

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Estonia

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1 Measures taken by government/public authorities

1.1 Emergency laws/states of emergency, including enforcement actions

In **Estonia**, the Government of the Republic declared an emergency situation on 12 March 2020 due to the pandemic spread of the COVID-19.¹ The emergency situation was initially to last until 1 May 2020, but was later extended until 17 May 2020.² The declaration, resolution and termination of an emergency situation is regulated by the Emergency Act (*Hädaolukorra seadus*).³

The Emergency Act gives the person in charge of the emergency situation (the Prime Minister) the right to issue orders applying various measures. The orders include a reference that the failure to comply with the measures of the emergency situation prompt the application of the administrative coercive measures set out in the Law Enforcement Act⁴, and that the penalty payment is € 2000 pursuant to the Emergency Act.⁵

1.2 Measures affecting the general population

1.2.1 Social distancing

In **Estonia**, after the declaration of the emergency situation, stay at home orders were imposed on people who arrived in Estonia from abroad. Within 14 calendar days after arriving in Estonia, such persons were prohibited from leaving their place of residence (with exceptions, such as asymptomatic persons who are, for example, health care professionals or emergency responders; transporting goods or raw products; residing in Estonia, but working in Latvia).⁶

As of 28 March 2020, stay at home orders are also imposed on persons diagnosed with the coronavirus, as well as persons living or permanently staying in the same residence with such persons. Infected persons are prohibited from leaving their place of residence from the moment they are diagnosed until recovery, except on the instructions of a health professional or a police officer, or in case of an emergency. The household members of the diagnosed person may leave in

¹ Estonia, [Declaration of Emergency Situation in the Administrative Territory of the Republic of Estonia \(Eriolukorra väljakuulutamine Eesti Vabariigi haldusterritooriumil\)](#), 12 March 2020.

² Estonia, Amendment to the Government of the Republic Order No. 76 of 12 March 2020 "Declaration of Emergency Situation in the Administrative Territory of the Republic of Estonia" ([Vabariigi Valitsuse 12. märtsi 2020. a korralduse nr 76 „Eriolukorra väljakuulutamine Eesti Vabariigi haldusterritooriumil“ muutmise](#)), 24 April 2020.

³ Estonia, [Emergency Act \(Hädaolukorra seadus\)](#), 8 February 2017.

⁴ Estonia, [Law Enforcement Act \(Korraldusseadus\)](#), § 28 (2)-(3), 23 February 2011.

⁵ Estonia, [Emergency Act \(Hädaolukorra seadus\)](#), § 47, 8 February 2017.

⁶ Estonia, [Order of the person in charge of emergency situation for imposing a restriction on movement after crossing the state border \(Eriolukorra juhi korraldus liikumispiirangu kehtestamiseks pärast riigipiiri ületamist\)](#), 16 March 2020.

more cases (e.g. to obtain essentials), if they follow the general social distancing rules. Local government must organise the provision of assistance to persons required to stay at home if they lack an option for obtaining essentials themselves.⁷

Outside the house, “2+2” social distancing rule must be followed – groups of more than two people are not allowed in public places, and people are required to keep at least two meters of distance from each other. The restriction does not apply to families.⁸

Establishments for entertainment, sports and culture have remained closed since 14 March 2020, but from 2 May 2020, open-air museums and outdoor gyms are allowed to open, and it is allowed to organise outdoor sports events, provided that hygiene and social distancing rules are followed.⁹

Shopping centres are closed as of 27 March 2020, with the exception of limited essential shops within the centres.¹⁰ Cafes, bars, restaurants are allowed to stay open, however, after 10 pm only for take-away.¹¹

Due to the increased spread of coronavirus in Saaremaa and Muhu municipality, stricter restrictions were imposed in these territories on 28 March 2020. The residents were only allowed to leave their place of residence for limited purposes, and non-essential stores and services were ordered to close.¹² Already from 14 March 2020, it was prohibited to enter or leave territories of Saaremaa, Hiiumaa, Vormsi, Ruhnu, Kihnu and Muhu and the island of Manija, with limited exceptions.¹³

⁷ Estonia, [Order of the person in charge of emergency situation for imposing a restriction on the freedom of movement on persons diagnosed with the coronavirus causing the COVID-19 disease and on persons living with or permanently staying in the same place of residence as said persons](#) (*Eriolukorra juhi korraldus liikumisvabaduse piirangu kehtestamiseks COVID-19 haigust põhjustava koroonaviiruse diagnoosiga isikutele ja nende isikutega koos elavatele või samas elukohas püsivalt viibivatele isikutele*), 26 March 2020.

⁸ Estonia, [Order of the person in charge of emergency situation for imposing restrictions on the freedom of movement in public places](#) (*Eriolukorra juhi korraldus seoses liikumisvabaduse piirangute kehtestamisega avalikes kohtades*), 24 March 2020.

⁹ Estonia, Amendment to Government of the Republic Order No. 77 of 13 March 2020 “Implementation of Emergency Measures” (*Vabariigi Valitsuse 13. märtsi 2020. a korralduse nr 77 „Eriolukorra meetmete rakendamise” muutmine*), 28 April 2020; Estonia, Amendment to the Prime Minister’s Order No. 29 of 14 March 2020 “Order of the person in charge of emergency situation concerning restrictions imposed on institutions accessible to the public” (*Peaministri 14. märtsi 2020. a korralduse nr 29 „Eriolukorra juhi korraldus seoses avalikuks kasutamiseks mõeldud asutustele kehtestatavate piirangutega” muutmine*), 27 April 2020.

¹⁰ Estonia, [Order of the person in charge of emergency situation for imposing a restriction on the freedom of movement in commercial establishments](#) (*Eriolukorra juhi korraldus kaubandusettevõtetes liikumisvabaduse piirangu kehtestamise kohta*), 24 March 2020.

¹¹ Estonia, Amendment to Prime Minister’s Order No. 29 of 14 March 2020 “Order of the person in charge of emergency situation concerning restrictions imposed on institutions accessible to the public” (*Peaministri 14. märtsi 2020. a korralduse nr 29 „Eriolukorra juhi korraldus seoses avalikuks kasutamiseks mõeldud asutustele kehtestatavate piirangutega” muutmine*), 24 March 2020.

¹² Estonia, [Order of the person in charge of emergency situation for imposing additional restrictions on the freedom of movement and prohibition on stay in combating the spread of the coronavirus causing the COVID-19 disease in the rural municipalities of Saaremaa and Muhu](#) (*Eriolukorra juhi korraldus täiendavate liikumisvabaduse piirangute ja viibimiskeelu kehtestamiseks COVID-19 haigust põhjustava koroonaviiruse leviku tõkestamisel Saaremaa vallas ja Muhu vallas*), 28 March 2020.

¹³ Estonia, [Order of the person in charge of emergency situation for imposing restrictions on the freedom of movement in the territories of the rural municipalities of Saaremaa, Hiiumaa, Vormsi, Ruhnu, Kihnu and Muhu and the island of Manija](#) (*Eriolukorra juhi korraldus Saaremaa, Hiiumaa, Vormsi, Ruhnu, Kihnu ja Muhu valla ning Manija saare territooriumil liikumisvabaduse piirangute kehtestamise kohta*), 14 March 2020.

On 26 April 2020, people in Saaremaa organised a protest against the strict isolation measures, while following the “2+2” social distancing rule.¹⁴ As a result, the order imposing stricter restrictions in Saaremaa and Muhu municipality was repealed as of 28 April 2020. In addition, it was decided to ease the earlier restriction to movement by issuing single travel permits for travelling from and to the islands of Saaremaa, Muhu, Hiiumaa, Kihnu, Ruhnu and Vormsi.¹⁵

Whereas the protest in Saaremaa was allowed, other protests, for example in Tartu, have been dispersed by the police, despite compliance with social distancing rules.¹⁶ This has been subject to criticism from civil society, activists find that if the “2+2” social distancing rule is considered sufficient for other daily activities, then protesting against the government, while also complying with the social distancing rules, must be allowed.¹⁷ The Chancellor of Justice (*Õiguskantsler*) expressed an opinion that the restriction to freedom of assembly can be considered justified in the emergency situation, since political opinion can also be expressed in other ways than by physical gathering.¹⁸

The Police and Border Guard Board (*Politsei- ja Piirivalveamet*) reported on 7 April 2020 that they have initiated misdemeanour proceedings in relation to 25 people who did not understand the explanations of the police regarding the observance of the “2+2 rule”. The police have also checked the compliance with stay at home orders, mainly by phone calls, if necessary, by home visits. As a rule, the police have found that people comply with this requirement. As of 7 April 2020, precepts for non-compliance with a stay at home order had been issued 22 times and penalty payments had been imposed twice, in the amounts of € 500 and € 2000.¹⁹

1.2.2 Education

In **Estonia**, the government suspended regular studies in schools and universities and introduced distance learning as of 16 March 2020.²⁰ Schools for students with special educational needs were allowed to remain open, but on a case-by-case basis, if transition to distance learning was not possible.²¹

Since distance learning is mainly organised via online tools, it creates difficulties for students who do not have access to a computer or the Internet. Such families are recommended to consult with the school regarding the organisation of the studies.²²

¹⁴ Liiva, S. (2020), '[Saarlastele aitab lukus saarel istumisest: pühapäeva keskpäeval korraldatakse karmide piirangute kaotamist nõudev protestiaktioon](#)', 25 April 2020.

¹⁵ Estonia, Government of the Republic (*Vabariigi Valitsus*) (2020), '[SPECIAL NOTICE: Restrictions of the emergency situation will be eased in Saaremaa and Muhu island](#)', 27 April 2020.

¹⁶ Tartu Postimees (2020), '[Politsei selgitas Tartu raeplatsil plakatitega seisjatele avalike kogunemiste lubamatust](#)', 26 April 2020.

¹⁷ Hellrand, M. (2020), '[Maris Hellrand: mis õigusega keelab valitsus enda vastu meelt avaldada?](#)' 23 April 2020.

¹⁸ Estonia, Chancellor of Justice (*Õiguskantsler*), [Kogunemisvabaduse piirangud](#), 29 April 2020.

¹⁹ ERR (2020), '[Vaher: oleme võtnud vastutusele 25 piirangute rikkujat](#)', 7 April 2020.

²⁰ Estonia, [Application of measures of emergency situation \(Eriolukorra meetmete rakendamine\)](#), 13 March 2020.

²¹ Estonia, Ministry of Education and Research (*Haridus- ja Teadusministeerium*), [Soovitused hariduslike erivajadustega õpilaste õppetöö korraldamiseks](#), 27 March 2020.

²² Estonia, Government of the Republic (*Vabariigi Valitsus*) (2020), Questions and answers regarding the emergency situation, [Education and learning](#).

Community-based initiatives have emerged to help students without the necessary technical means. The project “Computer for every schoolchild” helps families in need of computers to get in touch with people or companies who have computers which they are willing to give away or borrow. Within the framework of the initiative, more than 1,200 computers changed owners during the first month. From 15 April, the cooperation with schools, local governments and companies was transferred to the Estonian Union for Child Welfare.²³

Tallinn Education Department has reported that about 400 students have been absent since distance learning was implemented. Most of the students had issues with attendance previously and local youth and social workers are working on solving the problem case by case.²⁴

Distance learning creates additional obligations for all parents, but particularly for parents of children with special needs. For this reason, the Social Insurance Board pays compensation for the loss of income to parents or guardians of children with special needs who need to be temporarily absent from work to care for their children. The amount of compensation is 70% of the average income of one parent for one calendar day of the previous year.²⁵

1.2.3 Work

In **Estonia**, to prevent large-scale layoffs, the Unemployment Insurance Fund (*Töötukassa*) compensates for 70% of the income of employees whose companies have experienced a sharp decrease in turnover due to the emergency situation and cannot ensure work for their employees. The compensation cannot exceed € 1,000 a month per employee and is limited to two months in total between March and May. Companies must also participate by paying their employees at least 150 euro a month.²⁶ There are no other specific measures targeting people in precarious work.

On 27 April 2020, the government approved a € 25 million aid package for direct support to companies in the tourism sector and the allocation of € 10 million to support micro and small enterprises, to partially compensate for the damage caused by the COVID-19 outbreak.²⁷

Working is not banned for any occupation, but working from home is encouraged. Employers are responsible for implementing physical distancing measures in the workplace. The governmental guidelines for the offices are to keep a distance between persons no less than 2 meters, air the rooms regularly, clean the surfaces regularly, and use disinfectants.²⁸

Frontline workers, such as health care workers, social workers, Police and Border Guard Board officers, rescue workers are provided with random testing for the coronavirus even when

²³ A computer for every schoolchild (*Igale koolilapsele arvuti*) (2020).

²⁴ ERR (2020), ‘[Distance learning off to a good start in Tallinn](#)’, 1 April 2020.

²⁵ Estonia, Social Insurance Board (*Sotsiaalkindlustusamet*) (2020), [Erivajadusega lapse vanema erakorraline toetus](#).

²⁶ Estonia, Amendment to the Government of the Republic Regulation No. 130 of 17 November 2016 “Employment Programme 2017–2020” (*Vabariigi Valitsuse 17. novembri 2016. a määruse nr 130 „Tööhõiveprogramm 2017–2020“ muutmine*), 20 March 2020.

²⁷ Estonia, Ministry of Economic Affairs and Communications (*Majandus- ja Kommunikatsiooniministeerium*), [‘Government approves €35 million aid package for entrepreneurs’](#), 28 April 2020.

²⁸ Estonia, Government of the Republic (*Vabariigi Valitsus*) (2020), Questions and answers regarding the emergency situation, [Work, work-related travel](#).

asymptomatic. In other cases, testing of people without symptoms is not considered appropriate, the need for testing is decided by the family physician, whose referral is needed to get tested.²⁹

There is no general additional financial support to frontline workers. Ministry of the Interior and Ministry of Social Affairs have paid bonuses to their officials and heads of the institutions in their area of government for performing additional duties due to the emergency situation.³⁰

1.2.4 Access to justice

In **Estonia**, the Estonian Council for Administration of Courts (*Kohtute haldamise nõukoda*) has issued recommendations for the operation of the courts during the emergency situation. Estonian courts continue to administer justice, but where possible, litigation is handled in writing. The hearings that are absolutely necessary will be held by technical means of communication. The necessity for holding a hearing is decided by the court on a case-by-case basis. If it is not possible to hold a hearing by technical means of communication, the court will decide on holding a hearing on the basis of the circumstances of each particular case. The courts recommend the online e-File system and email when choosing the method of submission of procedural documents.³¹

There are no reports of increased use of alternatives to detention. On the contrary, on 20 April 2020 the Parliament (*Riigikogu*) approved amendments to the Obligation to Leave and Prohibition on Entry Act (*Väljasõidukohustuse ja sissesõidukeelu seadus*) and Act on Granting International Protection to Aliens (*Välismaalasele rahvusvahelise kaitse andmise seadus*) that simplify the procedure for detaining asylum-seekers and persons in expulsion procedures. The amendments provide that in case an "exceptionally large number" of applications for detention are submitted to the court, the court may issue a detention ruling without the reasoning, the reasons will be given only if the decision is appealed.³² The explanatory memorandum justifies the amendments with the need to be prepared for situations of third-country nationals staying in Estonia illegally, bringing as an example that if third-country nationals become unemployed due to the emergency situation and no longer meet the conditions for staying in Estonia, they may apply for asylum with the aim to avoid deportation to their home country.³³ The Estonian Human Rights Centre and the Estonian Refugee Council have criticised this approach, emphasising that detainees are particularly vulnerable to the risk of COVID-19 infection and therefore simplifying detention procedures in the event of a pandemic is a counterproductive measure, which is neither sensible nor justified.³⁴

²⁹ Estonia, Government of the Republic (*Vabariigi Valitsus*) (2020), [Korduma kippuvad küsimused](#).

³⁰ Pihlak, A. (2020), '[Raha on piisavalt. Mart Helme premeeris heldelt oma allasutuste juhte](#)', *Delfi Ärileht*, 3 April 2020.

³¹ Estonia, Council for Administration of Courts (*Kohtute haldamise nõukoda*), [Recommendations of the Council for Administration of Courts for organising the administration of justice during emergency situation](#), 16 March 2020.

³² Estonia, Act on Amending the Assistant Police Officer Act and Other Acts (Measures Related to the Spread of the COVID-19) 170 SE ([Abipolitseiniku seaduse ja teiste seaduste muutmise seadus \(COVID-19 haigust põhjustava viiruse SARS-Cov-2 levikuga seotud meetmed\) 170 SE](#)), 20 April 2020.

³³ Estonia, Explanatory Memorandum to the Act on Amending the Assistant Police Officer Act and Other Acts (Measures Related to the Spread of the COVID-19) 170 SE ([Abipolitseiniku seaduse ja teiste seaduste muutmise seaduse \(COVID-19 haigust põhjustava viiruse SARS-Cov-2 levikuga seotud meetmed\) 170 SE seletuskiri](#)), 2 April 2020.

³⁴ Orav, A. T. (2020), '[Põhiseaduskomisjon kobareelnõust: välismaalaste lühiajalist töötamist piirav punkt on liiga jäik, poliitiline ja tuleks eelnõust välja jätta](#)', 10 April 2020.

1.2.5 Freedom of movement

In **Estonia**, the government temporarily restored border checks and restricted the entrance into the territory of Estonia as of 17 March 2020. The restriction does not apply to people with a legal ground to stay in Estonia; people involved in transporting goods and raw products; diplomats and their families; health workers and providers of other essential services. Furthermore, crossing the border is allowed for asymptomatic persons moving between Estonia and Latvia for the purpose of employment. Exceptionally, entry may also be allowed under a justified special request.³⁵ At the border crossing points, the Police and Border Guard Board identifies all persons entering the country by checking their documents and interviews them about possible symptoms of the coronavirus.³⁶

There have been no changes in the rules regarding applicants for international protection, the government has not decided to suspend the registration of asylum applications. However, the manager of the reception centres reported that they have not received any new applicants for international protection in April 2020.³⁷

On 20 April 2020, the Parliament approved amendments to the Aliens Act (*Välismaalaste seadus*) aimed at ensuring that third-country nationals who have lost their jobs during the emergency situation leave Estonia as soon as possible. This affects third-country nationals holding a long-stay visa for employment or those working in the country visa-free. The amendments give the Police and Border Guard Board the right to annul the visa or the visa-free period of a third-country national in case they have lost their job, due to the emergency situation or any other reason.³⁸

The Chancellor of Justice has criticised these amendments, noting their lack of connection to resolving the emergency situation. The Chancellor of Justice confirmed that, in general, the state has a wide margin of discretion on how to regulate the employment of third-country nationals, but if the Parliament has established a regulation that allows third-country nationals to enter the country under certain conditions, employers also have the right to assume that the state follows the principle of legal certainty and the established rules are not changed within an unreasonably short notice.³⁹

In response to concerns from agricultural enterprises which depend on foreign labour, the Ministry of the Interior and the Ministry of Rural Affairs have suggested that any available jobs should be filled by the Estonians who have become unemployed due to the emergency situation.⁴⁰ This approach has been criticised as simplistic and unrealistic by farmers.⁴¹

³⁵ Estonia, [Temporary restriction on crossing the state border due to the spread of the coronavirus causing the COVID-19 disease \(Riigipiiri ületamise ajutine piiramine COVID-19 haigust põhjustava koroonaviiruse leviku tõttu\)](#), 15 March 2020.

³⁶ Estonia, Police and Border Guard Board (*Politsei- ja Piirivalveamet*) (2020), Teave eriolukorra kohta, [Piirikontrolli taastamine](#).

³⁷ Postimees (2020), [‘Eesti pagulaskeskustes elab kokku 40 inimest’](#), 4 May 2020.

³⁸ Estonia, Act Amending the Assistant Police Officer Act and Other Acts (Measures Related to the Spread of the COVID-19) 170 SE (*Abipolitseiniku seaduse ja teiste seaduste muutmise seadus (COVID-19 haigust põhjustava viiruse SARS-Cov-2 levikuga seotud meetmed) 170 SE*), 20 April 2020.

³⁹ Estonia, Chancellor of Justice (*Õiguskantsler*) (2020), [Tähelepanekud abipolitseiniku seaduse ja teiste seaduste muutmise seaduse \(COVID-19 haigust põhjustava viiruse SARS-Cov-2 levikuga seotud meetmed\) eelnõu kohta](#), 7 April 2020.

⁴⁰ Riispapp, J. (2020), [‘Põllumehed jäävad hooajalise võõrtööjõuta’](#), *Postimees*, 2 April 2020.

⁴¹ Postimees (2020), [‘Ettevõtja: “Ma ei usu, et töötud maale tööle tulla tahavad”](#)’, 3 April 2020.

1.3 Impact of measures on particular groups

Persons with disabilities

In **Estonia**, according to the Estonian Chamber of Disabled People (*Eesti Puuetega Inimeste Koda*), the main fundamental rights concern affecting persons with disabilities in relation to the restrictions of the emergency situation is that the government has treated institutions providing special care in the same way as care facilities for the elderly, even though special care clients are of working age.⁴² Pursuant to the 3 April 2020 order, people in general and special care homes are prohibited from leaving the territory of their social welfare institution until the end of the emergency situation (with limited exceptions, such as going to the hospital).⁴³ The order includes nothing on special care clients in community-based living. This lack of clear guidelines has caused confusion, some service providers also began to restrict the freedom of movement of special care clients living in the community.⁴⁴

The Chancellor of Justice has expressed concern about the amendment to the Code of Civil Procedure and Code of Enforcement Procedure Implementation Act (*Tsiviilkohtumenetluse seadustiku ja täitemenetluse seadustiku rakendamise seadus*), approved by the Parliament on 20 April 2020, which reduces judicial control over involuntary placement in a psychiatric hospital during the emergency situation. The amendment allows the extension of the term of involuntary placement in a closed institution without complying with the requirement of the patient to be heard. The Chancellor of Justice raised alarm that this may prove unconstitutional.⁴⁵

The restrictions of the emergency situation impact the funding of civil society organisations, including the Estonian Chamber of Disabled People, which receive financial support from gambling tax receipts. On 9 April 2020, the Ministry of Social Affairs proposed to its partner organisations to review their budgets to see if they could postpone or cancel activities, since gambling tax revenue could be reduced by up to 50%. The Estonian Chamber of Disabled People, which brings together 272 different organisations, expressed concern that cutting already insufficient funding could lead to the demise of many associations.⁴⁶ The Ministry of Social Affairs confirmed that the decision to cut the funding has not been made, the aim is to find solutions together with the organisations.⁴⁷

Detainees

In **Estonia**, no prisoners have been diagnosed with the coronavirus, but strict restrictions are in place. Prisoners are kept in their cells around the clock. Prison visits have been suspended, but

⁴² Estonian Chamber of Disabled People (*Eesti Puuetega Inimeste Koda*), Response to information request, 27 April 2020.

⁴³ Estonia, [Order of the person in charge of emergency situation for imposing a restriction on the freedom of movement in social welfare institutions \(*Eriolukorra juhi korraldus hoolekandeesutustes liikumisvabaduse piirangu kehtestamise kohta*\)](#), 3 April 2020.

⁴⁴ Estonia, Chancellor of Justice (*Õiguskantsler*), Response to information request, 4 May 2020.

⁴⁵ Estonia, Chancellor of Justice (*Õiguskantsler*) (2020), [Tähelepanekud abipolitseiniku seaduse ja teiste seaduste muutmise seaduse \(COVID-19 haigust põhjustava viiruse SARS-Cov-2 levikuga seotud meetmed\) eelnõu kohta](#), 7 April 2020.

⁴⁶ Estonian Chamber of Disabled People (*Eesti Puuetega Inimeste Koda*), [Puuetega inimeste organisatsioonide 50% rahastuse kärbe toob kaasa hävingu](#), 18 April 2020.

⁴⁷ ERR (2020), [Ministeerium: otsust puuetega inimeste tegevustoetuste kärpimiseks ei ole ega tule](#), 18 April 2020.

prisoners continue to have access to lawyers, consular officers and religious representatives. Prisons are not taking packages delivered in person, packages sent by post are still being received.⁴⁸

The Chancellor of Justice has confirmed that locking detainees in cells, prohibiting prison shop, joint activities and visits is reasonable and necessary in the emergency situation. However, the ban on walking in the fresh air and reducing the opportunity to make phone calls to once a week is excessive and may qualify as a violation of human rights. The Chancellor of Justice finds that since prisons have stocked personal protective equipment and it is used in daily work, prison staff can come into contact with detainees as safely as possible. It is therefore unreasonable to confine detainees in cells without any opportunity to be in the fresh air, walks can be arranged in smaller groups and in a larger outdoor area.⁴⁹

The Ministry of Justice replied to the Chancellor of Justice that taking prisoners to walking areas would significantly increase their risk of infection and such unjustified risks must not be taken in the emergency situation. The Ministry noted that the prisoner must always be accompanied to the walking area and during the walk by a prison guard, so contact is unavoidable. The Ministry also explained that although the possibility to call once a week was the absolute minimum, of which prisons also allowed more calls, from 13 April all prisons will allow private calls to be made at least twice a week for 15-20 minutes.⁵⁰

Older people

In **Estonia**, several care facilities for the elderly have had an outbreak of the coronavirus. On 20 April 2020, the Health Board reported that people have tested positive for the coronavirus in 13 different care facilities. The number of infected people was the highest in two care homes in Saaremaa, one in Ida-Virumaa and one in Tartu County, the rest have had 1-2 clients or employees with a positive test result.⁵¹ In the end of April, an outbreak was also reported in Tammiste care home in Pärnu, where a total of 20 people were diagnosed with the coronavirus.⁵²

As of 3 April 2020, people in general and special care homes are prohibited from leaving the territory of their social welfare institution until the end of the emergency situation. There are limited exceptions, such as being admitted to a hospital, or leaving to a place of residence without the possibility of returning. Social welfare institutions may designate an area outdoors where persons not showing any symptoms of the coronavirus are allowed to move around.⁵³

While criticising the lack of focus on human rights during the emergency situation, a professor of human rights at Tallinn University has noted that the ban on leaving social welfare institutions is essentially a deprivation of liberty, although it has been formulated as a restriction to movement.

⁴⁸ Estonia, Ministry of Justice (*Justiitsministeerium*), Estonian Prison Service (*Vanglateenistus*) (2020), [Eriolukorra piirangud](#).

⁴⁹ Estonia, Chancellor of Justice (*Õiguskantsler*), [COVID-19 haigust põhjustava viiruse leviku tõkestamise meetmed](#), 6 April 2020.

⁵⁰ Estonia, Ministry of Justice (*Justiitsministeerium*), [Vastus soovitusel COVID-19 haigust põhjustava viiruse leviku tõkestamise meetmete kohta](#), 16 April 2020.

⁵¹ Estonia, Health Board (*Terviseamet*) (2020), ['Õöpäevaga lisandus 7 COVID-19 positiivset tulemust'](#), 20 April 2020.

⁵² ERR (2020), ['Pärnu Tammiste hooldekodus tuvastati nakkus 20 inimesel'](#), 29 April 2020.

⁵³ Estonia, [Order of the person in charge of emergency situation for imposing a restriction on the freedom of movement in social welfare institutions \(Eriolukorra juhi korraldus hoolekandeesutustes liikumisvabaduse piirangu kehtestamise kohta\)](#), 3 April 2020.

The professor stressed that it would be essential to draw up a strategy for the protection of human rights, both for the duration of the emergency situation and for the process of easing the restrictions. Currently, the 22-page document of the exit strategy mentions human rights zero times.⁵⁴

2 Users' data - privacy and data protection

2.1 Arrangements between public authorities and other actors to allow collection, sharing and processing of user data

In **Estonia**, the Crisis Committee of the Government of the Republic (*Vabariigi Valitsuse kriisikomisjon*) instructed the Statistics Estonia (*Statistikaamet*) to create a mobility analysis of the Estonian people during the emergency situation, which could serve as an input for decisions on how to gradually lift the restrictions to movement. The Statistics Estonia received anonymous aggregate data from mobile network operators, on the basis of § 105 (1) of the Electronic Communications Act, which allows the release of location data in anonymised form.⁵⁵ The data was used as the basis for calculating the rate of staying local for the whole country, the results were aggregated at the level of local municipalities and, when possible, at a more detailed level (e.g. by urban regions in Tallinn and Tartu).⁵⁶

On 9 April 2020, entrepreneurs and state officials agreed to form a joint consortium to develop a mobile app for contact tracing of those infected with the coronavirus.⁵⁷ The Ministry of Social Affairs has confirmed that the development of the app follows the data protection guidelines of the European Data Protection Board. The app will be decentralised and only process Bluetooth proximity data.⁵⁸ Only those who have actually tested positive for COVID-19 can mark themselves accordingly on the application. How exactly this will be solved is still under discussion, but one idea is to have a special code from the Health Board.⁵⁹ The app transmits an anonymous ID over short-range Bluetooth and analyses which other IDs the individual has been in contact. Only if a certain threshold of distance and time between two devices is recorded, a match is confirmed.⁶⁰ The message that the user receives after close contact is anonymous and timed, it will not be revealed where or when the phone carrier was in contact with the virus carrier. The message also includes guidelines on further action (e.g. to self-isolate for 14 days).⁶¹ The app may ask when the infected person's symptoms started, which is important for calculating an infectious window, but it will have no further health functionalities.⁶² None of this information is shared with the state, unless the user chooses to. The

⁵⁴ Susi, M. (2020), '[Mart Susi: Eesti väljumiskava jättis inimõigused unarusse](#)', *Eesti Päevaleht*, 23 April 2020.

⁵⁵ Estonia, [Electronic Communications Act \(Elektronilise side seadus\)](#), § 105 (1), 8 December 2004.

⁵⁶ Estonia, Statistics Estonia (*Eesti Statistikaamet*), '[Statistics Estonia: people stay in one location 20 hours per day on average](#)', 9 April 2020.

⁵⁷ Liive, R. (2020), '[Eestis hakatakse arendama koroonaviirusesse nakatunute kontaktijälitamise äppi](#)', *Digigeenius*, 10 April 2020.

⁵⁸ Numa, A. (2020), '[How do you trace Covid-19 while respecting privacy?](#)', *e-Estonia*, April 2020.

⁵⁹ Jõesaar, T. (2020), '[Peagi ütleb telefon, kas oled viiruskandja lähedal olnud](#)', *Eesti Päevaleht*, 6 May 2020.

⁶⁰ Numa, A. (2020), '[How do you trace Covid-19 while respecting privacy?](#)', *e-Estonia*, April 2020.

⁶¹ Jõesaar, T. (2020), '[Peagi ütleb telefon, kas oled viiruskandja lähedal olnud](#)', *Eesti Päevaleht*, 6 May 2020.

⁶² Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), Response to information request, 6 May 2020.

app will have two levels of voluntariness: the user can decide whether to use the app, and whether to share the data with the state.⁶³

2.2 Legal framework enabling collection, processing, sharing and storage of user data

In **Estonia**, the collection and processing of mobile phone user data is regulated by the Electronic Communications Act (*Elektronilise side seadus*).⁶⁴ Among other rules, the Act provides that a mobile network operator may process customer location data only if it has been rendered anonymous prior to processing.⁶⁵ No new legal acts have been adopted or are under preparation to enable public authorities or private entities to collect or process such data in the context of the coronavirus pandemic.

The possibilities for the use of mobile phones' location data for the purpose of uncovering or proving an offence is regulated by the Code of Criminal Procedure (*Kriminaalmenetluse seadustik*)⁶⁶ and the Code of Misdemeanour Procedure (*Väärteomenetluse seadustik*)⁶⁷.

2.3 Privacy and data protection concerns and possible solutions

In **Estonia**, the Chancellor of Justice has explained in response to concerns from people that the location data of mobile phones cannot legally be used to determine compliance with the restrictions imposed in the emergency situation. Real-time positioning of a mobile phone is a surveillance operation, which must be authorised by the prosecutor. The offences for which surveillance is permitted are listed in the Code of Criminal Procedure. The offence of causing the spread of infectious diseases (§ 193 of the Penal Code) is not included in this list.⁶⁸

The Chancellor of Justice further explained that if a person does not comply with the movement restrictions established during the emergency situation, it is possible to initiate a misdemeanour procedure, or a criminal procedure (if other people are infected due to violation of the restriction). In both cases, it is possible to use the location data of a mobile phone to prove the offence. In misdemeanour proceedings, a request for this data requires the permission of a court; in criminal proceedings, the permission of the prosecutor's office.⁶⁹ The distinction between criminal offences and misdemeanours is made according to the punishment prescribed for them by law, which reflects the substantive gravity of the offence.⁷⁰ The procedural differences originate from the relevant acts,

⁶³ Liive, R. (2020), '[Eestis hakatakse arendama koroonaviirusesse nakatunute kontaktijälitamise äppi](#)', *Digigeenius*, 10 April 2020.

⁶⁴ Estonia, [Electronic Communications Act \(*Elektronilise side seadus*\)](#), 8 December 2004.

⁶⁵ Estonia, [Electronic Communications Act \(*Elektronilise side seadus*\)](#), § 105 (1), 8 December 2004.

⁶⁶ Estonia, [Code of Criminal Procedure \(*Kriminaalmenetluse seadustik*\)](#), 12 February 2003.

⁶⁷ Estonia, [Code of Misdemeanour Procedure \(*Väärteomenetluse seadustik*\)](#), 22 May 2002.

⁶⁸ Estonia, Chancellor of Justice (*Õiguskantsler*), [Positsioneerimisandmete kasutamine liikumispiirangu täitmise kontrollimiseks](#), 20 March 2020.

⁶⁹ Estonia, Chancellor of Justice (*Õiguskantsler*), [Positsioneerimisandmete kasutamine liikumispiirangu täitmise kontrollimiseks](#), 20 March 2020.

⁷⁰ Estonia, [Penal Code \(*Karistusseadustik*\)](#), § 3, 6 June 2001.

the Code of Criminal Procedure (*Kriminaalmenetluse seadustik*)⁷¹ and the Code of Misdemeanour Procedure (*Väärteomenetluse seadustik*)⁷².

The Chancellor of Justice also received questions regarding the use of data for the mobility analysis undertaken by the Statistics Estonia, with fears that the location data of customers would be released to the Statistics Estonia. The Chancellor of Justice referred to the opinion of the Data Protection Inspectorate (*Andmekaitse Inspektsioon*)⁷³, which explained that if mobile network operators decide to transmit the location data of customers to the Statistics Estonia, the operators must ensure that this data is anonymous. The anonymisation methodology chosen by the operator must ensure it is not reasonably possible to identify the customers. Otherwise, the transfer of customers' location data would not be lawful.⁷⁴ The Statistics Estonia has confirmed that only anonymous historical data is used for the analysis based on which it is not possible to identify or analyse movement patterns of individual people.⁷⁵

⁷¹ Estonia, [Code of Criminal Procedure \(*Kriminaalmenetluse seadustik*\)](#), 12 February 2003.

⁷² Estonia, [Code of Misdemeanour Procedure \(*Väärteomenetluse seadustik*\)](#), 22 May 2002.

⁷³ Estonia, Data Protection Inspectorate (*Andmekaitse Inspektsioon*), [Vastus nõudekirjale nr 1.2.-2/19/3655](#), 19 November 2019.

⁷⁴ Estonia, Chancellor of Justice (*Õiguskantsler*), [Asukohaandmete kasutamine riikliku statistika tegemisel](#), 1 April 2020.

⁷⁵ Estonia, Statistics Estonia (*Eesti Statistikaamet*), ['Statistics Estonia: people stay in one location 20 hours per day on average'](#), 9 April 2020.