period	Fines individual s	Fine restauran ts	Criminal sanctions	Prison	Averag e monthl y salary
AUSTRIA	*	Up to 3,600€	Up to 30,000€	Sections 178-179 of Criminal Code	Up to 3 yrs	1.994, 34 €

BELGIUM	As of 11 May: 3651 judicial reports and 2243 administrative fines. 47% of disputes cancelled As of 4 June, 110.000 people received a report for violating of the measures: more than 30.000 cases are estimated before the courts.	250€	Closure and fine	Art. 10 § 1 of the ministerial decree of March 23, 2020 (reference to Art. 187 of the law of 15 May 2007 on civil security)	From 8 days to 3 months + fine 26 up to 500€	2.013,41 €
BULGARIA	As of 23rd March: +120 instituted proceedings Bulgaria's PM, his staff and some journalists were fined €150 for entering a church without a mask.	BGN 500 (250€) to BGN 5.000€ (2.500€)	*	Article 335 Criminal Code	Up to 5 yrs + 10.000 BGN (5000 euros) > 50,000 lev (25,000 Euros) Misinformation through broadcast tools: up to 3 yrs + BGN 10.000 (5.000€) to BGN 50.000 (25.00€)	568,31 €
CROATIA	*	HRK 8,000 (€1,060) > HRK 120,000 (€16,000)	*	Article 180 Criminal Code	Up to 3yrs	769,07 €
CYPRUS	As of 22 June police inspected 865 premises and report 14 people for violating Covid-19 decrees. In 24hrs Police fined 18 business for violating Covid-19 measures (28 June 2020). Demonstrators who were protesting against the conditions at migrant camps have been fined with € 300 fine (31 May).	150€ > 450 €	Up to 800€	yes	6 months	1658 €
CZECH REPUBLIC	between March 16 and June 10, the police made nearly 1 million checks and found around 9,000 minor violations that they handed over to the relevant law enforcement bodies. https://news.expats.cz/weekly-czech-news/czech-police-crime-rates-	Up to 3 million CZK (107.000€)	*	Para 152 of the Czech criminal code	Up to 12 yrs	955,37 €

	<u>dropped-during-the-coronavirus-no-rise-in-domestic-violence/</u>					
DENMARK	*	1.500 DKK (201,00€) up to 2.500 DKK (335,286€)	3.000 DKK (402,316 €) > 10.000 DKK (1.341,05 €) >	*	*	3.024,11 €
ESTONIA	At 22 March +6.000 checks	Up to 2.000€	Up to 20.000€	*	*	1147,70 €
FINLAND	From 28march to 15 April +549.450 checks From the 1st June: The police will not intervene unless a threat to public order and security. Face masks: recommended	10-20 day-fine ("day fine" system that is calculated on the basis of an offender's daily disposable income)	*	*	*	2363,72
FRANCE	800.000 fines On the 26 June, the Constitutional Council validated the <u>offense of non-compliance with the confinement</u> (Article 3136-1 Public Health Code)	135€ > 3.750€	*	yes	Up to 6 months	1972,05 €
GERMANY	* Social distancing rules until the 29th June	€25 > €10,000	*	*	*	2333,85 €
GREECE	According to the Greek Police (ELAS), by April 3rd, the Greek state had collected a total of €4,253,700 in fines issued throughout Greece to citizens for violations https://greekcitytimes.com/2020/04/04/more-than-e4-million-collected-in-fines-for-flouting-coronavirus-restrictions/	Up to 150€ for not wearing the mask. 5000€ to potential infected violating the quarantine	*	*	*	739,50 €
HUNGARY	As of 23 march: + 100 breaches Police had initiated 83 proceedings on suspicion of fear-mongering and 26 on suspicion of threatening public danger since the pandemic started	150.000 HUF (425€) up to 5000.000 HUF	*	<u>Act C of 2012 on the Criminal Code:</u> Section	up to 8 yrs	616,73 €

		(1429,81€).		322/A (1); Section 337 (1)		
IRELAND	*	Up to £5,000 (5.610 €) From 28th May to 18 June (when it will be revised): passenger s arriving to Ireland must stay in quarantin e and fill the passenger location form: fine € 2.500	*	*	*	2306,2 1 €
ITALY	From the 10 March to 26 April: 1 million police checks	400€ to 3000€	*	Art. 260(decr ee 1265\193 4) Art. 483 Criminal Code Art. 438, 452 Criminal code	3 months up to 18 months + fine 500 up to 5.000€ (260) Up to 2 yrs (483) 1 up to 5 yrs (452) Life imprisonme nt (438)>never applied to COVID 19	1415,4 0 €
LATVIA	As of 19 march: 388checks and 38 administratives cases	As of the 23 March: fine up to 350€ 10€>2000 €	145€ >5000€	*	*	781,77 €
LITHUANIA	*	500 > 1,000 €	1,500> 6,000 €	Article 277 of Criminal Code	Up to 3yrs	835,99 €
LUXEMBOU RG	*	€500 > €10,000	4000€	yes	1 month to 2 yrs	3.416 €

MALTA	As of the 1st June, 1604 fines	From €100 fine for groups with more than 6 people to €10.000 fine for people infected breaking the quarantine. MP Farrugia proposed to convert the fines to community work.	*	*	*	1140,59 €
THE NETHERLANDS	*	From the 1st June for not wearing a mask: 95€ Not maintaining 1.5 meter distance: up to 400€ fine	Up to 4.000€ and possible closure	*	*	2449,38 €
POLAND	*	500 > 5000 zlotys (110€ > 1107€) 6 may: fines (1000 zlotys): imposed on a group of artist accused of breaking social distancing rules who	*	*	*	724,48 €

		were protesting against presidential elections				
PORTUGAL		120€ > 350€	*	*	*	849,15 €
ROMANIA	As of 6 May: 300.000 fines = RON 600 mln(120 mln €) Romania's Constitutional Court on May 6, ruled that the Government's emergency ordinance that increased fines the state of emergency was unconstitutional	RON 2,000 and RON 20,000 (412€ > 4,120€) Original sanctions: from 100 to 500 lei, equal to about 20 to 1,000 euros.	*	*	*	556,72 €
SLOVAKIA	*	Up to 1659€	*	Art.163 and 164 of Criminal Code	Up to 10 yrs	860,48 €
SLOVENIA	*	400€	*	*	*	1.132,73 €
SPAIN	Between 15 March and 2 May, law enforcement officials, who were tasked with enforcing these measures, registered more than one million infringements of lockdown measures and arrested more than 8,500 people	During the state of alarm: 100 € > 600.000€ After the state of alarm: Fines up to € 100 for not wearing masks Up to 10.400 € for not respecting the quarantine period	*	Art. 550 to 556 Criminal Code	Up to 6 yrs	1.335,46 €

SWEDEN	*	no	no	no	no	2350,68 €
UK	As of 29th May: police issues 17.000 fines	From the 1st June: an instant £100 fine for a first offence (£50 if paid promptly) . Repeat offences: up to £3,200. Penalties are lower in the rest of the UK. From the 8th June: Travellers could be fine £1000 if failing the self-isolation, or prosecution with an unlimited fine	*	yes	Up to 6 months prison	2.101,07 €

*Elaboration and analysis,
C.Pisi. DG IPOL trainee*

TABLE 3: Covid-19 and powers of army and police
with sources; elaborated by C.Pisi, DG IPOL stagiaire

Member State	Tasks	N. of units	Issues
AUSTRIA	Mobilized military reservists asking them to fight the coronavirus outbreak by helping with food supplies, medical support and police operations. https://www.bundesheer.at/english/dynmod/artikel.php?id=5501	3k soldiers	
BELGIUM	<p>Soldiers - decontamination of medical vehicles. - rescue at the residential care centre.</p> <p>Law enforcement officials were tasked with enforcing the measures.</p> <p>On Saturday the 28 June, police officers invited to leave several hundred people gathered on the Place du Jeu de Balle for the "Carnaval Sauvage": "They noted that there were several forms of non-compliance with physical distancing measures".https://www.thebulletin.be/coronavirus-belgium-information-covid-19-questions-answers</p>		<p>102 allegations of abusive police practices between 18 March and 29 May. In 36% use the force unlawfully, in 21% uttered insults. 40% of the victims were racialized people.</p> <p>Unnecessarily restrictions of the right to freedom of expression punished with arrests. https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF</p>
BULGARIA	<p>Armed Forces equipped and disinfected buildings to quarantine citizens.</p> <p>Parliament votes to allow military to help curb the movement of people, with a mandate to use force if necessary. https://www.aljazeera.com/news/2020/03/bulgaria-military-allowed-force-coronavirus-</p>		<p>Cases of militarised quarantines of 10 Roma settlements: the authorities targeted the Roma community with drones fitted with thermal sensors to take the temperature of residents and monitor their movements, used planes to "disinfect" the Roma neighbourhood. The community was kept under strict quarantine – even after the nationwide state of emergency ended on 13 May. https://thefutureofnews.info/2020/06/draconian-policing-of-european-covid-19-lockdowns/</p> <p>In the context of special powers granted to the police to enforce lockdown, two doctors are being prosecuted for speaking out about shortages of protective clothing and masks. In another case, a</p>

	curbs-200320160712198.html		<p>mother and son that were incorrectly diagnosed with the virus have been accused of spreading fake news for posting a sign on their train cabin that they were infected .http://www.fairtrials.org/news/short-update-bulgaria-grants-special-powers-police-enforce-lockdown-and-stop-fake-news</p> <p>In order to monitor the people placed under compulsory quarantine Bulgarian police forces can request and obtain from the telephone and Internet operators information concerning citizens' private communications.https://china-cee.eu/2020/05/04/bulgaria-political-briefing-emergency-legislation-and-political-clashes-in-bulgaria-in-the-context-of-a-covid-19-pandemic/</p>
CROATIA	Armed forces erected tents for a medical camp, provided Croatian Air Force's helicopters to transport patients infected with the coronavirus. https://www.croatiaweek.com/croatian-army-erecting-medical-tent-camp-outside-zagreb-hospital/		<p>Croatian police crossed on refugees' heads made them take off their clothes and shoes, took their money and mobile phones and set fire to their clothes and belongings. Around 10 of them stood in a line and made us walk past them while they beat us with wooden sticks and police batons. After this they pushed them into the river and told them not to come back https://www.theguardian.com/global-development/2020/may/28/they-made-crosses-on-our-heads-refugees-report-abuse-by-croatian-police</p> <p>In a horrifying escalation of police human rights violations at the Croatian border with Bosnia, a group of migrants and asylum seekers was recently bound, brutally beaten and tortured by officers who mocked their injuries and smeared food on their bleeding heads to humiliate them https://reliefweb.int/report/croatia/croatia-fresh-evidence-police-abuse-and-torture-migrants-and-asylum-seekers https://euobserver.com/opinion/148687</p>
CYPRUS			<p>7 March: Greek Cypriot police clashed with Turkish Cypriot protesters in Nicosia, as demonstrators denounced the closure of the Ledra street checkpoint in the UN-controlled buffer zone between the Republic of Cyprus and the internationally unrecognized Turkish Republic of Northern Cyprus over coronavirus disease (COVID-19) concerns. Greek Cypriot police reportedly used pepper spray or tear gas on some Turkish Cypriot protesters near the checkpoint, while some of the protesters threw stones at police.https://www.garda.com/crisis24/news-alerts/320526/cyprus-police-clash-with-protesters-in-nicosia-amid-covid-19-checkpoint-closure-march-7</p> <p>On March 30, further restrictions were imposed, making a prior permit issued by the police via its reply to the SMS application obligatory to every person under 65 years old while only 1 exit from one's domicile per day was allowed and none between</p>

			21.00-6.00. A maximum of 3 persons per car was instituted and more alarmingly it was announced that the police would check homes to see if there were persons inside there other than the home residents. https://www.opendemocracy.net/en/can-europe-make-it/authoritarianism-masking-incompetence-case-republic-cyprus/
CZECH REPUBLIC	<p>Military personnel built and equipped 9 testing sites, sent sanitary items, mattresses, sleeping bags and blankets to assist migrant and refugee camps in Greece.</p> <p>Czech pilots have volunteered to fly critical medical supplies across the country to healthcare workers struggling with shortages in the fight against the COVID-19 pandemic.</p> <p>Despite border checks being abolished, the police carries out spot-checks aimed at compliance with the Ministry of Health Protective measure.</p>		
DENMARK	<p>Soldiers carry out critical and operational tasks and support the police. The police can apply the necessary force + fine as defined in the Police Act and in the Executive Order to enforce the ban on gatherings of +50 people. Police sent text messages to mobile subscribers as a reminder to abide by the instructions.</p>		
ESTONIA	<p>Donation of medical supplies and allocation of money to Italy and Spain. A military field hospital was opened in the island of Saaremaa on Thursday 2 April to treat COVID-19 cases.https://www.nato</p>		<p>Police take to drones to enforce 2+2 coronavirus rule https://news.err.ee/1075942/police-take-to-drones-to-enforce-2-2-coronavirus-rule</p>

	.int/cps/en/natohq/news_175305.htm?utm_medium=email&utm_campaign=NATO%20Update%20week%2016&utm_content=NATO%20Update%20week%2016+CID_4013872d6da61c89a1cae706aa27e608&utm_source=Email%20marketing%20software&utm_term=Estonia%20delivers%20medical%20supplies%20to%20Spain%20and%20Italy		
FINLAND	<p>Defense forces cleaned disposable respirators and supported the police in transport assistance for operational needs.</p> <p>Covid-19</p> <p>Finnish police shares experience with Ukraine on optimising response to COVID-19</p> <p>https://www.euneighbours.eu/en/east/stay-informed/news/finnish-police-shares-experience-ukraine-optimising-response-covid-19</p>		
FRANCE	<p>France launched <i>Operation Resilience</i> to coordinate the armed forces' role in supporting the government's effort to tackle the pandemic (Air force A330 tanker/transport aircraft fitted with intensive-care equipment and evacuation of French overseas territory), checkpoints during lockdown, helping transport sick people to hospitals with spare capacity and setting up of a military hospital with 30 intensive-care</p>	+100.000 police units	<p>Heavy policing and the recurrent unlawful use of force in urban areas in France with high rates of poverty and where a large proportion of the population are of North African or other minority ethnic origin. In Seine-Saint-Denis, the poorest department in mainland France the number of fines for breaching confinement was three times higher than in the rest of the country. Amnesty International verified six videos of instances of unlawful use of force and/or racist and homophobic insults by law enforcement officials from 18 March to 26 April 2020 enforcing lockdown measures. French police officers also unnecessarily restricted the right to freedom of expression during the lockdown.</p> <p>https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF</p> <p>Since the beginning of the lockdown, many accounts, some corroborated by videos posted on social networks, reveal police stops that appear abusive, violent, and discriminatory, sometimes accompanied by racist insults</p>

	beds in the region of Alsace.		https://www.hrw.org/news/2020/05/15/france-end-discriminatory-police-checks-and-fines
GERMANY	Control of borders, military-assistance measures with the fast-tracking of large-scale orders of PPE for health workers, support with COVID-19 testing, control of Germany's borders by federal police.	+15,000 soldiers	Police reinforcements have been sent to maintain a coronavirus quarantine on a tower block in the German city of Göttingen https://www.bbc.com/news/world-europe-53131941
GREECE	In March, the Greek Minister of Defence ordered military factories to produce medical supplies to support the hospitals.		Reports surfaced about police excessive use of force and ill-treatment against people who gathered in Athens and Thessaloniki. Reported misuse of chemical irritants by police, beatings, verbal abuse and threats by riot police as well as police officers belonging to the DRASIS force. According to witnesses, the police transferred people in police station without measures taken to protect them from COVID-19 infection. not allowed to contact their lawyers for several hours and did not receive medical assistance for their injuries. https://www.amnesty.org/download/Documents/EU/R0125112020ENGLISH.PDF
HUNGARY	Armed forces delivered masks and protective suits to other countries. The Army was deployed to 84 factories that are deemed strategic. See https://hungarytoday.hu/coronavirus-hungary-military-army-strategic-companies/		The Act on Critical Infrastructure was comprehensively amended introducing the possibility of constant military supervision of companies, unconstrained access to secrets of any kind and discretionary governmental powers to intervene in the operation of critical companies under special legal regimes. The Act LVIII on the Transitional Provisions related to the Termination of the State of Danger and on Epidemiological Preparedness (the Transitional Act) ² vested the government with unlimited powers to establish tasks for military forces in a state of danger or a state of medical crisis. Case Kartonpack Plc. (Kartonpack) https://www.helsinki.hu/wp-content/uploads/HHC_Update_on_military_supervision_of_private_companies_under_COVID-19_26062020.pdf The detention of two persons by local police authorities due to statements posted on Facebook that allegedly posed the risk of "alarming the population" or "interfering with public protection" during the crisis https://edri.org/hungary-opinion-police-regulate-facebook-commentaries/ Hungarian Police Accused of Abusing Powers to Arrest Critics https://balkaninsight.com/2020/05/13/hungary

			an-police-accused-of-abusing-powers-to-arrest-critics/
IRELAND	<p>The Irish Defence (DF) supported both the government and the National Health Service. Measures taken by DF include: 1. performing 'contact tracing' duties and training of other public sector workers. 2. the building of a new COVID-19 specific Task Force headquarters. 3. the building of test centres across the state; 4. creation of temporary morgues;</p> <p>Gardaí (Irish police) have been granted powers to enforce restrictions on public life in order to prevent the spread of coronavirus</p>	x3 naval service ships as support platforms (feeding, power, water, storage) for testing centres	
ITALY	<p>Military: supplementing civil healthcare and providing transport and logistic support.</p> <p>Military medical staff were deployed to civilian hospitals and two military field hospitals were set up. https://www.difesa.it/SMD_/Avvenimenti/Coronavirus_Forza_Armate_operazioni_per_rientro_italiani_da_Wuhan_Cina/Pagine/Coronavirus_il_contributo_delle_Forza_Armate.aspx</p> <p>The Russian army sent a health support mission to Italy</p>		<p>Media reports alleged unlawful use of force by police while enforcing the COVID-19 lockdown measures. https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF</p> <p>Concern on the real aims of the Russian mission to Italy were expressed and a journalist was threatened by the Russian authorities, leading the IT government to protest.</p> <p>Italian police are using drones to track down citizens https://www.businessinsider.com/coronavirus-italian-police-monitoring-lockdown-with-drones-2020-3?r=US&IR=T</p>
LATVIA	Providing manufacture disinfectants and medical material.		
LITHUANIA	Providing medical supplies.		

LUXEMBOURG	130 Soldiers worked to pack nearly one million masks for workers so they can reopen their businesses while following safety regulations. Meantime, the Luxembourg Military Band played two concerts in front of retirement homes. https://www.ar-mee.lu/covid-19/actualites		
MALTA	Armed forced: Delivery grocery and daily needs https://www.independent.com.mt/articles/2020-03-16/local-news/Soldiers-delivering-groceries-to-people-in-quarantine-CPD-assisting-police-in-spot-checks-6736220894		5 April 2020: Some 1,000 African migrants were placed under mandatory quarantine after an outbreak of COVID-19 and their camp at Hal Far in the south of Malta was surrounded by police and army trucks to ensure compliance. Army trucks have circled the camp and police have been deployed at and around the area. https://www.reuters.com/article/us-health-coronavirus-malta-idUSKBN21N0TY
THE NETHERLANDS	Providing personal protective equipment and medical supplies Meantime, Defence Forces donated 12,000 kg of food to a foundation in Amsterdam. https://www.defensie.nl/onderwerpen/coronavirus-covid-19		Officers used excessive force to arrest a Romani man and his two sons and pushed the mother of the family to the ground. https://encyclopedic.co.uk/2020/05/14/police-are-using-the-covid-19-pandemic-as-an-excuse-to-abuse-roma/ Dutch police use water cannon to disperse The Hague protest and arrested 400 people https://www.euronews.com/2020/06/21/dutch-police-use-water-cannon-to-disperse-the-hague-protest https://www.dailysabah.com/world/europe/dutch-police-arrest-400-in-the-hague-after-coronavirus-protest-turns-violent
POLAND	Nine military doctors departed Warsaw for Chicago, United States to assist their U.S. colleagues in the fight against the COVID-19 pandemic. Poland activated thousands of troops to patrol streets under lockdown, disinfect hospitals and support border control		Police in Warsaw used tear gas on Saturday against protestors demanding the government act faster to allow businesses to reopen following a coronavirus shutdown https://www.reuters.com/article/us-health-coronavirus-poland-idUSKBN22S0T0

PORTUGAL	<p>- The decrees adopted under the State of emergency granted the government the power to deploy the army for security purposes. http://euromil.org/wp-content/uploads/2020/04/Portuguese-Army-Newsletter.pdf</p> <p>- Police is checking the compliance to the new lockdown measures, among those curfew, after a second wave of pandemic have been detected.</p>		<p>Police broke up parties and raves along the shoreline that exceeded a limit of 20 people per gathering. https://www.telegraph.co.uk/news/2020/06/22/portugal-restores-curfew-tackle-coronavirus-spike-lisbon/</p>
ROMANIA	<p>- The army was tasked with supporting police patrolling to ensure quarantine is respected.</p> <p>- Romanian troops and personnel assisted in distributing over 600 packages of food in Reditu, Romania. Soldiers visited war veterans to deliver food and prevent the spread of the infection in the risk group while the Ministry of Defence installed the third medical facility in support of the civil population. 2 Romanian Air Force aircraft arrived with medical protection equipment from Turkey consisting of 300,000 protective masks purchased by the Romanian Government. https://english.mapn.ro/cpresa/5210_patients-diagnosed-with-sars-cov-2-hospitalized-at-rol-2-military-hospital-from-otopeni</p>		<p>NGOs and the media reported serious cases of unlawful use of force as well as allegations of ill-treatment of Roma by the police. On 18 April, during a police operation in a Roma settlement in Bolintin-Vale, Giurgiu county, the police physically abused eight Roma men as they lay handcuffed on the ground. On 20 April, the Ministry of the Interior ordered the deployment of 154 police teams, in total around 1,500 police and gendarmerie officers, in areas where "violent episodes".</p> <p>On 30 April, human rights activists and the media reported another case of disproportionate use of force during a police intervention in a Roma neighborhood in Bucharest, Ferentari. According to reports, police officers chased several young Roma who were at the entrance of a block of flats and sprayed tear gas in the hallways and in some homes. https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF</p>

SLOVAKIA	<p>Slovakian Armed Forces have been training soldiers in sanitary tasks to help healthcare professionals. The first 40 of them have begun to perform their tasks in the Military Hospital. Slovakia is to deploy the army to prevent a potential Covid-19 infection spreading in and out of its Roma settlements. Police and army are helping with mass testing</p> <p>http://euromil.org/wp-content/uploads/2020/04/COVID19_ZVSR.pdf</p>		<p>Targeted COVID-19 testing in Roma settlements in Slovakia. Amnesty documented cases of militarised quarantines of 10 Roma settlements in Slovakia. https://minorityrights.org/2020/06/02/roma-slovakia-covid-testing/</p>
SLOVENIA	<p>On the 24 April 2020 deployment of the army to Slovenia's southern border to prevent illegal migration and the possible spread of COVID-19. Slovenian Army is assisting police with soldiers, helicopters and unmanned aerial systems to control the country's southern border. If a person has to quarantine: police officers will take the person's details on entry into Slovenia and submit to National Institute of Public Health.</p> <p>http://www.slovenskajojaska.si/en/public-affairs/news/news-single/nov/edvard-peperko-barracks-provides-accommodation-facilities-for-people-during-the-epidemic/</p>	+1k additional police	<p>The decision to deploy the army was controversial.</p> <p>Police at the border are using surveillance drones, thermal cameras, motion detection cameras and helicopters. https://wtop.com/europe/2020/06/slovenia-beefs-up-border-police-as-migration-surge-expected/</p> <p>Slovenian PM calls for mandatory coronavirus app, against Commission advice https://www.euractiv.com/section/digital/news/slovenian-pm-calls-for-mandatory-coronavirus-app-against-commission-advice/1486960/</p>

SPAIN	<p>Providing logistic support and helping to set up 16 field hospitals across the country. Personal protective equipment acquired surgical masks, isolation gowns and thermometers. Army logisticians deliver food and mattresses to local Food Banks; the military helped disinfect 5 hospitals, 6 health centers and 82 nursing homes. Furthermore, a Spanish Air Force A-400 moved medical supplies from Estonia to Zaragoza.</p>	<p>+ 2,500 troops as part of <i>Operación Balmis</i>. https://www.iss.org/blogs/military-balance/2020/04/europe-armed-forces-covid-19</p>	<p>Police slapped or pushed individuals who were not offering any resistance to an identity check or arrest. The NGO Rights International Spain collected 70 cases of discrimination and police abuse, including cases of racial profiling and unlawful use of force between 15 March and 2 May 2020 in Spain. https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF</p> <p>Officials in Spain's north-western region of Galicia have re-imposed restrictions on an area of 70,000 people following a Covid-19 outbreak. https://www.bbc.com/news/world-europe-53299544</p>
SWEDEN	<p>The resources of the armed forces have been used. Military hospitals have been assembled, and have put up medical tents at hospitals in a number of Swedish regions. The Armed Forces have helicopters with civilian intensive care equipment available to fly corona infected patients. The Swedish Defense Forces has contributed 154 fans, 154 monitoring monitors, approximately 50,000 protective masks 90 and approximately 40,000 C-liquid protectors distributed according to the National Board of Health and Welfare. Protective equipment has also been delivered to the Police, the Prison and Probation Service, the Recruitment Authority and the Customs Administration. http://euromil.org/wp-content/uploads/2020/04/Swedish-Armed-Forces-and-the-Corona-Pandemic.pdf</p>		<p>Swedish police will be stricter in granting permits to demonstrations after several recent anti-racism protests attracted crowds well above the current 50-person limit for public gatherings. https://www.thelocal.se/20200610/swedish-police-to-be-more-restrictive-in-granting-permits-for-demonstrations</p>

UK	<p>The four-step escalation (Engage, Explain, Encourage, Enforce) where enforcement is the last resort measure. The force will collate and email all referral outcomes to the triage centre. The necessity test for arrest under Section 24 PACE has been temporarily amended. Police may visit the address where the person has stated to self-isolate. Police involved in the distribution of PPE. Small helicopter 'hubs' of CH-47 <i>Chinook</i>, <i>Puma</i> and <i>Wildcat</i> helicopters are being deployed to support the emergency services. Supported hospital workers by manufacturing and distributing supportive clips to ease discomfort caused by protective facemasks for hospital workers.</p> <p>https://www.gov.uk/guidance/covid-support-force-the-mods-contribution-to-the-coronavirus-response</p>	+10.000 units	<p>In London registered a 22 percent rise in stop and searches between March and April 2020. During that time the proportion of Black people who were searched rose by nearly a third. https://www.amnesty.org/en/latest/news/2020/06/europe-covid19-lockdowns-expose-racial-bias-and-discrimination-within-police/</p> <p>UK police accused of abusing power to enforce COVID-19 lockdown</p>
----	---	---------------	---

2. UN, COUNCIL OF EUROPE, OSCE

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliaments; the judiciary

- Estonia, Latvia and Romania are among the six States that have notified the UN about [derogating](#) from the ICCPR (together with Armenia, Ecuador, Guatemala) on the basis of national Covid 19 restrictive measures.

- UN High Commissioner for Human Rights: Human rights need to be front and center in response <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25668&LangID=E>

- UN experts: Covid-19: States should not abuse emergency measures to suppress human rights

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E>

- Pace President urges states to abide by the ECHR when responding to COVID-19 crisis

<https://pace.coe.int/en/news/7825/president-urges-states-to-abide-by-the-echr-when-responding-to-covid-19-crisis>

- In times of crisis, parliamentary democracy cannot be put 'on hold'

<https://pace.coe.int/en/news/7828/in-times-of-crisis-parliamentary-democracy-cannot-be-put-on-hold->

- CoE States asked for **derogation** of ECHR under Article 15 allowing it for “public emergency threatening the life of the nation”, among which EU MSs Estonia, Latvia and Romania, which is not necessary according to spokesperson ECHR: <https://www.euractiv.com/section/justice-home-affairs/news/coronavirus-derogations-from-human-rights-send-wrong-signal-say-meps/>¹. The 3 MSs withdrew these derogations in May (Latvia's partial withdrawal concerned the derogation to Article 11 on freedom of assembly and association; derogations to Article 8 of the ECHR on respect for private and family life and Article 2 of Protocol 4 of the ECHR on freedom of movement remained in place).

- National judiciaries' COVID-19 emergency measures of COE member States:

<https://www.coe.int/en/web/cepej/national-judiciaries-covid-19-emergency-measures-of-coe-member-states/-/blogs/test-blog->

¹ In the event of “war or public emergency threatening the life of the Nation”, this article (15 ECHR) allows a signatory country to derogate, “to the extent strictly required by the exigencies of the situation”, from its obligation to guarantee certain rights and freedoms protected by the Convention. Articles 2 (right to life), 3 (prohibition of torture and ill-treatment), 4&1 (prohibition of slavery and forced labour) and 7 (no punishment without law) are strictly excluded from this derogation. As required by the procedure, the five Member States concerned have formally notified their activation of Article 15 to the Secretary General of the Council of Europe. It is responsible for informing the other Contracting States of the Convention. “We did not encourage or oblige member states to use Art 15, but they are in their full right to do so and the Council of Europe has to inform its member states when this happens”, said Daniel Holtgen, spokesman for the Council of Europe.

“As things stand at present, the measures taken by Member States are already covered by the Convention, mainly through Article 11, paragraph 2, which states that the freedom of assembly and association provided for in this article may be subject to restrictions ‘prescribed by law’ which are ‘measures necessary in a democratic society’ [...] for the protection of public health”. Member States need to activate Article 15 only if they plan to implement measures not covered by the Convention.

See also <https://verfassungsblog.de/dissecting-covid-19-derogations/>

[cepej?_33_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcepej%2Fnational-judiciaries-covid-19-emergency-measures-of-coe-member-states%3Fp_id%3D33%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_pos%3D2%26p_p_col_count%3D3](https://rm.coe.int/cepej?_33_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fcepej%2Fnational-judiciaries-covid-19-emergency-measures-of-coe-member-states%3Fp_id%3D33%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_pos%3D2%26p_p_col_count%3D3)

- 8.4.2020: CoE Toolkit on “Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis”, <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>

- The Scientific Council of the **Venice Commission** has prepared a compilation of the Commission's general reports and country-specific opinions on constitutional provisions and legislation on emergency situations, see <https://www.venice.coe.int/webforms/events/?id=2917>

- **International Parliamentary Union**: Human rights and COVID-19: A guidance note for parliaments: <https://www.ipu.org/human-rights-and-covid-19-guidance-note-parliaments>

- 21.4.2020: **OSCE, Parliaments** vital for strong democracies in times of crisis, OSCE human rights and parliamentary heads say, <https://www.osce.org/odihr/450436>

- **ICJ Guidance on the Courts and COVID-19**, <https://www.icj.org/icj-guidance-on-the-courts-and-covid-19/>

- 23 April: **UN Secretary-General's** policy brief: [COVID-19 and Human Rights: We are all in this together](#)(PDF)

- OECD website to [track](#) States' policy measures in terms of containment measures, fiscal measures, monetary policy and prudential regulation, measures to promote burden sharing with the private sector, other measures

- Impacts of COVID-19 – The **Global Access to Justice Survey**: <https://verfassungsblog.de/impacts-of-covid-19-the-global-access-to-justice-survey/>

- **Vervassungsblog** key comparative articles on State of emergency:

The Rule of Law Stress Test: [EU Member States' Responses](#) to COVID-19, Michael Meyer-Resende, and most useful

[Map](#) and [Table](#) of MSs emergency measures

[States of emergency](#), J. Grogan

- **Venice Commission Report on Respect for Democracy Human Rights and Rule of Law during States of Emergency** - Reflections CDL-PI(2020)005rev-e: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2020\)005rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)005rev-e)

- 9 June 2020: The Bureau of the **Congress of Local and Regional Authorities** of the Council of Europe Declaration expressing concern about the democratic self-governance and financial autonomy of local and regional authorities in Council of Europe member States, in particular in view of recovery plans in the aftermath of the crisis. The document highlights the fact that some governments have imposed, within or outside the context of states of emergency, measures with far-reaching consequences for fundamental rights and freedoms and the democratic

functioning which have also impacted the sub-national level - be it through relocation of powers, increase of central states' surveillance or postponement of local and regional elections. See <https://www.coe.int/en/web/congress/-/congress-bureau-adopts-a-declaration-on-the-impact-of-central-government-covid-measures-on-local-and-regional-authorities>

- 3 June 2020: Video-Conference of the Council of Europe with the participation of:

Ministre délégué aux Affaires étrangères M. Miltiadis Varvitsiotis lors de la téléconférence de la Présidence de la Grèce du Conseil de l'Europe avec les institutions du Conseil de l'Europe, <https://coegreekchairmanship2020.gov.gr/discours-du-ministre-delegue-aux-affaires-etrangees-m-miltiadis-varvitsiotis-lors-de-la-teleconference-de-la-presidence-de-la-grece-du-conseil-de-leurope-avec-les-institutions-du-conseil-de-leurop/?lang=fr>

Rik Daems, Président de l'Assemblée parlementaire: [“COVID-19 : le Président de l'APCE, se joignant aux autres dirigeants du Conseil de l'Europe, demande instamment des garanties démocratiques pendant et après la pandémie”](#)

Robert Spano, Président de la Cour Européenne des Droits de l'Homme: « [Protection of human life and public health in the context of a pandemic – Effectively responding to a sanitary crisis in full respect for human rights and the principles of democracy and the rule of law](#) »

Dunja Mijatović, Commissaire aux droits de l'homme: [«States must give a renewed impetus to realising human rights for all»](#)

Anders Knappe, Président du Congrès des Pouvoirs locaux et régionaux: Anders Knappe : « [Unir les forces de tous les niveaux de gouvernement pour surmonter la crise COVID-19](#) »

Giuseppe Palmisano, Président du Comité européen des Droits sociaux: « [La crise de Covid-19 a douloureusement révélé que la préparation est une question de droits sociaux](#) »

- 11 June: **Council of Europe calls on member states to draw lessons from pandemic to reform judicial systems:** European Commission for the Efficiency of Justice (CEPEJ) declaration on 'Lessons learnt and challenges faced by the judiciary during and after the Covid-19 pandemic' <https://www.coe.int/en/web/cepej/-/declarati-1>.

Documents and articles on State of Emergency:

- 1985, The Paris Minimum Standards of Human Rights Norms in a State of Emergency

Richard B. Lillich

<https://www.uio.no/studier/emner/jus/humanrights/HUMR5503/h09/undervisningsmateriale/ParisMinimumStandards.pdf>

- 1995, Venice Commission – European Commission for Democracy through Law (1995). “Emergency powers” by Ergun Özbudun and Mehmet Turhan, in the series Science and technique of democracy No. 12 CDL-STD(1995) 012, Strasbourg.

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD\(1995\)012-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD(1995)012-e)

- 2001, UN Human Rights Committee (HRC),

CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency,

31 August 2001, CCPR/C/21/Rev.1/Add.11, available at:

<https://www.refworld.org/docid/453883fd1f.html> [accessed 5 April 2020]

- Scheppele, Kim (2004). "Law in a Time of Emergency: States of Exception and the Temptations of 9/11" *University of Pennsylvania Journal of Constitutional Law*, No. 6, pp. 1008, 1069, 1079).

- 2009, Securing Democracy? A Comparative Analysis of Emergency Powers in Europe, *Anna Khakee*, 2009, Geneva Centre for the Democratic Control of Armed Forces

- 27.4.2009, PACE report on Protection of human rights in emergency situations

<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=12260&lang=en>

- 2018 PACE report on State of emergency: proportionality issues concerning derogations under Article 15 of the European Convention on Human Rights, <https://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-en.asp?FileID=24505&lang=en>

- Verfassungsblog article on state of emergency and derogations to fundamental rights <https://verfassungsblog.de/international-human-rights-law-and-covid-19-states-of-emergency/>

- International Appeal "[A Call to Defend Democracy](#)", [an Open Letter](#) initiated by the Stockholm-based International Institute for Democracy and Electoral Assistance (International IDEA) and the Washington-DC-based National Endowment for Democracy and supported by more than 70 pro-democracy institutions as well as political and civic leaders around the world, including 13 Nobel Laureates and 62 former heads of state and government.

- 26 June 2020: Council of Europe Parliamentary Assembly report on preserving fundamental rights in event of a pandemic debated and adopted. It focuses on the lessons to be learned from the response to the pandemic and how to ensure the defence of fundamental rights in such circumstances; it deplores that "some States opted for nationalist isolation and repressive and authoritarian responses, instead of cool-headed and warm-hearted, evidence-based, internationally co-ordinated, human rights-compliant, effective action. Many States also seem to have realised the danger they were in too late (or had not wanted to realise the danger). Even at the European and international level, including at WHO, the impression of a tardy reaction is hard to ward off". The preparation of such an episode, transparency of decisions as to their merits and their delimitation over time - particularly with regard to containment and deconfinement - as well as the essential national, European and international coordination are advocated. See recommendation and resolution at <https://pace.coe.int/en/news/7938/covid-19-responding-to-the-next-pandemic-states-should-act-fast-and-comply-with-human-rights>

2. Freedom of movement (internal and cross-border; sanctions)

- information on measures taken by States in the world are mapped here: <https://datastudio.google.com/reporting/1sHT8quopdfavCvSDk7t-zvqKIS0Ljiu0/page/dHMKB>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- 3.4.2020: Statement by the Council of Europe Commissioner for Human Rights Dunja Mijatović: Press freedom must not be undermined by measures to counter disinformation about COVID-

19

<https://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic>

- Stefan Schennach, rapporteur for the Parliamentary Assembly of the Council of Europe on media freedom and safety of journalists warned that *"in a number of Member States, governments are trying to shape media coverage of the health crisis". "Under the pretext of wanting to avoid false information which can be harmful to public order, they prevent transparency and gag the critics"*, including by using sanctions such as fines, police investigations and the expulsion of foreign correspondents. *"Worse still, in some countries, the pandemic has served as a pretext for governments to adopt laws, decrees or decisions that may have a restrictive effect on the work of journalists even after the current crisis"*, he said, naming Hungary, Turkey, Azerbaijan, Bosnia and Herzegovina, Romania, Armenia and Russia. He ended by saying that *"the pandemic should not be an excuse to muzzle the press"*.

- 20 April: International Press Institute: Media freedom violations in the EU under COVID-19. Regressive regulations, physical attacks and restrictions on information threaten press freedoms, see <https://ipi.media/media-freedom-violations-in-the-eu-under-covid-19/>

- [Opinion](#) by Harlem Desir, representative on freedom of the media at the Organization for Security and Cooperation in Europe (OSCE): Do not silence journalists during coronavirus pandemic.

- 3 May: Council of Europe Secretary General: Governments must protect essential role of journalists in democracy, especially in times of crisis: <https://www.coe.int/en/web/portal/-/secretary-general-governments-must-protect-essential-role-of-journalists-in-democracy-especially-in-times-of-crisis>

- 30 April [Statement by the Council of Europe Commissioner for Human Rights](#) "Support a free, independent and safe press"

- 2020 [Annual Report](#) by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, with comments on EU MSs Bulgaria, France, Hungary, Malta, Poland.

- ECPMF: Journalists and media workers need to be protected when covering demonstrations and protests, see <http://www.ecpmf.eu/media-workers-protection-covering-demonstrations-protests-mfrr-statement/>

- IPI: "More than 10 countries have either extended or suspended deadlines for authorities to respond to Freedom of Information (FOI) requests. There have been numerous accounts of media outlet's questions to government task forces being rejected or ignored outright".

- ARTICLE 19 report [Ensuring the Public's Right to Know in the COVID-19 Pandemic](#) highlighting several threats to governments' obligations on access to information and public health under human rights law.

4. Freedom of assembly (and sanctions)

- **WHO** Director General edros Adhanom Ghebreyesus declared in relation to mass **demonstrations** taking place around the world against racism, following the killing of George Floyd by a policeman in Minneapolis, US: "We continue to urge active surveillance to ensure the

virus does not rebound, especially as mass gatherings of all kinds are starting to resume in some countries. WHO fully supports equality and the global movement against racism. We reject discrimination of all kinds. We encourage all those protesting around the world to do so safely. As much as possible, keep at least 1 metre from others, clean your hands, cover your cough and wear a mask if you attend a protest.", see <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---8-june-2020>.

- Concern was expressed by various experts and scientists, as well as by politicians, in relation to mass demonstrations and the difficulties in such situations in respecting sanitary requirements, regardless of the intentions of organisers and participants. Participants in the anti-racism demonstrations are reportedly high in Europe: 5,000 in Paris; 10,000 in Brussels; 15,000 in Berlin. See https://www.politico.eu/article/balancing-the-need-to-protest-with-coronavirus-risk-black-lives-matter-paris-brussels-berlin/?utm_source=RSS_Feed&utm_medium=RSS&utm_campaign=RSS_Syndication.

5. Privacy and data protection

- 30 March 2020, Statement by the Chair of the Committee of Convention 108 and the Data Protection Commissioner of the Council of Europe recall the principles of data protection in these times of fight against the COVID-19 pandemic:

<https://www.coe.int/en/web/data-protection/statement-by-alessandra-pierucci-and-jean-philippe-walter>

- 28 April 2020: Joint [Statement](#) on Digital Contact Tracing by Alessandra Pierucci, Chair of the Committee of Convention 108 and Jean-Philippe Walter, Data Protection Commissioner of the Council of Europe

- Human Rights Watch on apps: <https://www.hrw.org/news/2020/05/13/covid-19-apps-pose-serious-human-rights-risks>

- MIT Technology Review Covid Tracing [Tracker](#)

6. Asylum and migration and migration

- CoE Commissioner for Human Rights calls for release of immigration detainees during Covid-19 crisis

<https://www.coe.int/en/web/portal/-/commissioner-calls-for-release-of-immigration-detainees-during-covid-19-crisis>

- COVID-19: 'Member States must provide humanitarian aid to refugees in camps', says Migration Committee head

<https://pace.coe.int/en/news/7827/covid-19-member-states-must-provide-humanitarian-aid-to-refugees-in-camps-says-migration-committee-head>

- UNHCR Legal Considerations with regard to the EU Commission's Guidelines for border management measures to protect health and ensure the availability of goods and essential services, 2 papers on COVID (EU and Global) <https://www.refworld.org/docid/5e7882484.html>

- Key Legal Considerations on access to territory for persons in need of international protection in the context of the COVID-19 response - <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=5e7132834>

- COVID-19 pandemic could devastate refugee, migrant and internally displaced populations without urgent international action, *Statement by UNICEF Executive Director Henrietta Fore*

<https://www.unicef.org/press-releases/covid-19-pandemic-could-devastate-refugee-migrant-and-internally-displaced>

- Practical Recommendations and Good Practice to Address Protection Concerns in the Context of the COVID-19 Pandemic <https://data2.unhcr.org/en/documents/details/75453>

- 16 April 2020: Statement of Dunja Mijatović, the Council of Europe Commissioner for Human Rights: "Despite the unprecedented challenges European countries face due to COVID-19, saving lives at sea and disembarking survivors in a safe port must continue", see <https://www.coe.int/en/web/portal/-/during-virus-crisis-states-should-ensure-rescue-at-sea-and-allow-safe-disembarkation>

- Beware long-term damage to human rights and refugee rights from the coronavirus pandemic: UNHCR: <https://www.unhcr.org/news/press/2020/4/5ea035ba4/beware-long-term-damage-human-rights-refugee-rights-coronavirus-pandemic.html>

- Coronavirus: UNHCR offers practical recommendations in support of European countries to ensure access to asylum and safe reception: <https://www.unhcr.org/news/press/2020/4/5ea68bde4/coronavirus-unhcr-offers-practical-recommendations-support-european-countries.html>

7. Prisons

- OMS, Preventing COVID-19 outbreak in prisons: a challenging but essential task for authorities, see <http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/news/news/2020/3/preventing-covid-19-outbreak-in-prisons-a-challenging-but-essential-task-for-authorities>

- CPT, Committee for the Prevention of Torture: "COVID-19: Anti-torture Committee issues statement of principles relating to the treatment of persons deprived of their liberty", see <https://www.coe.int/en/web/portal/-/covid-19-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty> and <https://rm.coe.int/16809cfa4b>

- Prison Insider: <https://www.prison-insider.com/en/articles/coronavirus-la-fievre-des-prisons>

- 6.4.2020, CoE Commissioner for HRs statement: COVID-19 pandemic: urgent steps are needed to protect the rights of prisoners in Europe

<https://www.coe.int/en/web/commissioner/-/covid-19-pandemic-urgent-steps-are-needed-to-protect-the-rights-of-prisoners-in-europe>

- 7.4.2020, CoE Secretary General Pejčinović Burić calls on states to resort to alternatives to deprivation of liberty and to protect both the prison population and prison staff, see <https://www.coe.int/en/web/portal/-/new-survey-europe-s-rate-of-imprisonment-remained-stable-in-2019>

8. Discrimination

- UN Special rapporteur on racism calls States to take action against xenophobia related to COVID-19: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25739&LangID=E>

- 30.3.2020: COVID-19 crisis: CoE Secretary General concerned about increased risk of domestic violence, <https://www.coe.int/en/web/portal/-/covid-19-crisis-secretary-general-concerned-about-increased-risk-of-domestic-violence>
- 2.4.2020: CoE Commissioner for Human Rights, Persons with disabilities must not be left behind in the response to the COVID-19 pandemic, <https://www.coe.int/en/web/portal/-/persons-with-disabilities-must-not-be-left-behind-in-the-response-to-the-covid-19-pandemic>
- 22.5.2020: IOM: Combatting Xenophobia is Key to an Effective COVID-19 Recovery: <https://www.iom.int/news/combating-xenophobia-key-effective-covid-19-recovery>
- Amnesty International report *[Protecting The Human Rights Of LGBTI People During The COVID-19 Pandemic](#)* calling on governments worldwide to: Ensure access to medical services – including hormone therapy, access to gender affirming surgeries, and mental health support; Provide protection for LGBTI people in hostile lockdown situations, including by ensuring provisions which allow those facing domestic or family violence to access justice, support and services, including helpline facilities to report incidents of violence; Ensure that any efforts in providing food security, economic stimulus and relief packages reach marginalized and vulnerable populations, including LGBTI people working and living under precarious conditions; Halt the criminalization of LGBTI people under the pretext of COVID-19 related policies; Send a clear message that stigma against LGBTI people will not be tolerated; Ensure engagement with LGBTI communities in the development and implementation of responses to COVID-19, including by working in partnership with LGBTI people's associations and groups.

9. Any other issue relevant for Art. 2 TEU

- Genuine campaigning and public debate are vital for democratic elections, OSCE human rights head says <https://www.osce.org/odihr/elections/449695>
- Freedom House report *Nations in Transit 2020*: <https://freedomhouse.org/report/nations-transit/2020/dropping-democratic-facade>

- on 7 July, IDEA and the Commission launched a new tool, **Global Monitor of COVID-19's Impact on Democracy and Human Rights**, covering 162 States all over the world, with EU MSs included, see <https://www.idea.int/gsod-indices/#/indices/world-map?covid19=1>

Public procurement and corruption risks in the EU MSs:

- Groupe d'États contre la corruption (GRECO), *Risques de corruption et références juridiques utiles dans le contexte du Covid-19*, avril 2020
- report by OCCRP: <https://www.occrp.org/en/coronavirus/in-europes-scramble-to-buy-COVID-19-supplies-anti-corruption-measures-fall-away>
- Commission guidance on procurement: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0401\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0401(05)&from=EN)

3. EUROPEAN UNION²

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary³

Parliament:

- **The EP** has adopted a revised calendar of sessions, held in Brussels, for the moment. Sessions take place to deal with urgent legislative issues. MEPs can be either physically present or connect via videoconference. Measures to allow voting by email were implemented.

- IPU: "European Parliament continues its essential activities and thus ensuring critical democratic infrastructure, in particular the plenary sessions, parliamentary committees and governing bodies. All Members are allowed to be present unless they are sick or have travelled to risk areas in the past two weeks. Those who wish or cannot physically attend can participate remotely. Social distancing measures within the Chamber are taken for the Members who come".

- 17 April 2020: adoption of the **European Parliament resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP))**:

"Protecting democracy, rule of law and fundamental rights"

46. Underlines that the Charter of Fundamental Rights of the European Union and compliance with the rule of law must continue to apply, and that in the context of emergency measures, the authorities must ensure that everyone enjoys the same rights and protection; emphasises that all measures taken at national and/or EU level must be in line with the rule of law, strictly proportionate to the exigencies of the situation, clearly related to the ongoing health crisis, limited in time and subjected to regular scrutiny; deems it totally incompatible with European values both the decision from the Hungarian Government to prolong the state of emergency indefinitely, to authorise the Government to rule by decree without time limit, and to weaken the emergency oversight of the Parliament, and the steps taken by the Polish Government – namely changing the electoral code against the judgment of Constitutional Tribunal and provisions laid by law – to hold Presidential elections in the middle of a pandemic, which may endanger the lives of Polish citizens and undermine the concept of free, equal, direct and secret elections as enshrined in the Polish Constitution;

47. Calls, therefore, on the Commission to urgently assess whether the emergency measures are in conformity with the Treaties and to make full use of all available EU tools and sanctions to address this serious and persistent breach, including budgetary ones, underlining once again the imminent need for an EU mechanism on democracy, the rule of law and fundamental rights; urges the Council to put back on its agenda the discussions and procedures related to the ongoing Article 7 procedures;

48. Calls on the Member States to effectively guarantee safe and timely access to sexual and reproductive health and rights (SRHR) and the necessary healthcare services for all women and girls during the COVID-19 pandemic, especially access to contraception, including emergency contraception, and to abortion care; strongly

² See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

³ See also the EPRS Briefing "Parliaments in emergency mode: How Member States' parliaments are continuing with business during the pandemic" [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2020\)649396](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2020)649396)

rejects any attempts to backtrack on SRHR and LGBTI rights, and in this context condemns the attempts to further criminalise abortion care, stigmatise HIV positive people, and undermine young people's access to sexuality education in Poland, as well as the attack on transgender and intersex people's rights in Hungary;

49. Urges the Member States to adopt only necessary, coordinated and proportionate measures when restricting travel or introducing and prolonging internal border controls, after careful evaluation of their effectiveness to address the public health issue and based on existing legal provisions, namely the Schengen Borders Code and the Freedom of Movement Directive and in full observance of the Charter of Fundamental Rights of the European Union; stresses that border controls and restrictions on movement must remain proportionate and exceptional and that all freedom of movement should be re-established as soon as it is deemed feasible; insists that the cross border travel of front-line workers in sectors key to the fight against COVID-19, in particular health care and elderly care professionals, but also those working in the agri-food sector such as seasonal farm workers, must not be limited; emphasises the need to get back to a fully functioning Schengen Area of free movement with no internal border controls as part of a crisis exit strategy;

50. Calls for full respect of the Geneva Convention and European asylum law; points out that provisions have to be made for the reception of new asylum seekers in appropriate sanitary conditions and medical support, and therefore expresses its deep concern at the situation of refugees and asylum-seekers arriving at the Greek islands, and in hotspots and detention centres, who do not have access to adequate health care and who are particularly at risk; considers that necessary solutions, including the preventive evacuation and relocation of the population at high risk, must be found to ensure the appropriate material conditions and social distancing to avoid contamination; stresses the important contribution of many migrants and descendants of migrants who are working to ensure the proper functioning of many essential sectors across the EU, and in particular in health and care sectors;

51. Takes note of the Commission's plan to call on telecoms providers to hand over anonymised and aggregated data in order to limit the spread of COVID-19, of national tracking programmes already in force, and of the introduction of apps allowing authorities to monitor movements, contacts and health data;

52. Takes note of the emergence of contact-tracing applications on mobile devices in order to warn people if they were close to an infected person, and the Commission's recommendation to develop a common EU approach for the use of such applications; points out that any use of applications developed by national and EU authorities may not be obligatory and that the generated data are not to be stored in centralised databases, which are prone to potential risk of abuse and loss of trust and may endanger uptake throughout the Union; demands that all storage of data be decentralised, full transparency be given on (non-EU) commercial interests of developers of these applications, and that clear projections be demonstrated as regards how the use of contact tracing apps by a part of the population, in combination with specific other measures, will lead to a significantly lower number of infected people; demands that the Commission and Member States are fully transparent on the functioning of contact-tracing apps, so that people can verify both the underlying protocol for security and privacy, and check the code itself to see whether the application functions as the authorities are claiming; recommends that sunset clauses are set and the principles of data protection by design and data minimisation are fully observed;

53. Calls on the Commission and the Member States to publish the details of these schemes and allow for public scrutiny and full oversight by data protection authorities (DPA); notes that mobile location data can only be processed in compliance with the ePrivacy Directive and the GDPR; stresses that national and EU authorities must fully comply with data protection and privacy legislation, and national DPA oversight and guidance;

54. Stresses that disinformation about COVID-19 at this time is a major public health problem; urges the EU to establish a European information source, in all the official languages, to ensure that all citizens have access to accurate and verified information; believes the ECDC should be in charge of coordinating and aligning Member States' data to improve quality and comparability; calls on social media companies to proactively take the necessary measures to stop disinformation and hate speech regarding COVID-19;

55. Stresses the particularly acute and worsening financial situation in the media, especially news media across the EU, due to the abrupt reduction or complete loss of advertising revenues, which may lead to the failure of news organisations across the Member States; highlights the especially dire state of local and regional news media as well as those operating in small markets; points out that free, independent and sufficiently funded media are instrumental for a functioning democracy and for ensuring that citizens are well informed throughout this crisis;"

- 15 June: EU institutions still grapple with health measures as they try to ease them to restart normal work: the Council held meetings, but as informal remote video-conferences, without any possibility to take formal decisions, except for written procedures in case of necessity of a decision, alleging difficulties in the change of the rules of procedures; the EP plenary did not allow speakers to intervene remotely (while this was allowed at committee level); see

<https://www.politico.eu/article/as-lockdowns-lift-eu-institutions-struggle-to-rev-up-operations-parliament-commission/>

- The Commission exit strategy for lifting the lockdown in countries across the EU, see https://ec.europa.eu/info/sites/info/files/communication_-_a_european_roadmap_to_lifting_coronavirus_containment_measures_0.pdf
- 1 April: **Statement by 19 MSs: Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, joined by Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Romania:** "In this unprecedented situation, it is legitimate that Member States adopt extraordinary measures to protect their citizens and overcome the crisis. We are however deeply concerned about the risk of violations of the principles of rule of law, democracy and fundamental rights arising from the adoption of certain emergency measures". <https://www.government.nl/documents/diplomatic-statements/2020/04/01/statement-by-belgium-denmark-finland-france-germany-greece-ireland-italy-luxembourg-the-netherlands-portugal-spain-sweden>
- **President von der Leyen issued a Statement on emergency measures in Member States on 31 March 2020:** "...it is of utmost importance that emergency measures are not at the expense of our fundamental principles and values as set out in the Treaties. Democracy cannot work without free and independent media. Respect for freedom of expression and legal certainty are essential in these uncertain times. Now, it is more important than ever that journalists are able to do their job freely and precisely, so as to counter disinformation and to ensure that our citizens have access to crucial information. Any emergency measures must be limited to what is necessary and strictly proportionate. They must not last indefinitely. Moreover, governments must make sure that such measures are subject to regular scrutiny. The European Commission will closely monitor, in a spirit of cooperation, the application of emergency measures in all Member States. ...", see https://ec.europa.eu/commission/presscorner/detail/en/statement_20_567
- Commissioner Reynders had already stated that when Member States take extraordinary measures in this context, such measures must be strictly proportionate and respect fundamental rights and values such as Rule of Law. As part of its commitment to protect fundamental rights, the Commission **will closely monitor state of emergency laws enacted in all Member States**. It will also be in contact with the Council of Europe as regards temporary suspensions of the ECHR" <https://twitter.com/dreynders/status/1243245075439783938> and <https://twitter.com/dreynders/status/1243245189063421953>
- 8 April 2020, **FRA** has issued a report on *Fundamental rights implications of COVID-19* <https://fra.europa.eu/en/themes/covid-19> and 27 country reports were published.
- **28 January 2020** Due to the occurrence of isolated cases of coronavirus in some EU Member States, the Croatian Presidency of the Council of the European Union has decided to activate the **EU integrated crisis response (IPCR) arrangements in an information exchange** format. This mechanism is a crisis coordination mechanism and brings together all the information coming from different actors (EU Member States, EU institutions, World Health Organization, etc.) and is a very useful tool for monitoring the further development of the situation and for evaluating further activities. See <https://vlada.gov.hr/coronavirus-protection-measures/28950>
- EU Member States' **deconfinement** / exit strategies compared: see <https://www.politico.eu/article/europes-coronavirus-lockdown-exit-strategies-compared/>

- Verfassungblog article on **The Rule of Law Stress Test: EU Member States' Responses to COVID-19**: <https://verfassungsblog.de/the-rule-of-law-stress-test-eu-member-states-responses-to-covid-19/> with comparative [table](#) of emergency powers in States

- on 1st of July, the **German EU Council Presidency** stated it will make the rule of law a "*central point*" of its action by focusing its action on the attacks on fundamental freedoms observed during the Covid-19 pandemic, the first annual report on the rule of law expected in September, but also the conditionality of the European budget and the continuation of the Article 7 procedures currently launched against Poland and Hungary.

- the informal **meeting of Justice Ministers on 6 July** addressed the topics of democracy and the rule of law in the COVID-19 crisis, as well as the struggle against hate speech and disinformation, see <https://www.eu2020.de/eu2020-en/aktuelles/article/videoconference-justice-ministers/2363618>.

Justice:

- Video conference of **EU ministers of justice**, 6 April 2020, on exchange information on measures introduced by member states in the field of justice in response to the COVID-19 pandemic with a focus on the functioning of the Justice system: <https://www.consilium.europa.eu/en/meetings/jha/2020/04/06/> and press release: Ministers of justice stressed that any extraordinary measures should be in line with the fundamental values of the EU <https://eu2020.hr/Home/OneNews?id=234>

- The Council in the document <https://bit.ly/2SCJGHG> explained in a note that the greatest difficulties have been observed in the execution of *European Arrest Warrants* (EAWs) in the phase of surrender of the requested person to the issuing Member State due to, for example, travel restrictions or flight cancellations. The European Commission announced the establishment of a Crisis Management Group on the European Arrest Warrant in cooperation with Eurojust, the *European Judicial Network* and the Secretariat-General of the Council of the EU. Other judicial cooperation instruments are also affected, including *European Investigation Orders* and requests for mutual legal assistance and in most Member States, these instruments have been restricted to urgent cases and/or postponed. Freezing and confiscation orders of criminal assets seem to be less affected, as they are often considered urgent due to the risk of dissipation of assets. Judicial cooperation in criminal matters is also undermined by remote working, with most judges and prosecutors working from home and the activities of the courts being limited to urgent cases, the document notes. Most Member States have suspended the transfer of sentenced persons for the time being, with persons transferred to other Member States having to, in principle, be placed in quarantine.

- Fines: in more or less a month, France issued around 800.000 fines, Spain 500.000 fines, UK 3.500 fines (between £30-£60), Romania 200.000 (of between 2.000 and 20.000 lei, in a country where the average monthly salary is around 3.000) to those breaking lockdown rules.

- 20 May 2020: **Council of Bars and Law Societies** calls on EU and Member States to facilitate reactivation of judicial systems, see <https://bit.ly/3cNoRBx>

2. Freedom of movement (internal and cross-border; sanctions)⁴

⁴ See also EPRS Briefing "The impact of coronavirus on Schengen borders",

- To date, almost all Member States have put in place restrictions to free movement / Schengen and fourteen of them have notified control measures to the Commission (with some Member States were already carrying out controls at their borders in connection with migration or terrorism. Six countries - including France, Germany, Austria, Sweden and Denmark - have been doing so for over two years thanks to the flexibility of the Schengen Borders Code).
- Following a proposal by the Commission, the Council decided on 17 March to close the EU borders for a period of 30 days; guidelines were also adopted to ensure correct implementation.
- Joint publication from Council of Europe and Fundamental Rights Agency (EU): [note](#) on the main fundamental rights safeguards applicable at their member states' external borders, see <https://www.coe.int/en/web/portal/-/fundamental-rights-of-refugees-and-migrants-at-european-borders>
- for an analysis of the legality of the measures taken by MSs and Schengen, see CEPS, "Love thy neighbour? Coronavirus politics and their impact on EU freedoms and rule of law in the Schengen Area", https://www.ceps.eu/wp-content/uploads/2020/04/LSE2020-04_Love-thy-neighbour.pdf
- for information on border and travel measures adopted by the Commission, see the Commission Information note of 8 April.
- 15 April: Commission joint European [roadmap](#) for lifting coronavirus containment measures recommends a phased approach as regards the internal and external borders, allowing for the flow of essential workers and goods now with the ultimate aim of restoring the normal functioning of Schengen. Accordingly, internal border controls should be lifted in a coordinated manner, once the border regions' epidemiological situation converges sufficiently. To this end, neighbouring Member States should closely cooperate.
- From the start of the Covid-19 outbreak, the Commission services have been holding bi-weekly videoconferences with representatives of national authorities, and notably border guard authorities, in order to share information about actions taken at the national level, address problems identified and discuss the different sets of specific sectorial Commission Guidelines that have been adopted over the past few weeks.
- Guidelines C(2020)1897 on the implementation of the Green Lanes under the Guidelines for border management measures to protect health and ensure the availability of goods and essential services
- Guidelines C(2020)2051 concerning the exercise of the free movement of workers during Covid-19 outbreak.
- 28 April: Ministers of the Interior informal teleconference on the gradual lifting of internal border controls and asked the Commission to coordinate it in a "*gradual and coordinated*" way. The Commission should publish a paper on the subject. Next meeting will be on the 8 May.
- 30 April: [letter](#) of Commissioner Johansson to Fajon MEP, with [Annex 1](#) with answers to questions of MEPs and [Overview](#) of notifications
- 8 May: the Commission [invited](#) Schengen Member States and Schengen Associated States to extend the temporary restriction on non-essential travel to the EU for another 30 days, until 15

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649347/EPRS_BRI\(2020\)649347_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649347/EPRS_BRI(2020)649347_EN.pdf) ; the Commission keeps a website with MSs measures related to Covid 19 and mobility and transports https://ec.europa.eu/transport/coronavirus-response_en. Information and letters were exchanged between the EP and the Commission, available at https://emeeting.europarl.europa.eu/emeeting/committee/agenda/202005/LIBE?meeting=LIBE-2020-0512_1&session=05-12-10-00 (point 3 of the agenda).

June. EU institutions and actors insist on a coordinated lifting of internal border controls before opening external borders.

- Lithuania, Latvia and Estonia last week [agreed](#) to lift travel restrictions and the obligation to undergo two weeks of quarantine on their citizens. People returning from other countries will still be required to self-isolate. The area might expand as the countries [look to add](#) Poland and Finland to their free-travel zone.

- France and the U.K. have agreed to allow travelers from France a quarantine-free trip across the Channel, U.K. Prime Minister Boris Johnson and French President Emmanuel Macron said in a [joint statement](#) Sunday. However, this wasn't confirmed by the [U.K.'s exit strategy](#) published Monday.

- 13 May: Commission's Tourism and Transport package including: an [overall strategy towards recovery in 2020 and beyond](#), a common approach [to restoring free movement and lifting restrictions at EU internal borders in a gradual and coordinated way](#), a framework to support the [gradual re-establishment of transport whilst ensuring the safety of passengers and personnel](#), a recommendation which aims to make [travel vouchers an attractive alternative to cash reimbursement for consumers](#) and criteria for [restoring tourism activities safely and gradually and for developing health protocols for hospitality establishments such as hotels](#).

See also [press release](#) and [Q&A](#) with more information are available online.

The Commission proposes a "phased and coordinated approach" for the lifting of controls at the EU's internal borders, based on a "staged process" for restoring freedom of movement in Europe.

Three criteria for gradually opening their borders:

- 1) the epidemiological situation: same positive trend on both sides (sustainable decrease in the number of new infections, capacity of the health system to manage these cases, testing capacity);
- 2) barrier gestures and specific measures, such as social distancing, implemented on both sides, with, for example, the separation of passengers in transport, the wearing of masks, the existence of tracing applications;
- 3) they will have to look at the social and economic situation that may justify this gradual lifting and thus take into account the motivations for travel, such as the economic imperative, the situation of frontier workers or important family reasons.

Three phases:

1st phase: focus on frontier and seasonal workers and do everything possible to ensure that they can get to their place of work; the same goes for workers in 'transit'. In addition, more targeted measures to limit the impact of controls would also be welcome.

2nd phase: gradual lifting of restrictions in certain border areas, if it is not possible to open up traffic completely, it will be necessary to ensure that controls are not systematic.

3rd phase: lifting of controls throughout Schengen. When the health situation is satisfactory throughout the EU, travel can resume without restrictions, but always with good hygiene or distancing practices in transports.

The Member States which will decide each stage, will have to inform their neighbours. The Commission is being careful not to impose a timetable on them, but says it would like to see a return to normality as soon as possible.

It does not want, a priori, to create new coordination structures: the dialogue will be strengthened within the IPCR (*Integrated political crisis response*) mechanism or the Covid-19 group, which brings together the "Home Affairs" experts." (*Agence Europe*)

- 20 May: **European Union Aviation Safety Agency (EASA) and the European Centre for Disease Prevention and Control (ECDC)** : COVID-19 Aviation Health Safety Protocol: [Guidance](#) for the management of airline passengers in relation to the COVID-19 pandemic
- The EU Commission called for **full reopening of internal borders** within the EU from 15 June to max the **1st of July**: <https://www.euractiv.com/section/justice-home-affairs/news/commission-calls-for-full-reopening-of-borders-within-eu/>. Interior **Ministers** on 4 June discussed the issue at an informal meeting via videoconference.
- The EP LIBE committee adopted a **resolution** calling for the swift and coordinated return to a fully functional Schengen area, which is of utmost importance to safeguard freedom of movement, one of the main achievements of European integration, and to ensure the EU's economic recovery after the pandemic, see <https://www.europarl.europa.eu/news/en/press-room/20200604IPR80501/returning-to-free-movement-across-borders-is-of-utmost-importance>.
- Some MSs do not apply the EU Council's recommendation to open the EU's external borders to 15 non-Member States: among these are Belgium, while several Member States have already announced limited openings, such as Germany, Spain and the Czech Republic. Hungary has chosen to open up only to Serbia. Belgium has chosen not to open up to any of these 15 countries.
- On Schengen, on 6 July the Commission reported to LIBE that most MSs have notified the end of temporary measures, but a few Member States (Finland, Denmark and Lithuania) are still applying controls for health reasons. 6 countries have also requested the extension of internal controls put in place in the wake of the migration crisis and the attacks of 2015 (France, Germany, Sweden, Denmark, Austria and Norway, which will carry out these checks in connection with secondary migration movements or terrorism at least until mid-November).
- **Useful Timeline** of EU Member States **Reopening Their Borders**, see <https://www.schengenvisainfo.com/news/timeline-of-eu-member-states-reopening-their-borders/>
- **Useful maps** on Schengen and free movement, briefing by the Robert Schuman foundation: **Restoring free movement in the Union**: <https://www.robert-schuman.eu/en/european-issues/0562-restoring-free-movement-in-the-union>; as well as <https://euobserver.com/coronavirus/148608>
- 11 June: Commission communication "[On the third assessment of the application of the temporary restriction on non-essential travel to the EU](#)", recommending to Member States to extend for a further 2 weeks the restrictions they are applying to non-essential travel by third country nationals to the EU. The gradual opening of the external borders from 1 July would also be based on a 'list' of third countries that do not pose any health risks, on the basis of several criteria, such as similar or better epidemiological situation in the country of origin, including new infections, pandemic responses with testing capacity, e.g. containment measures taken, distancing or tracing of patients. Reciprocity shall also be considered. The Western Balkans must be a priority. This is the fourth time since the beginning of the crisis that the Commission has recommended extending restrictions on non-essential travel. See https://ec.europa.eu/home-affairs/news/20200611_coronavirus-commission-recommends-partial-gradual-lifting-travel-restrictions-eu-adopts-guidance-resuming-visa-operations_en
- Concerning **internal borders**, the Commission insisted on the deadline of 15 June, but it is up to the Member States to decide, and some countries, such as Spain, have already said that they would take longer and would not be able to lift the control as early as 15 June.

- European website [Re-open EU, to safely resume travelling and tourism in the EU](#) with real-time information on borders and available means of transport and tourism services in Member States to help Europeans plan their holidays and travels.
- See also useful info at: <https://www.politico.eu/article/coronavirus-travel-europe-country-by-country-travel-restrictions-explained-summer-2020/> and <https://www.euractiv.com/section/politics/news/all-you-need-to-know-about-europe-lifting-its-internal-border-restrictions/> and <https://www.theguardian.com/travel/2020/may/18/europe-holidays-which-european-countries-are-easing-coronavirus-travel-restrictions-lockdown-measures> and <https://www.theguardian.com/world/2020/jun/16/spain-may-quarantine-british-visitors-in-response-to-uk-policy-coronavirus>
- adoption of the [European Parliament resolution of 19 June 2020 on the situation in the Schengen area following the COVID-19 outbreak](#) and of the [European Parliament resolution of 19 June 2020 on European protection of cross-border and seasonal workers in the context of the COVID-19 crisis](#)
- 30 June: The Council adopted a recommendation on the lifting of the restrictions on non-essential travel into the EU, proposing to lift travel restrictions from 1 July to the following third-countries: Algeria Australia Canada Georgia Japan Montenegro Morocco New Zealand Rwanda Serbia South Korea Thailand Tunisia Uruguay China, subject to confirmation of reciprocity. The criteria applied cover the epidemiological situation and containment measures, including physical distancing, as well as economic and social considerations. They are applied cumulatively. The list will be updated every 2 weeks.

3. Freedom of expression, media freedom, freedom of information (and sanctions)⁵

- Commissioner Vera Jourova has recently called internet tech giants to strengthen their fight against fake news related to coronavirus.
- Reporters without Borders published their 2020 World Freedom Index, with an analysis of the situation in Europe: <https://rsf.org/en/2020-rsf-index-europes-journalists-face-growing-dangers>
- 21 April: [Ombudsman](#) asks EU institutions to ensure transparency of EU COVID-19 response.
- 9 June: 119 NGOs from across Europe call on the European Union to protect freedom of expression and information by acting to end the use of gag lawsuits (SLAPP) to harass and silence investigative journalists and public interest defenders, see <https://www.access-info.org/wp-content/uploads/2020-06-05-Ending-SLAPPs-NGO-Policy-Paper-119-FINAL.pdf>
- 10 June: Commission Communication on "[Tackling COVID-19 disinformation - Getting the facts right](#)": the document mentions disinformation campaigns from foreign actors "in particular China and Russia" as well as misleading health care information, conspiracy theories — including on 5G —, illegal hate speech, consumer fraud and cybercrime as challenges arising during the coronavirus pandemic. To fight this: 1) the Commission launched a "**monitoring and reporting**" programme, by which platforms signatories of the EU Code of Practice on Disinformation will provide monthly reports on their policies and actions to counter coronavirus disinformation; 2)

⁵ See also EPRS Briefing "The impact of coronavirus on media freedom", [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651905/EPRS_BRI\(2020\)651905_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651905/EPRS_BRI(2020)651905_EN.pdf)

Commission also issued a series of **recommendations** to promote media independence and plurality, as well as the work of fact checkers and researchers. Platforms are called to set up, in partnership with the European Digital Media Observatory (EDMO), a framework for researchers to **access data** from the platforms, in order to “*enhance the detection and analysis of disinformation*”; 3) strategic **communication** will be improved to deliver timely, “*coherent, consistent and visible messages*” at global level; 4) measures will safeguard **freedom of expression**, and the Commission pledges to “closely monitor the impact of emergency measures on EU law and values”; 5) the document underlines the importance of **media literacy** and considers actions to raise awareness and critical thinking among young people.

- Corporate Europe Observatory, Lobby Control and 92 MEPs call on incoming German Presidency to increase **transparency** within EU Council, see <https://www.guengl.eu/content/uploads/2020/06/MEP-Merkel-letter-FINAL.pdf>

- Disinformation: Joint statement by **broadcasters, journalists, publishers**, calling for EU stronger measures against disinformation on internet platform such as Facebook and Google, signed by the Association of Commercial Television in Europe, European Federation of Journalists, European Publishers Council, Gianni Riotta, professor, News Media Europe, Oreste Pollicino, Professor, Ravi Vatrappu, Professor, see <https://europeanjournalists.org/blog/2020/06/15/the-efj-calls-for-stronger-measures-to-tackle-disinformation-on-online-platforms/>

- publication of the [5th evaluation round](#) of the May 2016 Commission “Code of conduct on countering illegal hate speech online”, agreed with Facebook, Microsoft, Twitter, YouTube, Instagram, Google+, Snapchat, Dailymotion and Jeuxvideo.com. The report reveals that sexual orientation is the most commonly reported ground of hate speech (33.1%) followed by xenophobia (including anti-migrant hatred) (15%), anti-gypsyism (9.9%), 9.4% Anti-Muslim hatred, 7.1% Antisemitism. On average, 83.5% of content calling for murder or violence of specific groups was removed. IT companies removed 70 percent of online hate speech in 2019, while assessing nearly 90 percent of flagged content within 24 hours. However, platforms have to improve transparency and feedback to users.

4. Freedom of assembly (and sanctions)

- Media reported the blatant violation of restrictive and health measures by Prime Ministers, Ministers and political leaders in many EU Member States, without any of the consequences like fines or sanctions that hit "normal" citizens, except for public apologies: <https://www.euractiv.com/section/politics/news/covid-19-lockdown-the-eu-leaders-who-didnt-lead-by-example/> ; more recently, Spain has fined Belgium's Prince Joachim €10,400 for breaching the country's quarantine rules and being positive for the coronavirus in Belgium. If he pays the fine within 15 days, it will be reduced by half.

- EPC report Countering shrinking spaces: Recommendations to support EU civil society, see <https://www.epc.eu/en/Publications/Countering-shrinking-spaces-Recommendations-to-support-EU-civil-socie~344cac>

5. Privacy and data protection⁶

⁶ See also EPRS Briefing "Tracking mobile devices to fight coronavirus", [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649384/EPRS_BRI\(2020\)649384_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649384/EPRS_BRI(2020)649384_EN.pdf). For more information on Covid 19 apps, see

- The Commission is discussing with telecom the use of data to fight coronavirus, and the Commission has consulted EDPS on a project that is being dealt by the Joint Research Center: https://edps.europa.eu/sites/edp/files/publication/20-03-25_edps_comments_concerning_covid-19_monitoring_of_spread_en.pdf
And <https://www.euractiv.com/section/data-protection/news/eus-breton-defends-covid-19-telecoms-data-acquisition-plans/>
- EDPB Statement on the processing of personal data in the context of the COVID-19 outbreak, see https://edpb.europa.eu/our-work-tools/our-documents/other/statement-processing-personal-data-context-covid-19-outbreak_en;
similar statements were adopted by other data protection authorities in MSs.
- European Center for Disease Prevention and Control guidance document on Contact Tracing <https://reliefweb.int/sites/reliefweb.int/files/resources/Public-health-management-persons-contact-novel-coronavirus-cases-2020-03-31.pdf>
- 6.4.2020, EDPS: EU Digital Solidarity: a call for a pan-European approach against the pandemic' https://edps.europa.eu/sites/edp/files/publication/2020-04-06_eu_digital_solidarity_covid19_en.pdf : 'European Essential Guarantees' shall be respected: 1) the requirement that the processing should be based on clear, precise and accessible rules; 2) demonstration of the necessity and proportionality with regard to the legitimate objectives pursued; 3) existence of an independent oversight mechanism as well as 4) availability of effective remedies to the individual. EDPS also underlined that any measure shall be: 5) **Temporary** – they are not here to stay after the crisis; 6) Their **purposes are limited** – we know what we are doing; 7) Access to the data is limited – we know who is doing what. 8) We know what we will do both with results of our operations and with raw data used in the process – **we know the way back to normality**.
- 8 April Commission **recommendation** on a common Union **toolbox** for the use of technology and data to combat and exit from the COVID-19 crisis, in particular concerning mobile applications and the use of anonymised mobility data, https://ec.europa.eu/info/sites/info/files/recommendation_on_apps_for_contact_tracing_4.pdf
- 16 April: Commission adopted and published a **Common EU Toolbox for Member States** https://ec.europa.eu/health/sites/health/files/ehealth/docs/covid-19_apps_en.pdf containing also **Guidance on Apps supporting the fight against COVID 19 pandemic in relation to data protection**, see [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1587141168991&uri=CELEX:52020XC0417\(08\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1587141168991&uri=CELEX:52020XC0417(08))
- 21 April : EDPB adopted **Guidelines 04/2020** on the use of **location data and contact tracing** tools in the context of the COVID-19 outbreak https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_guidelines_20200420_contact_tracing_covid_with_annex_en.pdf ; and Guidelines 03/2020 on the processing of data concerning **health** for the purpose of scientific research in the context of the COVID-19 outbreak, https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_guidelines_202003_healthdatascientificresearchcovid19_en.pdf

https://gdprhub.eu/index.php?title=Projects_using_personal_data_to_combat_SARS-CoV-2 and Council of Europe webpage <https://www.coe.int/en/web/data-protection/contact-tracing-apps>

- 13 May: Commission published guidelines to promote the interoperability of tracing applications, see "[Interoperability guidelines for approved contact tracing mobile applications in the EU](#)"
- Briefing on "National COVID-19 contact tracing apps" Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies, EP, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652711/IPOL_BRI\(2020\)652711_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652711/IPOL_BRI(2020)652711_EN.pdf)
- A European NGO, Liberties, coordinated the filing by its members in 9 EU countries of Freedom of Information requests to their national authorities regarding the new contact-tracing, symptom-tracking and quarantine-enforcing applications introduced to control the spread of Covid-19. Bulgaria, Croatia, Italy, Hungary, Lithuania, Poland, Slovenia, Spain and Sweden will see FOIA requests tabled, while also Belgium, Germany and Ireland will also be covered in the project. See <https://www.liberties.eu/en/news/liberties-campaign-foi-request-covid19-tracing-apps/19396>
- 16 June: Member States agreed on [cross-border interoperability parameters for decentralised tracing applications](#), which will allow exchange information also for users travelling to other Member States without the need to download several national applications. German authorities launched their national application on the same day, bringing the number of applications for tracing cases of coronavirus infection currently in circulation in the EU-27 to eight: **Austria, the Czech Republic, Italy, Latvia, Poland and now Germany** have launched an application based on a decentralised model. **Hungary and France** are proposing an application based on a centralised approach. **Estonia, Ireland, Finland, the Netherlands, Lithuania, Malta, Cyprus, Hungary, Portugal, Spain and Denmark** have already indicated that they also intend to propose a decentralised application in the future. **Slovakia, Belgium, Luxembourg, Sweden and Slovenia** are considering (or already have) the use of digital technologies, but exclude contact tracing. The guidelines apply only to decentralised apps. But the German (decentralised) and French (centralised) applications, for example, cannot yet communicate with each other. More info at: <https://bit.ly/3hvy83L>

6. Asylum and migration

- The European commission, replying to the call of LIBE for the evacuation of 42,000 people on the Greek islands as "an urgent preventive" measure to avoid "many deaths" from coronavirus, stated that it is working with Greece on an emergency response plan to deal with a potential outbreak of coronavirus on the islands, see <https://www.theguardian.com/world/2020/mar/24/eu-urged-to-evacuate-asylum-seekers-from-cramped-greek-island-camps-coronavirus>
- The Greek Prime Minister said that there are no Covid-19 cases on the island of Lesbos nor on any other island and had only had one case on a refugee camp on the mainland, he [told CNN](#). "We're keeping a very very close eye on what's happening in Lesbos ... We're faced with a complicated situation." He added: "We have access also to European support, we're ramping up medical facilities ... we certainly want to protect these areas."
- 16 April 2020: Communication from the Commission **COVID-19: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement** 2020/C 126/02 [https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1587138114770&uri=CELEX:52020XC0417\(07\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1587138114770&uri=CELEX:52020XC0417(07)) : the Commission called Member States to proceed with the registration and processing of asylum applications and

underlined that Member States should comply with asylum law, despite the Covid-19 emergency.

- **relocation programme for young isolated migrants** in Greek camps: Luxembourg, Germany, Portugal and around 8 more Member States are currently volunteering to take care of 1,600 young unaccompanied migrants.

- 27 May 2020: FRA bulletin "COVID-19 puts asylum seekers at a higher risk as conditions in camps deteriorate and asylum procedures are suspended", see <https://fra.europa.eu/en/news/2020/covid-19-puts-asylum-seekers-higher-risk-conditions-camps-deteriorate-and-asylum>

- The Commission encourages Member States not to consider as illegal stay in the EU the periods of stay of third-country nationals in a Member State caused by Covid-related measures: https://ec.europa.eu/home-affairs/news/20200529_commission-encourages-member-states-not-consider-illegal-stay-eu-third-country-nationals-member-state-caused-covid-related-measures_en

- EASO Special Report: Asylum Trends and COVID-19: <https://www.easo.europa.eu/sites/default/files/easo-special-report-asylum-covid-june-2020.pdf>

- IOM and UNHCR call on EU-27 not to turn their backs on migrants from Libya because of health crisis

7. Prisons

- Commissioner Reynders letter to Justice Ministers of Member States on Covid 19, prisons, EAW, and domestic violence: <https://twitter.com/dreynders/status/1251104478167814144/photo/1>

- Covid-19 in Europe's prisons - and the response, <https://euobserver.com/opinion/148385>

- According to the [2019 SPACE II](#) annual survey carried out for the Council of Europe by the University of Lausanne, European states are increasingly resorting to sanctions and measures which keep offenders in the community without deprivation of liberty, and **20 out of 43 prison administrations reported having released inmates to prevent the spread of COVID-19**, applying various measures such as amnesties, early and provisional releases and other alternatives to deprivation of liberty. On average, these 43 administrations released 5% of their population (over 118,000 inmates). Excluding countries with less than 500,000 inhabitants, those which released the highest proportions of prisoners were Turkey (35%; 102,944 inmates), **Cyprus** (16%; 121), **Slovenia** (16%; 230), **Portugal** (15%; 1,874), Norway (13%; 401), Ireland (12%; 476), **Italy** (9.4%; 5,739) and **Spain** (7.4%; 4,356). **France** released 14% of its prison population (10,188 inmates) but this includes all releases (for example those of inmates arriving at the end of their prison sentence) and not only those related to measures to prevent COVID-19. Including these persons would lead to **over 128,000 inmates released in Europe since the beginning of the pandemic**.

- [Coronavirus and prisons in the EU: Member-State measures to reduce spread of the virus](#), 22-06-2020, EPRS

- 2 July: the Council of Europe Committee of Ministers adopted a recommendation (<https://bit.ly/3ikeQPc>) updating European Prison Rules 2006 (<https://bit.ly/2VHr4YJ>).

8. Discrimination

- NGOs raise serious concerns on treatment of Roma community and discrimination
<https://emerging-europe.com/news/human-rights-organisations-raise-concerns-about-treatment-of-roma-and-migrants-during-coronavirus-lockdowns/>
- ILGA-Europe [Open letter to EC President: keeping equality for all at the core amid the COVID-19 crisis](#)
- Roma:
Roma neighbourhoods in Bulgaria and Slovakia have been cordoned off amid fears of the virus spreading. Police checkpoints were introduced outside two large neighbourhoods in Sofia, and people were only allowed to leave the area if they could show a work contract or prove another urgent reason for doing so, see <https://www.theguardian.com/world/2020/may/11/europes-marginalised-roma-people-hit-hard-by-coronavirus> and criticism by Amnesty International <https://news.trust.org/item/20200421122752-06ji4>
- Roma: EU/CoE initiative to help Roma families face COVID-19, see <https://www.coe.int/en/web/portal/-/new-initiative-to-help-roma-families-face-covid-19>
- Roma FRA: <https://fra.europa.eu/en/news/2020/persistent-roma-inequality-increases-covid-19-risk-human-rights-heads-say>
- Roma: 29 April OSI report on the situation of Roma in some MSs: <https://reliefweb.int/report/italy/roma-covid-19-crisis-early-warning-six-eu-member-states>
- LGBTI: No real progress on rights, survey finds: The EU Fundamental Rights Agency's annual report says the rights of lesbian, gay, bisexual, trans and intersex (LGBTI) people has not improved overall in the past seven years. "Too many LGBTI people continue to live in the shadows, afraid of being ridiculed, discriminated or even attacked," said FRA director Michael O'Flaherty.
- Human Rights Watch : Europe has turned a blind eye on racism, and on deaths in the Mediterranean, see <https://www.politico.eu/article/under-water-or-under-a-knee-we-cant-breathe-human-rights-watch/>
- 12 June : *European Network Against Racism* (ENAR) and more than 150 organisations issued an [open letter](#) to Ursula von der Leyen, the President of the European Commission criticising the "deafening silence" of EU leaders and Member States on police violence and institutional racism. The letter calls on leaders to ensure fair policing practices for all communities.
- adoption of the [European Parliament resolution of 19 June 2020 on the anti-racism protests following the death of George Floyd](#)
- Amnesty International report [Policing the Pandemic - Human rights violations in the enforcement of COVID-19 measures in Europe](#): police enforcing COVID-19 lockdowns across Europe have disproportionately targeted ethnic minority and marginalized groups with violence, discriminatory identity checks, forced quarantines and fines, according to AI. The report covers 12 European countries - Belgium, Bulgaria, Cyprus, France, Greece, Hungary, Italy, Serbia, Slovakia, Romania, Spain and the UK - and exposes a disturbing pattern of racial bias which is linked to concerns about institutional racism within police forces, and echoes wider concerns raised in the ongoing Black Lives Matter protests.
- ILGA-Europe webpage on protecting LGBTI+ rights during the Covid 19 pandemic: <https://www.ilga-europe.org/tags/covid-19>
- ECRI warned MSs against racial profiling in policing, see <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/-/ecri-warns-against-racial-profiling-in-policing-and-calls-for-a-systemic-response-to-address-racism-in-all-areas>

9. Any other issue relevant for Art. 2 TEU

- 22 June: European Economic and Social Committee (EESC) [Report on Fundamental rights and the rule of law - National developments from a civil society perspective, 2018-2019](#): report on the situation of the rule of law in seven EU countries visited in 2018 and 2019, Romania, Poland, Hungary, France, Austria, Bulgaria and Italy. The report noted "*a growing weakening and stigmatisation of the role of civil society*". Freedom of association, including the right of civil society organisations to freely carry out their activities, and access to funding "*particularly strained*". Media freedom, the right to information and freedom of expression are challenged, like in Hungary, where the bulk of advertising revenue goes to publications close to the government. The freedom to demonstrate is also discussed, and France is mentioned for the "*excessive use of force*" during the "Yellow Vests" demonstrations. Meetings with civil society organisations, legal and media professionals. The national authorities were also consulted.
- EESC denounces the "Alarming pressure on civil society: Polish EESC member becomes a target of government retaliation and NGOs no longer able to choose their own candidates", see Statement at <https://www.eesc.europa.eu/en/news-media/news/alarming-pressure-civil-society-polish-eesc-member-becomes-target-government-retaliation-and-ngos-no-longer-able-choose>

4. AUSTRIA⁷

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The measures to combat the health impacts of Covid 19 mainly rely on the [Epidemics Act](#) and the COVID 19 Measures Act (Art 8 of the first COVID legislative package).
- On March 16, the government banned citizens from entering public spaces except in certain situations, including pharmacy, grocery store and ATM trips. All sports fields have been shut, but people are still permitted to go on runs or take walks outside with the people who also live in their apartment or house.
- Restrictions were in place until April 13.

(Sources: <https://www.dw.com/en/coronavirus-what-are-the-lockdown-measures-across-europe/a-52905137>)

Deconfinement:

- April 14: Small shops reopen (under 400 sq m in size, hardware stores and garden centres).
- May 1: Other shops and businesses. Ban of non-essential movement lifted and public gatherings of up to 10 people allowed.
- May 15: Restaurants allowed to reopen. Religious services resume.
- Masks mandatory in shops and public transport, since 14 April.
- Voluntary contact tracing app rolled out.

Justice system:

On Monday, March 16, 2020, an ordinance by the Justice Minister to amend the rules of procedure for the courts of first and second instance came into force. You can find these below. The following preventive measures should apply until April 13, 2020:

- The general opening hours in the courts expire. The movement of parties is limited to their elementary procedural rights, guaranteed by the procedural codes. This includes, in particular, the inspection of files and the possibility of submitting applications and other submissions to the court on time.
- The official acts required for the granting of procedural and party rights can only be made by prior notification by telephone and should be done by telephone or email if possible.
- The "office day" must also take place without exception by telephone and must limit itself to urgent matters if possible.
- The entry points remain open during the court's official hours to ensure that written submissions are ensured.

⁷ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy. For an analysis of the Austrian measures, see <https://verfassungsblog.de/rule-of-law-lacking-in-times-of-crisis/>

- In criminal matters, hearings with the exception of detention and other procedures that cannot be postponed can be cancelled ex officio in accordance with Section 226 (1) (2) or (4) StPO . As far as hearings take place, the public can be excluded in accordance with Section 229 (1) 1 StPO.
 - Even in civil matters, oral hearings should only be held to the extent that it is absolutely necessary to maintain orderly administration of justice. It should also be checked whether already scheduled hearings can be cancelled.
- See <https://www.coe.int/en/web/cepej/compilation-comments#Austria>

Parliament:

- The Austrian Parliament's plenary and committee meetings have been reduced. See <https://www.ipu.org/country-compilation-parliamentary-responses-pandemic>

2. Freedom of movement (internal and cross-border; sanctions)

- Temporary controls at land borders were reintroduced due to Coronavirus COVID-19 with Germany, Italy, Switzerland and Liechtenstein (18 March – 7 April 2020).
- The Prime Minister hinted at the fact that AU would not open the borders with Italy until the situation is under control there, leading to IT reaction, supporting a European coordinated approach.
- Austria **opened its land borders** with Germany, Switzerland, Liechtenstein, Slovakia, Slovenia, Hungary and the Czech Republic on 4 June. There are no entry checks, except for on the Italian border. For anyone else who does arrive in Austria, for example by **air, a medical certificate** must be produced proving a negative COVID-19 test. The certificate cannot be more than four days' old. Entry by air is prohibited to citizens coming from countries outside the [Schengen Area](#). [More information here](#). From: <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. freedom of expression (and sanctions)

4. Freedom of assembly (and sanctions)

Groups of more than five people are not permitted in public. Restaurants, bars and cafes have been ordered shut. Only supermarkets and food delivery services are available for those looking for food or groceries. Those who do not comply face fines of up to €3,600.

5. Privacy and data protection

Data protection issues are debated in the context of tracking mobile data to help managing the virus. A1 Telekom Austria Group, the country's largest mobile phone company, is sharing results from a motion analysis application developed by Invenium, a spin-off from the Graz University of Technology that it has backed. ...Invenium analyses how flows of people affect traffic congestion or how busy a tourist site will get, said co-founder Michael Cik, but its technology is equally applicable to assessing the effectiveness of measures to reduce social contact or movement that seek to contain an epidemic, see <https://www.reuters.com/article/us-health-coronavirus-europe-telecoms/european-mobile-operators-share-data-for-coronavirus-fight-idUSKBN2152C2>.

6. Asylum and migration

- Austria's major asylum reception centre in Traiskirchen (Lower Austria) is under quarantine until 13 April, following the detection of virus positive cases.
- The Austrian ministry for the interior adopted a decree establishing that applicants for international protection can be rejected at the border if they do not provide a medical certificate.⁸
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

⁸ <https://www.vienna.at/fluechtlinge-werden-an-der-grenze-abgewiesen/6576374>
In: <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

5. BELGIUM⁹

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- Belgium has been in lockdown since March 18.
- Restrictions will be in place until 3 May with some changes and relaxation of the rules and reopening of some categories of shops.

Deconfinement:

- Garden centers and do-it-yourself shops reopened their doors under strict social-distancing conditions.
- May 4: fabric shops and some companies reopen.
- May 11: all shops will reopen under conditions that are yet to be determined.
- May 18: the government hopes to start reopening schools (last year of primary and secondary schools). Hairdressers and museums may open, on condition that social distances are applicable.
- May 25: first and second year of primary and secondary schools should reopen.
- June 8: possible reopening of cafes, bars, restaurants and even cinemas. This stage is still hypothetical and will have to be reassessed according to the evolution of the epidemic.
- Mask-wearing mandatory on public transport.
- wider screening of contaminated people and follow-up of contacts of these people. This tracing enters the test phase from the week of May 4 to be operational from Monday, May 11.
- All cultural, sporting, tourist and recreational events are prohibited until June 30.
- From June 8, confirmation of the third phase of deconfinement. From now on, freedom is the rule and prohibitions the exception:
 - It is possible to have closer contact with 10 different people per week in addition to the household. This right is individual. People can also change every week. Group meetings will be limited to a maximum of 10 people, including children. This applies to all meetings, regardless of whether they take place at home or outside it (e.g. park or restaurant).

⁹ See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures taken, see <https://verfassungsblog.de/belgium-and-covid-19-when-a-health-crisis-replaces-a-political-crisis/> ; for a critical overview of the political situation in Belgium during the sanitary crisis, see - for a critical view on the measures adopted: Confinement : la Belgique a-t-elle [trahi](#) les droits fondamentaux de ses citoyens? ; « L’État belge face à la pandémie de Covid-19 : esquisse d’un régime d’exception », <https://www.cairn.info/revue-courrier-hebdomadaire-du-crisp-2020-1.htm> and « La Belgique entre crise politique et crise sanitaire (mars-mai 2020) », <https://www.cairn.info/revue-courrier-hebdomadaire-du-crisp-2020-2-page-5.htm>

- cafés, bars and restaurants are reopened, under the following conditions: a distance of 1,50m between the tables, a maximum of 10 people per table, each client must sit at their own table and waiters must wear a mask. However, games rooms (ex: casinos), banquet and reception rooms can only reopen on July 1st. Regarding banquet and reception rooms, this will be possible with a maximum of 50 people present, under the same conditions as catering. Nightclubs will not be allowed until the end of August, given the impossibility to provide safe distances,
- Cultural activities without audiences can resume. Performances with the public - including cinemas - will be able to resume from July 1 but always according to specific rules relating to audience management such as respecting safety distances in the public and 200 people present at most,
- Sports and cultural activities organised and supervised by a manager are limited to 20 people in June and 50 people in July, provided that social distances are respected,
- Contactless sports activities can resume, whether indoor or outdoor, exercised as an amateur or at a professional, competitive and training level. Rooms and fitness areas can also reopen, subject to respecting the protocol. However, swimming pools, saunas and wellness centers should remain closed at this stage. In any case, everything will be allowed again from July 1 on condition that the protocols are respected,
- Whether in the cultural or the sports sector, a seated audience of maximum 200 people will be allowed from July 1, respecting safety distances and the protocols.
- Religious or philosophical practices can resume under respect, in particular, of the following rules: the safety distance must be respected with a maximum of 100 people present. From July, this number of people will be extended to 200. Practices with physical contact are prohibited.
- Phases 4 and 5 of the deconfinement strategy will take place in July and August, if the epidemiological conditions allow (see <https://www.belgium.be/fr/corona>). From 1st August, village fetes and funfairs may go ahead.
- On 24 June, the National Council of Security confirmed the fourth stage of deconfinement starting on 1, July, with the following measures:
 - Closer contact enlarged to 15 people, and possibility to go to the store with some of them;
 - Organization of events: capacity limit of 200 people inside and 400 people outside if the safety rules are respected. This does not concern wedding parties, limited to 50 people. The maximum number of outdoor participants will also apply to demonstrations. These must always be subject to an authorization request from the local authorities. In any event, they must always be static and take place in a place where safety distances can be respected ";
 - Opening of cinemas, swimming pools, wellness centers, performance halls, amusement parks under conditions which will be established with the competent ministers;
 - No extension of the closing time of bars and restaurants;
 - No mass events like festivals and no opening of nightclubs;
 - The parade of July 21 will be held in another form and without celebration at the Royal Park. Tribute will be paid to the victims of covid-19 and to the front line professions (see <https://www.rtl.be/info/belgique/societe/nouveau-conseil-national-de-securite-ce-mercredi-voici-tout-ce-qui-pourrait-encore-changer-1227011.aspx> and <https://www.lalibre.be/belgique/societe/conseil-national-de-securite-queles-sont-les-nouvelles-mesures-annoncees-5ef30be8d8ad585d0843198f>).
- As part of this fourth phase of the deconfinement plan, the National Council of Security finally decided on July 1, not to impose the wearing of a mask in stores. In public transport, it remains mandatory (see <https://www.dhnet.be/actu/belgique/nouvelles-mesures-de-deconfinement-tout-ce-qui-va-changer-a-partir-du-1er-juillet-5efc20ead8ad585d0853c019>).

The measures in force since March 18, 2020 have been updated by Ministerial Order dated June 30, 2020 (see <https://nandrin.blogs.sudinfo.be/archive/2020/06/30/mesures-afin-de-freiner-la-propagation-du-coronavirus-du-30-306105.html>)

Parliament :

- IPU: "Currently no meetings are taking place in the Federal Parliament of Belgium. Only leaders of political groups met in a plenary sitting in the last week of March. There is no legal framework covering remote meetings and voting. These options and remote interpretation are being examined. The software Zoom is being tested. Documents are being provided through FileCloud, mail and the Senate's website", <https://www.ipu.org/country-compilation-parliamentary-responses-pandemic>
- On 16 June, the Walloon majority rejected in health committee of the regional parliament, the motion for a resolution aiming at the establishment of a parliamentary commission of inquiry on the management of the health crisis in nursing homes in the south of the country (see <https://www.lesoir.be/307478/article/2020-06-16/la-majorite-wallonne-rejette-lidee-dune-commission-denquete-parlementaire-sur>).
- On 24 June, no agreement could be found among the MPs to establish a parliamentary inquiry committee (see <https://www.levif.be/actualite/belgique/coronavirus-foire-d-empoigne-sur-la-commission-d-enquete-parlementaire/article-normal-1304341.html>). Finally, on 25 June the MPs agreed to create a special commission to examine the management of the COVID-19 epidemic by Belgium (see https://www.lachambre.be/kvvcr/pdf_sections/newsletter/0000012134/55-039-plenum-laws07F.pdf).

Judiciary:

On 29 April 2020, adoption of two Royal Decrees extending certain measures taken by Royal Decrees of April 9, 2020 concerning:

- the extension of limitation periods and other periods for bringing (civil) legal proceedings as well as the extension of procedural deadlines and the written procedure before courts and tribunals. For limitation periods and other periods for lodging a legal claim, the periods will expire before 17 May 2020, and for hearings before courts and tribunals the periods will expire before 17 June 2020.
- various provisions relating to criminal procedure and the execution of sentences and measures provided for in the fight against the spread of the COVID-19 coronavirus. In particular, proceedings before the Indictment Chamber may take place in writing for the duration of the coronavirus pandemic until 17 May 2020, and the possibility in certain cases to interrupt the execution of the sentence is extended until 17 May 2020.
- On 5 May 2020, adoption of a Royal Decree concerning the extension of the procedural deadlines before the "Conseil du contentieux des étrangers" (Aliens Litigation Council) and the written procedure: the periods applicable to the introduction and processing of procedures, which expire during the period from April 9, 2020 to May 3, 2020 inclusive, are automatically extended by thirty days at the end of this period.
(see <https://legalworld.wolterskluwer.be/fr/nouvelles/domaine/droit-en-general/coronavirus-resume-de-toutes-les-mesures-juridiques-prises-a-l-encontre-du-covid-19/>)
- For a critical analysis of the situation see <https://www.lecho.be/dossiers/coronavirus/la-justice-sort-deconfite-du-confinement/10224386.html>

- From May 18, 2020, any person summoned to a hearing must effectively take the measures necessary to be present. He/she may, if the law permits, be represented by a lawyer. Anyone wishing to enter a courthouse must also wear a mask.
- On 20 May, adoption of a Royal decree extending until July 3, 2020, certain measures taken by the law of April 30, 2020 laying down various provisions in matters of justice and notaries in the framework of the fight against the spread of the coronavirus COVID-19 (see <http://www.ejustice.just.fgov.be/eli/arrete/2020/05/20/2020041439/moniteur>)
- 4 June: creation of a compensation fund for volunteer victims of COVID-19 (see http://www.droitbelge.be/news_detail.asp?id=1013).
- The nursing staff had planned several rallies on June 14 to denounce the lack of means, the excess mortality among caregivers that this caused during the health crisis, and to request emergency refinancing. They announced that they would file a lawsuit against the federal government for endangering their lives (see <https://www.lesoir.be/307072/article/2020-06-14/des-membres-du-personnel-soignant-vont-porter-plainte-contre-le-gouvernement>).
- A journalist has interviewed judges and lawyers during the sanitary crisis: see <https://www.justice-en-ligne.be/Des-juges-au-temps-du-Covid-19> and <https://www.justice-en-ligne.be/Des-avocats-au-travail-au-temps-du->.
- Around sixty people have taken action against the Belgian state and against the Minister of the Interior, Pieter De Crem. These citizens consider that the confinement measures to combat the coronavirus are too restrictive and too prejudicial to individual freedoms. The action is debated on June 24, before the Brussels court of first instance (see https://www.rtbf.be/info/societe/detail_coronavirus-une-action-en-justice-contre-les-mesures-corona-debattue-le-24-juin-a-bruxelles?id=10514419).
- On May 27, a draft law "*laying down various provisions in matters of justice, in particular in the fight against the spread of coronavirus*", was tabled in the House of Representatives. The urgency of its review was also requested and approved. The purpose of this text is to make permanent measures included in a royal decree taken by the government in the context of the Covid-19 crisis. In particular, it provides for the extension of time limits for legal proceedings or the widespread use of written procedure. This text has already been the subject of much criticism from the legal world (see <https://www.lecho.be/economie-politique/belgique/general/la-loi-covid-19-de-koen-geens-fait-grogner-la-justice/10232308.html> et <https://latribune.avocats.be/etat-de-la-situation-au-15-juin-2020/>)

2. Freedom of movement (internal and cross-border; sanctions)

- Residents have been ordered to stay at home and avoid outside contact as much as possible. People are only allowed to leave home to visit the doctor, buy food or assist others in need. Police are patrolling the streets. Those ignoring restrictions and gathering in public spaces such as parks will be fined. Walks and brief exercise outside are allowed, however.
- The federal public prosecutor announced on 24 March that those violating the rules will incur in fines of €250 from now on, while for businesses the fine will be of €750.
- Temporary control checks have been reintroduced due to Coronavirus COVID-19 at all internal borders (20 March – 30 March 2020)
- All non-essential travel abroad are prohibited up to June 7. The National Security Council will assess this ban in due time. However, from Saturday May 30, visits to family members residing in Germany, the Grand Duchy of Luxembourg or the Netherlands are authorised. It is also

possible to go to these countries to make purchases there, provided that the measures in force in the country in question are respected.

- Gatherings (e.g. fairs, village festivals, etc.) will remain prohibited until August 1 and may then resume gradually. However, major mass events will remain banned until August 31, as previously announced. (see Ministerial decree of 8 June 2020 extending the ministerial decree of 19 March 2020 relating to activities of a private or public nature, of a cultural, social, festive, folkloric, sporting and recreational nature:

http://www.droitbelge.be/news_detail.asp?id=1013)

- Belgium's borders are **closed** and the country has banned non-essential travel abroad. The government has announced plans to reopen the border to citizens from the EU, the UK and the four other Schengen countries (Switzerland, Liechtenstein, Iceland and Norway) from **June 15**. The country further eased lockdown on June 8 (from then, it is possible to go on an excursion for one or more days in Belgium), however many restrictions, in particular for the hospitality and culture industries, remain in place until July 1. Conditions for travel outside Europe have yet to be determined in the light of the progress of discussions at European level (see <https://www.belgium.be/fr/corona>). More information [here](#). From <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

- No earlier than July 1, non-essential travel to and from third countries - i.e. non-EU countries, the UK and the four Schengen countries outside the EU (Switzerland, Liechtenstein, Iceland, Norway) - remain suspended. The restrictions will then be lifted in the light of evolving epidemiological situations and discussions at European level. However, these temporary travel restrictions do not apply to persons with essential functions, including members of diplomatic missions, consular posts and international organizations and the military, in the exercise of their functions. (see the website of the Belgian Ministry of foreign affairs:

<https://diplomatie.belgium.be/fr/Services/Protocole/Covid-19>)

Tourists from 12 European countries deemed "safe" will again be welcome in Finland from July, Helsinki announced on 23 June. However, Belgium is not included in this list for the moment.

- On 6 July, Belgium finally decided not to accede to the EU Council's request to also accept nationals from the list of 15 other countries, which are: Algeria, Australia, Canada, Georgia, Japan, Montenegro, Morocco, New Zealand, Rwanda, Serbia, South Korea, Thailand, Tunisia, Uruguay and China. As the health situation in 9 of these 15 countries is not yet secure, the government has decided not to finally open the borders of our country to nationals of these countries. The 6 other countries have not yet opened their borders to the Belgians, so the reciprocity rule applies (see <https://www.sudinfo.be/id217752/article/2020-07-06/coronavirus-la-belgique-nouvre-finalement-pas-ses-frontieres-aux-15-pays-surs>).

Sanctions

According to RTBF on June, 4 (public broadcasting station of the government of the French speaking part of Belgium), 110,000 people have received in the recent weeks a report for a violation of the measures taken in the context of the sanitary crisis. Either offenders pay a fine collected immediately or they receive a settlement offer, which they can then refuse. *"Based on the current trend, we expect that no less than 30,000 cases will be presented to the courts in the coming months"* said judge Kristine De Beule on June, 4, see https://www.rtbf.be/info/belgique/detail_coronavirus-la-justice-craint-une-vague-de-dossiers-lies-a-la-crise-sanitaire?id=10514998.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

According to an article published in La Libre on 30 June, a study by the universities of Antwerp and Zurich reveals that the coronavirus crisis has given rise, at least in six western countries, to concerns about disinformation on social networks. Compared with other countries, the Belgians seem satisfied with the way the government handled the events. Between April 16 and May 6, researchers interviewed 7,014 people in Flanders, Germany, France, Switzerland, the United Kingdom and the United States. Respondents are social media users, at least occasionally (see <https://www.lalibre.be/planete/sante/la-desinformation-deuxieme-fleau-pendant-la-crise-du-coronavirus-5efb2da5d8ad585d0853bf29>).

4. Freedom of assembly (and sanctions)

see freedom of movement

5. Privacy and data protection

- The BE Data protection authority adopted guidance on “COVID-19 et traitement de données à caractère personnel sur le lieu de travail”, <https://www.autoriteprotectiondonnees.be/covid-19-et-traitements-de-donnees-a-caractere-personnel-sur-le-lieu-de-travail>
- On 2 May, the select council of ministers (kern) reached an agreement on the storage of data collected as part of contact tracing. A royal decree stipulates that this data will be stored in a secure database of the Sciensano health institute. At the same time, a bill is being drafted so that Parliament can give its opinion, according to the office of the minister responsible for the protection of privacy. Contact tracking started on 4 May (see https://www.rtbf.be/info/belgique/detail_coronavirus-accord-sur-le-stockage-des-donnees-issues-du-contact-tracing?id=10494188).
- The Health Committee of the House of Representatives agreed on 23 June to proceed to the hearing of Frank Robben, the manager of the online health platform e-health and the crossroads bank of social security (BCS), suspected of conflicts of interest in several press articles. The Director General of the Federal Agency for Medicines and Health Products (FAMHP) will also be heard. The hearings should be held on 7 July (see https://www.rtbf.be/info/belgique/detail_coronavirus-en-belgique-la-commission-sante-de-la-chambre-auditionnera-frank-robben?id=10527925).
- On 26 June a Royal decree was issued concerning the joint processing of data by Sciensano and the contact centers designated by the competent regional authorities or by the competent agencies, by health inspections and by mobile teams in the context of monitoring contacts with persons (presumed) infected with the COVID-19 coronavirus on the basis of a database with Sciensano (see http://www.ejustice.just.fgov.be/cgi_loi/loi_a.pl)

6. Asylum and migration

- The asylum centre in Diksmuide (Province of West-Flanders) goes into lockdown as of 24 March, following a decision of the local mayor. The federal authority running the centre (Immigration Office / Fedasil) as well as the Red Cross are against the measures.
- The Belgian Immigration Office closed the arrival centre for newly arrived asylum seekers on 17 March 2020¹⁰. The Immigration Office announced on the 3 April 2020 that all applicants that want to register a demand for international protection should make an online appointment at the Registration Center.

¹⁰ <https://dofi.ibz.be/sites/dvzoe/FN/Pages/home.aspx>

In: <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

- No interviews are taking place at the Commissioner General for Refugees and Stateless Persons (CGRS). Personal interviews in closed centres take place only through videoconference if there are sufficient guarantees that rules of social distancing will be observed in the interview room at the centre.¹¹
- Belgium announced it would take in 18 unaccompanied minors currently in Greece. The move is part of the European Commission plan to relocate at least 1,600 minors from Greece to other Member States.¹²
- On June 9, the Interior Committee of the House of Representatives held hearings regarding the impact of the coronavirus crisis on the functioning of asylum bodies. AVOCATS.BE sent a note entitled "*The immigration bar and its clients during the epidemic A negligible quantity? In any case neglected*" (see <https://avocats.be/sites/default/files/Avis%20en%20matière%20d'asile%20-%20200609.%20avis%20commission%20intérieur.pdf>)
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

- On April 9, 2020, a royal decree entered into force to provide for a whole series of adjustments in criminal matters, and more particularly as regards prisons: among others, the text foresees the possibility to suspend, in some cases, the execution of the sentence (see <http://latribune.avocats.be/larrete-royal-de-pouvoirs-speciaux-en-matiere-penale-en-bref/>). However, these measures have been criticized by the Observatoire international des prisons, which underlined in particular the absence of measures concerning the conditions of detention (see <http://oipbelgique.be/fr/?p=1101>)
- From May 25, 2020, detainees will gradually be able to receive visits again, on a limited basis, as a first step (see <https://justice.belgium.be/fr/corona>).
- With the Covid-19, the prison population has decreased by around 10% in three months. Thus, on March 13, there were 10,853 detainees, against 9,798 on June 4, in full confinement. However, the deconfinement of prisons started the week of 15 June, and from June 17 until June 30, detainees who had benefited from extended leave - there were several hundred - will return to serve the rest of their sentences behind bars. The prison population should therefore soon return to above the symbolic level of 10,000 prisoners. On June 12, it had already gone back to 9,915. "*The aim was not to decrease the prison population in order to decrease it, but rather to avoid a health crisis in prison,*" the cabinet of the Minister of Justice said (see <https://www.lecho.be/economie-politique/belgique/general/les-detenus-en-conge-covid-rentrent-en-prison-ce-mercredi/10233630.html>).

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- Luxembourg and Belgium have agreed to extend until August 31, 2020, the mutual agreement of May 19, 2020 concerning the situation of cross-border workers in the context of the fight against the spread of COVID-19. The mutual agreement, which will now apply until 31 August 2020, provides that the working days during which the employment was exercised at home as a

¹¹ <https://www.cgrs.be/en/news/working-cgrs-during-coronacrisis>

In: <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

¹² <https://euobserver.com/tickers/148331>

result of the measures taken to combat the COVID-19 pandemic, can be considered as having been performed in Luxembourg (see https://gouvernement.lu/fr/actualites/toutes_actualites/communiques/2020/06-juin/22-prorogation-accord-belgique.html)

6. BULGARIA¹³

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- Article 84(12) of the [Constitution](#)¹⁴ stipulates that Parliament can declare martial law or **another type of state of emergency** upon the proposal of the Council of Ministers or the President; Article 57(3) states that a law can be enacted to limit citizens' rights in cases of war, martial law or another type of state of emergency, but it cannot compromise the right to life, freedom from torture/degrading treatment, the right to a fair trial, the right to private life, and the right to freedom of thought.

- On 13 March, Bulgaria's parliament declared a **state of emergency** until April 13 giving the government extraordinary powers¹⁵.

- Bulgaria's parliament voted after a heated debate on the government proposal to use police forces to detain patients who leave quarantine early¹⁶ and decided to allow the military to help curb the movement of people amid the coronavirus outbreak, with a mandate to use force if necessary.¹⁷

- On 23 March the BG Parliament adopted a **law on Measures and Activities during the State of Emergency**¹⁸ after deleting some parts of the draft proposed by the government that were vetoed by the President of the Republic. The deleted parts would have imposed a fine of up to 10,000 leva (\$5,520) and carried a jail term of up to three years for spreading "false information" about an epidemic. Lawmakers also agreed to remove from the legislation a clause aimed at preventing profiteering by requiring retailers to sell goods at the same prices as before the state of emergency was declared. See <https://www.reuters.com/article/us-health-coronavirus-bulgaria/bulgarian-parliament-amends-state-of-emergency-law-after-presidents-veto-idUSKBN21A2MN>

- on 3 April, the Bulgarian parliament approved an extension of the state of emergency by one month until **May 13** as requested by the government.

¹³ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For a critical analysis of the measures taken, see <https://verfassungsblog.de/bulgaria-covid-19-as-an-excuse-to-solidify-autocracy/>

¹⁴ <https://parliament.bg/en/const/>

¹⁵ Bulgaria, National Assembly (*Народно събрание*), Decision of declaring state of emergency (*Решение за обявяване на извънредно положение*), 13 March 2020.

¹⁶ <https://www.bloomberg.com/news/articles/2020-03-13/bulgaria-joins-countries-declaring-state-of-emergency-over-virus>

¹⁷ <https://www.reuters.com/article/us-health-coronavirus-bulgaria-idUSKBN2172DK>

¹⁸ Bulgaria, Measures and Activities during the State of Emergency Declared by Decision of the National Assembly of 13 March 2020 Act (*Закон за мерките и действията по време на извънредното положение, обявено с решение на Народното събрание от 13 март 2020 г.*), 24 March 2020

- on May 13, as the final hours of the State of Emergency to counter Covid-19 ticked by, the government announced that it **declared an epidemic situation in Bulgaria up to June 14**.
- FRA bulletin nr 3 reports that "The end of the state of emergency in Bulgaria, for example, was accompanied by the **adoption of amendments to the Health Act**. This introduced a legal definition of an 'emergency epidemic situation' and authorised the government to introduce such a situation, which it did the day after the state of emergency ended. The **President of Bulgaria challenged the new provisions before the constitutional court**, arguing that authorising the government to introduce an emergency epidemic situation – during which fundamental rights can be restricted by orders of the Ministry of Health – without a parliamentary decision or a specified maximum duration contradicts the constitutional provision that only law can restrict fundamental rights. The case was pending at the end of May."
- the government announced that it would prolong the epidemic situation until the **end of June**. The Minister of Health declared that the government **will not extend** the epidemic declaration after the **30 June**, when it will expire.
- 24 June: Following further cases of Covid 19, the government decided to extend the epidemic situation to mid-July.

Deconfinement:

Individual outdoor sports activities are allowed again.

May 6: Travel restriction between cities lifted.

Public parks and gardens will be open to all.

But until further notice, school buildings – schools have gone over to distance learning – and shopping malls will remain closed.

Everyone entering Bulgaria, whether a Bulgarian or a foreigner, will continue to be subject to a 14-day mandatory quarantine.

Employers are encouraged to have their staff work from home.

A number of orders were published, regarding crossing of borders, quarantine and isolation of people, on which businesses could work.

All measures such as wearing masks in closed public places (such as supermarkets) and public transport would remain in force, as well as physical distancing rules.

The restrictions on the entry of foreign citizens into Bulgaria remain in force, banning the entry into Bulgaria of non-EU nationals and nationals of a number of EU/EEA countries.

See <https://sofiaglobe.com/2020/05/13/covid-19-in-bulgaria-as-state-of-emergency-ends-epidemic-declared-to-june-14/>

Judiciary:

FRA: "The Supreme Judicial Council (SJC) (*Висш съдебен съвет*, BCC) issued a decision for temporarily suspending the processing of court cases. Urgent cases, however, such as those on reviewing pre-trial detention, or undertaking victim protection measures and child protection measures, were excluded."¹⁹

Parliament:

- According to IPU, "The Bulgarian Parliament has voted to suspend all plenary sessions for the duration of the State of Emergency, which has been extended to 13 April for now. The National Assembly will only consider issues directly related to the coronavirus emergency regime".

¹⁹ https://fra.europa.eu/sites/default/files/fra_uploads/bulgaria-report-covid-19-april-2020_en.pdf

- Parliamentary scrutiny during this period will be exercised only by written answers to questions²⁰.

2. Freedom of movement (internal and cross-border; sanctions)

- The Bulgarian government has also banned entry of persons arriving from Italy, Spain, France, Great Britain, Germany, the Netherlands, and Switzerland. These restrictions do not apply to Bulgarian citizens and their family members.

Travel to 14 countries is banned but borders for now are not closed in order to keep the transport of goods flowing to avoid further hits on the economy.²¹

- internal movement are limited and sanctions are being applied²²

- Bulgaria has **opened** borders on June 1 to EU, UK, San Marino, Andorra, Monaco, Vatican, Serbia and North Macedonia citizens, as well as to medical workers and family members of Bulgarian citizens, as listed on the government website. From <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- A provision criminalizing the spread of “false information” was blocked by Presidential veto and by Parliament.

- The Veliko Turnovo District Prosecutor’s Office has initiated pre-trial proceedings against a person who posted on Facebook false reports that would cause anxiety.

- Bulgaria’s Criminal Code stipulates that persons who transmit by radio, telephone or other means false alarms or similar disturbing fake claims may be punished by imprisonment of up to five years and a fine of 2000 leva²³.

- the Bulgarian Pharmaceutical Union chairperson, Asena Stoimenova, was accused by the prosecutor's office for instilling fear over warnings she made in interviews of the risk of shortage of certain drugs in pharmacies in the context of the substance supply crisis, see <https://www.bnr.bg/en/post/101262706/ec-measures-against-covid-19-should-not-endanger-democracy>

- RSF: “In southern Europe, a crusade by the authorities against the media is very active. In Bulgaria (111th), which remains in the region’s lowest position, an attempt by the public radio management to suspend the experienced journalist Silvia Velikova, a government critic, has highlighted the lack of independence of Bulgaria’s public broadcasting media and the hold some political leaders have over their editorial policy.”

- International Press Institute: “In Bulgaria, the government used the state of emergency decree to try to amend the penal code and introduce prison sentences for spreading what it deemed “fake news” about the outbreak with up to three years in prison or a fine of up to €5,000. While

²⁰<http://www.focus-fen.net/news/2020/03/26/444027/bulgarias-parliament-to-work-only-on-bills-related-to-the-state-of-emergency.html>

²¹<https://www.reuters.com/article/us-health-coronavirus-bulgaria-emergency-idUSKBN21015D>

²² Varna District Prosecutor’s Office said that it had initiated two new pre-trial proceedings for violating the ordinance against the spread of coronavirus. One case was a 71-year-old woman who had arrived on a flight from Italy on March 7 and flew out via Sofia Airport on March 13. The other was a 52-year-old lorry driver who had transited Bulgaria. If found guilty, the accused each face up to five years in prison and a fine of 10 000 to 50 000 leva (about 5.000 to 25.000 euro) <https://sofiaglobe.com/2020/03/18/coronavirus-bulgarian-prosecutors-announce-several-cases-connected-to-state-of-emergency-quarantine/>

²³<https://sofiaglobe.com/2020/03/18/coronavirus-bulgarian-prosecutors-announce-several-cases-connected-to-state-of-emergency-quarantine/>

that part of the decree was vetoed by the President, another bill was submitted to parliament by a party in the ruling coalition on April 19 which, if passed, would hand authorities greater powers to [suspend websites](#) for disseminating "internet misinformation" – widening the scope of the law far beyond the immediate health crisis.

- The government also [doubled](#) the amount of time for public bodies to respond to Freedom of Information (FOI) requests from 30 to 60 days.
- Police forces have been given the [power](#) to obtain mobile data on those flouting lockdown measures without prior judicial authorization, raising privacy and surveillance concerns."
- 2020 [Annual Report](#) by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, with comments on EU MSs Bulgaria, France, Hungary, Malta, Poland.

4. Freedom of assembly (and sanctions)

- The District Prosecutor's Office in Bourgas said that it was initiating pre-trial proceeds against a gaming hall and billiards club that remained open, admitting customers, in spite of the order for all such establishments to close. The penalty is prison for up to five years and a fine from 10 000 to 50 000 leva (about 5.000 to 25.000 euro).²⁴
- Under the emergency rules schools, universities and kindergartens will remain closed and visits to gyms, cinemas, bars, restaurants and shops except for supermarkets and pharmacies will be banned.²⁵

5. Privacy and data protection

FRA reports that the Electronic communications act was modified to "allow the police to obtain access to traffic data for the purpose of enforcing the mandatory isolation and/or treatment of individuals, on whom such measures were imposed and who had refused or failed to comply with them. Access should be granted immediately and without prior judicial authorisation. The court should be immediately notified about the granted access and could either confirm or deny it."²⁶

6. Asylum and migration

On 9th march, at the request of Greece, Bulgaria opened an Evros River dam located on its territory in order to cause intentional flooding and make it more difficult for migrants amassed at the Greek-Turkish border to cross the river²⁷.

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

Special measures have been imposed on Roma neighbourhoods in several towns in southern Bulgaria. Thousands of Bulgarian Roma are said to have returned recently from Western Europe where, some fear, they may have contracted the coronavirus. In Nova Zagora, Kazanluk and

²⁴<https://sofiaglobe.com/2020/03/18/coronavirus-bulgarian-prosecutors-announce-several-cases-connected-to-state-of-emergency-quarantine/>

²⁵<https://www.reuters.com/article/us-health-coronavirus-bulgaria-emergency-idUSKBN21015D>

²⁶ https://fra.europa.eu/sites/default/files/fra_uploads/bulgaria-report-covid-19-april-2020_en.pdf

²⁷<https://greece.greekreporter.com/2020/03/10/bulgaria-floods-evros-river-to-prevent-migrants-storming-greek-borders/>

Sliven, where more than 50,000 Roma live, municipal authorities have introduced checkpoints to prevent people leaving Roma neighbourhoods in large groups²⁸. In those cities, authorities have gone further by cordoning off Roma areas within city limits, sometimes erecting makeshift walls to block roads. In order to justify the extra measures, Bulgarian officials have said the Roma are not following social distancing rules.²⁹ On the 17 April, scores of Roma people protested in Sofia over feared job losses due to a stricter and discriminatory application of a coronavirus lockdown. Indeed, people apart from those in Roma neighbourhoods can move freely within the capital.³⁰

9. Any other issue relevant for Art. 2 TEU

- The Bulgarian Orthodox Church initially resisted the authorities calls for suspending public events like masses, with the Metropolitan Neofit of Sofia, the Patriarch of the Bulgarian Orthodox Church, stating that "Holy Sacraments cannot transmit any contagion or disease as they are a medicine for mental and physical healing and health," see <https://balkaninsight.com/2020/03/11/sofias-metropolitan-prays-away-coronavirus-worries/> Orthodox Easter weekend was marked under lockdown: Bulgaria has imposed a curfew on the capital Sofia to stop traffic in and out the city to stop people heading off on holiday.³¹

- MEP Elena Yoncheva demanded investigation into tape of man with voice like that of the Bulgarian Prime Minister threatening to 'burn' her, see <https://www.theguardian.com/world/2020/jun/25/bulgarian-pm-boiko-borissov-could-be-investigated-over-audio-threat-to-burn-mep>.

- a draft law was tabled at the BG Parliament amending the Bulgarian Non-profit Legal Entities Act in order to create a new legal framework to declare and control funding of foreign funding received by NGOs. The draft law follows the Russian "model" law in place there, which was imported in the EU by the HU government - which was condemned by the CJEU for it very recently for non-conformity with EU laws, and values.

²⁸<https://www.reuters.com/article/us-health-coronavirus-bulgaria-idUSKBN2172DK>

²⁹<https://www.usnews.com/news/world/articles/2020-03-24/bulgarias-roma-say-some-coronavirus-measures-are-discriminatory>

³⁰<https://www.reuters.com/article/us-health-coronavirus-bulgaria-roma-idUSKBN217362>

³¹<https://www.bbc.com/news/world-europe-52339183>

7. CROATIA³²

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

On 20 February 2020, the Croatian Government established the Civil Protection Management Committee of the Republic of Croatia to coordinate all the authorities to face the emergence of the coronavirus. The Committee is chaired by the Deputy Prime Minister and the Minister of the Interior.

On 11 March 2020 the decision to **declare the outbreak of the epidemic disease** Covid-19 on the whole territory of the Republic of Croatia was adopted. On 13 March 2020, the Prime Minister Andrej Plenković mandated school and university two-week closures in the whole country, starting Monday, 16 March. On 17 March 2020 the Government adopted 66 measures to assist the economy involving 8 ministries.

On 18 March 2020, the Croatian Parliament enacted the Act Amending the Civil Protection System Act. The aim of the amendment was to harmonise and enable the Civil Protection Management Committee to make decisions and instructions destined to the local and regional self-government units, in order to ensure uniform treatment of all civil protection management committees in decision making and implementation.

Both the President of the Republic and the Speaker of Parliament stated that for the moment there was no need to declare a "state of emergency" as foreseen in Article 17 of the Constitution (which concerns restriction of human rights and freedoms in time of war or a major natural disaster), and that for the time being restrictions could be based on other articles, such as Article 16 (rights may be restricted only by law and restrictions must be proportionate to the need to protect people's lives), Article 32 (restriction of movement) and Article 50 (restrictions on property or dispossession with compensation, and restriction of entrepreneurial freedoms in exceptional cases).

FRA reports that "A group of citizens and politicians in Croatia...requested the Constitutional Court to review whether certain decisions ordered by the government and the National Civil Protection Headquarters during the pandemic, including the amended Civil Protection System Act and the Law on the Protection of the Population from Infectious Diseases, are in accordance with the Constitution", see https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-june_en.pdf

³² See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For a critical view on the measures adopted, see <https://www.euractiv.com/section/justice-home-affairs/opinion/behind-medical-masks-democracy-is-being-suffocated/> , as well as Croatia's Response to COVID-19: On Legal Form and Constitutional Safeguards in Times of Pandemic: <https://verfassungsblog.de/croatias-response-to-covid-19-on-legal-form-and-constitutional-safeguards-in-times-of-pandemic/>

Deconfinement:

- April 27: All shops allowed to reopen, apart from big shopping centers.
- May 4: Businesses not requiring physical contact allowed to resume.
- May 11: Gatherings of up to 10 people allowed, shopping centers and first schools reopen. Bars and restaurants allowed to serve customers in outdoor spaces.

Parliament:

According to IPU, "The Croatian Parliament has limited its meetings. Special measures have been passed to enable Committees to holding meetings remotely. Committees vote via email or SMS. The plenary is currently in session following the severe earthquake of 22 March. It has been relocated to the premises of the State oil company.

Sanitary measures – such as social distancing, hand sanitizers, seating arrangements – have been put in place. Microsoft Office packages and word processors are used for remote meetings as well as for the provision and tracking of documents. Remote meeting software is hosted internally on the Parliament's infrastructure".

2. Freedom of movement (internal and cross-border; sanctions)

- Borders are closed. Only transit freight traffic is operating swiftly after agreements with bordering countries have been reached.
- ban on leaving the registered permanent residence in force
- Croatia has now **opened** its borders to nationals from the Czech Republic, Hungary, Austria, Estonia, Latvia, Lithuania, Poland, Slovenia, Germany and Slovakia.

On 11 May Croatia reopened its borders to visitors from the EU/EEA, and the UK, provided they held an accommodation reservation in the country. From <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

IPI: "Croatian journalist Živana Šušak Živković from the Dalmatinski portal was [assaulted](#) and injured by a group of worshippers while reporting on an Easter Mass near the city of Split that was being held illegally despite the COVID-19 lockdown."

4. Freedom of assembly (and sanctions)

5. Privacy and data protection

A debate on a proposal for a law on electronic communications allowing the tracking of citizens' mobile phones in the fight against the coronavirus, as well as on the majority requirement to adopt it, is taking place.

6. Asylum and migration

- Until 18 May 2020 crossings the state borders is temporarily prohibited.
- The Ministry of Interior published a notification according to which no measures prescribed by the Law on Foreigners will be taken against foreigners on short stay as a certain number of persons cannot leave Croatia within the time limit prescribed by the Schengen Borders Code.³³

³³ <https://mup.gov.hr/news/notice-to-third-country-nationals/286129>

In: <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

- media and NGOs reported that the Croatian police spray-painted the heads of asylum seekers: <https://www.theguardian.com/global-development/2020/may/12/croatian-police-accused-of-shaving-and-spray-painting-heads-of-asylum-seekers>
- The UN has asked the Croatian government to investigate all the allegations of abuse.³⁴
- Croatian authorities have reported to have pushed back more than 30 migrants at the border with Bosnia-Herzegovina between 6 and 7 May 2020.³⁵
- Croatia has been accused of abusing and torturing migrants and asylum seekers intercepted at the border with Bosnia.³⁶
- EU Commission officials have been accused of a covering-up the violations, after allegedly withholding evidence of a failure by Croatia's authorities to supervise police repeatedly accused of robbing, abusing and humiliating migrants at its borders.³⁷
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- Presidential elections: the Constitutional Court quashed the decision by the State Electoral Commission (DIP) to ban persons infected with coronavirus from voting in Presidential elections of 5 July. The Court called the government to allow vote by proxy and shared the views of constitutional experts, opposition politicians, and NGOs that warned that the Electoral Commission's exclusion of persons with coronavirus from voting restricts unconstitutionally and disproportionately the suffrage rights, see <https://www.nytimes.com/2020/07/05/world/europe/croatia-election-plenkovic-coronavirus.html>

³⁴ <https://www.theguardian.com/global-development/2020/may/12/croatian-police-accused-of-shaving-and-spray-painting-heads-of-asylum-seekers>

³⁵ <https://www.ecre.org/croatia-further-evidence-of-systemic-push-backs-at-the-border-with-bosnia/>

³⁶ <https://www.amnesty.org/en/latest/news/2020/06/croatia-fresh-evidence-of-police-abuse-and-torture-of-migrants-and-asylumseekers/>

³⁷ <https://www.theguardian.com/global-development/2020/jun/15/eu-covered-up-croatias-failure-to-protect-migrants-from-border-brutality>

8. CYPRUS³⁸

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

On 30th of March, the government introduced further measures adding to those adopted on 23 March, including a curfew between 9pm and 6am every night. The fine for those found disobeying the ban on movement has been doubled to €300.

Those who need to be at work during those hours, who will have to carry a confirmation form signed by their employer (Form A), will be exempted. People are only allowed to leave their homes once a day and only if they receive permission after sending a text message to 8998. Only those over 65 will be allowed to fill out the printed form (Form B).

House visits and gatherings are also forbidden, he said, adding that only residents must be in each home. Sample checks will be carried out by police officers or neighbourhood watch groups. Only three persons are allowed in vehicles, including the driver. This includes private vehicles and taxis. The minister also announced that there will be more checks at those crossing points which still open. See <https://cyprus-mail.com/2020/03/30/coronavirus-harsher-penalties-measures-on-their-way/>

Deconfinement:

- From 4th May: Restrictions in the manufacturing sector are removed; retail trade, except for commercial centres, can operate with safety and health protocols; flea markets and street vendors tourist offices can open. Public sector is fully operational with the return at workplace, except for those belonging to vulnerable groups. Restrictions to access to public and private health care centres are removed. Personal Liberties: 3 permitted movements/day by sending SMS. Ban of movement from 10pm to 6 am. Exercise of religion within religious buildings with no more than 10 pax. Personal exercise (jogging, bicycle) is permitted in group with no more than 2 pax. Parks and playgrounds remain closed. Sports: only for high performance athletes from Cyprus Olympic Committee in an open space and without the use of changing rooms.
- From 11th May: School graduates of the state and private schools in secondary education will return to school. Other educational levels will continue through teleconferences until the end of the school year.
- From 18th May: Sports: training of team sports without the use of changing rooms.
- From 21st May: Restrictions to the movement of citizens will be removed. Gatherings in open public spaces and catering business will be permitted, no more than 10 pax at any time. Personal care shops will be allowed to open.

³⁸ See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin1 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures taken, see <https://verfassungsblog.de/a-tale-of-two-the-covid-19-pandemic-and-the-rule-of-law-in-cyprus/>

- From 1st June: Public libraries, museums, archaeological, historical sites, betting shops, organised beaches, religious buildings will be allowed to reopen and port, excluding disembarkation of cruise passengers will be operational.

2. Freedom of movement (internal and cross-border; sanctions)

- See 1.

- Cyprus resumes tourism travel on June 9 in different phases:

1) first for passengers coming from Greece, Malta, Bulgaria, Norway, Austria, Finland, Slovenia, Hungary, Israel, Denmark, Germany, Slovakia and Lithuania, having a **health certificate** proving they are virus-free three days prior their departure.

2) On June 20, also passengers from Switzerland, Poland, Romania, Croatia, Estonia and the Czech Republic will be allowed in too, with a **health certificate**, while passengers from the first group of countries won't need it anymore.

3) The UK, Russia, the US, France, Spain, and Italy remain excluded until further notice.

See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

5. Privacy and data protection

- Stricter controls will be introduced for those diagnosed with coronavirus and who are in self-isolation and added his ministry is mulling electronic surveillance.

One of the measures under consideration is an ankle bracelet usually used for persons under house arrest, "so that we can monitor their movements".

<https://cyprus-mail.com/2020/03/30/coronavirus-harsher-penalties-measures-on-their-way/>

- An app has been developed for persons who have to work outside of home so that in case they are sick their contacts can be traced and data anonymised. See

<https://cyprus-mail.com/2020/04/05/coronavirus-new-app-tracks-previous-contacts-of-essential-workers-who-test-positive/>

6. Asylum and migration

- Measures such as prevention of access to the territory and maritime borders of arrivals, as well as suspension of asylum procedures have been justified as Covid19 related measures.³⁹

- On March 20, a boat carrying 115 Syrians (of whom 69 children) was pushed back by the Cypriot authorities using Covid19 as a justification. The group of people eventually disembarked in Cyprus after a few hours and all the people resulted tested negative to Covid19.⁴⁰

- Interviews for the examination of asylum applications have been suspended until further notice. However, examination of cases where the interview has taken place is continuing. Appeals have been suspended with some exceptions. Proceedings on detention orders are considered urgent and are examined.⁴¹

³⁹ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁴⁰ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁴¹ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

- no measures will be taken against third-country nationals who possess residence permits or tourist visas whose validity has expired within a reasonable period of time and cannot be renewed or extended, nor against third-country nationals who cannot be repatriated.⁴²
- authorities reportedly gave to migrants the choice between moving to an overcrowded camp or going back to their country of origin.⁴³
- Cyprus is the EU country with the highest asylum seekers rate per capita. UNHCR is concerned with increasingly xenophobic attitudes, as well as with the new law that restricts deadlines for asylum seekers and could therefore limit access to legal counsel.⁴⁴
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

⁴² Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration*.

⁴³ <https://www.euractiv.com/section/justice-home-affairs/news/nicosia-struggles-with-migrants-crossing-from-northern-cyprus/>

⁴⁴ https://www.spiegel.de/politik/ausland/fluechtlinge-in-zypern-das-schlupfloch-a-74f5b21d-1a86-43e7-9619-8f6832a816c7?fbclid=IwAR26-z6v0TDDHb6g3WWVOVTb-ypBtmkCup9ZykM6P84fL_yk8uRCOo2If1M#

9. CZECH REPUBLIC⁴⁵

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

As of 12 March, the **State of emergency** was declared on the basis of the Constitution and of Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic. It was declared by the Government on the proposal of the Minister of the Interior. The Government immediately notifies the Chamber of Deputies, which may revoke the declaration at any time. The max length is 30 days, any extension must be ratified by Parliament. The government consequently adopted a series of resolutions with restrictive measures.

In the following days, schools and universities, most stores and restaurants were closed; obligation to wear a face mask, travel ban. On 15 March, the Government decided a nationwide quarantine; it prolonged current measures until 1 April. See <https://www.vlada.cz/en/media-centrum/aktualne/measures-adopted-by-the-czech-government-against-coronavirus-180545/> and

https://en.wikipedia.org/wiki/2020_coronavirus_pandemic_in_the_Czech_Republic

On 7 April, the Parliament agreed with the proposal of the government to **prolong the State of Emergency in the Czech Republic until 30 April**.

From 16th March, travel ban both for both foreign nationals without permanent or temporary residence over 90 days into the country, ban on travel from the Czech republic for all the Czech nationals, permanent or temporary residents (over 90 of residency), see <https://www.vlada.cz/cz/media-centrum/tiskove-zpravy/vysledky-jednani-vlady-16--brezna-2020-180410/>

On the initiative of the PM Babis new Crisis Management Centre has been established on 16th March. Although the responsibility is normally with the Minister of the Interior (Jan Hamacek, S&D party, in coalition with PM's ANO party) who is to chair such meetings and take political responsibility for the decisions, the management of the body has been entrusted to Roman Prymula (state secretary at the ministry of health) and other ministerial officials (rank of ministerial secretary) according to their respective field of competence. This modification has been proposed and actively defended by the PM

<https://www.seznamzpravy.cz/clanek/za-kulisy-babis-dobyl-uz-i-krizovy-stab-odpor-by-l-jenom-kratky-93513>

From 19/03 - prohibition of movement outside of the place of residence without protective for the respiratory tract (respiratory masks or other protection, see https://www.vlada.cz/cz/media-centrum/aktualne/vyhlasi-nouzoveho-stavu-180234/#Omezeni_volneho_pohybu

⁴⁵ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures adopted, see Czechs and Balances – If the Epidemiological Situation Allows...: <https://verfassungsblog.de/czechs-and-balances-if-the-epidemiological-situation-allows/>

Several constitutional lawyers agree that PM's statement that the Government is Central Crisis management centre, would mean that the government is taking over the responsibilities in the competence of the Ministry of Interior. Government has nevertheless the competence to change the decision establishing the Crisis Management Centre - and deviate from the standard procedure - where the crisis is military, minister of defence is in charge, in other cases the Minister of Interior.

The coronavirus response is used as justification of the request to delay Czech republic formal response to the audit of the PM Babis: <https://www.politico.eu/article/prague-asks-for-more-time-to-respond-to-eu-audit-of-pm-andrej-babis/>

A controversy arose when an amendment allegedly helping the Prime Minister in relation to anti-corruption legislation and cases was put on the agenda of an emergency meeting of the government on March 16, unsuccessfully; see <https://balkaninsight.com/2020/03/27/democracy-digest-questions-over-czech-covid-19-response/>

- on 17 April it is reported that a number of Czech citizens lodged their complaint against the imposed travel ban, crossing of borders in or out of the country and other restrictions, to the Constitutional Court, <https://ct24.ceskatelevize.cz/regiony/jihomoravsky-kraj/3078284-opatreni-proti-koronaviru-zamestnaji-ustavni-soud-zabyva-se>

- on 23 April, the **Prague Municipal Court** cancelled, as of April 27, the Health Ministry's four anti-coronavirus measures restricting free movement of people as well as retail sales and services in the Czech Republic. The Court affirmed that measures by the Health Minister should be adopted on the basis of the Crisis Management Act (and not of the Act on Public Protection), see <https://news.expats.cz/weekly-czech-news/breaking-prague-court-cancels-czech-anti-coronavirus-measures-on-free-movement-retail-sales>

- The **Czech Constitutional Court** has rejected 10 complaints against measures adopted by the Czech government and Health Ministry, as part of COVID 19 emergency measures. The complaints related to freedom of movement, compulsory masks wearing, closure of small shops, partners' presence during the child-delivery, etc. The Court called these measures "acts of governance" and declared to be not competent for the related complaints. Instead, it is the National Parliament which is the body responsible for the exercise of democratic control.

- **The state of emergency** was extended to 17 May, when it **elapsed**, leaving some restrictions in place, and instead of leaning on the crisis law, they will be transitioned to extraordinary measures from the Czech Health Ministry see <https://www.muni.cz/en/koronavirus/news/the-state-of-emergency-ended-on-17-may-see-the-current-restriction-in-the-czech-republic> and <https://news.expats.cz/coronavirus-in-the-czech-republic/the-czech-republics-state-of-emergency-is-over-but-many-anti-coronavirus-regulations-remain-in-place/>

Deconfinement:

- April 9: First small shops reopened
- April 20: markets and craft shops reopening.
- April 27: Larger shops reopened
- May 11: cinemas, theaters, shopping centers, restaurants, cafés and pubs with gardens reopen. Social, sports and cultural events as well as weddings and church services with up to 100 people allowed to take place again.
- May 24: All other businesses, hotels and restaurants to open. Public gatherings of up to 10 people allowed.

- Travel restrictions lifted.
- Obligation to wear face masks in public.

Parliament:

IPU: "The plenary of the Parliament of the Czech Republic is currently not in session. Committee meetings have been reduced or cancelled and only a few are taking place remotely. There is no legal framework for holding remote meetings; they are being held under the same rules as in-house meetings. Remote voting is possible but must be made visible. The software used is Webex and is hosted internally".

2. Freedom of movement (internal and cross-border; sanctions)

- temporary reintroduction of border checks at land borders with Austria and Germany, air borders are Coronavirus COVID-19; daily local-border traffic for workers towards Austria and Germany was further restricted by the government as of 26 March; such measure does not apply to borders with Poland and Slovakia.

- On 16th March, Government included COVID-SARS-2 on the list of the infectious diseases, spread of which is considered a criminal act with a sanction according to penal code to up to 12 years of imprisonment.

See https://www.novinky.cz/zahranicni/koronavirus/clanek/sireni-koronaviru-je-v-cesku-nove-trestnym-cinem-se-sazbou-az-12-let-40316586?seq_no=2&source=hp&dop_ab_variant=315400&dop_source_zone_name=novinky.szhp.box

From 19/03 - prohibition of movement outside of the place of residence without protective for the respiratory tract (respiratory masks or other protection, see https://www.vlada.cz/cz/media-centrum/aktualne/vyhlaseni-nouzoveho-stavu-180234/#Omezeni_volneho_pohybu

- On 24 April, the Czech government **opened the country's borders**, hence the citizens can travel again but must be in possession of a negative COVID 19 test, valid no more than 14 days, in order to avoid obligatory quarantine (of 14 days).

- **Freedom of movement within the country has also been re-established**, as of 24 April. See https://www.tvnoviny.sk/koronavirus/1995583_cesko-otvorilo-hranice-aj-zrusilo-zakaz-volneho-pohybu-osob#
<https://svet.sme.sk/c/22393355/cesky-ustavny-sud-cr-zamietol-staznosti-proti-opatreniam-vlady.html>

- Borders with Austria and Germany **reopened** on 5 June, 10 days earlier than expected. From May 27, the country opened its frontier with the Slovakia and Hungary, but with restrictions. Residents of EU member states are allowed to enter to perform economic activities, to visit relatives or to study at a university. Everyone will have to prove themselves with a negative **test** for COVID-19 upon entry. See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- Journalists were prevented from obtaining information from health authorities or documenting law enforcement operations, see 3.4.2020: Statement by the Council of Europe Commissioner for Human Rights Dunja Mijatović: Press freedom must not be undermined by measures to counter disinformation about COVID-19 <https://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic>

4. Freedom of assembly (and sanctions)

- from 23 March, all gatherings of more than 2 persons are prohibited https://en.wikipedia.org/wiki/2020_coronavirus_pandemic_in_the_Czech_Republic

5. Privacy and Data protection

Extraordinary measures concerning the communication of the data concerning the COVID-19 patients (extraordinary decree of the ministry of health, recognized by the Government) :<https://apps.odok.cz/attachment/-/download/IHOABN3K75N1>(introduction of data in the Information system on Infectious diseases), in one hour of reception of all patients in serious conditions, in one hour of all the patients requiring the use of extracorporeal oxygenation device. Construed as exception covered by the GDPR Article 9(2)(i): processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices. See Data protection authority <https://www.uoou.cz/uoou-ke-nbsp-zpracovani-osobnich-udaju-v-nbsp-souvislosti-s-nbsp-probihajicim-sirenim-koronaviru/d-40538>

The government is testing a so-called smart quarantine system in the south of the country. The system uses mobile phone and credit card data to track the movements of infected people over five days prior to their testing positive for the virus, to find others who may have been infected. The data tracking requires the consent of the individual before implementation. See https://www.euractiv.com/section/all/short_news/prague-smart-quarantine/

6. Asylum and migration

- Still registering asylum applications although borders are closed.⁴⁶
- Foreigners who were legally residing in the country at the moment of the declaration of the state of emergency may continue to remain in the territory for the duration of the state of emergency without any need to resolve their residency status issues.⁴⁷
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- Elections/democracy: Postponement of the Senate elections foreseen for 27-28/03 and 3-4/04
- Czech MEPs who investigated irregularities in European Union funding to a company run by Andrej Babis, the prime minister, have been placed under police protection after death threats, and after Czech PM calls him 'traitor': <https://euobserver.com/justice/148697>
- adoption of the European Parliament [resolution](#) of 19 June 2020 on the reopening of the investigation against the Prime Minister of the Czech Republic on the misuse of EU funds and potential conflicts of interest
- The European Parliament president David Sassoli, in a [letter sent](#) to Czech prime minister Andrej Babis, rejected his claims that the institution interferes in Czech internal affairs and explained that the parliament has the right, based on the EU treaty, to check the way the EU budget is implemented.

⁴⁶ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁴⁷ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration.*

10. DENMARK⁴⁸

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The first measures were in force from 14th March to 13th April 2020.⁴⁹ Starting 15 April, a “a gradual, quiet and controlled opening of our society again” was announced and initiated by the government⁵⁰. The government opening schools for younger children, hairdressers, dentists, tattooists and driving school instructors, physiotherapists, psychologists, beauty and massage salons, optometrists, podiatrists, spa clinics. The Prime Minister Mette Frederiksen announced she would discuss with other political parties about a further relaxation of the lockdown measures.
- A ban on gatherings of more than 10 people, will stay in place until at least **May 10, while a ban on larger gatherings will remain in place until August.**
- Along with enforcing quarantine measures, Denmark has introduced the law entitled "Amendment of the Act on Measures against Infectious and Other Communicable Diseases" which gives exceptional powers to the Minister of Health and the Elderly who can initiate forced examinations, forced treatments and forced quarantine if a coronavirus infection is suspected⁵¹.
- Debate on police powers clarified that in order to enter private houses a court order would be needed <https://www.thelocal.dk/20200331/danish-police-will-now-need-a-court-order-to-raid-easter-lunch-minister>
- Citizens who refuse to be tested for the coronavirus will face fines and potential prison time, and will be prevented from entering shops, grocery stores, public institutions and hospitals while also being restricted from using public transport.⁵²

Deconfinement:

⁴⁸See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For a critical analysis of the measures taken, see <https://verfassungsblog.de/effective-but-constitutionally-dubious/>

⁴⁹<https://politi.dk/en/coronavirus-in-denmark/extension-of-measures-during-the-covid19-outbreak-in-denmark?fbclid=IwAR0EfQYQBvj371FKqNCdKkrj7uwuUyw8OuDJg0Lx0I9pVI5Oa4q6NmKRakw>

⁵⁰<https://www.dr.dk/nyheder/politik/regeringen-aabner-vuggestuer-boernehaver-og-skolen-de-mindste-boern-i-naeste-uge>

<https://www.reuters.com/article/us-health-coronavirus-denmark-idUSKCN21W223>

<https://www.bbc.com/news/world-europe-52322249>

⁵¹<https://www.oyetimes.com/views/columns/303964-forced-vaccinations-and-quarantining-coming-soon-to-a-nation-near-you>

⁵²<https://www.prisonplanet.com/denmark-passes-law-enabling-forced-coronavirus-vaccinations.html>

- April 15: Nurseries and schools reopen.
- April 20: Some small businesses such as hairdressers allowed to reopen.
- Second phase of easing restrictions is scheduled to take place after May 10⁵³, <https://politi.dk/en/coronavirus-in-denmark/controlled-reopening-of-the-danish-society>.

Parliament:

- The Danish Parliament is keeping critically important functions running, but has put other activities on hold. In practical terms, discussion of non-essential proposals are deferred. The same has applied to the consideration of motions for resolutions and calls for consultation, where a minister meets in a committee and answers questions. On the other hand, it is still possible to ask written questions directly to a minister, the so-called paragraph 20 questions, and committee questions as part of the parliamentary control of the government⁵⁴.
- IPU: "The Danish Parliament has adopted legislation on health-related issues as well as initiatives to ensure business continuity in the public and private sector".

Judiciary

The courts will reopen on 27 April.

2. Freedom of movement (internal and cross-border; sanctions)

- Temporarily reintroduced border controls in the context of Coronavirus COVID-19 for all internal borders (12 November 2019 - 12 May 2020);
 - Since Saturday 14th March at 12 noon, Danish borders are officially closed to non-Danes and non-residents. Those with any kind of residence permit will still be granted entry to the country. This closure is effective until 13th April. Non-Danes and non-residents with a valid and necessary reason to enter the country will be granted entrance on a case-by-case basis at border controls.⁵⁵
 - Travellers can still enter Denmark if they are Danish citizens, they have residence in Denmark, Greenland or Faroe Islands, they need to transit through Denmark to return to your country of residence (e.g. Swedes to transferring through Denmark to return to Sweden) or have a worthy purpose to transit through Denmark.⁵⁶
 - From **May 25**, people with a permanent residence in one of the five Nordic countries (Denmark, Finland, Iceland, Norway and Sweden) or Germany can re-enter if they are in a relationship with someone in Denmark, have grandparents there, or if they have a business trip.
- From **June 15**, borders will open to tourists from Germany, Iceland and Norway.
- As of June 8, other EU nationals, as well as UK nationals, are not allowed to enter Denmark until the end of summer. From <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

Freedom of the press continues to be a Danish flagship, with a newspaper rejecting China's demand for an apology after it published a satirical cartoon of a Chinese flag with the five gold stars replaced by the deadly coronavirus. Danish Prime Minister Mette Frederiksen reminded China that "we have freedom of expression in Denmark - also to draw"⁵⁷.

⁵³<https://www.brusselstimes.com/belgium/109869/belgium-in-brief-putting-a-price-on-health/>

⁵⁴<https://www.thedanishparliament.dk/en/news/2020/03/parliament-is-closed-for-visits>

⁵⁵<https://www.scandinaviastandard.com/covid-19-whats-happening-in-denmark/>

⁵⁶<https://politi.dk/en/coronavirus-in-denmark/if-you-are-travelling-to-and-from-denmark>

⁵⁷<https://www.bbc.com/news/world-europe-51295225>

4. Freedom of assembly (and sanctions)

- Since 17th March, Denmark's Prime Minister Mette Frederiksen announced a ban on public crowds of more than 10 people and ordered temporary closures of venues and customer-facing spaces (restaurants, bars, cafes, nightclubs, gyms, etc). Food stores remain open. These bans took effect on Wednesday 18th March at 10 am.⁵⁸
- Whoever does not observe the requirement to keep his or her premises closed to the public may be liable to a fine. The police can also order a business owner to close his or her premises to the public for a specific period if the police finds that the business owner has not observed the above-mentioned requirements and it is not likely that the business owner will observe the requirements in future. There is no curfew in operation. However, the police can order people to leave a place if there are more than 10 people and the police finds that they have gathered in a way that constitutes a particular risk of infection with novel coronavirus/COVID-19. Fine from 1.500 up to 5.000 DKK (from 200 to 700 euro) . When exercising its discretionary right, the police must take into account the Danish Health Authority's general recommendations concerning the risk of infection with novel coronavirus/COVID-19⁵⁹
- The ban on gatherings of more than 10 people, will stay in place until at least May 10, while a ban on larger gatherings will remain in place until August⁶⁰.

5. Privacy and data protection

The Danish Data Protection Agency ("Datatilsynet") made a public announcement on 5 March 2020 regarding the coronavirus and data protection. The announcement addresses how employers may process their employees' personal data regarding the coronavirus, see <https://denmark.dlapiper.com/en/news/coronavirus-and-data-protection-nordics>

6. Asylum and migration

- Dublin transfers are on hold to reduce the risk of infection spreading since 13 March, when processing of asylum claims was also put on hold.
- Denmark closed borders for everyone but 'asylum seekers' who are quarantined according to the applicable criteria.⁶¹
- The government in Denmark has asked mayors to suspend 14 naturalisation ceremonies, which since a law passed in 2018 require a mandatory handshake⁶².
- Around 900 recognised Syrian refugees in Denmark might lose their residence permit as the Danish Integration Minister has communicated that the Immigration Service shall speed up the processing of residence permit cases for people from Damascus area.⁶³

⁵⁸<https://www.scandinaviastandard.com/covid-19-whats-happening-in-denmark/>

⁵⁹<https://politi.dk/en/coronavirus-in-denmark/extension-of-measures-during-the-covid19-outbreak-in-denmark?fbclid=IwAR0EfQYQBvj371FKqNCdKkrj7uwwUyW8OuDJg0Lx0I9pVI5Oa4q6NmKRakW>

⁶⁰https://www.huffpost.com/entry/world-exit-coronavirus-lockdown-europe_n_5e8c4fa6c5b62459a92ec204?guccounter=1&guce_referrer=aHR0cHM6Ly9zZWYy2gueWFob28uY29tLw&guce_referrer_sig=AQAAAKJeZxPf8D4zAJNcGfV_VBO-PZkVXPGYHB6yGLZCNXEL_ODWYq1wUddxjZylhxj0b2P69-jlmo7TOnvgM1j--K4AFcGb-AeBQ0iiYI4mEL_ivrBBW-UZB5_atGdh9xX7CLj4-wuNOMjMER0Gp4mpUcc5PWix0awfx8vnSYzxZji

⁶¹<https://voiceofeurope.com/2020/03/denmark-and-norway-close-borders-for-everyone-but-asylum-seekers/>

⁶²<https://www.nytimes.com/2020/03/07/world/europe/denmark-coronavirus-citizenship.html>

⁶³ <https://politiken.dk/indland/art7842474/Tesfaye-vil-have-hurtig-vurdering-af-mulig-hjemsendelse-af-syrere>

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

11. ESTONIA⁶⁴

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- On **12 March**, the Estonian government declared - for the first time since regaining independence - an “**emergency situation**” until **1 May**⁶⁵ on the basis of the Emergency Act (<https://www.riigiteataja.ee/en/eli/511122019004/consolide>), which allows the government to declare an emergency situation to resolve an emergency caused by a natural disaster, catastrophe, or infectious disease. A Minister is appointed by the government as *head of the emergency situation*, who may issue orders and is responsible to the government (A state of emergency - “*erakorraline seisukord*” - can only be declared in case of a threat to the constitutional order, while for emergencies connected to a natural disaster, catastrophe or spread of a communicable disease, the State of Emergency Act foresees the declaration of an “emergency situation” (“*eriolukord*”) that can be declared by the government).

The Communicable Diseases Prevention and Control Act (<https://www.riigiteataja.ee/en/eli/504042019003/consolide>) of 2003 is also of application in emergencies caused by infectious diseases.

- A government commission headed by the prime minister, has been established to deal with the emergency situation.⁶⁶ The commission members include: the Minister of Justice, the Minister of Economic Affairs and Infrastructure, the Minister of Finance, the Minister of Internal Affairs, the Minister of Social Affairs, the Minister of Foreign Affairs, the Minister of Education and Research, the Minister of Defence, and the State Secretary.

- Measures are taken at local level, for instance in Tallin and Tartu (closure of public meeting places, 2 meters distance from other people, etc) but no national measures.

- Estonia has tabled to the CoE a notification of derogation from the ECHR, see https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=oC00wpDO; **the derogation was withdrawn in May.**

- On the 24th April 2020, the Government has extended the emergency situation which was until the 1st May until the **17th May**,⁶⁷ when the country **exited the emergency situation**.

- FRA Bulletin 3: **“...the Estonian President expressed concern about amendments to the Emergency Act and the Communicable Diseases Prevention and Control Act, which give the Health Board the right to apply certain quarantine measures, close establishments, prohibit**

⁶⁴See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin1 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures adopted, see State of Emergency in Estonia: <https://verfassungsblog.de/state-of-emergency-in-estonia/>

⁶⁵<https://news.err.ee/1063224/estonian-government-declares-state-of-emergency-to-fight-coronavirus-spread>

⁶⁶<https://www.valitsus.ee/en/emergency-situation-estonia>

⁶⁷<https://www.kriis.ee/en>

public meetings and events and take other measures necessary to prevent the spread of communicable diseases. The President suggested that the amendments increase the powers of administrative authorities during future emergencies at the expense of parliament and the government; legal experts also highlighted a lack of legal clarity and judicial oversight of the Health Board". See https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-june_en.pdf

- 15 May: The Baltic countries of Estonia, Latvia and Lithuania opened their borders to one another, creating a coronavirus "travel bubble": citizens and residents can move freely between the three EU nations. Anybody arriving from outside the zone however must self-isolate for 14 days.

Deconfinement:

On the 27th April 2020 the Government approved the Strategy for Exiting the situation caused by the spread of COVID-19⁶⁸

- **From 21st April:** resume the provision of planned health care treatments gradually including private health care, family doctors, dental care.
- **From 2nd May:** people are allowed to visit open-air museums and exhibits in outdoor areas of museums to organise outdoor sports events with no more than 10 pax gathered and following the 2+2rule.⁶⁹ Outdoor gyms are opened following the 2+2rule.⁷⁰
- **From 15th May:** resume the work of educational institutions according to the 2+2 rule, disinfection requirements, masks for teachers and students belonging to risk group.

Parliament:

- According to IPU: "In connection with the emergency situation declared by the Government of Estonia, the Parliament of Estonia (the Riigikogu) has reorganized its work. Until 1 May this year, the Riigikogu will resolve only time-critical issues. The Riigikogu is holding sittings only on Mondays, with Question Time on Wednesdays. The public and the media can watch live coverage of the sittings on the web.

The committees of the Riigikogu have been meeting once a week with priority given to teleworking. Regarding committees meeting remotely, the Constitutional Committee of the Riigikogu agreed that the current legislation may be interpreted to allow teleworking if all relevant conditions for participating in the sitting, like making remarks, asking questions and voting, are ensured. Guests who are invited to committee sittings are advised to participate via a video bridge. Remote voting and virtual participation are also under consideration in the context of plenary sittings.

The Council of Elders of the Riigikogu, consisting of the Board of the Riigikogu and the representatives of the factions, will meet regularly to ensure prompt responses to the situation".

- The parliament (Riigikogu) cannot give guidelines to the government in relation to the measures implemented by it, but it can exercise regular parliamentary scrutiny.
- the President of the Republic held a video-link meeting with leading members of all parliamentary parties during which she stressed the importance of the parliament's role in the

⁶⁸https://www.kriis.ee/sites/default/files/news-related-files/the_strategy_for_exiting_the_situation_caused_by_the_spread_of_covid-19.pdf

⁶⁹<https://www.kriis.ee/en/news/special-message-open-air-museums-will-be-opened-and-outdoor-sports-events-will-be-allowed-2-may>

⁷⁰<https://www.kriis.ee/en/news/special-notice-outdoor-gyms-will-be-opened-2-may>

coronavirus pandemic, setting it in the wider constitutional context of emergency situations going forward.⁷¹

2. Freedom of movement (internal and cross-border; sanctions)

- Temporarily reintroduced border controls due to Coronavirus COVID-19 at all internal borders (17 March – 15 April 2020); as well as (17 March – 27 March 2020) at land borders with Latvia, air borders, sea borders;
- Around 250 Estonian residents still need help in returning to Estonia and the government is dealing with this issue.
- May 15: opening of borders to Baltic neighbours
- since June 1 borders are **open** to EU and UK travellers. Those coming from countries with a high infection rate will have to self-isolate for two weeks. See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

On February 27, 2020, the Estonian Minister of the Interior stated at a government press conference that “I’m calling for a very responsible discussion concerning this so-called coronavirus. I just ran across the courtyard here and thought to myself that a common cold has now been renamed coronavirus. Because, really, the symptoms are very similar to what in my youth no one would have diagnosed a corona or any other virus; it was a cold. Warm socks, goose fat on the chest, mustard plasters, all other such nice stuff, and it went away in a few days, a week. There was no coronavirus.”⁷²

4. Freedom of assembly (and sanctions)

- Everyone must carry an ID when outside and follow the 2+2 rule – maximum party of two and two metres apart from other parties⁷³. All public gatherings were banned, including sports and cultural events; schools and universities are closed⁷⁴. The first penalties in Estonia have been issued for disregarding restrictions placed by the government in the wake of the coronavirus pandemic, after two men in Tartu were fined €100, with a third awaiting judgement.⁷⁵

5. Privacy and data protection

- The Police and Border Guard Board's (PPA) made over 7,500 calls to people to determine if they were home as per regulations and have done about a hundred home visits to make sure people are at home.⁷⁶
- The Data Protection Inspectorate ('DPI') published, on 20 March 2020, guidance ('the Guidance') on the processing of employee personal data in the context of the COVID-19 ('Coronavirus') emergency. It is legitimate for the employer to ask whether the worker has recently been in a risk area or has been exposed to infected people. The Guidance covers, among

⁷¹<https://news.err.ee/1065202/president-parliament-must-go-on-even-when-government-declares-emergency>

⁷²<https://www.delfi.ee/news/paevauudised/eesti/video-mart-helme-kulmetushaigus-on-nuud-siis-umber-ristitud-koroonaviiruseks-mingit-hadaolukorda-eestis-pole?id=89066557date=2%20March%202020>

⁷³<https://estonianworld.com/life/blog-coronavirus-in-estonia/>

⁷⁴<https://news.err.ee/1063224/estonian-government-declares-state-of-emergency-to-fight-coronavirus-spread>

⁷⁵<https://news.err.ee/1070427/tartu-police-issue-first-infringements-of-coronavirus-restrictions-fines>

⁷⁶ <https://news.err.ee/1070427/tartu-police-issue-first-infringements-of-coronavirus-restrictions-fines>

other things, the sharing of information to individuals outside the workplace about an infectious or suspected infectious disease⁷⁷.

6. Asylum and migration

- According to Minister of the Interior Mart Helme (see also above), a flood of migration is on the move from Turkey, and the globally spreading novel coronavirus is a health as well as security risk, and if necessary, Estonia is prepared to reinstate full border control on its external borders. He added that Estonia is not willing to accept immigrants who have already arrived or may arrive in Europe.⁷⁸

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

On 20 April the Parliament adopted the proposal of the government for set of 33 draft legislative amendments, referred to in the Estonian media as “cluster law”. The amends include extensions to weapons permits which would have otherwise expired during the emergency situation arising from the coronavirus pandemic, as well as on other issues, including the Aliens Law. The opposition criticized the fact that this had no bearing with the crisis and that it would imply the expulsion of foreign non-EU citizens in certain situations, with the exception of those working in the agricultural sector. See <https://news.err.ee/1080224/raft-of-33-amendments-including-on-weapons-permits-passes-riigikogu-vote>

⁷⁷<https://platform.dataguidance.com/news/estonia-dpi-publishes-guidance-employee-data-processing-and-coronavirus>

⁷⁸<https://news.err.ee/1058712/helme-estonia-ready-to-reinstate-border-control-in-new-migration-crisis>

12. FINLAND⁷⁹

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The **state of emergency** was declared on **16 March** by the government and the President of the Republic, on the basis of the Emergency Powers Act. Within four weeks, several emergency Decrees were issued and subsequently upheld by Parliament. One measure was adopted through the legislative procedure directly under the emergency clause (Article 23) of the Constitution.

A debate is currently taking place in Finland on whether the Emergency Powers Act should be revised and a qualified majority should be required for the Parliament votes (for the moment, it is only simple majority). Until now there has been no problem, as the COVID-19 decrees have been adopted unanimously, but this might become an issue in the future⁸⁰.

- among the measures of exceptional nature adopted: borders are closed, but freight transports are allowed. All schools and educational institutions, museums, concert halls, libraries, sports facilities etc. have closed. All staff in public service should be on distance work, as far as possible. People over 70 years of age are not allowed to be in contact with other people. Everyone returning from abroad has to stay at home quarantine for two weeks.

- On 24 March 2020, the Government submitted a government proposal to Parliament on closing restaurants, cafés and licensed premises as soon as possible until 31 May 2020. Take away meals could still be sold, and the restrictions would not apply to restaurants that are not open to the public, such as personnel canteens or student canteens in educational institutions. The Parliament has voted in favour of the proposal but more detailed implementing measures by the Government are needed before the closure can take place.

- On 27 March, the Parliament adopted unanimously two decrees submitted by the Government concerning the entry into force and the application of the restrictions on movement laid down in the Emergency Powers Act. The restrictions concern movement to and from the Uusimaa region which surrounds the capital city Helsinki and where approximately a half all coronavirus cases have been confirmed. The movement restrictions in the Uusimaa region entered into force on 28 March and remain in force until 19 April 2020. They do not apply to movement within Uusimaa. Police is patrolling streets crossing the frontiers. Free movement of goods is permitted, and restrictions on people's movement do not apply if movement is necessary for official activities; travel for work, whether as an employee or as an entrepreneur or self-employed person, for studies or in connection with a societal position of trust; the performance of military service or any other statutory obligation; the need for care, risk of death or death of a family

⁷⁹ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

⁸⁰ For a detailed analysis and a critical view, and 6 problems he identified in the application of the exceptional powers measures in Finland, see Martin Scheinin, (EUI, Finnish Professor of International Law and Human Rights): <https://verfassungsblog.de/the-covid-19-emergency-in-finland-best-practice-and-problems/>

member, the right of access to a child, or for any other similar compelling personal reason. See https://valtioneuvosto.fi/en/article/-/asset_publisher/10616/liikkumisrajoitukset-uudellemaalle-voimaan-28-maaliskuuta-2020-klo-00-00

- the government announced on 30 March that the Emergency legislation is to remain in force **until at least 13 May** and ordered that cafés, restaurants and nightclubs shut down (cafés and restaurants are still allowed to offer takeaway services), with the decrees being transferred to Parliament for approval, see <https://scandasia.com/finland-install-further-measures-to-prevent-the-spread-of-the-coronavirus/> and https://valtioneuvosto.fi/en/article/-/asset_publisher/10616/hallitus-jatkaa-poikkeusoloihin-liittyvia-toimia-13-toukokuuta-saakka

- At its plenary session on 15 April, the Government adopted a decree repealing the restrictions on movement to and from the Region of Uusimaa.

- On 8 April 2020, the Prime Minister's Office appointed a working group tasked with preparing a plan for Finland's way out of the COVID-19 crisis and deciding on measures to deal with its aftermath.

- The PM stated she hopes the state of emergency and the related law won't be extended beyond the **end of June**, see <https://newsnowfinland.fi/domestic/morning-headlines-tuesday-26th-may-2020>

- FRA noted that "The Finnish Parliamentary Ombuds body considered fines issued by the police during the lockdown of the region of Uusimaa, noting that, while the Emergency Powers Act stipulates that fines can be issued for offences under the Act, it does not criminalise the attempt to commit such an offence. The Ombuds body concluded that it is essential that prosecutors ensure fines are not issued for lawful acts", see https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-june_en.pdf.

Deconfinement:⁸¹

- **From 14th May:** Restrictions on border traffic will be lifted in cross-border traffic across the Schengen internal borders by allowing employment or commission-related commuting and other essential traffic. Outdoor recreational facilities will be opened. Contact teaching can be resumed in a controlled and gradual manner for general upper secondary schools, vocational schools, higher education institutions and liberal education. For universities, universities of applied sciences, upper secondary schools, vocational schools, liberal adult education and basic adult education institutes distance teaching will continue until the end of the semester.
- **From 1st June:** The gradual opening of restaurants will begin. Sports competitions and series can be resumed with special arrangements. Public indoor premises (national and municipal museums, theatres, the National Opera, cultural venues, libraries, mobile libraries, services for customers and researchers at the National Archives, hobby and leisure centres, swimming pools and other sports facilities, youth centres, clubs, organisations' meeting rooms, day care services for the elderly, rehabilitative work facilities and workshops) will be opened in a gradual and controlled manner. Public gatherings restrictions will be eased in relation to the number of persons passing from the current 10 to a maximum of 50. The same rule will be apply for events organised by private and third-sector (cultural, recreational, exercise and sports events and to religious events). Indoor spaces and enclosed outdoor spaces, such as amusement parks, zoos, libraries and cinemas, safety will be ensured by limiting the number of visitors, ensuring safe distances and providing guidance on personal hygiene.

⁸¹https://valtioneuvosto.fi/en/article/-/asset_publisher/10616/hallitus-linjasi-suunnitelmasta-koronakriisin-hallinnan-hybridistrategiaksi-ja-rajoitusten-vaiheittaisesta-purkamisesta

- **By the end of June:** The restrictions concerning visits to healthcare and social welfare units will remain in force until further notice and the matter will be next reviewed by the end of June.
- **Until 31st July:** Large public events with more than 500 people are prohibited.

Parliament:

- Since the 24 March, Members of the parliament are able to work remotely and participate in parliamentary work by using digital tools. Members may follow parliament's work and leave legislative initiatives digitally, but not vote. Only necessary meetings of committees are held. Meetings of committees and parliamentary groups have been moved to larger spaces, including auditoriums, and expert hearings are executed remotely or through written statements. Committees can organise unofficial meetings remotely if necessary for these hearings.⁸²

- IPU: "The Finnish Parliament has put in place specific measures to avoid close contact for roll calls, sittings and voting as well as special seating arrangements. Parliamentarians are allowed to participate in parliamentary work remotely; however, remote voting is not possible. Parliamentary committees can still sit but their schedules have been heavily reduced to treat only matters of absolute necessity. A parliamentarian may work in their office in Parliament but they are advised against using public transport. The lockdown of the Uusimaa region (including the capital Helsinki) does not prevent parliamentarians from travelling to their constituency."

2. Freedom of movement (internal and cross-border; sanctions)

- restrictions on public meetings and mobility and restriction of border traffic were decided.
- Finnish nationals are not allowed to travel abroad. Non-resident workforce from Estonia is no longer allowed (since 22.3.) to cross the border.
- Temporarily reintroduced border controls for Coronavirus COVID-19 on all internal borders
- Finland's land borders are closed until at least June 14. They were reopened to workers from the Schengen Area in mid-May. See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

Public gatherings exceeding 10 people are not allowed and all public events with more than 500 attendees be cancelled until the end of May. Organisers of other events are also advised to consider, based on their risk assessments, whether or not to organise similar events. All major seminars and events organised by the state will be cancelled until the end of May.

5. Privacy and data protection

The Finnish Data Protection Authority issued guidelines on COVID and data protection: https://tietosuoja.fi/en/article/-/asset_publisher/tietosuoja-ja-koronaviruksen-leviamisen-hillitseminen

6. Asylum and migration

⁸²<https://www.eduskunta.fi/EN/tiedotteet/Pages/Kansanedustajat-etatyo.aspx>

- The Finnish government's position clarified that while securing their borders, they will still abiding by international obligations which include the right to apply for asylum. For this reason they will not turn away any migrants who arrive at the borders.⁸³
- All interviews are cancelled as of 13 March but no official suspension of procedures.⁸⁴
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

On 25 March, press reported about detention centre residents who went on hunger strike over coronavirus: about a dozen detainees of the Joutseno detention centre near Lappeenranta have begun a hunger strike in protest at their continued detention despite the coronavirus pandemic.

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

⁸³<https://www.breitbart.com/europe/2020/03/07/finlands-millennial-feminist-govt-helping-greece-by-sending-border-guards-help-migrants-claim-asylum/>

⁸⁴ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

13. FRANCE⁸⁵

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- Legal basis:

France first adopted measures at government level (*Décret n° 2020-260 du 16 mars 2020 portant réglementation des déplacements dans le cadre de la lutte contre la propagation du virus covid-19*, on the basis of the Prime Minister's powers of general police ; and *arrêté du 14 mars 2020 portant diverses mesures relatives à la lutte contre la propagation du virus* on the basis of article L. 3131-1 du code de la santé publique), starting with the closure of schools and universities, a ban on gatherings of more than 100 people, closure of non-essential public places, and a national lockdown for 15 days starting on 17 March. On 27 March, Prime Minister Édouard Philippe announced that the lockdown would be extended until 15 April.

The grounds on which these measures of confinement were adopted were confirmed in a law adopted in Parliament on **23 March 2020** after only 4 days of deliberations (*LOI n° 2020-290 du 23 mars 2020 d'urgence pour faire face à l'épidémie de covid-19*) and installing a new and derogatory institutional regime under "**state of sanitary emergency**".

Although this institutional move to give a legislative basis to the State of sanitary emergency was supported by the Council of State (see *avis n° 399873 rendu par sa commission permanente le 18 mars 2020 sur le projet de loi d'urgence pour faire à l'épidémie de Covid-19*), in terms of procedure the legitimacy of this law is questioned⁸⁶

The «state of sanitary emergency» is limited to two months. Its extension can only be decided by the Parliament (the length used to be one month under the previous legislative regime). However, a government decree can put an end to this state of emergency.

⁸⁵ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

⁸⁶ see e.g. V. Brengarth, "En quoi le vote de l'état d'urgence sanitaire constitue une menace pour la démocratie?". It is argued by some commentators that the government already had a legal basis to adopt extraordinary measures (cf. law of 5 April 1955, law of 30 October 2017, code of public health and well-established jurisprudence on "*théorie des circonstances exceptionnelles*" which allows government to adopt extraordinary measures of police on the entire territory), justified on the basis of the code on public health (see also the *Impact Analysis* accompanying the draft law which presented the option to simply supplement the current legislative framework), and that difficulties to gather the Parliament in such exceptional circumstances, combined with the accelerated procedure ('procédure d'urgence'), did not allow for a substantive and independent Parliamentary debate, especially when the wide Parliamentary majority is affiliated to the executive (President and Government's party). Other commentators regard however the previous legal basis on the code of public health as having given too wide powers to the Minister of health. To be noted: the President of the CNCDH (French National Human Rights Institution) addressed *observations* to the Prime Minister and MPs on the draft law eventually adopted on 23 March, and announced its intention to collect information on the state of emergency. See also Catherine Haguenu-Moizard, *Governing through fear in France*, <https://verfassungsblog.de/governing-through-fear-in-france/>

The French President announced on 13 April that **from 11 May** on the lockdown will be eased and that a more precise plan will be unveiled at the end of the month.

On 25 June, The Presidency of the Republic announced the establishment of a mission to assess the management of the sanitary crisis by the Executive. This "*independent national mission on the evaluation of the management of the Covid-19 crisis and on the anticipation of pandemic risks*" should make it possible to "*learn the lessons*" from the crisis and "to come out of it strengthened and better prepared for the future, "according to his roadmap. (see https://www.lemonde.fr/planete/article/2020/06/25/le-professeur-pittet-presidera-la-mission-d-evaluation-de-l-executif-sur-la-gestion-de-la-crise-du-coronavirus_6044179_3244.html)

Deconfinement:

On 28 April the Prime Minister presented the Government's '**deconfinement plan**' to the National Assembly (Parliament's Chamber). The plan was discussed for two hours, with 75 Members physically present in the hemicycle, and then submitted to a vote (368 for, 100 against, 103 abstentions). The Government chose to follow the procedure under Article 50-1 of the Constitution, which does not engage its responsibility but is however sanctioned by a vote (see <http://www.assemblee-nationale.fr/dyn/actualites-accueil-hub/declaration-du-gouvernement-sur-le-plan-de-deconfinement>). The plan involves two phases (11 May-2 June, 2 June till Summer) and different level of measures depending on the geographical departments (depending on the health situation, the hospital bed capacity and the local system for detection and testing) (see <https://www.gouvernement.fr/info-coronavirus/strategie-de-deconfinement> for more details on the plan, as well as https://www.lemonde.fr/politique/article/2020/04/28/coronavirus-en-france-presentation-du-plan-de-deconfinement-les-droits-des-chomeurs-prolonges-en-mai_6037981_823448.html#xtor=AL-32280270). The debate and vote on the StopCovid app, which raised some controversies, has been postponed.

- May 11: Nurseries and schools progressively reopen. Shops allowed to reopen, apart from those in shopping centers. Libraries and small museums reopening. People will then be free to leave their houses without certificates again and gatherings of up to 10 people are allowed.
- Mask-wearing mandatory on public transport.

Extension of the "state of sanitary emergency": on 2 May, the Government presented a draft legislation in order to extend the derogatory institutional regime until 24 July. The text was adopted by the Parliament on 9 May and foresees the extension of the derogatory regime until **10 July**. On 11 May the Conseil constitutionnel (Constitutional Council) validated the law but censored some provisions: in particular, it censored, as disregarding the right to respect for private life", a measure which provided that "organizations which provide social support", may have access to data intended for "tracing" sick people and those who have been in contact with them. With respect to quarantine and isolation measures, the Conseil constitutionnel decided that their extension requiring the person to stay at home or in his/her place of accommodation during a time slot of more than twelve hours per day cannot intervene without the authorisation of a judge. **The law was promulgated on 11 May.** (see <https://www.vie-publique.fr/loi/274230-loi-du-11-mai-2020-prolongation-etat-durgence-sanitaire> and <https://www.conseil-constitutionnel.fr/actualites/communiquede/decision-n-2020-800-dc-du-11-mai-2020-communique-de-presse>)

- On 14 May, a ministerial circular was issued by the Ministry of Justice dealing with the new police measures applicable in the context of the extension of the state of health emergency and of offenses punishing their violation, see http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir_44972.pdf
- While the deconfinement continues in France, the National Assembly examines, Wednesday, June 17, a bill organizing the **exit from the state of health emergency on July 10**, with a **transitional period until the fall**, during which restrictions will remain possible, leading the opposition to be alarmed by a state of emergency "which does not say its name". (see https://www.lemonde.fr/planete/article/2020/06/17/coronavirus-la-sortie-de-l-etat-d-urgence-sanitaire-examinee-a-l-assemblee-vers-une-prolongation-a-mayotte-et-en-guyane_6043178_3244.html)
- many restrictive measures anyway remain into force, of 25 of these, 15 are still in force, see list of these at https://www.lemonde.fr/les-decodeurs/article/2020/06/11/manifestations-justice-deplacements-de-nombreuses-libertes-toujours-restreintes-par-l-etat-d-urgence-sanitaire_6042544_4355770.html

2 June 2020: second phase of deconfinement, with restrictions lifted on restaurants and bars, travel distances (end to 100km travel limit), tourist accommodation, parks, beaches and lakes, cultural and sport centers, large museums and monuments. There are still some limitations, depending on the geographical zone (green or orange zones).

Public gatherings of more than 10 people are not allowed until June 21, and events and gatherings of more than 5,000 people are set to remain banned until at least August 31. Cinemas will be able to open all over the country from June 22, but discotheques and clubs remain closed until further notice.

Wearing a mask on public transport at all times is mandatory for "everyone over the age of 11", including on trains, planes, boats, the Metro, in airports and train stations, as well as in taxis.

All primary and secondary schools now reopen, under some conditions: they will reopen gradually, so not all students will restart classes on 2 June. Masks are mandatory for all students when moving around, and for all staff taking care of children. Teachers, however, do not need to wear a mask "when they are giving a class and are at least one meter away from students".

All of these rules are set to be re-evaluated from June 22.

see <https://www.gouvernement.fr/info-coronavirus/les-actions-du-gouvernement> and <https://www.vie-publique.fr/en-bref/274408-deconfinement-le-premier-ministre-presente-la-phase-2>)

15 June: third phase of deconfinement, with the conversion of the whole French territory to a green zone which is declared free of coronavirus hotspots. The only exceptions are the outlying territories of Mayotte and Guyana. Visits to nursing and retirement homes are authorized again. From 22 June, nurseries, primary and middle schools will reopen for all. On the same day, cinemas will reopen, too (see decree of 14 June 2020 <https://www.legifrance.gouv.fr/eli/decret/2020/6/14/SSAZ2014912D/jo/texte>). For a general - and critical- overview of the limitations to fundamental rights and freedoms, see <https://www.generationlibre.eu/observatoire-des-libertes-confinnees>).

- Many restrictive measures anyway remain into force, of 25 of these, 15 are still in force, see list of these at https://www.lemonde.fr/les-decodeurs/article/2020/06/11/manifestations-justice-deplacements-de-nombreuses-libertes-toujours-restreintes-par-l-etat-d-urgence-sanitaire_6042544_4355770.html

- While the deconfinement continues in France, the National Assembly examined and adopted at first reading on June 17, a bill organizing the exit from the state of health emergency on July 10, with a transitional period until the fall, during which restrictions will remain possible, leading the opposition to be alarmed by a state of emergency "which does not say its name" (see https://www.lemonde.fr/planete/article/2020/06/17/coronavirus-la-sortie-de-l-etat-d-urgence-sanitaire-examinee-a-l-assemblee-vers-une-prolongation-a-mayotte-et-en-guyane_6043178_3244.html). The major measures are the following:

- In the four months following the end of the state of sanitary emergency, that is until November 10, 2020, or in the event of a resurgence of the Covid-19 epidemic, the Prime Minister may regulate by decree travel and access to transportation, the opening of establishments open to the public and rallies in the street.

- The bill also makes it possible to lengthen the period of retention of data collected within the framework of the information systems established to fight against the epidemic (fixed at three months by the law of May 11 extending the state of sanitary emergency), consistent with their objectives, in particular research ones, and with all the necessary guarantees. The extension can in particular be decided only if it is justified for each type of data, after public notice from the National Commission for Data Protection (CNIL) and the Covid-19 control and liaison committee, put in place last May. A decree of the Council of State is planned.

Data collected as part of the Stop Covid application are not affected.

- Besides, the National Assembly adopted a government amendment extending the state of health emergency until October 30 inclusive in Guyana and Mayotte. The National Assembly has also voted another government amendment which makes it possible to impose a virological test on people who wish to travel by public air transport between mainland France and the overseas territories, between the various overseas communities and between France and abroad (see <https://www.vie-publique.fr/loi/274501-loi-organisant-la-fin-de-letat-durgence-sanitaire>).

On 22 June, the Senate also adopted at first reading the text, but the senators made some changes in order to limit the restrictions: concerning the obligation of tests for travelers traveling by plane between overseas territories and France, they limited it to people "having stayed during the previous month in an area of circulation of the infection". They also limited the possibilities of intervention by the Minister of Health to measures relating to the organization of the health system and placement in quarantine and isolation. Finally, concerning the conservation of data collected by health information systems, they restricted it to epidemiological surveillance and research, without identifying individuals. In addition, if the French citizens are to be reconfigured in the coming months, the government should once again declare a state of sanitary emergency. The text will still have to be examined on 25 June in joint committee. In case of non-agreement between the Senate and the National Assembly, the latter will have the final say. On 25 June, deputies and senators did not reach an agreement on a final version of the text.

The bill will be re-discussed by members of the National Assembly on 30 June, then by senators on July 2.

From June 22, 2020, the following activities will again be possible:

- the opening of cinemas, holiday centers, casinos and game rooms, in compliance with strict sanitary rules,

- the resumption of collective sports activities, with prevention measures adapted to the different categories of activities concerned. However, combat sports will remain prohibited. Their situation will be reviewed before the start of the new school year in September.

From July 11, which will mark the end of the state of health emergency on the metropolitan territory:

- river cruises will be authorized again; in coordination with the other European partners, it may be decided to resume sea cruises between European ports, for ships whose capacity does not exceed a limit set by ministerial decree;
- the stadiums and racetracks will be open to the public, with a maximum tonnage of 5,000 people. As with performance halls, activities involving more than 1,500 people must be declared, so that the necessary precautions can be guaranteed;
- the maximum capacity of 5,000 people for major events, stadiums and concert halls is in principle in force until September 1. A further review of the national epidemiological situation will be carried out in mid-July to decide whether a softening is possible for the second part of August.

From September 2020, and subject to a new assessment of the epidemiological situation, the start of the academic year may be marked by further elements of flexibility:

- opening of establishments welcoming fairs, exhibitions and shows;
- where applicable, opening of discos and international maritime cruises;

This new step in the deconfinement plan reaffirms freedom as a rule and makes banning an exception (see

https://www.gouvernement.fr/sites/default/files/document/document/2020/06/communiqu%C3%A9_de_presse_de_m._edouard_philippe_premier_ministre_-_mesures_suppl%C3%A9mentaires_de_deconfinement_pour_la_p%C3%A9riode_estivale_-_20.06.2020.pdf)

- Besides, a law “on various provisions relating to the health crisis, other urgent measures and the withdrawal of the United Kingdom from the European Union” was promulgated on **June 17, 2020**, and published in the Official Journal on June 18, 2020. This law aims at complementing the emergency health, economic and social measures already taken to deal with the Covid-19 epidemic (see <https://www.vie-publique.fr/loi/274274-loi-diverses-dispositions-urgentes-pour-consequences-du-covid-19>). In particular, the text directly adapts the procedure for the trial of crimes and the functioning of the assize courts (see below under Judiciary).

- For a critical approach of the French response to the sanitary crisis, see https://www.lemonde.fr/idees/article/2020/06/03/dans-sa-reponse-au-coronavirus-notre-executif-survalorise-la-surveillance-et-la-punition_6041574_3232.html

- Parliamentary control:

Apart from the general “state of sanitary emergency”, the law of 23 March 2020 also limits Parliamentary powers of scrutiny (title IV, Article 22, which limits ad hoc Parliamentary enquiry committees created before the enactment of this law until 30 September 2020). Opposition leaders have however [announced their intention to launch enquiry committees after the crisis](#). Meanwhile, a ‘[mission of information](#)’ was set up to control measures taken by the government. Its scope includes the impact, the management and the consequences of the epidemic in France. It includes the Presidents of each political group, with Chairs of each standing committee as co-rapporteur, and is due to meet on a weekly basis via videoconference (see <http://www2.assemblee-nationale.fr/15/missions-d-information/missions-d-information-de-la-conference-des-presidents/impact-gestion-et-consequences-dans-toutes-ses-dimensions->

[de-l-epidemie-de-coronavirus-covid-19/\(block\)/68849](#)). The group was to [hear the Prime Minister on 1 April](#). The mission [could be transformed later in an actual enquiry committee](#). Meanwhile Parliamentary work is limited at the moment to the questions to government once a week.). On 21 April, the President of the National assembly announced that as of 28 April 75 MPs will be allowed to seat in the hemicycle (altogether 100 people will be allowed within the building) (see <https://www.ouest-france.fr/sante/virus/coronavirus/coronavirus-75-deputes-pourront-revenir-sieger-l-assemblee-nationale-la-semaine-prochaine-6813771>)

- According to the IPU: “The French Senate is holding reduced plenary sittings – only one plenary sitting a week, limited to 10 questions for the government. They are attended only by the authors of questions and presidents of political groups. Three committees hold meetings remotely for hearings with ministers and to exchange views. There is no legal framework for the holding of remote meetings. No special measures have been adopted on holding video-conference committee meetings as there is no voting. The software used for remote meetings is Tixeo.

The National Assembly of France has reduced the number of its meetings and is holding them remotely. Committee meetings are limited to hearings and debates on issues within their remit regarding the coronavirus crisis. The decision to proceed in this manner was taken by the Conference of Presidents composed of the President and Vice-Presidents of the National Assembly, the presidents of the political groups, committee presidents, and the minister in charge of relations with Parliament. Apart from three urgent bills on the COVID-19 pandemic, committees have not been holding meetings on legislative texts.

Remote meetings (audio and video-conferencing) are regulated legally and, while remote voting is not legally authorized, committees can carry out debates and hearings.

As for software, Zoom is being tested. No software is being used for the transmission of documents. All parliamentary documents and summary records can be consulted online on the National Assembly’s intranet and internet sites. Amendments to legal texts can be uploaded and accessed remotely through “Eloi” (eLaw), an internal application developed by the National Assembly. Remote meeting software is hosted by an external service provider”.

- On 26 May, a **National Assembly committee of inquiry** on the coronavirus crisis was launched. This committee, which will be made up of 30 members of Parliament from all political groups, will be tasked with hearing all the actors in the crisis (see [www2.assemblee-nationale.fr/15/missions-d-information/missions-d-information-de-la-conference-des-presidents/impact-gestion-et-consequences-dans-toutes-ses-dimensions-de-l-epidemie-de-coronavirus-covid-19/\(block\)/68851](http://www2.assemblee-nationale.fr/15/missions-d-information/missions-d-information-de-la-conference-des-presidents/impact-gestion-et-consequences-dans-toutes-ses-dimensions-de-l-epidemie-de-coronavirus-covid-19/(block)/68851)). The committee began its work on 16 June. MEPs will scrutinize the issue of masks, tests, hospital capacity, as well as the situation in nursing homes, and they will try to establish and analyse possible shortcomings in the French response to the crisis. The director general of health, Jérôme Salomon, was the first to be auditioned. On 30 June, the former Minister of Health, Agnès Buzin was heard. **The former Ministers of Health from 2007 to 2017, Ms Roselyne Bachelot, Mr Xavier Bertrand and Ms Marisol Touraine, were also heard. From 6 July to 9 July, the committee organized a series of hearings devoted to the management of the crisis by hospitals and private doctors.**

- A **Senate committee of inquiry** will be launched in late June to shed light on authorities' management of the epidemic and the state of anticipation over the past ten years. A motion for a resolution will be examined in plenary on 23 June, the first hearings should start immediately (see <https://www.publicsenat.fr/article/parlementaire/covid-19-la-commission-d-enquete-du-senat-releve-les-tensions-avec-l-executif>).

- Besides, in order to monitor the management of the health crisis linked to the Covid-19 epidemic, the Committee on Culture, Education and Communication of the Senate has set up several working groups to work on specific sectors such as higher education, the press, cultural industries and external cultural action, youth and community life. On 24 June 2020, the committee presented communications, followed by a debate, on the results of the work of the sectoral working groups on the consequences of the Covid-19 epidemic (see http://www.senat.fr/espace_presse/actualites/202003/suivi_covid_senat/culture.html).

- Economic measures special procedure: the law of 23 March 2020 also includes a part on "Measures of economic emergency and adapting to the Covid-19 epidemics" (see title II). It allows the government to adopt measures which normally would be taken by Parliament, to support the economy. As for Parliamentary control, the Minister of Labour indicated on 21 March that there would not be any formal consultation process but she invited political groups to share their ideas with her.

-At the start of the crisis, it was decided that in public session as in committee, only two members of National Assembly could be present per group (in addition to the group presidents or their representative). Since May 26, the number of MEPs who can be present simultaneously in the hemicycle has been increased to 151 (out of a total of 577) (see <http://www2.assemblee-nationale.fr/15/la-conference-des-presidents/releve-de-conclusions/reunion-du-mardi-26-mai-2020>)

- On 23 June, the President of the National Assembly declared that the improvement in the health situation has enabled the conference of presidents to change their operating rules: all deputies can again be present in the hemicycle. Since it will not be possible to respect the rules of physical distance, MPs and ministers will have to wear a mask, except when they speak (see <http://www.assemblee-nationale.fr/15/cr/2019-2020/20200245.asp#P2127750>).

- **Municipal elections:**

The law of 23 March 2020 confirmed the suspension of the organisation of the second round of municipal elections which was supposed to be held on 22 March 2020. The first round was held on 15 March, while a partial confinement had already been decided with restrictions to the freedom of movement and closure of non-essential shops, bars and restaurants. The executive had called on the need to maintain democratic life and indicated having acted after consultation of all the political parties. The decision got widely criticised in the press, civil society and political parties as the necessity for confinement appeared more pressing. However in more than 30,000 communes the municipal council was elected after the first round, even though the turn-out rate was rather low (close to 40%). The second round will concern about 6,000 municipalities, along which Paris and Lyons. The Government is due to present a report to the Parliament before 23 May 2020 with proposals for the holding of the second round. Criticism have been growing with some of the mayors, councillors and personnel having been present around the ballot falling ill or even deceasing (see e.g. http://www.mediapart.fr/journal/france/280320/municipales-et-coronavirus-la-colere-monte-dans-le-personnel-politique?utm_source=global&utm_medium=social&utm_campaign=SharingApp&xtr=CS3-5)

- The organisation of the second round of municipal elections is scheduled for June 28. On 27 May, the Minister of Interior declared that the deposit of candidacies will be held from May 29 to June 2. The campaign will begin on June 15.
- On June 15, the Ministry of Overseas territories announced that due to the epidemic of coronavirus which is still active in Guyana, the second round of municipal elections is postponed. It is however maintained on June 28 in Mayotte.
- On 28 June, the abstention exceeded 60%, further aggravating the results of the first round and officially becoming the lowest participation rate in a municipal election under the Fifth Republic. For a critical analysis of these elections, see https://www.lemonde.fr/politique/article/2020/06/29/au-second-tour-des-municipales-abstention-record-et-percee-ecologiste_6044563_823448.html: in this article, the journalist wonders whether fear- linked to the sanitary crisis- is the main driver of the abstention or whether the latter does not mark a collapse of democracy. He also notes a very important breakthrough of the Greens in these elections.

- Judiciary:

The law on the “state of sanitary emergency” was accompanied by a draft “loi organique” of only one article, suspending until 30 June the time-frame during which the Council of State or the Cour de Cassation (highest civil and criminal court) has to decide on the transmission (“renvoi”) of a priority question of constitutionality to the Constitutional Council and the time during which the latter has to decide. On 26 March the Constitutional Council validated the law, acknowledging however that although the Constitution is not suspended, it is possible to derogate from it due to the circumstances related to the COVID crisis. Formal conditions of adoption of an organic law have not been respected (a 15-day lapse was to be observed after the draft law was tabled). (see https://www.lemonde.fr/societe/article/2020/03/28/coronavirus-l-etat-d-urgence-sanitaire-ouvre-des-breches-dans-l-etat-de-droit_6034751_3224.html).

The operation of administrative courts has also been adapted to the confinement measures (see e.g. <https://www.village-justice.com/articles/covid-entree-vigueur-une-procedure-derogatoire-exception-sein-juridiction,34351.html>).). On the criminal side, Article 16 of the « ordonnance » of 25 March on criminal procedure raises a number of questions (see for instance <https://www.dalloz-actualite.fr/node/etat-d-urgence-sanitaire-quelques-difficultes-pratiques-consecutives-l-ordonnance-n-2020-303#.Xp8lTXduLIU>) and is criticised among others by the [Syndicat de la Magistrature](#) for installing an automatic prolongation of maximum lengths for temporary detention. However, the law on 11 May extending the “state of sanitary emergency” modified the ordonnance of 25 March 2020 , in order to allow a return to ordinary regime of pre-trial detention. However, the new law has not modified the restrictions concerning the police custody, which may still be extended for more than twenty-four hours without presentation to a judge, an exemption which also applies to minors between the ages of 16 and 18. During police custody, a telephone interview with the lawyer can replace his presence (see <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041755529&categorieLien=id>). Besides, until 10 August (which will be one month after the end of the state of sanitary emergency), judges may:

- decide to hold a remote criminal hearing without the agreement of the parties,
- decide that a civil trial is to be held without a hearing,
- extend the placement measures for juvenile delinquents without hearing the parties,

- decide on an educational measure or refuse an educational measure concerning a juvenile, without hearing the parties.

Until the same deadline (10 August), educational assistance measures can be extended or cancelled by the judge without hearing the parties (such measures are intended to help families who face difficulties in raising their child, but they can lead to the placement of the child) (See <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041755529&categorieLien=id>)

Meanwhile the Council of State had to decide on a number of actions brought by groups of citizens. On [22 March 2020, for instance, it](#) rejected a request (by the Union of Young Doctors) to order the government to adopt a total confinement regime. The Council however requested the government to clarify the scope of some of its restrictive measures, in particular concerning joggers and moves for health reasons, which appeared too broad. Actions are also brought against Members of the Government before the Court of Justice of the Republic (see <https://www.20minutes.fr/justice/2748807-20200326-clement-coronavirus-vers-epidemie-plaintes-recours-contre-gestion-crise-executif>).

On 3 July, the Attorney General at the Court of Cassation, François Molins, announced that a judicial information on the management of the crisis due to the Covid-19 epidemic will be opened at the Court of Justice of the Republic against former Prime Minister Edouard Philippe and health minister Olivier Véran and former health minister Agnes Buzyn. The “Commission des requêtes” (requests committee), made up of senior judges and which acts as a filter, has indeed found admissible nine complaints against these former members of the government. Mr. Molins is now required to seize the investigative commission of the Court of Justice of the Republic, which will act as an investigating judge and lead the investigations (see https://www.lemonde.fr/police-justice/article/2020/07/03/coronavirus-la-cour-de-justice-de-la-republique-va-ouvrir-une-enquete-contre-edouard-philippe-olivier-veran-et-agnes-buzyn_6045141_1653578.html).

Associations and Members of the Parliament are pleading for the creation of a compensation fund, along the lines of that set up for asbestos victims (see https://www.lemonde.fr/planete/article/2020/05/04/coronavirus-l-indemnisation-des-victimes-en-question_6038589_3244.html).

On 12 May, the “Conseil supérieur de la magistrature” (High Council of the Judiciary) published a press release in the context of the sanitary crisis, recalling that the Judiciary will have to occupy fully its place in the public space, and will have to pursue its mission of protection of the individual freedom (see <http://www.conseil-superieur-magistrature.fr/actualites/communiqué-du-conseil>)

- On 13 May, the “Cour de cassation” (Supreme Court for the Judiciary) transmitted to the Constitutional Council three “questions prioritaires de constitutionnalité” (priority preliminary rulings on constitutionality) relating to the offense of **repeated violation of confinement** (see <https://www.dalloz-actualite.fr/flash/delit-de-non-confinement-qpc-transmises-au-conseil-constitutionnel#.Xs4w6EQzblU>).

- On 26 June, the Constitutional Council judged that the provisions repressing the repeated violation of confinement were consistent with the Constitution. This offense is no longer in force since May 11 and the end of confinement. However, it remains in the law, and the government is therefore able to activate it again in the event of movement restrictions imposed on a part of the territory, as authorized by the law organizing the exit from the state of health emergency until the fall (see

<https://www.conseil-constitutionnel.fr/actualites/communiqu%C3%A9/decision-n-2020-846847848-qpc-du-26-juin-2020-communiqu%C3%A9-de-presse> and https://www.lemonde.fr/politique/article/2020/06/26/le-conseil-constitutionnel-valide-le-d%C3%A9lit-de-violation-du-confinement_6044248_823448.html).

- On 26 May, the Cour de cassation transmitted two other priority preliminary rulings on constitutionality, relating to the automatic extension of pre-trial detention, introduced by the first law on the “state of sanitary emergency”. The Court asserted that the system established within the framework of a state of sanitary emergency was compatible with the Convention only on condition that a judge examined promptly, if he had not already done, the necessity of the detention in question. In all cases where such control by the judge has not been or can no longer be exercised, the detained person must be released (see https://www.courdecassation.fr/jurisprudence_2/decisions_relatives_8004/situation_urgence_9734/arrets_26_mai_2020_9740/detention_provisoire_44889.html). For a comment on the different positions of the Council of State and the Cour de Cassation on the law on the “state of sanitary emergency”, see: https://www.lemonde.fr/societe/article/2020/05/27/face-a-l-etat-d-urgence-les-complexites-du-temps-judiciaire_6040907_3224.html

- Mid-May, according to the newspaper “Le Monde”, more than a hundred criminal complaints have been registered throughout the country in relation with the “Covid-19 crisis”, notably in Paris, Nanterre, Grasse (Alpes-Maritimes) or Marseille. They come from families of deceased relatives, mayors or associations. Filed, most often against X, they also target administration officials, such as the director general of health, Jérôme Salomon (see https://www.lemonde.fr/societe/article/2020/05/14/covid-19-deja-plus-de-soixante-plaintes-contre-des-membres-du-gouvernement_6039643_3224.html)

- On June, 3, according to the newspaper “La Croix”, 78 complaints were filed before the Court of Justice of the Republic (CJR), the only body empowered to try ministers in office, against members of the government, denouncing the management of the Covid-19 crisis (see <https://www.la-croix.com/France/Justice/procedures-judiciaires-liees-gestion-crise-multiplient-2020-06-08-1201098033>)

- On 9 June, the Prosecutor of the Tribunal de grande instance of Paris announced to Agence France-Presse (AFP) the opening on 8 June of a vast preliminary investigation into the criticized management of the Covid-19 crisis in France. It mainly targets the crimes of “endangering the life of others”, “homicide and involuntary injury” and “failure to assist person in danger”. This investigation is a first judicial response to around forty complaints received by the Paris public prosecutor's office during confinement. The complaints are filed by relatives of victims, professional organizations or via standard complaints published on the [plaintecovid.fr](https://www.plaintecovid.fr) website. This national investigation does not concern establishments for dependent elderly people (Ehpad), which are the subject of local investigations to date, including in Paris, but also in Nanterre or Grasse (see https://www.lemonde.fr/police-justice/article/2020/06/09/coronavirus-le-parquet-de-paris-ouvre-une-enquete-preliminaire-sur-la-gestion-critiquee-de-la-crise-sanitaire_6042265_1653578.html).

- As mentioned above (under “deconfinement”), the law of 17 June 2020 adapts the procedure for the judgment of crimes and the functioning of the assize courts: increase in the number of jurors drawn by lot in order to participate in the sessions of the assize courts until the end of the year, adjustment of the calendar operations for drawing up the lists of jurors for 2021, possibility of changing the designation of the assize courts to decide on appeal.

In addition, the experimentation of the "criminal courts", instituted by the law of March 23, 2019 reforming and planning the justice system (court without popular jury), must take place in 18 departments (against 9 today and 30 desired by the government).

Similarly, faced with the "stock" of criminal cases, the law allows public prosecutors, under several conditions and deadlines, to redirect the procedures before the police courts, correctional courts and juvenile courts. The interests of the victims must be preserved (see <https://www.vie-publique.fr/loi/274274-loi-diverses-dispositions-urgentes-pour-consequences-du-covid-19>).

On 22 April the "Syndicat de la magistrature" (union for the Judiciary) wrote a letter to the Minister of Justice, in order to challenge the experimentation of the criminal courts (see www.syndicat-magistrature.org/IMG/pdf/courrier_cours_crim.pdf).

On 26 June, the Syndicat de la magistrature issued a document on teleworking and videoconferences: « Observations on the development of remote work in courts" (see http://www.syndicat-magistrature.org/IMG/pdf/observations_sur_le_developpement_du_travail_a_distance.pdf)

On July, 2, the "Inter-Urgences" (Inter-Emergencies) collective, acting on behalf of hospital practitioners dissatisfied with the lack of masks and protections during the influx of patients with Covid, filed a complaint against X and was joined as civil party in the proceedings for "voluntary abstention from prevent a disaster", "violence and manslaughter" and "endanger the life of others" before the dean of the examining magistrates. Two days before, three doctors of Tours, gathered in the collective C19, had also took part in the proceedings as civil parties (see https://www.liberation.fr/france/2020/07/02/covid-des-plaintes-pour-obtenir-la-saisie-d-un-juge-d-instruction_1793104).

2. Freedom of movement (internal and cross-border; sanctions)

- The new "state of sanitary emergency" allows the Prime Minister to limit by simple decree (see above) the freedom of movement of people and vehicles at certain times and within spatial limits, to forbid the possibility to get out of the domicile, adopt quarantine and isolation measures.

- Confinement measures were renewed on 27 March for another two weeks, on the principle that movements are forbidden, except for specific cases (basic necessities, health, sport on an individual basis) and within the limits of 1 km around the domicile. For each outing, individuals must hold a certificate which can be printed from [government websites](#) or hand-copied, and filled in (or hand-copied) for each outing.

- [Sanctions](#) range from Euro 135 to EUR 3,700 with 6 months imprisonment in case of repeated infraction. Controls are frequent and the [Ministry of Interior is communicating a lot](#) on this dissuasive and repressive approach. [Police unions are calling](#) for stricter rules (curfew) and heavier sanctions.

- As for cross-border freedom of movement, temporary border controls were reinstated and announced to the Commission due to persistent terrorist threat, upcoming high profile political event in Paris, secondary movements; all internal borders; period **31 October 2019 - 30 April 2020**. [On 17 March France has decided to suspend the issuance of visas until further notice](#). All visa types are affected: short stay Schengen visas, long-stay visas to France, visas to overseas territories.

- The legislation of 11 May on the extension of the state of sanitary emergency specifies the new regimes of quarantine and administrative isolation (see above). It also extends the categories of persons empowered to ascertain the violation of the provisions adopted on the

basis of the state of sanitary emergency: reservists, security assistants and accredited agents of the transport services will be able to draw up the minutes, as soon as the traffic violation takes place on public transport (see <https://www.vie-publique.fr/loi/274230-loi-du-11-mai-2020-prolongation-etat-durgence-sanitaire>)

- France sent back to Bulgaria 2 groups of seasonal workers, see <https://www.euractiv.com/section/justice-home-affairs/news/france-kicks-out-bulgarian-seasonal-workers-despite-commission-guidelines/>

- Despite the second phase of deconfinement, starting on 2 June (see above) flights to Corsica and overseas territories are still restricted, until the 23rd of June, to “*an imperative or urgent professional or family reason*” that cannot be postponed. However, the restrictions concerning Corsica were lifted on June 3, following a modification of the decree on phase 2 of the deconfinement.

- . Border restrictions remain in place until June 15, but border controls within Europe “without quarantine” should be lifted if the health situation allows.

- The Decree of May 11, 2020 repeals Decree of March 23, 2020 which provided for the police measures previously applicable, in particular the prohibition of movement outside the home. It enacts the new police measures in force from May 11, 2020, including the obligation to wear a mask in transport and the ban on gatherings of more than 10 people. Not wearing a mask on public transport constitutes a fine of 135 Euros (contravention de 4ème classe)

- Prime Minister Edouard Philippe announced plans to reopen France's border to EU countries and the UK from **June 15**, following the plans of other EU countries. For the time being travel into France is **restricted** with only essential travel allowed for those who don't live in the country. Travellers arriving from the UK or Spain will be subject to a voluntary quarantine. Those from outside the EU or UK will still not be able to travel to France except for in limited circumstances, while EU countries are still to decide when they will reopen external borders. See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

- On 14 June, President Macron confirmed that travelling in European Union countries would be authorized from Monday 15 June. He added that “*from July 1, we will be able to go to states outside Europe, where the epidemic will be brought under control*” (see <https://www.vie-publique.fr/discours/274578-emmanuel-macron-14062020-covid-19>).

- From July 1st, people arriving from one of the following countries: Australia, Canada, South Korea, Georgia, Japan, Montenegro, Morocco, New Zealand, Rwanda, Serbia, Thailand, Tunisia, Uruguay are no longer subject to restrictions motivated by prevention of the risk linked to the covid-19 epidemic for their entry into metropolitan France. This list will be regularly updated, at least every 15 days, in conjunction with our European partners, taking into account the recommendation of the Council of the European Union, changes in the health situation and the respect for reciprocity (see <https://www.diplomatie.gouv.fr/fr/conseils-aux-voyageurs/informations-pratiques/article/coronavirus-covid-19-06-07-2020>).

From July, 1st, International students will be allowed, regardless of their country of origin, to come to France.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- 2020 [Annual Report](#) by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, with comments on EU MSs Bulgaria, France, Hungary, Malta, Poland.

- On 30 April, the Government created on its website a specific section on coronavirus, in order to fight against "fake news". However, this initiative raised issues from journalists who consider that the Government should not judge information (see in particular https://www.liberation.fr/debats/2020/05/03/desinfox-coronavirus-l-etat-n-est-pas-l-arbitre-de-l-information_1787221)
- The National Assembly approved a controversial law that gives platforms a one-hour deadline to remove terrorism and pedophilia-related content after being instructed to do so by the authorities. If the companies fail to comply, they can face fines of up to 4% of their global revenue. For other "manifestly illicit" content — such as hate speech, racist comments, or religious bigotry — the companies would be required to remove it within 24 hours of it being reported by the users. Critics say the law limits freedom of expression and is of difficult implementation.
- On 18 June, the Constitutional Council judged that social media obligations to remove illegal content within 24 hours were not compatible with freedom of expression (see <https://www.conseil-constitutionnel.fr/decision/2020/2020801DC.htm>).

4. Freedom of assembly (and sanctions)

Groupings of more than 100 people were forbidden as of 17 March (see above, part 1.), and any groupings fully forbidden afterwards. The government adopted however implementing measures of the law of 23 March 2020 to simplify rules for statutory meetings and adoption of annual accounts and budgets. (<https://www.village-justice.com/articles/covid-associations-fondations-simplification-des-regles-pour-les-reunions-des,34365.html>)

- Public gatherings of more than 10 people are not allowed until June 21. However, the Conseil constitutionnel decided on 11 May that the measures relating to establishments open to the public and to meeting places [...] do not extend to premises used for residential purposes (see above)

- On 13 June, The judge of the "Conseil d'Etat" (Council of State) dealing with urgent matters considered that the ban on demonstrations was not justified by the current health situation when the "barrier measures" can be respected (see <https://www.conseil-etat.fr/actualites/actualites/le-juge-des-referes-du-conseil-d-etat-suspend-l-interdiction-generale-et-absolue-de-manifester-sur-la-voie-publique>).

- Following this decision, the decree of June 14 recalls the general principle of prohibiting gatherings of more than ten people. For events on public roads, the decree specifies that they are authorized by the prefect if the conditions of their organization are suitable for ensuring compliance with the health rules decreed by the decree of May 31, 2020.

- On 6 July, the judge of the Conseil d'Etat dealing with urgent matters suspended the decree of June 14 imposing a system of prior authorization for the organization of any demonstration on public roads, to guarantee the respect of the measures of social distancing during such gatherings. However, the judge considered that the ban on gatherings of more than 5000 people, which remained unchanged in the decree of May 31, remained justified in view of the health situation to date (see <https://www.conseil-etat.fr/actualites/actualites/le-juge-des-referes-du-conseil-d-etat-suspend-l-obligation-d-obtenir-une-autorisation-avant-d-organiser-une-manifestation>).

5. Privacy and data protection

On 8 April the French government announced working on a 'Stopcovid' application (see https://www.lemonde.fr/planete/article/2020/04/08/stopcovid-l-application-sur-laquelle-travaille-le-gouvernement-pour-contrer-l-epidemie_6035927_3244.html), which is raising controversy in the press and civil society (see for instance <https://www.laquadrature.net/2020/04/14/nos-arguments-pour-rejeter-stopcovid/>).

- CNIL documents on data protection and coronavirus: <https://www.cnil.fr/fr/le-gouvernement-sadresse-aux-francais-par-sms-le-cadre-legal-applicable>, <https://www.cnil.fr/fr/recherches-sur-le-covid-19-la-cnil-se-mobilise>, <https://www.cnil.fr/fr/coronavirus-covid-19-les-rappels-de-la-cnil-sur-la-collecte-de-donnees-personnelles>

- On 12 April, the French Interior Ministry published a tender for the supply of 650 drones worth 4 million euros. The French order is part of an internal security programme funded by the European Union. According to the Ministry, the order was placed at the end of 2019, and had nothing to do with the Covid-19 crisis. However, these devices are being used to enforce confinement, and on 2 May two associations (La Quadrature du Net and La Ligue des droits de l'Homme) lodged an application for interim measures before the Paris administrative court. They requested the immediate abolition of the system implemented by the Paris police prefecture since March 18, 2020 aiming at "capturing images by drones and then using them to enforce confinement measures".

- On 18 May, the Council of State ordered the immediate suspension of flights of surveillance drones until the publication of a ministerial decree (see <https://www.conseil-etat.fr/ressources/decisions-contentieuses/dernieres-decisions-importantes/conseil-d-etat-18-mai-2020-surveillance-par-drones>)

- The law of 11 May on the extension of the state of sanitary emergency foresees the creation of different files, in order to identify people infected with Covid-19 or likely to be infected and collect information to determine those who have been in close contact with sick people. However, the data collected should not be collected for the purposes of a digital application, such as StopCovid; the Conseil constitutionnel has partially censored the provisions related to the creation of these files (see above).

- On 27 May, the French deputies will debate the French **StopCovid** contact tracking application. The day before, the CNIL (French data protection authority) released its evaluation of the decree that should create StopCovid: the **CNIL** considered that the application could be legally deployed as soon as it appears to be an instrument complementary to the manual health survey system and that it allows faster alerts in the event of contact with an infected person, including for unknown contacts. However, the CNIL considered that the real usefulness of the device will have to be more precisely studied after its launch. The duration of implementation of the system should be conditioned on the results of this regular evaluation. (see <https://www.cnil.fr/fr/la-cnil-rend-son-avis-sur-les-conditions-de-mise-en-oeuvre-de-lapplication-stopcovid>)

- On 2 June the StopCovid app, which uses Bluetooth, is available to download for Apple and Android smartphones. It will alert people if they have been within a metre of someone later diagnosed with Covid-19, for longer than 15 minutes. Contacts and at-risk people will be advised to self-isolate and be tested.

- On 6 June, the Secretary of State for the digital economy, Cédric O, welcomed the success of the tracking tool which had passed the million user mark: it is not about the number of people who downloaded the service, probably more numerous, but of those who activated the application, ie they clicked on "I activate StopCovid". However, some experts have pointed out that such number is not representative of the number of active users. It also includes those who activated and deactivated the application (see <https://www.journaldunet.com/media/guide-de->

[l-iphone/1490935-stopcovid-deja-un-million-d-utilisateurs-pour-l-application-de-contact-tracing/](#) and <https://www.lesnumeriques.com/vie-du-net/stopcovid-presque-1-3-million-d-activations-de-l-application-n151161.html>).

- According to a researcher, the StopCovid app collects more data than advertised, since it collects the identifiers of all people encountered by a user, not just those crossed within three feet for fifteen minutes (see https://www.lemonde.fr/pixels/article/2020/06/16/l-application-stopcovid-collecte-plus-de-donnees-qu-annonce_6043038_4408996.html).
- The StopCovid application was downloaded by less than 2 million French people in two weeks. The Secretary of State for digital economy, Cédric O, admitted that "*Today, given the weakness of the epidemic, the usefulness of the application is relative.*" (see https://www.francetvinfo.fr/sante/maladie/coronavirus/info-franceinfo-stopcovid-moins-de-2-millions-de-telechargements-de-l-application-en-deux-semaines_4010391.html).
- On 23 June, during a press conference broadcast online, Mr O indicated that the StopCovid app has sent only 14 notifications to its users since it was launched on June 2, less than one notification per day (see <https://www.numerama.com/tech/632499-stopcovid-seulement-14-notifications-ont-ete-envoyees-depuis-le-lancement-de-lapp.html>).

6. Asylum and migration and migration

The government adopted measures to prolong for three months the validity of residence permits of third-country nationals residing in France ([Ordonnance n° 2020-328 du 25 mars 2020 portant prolongation de la durée de validité des documents de séjour](#)). Reception offices for asylum seekers are closed until end of April and interviews with registered asylum seekers postponed. Applications must be done in writing. Relocation missions organised by OFPRA are suspended. (see <https://www.ofpra.gouv.fr/fr/l-ofpra/actualites/mesures-liees-au-covid-19> and <https://www.infomigrants.net/fr/post/23493/titres-de-sejour-asile-les-consequences-du-coronavirus-sur-les-demarches-administratives>

- In lockdown: Migrants in France up against pandemic, police abuse, see <https://www.dw.com/en/in-lockdown-migrants-in-france-up-against-pandemic-police-abuse/a-53334045>
- On 30 April, The judge of the "Conseil d'Etat" dealing with urgent matters ordered the Minister of the Interior and the Office français de l'immigration et de l'intégration (OFII) to restore within five days and under the sanitary conditions imposed by covid-19, the registration of asylum applications, in priority of those from people with a particular vulnerability, and to reopen the telephone appointment booking platform (see <https://www.conseil-etat.fr/actualites/actualites/dernieres-decisions-referes-en-lien-avec-l-epidemie-de-covid-19>).
- On 5 May 2020 the French Office for Immigration and integration communicated that registration would start again as of that day, upon appointment.⁸⁷
- The declaration of state of health emergency has enabled the suspension of time limits for appeals in many areas, including appeals against decisions taken by the determining authority (i.e appeals in front of the Court Nationale du droit d'asile and/or other appeals).⁸⁸
- France announced that it will relocate 750 people from Greece.⁸⁹
- Several associations have asked the judge of the "Conseil d'Etat" dealing with urgent matters to suspend the provisions of the order of May 13, 2020 which provide until the end of the state

⁸⁷ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁸⁸ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁸⁹ <https://www.fr24news.com/a/2020/05/france-welcomes-750-asylum-seekers-from-greece.html>

of emergency sanitary, on the one hand that all appeals to the “Cour Nationale du droit d’asile” (CNDA) are judged by a single judge unless the latter refers them to a college formation if he considers that the case raises a serious difficulty, on the other hand that the members of the administrative courts can sit from a place distinct from the courtroom by using an audiovisual telecommunication means. On 8 June, the judge granted the request concerning the single judge at the CNDA and rejected the conclusions directed against the use of videoconference by administrative judges (see <https://www.conseil-etat.fr/actualites/actualites/dernieres-decisions-referes-en-lien-avec-l-epidemie-de-covid-19>)

- For a critical approach of the current situation in France see

https://www.liberation.fr/debats/2020/05/18/asile-et-covid-19-l-effet-d-aubaine_1788453

-The time limits for appealing against decisions to refuse entry to France, transfer decisions and decisions to oblige to leave French territory and to prohibit return to French territory, accompanied by placement in a detention centre, have not been adjusted, despite the sanitary crisis (see <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041755612&categorieLien=id>).

- On 24 June, the deadlines start to run again for people who have to apply for a residence permit. Many must complete a process within a maximum of two months, that is, before August 24. However, several associations and unions have opposed the difficult access to the administration, since the health crisis has reinforced the dematerialization of public service, to the detriment of the rights of people who can’t use e-tools, especially foreigners (see <https://www.gisti.org/spip.php?article6433>)

- On 17 June, the CNIL (French data protection authority), alerted on the rapid and uncontrolled use of cameras intended to measure the temperature, to check the wearing of the mask, or to ensure respect for social distancing, in the context of the fight against Covid-19. *"If the CNIL is fully aware of the health situation, it appears to it, however, that certain systems envisaged do not comply with the legal framework applicable to the protection of personal data"*, it said in a press release (see <https://www.cnil.fr/fr/cameras-dites-intelligentes-et-cameras-thermiques-les-points-de-vigilance-de-la-cnil-et-les-regles>).

- The RATP (the Paris public transport operator) decided on 12 June to deactivate the cameras intended to check the wearing of the mask in the Paris metro, as part of the fight against the coronavirus. Since May 6, six cameras had been installed in the Châtelet-Les Halles metro station and equipped with a box connected to a control room. The experiment has been suspended in order to complete the mechanism allowing the exercise of the right of opposition, as requested by the CNIL (see https://www.huffingtonpost.fr/entry/a-paris-les-cameras-de-detection-de-masques-de-la-ratp-desactivees-car-trop-intrusives_fr_5ef101fcc5b662639f3ff8b5).

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

- The French National Human Rights Institutions (Jacques Toubon, Défenseur des droits; Adeline Hazan, Contrôleuse générale des lieux de privation de liberté and Jean-Marie Burguburu, Président de la Commission nationale consultative des droits de l’homme) have [published comments](#) « Pour la sauvegarde des droits fondamentaux pendant la crise sanitaire» (for the safeguard of fundamental rights during the crisis), pointing in particular to the situation in prisons. A number of human rights NGO have also published calls to protect the most vulnerable (see for instance <https://www.ldh-france.org/wp-content/uploads/2020/03/Covid-19-Pas-de-double-peine-pour-les-plus-vulnérables.pdf>)

- While French prisons had 72,500 prisoners for 61,000 places before the pandemic, the staff was reduced to 58,926 on May 24. If the overcrowding has not disappeared - the occupancy rate of certain prisons remains around 150% , France now has more prison places than detainees (see https://www.lemonde.fr/idees/article/2020/05/26/crise-du-covid-19-une-occasion-historique-pour-les-prisons_6040768_3232.html)

On 20 May, the Ministry of Justice issued a circular on sentencing policy, and referring to the consequences of the sanitary crisis, stated in particular that *"the situation of penal establishments will need to be given special attention so that the resumption of the enforcement of firm sentences (...) does not succeed to new peaks of prison overcrowding"*. (see <http://www.justice.gouv.fr/bo/2020/20200529/JUSD2012602C.pdf> and https://www.lemonde.fr/societe/article/2020/05/28/le-ministere-de-la-justice-veut-limiter-les-emballlements-de-sortie-de-crise_6041012_3224.html)

- On 3 June, around forty associations and professional organisations linked to judicial matters, but also personalities, politicians of all parties, lawyers and their joined hundreds of academics, lawyers, judges, prison administration staff, social workers, caregivers to sign an open letter addressed to the president of the Republic, in order to put an end to prison overcrowding (see <https://oip.org/communique/en-finir-avec-la-surpopulation-carcerale-monsieur-le-president-loccasion-est-la-ne-la-manquez-pas/>).

8. Discrimination

- See above, comments and calls from National Human Rights Institutions and NGOs.

- On 7 July, a study issued by INSEE (the national statistics office) revealed an increase in deaths twice as strong for people born abroad than for those born in France in March-April 2020: the increase was greatest for people born in Africa (+ 54% for the deaths of people born in the Maghreb, + 114% for those born in another African country) or in Asia (+ 91%) (see <https://insee.fr/fr/statistiques/4627049>).

9. Any other issue relevant for Art. 2 TEU

- To be mentioned in terms of labour law: employees have a right to withdraw (« droit de retrait») which they may exercise if they have a reasonable motive to feel that their protection is not properly ensured (see for instance <https://www.lefigaro.fr/social/les-salaries-peuvent-ils-faire-valoir-leur-droit-de-retrait-face-au-coronavirus-20200302>)

14. GERMANY⁹⁰

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

No state of emergency is in place in Germany at federal level.

German law foresees the possibility (never used since the insertion of these articles in the Constitution) by the German federal government to declare a **state of emergency** ([Articles \(12a III-VI, 53a, 57a, 87a, 91, 115a sq.\)](#)). Article 91 regulates the “state of internal emergency” (*Innerer Notstand*) and it only enables the Federal Government and the *Länder* to provide mutual administrative assistance and in “[order to avert an imminent danger to the existence or free democratic basic order of the Federation or of a Land](#)”. For dangers to public safety (*Gefahrenabwehr*) like the Covid-19 crisis, **the *Länder* have the competence to avert dangers for public safety (as well as on police and education).**

This includes the right to declare a “state of disaster” (*Katastrophenfall*). All *Länder* have laws in place that differentiate between various scenarios in terms of internal and external threat, for example epidemics or a military attack. These entail considerable restrictions of basic rights, such as in relation to the secrecy of correspondence, the right to move, etc).⁹¹ **Only Bavaria has declared a state of emergency.**

On March 22 an agreement between the federal government and the representatives of Germany’s 16 *Länder* was announced: all public gatherings of more than two people not living in the same residence are forbidden, while going outside for essential services such as going to the supermarket, helping others, or exercising individually remains allowed, provided that people maintain at least 1.5m distance between each other.

Currently, measures in Germany are being taken nationwide in accordance with the **Infection Protection Act of 2001**, like the ban on mass gatherings and the quarantining of suspected cases. The law allows also for more severe restrictions to people's lives and basic rights can be taken, limiting the individual freedom of citizens, the freedom of movement, the freedom of assembly, and the inviolability of the home (Paragraph 17 of the law). For other matters of competence of the *Länder*, the federal government strives to coordinate the measures adopted by the different *Länder*, including those agreed in coordination meetings.

Measures were in place until the 6th of April but were extended.

See <https://www.dw.com/en/coronavirus-and-basic-rights-what-is-the-german-state-allowed-to-do/a-52835004> and <https://www.euractiv.com/section/coronavirus/news/merkel-enters-into-quarantine-as-germany-tightens-measures/>

⁹⁰ See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

⁹¹ For an analysis of the measures adopted in Germany, see <https://verfassungsblog.de/critique-and-crisis-the-german-struggle-with-pandemic-control-measures-and-the-state-of-emergency/>

The Chancellor has announced a relaxation of measures after **3 May**, with schools reopening, as well as stores of up to 800 square meters, with hygiene measures in place.

Deconfinement:

- April 20: Shops up to 800 square meters reopened under strict hygiene measures, with federal states having the option to announce further local restrictions.
- May 4: First schools to be opened gradually.
- Mask-wearing is not mandatory but recommended in general. Masks are mandatory in shops and public transport in several states.
- the government announced it aims at lifting its travel prohibition on 31 European countries by **June 15** if the development of pandemic figures allow for it. Those countries include 26 EU MSs, and four Schengen-zone countries that are not members of the EU — Iceland, Norway, Switzerland and Liechtenstein.

Reconfinement:

- 23 June: Gütersloh and the nearby Warendorf district were locked down and persons quarantined after an outbreak at the meatpacking plant.
- on 7 July, the Higher Administrative Court in Münster ordered the end of the measures with immediate effect. See <https://www.bbc.com/news/world-europe-53319435>

Parliament:

IPU: "The Bundestag is continuing to sit but with a restricted programme and fewer Members present. Business before the chamber has been prioritized to remove all but essential debates. Discussions are ongoing on how to manage the quorum of the Bundestag with a significantly reduced number of deputies."

2. Freedom of movement (internal and cross-border; sanctions)

- Temporary border checks were introduced at land and air borders with FR, LU, CH, AT, DK, IT and ES, as well as at sea border with DK, due to COVID-19 (26 March – 15 April 2020)
- Germany will open its borders to the EU and UK on June 15. Currently, travellers are expected to have a valid reason for entering Germany. However, restrictions at the borders have been loosened. Checks at the frontier with Austria, Switzerland, France and Denmark and for passengers arriving by air from Italy and Spain remain in effect until 15 June. EU citizens and citizens of the United Kingdom, Liechtenstein, Switzerland, Norway and Iceland, and the family members of these citizens, are permitted to return to their home country or to their place of normal residence in Germany or to reach their country travelling through Germany if they need to. See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

- Public gatherings of more than two people are banned, except for families and those who live together.
- The German Constitutional Court struck down a ban on demonstrations by the city of Stuttgart, arguing that a general reference to public health concerns was insufficient justification, and that

the city has to make efforts to find solutions to preserve the right to assembly, see <http://constitutionnet.org/news/coronavirus-lockdown-measures-german-constitutional-court>

5. Privacy and data protection

- The German conference of data protection authorities issued a guidance document available at https://www.bfdi.bund.de/DE/Infothek/Pressemitteilungen/2020/07_Empfehlungen_Datenschutz_Corona.html and more specific documents for the health sector.
- The government changed position in relation to the app in development at EU level: while it first supported a centralised approach, it now supports a decentralised approach, see <https://www.euractiv.com/section/digital/news/germany-flips-on-smartphone-contact-tracing-backs-apple-and-google/>
- Germany new "Corona Warning App" was launched in order to track infection chains and curb the spread of COVID-19. See <https://www.dw.com/en/day-one-of-using-germanys-coronavirus-tracing-app/a-53828730> and <https://www.politico.eu/article/germany-privacy-coronavirus-contact-tracing-app/>

6. Asylum and migration

- In order to comply with the measures to avoid contact, the Federal Office for Migration and Refugees now only accepts applications in writing.⁹²
- The Federal Office is concentrating its asylum efforts on taking decisions, if possible without conducting interviews which are only held in special cases.⁹³
- The asylum procedure counselling by the Federal Office for Migration and Refugees has been temporarily suspended.⁹⁴
- A German court ruled that in different accommodations for refugees the conditions were 'inadequate' for a pregnant woman and his husband.⁹⁵
- At least 70 persons in a refugee reception facility near Bonn have reportedly tested positive for Covid-19.⁹⁶
- The German Asylum Authority BAMF has announced that Dublin transfers would be suspended due to Corona situation, but it gave no clarity on the duration of the suspension.⁹⁷
- 38 new accommodations for refugees as a response to coronavirus and housing shortage will be built.⁹⁸
- family reunification procedures were quasi-suspended all the due to the pandemic. Family reunification went from 782 visas issued in February, to 480 in March and 4 in April.⁹⁹
- Interior minister Horst Seehofer stated that Germany will relocate rescued migrants who are currently in Malta and Italy.¹⁰⁰

⁹² <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁹³ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁹⁴ <https://www.bamf.de/EN/Themen/AsylFluechtlingsschutz/asylfluechtlingsschutz-node.html> In: <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

⁹⁵ <https://www.dw.com/en/german-court-covid-19-protection-inadequate-at-refugee-home/a-53395710>

⁹⁶ <https://www.ecre.org/germany-asylum-seekers-tested-positive-for-covid-19-in-reception-facilities/>

⁹⁷ <https://www.ecre.org/op-ed-dublin-on-covid-19-hold-structural-solutions-are-needed/>

⁹⁸ <https://www.dw.com/en/berlin-builds-dozens-of-new-refugee-homes-despite-falling-numbers/a-53659481>

⁹⁹ <https://www.ecre.org/germany-covid-19-impacts-family-reunification-procedures/>

¹⁰⁰ https://www.infomigrants.net/en/post/25281/germany-to-accept-asylum-seekers-from-malta-and-italy?fbclid=IwAR1JT_ukEzHbNubaWZi-fnFJdpoRhePqWUvtwCqIY6-2FHRv3T0-PpZrReQ

- Germany's Sea Watch 3 rescue boat re-started its operations in the central Mediterranean¹⁰¹.
- the government announced that 243 children would be relocated (beyond the 47 already relocated) from the Greek islands, following the call from the European Commission.¹⁰²
- The state of Berlin has passed a decree proposing the relocation of 300 vulnerable refugees from the Greek islands by 2021.¹⁰³
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

¹⁰¹ <https://www.euractiv.com/section/justice-home-affairs/news/rescue-boats-return-to-the-mediterranean-as-20000-migrants-prepare-to-cross-from-libya/>

¹⁰² <https://www.infomigrants.net/en/post/25418/berlin-passes-decree-to-take-in-300-refugees-from-greece>

¹⁰³ <https://www.infomigrants.net/en/post/25418/berlin-passes-decree-to-take-in-300-refugees-from-greece>

15. GREECE¹⁰⁴

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- Greece is **not** in a state of emergency. The government is using Article 44 of the Constitution stating that under extraordinary circumstances of an urgent and unforeseeable need, the President of the Republic may, upon the proposal of the Cabinet, issue acts of legislative content. These have to be introduced to the Parliament within forty (40) days of their issuance and be ratified by the Parliament within three (3) months of submission in order to continue to be in force. Once submitted, they are treated as bills in the legislative procedure and, upon ratification, as laws.
- from 23 March, Greece entered into a total lockdown: all nonessential transport and movement of people will be prohibited, and residents will only be allowed to go to work, to buy food or medicine, visit a doctor, walk a pet, exercise by themselves or in groups of two. They must carry an ID, and the reason for their movements has to be confirmed by their employer or by themselves.
- the Greek government will reportedly announced a progressive relaxation of restrictions from the **4th of May** on, probably in two fases.

Deconfinement:

- May 4: Small retail shops and hair salons will be allowed to reopen. People will be allowed to leave their houses without sending an SMS to a state number.
- May 11: First schools to reopen
- May 17: Churches will resume services.
- June 1: Restaurants, cafés and bars reopen.
- Masks mandatory on public transport and in closed public spaces.

Judiciary:

- All courts' hearing procedures were temporary suspended, until the 10th of April - with some exceptions regarding the examination of requests for granting or annulling provisional orders, all criminal hearings about pre-trial detention, all proceedings about emergency cases and the issue and publication of court decisions. When it is necessary, videoconference may take place and all other means of communication can be used as long as due process rights are insured. In addition, a provision was introduced for a full suspension of deadlines in judicial proceedings as well as a suspension of the enforcement proceedings, <https://www.coe.int/en/web/cepej/compilation-comments#Greece>

¹⁰⁴ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For a critical analysis of the measures taken, see <https://verfassungsblog.de/effective-but-constitutionally-dubious/>

2. Freedom of movement (internal and cross-border; sanctions)

- Penalty of a 150-euro fine.
- Borders will be reopened for tourists from 29 countries on 15 June, but arrivals from badly affected areas including northern Italy will have to quarantine.
- The [plan for reopening borders](#) entails three different phases:
 - 1) Until 15 June: International flights are allowed only into Athens airport. All visitors are tested upon arrival and are required to stay overnight at a designated hotel. If the test is negative, then the passenger self-quarantines for 7 days. If the test is positive, the passenger is quarantined under supervision for 14 days.
 - 2) Bridge phase - 15 June to 30 June: International flights are allowed into Athens and Thessaloniki airports. If the travel originated from an airport not in the EASA affected area list (<https://www.easa.europa.eu/SD-2020-01/Airports#group-easa-downloads>), then persons are only subject to random tests upon arrival. If you the person originates from an airport on the EASA affected area list, then s/he will be tested upon arrival. An overnight stay at a designated hotel is required. If the test is negative then the passenger self-quarantines for 7 days. If the test is positive, the passenger is quarantined under supervision for 14 days.
 - 3) 1 July onwards: International flights are allowed into all airports in Greece. Visitors are subject to random tests upon arrival. Additional restrictions regarding certain countries will be announced at a later date.
- In addition:
Land border arrivals from Albania, North Macedonia and Bulgaria will be allowed as of 15 June. Visitors will be subject to random tests upon arrival.
Arrivals by sea will be allowed as of 1 July. Visitors will be subject to random tests upon arrival.
Greece at any stage retains the right to modify any of the above in light of changing circumstances.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

5. Privacy and data protection

6. Asylum and migration

- Fears emerge on the spread of the virus among migrants and refugees in camps on the Greek mainland and islands such as Lesbos. The government has restricted the movement of refugees and migrants outside the camps and ordered the preparation of special facilities to deal with confirmed cases within them. Greek authorities and aid agencies are limiting the number of personnel deployed to the camps. <https://balkaninsight.com/2020/03/25/greece-camps-up-restrictions-but-faces-criticism-over-coronavirus-response/>
- The European commission, replying to the call of LIBE for the evacuation of 42,000 people on the Greek islands as “an urgent preventive” measure to avoid “many deaths” from coronavirus, stated that it is working with Greece on an emergency response plan to deal with a potential outbreak of coronavirus on the islands, see <https://www.theguardian.com/world/2020/mar/24/eu-urged-to-evacuate-asylum-seekers-from-cramped-greek-island-camps-coronavirus>
- following Covid-19 cases in two camps, these were put into lockdown: Ritsona an Malakasa (1.800 migrants); NGOs call for them to be sent to the mainland camps <https://www.dw.com/en/coronavirus-greece-quarantines-migrant-camps/a-53022767>
- see also ECRE information sheet: <https://www.ecre.org>

- almost 400 migrants were [moved](#) from the island of Lesbos to the mainland, as part of its efforts to ease overcrowding in its refugee camps amid the COVID-19 pandemic.
- 249 people from the camp of Moria on Lesbos arrived by ferry to the Greek mainland on May 4. The group was transferred by bus to facilities on the mainland in Northern Greece where they faced local protests upon arrival at their destination.¹⁰⁵
- The halt or postponing the transfer of more than 2300 people by Greek authorities has caused tension at the Samos camp which caused unrest and a fire.¹⁰⁶
- The Greek Parliament is expected to approve a bill entitled “Improvement of migration legislation” aiming to speed up procedures and “responding to practical challenges in the implementation of the law”. The new bill is an amendment to the international Protection Act (IPA) that was followed by the suspension of the Greek asylum service between March 1 and March 31 – later replaced with a freeze of activities by the Greek asylum service that will continue until May 15 due to Covid-19.¹⁰⁷
- On 12 May 2020, EASO and Greek Government agreed to an amendment to the Greek Operational Plan which allows for the Agency to facilitate the relocation of 1,600 UAMs from Greece to participating EU Member States in the scheme.¹⁰⁸
- Two migrants arrived by sea to the Greek island of Lesbos tested positive to coronavirus. They have been quarantined and prevented from reaching the overcrowded Moria refugee camp. Yet this case sparked increasing calls for evacuation of local camps. Moreover, coronavirus measures of confinement for those living in migrant camps and reception centres are prolonged until 21 May (whereas the lock down started to loosen in the first week of May for the population of Greece).¹⁰⁹
- Human Rights Watch started a campaign to free 276 unaccompanied migrant children currently detained in police cells and detention centres in Greece.¹¹⁰
- Deutsche Welle has interviewed people who have allegedly been forced back to Turkey by Greek authorities.¹¹¹
- HIAS Greece and other organisations have submitted a complaint to the Greek Ombudsman on the lack of access to free legal assistance for 1,789 applicants who have received rejections decisions from the Lesbos Regional Asylum Office and who are now required to submit their appeal within the 28 May.¹¹²
- The Greek government adopted a Joint Ministerial Decision on 27 March 2020, governing the Greek and Foreign NGO Registry and the Greek and Foreign NGO Members Registry. According to critics, the Ministerial Decision allegedly exceeds the powers conferred upon the executive by the legislature and lays down additional conditions for registration of NGOs and their members, staff and volunteers in the respective registries. A legislative amendment adopted on the 8 May

¹⁰⁵ <https://www.ecre.org/greece-deadly-shot-fired-from-greece-continued-push-backs-transfers-to-mainland-met-with-attacks-parliament-votes-new-controversial-bill/>

¹⁰⁶ <https://www.ecre.org/greece-deadly-shot-fired-from-greece-continued-push-backs-transfers-to-mainland-met-with-attacks-parliament-votes-new-controversial-bill/>

¹⁰⁷ <https://www.ecre.org/greece-deadly-shot-fired-from-greece-continued-push-backs-transfers-to-mainland-met-with-attacks-parliament-votes-new-controversial-bill/>

¹⁰⁸ <https://www.easo.europa.eu/news-events/easo-facilitating-relocation-unaccompanied-minors-greece>

¹⁰⁹ <https://www.theguardian.com/global-development/2020/may/14/coronavirus-cases-among-refugees-on-lesbos-spark-fresh-calls-for-evacuation>

¹¹⁰ <https://www.hrw.org/news/2020/05/19/greece-move-migrant-children-safety>

¹¹¹ <https://www.ecre.org/greece-chaotic-resumption-of-procedures-hundreds-of-children-detained-crack-down-on-ngos-new-evidence-of-push-backs-to-turkey/>

¹¹² <https://www.ecre.org/greece-chaotic-resumption-of-procedures-hundreds-of-children-detained-crack-down-on-ngos-new-evidence-of-push-backs-to-turkey/>

2020 introduced general provisions on the NGO Registry. The law granted power to the executive to lay down additional requirements for the registration of NGOs. According to some, the establishment of further conditions beyond those set out in the law is contrary to constitutional standards.¹¹³ Critics express concern over the “stringent, disproportionate and arbitrary requirements for registration and certification”¹¹⁴

-Restrictions on movement out of the Reception and Identification Centres (RICs) and mainland Ritsona, Malakasa, Koutsohero, Larissa are extended until June 7, 2020.
-The asylum office has published forms for changing contact info, changing personal data, postponement of interviews, submission for additional documents, request for copies of files by email.¹¹⁵

-The Minister of Migration and Asylum is requiring people that appealed a negative decision before 20 July 2016 (without a decision) to confirm in person that they wish to have their appeal examined.¹¹⁶

- According to some, since March 23 in at least 11 incidents, migrants crossing the sea between Turkey and the Aegean islands have been found drifting in orange, tent-like inflatable life rafts without motors and that cannot be steered.¹¹⁷

-The Norwegian government has agreed to accept an unspecified number of vulnerable people from Greece under the condition that eight to ten other countries will do the same.¹¹⁸

- Greek media reported that around 6,000 migrants have gradually gathered at the Greek-Turkish border of Evros. Yet, there is reportedly no evidence for such claims.¹¹⁹

-The NGO Alarm Phone reported several cases of violence and pushbacks by sea conducted by the Greek coastguard. The incidents allegedly involved refusal to rescue boats in distress, attacks, sabotage and pushbacks to Turkey. Greek authorities deny these events.¹²⁰

- Greece has prolonged confinement for migrant camps by two weeks.¹²¹

- There are persistent reports of pushbacks and collective expulsions of migrants, in some cases violent, at the EU border between Greece and Turkey. International media report the use of marine rescue equipment to expel migrants across the Eastern Aegean Sea.¹²²

-Thousands of refugees in Greece have been asked to leave their accommodation this month. As of June 1st, all refugees who received international protection before May 1, 2020 are no longer eligible to stay at reception facilities.¹²³

¹¹³ https://rsaegrean.org/wp-content/uploads/2020/05/RSA_Comments_NGO_Registry.pdf

¹¹⁴ <https://rsaegrean.org/en/risk-of-repression-new-rules-on-civil-society-supporting-refugees-and-migrants-in-greece/>

¹¹⁵ <http://asylo.gov.gr/en/?p=5396>

¹¹⁶ <http://asylo.gov.gr/en/wp-content/uploads/2020/05/%CE%91%CE%9D%CE%91%CE%9A%CE%9F%CE%99%CE%9D%CE%A9%CE%A3%CE%97-%CE%91%CE%A1.-113.-%CE%93%CE%91%CE%9B%CE%9B%CE%99%CE%9A%CE%91.pdf>

¹¹⁷ <https://www.justsecurity.org/70309/tents-at-sea-how-greek-officials-use-rescue-equipment-for-illegal-deportations/>

¹¹⁸ <https://www.ecre.org/greece-france-to-relocate-750-people-government-deny-responsibility-for-deadly-border-shooting-lock-down-extended-and-violations-continue/>

¹¹⁹ https://www.euractiv.com/section/politics/short_news/athens-new-migration-crisis-at-the-land-border/

¹²⁰ <https://www.ecre.org/greece-500-to-escape-greece-thousands-facing-destitution-detention-and-push-backs/>

¹²¹ <https://www.euractiv.com/section/justice-home-affairs/news/greece-prolongs-confinement-of-migrant-camps-ahead-of-tourism-re-start/>

¹²² <https://www.iom.int/news/iom-alarmed-over-reports-pushbacks-greece-eu-border-turkey>

¹²³ <https://www.infomigrants.net/en/post/25209/why-thousands-of-refugees-in-greece-face-eviction-and-where-they-can-turn>

- Only 18 out of 40 non-governmental organizations operating in migrants and refugees hosting structures have applied to register in the new registry and were granted the right to continue their work.¹²⁴
- UNHCR has raised concerns with the Greek government over pushbacks by land and sea to Turkey.¹²⁵
- Lighthouse Reports, Report Mainz and Der Spiegel documented systematic pushbacks and abuse by the Greek coastguard.¹²⁶
- An amendment to the International Protection Act (IPA) that reduced the deadline to leave reception facilities from six months to just 30 days risks leaving thousands of people without an accommodation.¹²⁷
- The Greek Government has announced their decision to extend the restrictions measures to limit freedom of movement for residents in the Reception and Identification centres on the Aegean Islands.
- Greece has extended the lockdown measures for more than 120,000 migrants and refugees in the country¹²⁸ and more pushbacks by land and sea carried out by the Greek Coast Guard have been reported by local media.¹²⁹
- the LIBE Committee **heard** on 6 July the Commission, the Greek government and other stakeholders on the situation at the Greek border.¹³⁰ **The Greek Ministers for Citizen Protection and for Migration and Asylum dismissed the accusations of illegal pushbacks and of violence at the Greek-Turkish borders.**¹³¹
- A report by **Oxfam and the Greek Council for Refugees (GCR)** states that the reformed Greek asylum law, which entered into force on 1 January 2020 and was later amended in May, exposes asylum seekers to abuse and exploitation.¹³²
- Restrictions of movement in the camps have been further extended.
- The **Expert Council on NGO Law** published an opinion on the recently adopted and planned measures that affect NGOs working in Greece on asylum, migration, and social inclusion, which found the measures to be an excessive interference with the legitimate activities of NGOs working on these issues. It also considered that they would undermine civil society space in Greece. The Expert Council encouraged the Government to revise them so that they accord with European standards and best practices. It also recommended that NGOs be consulted before any further measures are adopted, see **Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration.**¹³³

¹²⁴ <https://www.keeptalkinggreece.com/2020/06/17/greece-refugees-migrants-centers-ngos-minister/>

¹²⁵ <https://www.ecre.org/greece-pushbacks-continue-eviction-of-makeshift-camp-in-athens/>

¹²⁶ <https://www.ecre.org/greece-pushbacks-continue-eviction-of-makeshift-camp-in-athens/>

¹²⁷ <https://www.ecre.org/greece-pushbacks-continue-eviction-of-makeshift-camp-in-athens/>

¹²⁸ <https://www.voanews.com/covid-19-pandemic/greece-extends-lockdown-more-120000-migrants-refugees>

¹²⁹ <https://www.ecre.org/greece-camp-lockdown-extended-children-in-detention-cuts-in-housing-red-tape-on-ngos-and-continued-push-backs/#:~:text=Legal%20Submissions-,Greece%3A%20Camp%20Lockdown%20Extended%2C%20Children%20in%20Detention%2C%20Cuts%20in,NGOs%20and%20Continued%20Push%20backs&text=The%20organisation%20states%20that%20on,of%20Covid%2D19%20infection%E2%80%9D.>

¹³⁰ <https://medium.com/are-you-syrious/ays-daily-digest-29-06-2020-increased-surveillance-planned-in-the-mediterranean-1d188ff67c90>

¹³¹ <https://www.europarl.europa.eu/news/en/press-room/20200703IPR82627/investigate-pushbacks-of-asylum-seekers-at-the-greek-turkish-border-meps-demand>

¹³² <https://www.oxfam.org/en/press-releases/greeces-new-asylum-system-designed-deport-not-protect-warn-greek-council-refugees>

¹³³ https://www.efsyn.gr/ellada/dikaionomata/250544_katapeltis-symboylio-tis-eyropis-gia-mitroo-mko-toy-mitaraki

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- The Orthodox Church initially resisted health safety measures by the government that invited the Church to suspend all public gatherings like masses, and then accepted to suspend daily services, but not those of Sunday, that will continue from March 22 to April 11, but will be cut short, it added. The Synod did not explicitly prohibit the attendance of the faithful on Sunday, but said it is discouraging it, urging vulnerable people to stay home. See <http://www.ekathimerini.com/250716/article/ekathimerini/news/greek-orthodox-church-agrees-to-suspend-daily-services-sacraments-over-coronavirus>

- A priest was arrested for celebrating a mass: <https://www.euronews.com/2020/03/22/orthodox-priest-arrested-in-greece-for-holding-mass-during-coronavirus-lockdown>

16. HUNGARY¹³⁴

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- **State of danger** was declared by the government on 11 March. It referred to Article 53 on state of danger; and to Article 15(1) of the Constitution, that grants the government general powers to act¹³⁵. The decree on the pandemic emergency had an automatic sunset after 15 days without parliamentary authorisation.

Deconfinement:

◦ **From 4th May (updates will be released every 2 weeks):**

- curfew measures and shop restrictions remain in place in Budapest and in Pest County while they are eased in the rest of the country where all shops, outdoor baths, museums and zoos are open ¹³⁶. Shops are allowed to reopen without time limits and restaurants and cafés can reopen their outdoor sections. Beaches are also allowed to reopen. However, people will be required to keep a distance of 1.5 meters from others and wear masks or cover their faces in shops and on public transport.
- measures allowing for the elderly to shop during their own given hours (9 a.m. to 12 p.m.) also remain in force.¹³⁷
- A government decree states that businesspeople from six countries (Czech Republic, Poland, the Republic of Korea, Germany, Austria and Slovakia) can freely enter Hungary for business purposes¹³⁸.
- Sports events will take place without spectators. Training sessions both for professionals and amateurs can also be held behind closed doors.
- patients can again make appointments with their GPs, dentists and other doctors with a maximum number of 4 patients\hour and disinfecting the office after the visits.¹³⁹
- church services resumed with precautions in place

Parliament:

¹³⁴ See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

¹³⁵ “The government. Article 15. (1) The Government shall be the general organ of executive power; it shall exercise all the functions and powers which are not expressly conferred by the Fundamental Law or the law on another organ. The Government shall be accountable to the National Assembly.”
http://njt.hu/translated/doc/TheFundamentalLawofHungary_20191213_FIN.pdf

¹³⁶<http://abouthungary.hu/news-in-brief/coronavirus-update-new-phase-of-protective-measures-begin-today/>

¹³⁷<http://abouthungary.hu/blog/pm-viktor-orban-restarting-our-lives-and-the-economy-can-now-begin/>

¹³⁸<http://abouthungary.hu/news-in-brief/coronavirus-update-the-first-restrictions-are-being-lifted-in-hungary/>

¹³⁹<http://abouthungary.hu/news-in-brief/coronavirus-update-patients-can-again-make-appointments-with-their-gps-dentists-and-other-doctors/>

- On 23 March the government submitted, and on Monday 30 March the HU Parliament approved with a 2/3 majority, a new law (Act XII of 2020) to allow for the decree to remain in legal effect, hereby that granting to the government powers to “take any extraordinary measures to prevent the COVID-19 epidemic and avert its consequences”, and that
 - 1) extends state of emergency indefinitely (“until the end of the emergency”)
 - 2) gives powers to the government to rule by government decree (which might include the suspension of the enforcement of certain laws)
 - 3) violation of quarantine rules can lead to prison sentences of up to 8 years
 - 4) no by-elections can be held
 - 5) makes the spreading of false or distorted information in public - which could interfere with the protection of the public or could alarm or agitate a large number of people - punishable with up to 5 years imprisonment.

The law was approved by 137 members of parliament in favor, 53 against and nine did not cast a ballot. Hungary's president signed the legislation. The law can be lifted with another two-thirds vote of the parliament and a presidential signature¹⁴⁰.

While the government has defended the law and further explained some aspects of it¹⁴¹, the law has been criticized by opposition and international institutions, LIBE included (see below):

- before the approval of the law

NGOs have criticized the draft law: <https://www.helsinki.hu/wp-content/uploads/Unlimited-power-is-not-the-panacea-20200322.pdf>

International institutions have harshly criticized the draft law, such as:

- the CoE Commissioner on Human Rights <https://twitter.com/CommissionerHR/status/1242036471508414464>
- On 24 March: Sec Gen CoE Secretary General writes to Viktor Orbán regarding COVID-19 state of emergency in Hungary, see <https://www.coe.int/en/web/portal/-/secretary-general-writes-to-viktor-orban-regarding-covid-19-state-of-emergency-in-hungary>
- Commissioner Reynders stated that the Commission will Member States take extraordinary measures in this context, such measures must be strictly proportionate and respect fundamental rights and values such as Rule of Law. As part of its commitment to protect fundamental rights, the Commission will closely monitor state of emergency laws enacted in all Member States. It will also be in contact with the Council of Europe as regards temporary suspensions of the ECHR” <https://twitter.com/dreynders/status/1243245075439783938> and <https://twitter.com/dreynders/status/1243245189063421953>
- The HU Minister of Justice dismissed international criticism in an article: <https://www.politico.eu/article/coronavirus-hungary-no-power-grab/>
- OSCE Office for Democratic Institutions and Human Rights (ODIHR) criticism of the draft law: <https://www.osce.org/odihr/449311>
- the EP press release “EP stands for democracy in Hungary during Covid-A9” <https://www.europarl.europa.eu/news/en/press-room/20200324IPR75702/ep-stands-up-for-democracy-in-hungary-during-covid-19>

¹⁴⁰ For a critical analysis and view of the measures adopted, putting in question the relationship between the law adopted and the Constitution, see <https://verfassungsblog.de/hungarys-orbanistan-a-complete-arsenal-of-emergency-powers/> and <https://verfassungsblog.de/orbans-emergency/> ; for a translation of the draft law, see <https://hungarianspectrum.org/2020/03/21/translation-of-draft-law-on-protecting-against-the-coronavirus/>

¹⁴¹ See for instance <https://www.politico.eu/article/coronavirus-hungary-no-power-grab/>

- after the approval

- Justice Commissioner Didier Reynders [tweeted](#) on Monday afternoon that the Commission "evaluates the emergency measures taken by Member States with regard to fundamental rights. This is particularly the case for the law passed today in #Hungary concerning the state of emergency and new criminal penalties for the dissemination of false information,".

- **President von der Leyen issued a Statement on emergency measures in Member States on 31 March 2020:** "...it is of utmost importance that emergency measures are not at the expense of our fundamental principles and values as set out in the Treaties. Democracy cannot work without free and independent media. Respect for freedom of expression and legal certainty are essential in these uncertain times. Now, it is more important than ever that journalists are able to do their job freely and precisely, so as to counter disinformation and to ensure that our citizens have access to crucial information. Any emergency measures must be limited to what is necessary and strictly proportionate. They must not last indefinitely. Moreover, governments must make sure that such measures are subject to regular scrutiny.

The European Commission will closely monitor, in a spirit of cooperation, the application of emergency measures in all Member States. ...", see

https://ec.europa.eu/commission/presscorner/detail/en/statement_20_567

- Council of Europe letter to HU government <https://www.coe.int/en/web/portal/-/secretary-general-writes-to-victor-orban-regarding-covid-19-state-of-emergency-in-hungary> and text <https://rm.coe.int/orban-pm-hungary-24-03-2020/16809d5f04>

- 1 April: **Statement by 19 MSs: Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, joined by Bulgaria, Cyprus, Estonia, Latvia, Lithuania, Romania:** "In this unprecedented situation, it is legitimate that Member States adopt extraordinary measures to protect their citizens and overcome the crisis. We are however deeply concerned about the risk of violations of the principles of rule of law, democracy and fundamental rights arising from the adoption of certain emergency measures". <https://www.government.nl/documents/diplomatic-statements/2020/04/01/statement-by-belgium-denmark-finland-france-germany-greece-ireland-italy-luxembourg-the-netherlands-portugal-spain-sweden>.

- the EP President wrote to the Commission to ask that it assesses whether HU is violating art 2 TEU

- the President of the Commission replied to the EP President stating that the Commission would be monitoring the measures, including in Hungary, where there are concerns: https://drive.google.com/file/d/1eZJgNy9eJdaKlnaMZtrdAV3YWHdAY_EB/view

- 31 march / 3 April, Hungarian Helsinki committee **analysis** of the Authorisation Act: <https://www.helsinki.hu/en/background-note-on-the-consequences-of-the-authorization-act/> and Emergency Decrees Tracker: <https://docs.google.com/spreadsheets/d/1t27aU5QYW0pj8PfaNxWuajyPhrwpbO6TxunRjPnrOhM/>

- **European Parliament resolution of 17 April 2020** on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP)):

the EP "deems it totally incompatible with European values both the decision from the Hungarian Government to prolong the state of emergency indefinitely, to authorise the Government to rule by decree without time limit, and to weaken the emergency oversight of the Parliament"; the EP "...strongly rejects any attempts to backtrack on SRHR and LGBTI rights, and in this context condemns the attempts to further criminalise abortion care, stigmatise HIV positive people, and undermine young people's access to sexuality education in Poland, as well as the attack on transgender and intersex people's rights in Hungary;"

- academic debate on Verfassungsblog: 22Apr 2020, critical analysis: "Don't Be Fooled by Autocrats. Why Hungary's Emergency Violates Rule of Law, by [Gábor Halmai](#), [Kim Lane Scheppele](#) <https://verfassungsblog.de/dont-be-fooled-by-autocrats/> ; response <https://verfassungsblog.de/lets-not-fool-ourselves-either/> ; Poland and Hungary are withdrawing from the EU: <https://verfassungsblog.de/poland-and-hungary-are-withdrawing-from-the-eu/>; response of Halmai and Scheppele: <https://verfassungsblog.de/orban-is-still-the-sole-judge-of-his-own-law/>
- **Vera Jourova** statements: https://www.youtube.com/watch?v=TDp24_MCC-8: on the HU law "when we read the law itself, it does not raise the reasons to start an infringement proceeding yet" and she underlined "yet", as we read it in a context of concerns in relation to media, civil society, etc and infringement procedures and article 7 TEU procedures, so she "promised" that the Commission will do "proactive monitoring".
- letter of the **HU Prime Minister** to EPP leaders: <https://twitter.com/KatalinNovakMP/status/1257341158457475072/photo/1>
- On 18 May, the government announced that **on 26 May the Hungarian parliament will be called upon to end the special powers given to the government.**
- 20 May: Commission [draft recommendation](#) for a Council recommendation on the 2020 National Reform Programme of Hungary and delivering a Council opinion on the 2020 **Convergence** Programme of Hungary, supporting that corruption, accountability and inequalities in Hungary are the prominent areas in need of improvement, as they could further deteriorate during a state of danger: "On 30 March 2020, the Parliament passed a new law that allows the government to set aside by decree any law. **The emergency powers granted appear more extensive than those adopted in other Member States, in light of the combined effect of broadly defined powers and the absence of a clear time limit.** Certain emergency measures using those powers **raise questions as regards their necessity and proportionality and interfere with business activities and the stability of the regulatory environment.** Such measures include allowing **derogation from labour laws, deploying military liaison officers in strategic companies and placing under State supervision a publicly traded company.** As stated on 15 May 2020 Prime Minister Viktor Orbán expects that at the end of the month the government will be able to return to Parliament the special mandate it was given due to the coronavirus epidemic. **Strengthening judicial independence** would also be crucial for an effective oversight over the emergency measures concerned." See also criticism on **involvement of social partners, lack of competition in public procurement, media, corruption**, and recommendation 4: "**Ensure that any emergency measures be strictly proportionate, limited in time, in line with European and international standards and should not interfere with business activities and the stability of the regulatory environment. Ensure effective involvement of social partners and stakeholders in the policy-making process. Improve competition in public procurement**".
- on 26 May the government stated that it is preparing the law to exit the emergency and that it will be tabled in the Parliament to vote on **2 June** and exit the emergency on **20 June**.
- critics underline that measures adopted under emergency - the government has allegedly passed 104 decrees during that period - many of which were unrelated to Covid 19 might remain in place unless revoked too, like the halving of financial support for political parties and seizing tax revenue in some cities, policies that disproportionately hurt the opposition and the municipalities it controls, see <https://www.bloomberg.com/news/articles/2020-05-26/orban-moves-to-give-up-sole-power-in-hungary-with-agenda-intact>.
- On 27 May, the government tabled three bills: 1) modifying the budget of 2020: <https://www.parlament.hu/irom41/10735/10735.pdf>; 2) provisional rules phasing out

the state of danger: <https://www.parlament.hu/irom41/10748/10748.pdf>; 3) termination of the Authorization Act: <https://www.parlament.hu/irom41/10747/10747.pdf>. Once the state of danger is lifted and the Authorization Act is no longer in place, the decrees are supposed not be in force anymore, however **the second bill on the provisional measures reportedly enacts into law provisions contained in the (more than 100) decrees issued during the state of danger**. It creates a **State of medical emergency** outside of the Constitutional provisions for emergency. See <https://hclu.hu/en/articles/never-ending-story>.

- for a critical view of these draft laws, see <https://verfassungsblog.de/from-emergency-to-disaster/>

- on 12 June NGOs published an analysis of the draft laws <https://www.helsinki.hu/en/explanatory-note-for-the-bills-on-terminating-the-state-of-danger-and-on-related-transitional-provisions/> and https://www.helsinki.hu/wp-content/uploads/HHC_explanatory_note_Bills_T10747_and_T10748.pdf

- Commissioner Jourova stated "This will be the moment of truth, [as to] whether the situation and the legal order and the balance of powers in Hungary will come back to the old normal ... or there will be some remainders of the emergency regime, which we would see as a problem from the EU law point of view," and said that said the Commission is still analyzing decrees issued by the government during emergency rule, see <https://www.politico.eu/article/hungary-faces-moment-of-truth-over-rule-by-decree-jourova-says/>.

- Political Capital published a report entitled "Nothing is more permanent than a temporary solution - the state of danger will come to an end in Hungary, but its impact remains". It states that "(1) the Orbán government exploited the opportunities created by the special legal order and the political environment to the fullest extent and (2) several elements introduced during the special state will remain in place. The following changes will not be revoked: 1. Alterations to public law that further weaken constitutional and parliamentary control over the government; 2. measures strengthening the influence of government-friendly economic actors and thus the ruling party's economic power; 3. steps aimed at severely restricting the financial space for maneuver of opposition-led local municipalities; and 4. decisions serving the purpose of silencing critical voices". See

https://www.politicalcapital.hu/hireink.php?article_read=1&article_id=2540

- on 16 June, the Hungarian Parliament voted to **end the state of danger** at midnight of the 17th of June and the state of danger ended as soon as the President of the Republic signed it. A law on "transitional arrangements" was also approved and a new "**state of health emergency**" was created and immediately **declared**. A review will take place in 3 months, while the state of health emergency will be in place until December. The law grants extraordinary powers to the government to use decrees for an unlimited period of time and diminishes the powers of the Parliament, as it cannot lift the state of health emergency, according to NGOs and media. Such State of health emergency might probably be declared after exiting the state of danger on 20 June. See <https://www.politico.eu/article/hungary-replaces-rule-by-decree-controversial-state-of-medical-crisis/>

- for an analysis of the new State of Health Emergency, by Professors Kim Lane Scheppele and Gabor Halmai, see <https://www.euractiv.com/section/justice-home-affairs/opinion/the-moment-for-lies/>

- 8 June opinion by **Blackstone Chambers** concluding that Act XII of 2020 on the containment of coronavirus, and certain Decrees issued thereunder, violate the foundational values of the EU (as set out in Article 2 of the Treaty on European Union) and various specific provisions of

EU law and the Charter of Fundamental Rights, see

<https://www.blackstonechambers.com/news/legal-opinion-hungarian-covid-19-legislation/>

- Analysis by the **Hungarian Helsinki Committee** on the new legal framework enabling the state to assume control over private companies in a non-transparent manner:

[https://www.helsinki.hu/wp-](https://www.helsinki.hu/wp-content/uploads/HHC_Update_on_military_supervision_of_private_companies_under_COVID-19_26062020.pdf)

[content/uploads/HHC Update on military supervision of private companies under COVID-19 26062020.pdf](https://www.helsinki.hu/wp-content/uploads/HHC_Update_on_military_supervision_of_private_companies_under_COVID-19_26062020.pdf)

2. Freedom of movement (internal and cross-border; sanctions)

- Public gatherings banned, restaurants and non-essential shops only open until 15:00.

- Temporary border checks for Coronavirus at land borders with Slovenia, Austria and Slovakia, and for all air borders (17 March – 11 April 2020); in substance borders are closed for incoming passenger traffic, except for Hungarians and citizens of the EEA resident in Hungary. Transit at night is allowed for BG and RO citizens as long as RO allows them to enter. Regular commuters allowed to cross HU-SK border.

- Borders are **open** with Romania, Slovakia, Slovenia and Serbia, albeit with restrictions. Those coming from Czech Republic can also enter, travelling through Slovakia. Frontiers are also open with Croatia with a holiday reservation. The borders with Austria and Ukraine are closed.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

Authorities have so far taken action against 16 perpetrators of fearmongering and in 13 cases of “threatening with public danger”.

The law of 30 March make spreading false or distorted information punishable with up to 5 years imprisonment.

- RWB: “If the new EU institutions place such importance on press freedom, it is because the danger of backsliding is fully recognized. The drift towards **authoritarianism** has strengthened in Hungary, where Prime Minister Viktor Orbán has assumed full powers indefinitely, using the coronavirus epidemic as a pretext. Anyone convicted of publishing fake news faces a prison term of up to five years. This provision gives Hungarian courts and the political authorities another means of putting pressure on independent media. The government had earlier established **control over** most of the media with the formation of the Central European Press and Media Foundation. The allocation of government advertising to media outlets regarded as loyal is another means of pressure. The election of members of the ruling party Fidesz to the Media Council, the broadcasting watchdog, further strengthened the government’s control over the media. This explains Hungary’s two-point decline in the 2020 Index to 89th.” <https://rsf.org/en/2020-rsf-index-europes-journalists-face-growing-dangers>

- 2020 **Annual Report** by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, with comments on EU MSs Bulgaria, France, Hungary, Malta, Poland.

- On 4 May, the government issued a decree introducing **derogations** from the principle of the **right to information**; IPI reports that “At the end of April, the government weakened rules on Freedom of Information (FOI) deadlines. In the previous system, state bodies had a maximum of 30 days to respond to a journalist’s request for publicly held information. This has now been trebled to a maximum of 90 days during the state of emergency. With Hungary having implemented a state of emergency indefinitely and only the ruling party having the power to lift it, there are concerns these deadlines could be extended for a significant period of time.

- Numerous independent journalists have complained that questions to the government's Covid-19 task force have gone unanswered, making it increasingly difficult for journalists to work. "
- the Hungarian police has **detained** persons having posted comments critical of the government online, while opposition denounces this is evidence of government intimidation against critics. Politico reports that "the country's police force has been posting videos showing law enforcement officials entering people's homes and taking them away in police cars...János Csóka-Szűcs, a member of the opposition Momentum party who was taken from his home on Wednesday over a Facebook post regarding hospital beds emptied on government orders, **told Hungarian website 444.hu** that the last time police took him in like this was in 1987, for attending a demonstration not approved by the communist authorities."
 - Media report that the "police have launched more than 100 investigations and in some cases have hauled citizens in for questioning over critical Facebook posts", see among others <https://www.theguardian.com/world/2020/may/26/hungarian-government-to-end-orbans-rule-by-decree-legislation-emergency-coronavirus>.
 - IPI report "Crisis point: Covid-19 intensifies challenge for independent media in Hungary", <https://ipi.media/crisis-point-covid-19-intensifies-challenge-for-independent-media-in-hungary/>
 - on 26 May, the ECtHRs **ruled** that Hungary violated the rights of six journalists by suspending their press credentials in April 2016.
 - 19 June: Reporters Without Borders (RSF) reported that European media that informed about the Orbán government coronavirus state of emergency have been asked to **apologize** by Hungary's ambassadors in the countries where they are based. The organisation fighting for democratic free press and media condemned "this ploy, which aims to intimidate foreign reporters in Hungary and compounds the existing pressure on Hungary's own media".
 - 21 June: news website **Index.hu** said it was in "*serious danger*" confronted with a restructuring project that could limit its ability to publish information critical of Prime Minister Viktor Orbán.
 - 8 July: EU commissioner for values Vera Jourova expressed concern for the independence of **Index.hu** and stated "You can count on my support,".

4. Freedom of assembly (and sanctions)

5. Privacy and data protection

- The Hungarian National Authority for Data Protection and Freedom of Information adopted a document on data protection and Covid: https://www.naih.hu/files/NAIH_2020_2586_EN.pdf
- On 4 May the government issued a decree introducing derogations from European rules on data protection and the principle of the right to information. The text suspends the rights of access to and deletion of personal data, and judicial appeal procedures will have to wait until the end of the state of emergency is declared. The decree relaxes the obligation for authorities to notify individuals of the collection of their personal data, when the authorities are acting to "*prevent, recognise, investigate and prevent the spread of coronavirus*".
- the European Commission said that it monitors how the emergency measures are applied in practice and their impact, in particular on the rule of law, fundamental rights and EU law.
- The European Data Protection Board (EDPB) monitored the situation in Hungary. At its 26th plenary session on 8 May, it instructed its Hungarian member to give an opinion on the necessity and proportionality of the emergency measures taken by the government, which in particular limit the right of access to and deletion of personal data. The EDPB discussed again on

3 June and adopted replies to NGOs recalling "that, even in these exceptional times, the protection of personal data must be upheld in all emergency measures, thus contributing to the respect of the overarching values of democracy, rule of law and fundamental rights on which the Union is founded.", see https://edpb.europa.eu/news/news/2020/thirtieth-plenary-session-edpb-response-ngos-hungarian-decrees-and-statement-article_en.

6. Asylum and migration

- Since 2 March the transit zones at the Southern border have been closed for asylum seekers. See <https://www.infomigrants.net/en/post/23169/coronavirus-hungary-suspends-admission-of-asylum-seekers>

- The right to apply for asylum has been suspended due to Covid19 emergency.¹⁴²

- The validity period of the issued residence documents, permanent residence and immigration permits is extended until the 45th day after the end of the emergency phase.¹⁴³

- on 14 May, the Court of Justice of the European Union ruled against the position of the HU government by confirming in a [judgment](#) (Cases C-924 and 925/19) that placing asylum seekers and nationals of non-Member States subject to a return decision in the transit zone of Röszke on the Serbo-Hungarian border must be qualified as detention. In substance, the Hungarian authorities circumvented EU law by holding Afghan and Iranian asylum-seekers in prison-like conditions. The transit zones have been in place since 2015 and thousands of people have been arbitrarily detained.

- Prime Minister Gergely Gulyás' chief of staff initially stated opposition to executing the judgment, but the government finally decided on 21 May to implement it and to release asylum-seekers held in so-called camps in the transit zones. According to local media reports, 300 detained asylum seekers have already been released. See <https://www.helsinki.hu/en/hungary-unlawfully-detains-people-in-the-transit-zone/>

- Hungarian spectrum: [No more transit zones, now asylum seekers will have to apply abroad](#)

- With the adoption on 18 June of Act VIII 2020 on Transitional Provisions related to the Termination of the State of Danger and on Medical Preparedness (the Omnibus Bill), those in the territory of Hungary or at the border crossing points cannot apply for asylum in Hungary, but are directed to the nearest embassy. However, the Omnibus Bill does not restrict embassies to outside of the Schengen Zone, but allows the Government to issue a separate Decree that defines precisely at which embassies the statement of intent to make an application for asylum can be submitted. The Bill will be in force until end of 2020, although it is possible that it may be extended.¹⁴⁴ The UNHCR expressed its concern about such legislative development.¹⁴⁵

- CJEU Advocate general Priit Pikamäe issued an [opinion](#) stating that Hungary's treatment of asylum seekers entering the country violates EU law, in a case brought by the European Commission against Hungary in 2018 for unlawfully detaining asylum seekers in "transit zones" and since Hungary's treatment of asylum seekers prevents them from "making their application effectively" — therefore depriving them of their right under EU law "to have effective access to the procedure for granting international protection."

¹⁴² <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

¹⁴³ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration*.

¹⁴⁴ <https://www.ecre.org/hungary-new-law-on-the-lodging-of-asylum-applications-at-embassies/>

¹⁴⁵ <https://www.unhcr.org/news/press/2020/6/5efa0f914/access-asylum-further-stake-hungary-unhcr.html>

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

Hungarian Helsinki Committee: "The penitentiary institutions in Hungary became more closed and less transparent than they were before the outbreak of COVID-19, and they were extremely restrictive and difficult to access by the public before as well..." <https://www.helsinki.hu/en/the-situation-in-hungarian-prisons-in-light-of-covid-19/>

8. Discrimination

see point 9 on gender recognition, vacating hospitals, etc

- Concerns have been raised in relation to an unauthorised and violent anti-Roma demonstration and about a rise in anti-gypsism also related to anti-Roma rhetoric by political leaders, see <https://euobserver.com/opinion/148532>

9. Any other issue relevant for Art. 2 TEU

Gender recognition

- the government proposed amendments banning legal gender recognition in an omnibus bill right after approving the law of 30 March, see [omnibus bill](#) (amending dozens of legislations, among them the Registry Act, see amendment Article 33)

- The CoE Commissioner for HRs called the HU authorities not to adopt the amendment and stated that this would be contrary to ECtHRs jurisprudence, see <https://www.facebook.com/CommissionerHR/posts/1512688642240374>

- letter of the office of the Prime Minister to the EP LGBTI+ Intergroup in response to a letter expressing concern on the draft law on the sex change legal recognition: https://twitter.com/sandor_ronai/status/1255804819006279680/photo/1

- The HU Parliament approved the law. NGOs, MEPs and political groups criticised it, among which:

- [22 Hungarian human rights and LGBT NGOs,](#)
- [the Hungarian Psychological Association,](#)
- [the Equal Treatment Authority,](#)
- [the Council of Europe's Commissioner for Human Rights,](#)
- [63 Members of the European Parliament,](#)
- [the European Parliament as a whole,](#) and
- [the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity;](#) the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the right to privacy and the Special Rapporteur on violence against women, its causes and consequences
- [the Conference of INGOs of the Council of Europe,](#)
- [UNAIDS,](#)
- [the UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity,](#)
- [the UN High Commissioner for Human Rights,](#) The Human Rights Commissioner of the French, German and Netherlands government also condemned the bill.

see <http://en.hatter.hu/news/bill-ban-lgr>.

- The Council of Europe Commissioner for Human Rights, Dunja Mijatović, denounced on *Twitter* a measure “contrary to the European Court of Human Rights jurisprudence” and a “blow to trans people’s human dignity”.
- The EP LGBT+ Intergroup has send a letter asking the Hungarian Commissioner for Fundamental Rights to bring the law to the Constitutional Court for review.

Measures on classifying Chinese-funded Railway; development projects, theatres,...

- media report that among the first measures adopted by the government through emergency, were also announcing a bill that would classify key information about a Chinese-funded railway for a decade (Hungary’s most expensive infrastructure project) and slash bureaucratic obstacles to expedite a contentious construction project opposed by the opposition, see <https://www.nytimes.com/2020/04/05/world/europe/victor-orban-coronavirus.html>; many more projects unrelated to Covid 19 were tabled, including on a building development project (which raised concerns by Unesco) and on putting theatres under the control of government-appointed persons https://www.euractiv.com/section/all/short_news/budapest-a-flurry-of-lawmaking/

EU Funds to Hungary

- Italian La Repubblica newspaper published an article entitled “Coronavirus, all'Ungheria di Orbán il record di fondi europei” (Coronavirus, to Orban’s Hungary record European funds) which stated “if the new Hungarian decree on exclusive powers for the sovranist Prime Minister Viktor Orbán would be seriously applied, he would be hit by it himself” as he had affirmed that the EU did not give Hungary anything, while an inquiry of the Danish Radio found that Hungary is and will be the main beneficiary of EU aid, see https://www.repubblica.it/esteri/2020/04/04/news/orban_ungheria_ue_fondi_europei_coronavirus-253152128/.
- European Stability Initiative on EU funds to Hungary: “The wizard, the virus and a pot of gold - Viktor Orban and the future of European solidarity” <https://www.esiweb.org/publications/wizard-virus-and-pot-gold-viktor-orban-and-future-european-solidarity>

Army in factories

- The Army has been deployed to 84 factories that are deemed strategic. See <https://hungarytoday.hu/coronavirus-hungary-military-army-strategic-companies/>

Rejection of Istanbul Convention

- The HU Parliament rejected the ratification of the Council of Europe Istanbul Convention approving a government declaration instead, which stated that the measure promotes “destructive gender ideologies” and “illegal migration”, see <https://www.theguardian.com/world/2020/may/05/hungarys-parliament-blocks-domestic-violence-treaty>

Vacating hospitals

- HRW on policies imposed on hospitals in HU: <https://www.hrw.org/news/2020/05/06/hungary-kicks-patients-out-hospitals-prepare-covid-19>; on 26 May, the Hungarian Medical Chamber rejected minister claims that this decision falls

under the responsibility of doctors, who said they were obliged to follow a ministerial order and were now being [scapegoated](#) by the government.

Freedom House report: HU not anymore a democracy

- according to Freedom House [Nations in Transit report](#), Hungary is not anymore a "semi-consolidated democracy" but a "hybrid regime"; the report also noted that "Hungary's decline has been the most precipitous [they have] ever tracked." It states: "Prime Minister Viktor Orbán's government in Hungary has similarly dropped any pretense of respecting democratic institutions. After centralizing power, tilting the electoral playing field, taking over much of the media, and harassing critical civil society organizations since 2010, Orbán moved during 2019 to consolidate control over new areas of public life, including education and the arts. The 2020 adoption of an emergency law that allows the government to rule by decree indefinitely has further exposed the undemocratic character of Orbán's regime. Hungary's decline has been the most precipitous ever tracked in *Nations in Transit*; it was one of the three democratic frontrunners as of 2005, but in 2020 it became the first country to descend by two regime categories and leave the group of democracies entirely."

Public procurement and risks of corruption:

- "In [Hungary](#), the government suddenly replaced the board of a publicly-traded company that produces cardboard packages for medical products. Some of the new board members have close ties to the ruling Fidesz party. No reasons were given", see <https://verfassungsblog.de/the-rule-of-law-stress-test-eu-member-states-responses-to-covid-19/>

- Bloomberg reports that "Lorinc Meszaros, a boyhood friend of Orban whom opposition parties accuse of managing business interests on the prime minister's behalf, has been particularly favored. A government entity bought Meszaros's unprofitable coal plant, which the cabinet estimated needed a \$1 billion overhaul. And a contract for a \$2 billion Chinese-backed rail development project connecting Budapest and Belgrade -- which had been criticized for its lack of transparency and cost -- was restricted as classified information for 10 years. Meszaros's company is part of the consortium building it. Orban has denied having business links with Meszaros", see <https://www.bloomberg.com/news/articles/2020-05-26/orban-moves-to-give-up-sole-power-in-hungary-with-agenda-intact>

New consultations and requests for apologies

- According to the media, representatives of the Hungarian authorities have asked for apologies from Finnish persons, and are planning a new consultation of the population:

https://www.euractiv.com/section/all/short_news/hungary-asks-finland-to-apologise-over-false-emergency-law-attack/

- on the 8th of June, the Orban government published the questions that will be included in the 9th national "consultation". Politico reports that the [questionnaire](#) (in HU; for the EN version see <http://abouthungary.hu/news-in-brief/heres-the-latest-national-consultation-questionnaire-in-english/>) claims that "Brussels is preparing to attack the Hungarian Constitution's migration-related rules" and that Hungarian-American businessman George Soros is proposing a plan to put EU countries into "debt slavery." The country's Justice Minister Judit Varga has [referred](#) to the consultations as "best practice." See "Hungary launches national consultation targeting COVID-19, Soros and 'debt slavery'",

<https://www.euractiv.com/section/politics/news/hungary-launches-national-consultation-targeting-covid-19-soros-and-debt-slavery/> and <https://www.politico.eu/newsletter/brussels->

[playbook/politico-brussels-playbook-don-call-me-maybe-top-jobs-race-heats-up-blm-in-the-eu-too/](#);

- European commissioner for values and transparency Vera Jourová [told a reporter](#) for EuroNews that the European Union has no intention of making Hungary amend its constitution, and that **the question was “fake news. This is not true.”**

Jourová recalled a previous conflict between the European Commission and the Hungarian government over the contents of a national consultation. In 2017, the Commission issued a [point-by-point refutation](#) of the “Stop Brussels” consultation, a questionnaire which contained, **“if I am polite, misleading information”**, Jourová said.

Last year, the EC issued another such [refutation](#) of a government propaganda campaign attacking then EC president Jean-Claude Juncker and George Soros. That campaign largely contributed to the European People's Party suspending Fidesz's membership.

Jourová said that the Commission may direct another fact-checking document to the Hungarian public to “get the facts right...so that [Hungarians] can make an informed choice”, adding that she would leave such a decision for a later time. The opposition says these consultations are **“disguised propaganda”**, are publicly funded and the government denies access to information on how many people reply to them. See <https://www.other-news.info/2020/06/hungary-national-consultation-question-fake-news/>

NGOs and shrinking space for civil society

- 18 June: [judgment](#) by the Court of Justice of the European Union ruling that Hungarian legislation on the funding of civil society organisations introduces discriminatory and unjustified restrictions on the organisations in question and on the people providing them with financial support (Case C-78/18, Commission vs HU).

17. IRELAND¹⁴⁶

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The Irish Constitution only foresees the possibility to declare a state of emergency in limited situations, like “in time of war or armed rebellion”, see [Article 28.3.3°](#), which could not be applied for Covid-19.

The government consequently proposed and Parliament approved [the Health \(Preservation and Protection and other Emergency Measures in the Public Interest\) Act 2020](#) (Health Act 2020) and the [Emergency Measures in the Public Interest \(Covid-19\) Act 2020](#) (Emergency Act 2020), which contain emergency measures granting special powers to the government to address the spread of the virus through restrictive measures.

- On 25 March, such new measures were adopted by the government on Coronavirus, including wider closures of public places and on physical distancing, with the police monitoring if it was being observed in public places.

On 27 March, the government also for a two week period until Easter Sunday, everyone must stay at home unless their work was essential or they were buying food.

On 12 April the government announced that restrictive measures were extended until **the 5th of May**.¹⁴⁷

Deconfinement:

The government announced a five-stage road map to ease the lockdown starting May 18.

Parliament:

IPU: “Both Houses are currently adjourned - Dáil Éireann until 16 April and there is no date set for the Seanad. Special measures for sittings have been put in place due to COVID-19 to ensure the safety of Members, staff and others working in parliament:

- One third of Deputies attend Dáil meetings. Members were also asked to maintain an appropriate distance in accordance with public health advice.
- Parliamentary business has been restricted and generally relates to urgent COVID-19 business
- Dáil Parliamentary Questions have been suspended.
- Voting is currently by either 'voice vote' or 'roll call vote' with Members remaining in their seats. "Voice Votes" are a normal procedure in the Dáil, the use of "roll call votes" is an innovation due to COVID-19 if members call for a full division. The usual 'manual vote'

¹⁴⁶ See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin1 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

¹⁴⁷ For an analysis of the Irish legal setup in relation to Covid-19 measures, see <https://verfassungsblog.de/irelands-response-to-the-covid-19-pandemic/>

where members walk through the lobbies is not currently in use. "Electronic voting" is not being used pending Government formation.

The Irish Constitution does not provide for the possibility of remote voting by the Dáil."

2. Freedom of movement (internal and cross-border; sanctions)

- No unnecessary travel should take place in the country (people should only travel further than two kilometres from their home when it is absolutely necessary) or overseas.
- borders are **open**, but anyone coming into Ireland, except from Northern Ireland, shall **self-isolate for 14 days**, upon arrival, including Irish residents. Arrivals have to complete a passenger locator form, although exemptions are in place for providers of essential supply chain services such as hauliers, pilots and maritime staff. See <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

Gatherings outside should be of no more than four people. From 27 March, all public gatherings are prohibited.

5. Privacy and data protection

Guidance by the Irish Data Protection authority on data protection and Covid-19 was published at: <https://dataprotection.ie/en/news-media/blogs/data-protection-and-covid-19>

- A voluntary phone tracker app will be rolled out to track coronavirus, see <https://www.euractiv.com/section/digital/news/ireland-to-roll-out-voluntary-phone-tracker-app-to-tackle-coronavirus/>

6. Asylum and migration

- Interviews are suspended, however applications can still be made at the International Protection Office¹⁴⁸
- All individuals who are subject to a Deportation Order, Removal Order or Transfer Order and were due to present themselves in April 2020, have been issued with letters postponing their presentation/reporting date.¹⁴⁹
- After an outbreak of Covid19 in an accommodation centre, criticism arose on the unsuitability of the protection centers hosting applicants.¹⁵⁰
- Ireland will relocate 8 unaccompanied minors from the Greek islands.¹⁵¹
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

¹⁴⁸ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

¹⁴⁹ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration.*

¹⁵⁰ <https://www.ecre.org/aida-2019-update-ireland/>

¹⁵¹ Agence Europe, 19 June 2020.

18. ITALY¹⁵²

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The IT Constitution foresees a “state of war” as the only explicit “state of emergency” possible.
- The current **State of emergency** in Italy is based on a law on the Code of Civil Protection, “Decreto Legislativo n.1 del 2 gennaio 2018: Codice della protezione civile” and notably art. 7, par. 1 letter c, which foresees the declaration of a state of emergency.¹⁵³ The IT Constitution also foresees a standard measure, **law decrees**, that have force of law, are adopted by the Government in case of *necessity and urgency*, are issued by the President of the Republic and are immediately introduced to Parliament to be transposed into law – which must happen within 60 days, or the decree loses effect from the beginning.
- The IT government was the first in the EU to declare a **state of national emergency** in relation to the health risks connected to Coronavirus on 31 January 2020¹⁵⁴, which empowered the Head of the Department of Civil Protection, acting under the direction of the President of the Council of ministers, to take extraordinary administrative measures. This decree is valid **until the 31 July**.
- It then adopted on 23 February 2020 **decree-law no. 6** establishing the emergency measures public authorities could adopt to reduce the propagation of the virus, among which the lockdown. The decree was **converted into Law** No. 13 of 5 March 2020.¹⁵⁵
- On the basis of the decree-law, a series of decrees of the President of the Council of ministers (DPCM) were adopted (nos. 9, 11 and 14/2020).
- A further **decree** was adopted on **25 March 2020** (n.19) putting legal and regulatory order into the previous measures adopted and clarifying competences; it introduced sanctions between 400 and 3000 Euros for those violating the coronavirus rules. Prohibitions already in force can remain in place until July 31st maximum. Restriction can be modified monthly and reinforced if necessary. Regions and Municipalities can adopt more stringent measures.
- The government adopted then a third package of support measures (Cure Italy).

¹⁵² See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

¹⁵³ “(c) emergenze di rilievo nazionale connesse con eventi calamitosi di origine naturale o derivanti dall’attività dell’uomo che in ragione della loro intensità o estensione debbono, con immediatezza d’intervento, essere fronteggiate con mezzi e poteri straordinari da impiegare durante limitati e predefiniti periodi di tempo ai sensi dell’articolo 24.” http://www.protezionecivile.gov.it/amministrazione-trasparente/provvedimenti/dettaglio/-/asset_publisher/default/content/decreto-legislativo-n-1-del-2-gennaio-2018-codice-della-protezione-civile

¹⁵⁴ Delibera Del Consiglio Dei Ministri 31 gennaio 2020, “Dichiarazione dello stato di emergenza in conseguenza del rischio sanitario connesso all’insorgenza di patologie derivanti da agenti virali trasmissibili”, available at: www.gazzettaufficiale.it/eli/id/2020/02/01/20A00737/sg

¹⁵⁵ Legge 5 marzo 2020, n. 13, “Conversione in legge, con modificazioni, del decreto-legge 23 febbraio 2020, n. 6, recante misure urgenti in materia di contenimento e gestione dell’emergenza epidemiologica da COVID-19”, available at: www.gazzettaufficiale.it/eli/id/2020/03/09/20G00028/sg

Main source: <https://verfassungsblog.de/fighting-covid-19-legal-powers-and-risks-italy/>

- On 1 April and on 10 of April, the government adopted new DPCM of prorogation of the measures until the 13 April and 3 May. The government decided to open libraries and children clothes shops, as well as some other activities, and announced a future relaxation of measures.
- The measures are temporary and were considered as in conformity with the IT Constitution that provides for them, as explained by Professor Zagrebelsky <https://www.articolo21.org/2020/03/zagrebelsky-giusti-divieti-per-il-diritto-alla-vita-non-vedo-prove-di-dittatura/> and Professor Azzariti https://www.repubblica.it/politica/2020/03/08/news/coronavirus_azzariti_le_misure_sono_c_ostituzional_a_patto_che_siano_a_tempo_determinato_-250680089/. In a recent article, other international scholars share the same opinion, also in relation to European and international principles of the Rule of Law <https://verfassungsblog.de/italys-coronavirus-legislative-response-adjusting-along-the-way/>.
- More recently a debate emerged on how to regulate the 2nd phase of the crisis. Various leaders of the opposition but also of the majority, as well as esteemed law professors such as Sabino Cassese, criticise the excessive use of Decrees of the President of the Council of Ministers and call for the use of decree-laws, which are debated and voted by Parliament.
- Italians call for justice for relatives killed by coronavirus: <https://www.theguardian.com/world/2020/apr/23/italians-call-for-justice-for-relatives-killed-by-coronavirus>
- in Italy, health is a regional competence, and the emergency restrictions were partly decided and managed by regions. Very tense debates took and are taking place between the central government and regions, as well as among regions, on how to best deal with the emergency, the measures adopted and on the exit strategy. Recently, the management of some regions of the emergency situation is being monitored due to the seriousness of the situation, notably Lombardy, see <https://www.politico.eu/article/first-in-last-out-why-lombardy-is-still-italys-coronavirus-covid19-hotspot-italy/>.
- 10 June: Prime Minister Conte, Health Minister Roberto Speranza and Interiors Minister Luciana Lamorgese and Lombardy President Fontana were questioned during an investigation for criminal negligence related to the decision not to declare quarantine (zona rossa, red zone) in the communes of Nembro and Alzano Lombardo. The inquiry was launched upon request of families of victims of Covid 19 over mis-management of the crisis, see <https://www.theguardian.com/world/2020/jun/10/italian-pm-giuseppe-conte-faces-questions-from-families-over-covid-19-errors> and https://milano.repubblica.it/cronaca/2020/06/10/news/coronavirus_conte_sentito_pm_berga-mo-258864604/

Deconfinement:

- April 14: Bookshops, stationary shops and stores selling baby products reopened.
- May 4: Other sectors will gradually resume economic activity. Factories, building sites and parks reopen and companies no longer need authorization to restart operations. Persons allowed to visit their relatives in small numbers.
- May 18: Shops and museums reopen.
- June 1: Restaurants, bars and hairdressers reopening. Reopening of the external borders, without quarantine.
- 3 June: reopening of borders for tourists

- September: Schools restart.
- Masks mandatory in shops and public transport.

Reconfinement:

On 26 June, the army was sent to close an area of Mondragone in Campania due to a Covid 19 outbreak, with tensions with the local Bulgarian community, see <https://www.cbsnews.com/news/italy-coronavirus-mondragone-outbreak-soldiers-enforce-barricade-bulgarian-migrant-farm-workers/>

Judicial system:

- Decree 11/2020 on judicial activities suspended until the end of May the activities of Courts and of the justice system in general, with exceptions, see detailed info at <https://www.lexology.com/library/detail.aspx?g=85056d94-a778-4162-acc1-2b19a8323cf6>

Parliament:

- IPU: "During the COVID-19 emergency, Italy's Chamber of Deputies will limit the work of the Plenary to the consideration of urgent non-deferrable bills, with particular regard to bills for the enactment into law of pending decree laws. The Chamber will also meet in plenary session in case of parliamentary questions requiring an immediate reply or of urgent interpellations. The purpose of these arrangements is to maintain constant dialogue with the Government on the COVID-19 emergency and to enable the Government to keep Parliament apprised of developments, including through urgent information updates and reports.

The activities of Committees and other parliamentary bodies have also been restricted to consideration of urgent non-deferrable acts. These include bills related to items in the Order of Business of the House or for which a Committee is acting in a law-making capacity; and for purposes of parliamentary scrutiny or to issue opinions on Government legislative proposals that need to be expedited without delay. Less formal committee meetings are held remotely, but must always take place in the presence of the Chair, or Deputy Chair of the Committee, and the Clerk (parliamentary official) to the Committee.

The Italian Senate has put in place measures to comply with social distancing requirements. Meetings are held in larger meeting and conference rooms and are being scheduled so as to leave time between meetings for the necessary sanitation of the conference rooms. For roll calls, Senators access the floor in smaller groups in alphabetical order. Facemasks and gloves have been distributed to Senators and all staff. Workplaces are sanitized constantly; everyone accessing the Senate is required to disinfect their hands and have their temperature measured; hand sanitizer gel dispensers are available everywhere.

In cooperation with the Gemelli Hospital in Rome, the Senate has been equipped to perform nose and throat swab tests on Senators and staff showing even a minimum risk of testing positive to the virus.

Many members of staff are working remotely with only key staff whose physical presence is essential to keep the Senate open working on the premises. Staff with children under the age of 16 may take parental leave while schools are closed."

2. Freedom of movement (internal and cross-border; sanctions)

- DPCM 8 March 2020, which (for certain areas) set limitations to mobility, *assembly* and economic activities, and prohibited everyone from moving from their home, unless for reasons related to work, necessity or health care;

- DPCM 9 March 2020, which extended said limitations to the entire national territory; Valid until 3 April, might be prorogated.
- the 25 March law-decree decriminalized violations already reported and only the violation of the confinement for being positive to coronavirus remains criminal, from 1 to 5 years, as foreseen by the Criminal Code.
- Sanctions: 400 to 3000 euro for those violating the lockdown, prison from 1 to 5 years for people who have CV and do not respect quarantine.
- Border controls have taken place between Italy and Austria, but IT has not tabled any request for the Commission on temporary Schengen suspension.
- On 16 May, the IT Prime Minister announced the reopening of the external borders, without quarantine, which happened on 3 June but other countries, due to the high rate of Covid 19 contagion in Italy, did not do the same: France, Austria, Germany and Switzerland have not included Italy from an agreement to reopen common borders on June 15. The Swiss border is still closed to Italians, while Austria and Slovenia insist Italian visitors present a negative COVID-19 test issued within the past few days or undergo mandatory quarantine. Croatia opened its borders to 10 European countries but not Italy. Greece will require quarantine for Italian tourists.
- on June 3, Italy opened its borders to EU, UK, Schengen area. Travellers coming from these countries won't have to undergo quarantine unless they have been in any other country in the 14 days before reaching Italy. The government dismissed any possible attempt to apply different confinement rules in different regions as "unconstitutional" following spats between local governors and in the end the same confinement rules apply in the same way to all regions. The country entered lockdown "phase 2" on May 18, allowing restaurants, bars, hotels and cafe to reopen, however restrictions could be restored at any time if the epidemiological situation worsens, see <https://www.euronews.com/2020/06/08/which-european-countries-have-opened-their-borders-ahead-of-the-summer-holiday-season>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- Journalists were prevented from obtaining information from health authorities or documenting law enforcement operations, see 3.4.2020: Statement by the Council of Europe Commissioner for Human Rights Dunja Mijatović: Press freedom must not be undermined by measures to counter disinformation about COVID-19 (Italy cited) <https://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic>
- Russian spokesperson of the Defence Ministry, a general, threatened Jacopo Jaccoboni, an Italian journalist of La Stampa newspaper, that published articles on the aid sent by Russia to Italy, stating "Qui fodit foveam, incidet in eam" that means "Bad penny always comes back". After calls for the government to act, the Italian government finally published a press release on 3 April recalling that in Italy free press and the right of criticism are paramount. See https://www.esteri.it/mae/it/sala_stampa/archivionotizie/comunicati/nota-congiunta-del-ministero-della-difesa-e-del-ministero-degli-affari-esteri-e-della-cooperazione-internazionale.html. Commissioner Vera Jourova tweeted on 3 April expressing solidarity with Jacoboni and La Stampa stating that "free and independent media are the DNA of Europe and our democracies. Threats against journalists are unacceptable", <https://twitter.com/VeraJourova/status/1246143920574279681> ; media report that the mission will continue for more time, although NATO allies have raised concerns, see <https://www.theguardian.com/world/2020/apr/27/moscow-motives-questioned-over-coronavirus-aid-shipment-to-italy>

- La Repubblica journalist Salvo Palazzolo has faced persistent [threats](#) after writing an article on April 8 about the mafia using the coronavirus crisis to increase his influence in certain districts of Palermo (see IPI).

4. Freedom of assembly (and sanctions)

See freedom of movement

5. Privacy and data protection

- the IT Data Protection Authority is looking into the legality of “contact tracing” and stated that such measure shall be temporary and based on a decree-law for instance and use anonymized data as much as possible

- the Civil Aviation Authority approved the use of drones by local police authorities to monitor social distancing, with security limitations, see

<https://www.euronews.com/2020/03/23/coronavirus-italy-approves-use-of-drones-to-monitor-social-distancing>

- an app called "Immuni" has been approved, it will be based on the Apple - Google platform and will be launched at the end of May. A decree of the Council of Ministers determines the guidelines for the system, which shall be voluntary and respect privacy: https://www.repubblica.it/tecnologia/2020/04/30/news/app_immuni_cos_e_a_cosa_serve_e_chi_c_e_dietro-255285741/, and <http://www.rainews.it/dl/rainews/media/App-anti-Covid-al-via-test-nel-Regno-Unito-obbligatoria-per-i-lavoratori-in-India-dc9cc6ca-84b1-4848-9593-6e6cd6adc4ac.html>

- 15 June: App Immuni is operative all over Italy, with more than 2.5 million downloads.

6. Asylum and migration

- There is no official suspension of asylum registrations but in practice Questor (offices of public security) are all closed¹⁵⁶.

- The residence permits (permesso di soggiorno) that expired between January 31 and April 15 2020 will be renewed until June 16 due to the Covid19 measures.¹⁵⁷

- There are worries concerning the spread of coronavirus in asylum centers: NGOs sent a letter to the government requesting it to take measures https://www.asgi.it/wp-content/uploads/2020/03/EMERGENZA-COVID-19_DIRITTI-STRANIERI-22-marzo-finale.pdf

- A decree allows the Italian government to quarantine migrants on ships as a measure to prevent infections with Covid19.

- The Italian government declared its ports unsafe: see <https://www.theguardian.com/world/2020/apr/08/italy-declares-own-ports-unsafe-to-stop-migrants-disembarking>

- the government discussed the possibility to [regularize](#) 600.000 migrants and a decree will be approved, under the auspices of the Prime Minister and of the Interior Minister.

- Around 180 people rescued by civilian vessels in mid-April completed their quarantine on the Italian ferry Raffaele Rubattino under the care of Italian Red Cross and were allowed to enter the port of Palermo. Also, the two civilian rescue vessels Aita Mari and Alan Kurdi, which had carried out the rescues, were also allowed to moor after a 14 days quarantine. See Eye, the NGO

¹⁵⁶ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

¹⁵⁷ <https://www.avvenire.it/attualita/pagine/immigrati-i-permessi-di-soggiorno-al-tempo-dell-emergenza>

operating the Alan Kurdi, reports that their ship was detained in the port of Palermo. Italian officials alleged that the ship had defected that affected safety on board.¹⁵⁸

- A Tunisian man drowned after throwing himself off a Covid-19 quarantine ship (Moby Zaza) at Porto Empedocle. Several NGOs expressed concerns about migrants quarantined on ships.¹⁵⁹

- On May 11 the Italian government finally agreed on a **regularisation** of irregular workers in the field of agriculture, breeding and home caretaking.¹⁶⁰

- As Covid-specific measures, material reception conditions have been extended until “the end of the measures in place for the health emergency”, even for those who would no longer be entitled to them. Due to the lack of places and only until 31 January 2021, asylum seekers could be accommodated in Siproimi facilities but they can only benefit from the services as provided in governmental centres and CAS.¹⁶¹

- Italian NGO Mediterranea Saving Humans headed back to the Mediterranean to conduct migrant rescue operations after two-months of suspended operations.¹⁶²

- After blocking the SAR vessel Alan Kurdi (operated by the NGO Sea Eye) in the port of Palermo since early May, the Italian authorities released the ship.¹⁶³

- The SAR vessel Sea Watch 3 (run by the NGO Sea Watch) received permission to enter Port Empedocle in Sicily carrying 211 people rescued in three operations. Sea Watch is calling upon all EU countries to organise the relocation of those rescued.¹⁶⁴

- The CSDM (Centre Suisse pour la Défense des Droits des migrants) has submitted a formal request to the UN Committee against Torture to launch an inquiry procedure under Article 20 CAT concerning Italy's conduct in the Central Mediterranean for allegedly leading to the mass torture, rape and forced labour of thousands of refugees and migrants pulled back to Libya¹⁶⁵.

- Italy has given the permission for 180 migrants rescued from the Mediterranean to disembark from a charity-run ship Ocean Viking, after being at sea for over a week. They were rescued by the French NGO between June 25 and 30. The ship's docking request had been ignored at several other ports in Italy and Malta. They will be quarantined on the Italian ferry Moby Zaza for two weeks due to the COVID-19 pandemic.¹⁶⁶

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

Riots exploded in various prisons (which in Italy are overcrowded), during which 13 prisoners died. The government took measures and the decree “Cure Italy” introduced a special type of home detention until 30 June, anticipated release and home detention were also used for those of less than 18 months detention remained. Some call for stronger measures to solve the overcrowding of prisoners and to guarantee their health. See

¹⁵⁸ <https://www.ecre.org/med-hundreds-remain-stranded-at-sea-as-ports-are-still-closed-solidarity-remains-lacking-and-interceptions-continue/>

¹⁵⁹ <https://www.infomigrants.net/en/post/24913/migrant-drowns-after-jumping-off-quarantine-ship>

¹⁶⁰ <https://portaleimmigrazione.eu/sanatoria-stranieri-regolarizzazione/>

¹⁶¹ <http://www.asylumineurope.org/news/27-05-2020/aida-2019-update-italy>

¹⁶² <https://www.euractiv.com/section/justice-home-affairs/news/rescue-boats-return-to-the-mediterranean-as-20000-migrants-prepare-to-cross-from-libya/>

¹⁶³ <https://www.ecre.org/med-118-rescued-211-into-quarantine-while-italy-faces-legal-action-for-pull-backs/>

¹⁶⁴ <https://www.ecre.org/med-118-rescued-211-into-quarantine-while-italy-faces-legal-action-for-pull-backs/>

¹⁶⁵ <https://centre-csdm.org/request-for-un-inquiry-into-italys-role-in-the-systematic-torture-of-migrants-pulled-back-to-libya/>

¹⁶⁶ <https://www.bbc.com/news/world-europe-53302656> and <https://www.euronews.com/2020/07/07/ocean-viking-180-migrants-begin-disembarking-rescue-ship-in-sicily>

<https://www.lumsanews.it/coronavirus-il-rischio-nelle-carceri-piene-conte-garantire-la-salute-dei-detenuiti/>

8. Discriminations

- Events of discriminations against Asians were recorded notably at the beginning of the crisis. The situation changed when Italians experienced themselves discriminations abroad and discriminations related to internal movements.
- Homophobia: Italian Bishops attack a draft law in preparation on homophobia, stating that it would be contrary to freedom of expression, see https://www.repubblica.it/vaticano/2020/06/10/news/omofobia_cei_contro_ddl_non_serve_una_nuova_legge-258852422/;
- a few days later, the owner of an apartment in Matera threatens to kick out the tenant, because he is gay, something that could be legal because of lack of legal protection in Italy, see https://bari.repubblica.it/cronaca/2020/06/13/news/siete_gay_via_da_casa_mia_proprietario_di_matera_minaccia_inquilini_interviene_la_polizia-259122550/
- the MP draftsman of the homophobia law was offended online, targeted online and received [threats](#), after another MP received anti-semitic threats.

9. Any other issue relevant for Art. 2 TEU

Public procurement and risks of corruption:

- "In Italy, in late April, the authorities arrested three local representatives accused of corruption in the procurement of cleaning-service tenders.", see <https://verfassungsblog.de/the-rule-of-law-stress-test-eu-member-states-responses-to-covid-19/>
- Lombardy authorities opened an inquiry on contracts for sanitary equipment given to a company controlled by the wife and the brother-in-law of the President of the Lombardy region, see https://milano.repubblica.it/cronaca/2020/06/08/news/fontana_procura_camici_commissa_inchiesta-258735673/?ref=RHPPTP-BH-I258672574-C12-P2-S2.4-T1
- a former President of the Italian Chamber of Deputies is under inquiry for money laundering in relation to the provision of Chinese sanitary masks via the company "Only Italy" https://milano.repubblica.it/cronaca/2020/06/09/news/irene_pivetti_indagata_riciclaggio_milano-258786647/?refresh_ce

Violation of the restrictive measures

- Demonstrations in violation of social distancing and mask measures took place in Italy at the end of May by so-called "orange vests", contesting the existence of Covid 19 and the restrictive measures in place. The Mayor of Milan called responsible authorities to launch an inquiry and for sanctions against those who violated the security rules.
- On 2 June, an anti-government demonstration took place in Rome, organised by the centre-right alliance parties and leaders, in striking violation of the restrictive measures in place, with the participation of an MEP, former EP President Tajani. The Green party announced a complaint against the organisers.

19. LATVIA¹⁶⁷

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- On 12 March, the Prime Minister announced that the government had declared a **state of emergency**, providing for school closure and other safety recommendations, in force until 14 April 2020¹⁶⁸, which was later extended to **12 May**¹⁶⁹.

- IPU: "The following are some of the pandemic-related restrictive measures: shutdown of educational establishments and introduction of remote teaching; provision of childcare where needed; prohibition of events and gatherings; limitation of opening hours of non-essential services; cancellation of international passenger transport and border crossings except for transport organized by State aircraft and military transport."

- Exceptional powers for the government: The Ministry of Health shall be appointed as a responsible authority for coordinating the activities during the emergency situation, the Ministry of Health National Medical Response Commission is designated as body whose decisions on epidemiological safety measures are binding upon health care providers, the Ministry for Education and Science has received special and exceptional delegated powers.¹⁷⁰

- Latvia has notified to the CoE a derogation from the ECHR based on Article 15, see <https://rm.coe.int/09000016809cfa87> ; **Latvia's partially withdrew its derogation, which concerned the derogation to Article 11 on freedom of assembly and association; derogations to Article 8 of the ECHR on respect for private and family life and Article 2 of Protocol 4 of the ECHR on freedom of movement remained in place.**

- On 29 March, the government adopted a number of stricter regulations. Foremost, all persons must maintain a 2-meter distance and observe epidemiological safety measures in private and public events, as well as during public indoor and outdoor activities. The exception is given for 2 persons, persons living in the same household or parents and their minor children if they don't live in the same household. New restrictions also prohibit all private arrangements (except funerals), public events, meetings, processions, pickets, indoor sports and religious activities. Trading and public catering venues are still allowed to hold more persons while maintaining the 2-meter distance and observing safety measures. Various other are also adopted, such as prioritization of medical item supply for national purposes or government's right to request information from **electronic communications** operators on specific persons for epidemiological investigation¹⁷¹.

¹⁶⁷ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures taken, see <https://verfassungsblog.de/covid-19-in-latvia-precaution-above-all/>

¹⁶⁸<https://treaties.un.org/doc/Publication/CN/2020/CN.105.2020-Eng.pdf>

¹⁶⁹<https://eng.lsm.lv/article/society/society/latvia-extends-state-of-emergency-by-one-month.a355058/>

¹⁷⁰<https://www.mk.gov.lv/en/aktualitates/regarding-declaration-emergency-situation>

¹⁷¹<https://eng.lsm.lv/article/society/health/latvian-government-steps-up-restrictions-with-two-person-two->

- According to FRA, Bulletin 2, "The Latvian parliament amended the Law on the state of emergency to allow an unlimited number of extensions of the state of emergency by the government for up to three months".
- The **state of emergency** declared in Latvia over the spread of COVID-19 has been **extended to 9 June**. At the same time, the government has decided on lifting different restrictions, see <https://bnn-news.com/latvia-extends-state-of-emergency-to-9-june-certain-restrictions-to-be-lifted-213100>

Deconfinement:

The government will decide on May 7 on its gradual exit from the state of emergency¹⁷²

Parliament:

- IPU: "Since the outbreak of the COVID-19 pandemic, the Parliament of Latvia (the Saeima) has held a number of extraordinary meetings and has taken urgent decisions to alleviate the consequences of the pandemic. It declared a state of emergency from 12 March until 14 April and designated the Ministry of Health the authority responsible for the coordination of activities during the emergency."

2. Freedom of movement (internal and cross-border; sanctions)

Latvia stopped nearly all foreigners from entering the country, with all international travel, by air, rail, sea and road cancelled. Latvians and foreigners with residency rights in Latvia can enter the country, see <https://www.aljazeera.com/news/2020/03/coronavirus-travel-restrictions-border-shutdowns-country-200318091505922.html>

The Ministry of Foreign Affairs is carrying out repatriation operations until 27 March, with a special flight will be organised on 30 March from Frankfurt mainly for the travellers from other continents.

Travel agencies/operators and passenger transport companies shall cancel all leisure trips abroad. Business trips and posting of workers abroad shall be cancelled if possible.

The movement of persons and vehicles through airport, port, railway and road border crossing points at the European Union's external border, as well as at border crossing points intended for local border traffic, other than freight transport, is prohibited from 17 March 2020. Nationals of the Republic of Estonia and the Republic of Lithuania, and permanent residents of Estonia and Lithuania, are authorised to cross the border of the Republic of Latvia through the border crossing points¹⁷³¹⁷⁴.

- 15 May: The Baltic countries of Estonia, Latvia and Lithuania **opened** their borders to one another, creating a coronavirus "travel bubble": citizens and residents can move freely between the three EU nations. Anybody arriving from outside the zone however must self-**isolate** for 14 days.

- From June 1, there will be no border checks with Lithuania.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

meter-rule.a353788/

https://en.wikipedia.org/wiki/2020_coronavirus_pandemic_in_Latvia#cite_note-57

¹⁷²<https://eng.lsm.lv/article/society/health/face-masks-in-public-part-of-the-key-to-easing-covid-19-restrictions-says-latvian-pm.a358659/>

¹⁷³<https://www.mk.gov.lv/en/aktualitates/regarding-declaration-emergency-situation>

¹⁷⁴<https://treaties.un.org/doc/Publication/CN/2020/CN.105.2020-Eng.pdf>

4. Freedom of assembly (and sanctions)

- All public gatherings of any size have been cancelled and prohibited regardless of the number of participants, and fitness clubs and gyms shall be closed. Voluntary gathering at particular venues, including culture, entertainment, sports, and religious venues, have been restricted to no more than fifty persons at a time. The opening hours of culture, entertainment, sports, and recreational venues shall be from 8:00am (earliest) to 11:00pm (latest)¹⁷⁵.

5. Privacy and data protection

See

- Latvian Data State Inspectorate, 'DVI vērš uzmanību uz personu tiesībām un pienākumiem datu aizsardzības jomā veselības informācijas kontekstā' (17 March 2020): click [here](#).
- Latvian Data State Inspectorate, 'Par sensitīvo datu publiskošanu' (20 March 2020): click [here](#).
- Latvia might be the 1st European country to operate an anti-Covid19 app, called Apturi Covid (stop Covid), see <https://www.lmt.lv/en/news?pid=978>

6. Asylum and migration

Refugees and asylum seekers were provided with safety information of COVID-19, see <http://www.redcross.lv/en/refugees-and-asylum-seekers-are-provided-with-safety-information-of-covid-19-in-latvia/>

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

Due to COVID-19 outbreak, the enforcement of short-term prison sentences by penal institutions is postponed, while arrest and transportation to prison of persons sentenced to short-term imprisonment or whose fine, or community service has been replaced by the court with short-term imprisonment, is suspended. Director of the Prison Administration, or any other official designated by the Director, is responsible for coordination of all emergencies that may occur in penal institutions; Transporting of prisoners under request of prosecution, including prison convoy to court hearings, has to be stopped and substituted with use of video conferencing in court hearings. Repatriation and transfer of prisoners who have been sentenced or detained by another country to serve the balance of their sentence or detention in the Republic of Latvia are postponed¹⁷⁶.

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

¹⁷⁵<https://www.mk.gov.lv/en/aktualitates/regarding-declaration-emergency-situation>

¹⁷⁶<https://www.mk.gov.lv/en/aktualitates/regarding-declaration-emergency-situation>

20. LITHUANIA¹⁷⁷

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The government declared a **state of emergency** on 25 February (Resolution 'On Declaration of State-Level Emergency *Del valstybės lygio ekstremalios situacijos paskelbimo*) and established a Government's Crisis Coordination Committee led by the Prime Minister and composed of nine ministers who are directly involved in crisis management on a daily basis.

- Quarantine in Lithuania declared by decision of the Government of 15 March (Resolution 'On Declaration of Quarantine in the Territory of the Republic of Lithuania *Del karantino Lietuvos Respublikos teritorijoje paskelbimo*'), with a duration from 16 March until 30 March.

<http://lr.lt/lt/naujienos/visoje-lietuvos-respublikos-teritorijoje-skelbiamas-karantinas-pridedamas-nutarimas-1>

- On 25 March the Government decided to extend the quarantine period until 13 April, taking into account the changing situation and the recommendations of epidemiologists. Residents in public places are advised to wear face masks, respirators, or other nose and mouth protection except when driving motor vehicles. Parks and other open public areas can be visited in groups of no more than 2 persons (excluding members of the same family), it is required to maintain safe contact (greater than 2 meters and less than 15 minutes of contact), and hygiene requirements.

Only one member of the family can visit the shopping and service areas, and the shops have to provide safe sanitation, hygiene and the necessary safeguards for staff and customers, according to the requirements set by the state-level Emergency Operations Manager.

<http://lr.lt/lt/naujienos/vyriausybe-nusprendo-karantinas-tesiamas-iki-balandzio-13-dienos>

- On 22 April (Wednesday) the Government decided to extend the quarantine **until 11 May**, but also to begin the second phase of quarantine easing next week. This means that outdoor cafes, beauty salons, museums, libraries, zoos and some other businesses providing cultural and leisure services will be able to renew their activities in accordance with the stricter health protection requirements. The Government has decided that the second phase of quarantine easing will begin on 27 April. However, stores in supermarkets will be able to resume operations from 23 April. From 23 April only those shops will be allowed to open in the premises and territories of which the flow of buyers and other visitors is restricted. At least 10 sq. m of retail space per buyer is required or no more than one buyer to be served at a time.

<https://www.delfi.lt/verslas/verslas/karantinas-pratestas-iki-geguzes-11-dienos-kita-savaite-isigalioja-antrasis-svelninimo-etapas.d?id=84107949>

¹⁷⁷ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

See for an analysis of the measures adopted: [Lithuania's Response to COVID-19: Quarantine Through the Prism of Human Rights and the Rule of Law](#)

In public sector state and municipal institutions, state and municipal enterprises, work is organized remotely, except when it is necessary to perform relevant functions (work) at the workplace. Mandatory emergency functions (works) must be ensured. The private sector is recommended to work in the same form of work organization as the public sector.

<http://lrv.lt/lt/naujienos/visoje-lietuvos-respublikos-teritorijoje-skelbiamas-karantinas-pridedamas-nutarimas-1>

- On 26 March the government withdrew a decision ordering people coming from abroad to stay for 2 weeks in quarantine in municipality-provided facilities; they are tested and will go home, see <https://www.lrt.lt/en/news-in-english/19/1155359/lithuania-walks-back-on-mandatory-isolation-of-travelers>

- The state of emergency is extended to 16 June, <https://bnn-news.com/one-week-until-latvias-state-of-emergency-end-whats-the-number-of-covid-19-patients-in-baltics-213958>

Deconfinement:

- From 29th April: Health care providers to resume their services. Restrictions have been lifted of the trading venues, including stores, marketplaces and other public places, with precautionary measures (at least 10 sq. m. of space per buyer or no more than one buyer served at a time and the staff and the customers get the mandatory personal protection). A wider range of services will be allowed in open areas, such as training of dogs, making photographs in open spaces, riding, orienteering sports in small groups, outdoor facilities, for example tennis and golf courts. Cultural establishments – libraries, museums. Beauty services - hairdressers, barbers and beauticians. Outdoor restaurants and cafes. Specialised trainings that cannot take place remotely¹⁷⁸
- From 30th April: service providers are able to provide services both indoor and outdoor longer than 20 minutes on the condition that flow of visitors is limited. Leisure activities are allowed in open air and in groups of no more than two or in families, while avoiding gatherings of people. Training of professional athletes are allowed. Non-food markets can open. Individual training in indoor sporting facilities¹⁷⁹
- From 4th May:¹⁸⁰ mandatory face protection (face masks, respirators or other covers) in public places by all those above the age of six. Exceptions, as has been the case until now, apply to eating and drinking in open-air cafes, also to the training of professional athletes, and in rural areas. Restrictions on the Lithuanian citizens leaving the country are lifted.¹⁸¹
- From 7th May: Boating, Kindergartens and pre-school education, Tattoo parlors, suntan salons and other beauty services, gym training in small groups, Outdoor and indoor events of under 30 people, Dental services, Hospital visits, Unrestricted travel within Baltic countries.¹⁸²

Parliament:

- IPU: "Seimas (Parliament) of Lithuania meetings have been limited."

2. Freedom of movement (internal and cross-border; sanctions)

¹⁷⁸<https://www.lrt.lt/en/news-in-english/19/1163674/lithuania-publishes-four-stage-quarantine-exit-plan>

¹⁷⁹<https://www.lrt.lt/en/news-in-english/19/1163674/lithuania-publishes-four-stage-quarantine-exit-plan>

¹⁸⁰https://lrv.lt/uploads/main/documents/files/Nutarimas%20Nr_%20207%20su%20pakeitimais%2004_30_EN.pdf

¹⁸¹<https://lrv.lt/en/news/lithuania-eases-lockdown-restrictions>

¹⁸²<https://www.lrt.lt/en/news-in-english/19/1163674/lithuania-publishes-four-stage-quarantine-exit-plan>

- people are only allowed to be in public spaces in groups no larger than two, family members must shop alone; shops were mandated to control movement of customers within the shops
 - Temporary border controls due to Coronavirus COVID-19 all internal borders LT-PL and LT-LV borders (24 March – 13 April 2020).
 - Lithuanian air borders are not closed for air transport. However, most airlines have discontinued flights to Lithuania or intend to do so. The opportunities for Lithuanian citizens to return are diminishing daily, but they are admitted to Lithuania.
 - Persons returning from foreign countries are required to be isolated for 14 days, with exceptions; Foreigners are forbidden to enter the Republic of Lithuania, with exceptions; Lithuanian citizens are admitted to Lithuania. A 14 day home quarantine is mandatory for all returnees, with exceptions, see <https://www.urm.lt/default/lt/urm-informacija-keliaujantiems/covid19-duk-keliaujantiems> <http://sumin.lrv.lt/lt/naujienos/judejimas-per-lietuvos-valstybes-siena-ir-salies-viduje-karantino-metu>
 - Large fines of up to € 6,000 are envisaged for breaches of self-isolation and quarantine rules. Amendments to the Criminal Code provide for stricter liability for persons who have been notified by a medical practitioner of an infectious disease but who have failed to comply with quarantine conditions. They would face fines, imprisonment, arrest or imprisonment of up to one year. If such a person's irresponsible behavior spreads the infectious disease and infects others, he would be punished even more severely by a fine, arrest or imprisonment of up to 5 years. The amendments also propose nearly ten times augmentation of the fines for violations of quarantine and self-isolation rules during an emergency. Currently, the Administrative violations code imposes a warning or a fine of between € 60 and € 140 on natural persons, and the amendment increases the fine to between € 500 and € 1,500. Correspondingly, fines for legal persons and their directors would increase from EUR 140 to EUR 600 and from EUR 1 500 to EUR 6 000.
- Not only specialists of the National Public Health Center or municipalities, but also officers of the police, military police, the State Border Guard Service and the Public Security Service could write the records of administrative violations. Responsibility is also being strengthened for failing to comply with the legal requirements of police officers and for failing to comply with municipal councils' decisions to combat outbreaks of infectious diseases.
- <http://lrv.lt/lt/naujienos/uz-saviizoliacijos-ir-karantino-taisykliu-pazeidimus-beveik-desimt-kartu-didesnes-baudos>
- 15 May: The Baltic countries of Estonia, Latvia and Lithuania opened their borders to one another, creating a coronavirus "travel bubble": citizens and residents can move freely between the three EU nations. Anybody arriving from outside the zone however must self-isolate for 14 days.
 - From June 1, there will be no border checks with Latvia. Polish citizens can enter the country for business and studies.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

Prohibition of all events and gatherings in open and closed spaces; catering establishments, restaurants, cafés, bars, nightclubs and other entertainment venues are closed, except where food can be taken out or otherwise delivered to natural or legal persons, subject to hygiene requirements. The operation of shops, supermarkets and / or amusement centers, except the sale of food, veterinary, pharmacy, optical goods and orthopedic appliances, as well as of markets other than food, is prohibited. This prohibition does not apply to online sales and where

the goods are delivered to natural or legal persons or are collected at the point of collection in accordance with hygiene requirements,

<http://lrv.lt/lt/naujienos/visoje-lietuvos-respublikos-teritorijoje-skelbiamas-karantinas-pridedamas-nutarimas-1>

From 16 March schools are closed, <https://www.smm.lt/web/lt/naujienos/del-koronaviruso>

5. Privacy and data protection

The State Data Protection Inspectorate of the Republic of Lithuania informed the public (notably employers, educational institutions, and other public and private sector organizations) that the processing of certain personal data related to the current situation due to coronavirus (COVID-19) is compatible with the General Data Protection Regulation:

<https://vdai.lrv.lt/en/news/personal-data-protection-and-coronavirus-covid-19>

<https://vdai.lrv.lt/lt/naujienos/asmens-duomenu-apsauga-ir-koronavirusas-covid-19-papildyta-kovo-23-d>

6. Asylum and migration

Changes only related to restrictions of services of the Migration department:

<https://www.migracija.lt/-/laikinai-kei%C4%8Ciams-migracijos-departamento-klient%C5%B2-apta-navimo-tvarka?redirect=%2F>

-Foreigners whose period of residence in Lithuania expired during the quarantine, as well as those with respect to whom the decision regarding returns has been adopted, are allowed to stay in Lithuania until the end of the Covid-19 crisis.¹⁸³

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

It is prohibited to visit convicted prisoners, except for meetings with defenders.¹⁸⁴

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

¹⁸³ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration*.

¹⁸⁴<http://lrv.lt/en/relevant-information/coronavirus-in-lithuania/latest-information/the-activities-of-public-and-private-sectors>

21. LUXEMBOURG¹⁸⁵

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

The Luxembourg government took measures on 13 March, closing all schools, and on 15 March the extraordinary government meeting called all residents to stay at home as much as possible. See <https://today.rtl.lu/news/luxembourg/a/1491281.html>

- On 18 March, the **state of emergency** was declared. Parliament ratified it by 2/3 majority required as MPs voted unanimously a law to ratify it.

- This regulation of March 18, 2020 introducing a series of measures in the fight against COVID-19 was extended for a period of **three months** by the law of **March 24, 2020**.

- The law of 20 June 2020 prolongs the effects of the grand-ducal regulation of 20 March 2020, in order to extend beyond the end of the state of crisis the mechanism enabling companies and other legal persons to hold their general meetings and other essential meetings without having to be physically present, even if this does not is not provided for in their statutes. In addition, the law allows non-profit associations, co-ownership unions, the Order of Chartered Accountants and the Institute of Company Auditors to postpone their general meetings until September 30, 2020 at the latest and the Housing Fund to have additional time to complete the approval process for its accounts and certain related documents (see <https://coronavirus.gouvernement.lu/fr.html>)

- The **state of emergency shall end on 23 June**. However, two legislative bills are being drafted for the period following the end of the state of emergency, in order to regulate measures such as the obligation to wear a mask or restrictions on gatherings. Both laws will have a validity period limited to one month, with the possibility of an extension. Indeed, the procedure provides that only the texts which were the subject of a law adopted by the Parliament during the state of emergency can continue beyond this one. Concretely, this means that all the measures supposed to have to continue after June 24 need a legal basis (see <https://www.wort.lu/fr/luxembourg/les-futures-lois-covid-19-officiellement-presentees-5ed4e762da2cc1784e35edc8>)

The Consultative Commission for Human Rights (CCDH), the Chamber of Civil Servants and Public Employees and the Prosecutor's Office denounced certain measures envisaged at the end of the state of crisis. Starting with forced hospitalization, which they say is a violation of human rights (see <https://www.wort.lu/fr/luxembourg/les-lois-covid-19-violemment-critiquees-5ee71b23da2cc1784e35fadc>). On 16 June, the Council of State issued its opinion on these measures (see <https://conseil-etat.public.lu/dam-assets/fr/avis/2020/16062020-covid/60261-COVID-PL,-COVID-19-personnes-physiques-.pdf>)

¹⁸⁵ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

On 22 June, a small majority of MPs **approved “Covid laws”, paving the way for the end of the state of emergency**. The two texts extend health measures that remain in effect beyond the crisis state by one month and specific provisions aim at monitoring the evolution of the spread of the SARS-CoV-2 virus and the state of health of those infected or at high risk of being infected (see below under “privacy and data protection”). Limitations with regard to the gathering of people, the wearing of the mask in shops or public transport but also the framework for the quarantine or isolation of people infected with coronavirus are among the restrictions which are extended at first until the end of July. The same applies to the rules concerning the Horeca, sport and culture sectors (see https://coronavirus.gouvernement.lu/fr/actualites.gouvernement%2Bfr%2Bactualites%2Btoutes_actualites%2Bcommuniqués%2B2020%2B06-juin%2B24-ms-lois-covid19.html and <https://lequotidien.lu/politique-societe/luxembourg-la-sortie-de-letat-de-crise-seme-la-zizanie/>).

On 30 June, Minister of Health Paulette Lenert tabled the bill to replace the first Covid laws of June 24 and hoped that the Chamber of Deputies would adopt it within a week. Approved in the government council on July, 1, the bill merges the two Covid laws of June 24, "in a spirit of facilitating the legibility of the measures to fight the pandemic Covid-19" while adding restrictions: first, the clarification for cafes and restaurants that "only seating and table service are allowed", both indoors and on the terrace. And then the imposition of strict measures governing any gathering of more than 20 people, whether private or public. "Any gathering of people bringing together more than 20 people simultaneously is subject to the condition that people are assigned seating positions observing a minimum distance of two meters", otherwise "the wearing of a mask is compulsory". This still does not apply to funeral events or ceremonies. MPs have started to review the new Covid bill pending the advice of the State Council (see <https://paperjam.lu/article/vie-privee-enjeu-nouvelle-loi->).

Deconfinement:

- DIY firms allowed to be open gradually from April 20.
- Masks mandatory in all situations where the safety distance of two meters cannot be guaranteed.
- From 19 May, large-scale testing strategy, on a voluntary basis. From Wednesday 27 May until 28 July, a maximum of 17 "Drive-through" test stations and two "Walk- & Bike-through" test stations spread over the whole of Luxembourg will be available to perform up to 20,000 tests per day. Residents and border workers will be divided into representative groups who will receive an invitation to be tested by mail if they wish (see https://coronavirus.gouvernement.lu/fr/communications-officielles.gouvernement%2Bfr%2Bactualites%2Btoutes_actualites%2Bcommuniqués%2B2020%2B05-mai%2B22-strategie-test.html)
- On 4 May, the Prime Minister declared that “the principle of general confinement is lifted”. Schools (two last years of secondary schools only) reopened under certain conditions (in particular, half of the pupils at school at the same time) (see <https://5minutes.rtl.lu/actu/luxembourg/a/1502669.html>)
- From May 11, possibility to have social contacts, make visits and receive people, "no more than six". Shops will reopen, "with certain exceptions". Those of personal care (hairstylist, barber ...) can reopen but only by appointment. Meetings and events possible, limited to 20 people. Cultural institutions (library, CNA, museums, etc.) also open. Outdoor, non-collective sport authorized again. Reopening of all years of secondary schools under certain conditions.

- On 25 May, reopening of primary schools and nurseries under certain conditions.
 - Since May 29, restaurants, cafes, bars and places for sporting or cultural events such as theaters, cultural centers, concert halls, cinemas and places of worship can once again welcome the public. Gatherings of up to twenty people are allowed both indoors and outdoors. It is however strongly recommended to scrupulously respect the barrier gestures.
- It is possible to organize or participate in public events of more than twenty people indoors or outdoors (cultural or sporting events, congresses, etc.), subject to applying these two rules: People are seated in places that have been designated for them, Either there are two meters between people, or they wear the mask.
- The wearing of a mask is compulsory for those who supervise the event and those who circulate on the premises.
- In restaurants, cafes, bars, consumer lounges and company canteens, if the space between the tables side by side does not allow a distance of at least 1.5 meters, they must be separated by a device such as a screen.
- The number of seats is limited to ten per table, unless the guests belong to the same household. Once installed, customers can remove their mask, which they must put on before they can move in or out of the establishment. Staff members who are in contact with customers must keep their masks on throughout their service.
- All restaurants, bars and cafes close at midnight.
- The condition of the allocated seats does not apply for demonstrations (exercise of the right to demonstrate), nor for funeral ceremonies outside. Cult, culture and sport actors are not bound to this condition during the exercise of their activities.
- see <http://www.legilux.lu/eli/etat/leg/rgd/2020/03/18/a165/consolide/20200612>
- All events involving large numbers of people prohibited until July 31.
 - On June 10, 2020, the government decided, as part of the deconfinement strategy, to reopen the playgrounds at the end of the week, as well as a partial return to normal in the playgrounds. Summer activities and summer camps may take place while respecting certain protective measures.
 - The hotline set up as part of the management of the COVID-19 health crisis stopped on June 12.
 - On 16 June, Corinne Cahen, Minister of Family and Integration, and Paulette Lenert, Minister of Health, decided to alleviate the recommendations relating to visits and exits in accommodation structures for the elderly according to the new realities. General recommendations applicable to natural persons, including vulnerable persons, will be published in the coming week. Care will also be taken to monitor the development of the situation in the structures in question closely, in particular by making their residents benefit from wide access to screening (see <https://coronavirus.gouvernement.lu/fr/communications-officielles.html>).
 - On June 19, 2020, the government decided to end from June 29 the system of weekly alternation (groups A and B) in basic schools and high schools.

Parliament:

IPU: "The Chamber of Deputies of the Grand Duchy of Luxembourg has reduced its meetings. They are taking place in the premises of the parliament or remotely. Joint committee meetings will not be held until further notice. Remote meetings (video-conferencing) are regulated internally by the Chamber of Deputies. Voting during remote meetings is done by roll call.

The Chamber of Deputies uses Cisco Webex to organize remote meetings of parliamentary committees. Documents are transmitted in the usual manner – through an intranet portal. Remote meeting software is hosted by an external service provider and are cloud based.”

- During the state of emergency, the Chamber has remained operational: the deputies have voted about sixty bills in the last three months including the two "covid laws" on 22 June, which provide the rules of conduct to continue the fight against the virus (see above). 21 public sessions were organized. At the outset, the deputies were in several rooms in order to be able to respect the required interpersonal distances. Then, the plenary sessions were temporarily transferred from the "Krautmaart" to the Municipal Circle. Larger than the Hall of the House room, this temporary move brought all of the MPs together in one room. On a daily basis, parliamentary work has continued: MPs have met in the framework of parliamentary committees 189 times over the past three months; the Conference of Presidents held 10 meetings. Most of these meetings were held by videoconference (see <https://www.chd.lu/wps/portal/public/Accueil/Actualite>).

Judiciary:

The time limits prescribed in the proceedings before the constitutional, judicial, administrative and military courts have been suspended for the duration of the state of crisis.

As part of the deconfinement measures, the justice system is gradually leaving its reduced service. From 4 May 2020 a larger number of hearings is held at all levels. In criminal matters, the courts will try to clear up during this first phase, above all “single-judge” cases as well as cases concerning persons in preventive detention.

In order to reduce the flow of people in the corridors and the courtrooms, the summons to defendants have been issued by using shifted schedules: parties, witnesses and experts are requested to appear at more or less fixed hours.

This resumption is accompanied by appropriate health measures and in particular by an obligation to respect social distancing as well as the wearing of masks within the confines of buildings.

Due to the current state of crisis and in view of the delays accumulated during the Covid-19 reduced service period, the extent of the hearing plan until early August 2020 has been decided. The start of the hearing sessions during the 2020 judicial recess will therefore be postponed, from July 16 to August 3, 2020.

From Monday, May 25, 2020, services closed since March shall reopen. However, appointments will be required to have access to legal information services as well to the civil directory service.

2. Freedom of movement (internal and cross-border; sanctions)

- Luxembourg's border with Germany reopened on May 15.

- Since June 15, there are no longer any controls at the Luxembourg borders with the 3 border countries (Belgium, Germany and France).

- On 3 July, the Ministry of Foreign and European Affairs informed that the Grand Duchy of Luxembourg has acted on the recommendation of the Council of the European Union concerning the temporary restriction of non-essential travel to the EU and the possible lifting of this restriction, and this through a modification of the grand-ducal regulation of 20 June 2020 relating to the duration of the ban and the scope of the exceptions provided for in article 2 of the law of 20 June 2020 introducing certain temporary measures relating to the application of the amended law of 29 August 2008 on the free movement of persons and immigration. With this modification, the temporary restriction for third-country nationals has been extended until

15 September 2020 inclusive. However, from 1 July, third country nationals residing in one of the following countries are thus authorized to enter the territory of the Grand Duchy of Luxembourg: Algeria, Australia, Canada, China (subject to reciprocity at European Union level), Georgia, Japan, Montenegro, Morocco, New Zealand, Rwanda, Serbia, South Korea, Thailand, Tunisia, Uruguay. (see https://gouvernement.lu/fr/actualites/toutes_actualites/communiqués/2020/07-juillet/03-maee-immigration.html);

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

- All gatherings of non-family members are banned.
- Since May 29 it is possible to organize or participate in public events of more than twenty people indoors or outdoors (cultural or sporting events, congresses etc.), provided that the two following rules are applied: people are seated in places that have been designated for them, and there are two meters distance between people.
- In addition, it is possible to exert or attend leisure or sporting activities without physical contact with other people and provided that the persons comply with the appropriate safety, distancing and hygiene conditions. The wellness areas remain closed, unless they accommodate only one person or members of the same household at the same time. The outdoor play areas remain closed to the general public, while the indoor play areas remain closed for minors. The organization of exhibitions and fairs remains interrupted (see https://gouvernement.lu/fr/dossiers.gouv_msan+fr+dossiers+2020+corona-virus.html)

5. Privacy and data protection

In April, Luxembourg Prime Minister, Xavier Bettel, said he was opposed to tracing the population via an app that would track all citizens coming into contact with a person infected by Covid-19, because it would raise too many questions in terms of data protection (see <https://today.rtl.lu/news/luxembourg/a/1505179.html> and <https://lequotidien.lu/a-la-une/bettel-exclut-le-recours-a-un-système-de-tracage-des-infectés/>)

CON-VINCE, a national research project aiming to evaluate the prevalence and dynamics of the spread of COVID-19 within the Luxembourgish population, was launched at the beginning of April under the umbrella of the Research Luxembourg COVID-19 Task Force. By screening a statistically representative panel of volunteers for the presence of the SARS-CoV-2 virus, the study will identify asymptomatic and mildly symptomatic individuals and follow them up for a year. Ultimately, the study aims to generate accurate data on the prevalence and transmission of the disease, assisting policy-makers in taking evidence-based decisions over the course of the coming weeks. CON-VINCE differs from large scale testing (LST) initiative (see above), in that it does not aim to simply give a snapshot of the infection status at the time of testing. On the contrary, participants choosing to get tested in the framework of CON-VINCE provide their biological samples for research purposes, in order to support additional studies (see <https://researchluxembourg.lu/2020/06/03/con-vince-study-results-second-testing-phase/>).

- Under the "Covid laws", infected persons provide the Director of Health with a number of strictly limited information on their state of health and on the identity of contact persons during the past 48 hours. Those responsible for trips organised by collective means of transporting people, those responsible for hospitals, accommodation structures or healthcare networks may also be required to provide the Director of Health with certain information, upon request from

this last. In all cases, the processing of this data is done in accordance with the applicable legislation on the protection of personal data. The personal data processed are anonymised after a period of three months from the end of the state of crisis. The Director of Health may take, in the form of a prescription, certain measures with regard to these persons, namely:

- quarantine at the actual residence or other place of residence, for a period of seven days with submission to a screening test for infection with the SARS-CoV-2 virus from the fifth day. In the event of refusal to submit to a screening test on the fifth day, quarantine is extended for a maximum of seven days;
- isolation, at the actual residence or other place of residence accompanied by an exit ban, for a period of two weeks renewable, in the event of a result of a positive test for the SARS-CoV-2 virus, at most twice.

The person may appeal against the order of the Director of Health before the administrative court, within three days of the notification or receipt of the order.

If the infected person poses a danger to the health of others and he/she objects to being housed in another suitable place, the president of the district court of the place of domicile or of the residence of the person concerned may decide, by order, the forced confinement of the infected person in a hospital establishment or in another institution, establishment or structure suitable and equipped, for a maximum duration of the duration of the isolation order remaining to be executed (see

https://coronavirus.gouvernement.lu/fr/actualites.gouvernement%2Bfr%2Bactualites%2Btoutes_actualites%2Bcommuniques%2B2020%2B06-juin%2B24-ms-lois-covid19.html).

6. Asylum and migration

- Luxembourg welcomed 12 unaccompanied minors from Greece.

-Certificates of submission of an application for international protection (“pink papers”) are automatically extended for the duration of the crisis.¹⁸⁶

- With the sanitary crisis, the number of applicants for international protection in Luxembourg has dropped considerably. In April, there were only ten, a good hundred less than in March (see <https://www.wort.lu/fr/luxembourg/les-demandes-d-asile-en-chute-libre-5ebd09b0da2cc1784e35db65>).

- On 24 June, the Ministry of Foreign and European Affairs announced that with the end of the state of crisis, the following temporary measures have been adopted:

Third-country nationals who have declared their arrival between 1 January and 31 July 2020: the period within which they must apply for the issue of the residence permit is increased from three months to six months.

For residence permits issued by the Grand Duchy of Luxembourg which expire after March 1, 2020: the period of validity is extended until August 31, 2020.

The stay of third-country nationals holding a short-stay visa and those not subject to the visa requirement and whose stay has just exceeded 90 days after March 1, 2020: the stay is regularized until 31 July 2020.

With regard to applications for international protection, for all applicants, except in special cases, arriving before March 16, 2020, a new certificate of filing of an application for international protection will be sent to the parties concerned in the coming days. All persons arriving after March 16, 2020 will be invited by appointment to come, in person, to extend their certificate to the Immigration Directorate (see <https://maee.gouvernement.lu/fr.html>).

¹⁸⁶ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration*.

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

Prison visits have been strictly limited. Detainees and prisoners have had the possibility of making videoconferences or telephone calls.

Prison Administration decided on 18.03.2020 to suspend all physical visits to the penitentiary centers. Detainees and prisoners have had the possibility of making videoconferences or telephone calls.

Despite the deconfinement, visits remain suspended until further notice.

(see <https://justice.public.lu/fr/actualites/2020/05/adaptations-delaix-numeros-telephone-utiles.html>)

Since May 11, 2020, the Prison Administration has been progressively reopening visits to the Luxembourg Penitentiary Center. Currently, the visits take place from Monday to Friday between 9 and 16h and take place in secure visiting rooms.

As of May 29, 2020, the condition relating to parentage, respectively to the relationship between inmate and visitor, is no longer in effect, i.e. that prisoners can again receive visits from anyone (friends, lawyers, etc.), except for minors under the age of 16.

On 26 June, the minister of Justice, Ms Sam Tanson, announced "a return to a normal situation" in the course of a parliamentary answer. She indicated that during the confinement, *"each detainee was entitled to two individual walks and that they were given the opportunity to play football in the yard"*. To keep in touch with their families, the prisoners were able to use Skype, they also received 50 euros in April and May to make outside calls. According to her, *"detainees' rights had been respected"* (see <https://www.wort.lu/fr/luxembourg/les-droits-des-detenus-ont-ete-respectes-5ef5ed80da2cc1784e360686>).

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- On May 20, 2020, the government adopted a grand-ducal regulation introducing a freeze for any increase in rent for housing until the end of 2020.

- Three trade unions of employees (OGBL, LCGB and CGFP) fear that social dialogue will pay the price for the covid-19 crisis. Even if they will meet the Prime Minister on 10 June, they nevertheless request the meeting of the "tripartite" (committee bringing the government, unions and employers together) (see <https://www.wort.lu/fr/luxembourg/les-syndicats-lancent-un-sos-tripartite-5ede1874da2cc1784e35f479>).

22. MALTA¹⁸⁷

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- Measures are decided by the government, notably the Prime Minister and the Health Minister. From March 22, it was decided the temporary closure of all non-essential retail and of all non-essential services until otherwise declared, as well as the banning of all organised gatherings. Any infringements were to be charged with a €3,000 fine each time.^[19]

- On April 4, Malta declared a public health emergency which gives the Superintendent of Public Health wide-ranging powers to “reduce, remove or eliminate” the threat to public health. The declaration was made via a legal notice issued with no public announcement on April 1 and is retroactive to March 7.

https://www.maltatoday.com.mt/news/national/101468/public_health_emergency_order_gives_wide_powers_to_superintendent#.XpgvHC2B2u4

Deconfinement:

- From 4th May: Shops and lottery offices open with mandatory obligation to wear masks, social distancing and changing rooms in clothes shops will be closed. Gatherings of up four people are allowed. Bar, restaurants and hairdressers must stay shuttered. Airport is closed until the end of May. Schools will not reopen this academic year.¹⁸⁸

2. Freedom of movement (internal and cross-border; sanctions)

All organised gatherings are banned. People older than 65 and vulnerable persons with pre-existing medical conditions will be forced to stay at home throughout Malta from 28 March.

Originally, the measure announced was that those who live with people in any of these categories will have to observe the lockdown or find alternative accommodation. However, this was eventually reversed when government said that people living in the same household as those told to stay home will be allowed to go to work. See <https://timesofmalta.com/articles/view/lockdown-rules-revised-for-vulnerable-people-and-their-household.781478>

The government has also closed schools and suspended religious services. Court cases have been put off, non-essential medical services postponed and non-essential outlets closed.

A two-tier regime of fines has been introduced. €3000 per day for quarantine breakers and €10,000 for COVID Confirmed cases who are not found in the agreed address.

¹⁸⁷ See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin1 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures taken, see <https://verfassungsblog.de/covid-19-the-maltese-response-slow-at-first-but-steady-and-effective/>

¹⁸⁸<https://www.reuters.com/article/us-health-coronavirus-malta-idUSKBN22D596>

- [Malta's Tourism Ministry](#) announced that from **July 1** on, borders will reopen to travellers from Germany, Austria, Cyprus, Switzerland, the Italian islands of Sicily and Sardinia, Iceland, Slovakia, Norway, Denmark, Hungary, Finland, Ireland, Lithuania, Israel, Latvia, Estonia, Luxembourg and the Czech Republic. More countries "will be announced in due course, once clearance from the health authorities is received." Malta was the first country in Europe to ban flights from Italy, Spain, France, Germany and Switzerland, on March 10. For more information: [More information here](#).

Sanctions:

The Prime Minister stated that he intended to "introduce, immediately, a mechanism to consider an **amnesty** for fines people received over these weeks....People who were fined are not criminals. Many, many cases were down to a mistake, a lack of attention, to being in circumstances we never found ourselves in...I want a mechanism which would also allow people who already paid a fine to apply to have it forgiven and receive a refund." The announcement was criticised by the police unions, the employers' lobby and frontline healthcare professions. See <https://timesofmalta.com/articles/view/abela-backs-down-from-amnesty-calls-for-social-distancing-law-breakers.795781>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- 2020 [Annual Report](#) by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, with comments on EU MSs Bulgaria, France, Hungary, Malta, Poland.

- an Italian journalist for L'Avvenire, Nello Scavo, has been threatened by the former director of the Maltese Prime Minister's Office for his investigations into traffickers and ambiguous relations between Malta, Italy and Libya. Mr Neville Gafa wrote on Twitter: "Stop your dirty business. Otherwise we stop you." Recently the journalist wrote about the rejections of migrants by the Maltese authorities and oil smuggling from Libya to Malta and to Europe with the support of some Sicilian mafia clans. See: <https://www.linkiesta.it/2020/06/nello-scavo-migranti-malta-twitter/>

4. Freedom of assembly (and sanctions)

- social gatherings of more than five people will not be allowed. The police will be empowered to disperse such gatherings in the streets.

5. Privacy and data protection

6. Asylum and migration

- The Hal Far open centre was put on lockdown on 5 April after eight residents tested positive. Some 1,000 asylum seekers live there and will be kept in quarantine for 14 days and then extended until 3 May. The Civil Protection Department are disinfecting different parts of the centre and employees have been provided with PPEs, but concerns over the legality of detaining asylum seekers while Malta has closed its borders (and thus cannot repatriate/return them) have been raised.

Meanwhile, migrants and NGOs have expressed concerns about hygiene conditions and inability to practice social distancing due to shared sanitary facilities and sleeping quarters.

- Malta has closed its ports to prevent the spread of Covid19. As of 8th of May, there are two vessels with respectively 120 and 56 migrants. The vessels will remain at sea until the people on board are relocated to other European States on the basis of a European solution, stated the government. The cargo ship MV Marina remains stranded at the Mediterranean after rescuing a group of 78 people in distress on Sunday the 3rd of May.¹⁸⁹ An exception was made on the 7th May on humanitarian grounds when 18 women and children were brought ashore. Meanwhile reports say that Maltese authorities allegedly requested commercial ships to push boats of migrants in distress back to the high seas.¹⁹⁰
- the government announced it would vote against financial extension for the naval mission IRINI launched to enforce the arms embargo on war-torn Libya (the mission that replaced the Operation Sophia) until the situation facing Malta is acknowledged and adequately addressed. The government says that Malta is facing “an unprecedented crisis and disproportionate flows as a result of human smuggling and criminal activities in the central Mediterranean”.¹⁹¹
- Media report about a strategy to push migrants back to the conflict zone of Libya, as revealed by a woman who survived a Mediterranean crossing in which 12 people died during Easter weekend,¹⁹² as well as about the turning migrant boats away in direction of Italy.¹⁹³
- Malta will veto the appointment of the EU’s Operation Irini’s new Commander-in-Chief, unless other EU countries agree to a burden-sharing plan for migrants currently housed on the Captain Morgan boats, outside territorial waters 12 nautical miles off the east coast of Malta.¹⁹⁴
- Malta and Libya’s unity government signed a memorandum of understanding to open migrant coordination centres in Tripoli and in Valletta.¹⁹⁵
- The Maltese government chartered a fourth tourist boat to host people rescued at sea, hosting 425 persons. ¹⁹⁶ The government called the EU and Member States to show solidarity and accept to redistribute the migrants, and threatened that until a European solution was found, no migrant would be disembarked. The government referred to the corona emergency and the full capacity of the centres to explain why Malta could not host them.
- On June 6, the migrants finally disembarked in Malta after 40 days onboard from four tourist boats where they were accommodated since April. ¹⁹⁷ France, Luxembourg and Portugal showed their will to host some of the disembarked migrants.¹⁹⁸

¹⁸⁹ <https://www.ecre.org/med-hundreds-remain-stranded-at-sea-as-ports-are-still-closed-solidarity-remains-lacking-and-interceptions-continue/>

¹⁹⁰ https://www.maltatoday.com.mt/news/national/102216/un_human_rights_commissioner_calls_for_disembarkation_of_migrants_held_on_ships#.XrkgnRMzb-Y

¹⁹¹ <https://timesofmalta.com/articles/view/malta-to-withdraw-from-eu-naval-mission-monitoring-libya-arms-traffic.790682>

¹⁹² https://www.theguardian.com/global-development/2020/may/19/exclusive-12-die-as-malta-uses-private-ships-to-push-migrants-back-to-libya?fbclid=IwAR07YOBV1i0QenadKZwKxyn_m9KIAz5qIlgPxnvlolhg8WLFa7QyN6Bq8ue8

¹⁹³ <https://www.theguardian.com/global-development/2020/may/20/we-give-you-30-minutes-malta-turns-migrant-boat-away-with-directions-to-italy>

¹⁹⁴ https://www.maltatoday.com.mt/news/national/102460/malta_gives_ultimatum_to_eu_with_threat_to_veto_irini_commanderinchief_choice#.XsUotRMzZsN

¹⁹⁵ https://www.maltatoday.com.mt/news/national/102760/maltese_official_to_be_posted_in_libya_in_fight_aga_inst_illegal_immigration#.Xt4iuZ4zb-Y

¹⁹⁶ <https://www.ecre.org/med-continued-violations-topped-with-dodgy-deals/>

¹⁹⁷ <https://www.euractiv.com/section/justice-home-affairs/news/no-eu-country-accepted-any-of-the-400-migrants-stranded-off-malta/>

¹⁹⁸ <https://euobserver.com/migration/148588>

-As a consequence of the Maltese-Libyan Memorandum of Understanding, from 1 July 2020 two centres in Malta and in Libya will commence operations in fight against 'illegal immigration'. The two centres are financed by the Maltese Government.¹⁹⁹

-The European Commission has turned down a request by Malta for funding to cover the holding of migrants on tourists boats off Malta.²⁰⁰

- Thirteen Eritrean asylum seekers have filed a judicial protest calling Maltese authorities to give them an effective remedy after suffering an alleged 'push back' to Libya in a rescue operation in April.²⁰¹

-A group of 50 people who were rescued at sea and stranded on a livestock transport cargo for five days has been allowed to disembark in Malta. Malta repeated its call for a distribution mechanism that would automatically relocate people rescued at sea.²⁰²

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

The government stopped all visits to prisons - and residents at old people's homes - as a measure to prevent the spread of the virus as of 12 March. The prison authorities have also restricted movements to and from the prisons.

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- 11 June: Maltese ministers and parliamentary secretaries are under criminal investigation over an alleged misuse of funds, after a probe found some used public money to pay for social media advertising, see [articles](#).

- 15 June: Magistrate orders formal investigation into former police chief Lawrence Cutajar: Malta's former police chief is formally under police investigation. A court order the probe after an evidence session on his handling of the case of Yorgen Fenech in connection with the assassination of journalist Daphne Caruana Galizia. See [here](#).

- 19 June: Venice Commission praised steps taken to adopt its 2018 recommendations with a call for an "adequate system of checks and balances" see [Opinion](#) welcoming the endeavours of the Maltese authorities to implement various recommendations of its 2018 Opinion on Constitutional arrangements and separation of powers, on the independence of the judiciary and law enforcement.

- 23 June: the rapporteur of the Parliamentary Assembly of the Council of Europe on the murder of Daphne Caruana Galizia and on the Rule of Law in Malta, Peter Omtzigt, [called](#) for vigilance at Council of Europe on reform of Maltese government and call for justice for Daphne Caruana Galizia.

- Malta's inability to propose suitable candidates for the EPPO is causing delays in putting in place the College of European Public Prosecutors. The Ombudsman is also making an inquiry on "*alleged irregularities in the procedure for selecting a European Public Prosecutor*".

¹⁹⁹ <https://www.maltatoday.com.mt/news/national/102760/maltese-official-to-be-posted-in-libya-in-fight-against-illegal-immigration#.XudBqWozbVo>

²⁰⁰ <https://timesofmalta.com/articles/view/eu-refuses-to-pay-for-boats-that-held-migrants-offshore.797337>

²⁰¹ <https://timesofmalta.com/articles/view/migrants-seek-malta-government-remedy-after-being-pushed-back-to-libya.801870>

²⁰² <https://www.infomigrants.net/en/post/25873/migrants-disembarked-from-talia-animal-cargo-ship-in-malta>

23. THE NETHERLANDS²⁰³

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The Dutch government introduced new measures on March 23: all gatherings to be banned up to June 1, but an exception will be made for funerals and religious ceremonies with fewer than 30 people, if the 1.5 meter rule can be kept. People should remain home unless they have to go out to work, to do shopping or to care for other people. You can go out for a walk to get some fresh air, but not in a group. Keep 1.5 metres away from other people. No more than three people should visit in your home at the same time, and only then if they can keep 1.5 metres apart. If any member of a family is ill, the entire family should stay home, apart from people in an essential profession. Shops and public transport companies are able to continue functioning but must take measures to ensure people remain 1.5 meters apart. Companies which do not comply can be fined €4,000. Services which involve direct contact with others, such as hairdressers and nail bars, are closed until April 6. Casinos are also being closed down. Mayors have the power to close areas where people gather in larger groups, such as parks and beaches. People who do not stick to the rules can be fined €400. Previous measures included: Cafes and restaurants, Sports clubs, fitness centres, gyms are closed up to and including April 6. Source: <https://www.dutchnews.nl/news/2020/03/coronavirus-in-the-netherlands-new-government-measures/>

- From the 1st June new rules in place, see

<https://www.government.nl/documents/publications/2020/05/29/press-conference-about-coronavirus-changes-from-1-june-explained-in-simple-language>

- FRA noted that "the **Advisory Division of the Council of State published a report assessing the emergency ordinances** in light of the fundamental rights set out in the country's constitution, the ECHR and the Charter. It states that the restriction on rights imposed by the ordinances does not strictly correspond to the specific legal basis required by the Constitution. While justifiable during the initial acute phase of the pandemic, the report argues that these restrictions must now have a better legal foundation, and calls for the adoption of an Emergency Act to replace the ordinances. The **Netherlands Institute for Human Rights expressed similar concerns**", see https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-june_en.pdf

Deconfinement:

- May 11: Primary schools will be allowed to reopen on with smaller classes.
- June 1: Secondary schools reopen.

²⁰³ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures see Verfassungsblog article: [The Netherlands: Of Rollercoasters and Elephants](#).

- Businesses involving physical contact, such as hairdressers, will remain closed.

Parliament

- On March 15, the President of the House of Representatives announced new steps in parliament to prevent the coronavirus from spreading. The parliamentary process would continue, but the number of physical debates was heavily reduced. Only debates that are of the utmost importance continued to be held in the plenary hall; in practice this meant that only debates concerning the coronavirus took place. On Wednesday 18 March the plenary debated the current government strategy to fight the coronavirus. A similar debate took place on 1 and 16 April. See <https://www.houseofrepresentatives.nl/news/house-representatives-steps-preserve-operation-parliamentary-process>.
- However, since mid-April, the Lower House has started to again broaden its agenda to non-corona issues. All committees have identified topics and legislation to prioritise in this period, see [here](https://www.tweedekamer.nl/debat_en_vergadering/uitgelicht/kamer-kiest-onderwerpen-voor-komende-tijd) for more details: https://www.tweedekamer.nl/debat_en_vergadering/uitgelicht/kamer-kiest-onderwerpen-voor-komende-tijd

2. Freedom of movement (internal and cross-border; sanctions)

- The country enforced restrictions on foreign travel on March 19. Borders, however, are **open** for those travelling to the Netherlands from the Schengen Area, but they must "follow Dutch advice and rules to combat COVID-19", like standing 1.5 metres away from each other, washing hands and avoiding to shake hands. For those coming from outside the Schengen Area (i.e. US, Australian and Canadian citizens) tourism/non-essential travel is banned until June 15 included. More information can be found [on the Dutch Government website](#).

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

See point 1.

5. Privacy and data protection

- The Dutch Data Protection Authority provided information on data protection and coronavirus: <https://autoriteitpersoonsgegevens.nl/nl/onderwerpen/corona/corona-op-de-werkvloer>
- On April 7th, the government announced that contact tracing apps would be a cornerstone of the exit strategy of the Netherlands. The Minister for Health initially announced that he could not exclude that this app might be compulsory and invited all interested parties to give inputs into the process of developing the app. 700 private parties showed an interest to develop or offer a contact tracing app. From these 700, seven teams of contact tracing apps developers were selected to participate in a public test on 18-19 April, organised by the Ministry of Health in an "Appathon". None of the seven potential apps met the criteria and standards. The government announcement of the introduction of a contact tracing app triggered a lively public debate, with academics, NGOs, the media and the Lower House raising critical questions about the privacy and data protection risks. The DPA stated that it is not yet able to fully assess the privacy and data protection risks as the apps' main features are unclear. However, the DPA expressed publicly its concerns. In the general public debate, the speed with which the app is developed leads to concerns over how well choices have been reflected upon, from a technical, legal and democratic point of view. The Prime Minister later announced that the government is no longer pursuing the option of a mandatory app. It is unclear how the app selection process will now continue. See: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-app>

6. Asylum and migration

The Immigration and Naturalisation Service has suspended all ongoing asylum procedures until 28 April 2020. This means e.g. that no interviews take place. New asylum requests cannot be lodged either. The government has installed a temporary reception facility for those wishing to apply for asylum in the future.

- Asylum seekers can register at the application centre in Ter Apel but they cannot officially apply for asylum.²⁰⁴

- For new arrivals, there is still a medical check-up, fingerprints are taken and there is a short registration by the Aliens Police Department, Identification and Human Trafficking (AVIM). After registration, asylum seekers are temporarily housed in emergency accommodation until they can apply for asylum.²⁰⁵

- All interviews are postponed. Yet, test to do remote interviews have started.²⁰⁶

- Since April, protests have taken place across the Netherlands to lobby the Dutch government to take in 500 unaccompanied children living in squalid camps on the Greek islands.²⁰⁷

- The House of Representatives rejected a motion to receive accompanied children from the Greek camps in the Netherlands. The Dutch Council for Refugees condemned such vote.²⁰⁸

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

A number of prisons have reported corona virus cases, both of prisoners and guards. Prisoners, including minors, are not allowed to have any visitors any more, except for meetings with lawyers in case contact cannot be safely established via phone or Skype. Some court cases are continuing with suspects attending via video link. See: <https://www.dji.nl/over-dji/coronavirus/index.aspx>

8. Discrimination

The police communicated an increase in reported cases of discrimination against individuals of Chinese descent, totalling 2000 reported over the course of just a few weeks, a number normally registered over the course of 6 months. See: <https://www.politie.nl/nieuws/2020/maart/21/discriminatie-tegen-chinese-nederlanders.html>

9. Any other issue relevant for Art. 2 TEU

²⁰⁴ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²⁰⁵ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²⁰⁶ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²⁰⁷ <https://www.theguardian.com/world/2020/jun/21/dutch-government-under-growing-pressure-to-take-in-child-refugees>

²⁰⁸ https://www.vluchtelingenwerk.nl/nieuws/teleurstelling-en-onbegrip-over-verworpen-kamermotie-vluchtelingenkinderen?fbclid=IwAR0QxVqnyUxqirN5KBQDnj0FKf_x0A02Q1AnlQUz2Kv75VSzKXiM6GQYRQ

24. POLAND²⁰⁹

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- On 13 of March, the Minister of Health declared a **state of "epidemic threat."**

On 20 March the government declared a **"state of epidemic"**, for the first time, which implied the closure of schools, fines for individuals breaking the quarantine increased from EUR 1100 to EUR 6600, powers to restrict the movement of citizens in certain areas, use of private property to fight the epidemic, etc. Strict quarantine measures, with schools, public institutions and restaurants closed, and the borders shut for foreigners. The lockdown will be in place until April 11.

On 27 March an extraordinary session of the parliament took place, with video-links and electronic voting.

The NGO Civil Development Forum states that the new measures mean that the country is in a state of emergency, but that the government avoid to declare it as it would imply that for 60 days elections cannot take place; and that if the government doesn't officially declare it, then it is violating the constitution.

[Ewa Łętowska](#), a former judge in the Polish [Constitutional Tribunal](#), also criticised the law as effectively creating a new, 180-day long [state of emergency](#), in addition to the state of emergency rules defined in [the Polish Constitution](#) for a maximum of 90 days. She interpreted the law as giving the authorities arbitrary power without control by administrative courts.^[33]

The law does not foresee for a set date for termination of the state of epidemic.

Deconfinement:

- April 20: Parks and forests reopened and more people allowed into supermarkets and churches.
- May 4: shopping malls, hotels and certain cultural institutions will be able to reopen.
- May 6: First kindergardens reopen.
- May 24: Polish schools might reopen.
- Mask-wearing mandatory in public.

Parliament:

IPU: "The Polish Sejm will allow parliamentarians to vote remotely. The Sejm statute does not permit holding sessions online, so the Presidium passed a resolution to change the statute specifically for COVID-19. Three other extraordinary states stipulated in the Constitution were also added: a state of natural disaster, martial law, and a state of emergency.

²⁰⁹ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

Online voting to change the statutes will open the session of Friday, 27 March. This is to help quarantined MPs to join in the debate. There will, however, be a limited number of deputies on the parliament floor, delegated by factions to speak on their behalf.

Each deputy will receive a video clip showing how to connect to the remote session, and their identity will be authenticated via text messages. Those staying at home will be able to ask questions and express their opinions. The session will be beamed from two wall screens in the plenary room."

Judicial system:

from <https://www.coe.int/en/web/cepej/compilation-comments#Poland>: "The Ministry of Justice has recommended the postponement of non-urgent hearings scheduled to take place between 13 and 31 March 2020. In practice, the courts deem to be urgent, for example, cases concerning minors, domestic violence or temporary arrest. As such, hearings of commercial disputes have been postponed. It is anticipated that hearings scheduled for April-May will be postponed as well. Face-to-face contact between judicial staff and other persons has been reduced, and access to court buildings limited. Court submissions must be filed by post but some courts are accepting submissions filed by email (which is unusual in Poland). Evidence of witnesses in any urgent hearings must be carried out by video or teleconference. It is anticipated that legislation will be introduced to mitigate the impact of the virus on the judicial system. A press release from the Ministry of Justice indicates that the legislation will, for example, stay certain procedural and substantive time limits, including procedural and court deadlines in civil proceedings."

Presidential elections and duration of the mandate of the President

- A controversy emerged on the refusal by the government to postpone Presidential elections to take place on 10 May, despite the epidemics. The Parliament adopted measures on 28 March expanding postal voting for those over 60 and to people under quarantine — but not to Poles living abroad. The opposition Civil Platform candidate decided to halt her campaign and boycott elections. The opposition also stated that Polish law forbids any changes to electoral rules six months before an election. Adam Bodnar, Poland's human rights ombudsman, warned in a [letter](#) to the country's electoral commission: "Exposing voting citizens as well as members of electoral commissions to a serious risk of health and life could lead to civil and even criminal responsibility for public officials." President Duda himself said he doubted the date of elections is sustainable if the situation remains as it is today. See <https://www.politico.com/news/2020/03/29/polands-coronavirus-crisis-election-unleashes-political-warfare-154852> and also others have hinted at a reflection on the matter.

- The ruling Law and Justice (PiS) party filed draft legislation for the postal vote amendment in parliament on 31 March, giving to all citizens the option of a postal vote in presidential elections scheduled for May 10. The rules will only apply once, during the 2020 presidential elections," the draft legislation stated. As it stands, only Poles over the age of 75 or those with certain medical conditions are eligible for postal votes. See <https://www.reuters.com/article/us-health-coronavirus-poland-election/polish-government-to-allow-postal-votes-in-may-presidential-election-idUSKBN21I2UI>

- 40 NGOs called on the prime minister to introduce a state of natural disaster and postpone the vote. If the vote went ahead, "the election result would very likely not reflect the real preferences of voters, and the president's legitimacy to hold office in such conditions would be extremely weak", said the appeal. More than 500 doctors and medical professors have also

signed an appeal calling on the vote to be postponed on the grounds that it would cause a health risk for those taking part, <https://www.theguardian.com/world/2020/apr/01/polish-government-still-planning-to-hold-presidential-election>

- on 6 April, the Sejm first rejected then approved the amendment on postal ballot. The law is now in the Senate, whose President announced he will consult constitutionalists on the issue of the unconstitutionality of electoral changes in the 6 months preceding elections.

<https://www.politico.eu/article/polish-pis-rams-through-electoral-system-changes/>

- the PL Constitutional Court stated in 2006 that changes to the electoral code could not be made in the six months preceding the elections.

- Code of good practice of the Council of Europe Venice Commission requires States not to change the electoral law in the year preceding elections: "2. Regulatory levels and stability of electoral law: a. Apart from rules on technical matters and detail – which may be included in regulations of the executive – rules of electoral law must have at least the rank of a statute.

b. *The fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law.*" And the Guidelines states: "It is not so much changing voting systems which is a bad thing – they can always be changed for the better – as changing them frequently or just before (within one year of) elections. Even when no manipulation is intended, changes will seem to be dictated by immediate party political interests". http://www.eods.eu/library/VC.Electoral%20Law_EN.pdf

- "Genuine campaigning and public debate are vital for democratic elections, OSCE human rights head says" <https://www.osce.org/odihr/elections/449695>

- a draft law has been tabled in the PL Parliament on the extension of the mandate of the President to 7 years, <https://www.euractiv.com/section/elections/news/polands-pis-seeks-constitutional-change-to-extend-presidents-term/>

- On April 8, the co-rapporteurs on the situation in Poland for the **Parliamentary Assembly** of the Council of Europe recommended [postponing the elections to the second half of this year](#).

- The bill on postal voting has to be approved in the upper house, the Senate, where the opposition could block it until May 6, four days before the proposed election date, which is too little time to organize a postal vote. Deputy Prime Minister Jacek Sasin [admitted](#) that Ballots are being printed,. "The post office — which is supposed to deliver them — is sending legally dubious requests to local authorities for personal data on all voters", see <https://www.politico.eu/article/a-polish-recipe-for-cooking-an-presidential-election-pis/>

- the National Electoral Commission tasks have been passed to the Postal service.

- Polish postal vote raises data privacy **concerns**, Mayors have struck back against a request to provide data on constituents and The Association of Polish Cities said [in a statement](#) that the Post's request to share the data is "illegal.", see <https://www.politico.eu/article/polish-postal-vote-raises-data-privacy-concerns/>

- on 27 April, the **Supreme Court** judged the law unconstitutional and OSCE issued an [opinion](#) on the Draft Act on Special Rules for Conducting the General Election of the President of the Republic of Poland Ordered in 2020 (Senate Paper No.99). [ODIHR called on Poland to introduce changes only to the electoral framework well in advance](#) of elections in order to preserve legal certainty and allow sufficient time for preparations and voter education. The main opposition party calls for a boycott of elections.

- for a critical view affirming that by refusing to apply EU law and Treaties, "Poland and Hungary are withdrawing from the EU": <https://verfassungsblog.de/poland-and-hungary-are-withdrawing-from-the-eu/>

- 29.04: European Commission website: the Commission "launched an **infringement procedure** by sending a Letter of Formal Notice to Poland regarding the new law on the judiciary of 20 December 2019, which entered into force on 14 February 2020. The new law on the judiciary undermines the judicial

independence of Polish judges and is incompatible with the primacy of EU law. Moreover, the new law prevents Polish courts from directly applying certain provisions of EU law protecting judicial independence, and from putting references for preliminary rulings on such questions to the Court of Justice. The Polish Government has two months from this date to reply to the Letter of Formal Notice. The full press release is available [online](#)".

- On 28 April, 612 Polish judges sent a [letter](#) to the Organisation for Security and Co-operation in Europe (OSCE) to voice their concern regarding the continuation of the presidential election on 10 May by post, despite the Covid-19 pandemic.

- Statement by former Polish Presidents and Prime Ministers announcing that they will not vote at elections: "The procedure of correspondence voting in the form and time as proposed by the ruling party is a pseudo-election. We will not take part in them. We hope that candidates and voters who share our concern for the democratic future of Poland will do the same," they said in a [statement](#).

- on 29 April: letter to the OSCE/ODIHR signed by 1278 judges from all over Poland, requesting the OSCE/ODIHR to monitor the presidential election by post in May and to send its observers to these elections. Some judges are being prosecuted for this reason.

- The leaders of the ruling parties issued a [statement](#) saying that the May 10 [vote](#) will be annulled once the Supreme Court certifies that the election didn't happen, and that the speaker of parliament will then set a new date for a postal-only vote. Joanna Lemańska, head of one of the divisions of the Supreme Court, stated "I was very surprised about the information that a decision has been taken about the [court's] future ruling". The press called the "elections" "bizarre" and "ghost elections". The [new date](#) for the elections will be decided within two weeks and shall take place within 3 months, with the majority trying to hold elections early and opposition preferring to hold them once the pandemic situation is improved.

- for an analysis: Between Constitutional Tragedy and Political Farce <https://verfassungsblog.de/between-constitutional-tragedy-and-political-farce/>

- on 3 June, the Speaker of the Sejm stated that Presidential elections will take place on Sunday 28 June. Shall no candidate win more than 50% of the votes, a second vote will take place between the 2 most voted candidates, on 12 July.

- Presidential elections took place on 28 June, with a runoff vote to take place on July 12. On 29 June 2020 Organization for Security and Cooperation in Europe - following its elections monitoring mission - stated in a [press release](#) and [statement](#): "Polish presidential election managed well despite legal uncertainties, but intolerance and public media bias tarnished campaign" and that public media had heavily favoured Duda and had "failed in its duty to offer balanced and impartial coverage", while Duda used "inflammatory language" and run a campaign that "was at times xenophobic and homophobic".

- PACE sent a 4 Members delegation to Poland from 26 to 29 June to assess presidential elections, accompanied by a member of the Venice Commission (group of experts in constitutional law). A [statement](#) was issued at the end of this visit, which is part of the full monitoring procedure for Poland adopted by the Assembly in January 2020, which noted that "the campaign was characterised by negative campaigning, a polarised environment, inflammatory language, xenophobic and homophobic rhetoric and hate speech" and reported that it was "informed that the National Broadcasting Council had ensured neither impartial, balanced coverage nor effective oversight of the campaign". They also affirmed that "The Assembly delegation is of the opinion that the legal framework for this election, held under emergency circumstances, should have been adopted through a public and inclusive process in order to avoid any political speculation on such sensitive issues".

2. Freedom of movement (internal and cross-border; sanctions)

- From 24 March, on the basis of a regulation by the Prime Minister, people can only commute to work, shop for essential food products and medicines or visiting vulnerable members of family. Movement of groups larger than two, with exception of family members, is prohibited.

- **Temporary border checks** were introduced due to Coronavirus COVID-19 at land borders with Czech Republic, Slovakia, Germany, Lithuania, sea borders, air borders; (15 March - 24 March 2020).
- A series of traffic jams were registered, as those travelling to the Baltic States by car were blocked at the Polish borders. The situation has now improved.
- The government took measures to bring Poles back to Poland and organized air bridges operated by the national carrier LOT, charging for tickets and 32,000 Polish nationals used that opportunity. From 23 March Poland activated the Civil Protection Mechanism to allow returning home free of charge.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

In mid-to-late March, the [Ministry of Health](#) tried to prevent medical personnel from commenting on the pandemic, to which the [Polish Ombudsman Adam Bodnar](#) objected on [constitutional](#) grounds of freedom of speech and the right of the public to information. Doctors opposed the self-censorship orders. A nurse was fired on 18 March for speaking out about the conditions at her hospital.^{[22][23]} Source:

https://en.wikipedia.org/wiki/2020_coronavirus_pandemic_in_Poland

- RSF: "In Poland (down three at 62nd), which lost three places this year, the government's control over the judiciary has adversely affected press freedom. Some courts use article 212 of the penal code which allows [sentences](#) on journalists of up to a year in prison on defamation charges. Up to now judges have only imposed fines but the damage has been done and an underlying climate of self-censorship has now come to the surface." <https://rsf.org/en/2020-rsf-index-europes-journalists-face-growing-dangers>

- [2020 Annual Report](#) by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists, with comments on EU MSs Bulgaria, France, Hungary, Malta, Poland.

- IPI: "On May 8, Pawel Rutkiewicz, a reporter for Gazeta Wyborcza in Warsaw, was arrested by police while covering an anti-lockdown demonstration in the city. Rutkiewicz attended to report and had been inside the crowd interviewing protesters and reporting news to editors at Gazeta Wyborcza. When police broke up the protest and demanded those in attendance leave the scene, Rutkiewicz attempted to leave. However, he was blocked by officers at a police cordon. Despite repeatedly identifying himself as a journalist and showing his press pass, he was detained. After the newspaper intervened, Rutkiewicz was released without charge. No formal apology was offered. Gazeta Wyborcza said it considered the detention as an act of "intentional intimidation" against independent journalists thinking of reporting on anti-government protests".

- IPI: "A petition for punishment of a photojournalist from "Gazeta Wyborcza" newspaper Wojciech Jakub Atys for breaking quarantine measures has been submitted to the court by the Warsaw Zoliborz Police Station. On 29 March, the journalist took photos of the protest of two activists in front of the house of the leader of Law and Justice party, Jarosław Kaczyński. Police said he broke social distancing rules. The editors of Gazeta Wyborcza in Warsaw stressed Atys had been there in his profession capacity as a photojournalist, condemned the police's actions and demanded the case against him be withdrawn."

- According to Article 19, "provisions within the COVID Act, mean that the ability to quickly obtain public information will in practice depend only on the goodwill of the authority", see <https://www.article19.org/resources/advances-in-freedom-of-information-under-threat-during-coronavirus-pandemic/>.

- [media](#) reported that the Polish state-owned radio Trójka censored its iconic weekly music chart after a song that topped Friday's list and which takes aim at Jarosław Kaczyński, the chairman of the ruling Law and Justice (PiS) party, was scrubbed from its site.

- "Repression of Freedom of Expression in Poland: Renewing support for Wojciech Sadurski": <https://verfassungsblog.de/repression-of-freedom-of-expression-in-poland-renewing-support-for-wojciech-sadurski/>

- 11 June: Amnesty reports about charges brought by Polish authorities against two activists who face possible prison sentences of up to 10 years for a poster campaign in Warsaw accusing the government of manipulating COVID-19 statistics. They were charged with "theft and burglary" for removing the glass covering of advertisements on bus shelters, to replace them with their own posters, despite not having taken anything with them. AI calls authorities to drop the charges. "These charges are absurd and appear to be intended to punish those who express their criticism of the authorities. If they are not dismissed, they may have a chilling effect and create additional barriers to the vital work of human rights defenders in the country...

These strong-arm tactics are part of a wider pattern of harassment of protesters and activists in Poland", states AI. See <https://www.amnesty.org/en/latest/news/2020/06/poland-activists-at-risk-of-10-year-jail-term-for-covid-19-poster-campaign-challenging-government-statistics/>

- Presidential elections: The Guardian reports that "Duda has taken advantage of the support of Poland's [partisan public television network](#), which has boosted his campaign, while portraying Trzaskowski as beholden to LGBTQ+, Jewish and foreign interests. Analysis by the OKO.press news portal found that in the three hours after polls closed, public television showed Duda speaking for 56 minutes, while Trzaskowski was featured for just eight minutes."

- Tension mounts in Poland as the second round of elections approaches, as independent media and LGBTI+ persons are targeted as hate scapegoats by Duda and PiS through a propaganda with anti-German and anti-semitic tones. On 6 July, Duda continued his homophobic hate campaign by proposing a constitutional amendment that would bar single-sex couples from adopting children. He attacked private media that do not campaign for him and that reported about the pardon Duda conceded to a convicted child abuser who had hit his daughter in the face and sexually molested her. The Minister of Justice said that the government would have looked into media ownership in revenge. The US ambassador intervened to defend one of the attacked media. The two candidates for the Presidency, due to the political polarization in the country between the pro-European and pro-article 2 TEU values camp, and the pro-Duda/PiS camp, refused to confront each other on TV, also since the public broadcaster has been occupied by the government and is actively campaigning for Duda, as noted by OSCE and the PACE delegation that monitored the country, see <https://www.politico.eu/article/poland-election-2020-president-andrzej-duda-goes-to-war-against-foreign-media/>

4. Freedom of assembly (and sanctions)

- From 24 March (and before), public gatherings are prohibited. Max. 5 persons can participate in religious ceremonies (masses, funerals, etc.).
- demonstrations started to take place, with different enforcement standards being applied by the authorities.

5. Privacy and data protection

- See Statement by the President of the Personal Data Protection Office on coronavirus <https://uodo.gov.pl/en/553/1103>

- Mateusz Morawiecki, Poland's prime minister, said that his government would also introduce "electronic solutions" to ensure that people meant to be in quarantine really were staying at home. See <https://www.ft.com/content/64539a44-6e87-11ea-89df-41bea055720b>
- Poland has made its own quarantine-enforcement app, which involves people uploading selfies when prompted so that officials can pinpoint their exact locations. It's mandatory for anyone potentially infected with the coronavirus. See <https://www.politico.eu/article/poland-coronavirus-app-offers-playbook-for-other-governments/>

6. Asylum and migration

- Office for Foreigners is closed and has suspended all direct contacts.²¹⁰
- Difficulties in lodging asylum applications at the border have been reported (especially in Terespol)²¹¹
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

- Polish trade unions and employers organisations are protesting against the fact that the new law allows the government to dismiss members of the Social Dialogue Council, see <https://www.euractiv.com/section/politics/news/polish-organisations-protest-crackdown-on-social-dialogue/>
- the Polish Catholic Church initially resisted coronavirus recommendations to avoid gatherings and the government only limited the number of churchgoers to 50 at a time, and then last week to five. Archbishop Stanisław Gądecki, the head of the Polish episcopate, earlier in March called for more church services to accommodate worshippers, as not praying during the epidemic would be "unthinkable". In a [press release](#) published on March 10, he emphasized that hospitals treat bodily diseases and churches treat — among other things — spiritual diseases. However, he has since urged faithful to use media broadcasts of services to prayer, especially over the Easter period. See <https://www.theguardian.com/world/2020/mar/29/church-goers-around-the-world-ignore-social-distance-advice> and <https://www.churchmilitant.com/news/article/polish-archbishop-calls-for-more-masses-during-coronavirus-crisis>
- Two draft laws will be voted in the Polish *Sejm*, one intends to ban one of the cases for abortion still legally permitted in Poland: that of severe foetal anomaly. The second, according to its promoters, is intended to prevent the "sexualisation of children": it aims to limit sexual education and provides for up to 3 years in prison for offenders. The draft laws were sent back to committee when voted in plenary.
- 17 April 2020: adoption of the European Parliament resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP)): Par. 46: "deems it totally incompatible with European values ... the steps taken by the Polish Government – namely changing the electoral code against the judgment of Constitutional Tribunal and provisions laid by law – to hold Presidential elections in the middle of a pandemic, which may endanger the lives of Polish citizens and undermine the concept of free, equal, direct and secret elections as enshrined in the Polish Constitution;"

²¹⁰ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²¹¹ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

And Par 48.: "Calls on the Member States to effectively guarantee safe and timely access to sexual and reproductive health and rights (SRHR) and the necessary healthcare services for all women and girls during the COVID-19 pandemic, especially access to contraception, including emergency contraception, and to abortion care; strongly rejects any attempts to backtrack on SRHR and LGBTI rights, and in this context condemns the attempts to further criminalise abortion care, stigmatise HIV positive people, and undermine young people's access to sexuality education in Poland, ...";

- Freedom House [Nations in Transit report](#) notes in the chapter on "**Democratic disintegration**": "The breakdown of the democratic consensus has been most visible in Central Europe and the Balkans, which experienced the greatest gains after the end of the Cold War. In Poland, the governing Law and Justice (PiS) party has been waging a war against the judiciary in an attempt to convert it into a pliant political tool. After devoting its initial years in office to an illegal takeover of the country's constitutional court and the council responsible for judicial appointments, the PiS government started persecuting individual judges in 2019. By early 2020, judges who criticized the government's overhaul or simply applied European Union (EU) law correctly were subjected to disciplinary action. Such an attack on a core tenet of democracy—that there are legal limits on a government's power, enforced by independent courts—would have been unimaginable in Europe before PiS made it a reality".

- The Polish Health Minister Łukasz Szumowski is accused by the opposition of corruption for allegedly allowing friends and family to enrich themselves thanks to their ties to him, see <https://www.politico.eu/article/corruption-accusations-dog-polish-coronavirus-pandemic-response-lukasz-szumowski/>.

- EESC denounces the "Alarming pressure on civil society: Polish EESC member becomes a target of government retaliation and NGOs no longer able to choose their own candidates", see Statement at <https://www.eesc.europa.eu/en/news-media/news/alarming-pressure-civil-society-polish-eesc-member-becomes-target-government-retaliation-and-ngos-no-longer-able-choose>

- According to the [International Planned Parenthood Federation European Network \(IPPF\)](#) on 23 June the Polish President signed a new law as part of the fourth package of "*pandemic-related measures*", which amends the Penal Code establishing among other things penalties for insulting the President, petty theft, and medical errors, as well as prison sentences of up to 8 years for performing abortions outside the limits of Polish law, one of the most restrictive in Europe, which is legal in Poland only in order to save the life or preserve the health of women, when the pregnancy is the result of rape or incest, or in situations of serious foetal abnormality.

Judicial independence:

- In January, the Commission asked the Court of Justice of the European Union for interim measures to stop the activities of the new disciplinary chamber of the Polish Supreme Court until the Court had delivered its ruling.

- 8 April: CJEU decision agreeing to issue interim measures

- 20 April: the Polish Constitutional Court decided to reverse a decision of the Polish Supreme Court adapting into national law a ruling of the EU Court of Justice handed down in November 2019. This judgment notably invalidated the Polish law on the retirement age of Supreme Court judges, see <https://notesfrompoland.com/2020/04/21/constitutional-tribunal-rules-in-favour-of-polish-government-against-supreme-court-on-judicial-reform/>.

- on 29 April the European Commission launched an [infringement](#) procedure by sending a Letter of Formal Notice to Poland regarding the new law on the judiciary of 20 December 2019 (called by its critics the "muzzle law"), which entered into force on 14 February 2020, as it undermines the judicial independence of Polish judges and is incompatible with the primacy of EU law. Moreover, the new law prevents Polish courts from directly applying certain provisions of EU law protecting judicial independence, and from putting references for preliminary rulings on such questions to the Court of Justice.
- 8 May: the Polish Government notified the European Commission of the implementation of the Court of Justice of the European Union's order of 8 April requesting the immediate suspension of the new provisions of the disciplinary regime for judges. The Polish Supreme Court acting President stated that the SC will comply with the urgent request made by the Commission in January. The SC *"suspends referral of new disciplinary cases involving judges to the Supreme Court"* pending further decisions, including by the Polish Constitutional Tribunal. These cases *"will be temporarily held in the files of the Secretariat of the First President of the Supreme Court"*. In another statement, the new acting President asked the judges not to take a public position during the interim period on pending cases that relate to the new Disciplinary Chamber, so that their independence would not be called into question.
- 25 May: Polish President Andrzej Duda appointed Małgorzata Manowska (former PiS deputy justice minister) as the new president of the Supreme Court, ignoring advice from the majority of judges, who [recommended](#) Włodzimierz Wróbel, considered a more independent candidate, for the post.
- **LIBE** held a meeting of its MG DRF and multiple meetings and hearings with Polish government representatives, NGOs, stakeholders, academics and on 25 May discussed the [draft interim report](#) on the risk of a serious breach by Poland of the rule of law by its chairman and rapporteur Juan Fernando López Aguilar.
- On 5 June, Commissioner Didier Reynders sent a new letter to the Polish Minister of Justice asking to indicate by 24 June how it intends to comply fully with the Court's ruling, since the Commission was not satisfied with the 8 May Polish government reply regarding compliance with the Court of Justice's order of 8 April ordering Poland to immediately suspend the deployment of its new disciplinary measures against judges. According to the Commission, it was not certain that the measures to comply with the decision *"will remain in place until the final judgment"* of the Court and noted that in some cases the activities of the Disciplinary Chamber of the Supreme Court continued.
- on 15 June, **ECtHR** gave notification to Poland of the 6th group of cases concerning an alleged lack of independence of the judiciary, this time of the Supreme Court, see also press releases concerning issues related to the judiciary in Poland in the cases *Grzęda v. Poland* (no. 43572/18), *Xero Flor w Polsce sp. z o.o. v. Poland* (no.4907/18), *Broda v. Poland* and *Bojara v. Poland* (nos. 26691/18 and 27367/18), *Żurek v. Poland* (no. 39650/18) and *Sobczyńska and Others v. Poland* (nos. 62765/14, 62769/14, 62772/14 and 11708/18). See [https://hudoc.echr.coe.int/eng-press#{"itemid":\["003-6720786-8957641"\]}](https://hudoc.echr.coe.int/eng-press#{)
- **new disciplinary** proceedings were opened against judges who published posters calling on the government to stop its *"repression"* against the country's judges, according to *Gazeta Wyborcza*. The Minister of Justice, Zbigniew Ziobro, ordered new proceedings against two Krakow judges after an official of the disciplinary chamber refused to take action against them - contrary to EU requests and requirements of 8 April asking it to suspend the activities of the disciplinary chamber of the Supreme Court.

Homophobia:

- The European Commission has written to the governors of the five provinces of Lublin, Łódź, Małopolska, Podkarpackie, and Świętokrzyskie - provinces that adopted resolutions declaring themselves "free from LGBT ideology" or adopting "Charters of Family Rights" - recalling them that the activities of beneficiaries of the European Structural and Investment Funds must be in accordance with European values and may not violate any European laws. The Commission asked them to investigate and report to it. The EP had condemned in a resolution of 18 December 2019 the decisions by local authorities to declare themselves "LGBT-free zones". An "Atlas of Hate" provides information on the resolutions passed at local level; the authors have been subjected to a lawsuit. See among others, <https://notesfrompoland.com/2020/06/03/european-commission-intervenes-on-lgbt-ideology-free-zones-in-poland/> and <https://notesfrompoland.com/2020/03/05/polish-municipalities-to-sue-lgbt-activists-for-including-them-in-atlas-of-hate/> and https://ruleoflaw.pl/the-european-commission-intervenes-on-lgbt-free-zones-in-poland/?utm_content=buffer63f10&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer

- Gay bashing by President Duda: on 14 June, President Duda [said](#) at a public rally in Brzeg in Southwestern Poland, referring to an "LGBTI ideology", that "The generation of my parents didn't battle for 40 years to throw communist ideology out of schools, so that it couldn't be imposed on children ... for us to agree to a different ideology, and one even more dangerous to people. An ideology that hides deep intolerance under phrases of respect and tolerance". Duda talked about "fake news" but did not deny being misreported. The previous week Duda signed a "family values" charter that vows to protect children from "LGBTQ ideology" and to never allow gay marriage — something that Poland's constitution already forbids. See <https://www.politico.eu/article/poland-presidential-election-2020-andrzej-duda-turns-to-lgbtq-attacks-as-election-campaign-falters/>

- Politico reports that "Przemysław Czarnek, MP and a member of Duda's campaign team, [said](#) during a Saturday TV interview that he'd seen gay people parading in Los Angeles and that, "These people aren't equal to normal people...Let's defend families against this time of rot, depravation, completely immoral behavior. Let's defend against LGBT ideology and let's stop listening to this nonsense about some sort of human rights and some sort of equality,". Another PiS MP recently [compared](#) allowing gay marriage to zoophilia. See <https://www.politico.eu/article/poland-presidential-election-2020-andrzej-duda-turns-to-lgbtq-attacks-as-election-campaign-falters/>

- Commissioner Vera **Jourova** said at the LIBE committee on 15 June 2020 on gay free zones: "This is outrageous -- I can't believe this is happening in the EU...We can't fund the projects of cities that are in breach of equality, a basic value in EU law and in the Polish constitution". She added on the declarations of Duda: "I find it really sad that in modern Europe, politicians holding high offices decide to target minorities for potential political gains," adding that it violated EU guarantees of equal rights for all. She also stated she was "confused" by the comparison of the LGBT rights movement to communist ideology. "I remember communist ideology as something which was suppressing and persecuting everything and everyone who was different," she said. See <https://www.nytimes.com/aponline/2020/06/15/world/europe/ap-eu-poland-lgbt-rights.html> and <https://www.thehour.com/news/article/Polish-president-s-anti-gay-campaign-brings-sharp-15340816.php>.

- see also above Presidential election, on Duda's proposal to insert a prohibition in the Constitution for LGBTI persons to adopt.

25. PORTUGAL²¹²

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- On 18 March, the President of the Republic has declared on the basis of Article 19 et al. of the Constitution (after consulting the Government and requesting an authorization to the Assembly of the Republic beforehand) a **state of emergency** (for the first time in its democratic history) for public disaster, through [Presidential Decree n.º 14-A/2020, 14th of March](#) in place until April 2, and renewed by [Presidential Decree n.º 17-A/2020, 2nd of April](#). Law n.º 44/86, 30th of September, on the legal framework for the state of emergency (last amended by [Organic-law n.º 1/2012, 11th of may](#)) implements the Constitutional provisions on the state of emergency, by regulating the procedures and control mechanisms²¹³.

The decrees grant the government the power to deploy the army for security purposes, to intervene in the economy and set prices of basic goods, and to recruit private or public employees in the production of strategic goods.

Workers are expected to work from home, if at all possible. Banks, pharmacies and food stores will remain open, while restaurants have been encouraged to close and switch to delivery or take away, see <https://www.dw.com/en/coronavirus-what-are-the-lockdown-measures-across-europe/a-52905137>

Parliament approved the decree without negative votes, see <https://rr.sapo.pt/2020/03/18/pais/parlamento-aprova-declaracao-de-estado-de-emergencia/noticia/185891/>. Since the state of emergency can last max 15 days (n.º 5 of article 19 of fundamental law) and can be successively renewed, institutions did so various times.

At the beginning of May, the government has **lifted the state of emergency** in Portugal which has now been replaced with a **state of calamity**, that will be in place until at least mid-June, see <https://www.theportugalnews.com/news/the-new-rules-in-portugal/54022> and <https://www.macaubusiness.com/portugal-main-points-of-phase-3-of-the-lockdown-easing/>

The government on 9 June announced that the State of Calamity will continue **to the end of June**, at which point the country as a whole will embark on a new **State of 'Contingency'**. Areas least hit by the virus – including the Algarve and Alentejo – will probably skip 'contingency' and go into 'a mere State of **Alert**', see <https://www.portugalresident.com/algarve-and-alentejo-heading-for-mere-state-of-alert/>.

Deconfinement:

²¹² See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies>; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

²¹³ For a critical view on the functioning of the "state of emergency" in Portugal, see <https://verfassungsblog.de/coping-with-covid-19-in-portugal-from-constitutional-normality-to-the-state-of-emergency/>

May 4: small shops, hairdressers, beauty salons, car showrooms and bookstores reopen.

Parliament:

IPU: "The Parliament's plenary sessions meet with a minimum attendance quorum of one fifth of the total number of MPs, reflecting the proportion of the Parliamentary Groups. Plenary deliberations are taken in the presence of more than half of the Members, so that at least 116 Members must be present to vote. Remote voting in plenary sessions is not possible.

Parliamentary Committees decide to meet when necessary with some meetings by videoconference, using Skype."

See also information at <https://verfassungsblog.de/coping-with-covid-19-in-portugal-from-constitutional-normality-to-the-state-of-emergency/> .

2. Freedom of movement (internal and cross-border; sanctions)

- Temporary border controls due to Coronavirus COVID-19 at land border with Spain; (26 March – 15 April 2020): borders with Spain are mostly closed, with nine crossings open for the flow of goods and cross-country work commuters.

- Mandatory quarantine is required for infected people, while high-risk citizens are instructed to stay at home and only venture outside under "exceptional circumstances."

- Workers and supplies are being allowed across Portugal's land border with Spain, but it is closed to tourists until at least June 15 (Border controls have been in place since March 16). There is currently no requirement for arrivals to go into quarantine, except in The Azores.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

- Entertainment activities or any activity that requires large groups of people have been called off or prohibited, including Portugal's football league.

5. Privacy and data protection

6. Asylum and migration

- Portugal decided to treat migrants as residents during coronavirus crisis to allow them to access health and social services

See <https://www.reuters.com/article/us-health-coronavirus-portugal/portugal-to-treat-migrants-as-residents-during-coronavirus-crisis-idUSKBN21F0N7>

- Portugal is to take up to 60 unaccompanied children from Greek refugee camps²¹⁴

- The permit given by Portugal to asylum seekers and foreigners granting them the same rights as permanent residents to access social services will expire on 30 June. Questions remains as to what will happen to these people after the expiry date.²¹⁵

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

²¹⁴https://in.reuters.com/article/health-coronavirus-portugal-migrants/portugal-to-take-up-to-60-unaccompanied-migrant-children-from-greek-camps-idINKBN22M03A?feedType=RSS&feedName=worldNews&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+reuters%2FINworldNews+%28News+%2F+IN+%2F+World+News%29

²¹⁵ <https://www.statewatch.org/analyses/no-363-migrant-regularisations-pandemic.pdf>

26. ROMANIA²¹⁶

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

As a follow up of a Presidential Decree of 16 March 2020 followed by the Presidential Decree of 14 April 2020, the country is in **state of emergency** for 30 days extended by 30 days (between 16 March and 15 May). The government issues regular military ordinances to regulate the emergency state during this period, 9 military ordinances being enacted so far, e.g. by military ordinance of 25 March instituting full self-isolation for the entire country. A military ordinance was published on 29 March that brings some clarifications, among others, to the rules applicable for elderly people and their restrictions to movement. Two other military ordinances were published on 30 of March, introducing further restrictions and placing one city in the north-east, Suceava, and several villages around in quarantine due to the high number of cases registered. The latest one published on 16 April extends the suspension of certain flights for a period of 14 days.

Self isolation is applied fully as of 25 March, with movement allowed in very limited cases and based on a signed statement on your own responsibility indicating the reason for the movement (work, grocery shopping, pharma, exercise). Citizens above 65 will have to stay indoors for most of the day with some exceptions (the hour slot 11-13 that can be used for groceries shopping, pharma etc. where persons above 65 have priority or in the evening from 9 to 10 p.m. for those having animals. Exceptions are provided in case of medical emergencies or regular medical treatments for serious diseases). Quarantined citizens will be surveilled electronically, penalties are substantially increased and the army will support police patrolling to ensure quarantine is respected. The ones who do not respect self isolation will be placed mandatory in quarantine and obliged to cover the costs.

- The government notified ECHR derogation based on Article 15:

<https://rm.coe.int/09000016809cee30> and withdrew the derogation in May.

- In accordance of the Presidential Decree of 16 March 2020, in order to prevent the spread of COVID-19 and the achievement of managing the consequences, in relation to the evolution of the epidemiological situation, during the state of emergency, the exercise of the following rights is restricted, in proportion to the degree of fulfilment of the criteria provided by art. 4 paragraph (4): Free movement; the right to family and private life; inviolability of the home; the right to education; freedom of assembly; the right of private property; the right to strike; economic freedom.

²¹⁶ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures adopted see Romania in the Covid Era: Between Corona Crisis and Constitutional Crisis: <https://verfassungsblog.de/romania-in-the-covid-era-between-corona-crisis-and-constitutional-crisis>

- **The State of emergency was substituted by a state of alert on 15 May, to be in place until 16 June,** see <https://www.romaniajournal.ro/society-people/romania-enters-30-day-state-of-alert-the-reasons-we-are-allowed-to-leave-the-locality/>
- **on 17 June, the government decided to extend the state of alert for 30 days more,** see <https://www.romania-insider.com/government-extends-state-alert>

Deconfinement:

- **From 15th May:** mandatory facemasks in closed spaces and public transit.²¹⁷ Movement restriction concerning travel inside localities would be lifted but not the one concerning travel between localities; individuals will be able to go to public spaces without the affidavits mentioning where they are going and why.²¹⁸ Hotels and parks might reopen, as long as social distancing rules are followed. Restaurants and playgrounds will probably remain closed. Public gatherings, concerts and public events are banned.²¹⁹

Parliament:

- IPU: "The Parliament of Romania is holding the plenary and committee meetings remotely. The Standing Orders of the Senate have been amended to provide for the holding of remote meetings. According to the amendments, in exceptional situations – including epidemics, pandemics, extreme natural phenomena, acts of terrorism – when parliamentarians cannot be present in the premises of the Senate, meetings of the Standing Bureau, the Committee of Leaders of Parliamentary Groups, the Standing Committees, as well as the plenary sittings of the Senate are to be held through electronic means. Remote plenary sittings are broadcast live on the Senate's webpage. Voting in plenary sittings is done over the phone by roll call."

Sanctions

200,000 fines were issued in under a month to people who failed to comply with restrictions to curb the spread of coronavirus. The relatively high fines handed out during this period amount to €120 millions. Anyone caught breaking restrictions faces fines of between 2,000 and 20,000 RON (approx. from 400 to 4000 EUR), which is extremely high, as the average monthly salary is around 3,000 RON (approx. 650 EUR).

The Romanian Ombudsman has notified the Constitutional Court of Romania (CCR), claiming that these fines are unconstitutional and the Court has declared the provisions of the emergency ordinance that was significantly increasing the quantum of fines as non-constitutional. This might lead to a wave of fines being appealed in court and courts to be faced with a large number of cases, see <https://www.bbc.com/news/world-europe-52370421> and <https://www.hotnews.ro/stiri-coronavirus-23979502-amenzile-din-starea-urgenta-neconstitutionale.htm>; Constitutional Court's ruling [romania-in-the-covid-era-between-corona-crisis-and-constitutional-crisis](http://www.ccr.ro/press-release-6-may-2020/) <http://www.ccr.ro/press-release-6-may-2020/>

2. Freedom of movement (internal and cross-border; sanctions)

- Entry to Romania of foreign (non-Romanian) citizens is prohibited as of 23.03 except for transit purposes in defined corridors. The prohibition contains several exceptions for example workers

²¹⁷<https://www.sortiraparis.com/news/in-paris/articles/212134-coronavirus-update-on-the-situation-in-the-world-185-deaths-in-spain-in-24h/lang/en>

²¹⁸<https://www.romaniajournal.ro/society-people/president-announces-lifting-of-travel-restrictions-in-romania-after-may-15/>

²¹⁹<https://www.romania-insider.com/arafat-restrictions-doubt-apr-28-2020>

or persons with visa for professional reasons, long stay visa, legal residents, family Members of Romanian or EU Member States citizens residing in Romania, humanitarian cases, medical cases, those in need of international protection.

- Since 25.03 all persons entering Romania to stay are put in mandatory quarantine for 14 days.
- Cars: 9/31 land border crossings are closed, the other entry points report minor waiting times for cars, of up to 30'.

Hauliers: 8/27 land border crossing for trucks are closed. Four exit points (2 towards HU and 2 towards BG) report waiting times above 59' thereof one exit point to Bulgaria 300', due to sanitary controls of BG authorities.

- One entry point for trucks at the Hungarian border reports waiting times of 120', and three entry points from Bulgaria up to 90 minutes. International trains from or transiting Romania are cancelled; so are flight routes to Italy and Spain. Low-cost carriers have cancelled many other routes, ex. to/from Belgium (Charleroi & Zaventem).

The map of available transit routes is updated on the website of the Ministry of Foreign Affairs.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

The Government has launched the online platform Covid 19 Știri Oficiale (stirioficiale.ro), which gathers all the news and official announcements from the authorities related to the evolution of the new coronavirus epidemic in Romania and the measures taken against it, in an attempt to counter disinformation and fake news about the coronavirus situation.

- A website was closed on 18 March on a proposal from the Ministry of Home affairs, as spreading fake news and false information about the virus. NGOs criticised the measure as a basis for possible future censorship and recommended that the authorities should focus on correct information of the public.

- OSCE Representative on Freedom of the Media, Harlem Désir, expressed his concerns about the provisions of the Romanian coronavirus response decree that grants the government special powers to curb freedom of information in the country: <https://www.osce.org/representative-on-freedom-of-media/449380>.

- Also the Council of Europe Commissioner for Human Rights Dunja Mijatović mentioned the fact that "a decree allows the authorities to remove content and block websites where this content provides "false information" regarding the evolution of COVID-19 and prevention measures, without the possibility to appeal against the decision." <https://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic>

- **Right to information:** according to FRA country report, the Decree instituting the emergency state also introduced limitations to the right to information, by extending to the double the term in which public institutions must answer to access to information requests. Watchdog organizations are warn that these provisions are used by public institutions to suspend the access to information entirely, including for requests from journalists regarding data on the pandemia. See also <https://www.article19.org/resources/advances-in-freedom-of-information-under-threat-during-coronavirus-pandemic/>

- IPI: " On March 16 the president of Romania signed an [emergency decree](#) which, among other measures, gives authorities the power to remove reports or close websites that spread "fake news" about the virus, with no opportunity to appeal.

The emergency legislation also doubled the amount of time to respond to [FOI requests](#) from 30 to 60 days. Since then, media have reported that local institutions have refused to provide information, citing the new rules." <https://ipi.media/media-freedom-violations-in-the-eu-under-covid-19/> " <https://ipi.media/media-freedom-violations-in-the-eu-under-covid-19/>

4. Freedom of assembly (and sanctions)

According to the latest measures, group gatherings are limited to three persons in public. All group activities in closed spaces are prohibited, including religious gatherings. HoReCa and shopping malls are closed, except for food shops and pharmacies. Schools/universities are closed. See above about ECHR derogation

5. Privacy and data protection

Romania is cited as being among the countries tracking citizens with Coronavirus through an app, see <https://www.politico.eu/article/privacy-agenda-threatened-in-west-virus-fight/>.

6. Asylum and migration

- There is a temporary limitation of entry of third-country nationals and stateless persons making non-essential travels. ²²⁰
- All activities of the Registry are suspended, with the exception of those related to applications for international protection and applications for access to a new asylum procedure.²²¹
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

- According to FRA country report, "harassment of certain national or ethnic communities is marginal, at most isolated incidents. The representative of the Equality Body informed that no such situation was brought into attention. There is only one Coronavirus-related case, of alleged discriminatory statements against Romanian citizens returning from abroad."
- The EP LGBT Intergroup appealed to the President of the Republic not to sign the 16 June 2020 law approved by the Romanian Senate that forbids any discussion on "*gender identity theory or opinion*" in Romanian schools and educational establishments.
- demonstrations took place in Bucharest against the law banning gender studies, with students organisations and the Bucharest University making statements against the ban, as Romania becomes the last battleground for fundamentalist, extreme right-wing, Russian-style homophobic campaigns targeting minorities and LGBTI+ persons, see <https://www.intellinews.com/bucharest-blog-romania-becomes-the-latest-battleground-in-central-europe-s-gender-wars-186591/>

9. Any other issue relevant for Art. 2 TEU

Media report that the Prime Minister is exploring ways to [remove](#) the ombudsman, former MEP Renate Weber, due to the fact that she brought government policies on sanctions and special pensions to the Constitutional Court.

Public procurement and risks of corruption

- "In [Romania](#), a woman with a previous criminal conviction, who had served under current Prime Minister Ludovic Orban in the Bucharest City Administration and in the Ministry of Transport when he headed it, bought stakes in a dormant company on 11 March and won a non-competitive government contract, selling the government on 19 March protective gear which

²²⁰ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²²¹ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

she had purchased the day before for €614,000 from a Turkish supplier. According to reports half of the masks were faulty." see <https://verfassungsblog.de/the-rule-of-law-stress-test-eu-member-states-responses-to-covid-19/>

27. SLOVAKIA²²²

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

On March 11th 2020, the Government of the Slovak Republic decided to declare “**extraordinary situation**” from March 12th 2020 06:00 AM (based on the Act No. 42/1994 Coll. on Civil Defence of the population). The extraordinary situation was declared by the Resolution of the Government of the Slovak republic.

On 15 March the Government decided to declare “**emergency**” from March 16th (based on the Constitutional Act No. 227/2002 Coll. on national security in times of war, state of war, state of emergency and emergency). Such emergency can be declared in cases of imminent threat to the life and health of persons, also in a causal context of a pandemic, the environment or a significant property value due to a natural disaster, disaster, industrial, traffic or other operational accident; an emergency may only be declared in the affected or imminently endangered area. It can last a maximum of 90 days. One-fifth of the MPs (30) may file an action to review a decision on declaration of the state of emergency and emergency and relating decisions were issued in compliance with the Constitution or constitutional laws.

The previous government adopted a ban on all personal international flights, rail and bus travel, ban on all in and out unnecessary foreign travel, border checks, compulsory 14-day quarantine for everyone returning from abroad and nationwide school closure.^[3]

The new government met with the crisis team and adopted 40 new measures, among which: schools and university closed; wearing of protection masks everywhere outside domicile is compulsory. **Some exceptions to this rule will apply as on 21 April**, on the advice of the Office of Public Health. Groceries and pharmacies open, except on Sunday. Special entry opening hours (9-12:00) for seniors in shops. 2 meters distancing in queues to be observed. Lawyers allowed to provide their services. Measuring of temperatures at entrances to administrative buildings and factories. Special measures for the elderly to ensure they stay at home.

A measure was introduced by the Public Health Office to ban a participation of public at municipal assemblies meetings, in order to prevent the spread of the novel virus. This measure is due to apply as of 22 April. This is being challenged by the Association of Towns and Communities, with complaint being lodged at the General Prosecutor’s Office. https://domov.sme.sk/c/22388279/zomos-podava-podnet-na-generalnu-prokuraturu.html?ref=terazbox_sme

The Prime Minister said that the emergency will not be lifted before the end of the 90 days provided for in law, that is to say not before 15 June, <https://newsnow.tasr.sk/policy/matovic-the-state-of-emergency-wont-be-lifted-too-early/>

²²² See also the FRA “Coronavirus pandemic in the EU - Fundamental Rights Implications” Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures adopted see: Change of Government under COVID-19 Emergency: <https://verfassungsblog.de/slovakia-change-of-government-under-covid-19-emergency/>

The national emergency, declared on 15 March by the previous government of Peter Pellegrini (Smer), will officially **end on June 13**, while the state of emergency (or "**exceptional situation**") declared on March 11 remains in place, see <https://spectator.sme.sk/c/22423073/national-emergency-ends-on-june-13.html>

Deconfinement:

- The government has set out a four-stage plan for easing the coronavirus lockdown.
- April 22: Small stores up to 300 square meters will be allowed to reopen on.
- 1 June: primary schools opened and dedicated opening hours in shops for pensioners are scrapped.

2. Freedom of movement (internal and cross-border; sanctions)

- On 12 March, border controls were reinstated. At the HU-SK crossing problems are reported for commuting SK citizens.
- All repatriated citizens that are coming back to Slovakia must stay in 14 days quarantine. Special places are secured for this purpose. Delays in testing is reported, hence putting them in risk of unknowingly spreading the virus: https://www.euractiv.com/section/health-consumers/short_news/slovakia-covid-19-update/
- Slovakia's border has opened on June 5 to Austria, Hungary and the Czech Republic and no restrictions or compulsory quarantine apply, see <https://dennikn.sk/1922180/newsfilter-vazeni-obciana-uz-sa-nemusite-bat-karanteny-akurat-vam-to-zabudli-oznamit/?ref=tit1>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

The ban on organising mass events that expired on March 24 has been prolonged until further notice.

<https://spectator.sme.sk/c/22366501/masks-will-be-obligatory-new-measures-mainly-aimed-at-the-elderly.html>

5. Privacy and data protection

- A law was passed on 25 March allowing the state to use data from telecoms companies to track the movements of people suffering from coronavirus to ensure that they are abiding by quarantine rules. The country's Public Health Office would be allowed to have access to location data from mobile phones specifically for the purpose of containing the spread of the novel virus, until 31 December 2020. See <https://www.ft.com/content/64539a44-6e87-11ea-89df-41bea055720b>. Detected persons will receive sms messages with necessary precaution information how to proceed. The details of the functioning of the tracking of location data are still to be clarified. Location data can be processed also without the consent of the person, see <https://www.lexology.com/library/detail.aspx?g=d0a63091-a256-4026-aef6-c53d397715da>
- In May the Constitutional Court issued its judgment which quashed the coronavirus law provisions allowing the government to collect phone data for contact-tracing technology. The Court argued the law was too vague and did not give enough assurances against the misuse of people's private information.

6. Asylum and migration

- The Act no. 404/2011 Coll. on Residence of Foreigners and Amendments and Supplements to Certain Acts was amended so that: temporary residence, permanent residence and tolerated

stay are extended until two months after the withdrawal of the Covid-19 crisis; a third-country national residing outside the territory of Slovakia during the crisis may apply for renewal of temporary residence or an application for permanent residence for an indefinite period at the embassy; a third-country national who has legally entered the territory of Slovakia shall be entitled to stay in the territory until one month after the end of the crisis.²²³

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

- Officials say that hundreds of Roma returning from western Europe in recent weeks may have arrived infected with the novel coronavirus, so Slovakia has closed off several Roma settlements in the eastern part of the country after reports of a cluster of coronavirus cases in five of them, highlighting difficulties faced by Europe's largest ethnic minority during the pandemic. Slovakia started widespread testing in Roma settlements on April 3 amid concerns crowded living conditions and inadequate hygiene could accelerate infections.

<https://www.euractiv.com/section/politics/news/slovakia-closes-off-five-roma-settlements-due-to-coronavirus/>

- the Slovak government tabled in the Council a statement opposing references to gender as covering gender equality, LGBTI+ equality and the Istanbul Convention countering violence against women, joined by Hungary and Poland in the efforts to undermine the Commission European Gender Equality Strategy, see <https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2020/06/Statement-of-the-Slovak-Republic.pdf>

9. Any other issue relevant for Art. 2 TEU

- On 14 May 2020, the Parliament failed to acknowledge the Public **Ombudsman** Maria Patakyova's report for 2019. Fifty law-makers voted against its adoption, while 34 MPs supported it and 46 MPs abstained from the vote. Protecting LGBT people and defending right to abortion were cited as main reasons for the rejection of the report. In an unprecedented way and in order to support the work of the Ombudswoman, the Slovak President Zuzana Caputova was present in the Parliament during the presentation of the report, see <https://newsnow.tasr.sk/policy/parliament-fails-to-acknowledge-ombudswomans-report-for-2019/>

- Debate has re-emerged over **abortions**, as the Health Minister declared that terminations are not considered "undelayable procedures" — namely, matters of urgency — amid reports that doctors were cancelling appointments in hospitals. Some MPs announced plans to have the abortions banned in Slovakia, see <https://balkaninsight.com/2020/05/22/democracy-digest-pandemic-heralds-a-more-conservative-slovakia/>

²²³ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration*.

28. SLOVENIA²²⁴

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- Slovenia has not declared a state of emergency (art. 92 SL.C. foresees war and the state of emergency). The adopted restrictive measures (restriction on public gatherings, restriction on public transport...) are based mostly on the pre-existing **Communicable Diseases Act** and the Government of the Republic of Slovenia Act. On the basis of this already existing law, the Government adopted several Decrees and Ordinances.²²⁵

- on 12 March all schools were closed and the next day a crisis unit in the new government was created

- on 20 March a first decree entered into force and on 30 March further stricter measures were adopted, restricting movement and closing shops. Slovenians are confined to their home municipality for most daily activities except to go to work, to do farm work, provide assistance to persons in need of care, and access emergency services, pharmacies, diplomatic missions and judicial authorities.

Police will control whether a person has justifiably left own municipality.

People may only access parks within their own municipality. Mayors may introduce additional restrictions.

When going out, face masks, even ones made at home, or equivalents such as scarves that cover the mouth and nose will be mandatory along with protective gloves; the decree stipulates that masks and gloves need to be worn in indoor public spaces.

Shops are also subject to new rules. In the first two hours after opening, from 8am to 10am, shops are reserved for pensioners, the disabled and pregnant women, groups that are seen as being at particular risk. After that, pensioners will not be allowed into shops after 10am at all.

<https://www.total-slovenia-news.com/politics/5957-covid-19-slovenia#strict>

The previous measures foresaw fines for violations of around 400 euro.

The lockdown was also announced via an SMS sent to all phones in the country notifying the people of the prohibition of public gatherings.

See <https://www.total-slovenia-news.com/politics/5895-covid-19-slovenia>

Deconfinement:

- April 20: Most shops and businesses not requiring physical contact reopen.

- May 4: Hairdressers and other services are allowed to open.

- May 18: Schools and kindergartens gradually start reopening.

²²⁴ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

²²⁵ for an analysis of the measures adopted, see <https://verfassungsblog.de/business-as-usual-but-to-the-unusual-extremes-slovenia-and-covid-19/>

Parliament:

- IPU: "Since 16 March, the National Assembly is only holding extraordinary sessions and most committee meetings have been postponed. Options for holding committee meetings using video conference are being investigated. Most employees of the National Assembly are working remotely, with the exception of core staff and those needed for the smooth running of Parliament."
- The Communicable Diseases Act obliges the Government to notify without any delay the National Assembly and the public of the measures adopted according to the Act (ECPRD).

2. Freedom of movement (internal and cross-border; sanctions)

Slovenia **reopened** borders to EU citizens on May 15. Anyone suspected to have COVID-19 must self-isolate for 14 days.

3. Freedom of expression, media freedom, freedom of information (and sanctions)

According to the CoE Commissioner for HRs, a journalist who filed an information request about the measures adopted by the government to face the pandemic has been the target of a smear campaign by media close to the political party leading the government coalition, see <https://www.coe.int/en/web/moscow/-/statement-by-the-council-of-europe-commissioner-for-human-rights-dunja-mijatovic> ; also media freedom organisations wrote to EU institutions calling for the protection of the journalist <https://rsf.org/en/news/seven-organisations-call-european-commission-guarantee-safety-slovenian-investigative-journalist>

- IPI: "Slovenian investigative journalist Blaž Zgaga has been targeted by a hate campaign fuelled by the government and a pro-government TV station for submitting an official Freedom of Information Request to the authorities in Ljubljana about the government's handling of the COVID-19 crisis."

- IPI: "On April 27, Slovene Interior Minister Aleš Hojs called for journalists and media professionals who reported from the scene of anti-lockdown protests to face criminal prosecution. Hojs said on Twitter that police should identify anyone who attended, took photographs or reported from the scene and charge them violating lockdown measures. In an April 28 tweet, Hojs then singled out Grega Repovž, editor-in-chief of the left-leaning weekly Mladina, as having attended. The Slovene Association of Journalists (DNS) urged the minister to refrain from calling for prosecutions of 8 journalists and emphasized that media were at the event to inform the public."

- A state-owned telcoms company Telekom Slovenije sold its subsidiary Planet TV to the Hungarian channel TV2, owned by Jozsef Vida, whom media associate with the business network of the Hungarian ruling party Fidesz. See <https://www.total-slovenia-news.com/news/6527-morning-headlines-for-slovenia>

4. Freedom of assembly (and sanctions)

See above

5. Privacy and data protection

The Information Commissioner and the Human Rights Ombudsman warned against giving police sweeping powers to control the movement of individuals as the government tries to contain the coronavirus epidemic. Both institutions say two articles from the new umbrella bill violate basic constitutional rights. Interior Minister Aleš Hojs said the changes were "intended to merely

prevent unauthorised and incomprehensible movements of infected persons who should be in quarantine but are freely walking around".

<https://www.total-slovenia-news.com/politics/5959-fears-that-covid-19-measures-mean-slovenia-becoming-a-police-state>

- 1 July: The Office of the Information Commissioner raised concerns about government plans for a coronavirus contact tracing app for mobile devices, in particular the requirement that app use would be mandatory for those with confirmed infections. Those not complying would risk a fine. The Information Commissioner said in a statement it saw this as "disproportionate and not contributing to the objectives set out by the legislative branch".

6. Asylum and migration

-Slovenia accepts applications for international protection only orally and during the Covid-19 crisis the competent authority will take into account only urgent applications. All personal interviews are temporarily cancelled.²²⁶

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

Public procurement and risks of corruption:

- OCCPR: Opaque Coronavirus Procurement Deal Hands Millions to Slovenian Gambling Mogul: "Reporters from OCCRP member center [Oštro](#), however, found that the largest of these deals benefits a powerful businessman with investments in gambling, electronics, and real estate, but no known experience in healthcare. Public disclosures show that Slovenia's government signed a 25.4-million-euro deal on March 26 ...", see <https://www.occrp.org/en/coronavirus/opaque-coronavirus-procurement-deal-hands-millions-to-slovenian-gambling-mogul>

- Police house searches over suspected abuse of office in the procurement of medical ventilators led to the resignation of Police Commissioner Anton Travner as well as Interior Minister Aleš Hojs. Also Economy Minister Zdravko Počivalšek is under inquiry. The National Bureau of Investigation (NBI) was investigating the EUR 8.8 million deal with Geneplanet at 11 locations.

²²⁶ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration*.

29. SPAIN²²⁷

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

The Council of Ministers approved on March 14 by Royal Decree 463/2020 (*Real Decreto 463/2020, de 14 de marzo, por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19*) the **state of alarm**, lasting 15 days, barring people from all but essential outings. This is the second time such emergency is declared in 40 years, the other time being in 2010 with the strike of airplanes controllers. The Royal Decree foresees that Ministers shall establish detailed regulations in their areas of competence. The Prime Minister intervened in Parliament to inform about the Royal Decree contents on 18 March. Any extension of emergency decrees needs to be approved by Parliament.

On 25 March 2020, **Parliament** effectively authorized the extension of the state of emergency until 12 April by 321 for, 0 against and 28 abstentions. A resolution binding the Government to report to Parliament weekly on the execution of the measures and the evaluation of their efficacy was approved. See http://www.congreso.es/portal/page/portal/Congreso/Congreso/SalaPrensa/NotPre?_piref73_7706063_73_1337373_1337373.next_page=/wc/detalleNotaSalaPrensa?idNotaSalaPrensa=35409&mostrarvolver=N

Measures on the suspension of procedural deadlines and suspension of limitation and lapse periods were adopted, with listed exceptions.

The government proposed to extend the state of alarm for another 15 days until April 26 and the Parliament approved. <https://english.elpais.com/politics/2020-04-04/spanish-pm-on-state-of-alarm-now-is-the-time-for-sacrifice-and-resistance.html?rel=lom> and <https://english.elpais.com/politics/2020-04-10/congress-backs-pms-request-to-extend-confinement-measures-in-spain-until-april-26-with-a-further-15-days-likely.html>

May 6: The Spanish Congress voted on a new extension to state of alarm proposed by the government, with the last-minute support from opposition group Ciudadanos and EPP abstaining, so to prolong emergency powers to May 24 and coordinate at national level anti-covid measures and the deconfinement process.

The Spanish government proposed a sixth and final extension of the state of alarm to keep the executive's emergency powers for dealing with the coronavirus crisis **until June 21**, when the country finally exited the state of alert.

Deconfinement:

- April 14: Non-essential economic activities in industrial and construction sectors permitted

²²⁷ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin¹ at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy.

For an analysis of the measures taken, see "Beyond the State of Alarm: COVID-19 in Spain": <https://verfassungsblog.de/beyond-the-state-of-alarm-covid-19-in-spain/>

- May 4: in the vast majority of provinces adults will be allowed to exercise and some businesses will reopen but only to offer services booked in advance.
- May/June: Other restrictions will be lifted gradually, with different speeds across the country depending on the local virus data.
- Masks are handed out in public transport stations.

Reconfinement:

- In A Mariña in Lugo, regional authorities chose to confine residents to the comarca, with no one allowed to enter or leave with the exception of those who need to for work.
- on 4 July, the Catalan government confined residents of Segrià in Lleida due to rising coronavirus cases: the 'comarca,' which is home to more than 200,000 inhabitants, has seen outbreaks in several food companies, a senior residence and a hostel
- the Catalan government introduced the obligation to wear a mask in all public places, with a fine of 100 Euros

Parliament:

- IPU: "The Cortes (Parliament) of Spain held its plenary during the last week of March. Videoconferencing and remote voting was put in place for deputies who could not attend. Remote voting is restricted and was already regulated for circumstances such as pregnancy, maternity or paternity leave or serious illness. Since the imposition of the restrictive measures two plenary sittings took place and the committee on health also met. Parliamentary technical and political management bodies work remotely (videoconferencing, telematic voting, etc.) as much as possible. Lessons learned from this experience will be used to improve the capacity of the Congress of Deputies to act in the current and future similar situations."

2. Freedom of movement (internal and cross-border; sanctions)

- The Royal Decree limits it consistently by providing a general confinement order / general prohibition to circulate on public roads, except in limited cases (pharmacy and grocery shopping), see <https://www.osborneclarke.com/insights/main-measures-established-royal-decree-4632020-14-march-declaring-state-alarm-management-health-crisis-situation-caused-covid-19/>
- Since March 17, Spain closed its external borders with its European neighbors, FR and PT allowing access to Spanish citizens, people resident in Spain, cross-border workers and those who can provide documentary proof of force majeure or a situation of need.
- Currently, only Spanish citizens, residents of Spain (who must prove their habitual residence), cross-border workers, health or elderly care professionals who are going to work and people who can prove force majeure or a situation of need, are allowed to enter via Spanish ports and airports. The exceptions also include diplomatic personnel and everything related to the transport of goods in order to avoid shortages. People who enter the national territory from abroad must stay in quarantine for 14 days after their arrival, but this will end on July 1 according to officials.
- German, French and Scandinavian tourists could be allowed to come to Spain from **June 22** as part of a "pilot" project to restart tourist activity, not subject to quarantine. From **July 1**, citizens from other countries too.

Sanctions and trials:

- 89 detained and 13.810 sanctioned for violation of the state of alarm of 5 May; since the beginning of the state of alarm: 7.381 detained and 836.726 sanctioned, see <https://twitter.com/interiorgob/status/1258061989093552134>
- 45 appeals against the government are pending in front of the Supreme Tribunal: <https://elpais.com/espana/2020-05-30/el-gobierno-se-enfrenta-a-45-querellas-y-denuncias-en-el-tribunal-supremo.html>
- 12 June: the magistrate in charge of the appeals related to the holding of the demonstration for women's rights that took place in Madrid on 8 March decided to dismiss the case finding no sufficient clues to prosecute the government's representative in Madrid region, see <https://elpais.com/espana/2020-06-12/la-juez-del-caso-8-m-archiva-la-causa-al-no-haber-indicios-suficientes-contr-el-delegado-del-gobierno-en-madrid.html>

3. Freedom of expression, media freedom, freedom of information (and sanctions)

IPI: "The Spanish government faced [strong criticism](#) from several hundred journalists and several of the country's leading newspapers over the system for media to ask questions during press conferences. The outlets denounced what they argued was a restrictive questioning format, in which submissions were written in advance and pre-selected by the government. A new system was introduced which allowed questions to ministers in a live communication and without intermediaries."

4. Freedom of assembly (and sanctions)

See freedom of movement

5. Privacy and data protection

- The Spanish Supervisory Authority Issued a Statement and a report on Data Protection and Coronavirus, providing for guidelines in the fight against COVID-19, see <https://www.insideprivacy.com/covid-19/spanish-supervisory-authority-issues-statement-on-data-protection-and-coronavirus/>
- discussions are underway with Telefonica concerning the collection of data, while various apps are being developed, <https://elpais.com/tecnologia/2020-03-31/la-app-y-el-estudio-de-movilidad-del-gobierno-contr-el-coronavirus-en-que-consisten-y-que-datos-recopilan.html>
- Regional authorities in Spain are developing different local apps, for instance Canary Islands a tracking app: <https://www.eldia.es/economia/2020/04/24/canarias-implantara-chip-virtual-controlar/1072971.html>

6. Asylum and migration

- On 20 March the government ensured that the support measures for asylum seekers remain in place, see <https://www.europapress.es/epsocial/migracion/noticia-gobierno-garantiza-ayudas-migrantes-refugiados-sistema-acogida-crisis-covid-19-20200320162745.html>
- Since the declaration of the State of Alarm, there has been a significant decrease in the number of arrivals and applications for international protection.²²⁸
- Interviews with Social Work Units (UTS) are carried out on the phone.²²⁹
- Decisions on applications for international protection are still being issues, while Dublin transfers have been suspended.²³⁰

²²⁸ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²²⁹ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²³⁰ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

-As a response to the Covid crisis, Spain adopted two measures. First, under the title of labour flexibility, migrant workers whose work permit was due to expire between the approval of the state of emergency (14 March-30 June) and to third- country nationals aged between 18 and 21 in possession of regular documentation could benefit from a work permit for the first time. This measure was updated and extended on 26 May to provide a residence and work permit for two years (with a possible renewal of two more years) to young foreigners who obtained their first work contract due to the measure on work flexibility in the agricultural sector.

Second, on 20 May, another measure extended permits to foreigners already in possession of documents. This measure means the automatic renewal for 6 months following the expiry date of all temporary work, residence and study permits, that expired during the state of emergency or 90 days before its declaration. It also allows the renewal of residence cards of family members of EU citizens.²³¹

- Two regional governments – Balearic Islands and Canary Islands – found a way to transfer a basic income to undocumented migrants by handing minimum income guarantee to NGOs that hand it over to migrants.

-Since returns are not possible under the current situation, people in detention have been released.²³²

- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

On 21 March, trade unions representing prisons personnel denounced the lack of protection material in prisons, denouncing also rising tensions among detainees, see <https://www.elmundo.es/espana/2020/03/21/5e75d7c021efa0216f8b45d9.html>

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

²³¹ <https://www.statewatch.org/analyses/no-363-migrant-regularisations-pandemic.pdf>

²³² <https://www.statewatch.org/analyses/no-363-migrant-regularisations-pandemic.pdf>

30. SWEDEN²³³

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The approach taken by Sweden is that of providing guidance to the population, but no lockdown, so there are no restrictions on the opening of shops, bars or public events. [Sweden's](#) approach to containing [coronavirus](#) changed when a far greater number of fatalities than their Nordic neighbours was registered. As a result of the spiralling numbers, the country's prime minister, [Stefan Lofven](#), has received criticism for his government's light-touch strategy to contain Covid-19.²³⁴

- The [Swedish constitution](#) mandates that the relevant expert agency, [the Public Health Agency](#), must initiate any actions to prevent the virus.

- The Public Health Agency and government issued recommendations to work from home, if possible; for people to stay at home as much as possible, and for those 70 years old or more to stay at home; and issued general recommendations to avoid unnecessary travel within the country and to keep a social distance between people. Those with even minimal symptoms which could be COVID-19 are recommended to stay home.

The Public Health Agency has decided on a new regulation that bans bar service, only table service and takeaway is allowed, applying from 25th March on. It applies to restaurants, cafes, night clubs and bars. Establishments can have their liquor licence suspended by the municipalities if they don't follow the regulation.

- On 1st of June, the Swedish PM said that the government would appoint a coronavirus inquiry before summer to examine the effects of its soft policy, see <https://uk.reuters.com/article/uk-health-coronavirus-sweden-commission/swedish-pm-to-appoint-coronavirus-inquiry-before-summer-amid-criticism-idUKKBN2382YI>

Parliament:

- IPU: "The Riksdag (Parliament) of Sweden is holding plenary and committee meetings as normal. But party group leaders have agreed that, in the period from 16 to 30 March, the number of MPs required to vote is just 55 (out of 349). This change to working procedures was made primarily to ensure that the Riksdag could fulfill its tasks even if a larger number of MPs were prevented from participating in parliamentary work. In addition, the number of deputies sitting on parliamentary committees has been increased so that there will always be deputies to step in."

²³³ See also the FRA "Coronavirus pandemic in the EU - Fundamental Rights Implications" Bulletin1 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubOverview0> and the country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1#TabPubStudies> ; as well as Bulletin 2 at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1> with country reports at <https://fra.europa.eu/en/publication/2020/covid19-rights-impact-may-1#TabPubStudies>, covering: measures with an impact on social life, education, work, and freedom of movement, as well as asylum and migration, as well as on particular groups in society; incidents of xenophobic and racist discrimination, including hate crime; the spread of disinformation concerning the outbreak and the implications of related containment measures on data protection and privacy. For an analysis of the measures taken, see Sweden and COVID 19: A Constitutional Perspective: <https://verfassungsblog.de/sweden-and-covid-19-a-constitutional-perspective/>

²³⁴ <https://www.independent.co.uk/news/world/europe/sweden-coronavirus-deaths-lockdown-social-distancing-denmark-finland-norway-a9470771.html>

2. Freedom of movement (internal and cross-border; sanctions)

Temporary border controls are in place for "Terrorist threats, shortcomings at the external borders; to be determined but may concern all internal borders; (12 November 2019 - 12 May 2020)", see https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control_en

- In stark contrast to their Scandinavian neighbours, Sweden has not implemented any border ban. From March 19, Sweden implements border restrictions on travel into the country for at least 30 days following an EU decision. Swedish citizens and residents will still be able to return to Sweden, as will EU or EEA citizens.²³⁵ The restriction was extended until **June 15**.

- The Ministry for Foreign Affairs currently advise against non-essential travel to all countries. This is valid from 14th March through to 14th April, when a new assessment will be done.²³⁶

- Sweden has introduced border restrictions but it only applies to non-essential travel from countries outside the EU/EEA, except the UK and Switzerland. [More information here.](#)

3. Freedom of expression, media freedom, freedom of information (and sanctions)

4. Freedom of assembly (and sanctions)

- On 11 March, the Swedish government passed a new law, temporarily banning all gatherings larger than 500 people, with threat of fine and prison.²³⁷ On 24 March the government introduced new restrictions to bars and restaurants requiring all service to be table service only. Venues that do not adhere to the new restrictions could be shut down.²³⁸ On 27 March the government announced that gatherings of more than 50 people were banned in force from Sunday 29 March.²³⁹ The government has limited [freedom of assembly](#), physically closed [secondary schools](#) and [universities](#); issued recommendations to work from home, if possible²⁴⁰.

5. Privacy and data protection

The Swedish data protection authority ('Datainspektionen') issued, on 13 March 2020, a statement ('the Statement') on data protection in light of COVID-19 ('Coronavirus') clarifying that when it comes to Coronavirus, it is important to be aware that information relating to infected persons is considered sensitive personal data. In addition, the Datainspektionen noted that whether an employee has returned from a so-called 'risk area' or whether someone has been quarantined (without giving further details on the cause) are not to be considered sensitive personal data²⁴¹.

6. Asylum and migration

²³⁵<https://www.forbes.com/sites/davidnikel/2020/03/16/scandinavia-travel-who-can-go-where-amid-coronavirus-restrictions/>

²³⁶<https://www.folkhalsomyndigheten.se/the-public-health-agency-of-sweden/communicable-disease-control/covid-19/>

²³⁷<https://www.svt.se/nyheter/snabbkollen/regeringen-stoppar-stora-moten>

²³⁸<https://www.svt.se/nyheter/inrikes/nya-forbudet-endast-bordsservering-tillats-pa-restauranger-och-barer>

²³⁹<https://www.svd.se/stefan-lofven-och-rikspolischefen-haller-presstraff/>

²⁴⁰https://en.wikipedia.org/wiki/2020_coronavirus_pandemic_in_Sweden

²⁴¹<https://platform.dataguidance.com/news/sweden-datainspektionen-issues-statement-coronavirus>

The government made it clear on its website that asylum seekers will not be affected by the entry ban declared on 19 March²⁴².

- On 30 March 2020 the Migration Agency decided to temporarily pause longer investigations and talks, in order to reduce the spread of the corona virus in the community. Telephone and video calls were conducted during this period. On 20 April 2020, the agency announced that it resumes investigations and meetings.²⁴³

- see also ECRE information sheet: <https://www.ecre.org>

8. Discrimination

9. Any other issue relevant for Art. 2 TEU

²⁴²<https://sputniknews.com/europe/202003191078620079-sweden-imposes-entry-ban-over-coronavirus-outbreak-but-asylum-seekers-still-welcome/>

²⁴³ Council of Europe, 7 May 2020. *Legislative and oversight role of parliaments in the context of the Covid-19 pandemic in the field of migration.*

31. UNITED KINGDOM²⁴⁴

1. Rules governing the State of emergency and exceptional powers for the government; description and duration of the measures; role of parliament; the judiciary

- The British government ordered a lockdown on March 23, limiting people to trips outside the home solely for grocery shopping, medical needs and traveling to work if working from home is not an option. The first deadline of the measures has expired the 13 April. The government must review the need for the restrictions every 21 days. On the first review, on Thursday 16 April, first secretary of state Dominic Raab announced that the lockdown would continue for at least another three weeks up to **7 may** ²⁴⁵.
- The "Coronavirus action plan", published on 3 March, set out measures to respond to the COVID-19 outbreak. It envisaged that changes to legislation might be necessary in order to give public bodies across the UK the tools and powers they need to carry out an effective response to this emergency. The legislation will be **time-limited for 2 years**.²⁴⁶
- On 19 March, the government introduced the **Coronavirus Act 2020**, which grants the government discretionary **emergency powers** in the areas of health and social care, childcare and education, statutory sick pay and national insurance contributions, deceased registration and management of deaths, national security, food supply, courts's functioning including provisions to expand the availability of video and audio link in criminal court proceeding and provisions for postponing elections, including those scheduled for 7 May 2020²⁴⁷. The act received royal assent on 25 March 2020.²⁴⁸
- The 2020 Coronavirus Act is regulating the COVID19 outbreak together with the Health Protection (Coronavirus, Restrictions) Regulations 2020²⁴⁹ made under the Public Health (Control of Disease) Act 1984 already in existence²⁵⁰.
- The Government chose to use regulatory powers under existing public health legislation, rather than under the new 2020 Act. The Regulations under the 1984 Public Health (Control of Disease Act) were made via "negative procedure "which means that they did not need parliamentary approval to become law. They do, however, require the Secretary of State for Health to review the need for restrictions and requirements at least once every 21 days,

Parliament:

- Since the increased power of the executive in relation to Parliament is an inevitable feature of fast-track legislation, the rule of law mandates effective parliamentary scrutiny in respect of both the way the Government will implement the new powers created under the Coronavirus Act as well as the detail in which Parliament will be updated about the reach of these powers across

²⁴⁴ For a critical analysis of the measures taken, see <https://verfassungsblog.de/right-restriction-or-restricting-rights-the-uk-acts-to-address-covid-19/>

²⁴⁵ <https://www.gov.uk/government/speeches/foreign-secretarys-statement-on-coronavirus-covid-19-16-april-2020>

²⁴⁶ <https://www.gov.uk/government/publications/coronavirus-bill-what-it-will-do/what-the-coronavirus-bill-will-do>

²⁴⁷ <https://commonslibrary.parliament.uk/research-briefings/cbp-8857/>

²⁴⁸ <https://news.sky.com/story/coronavirus-emergency-laws-will-give-powers-to-close-airports-and-detain-and-quarantine-people-11959342>

²⁴⁹ <https://www.legislation.gov.uk/ukxi/2020/350/contents/made>

²⁵⁰ <http://www.legislation.gov.uk/ukpga/1984/22>

the UK.²⁵¹ MPs lamented that the current provisions do not allow for enough scrutiny of government.²⁵²

- IPU: "The UK Parliament plenary is not in session currently. In a new practice House of Commons Select Committees have been allowed to hold evidence hearings and meetings remotely by video conferencing upon the approval of the Speaker when requested by the Chair. Some House of Lords members are also working remotely to complete Committee reports.

An emergency coronavirus bill is being fast-tracked through all stages. The bill aims to increase the available health and social care workforce by, for example, removing barriers to allow recently retired health workers to return to work and easing the administrative burden on frontline staff.

The bill also contains drastic measures to contain and slow the spread of the virus by reducing unnecessary social contacts, for example through powers over events and gatherings, and strengthening the quarantine powers of police and immigration officers.

In parallel, the Joint Committee on Human Rights has also announced an inquiry into the human rights implications of the Government's response to the coronavirus crisis.

Skype for Business has been rolled out to all parliamentary devices pending fast tracking of trials with Microsoft Teams for wider use after Easter. The UK Cabinet is meeting through Zoom. Skype for Business and Microsoft Teams are hosted and supported by Parliamentary infrastructure."

- House of Commons MPs started to vote in person again on 2 June, see <https://www.politico.eu/article/uk-british-house-of-commons-bans-virtual-voting-opts-for-a-queue-jacob-rees-mogg/>

Justice system:

- On 17 March trials lasting longer than three days were postponed until May in England and Wales, while Scottish courts were not starting any new trial indefinitely. In England and Wales those cases already running would continue in the hope of reaching a conclusion²⁵³.

Sanctions and trials:

- 12 June: Lawyers for 450 people call on Boris Johnson to start public inquiry to help prevent deaths, see <https://www.theguardian.com/world/2020/jun/12/bereaved-relatives-call-for-immediate-inquiry-into-covid-19-crisis>

- Health Minister [Matt Hancock](#) is facing legal action from the daughter of a man who died from Covid-19 in a care home in which the health secretary is accused of a "litany of failures" and misleading the public with his claim to have "thrown a protective ring" around care homes, see <https://www.theguardian.com/world/2020/jun/12/matt-hancock-faces-legal-action-from-daughter-of-covid-19-care-home-victim>

- Public prosecutor faces legal action over Cummings' Durham trip, as member of public seeks judicial review of Max Hill's 'inaction' over alleged lockdown breaches, see <https://www.theguardian.com/law/2020/jun/16/public-prosecutor-max-hill-faces-legal-action-over-dominic-cummings-trip-durham>

²⁵¹<https://ukconstitutionallaw.org/2020/03/26/theodore-konstadinides-and-lee-marsons-covid-19-and-its-impact-on-the-constitutional-relationship-between-government-and-parliament/>

²⁵² <https://www.politico.eu/article/british-uk-mps-looking-for-new-ways-to-find-answers-coronavirus-covid19/>

²⁵³<https://www.theguardian.com/law/2020/mar/18/longer-criminal-trials-in-england-and-wales-to-be-delayed-due-to-covid-19>

<https://www.independent.co.uk/news/uk/home-news/coronavirus-trials-court-jail-delays-lord-chief-justice-a9407936.html>

2. Freedom of movement (internal and cross-border; sanctions)

- On 23 March, the government announced that measures to mitigate the virus were to be tightened further for a planned "lockdown" period intended to last for at least three weeks.²⁵⁴
- On 23rd March, The Foreign & Commonwealth Office (FCO) advised British people travelling abroad to return to the UK now, if commercial flights are still available. The FCO is working with airlines to keep routes open, and calling for international action to enable British people to return home on commercial flights. The FCO advises British people against all non-essential travel worldwide until at least 15 April.²⁵⁵
- Social gatherings and meeting up in crowds have been banned. One form of solitary exercise is permitted such as running or riding a bicycle. Police will be enforcing the lockdown measures, but people are not required to bring papers with them when they go outside to justify their reason for leaving the house.
<https://www.dw.com/en/coronavirus-what-are-the-lockdown-measures-across-europe/a-52905137>
- Borders are currently **open**. From June 8, visitors from abroad will be required to **quarantine** for 14 days. Those exempt from these measures include people travelling from Ireland, the Channel Islands or the Isle of Man. Upon arrival, those who are required to self-**isolate** need to provide their journey and contact details. The government says these measures will be reviewed every three weeks. [More information here](#).

3. Freedom of expression, media freedom, freedom of information (and sanctions)

- On 10 March, the NHS unveiled a package of measures in the battle against coronavirus fake news – working with Google, Twitter, Instagram and Facebook – to help the public get easy access to accurate NHS information and avoid myths and misinformation.²⁵⁶
- the government's strong response to certain critical media coverage of its handling of the crisis has even prompted Richard Horton, editor of the Lancet medical journal, to [accuse the government](#) of "deliberately rewriting history in its ongoing Covid-19 disinformation campaign".
- According to Article 19, "the Information Commissioner's Office, which is responsible for FOI, announced it would be flexible around enforcing FOI during the pandemic. On April 3, not-for-profit organisation Foxglove made a FOI request for details of controversial patient data-sharing deals that the UK Government was doing with tech companies. As of May 7, Foxglove still hadn't received a response", see <https://www.article19.org/resources/advances-in-freedom-of-information-under-threat-during-coronavirus-pandemic/>.

4. Freedom of assembly (and sanctions)

- UK has closed all shops selling non-essential goods, including clothing and electronic stores and other premises including libraries, playgrounds and outdoor gyms, and places of worship; forbidden all gatherings of more than two people in public – excluding people with whom a person live; stopped all social events, including weddings, baptisms and other ceremonies, but excluding funerals. Parks remain open for exercise but gatherings are dispersed.²⁵⁷

²⁵⁴<https://www.bbc.com/news/uk-52012432>

²⁵⁵<https://www.gov.uk/guidance/travel-advice-novel-coronavirus>

²⁵⁶<https://www.england.nhs.uk/2020/03/nhs-takes-action-against-coronavirus-fake-news-online/>

²⁵⁷<https://www.theguardian.com/uk-news/2020/mar/23/boris-johnsons-address-to-the-nation-in-full>

- Police officers are able to monitor those breaking the rules and apply fines of up to £1,000 and disperse gathering.²⁵⁸
- On 25 March Police has been authorised to use force to send people back home if they refuse to obey the coronavirus lockdown, under government plans.²⁵⁹

5. Privacy and data protection

- While nothing official has been announced yet, the UK is in talks with major telecoms providers including O2 and EE to provide large sets of anonymized data.²⁶⁰
- See Watchdog approves use of UK phone data to help fight coronavirus
<https://www.theguardian.com/world/2020/mar/27/watchdog-approves-use-uk-phone-data-if-helps-fight-coronavirus>
- UK launches large-scale coronavirus app test:
<https://www.politico.eu/article/uk-launches-large-scale-coronavirus-app-test-isle-of-wight-matt-hancock/>

6. Asylum and migration

- On 25 March, it was reported that three immigration detention centres had reported cases of people with coronavirus.²⁶¹
- Asylum decisions continue to be made and served where there is enough information to do so. Where there are safeguards concerns and vulnerabilities decisions are on hold.²⁶²
- No face to face appeal hearings are taking place.²⁶³
- Family reunification and resettlement processes are on hold due to visa and travel restrictions.²⁶⁴ Exceptionally, a group of 50 refugees and asylum seekers left Greece for the UK on Monday 11 May for family reunification. The group includes 16 unaccompanied minors.
- According to media, the UK Home Office's scheme of contracting out asylum services to private companies has failed to ensure that the three companies were delivering services that meet people's needs. As a result, hundreds of asylum seekers have been unable to access basic services for more than 12 weeks.²⁶⁵
- see also ECRE information sheet: <https://www.ecre.org>

7. Prisons

The government released specific guidance to prisons in the event of coronavirus symptoms or cases, specifically the rule that "any prisoner or detainee with a new, continuous cough or a high temperature should be placed in protective isolation for 7 days"²⁶⁶.

²⁵⁸<https://www.itv.com/news/2020-03-23/boris-johnson-downing-street-coronavirus-update/>

²⁵⁹<https://www.theguardian.com/uk-news/2020/mar/25/coronavirus-lockdown-will-be-imposed-by-force-in-england>

²⁶⁰<https://www.businessinsider.com/countries-tracking-citizens-phones-coronavirus-2020-3?r=US&IR=T#the-uk-isnt-tracking-yet-but-is-considering-it-11>

²⁶¹<https://www.bbc.com/news/uk-52017311>

²⁶² <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²⁶³ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²⁶⁴ <https://www.ecre.org/wp-content/uploads/2020/05/COVID-INFO-5-May-.pdf>

²⁶⁵ https://www.independent.co.uk/news/uk/home-news/asylum-seekers-accommodation-gps-schools-home-office-watchdog-coronavirus-a9598481.html?fbclid=IwAR0sW681fcU_8iWkQONlpOuF1Qf53MoFEylu_IDIkhd3doQGfVkkkAqyt0w

²⁶⁶<https://www.gov.uk/government/publications/covid-19-prisons-and-other-prescribed-places-of-detention->

8. Discrimination

- NHS doctors are given new guidelines to decide which victims go on ventilators. On the basis of these measures, it could also see a patient already on a ventilator removed to allow a someone with a greater chance of survival to take his\her place.²⁶⁷
- The CEO of Disability Rights UK has written to Rt Hon Justin Tomlinson MP, Minister for Disabled People, Health and Work and the Rt Hon Helen Whately MP, Minister for Care, to express concerns that current guidance on Coronavirus does not go far enough to safeguard the lives of disabled people, people with long-term health conditions and older people in relation to CO-VID 19²⁶⁸.
- A Vietnamese art curator was dropped as an assistant for an exhibit of contemporary Vietnamese fine art at the Affordable Art Fair. The dealer in charge of the exhibit explained in an email that she could no longer participate because "Asians are being seen as carriers of the virus" and that the presence of a Vietnamese curator "would unfortunately create hesitation on the part of the audience to enter the exhibition space."²⁶⁹ And many others discriminations against Asians²⁷⁰.

9. Any other issue relevant for Art. 2 TEU

[guidance/covid-19-prisons-and-other-prescribed-places-of-detention-guidance](#)

²⁶⁷https://www.independent.co.uk/news/uk/politics/coronavirus-boris-johnson-uk-doctor-victims-intensive-care-ventilator-italy-a9415356.html?fbclid=IwAR1N5n8_IY0sJNqd_-TVq19XvjWJcWsvq1RLCQO1uT8_OLzxqXf2Yag1bxw

²⁶⁸<https://www.disabilityrightsuk.org/news/2020/march/coronavirus-dr-uk-ceo-writes-disability-and-care-ministers>

²⁶⁹<https://www.theguardian.com/world/2020/mar/05/vietnamese-curator-dropped-because-of-coronavirus-prejudice>

²⁷⁰<https://www.mirror.co.uk/news/uk-news/coronavirus-nurse-racially-attacked-couple-21701031>

<https://www.devonlive.com/news/devon-news/asian-teens-punched-kicked-spat-3922546>

<https://www.bbc.co.uk/news/uk-england-london-51771355>

[https://timesofindia.indiatimes.com/nri/other-news/indian-origin-woman-in-uk-beaten-for-trying-to-save-chinese-from-racist-attack-over-](https://timesofindia.indiatimes.com/nri/other-news/indian-origin-woman-in-uk-beaten-for-trying-to-save-chinese-from-racist-attack-over-coronavirus/articleshow/74288736.cms)

[coronavirus/articleshow/74288736.cmshttps://www.theguardian.com/world/2020/feb/16/they-yelled-coronavirus-first-british-attack-victim-east-asian-man](https://www.theguardian.com/world/2020/feb/16/they-yelled-coronavirus-first-british-attack-victim-east-asian-man)

<https://www.thestar.co.uk/news/crime/chinese-student-attacked-sheffield-over-coronavirus-1381837>

<https://www.theguardian.com/world/2020/feb/01/coronavirus-weaponised-way-to-be-openly-racist>

<https://www.bbc.com/news/av/uk-england-london-51361930/londoners-experiencing-racism-over-coronavirus>

<https://www.lbc.co.uk/radio/presenters/tom-swarbrick/coronavirus-panic-uk-more-racist-british-chinese/>

This study, drafted by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the Monitoring Group on Democracy, Rule of Law and Fundamental Rights of the LIBE Committee, aims at monitoring and giving an overview the measures adopted by EU Member States in the fight against the spreading of the Covid-19 virus and their impact on DRF. The research is based at this stage on open sources such as press articles, reports of national, European and international bodies, etc, in a rapidly changing situation.
