

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Spain

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1 Measures taken by government/public authorities

On 11 March 2020, the World Health Organization elevated the public health emergency caused by COVID-19 to an international pandemic.

On 14 March 2020, the Spanish Council of Ministers approved *Royal Decree 463/2020, declaring the state of alarm for the management of the health crisis situation caused by COVID-19*. It came into effect on the same date, upon publication in the Official State Gazette (BOE)¹, and includes, among other measures, limitations to the freedom of movement of people, with the effects this entails for citizens, workers and companies.

In accordance with article 3 of the said Royal Decree, the duration of the state of alarm was fifteen calendar days. However, in order to guarantee the effective management of the health emergency and to contain the spread of the disease caused by COVID-19, the Government, prior authorisation from the Congress of Deputies (the Spanish Parliament), has deemed it essential to extend the state of alarm on three occasions to date (30 April 2020). The last extension established on 24 April 2020 will be from 00:00 hours on 26 April 2020 until 00:00 hours on 10 May 2020.

At the time of writing (30 April 2020), Spain had recorded 24.543 deaths and 213.435 positive PCR-diagnosed cases², placing Spain second in the number of infections, only behind the United States of America³. On the same date, the number of people cured reached 112.050⁴.

1.1 Emergency laws/states of emergency, including enforcement actions

The successive extensions of the state of alarm were established by means of:

- Royal Decree 476/2020, of 27 March, extending the state of alarm declared by Royal Decree 463/2020, of 14 March, which declared the state of alarm for the management of the health crisis situation caused by COVID-19⁵;
- Royal Decree 487/2020, of 10 April, extending the state of alarm declared by Royal Decree 463/2020, of 14 March, declaring the state of alarm for the management of the health crisis situation caused by COVID-19⁶; and

¹ Spain, Royal Decree declaring the state of alarm for the management of the health crisis situation caused by COVID-19 (*Real Decreto por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19*), 14 March 2020.

² Gobierno de España, Centro de Coordinación de Alertas y Emergencias Sanitarias (2020), *Actualización nº 91. Enfermedad por el coronavirus (COVID-19)*. 30.04.2020 (datos consolidados a las 21:00 horas del 29.04.2020), https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Actualizacion_91_COVID-19.pdf.

³ Zafra, M., Blanco, Patricia R. y Sevillano Pires, L. (2020), “Casos confirmados de coronavirus en España y en el mundo”, *El País*, 30 de abril de 2020.

⁴ Gobierno de España, Centro de Coordinación de Alertas y Emergencias Sanitarias (2020), *Actualización nº 88. Enfermedad por el coronavirus (COVID-19)*. 27.04.2020 (datos consolidados a las 21:00 horas del 26.04.2020), https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Actualizacion_88_COVID-19.pdf

⁵ Spain, Royal Decree extending the state of alarm (*Real Decreto por el que se prorroga el estado de alarma*), 28 March 2020.

⁶ Spain, Royal Decree extending the state of alarm (*Real Decreto por el que se prorroga el estado de alarma*), 10 April 2020.

- Royal Decree 492/2020, of 24 April, extending the state of alarm declared by Royal Decree 463/2020, of 14 March, which declares the state of alarm for the management of the health crisis situation caused by COVID-19⁷.

In addition to the above-mentioned decrees extending the state of alarm, during the period from 21 March to 30 April 2020 the Spanish Government adopted eight royal decrees, six of which were in the social, economic and labour field, one in the field of gender violence, and one in the area of justice:

- Royal Decree-Law 9/2020, of 27 March, adopting complementary measures, in the field of employment, to alleviate the effects of COVID-19;
- Royal Decree-Law 10/2020 of 29 March, regulating recoverable paid leave for employees who do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19;
- Royal Decree-Law 11/2020 of 31 March adopting additional urgent social and economic measures to combat COVID-19;
- Royal Decree-Law 13/2020 of 7 April adopting certain urgent measures in the field of agricultural employment;
- Royal Decree-Law 14/2020 of 14 April extending the deadline for the submission and payment of certain tax returns and self-sustaining payment;
- Royal Decree-Law 15/2020 of 21 April on urgent supplementary measures to support the economy and employment;
- Royal Decree-Law 12/2020 of 31 March on urgent measures to protect and assist victims of gender-based violence;
- Royal Decree-Law 16/2020, of 28 April, on procedural and organisational measures to deal with COVID-19 in the area of the Administration of Justice;
- Royal Decree 494/2020 of 28 April amending Royal Decree 679/2014 of 1 August approving the regulations for the control of foreign trade in defence materials, other materials and dual-use items and technologies;

For the enforcement of the emergency legislation, during the referred period a number (dozens) of measures have been adopted in the form of orders, resolutions and instructions⁸ by both the Ministries-Authorities Delegated for the management of the state of alarm (Health; Defence; Interior; Transport, Mobility and Urban Agenda) and other Ministries and Organisms⁹.

⁷ Spain, Royal Decree, extending the state of alarm (*Real Decreto por el que se prorroga el estado de alarma*), 24 April 2020.

⁸ Gobierno de España (2020), *Estado de alarma. Medidas crisis sanitaria COVID-19*, https://administracion.gob.es/pag_Home/atencionCiudadana/Estado-de-alarma-crisis-sanitaria.html#.XqhKppntaUn

⁹ Namely: Agriculture, Fisheries and Food; Economic Affairs and Digital transformation; Social Rights and Agenda 2030; Education and Professional training; Finance; Inclusion, Social Security and Migration; Industry, Trade and Tourism; Justice; Territorial Policy and Public Service; Presidency, Relations with the Courts and Democratic Memory; Labour and Social Economy; Ecological Transition and the Demographic Challenge.

Among those measures, the *Order SND/370/2020, of 25 April, on the conditions in which children should be displaced during the health crisis caused by COVID-19*¹⁰, is of particular relevance given its potential impact on children's mental health.

1.2 Measures affecting the general population

1.2.1 Social distancing

The confinement and social distancing measures decreed by the Spanish Government in Royal Decree 463/2020 of 14 March have been considerably aggravated by the adoption of Royal Decree Law 10/2020 of 29 March regulating recoverable paid leave for employees who do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19¹¹. As a result, the population's movements are limited, except for basic needs or for work considered essential. In any case, except in strictly necessary and duly justified cases, movements are made on an individual basis.

The Spanish Ombudsman claims to have forwarded to the Ministry of the Interior numerous complaints from citizens who express their doubts about the restrictions on movement imposed after the state of alarm was declared, as well as some letters from persons who report improper actions by the State security forces.

The Ombudsman also states that, in his response, the Minister of the Interior has explained that various orders have been issued to clarify and specify certain aspects that were generating doubts regarding the limitations on movement. He has also undertaken to investigate any misconduct by agents of the State security forces that might occur¹².

The Ombudsman¹³ has also conveyed to the Minister of Health his concern about the physical and mental health of children who are confined to their homes, especially as the exceptional measures have been maintained for a long period of time. He pointed out that living conditions for children and their families are very difficult when the number of family members is high and housing is small. For this reason, and although he appreciates the effectiveness that restricting the movement of citizens is showing for the priority objective of stopping the epidemic, the Ombudsman considers that, insofar as it is possible and if there are no technical objections, minors should be allowed to leave with their parents, still limited in space and time, in a controlled manner, as is already the case in some countries around us.

¹⁰ Spain, Order on the conditions in which children should be displaced during the health crisis caused by COVID-19 (Orden sobre las condiciones en las que deben desarrollarse los desplazamientos por parte de la población infantil durante la situación de crisis sanitaria ocasionada por el COVID-19), 25 April 2020.

¹¹ Spain, Royal Decree Law regulating recoverable paid leave for employees who do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19 (*Real Decreto-ley por el que se regula un permiso retribuido recuperable para las personas trabajadoras por cuenta ajena que no presten servicios esenciales, con el fin de reducir la movilidad de la población en el contexto de la lucha contra el COVID-19*), 29 March 2020.

¹² Defensor del Pueblo (2020), "Más de un millar de quejas por el Covid-19", noticia de 3 de abril de 2020, <https://www.defensordelpueblo.es/noticias/mas-millar-quejas-covid-19/>.

¹³ Defensor del Pueblo (2020), "El Defensor plantea la posibilidad de que niños y niñas puedan salir a la calle de manera limitada y tomando las debidas precauciones", noticia de 17 de abril de 2020, <https://www.defensordelpueblo.es/noticias/defensor-crisis-covid/>.

The Ombudsman has also made recommendations to the Secretariat of State for Security in order to protect citizens from the restrictions on rights contained in the decree establishing the state of alarm and to guarantee equal treatment throughout the national territory. And in order to prevent violations of rights, the Ombudsman has requested that instructions be made public so that citizens are aware of the limits and restrictions on fundamental rights that have been affected by the state of alarm, guaranteeing, as established by current regulations, the "integrity, veracity and updating of information"¹⁴.

In line with the Ombudsman's recommendations, Royal Decree 492/2020, of 24 April, extending the state of alarm declared by Royal Decree 463/2020, of 14 March, declaring the state of alarm for the management of the health crisis situation caused by COVID-19¹⁵, the Government amended Article 7 (on limiting the freedom of movement of persons) of Royal Decree 463/2020 of 14 March, which now reads as follows (amended parts in italics):

"1. While the state of alarm is in effect, persons may only circulate on public roads or spaces for the performance of the following activities, which must be performed individually, unless accompanied by disabled persons, minors, the elderly, or for other justified reasons:

a) Acquisition of food, pharmaceutical products and basic necessities, as well as acquisition of other products and provision of services in accordance with the provisions of Article 10.

(b) Assistance to health centres, services and establishments.

(c) Travel to the place of work for the purpose of carrying out their work, professional or business activities.

(d) Return to the place of habitual residence.

e) Assistance and care for the elderly, minors, dependents, disabled persons or particularly vulnerable persons.

f) Travel to financial and insurance entities.

g) Due to force majeure or a situation of need.

h) Any other activity of a similar nature.

2. *Minors under 14 years of age may accompany an adult responsible for their care when the latter carries out one or more of the activities set out in the previous section.*

3. Similarly, private vehicles shall be allowed to drive on public roads to carry out the activities referred to in the previous sections or to refuel at petrol stations or service stations.

4. In any case, the recommendations and obligations issued by the health authorities must be respected in any journey.

5. The Minister of the Interior may decide to close down roads or sections of roads for reasons of public health, safety or traffic flow, or to restrict access to certain vehicles on those grounds.

¹⁴ Defensor del Pueblo (2020), "El Defensor plantea la posibilidad de que niños y niñas puedan salir a la calle de manera limitada y tomando las debidas precauciones", 17 de abril de 2020, <https://www.defensordelpueblo.es/noticias/defensor-crisis-covid/>

¹⁵ Spain, Royal Decree, extending the state of alarm (*Real Decreto por el que se prorroga el estado de alarma*), 24 April 2020.

When the measures referred to in the previous paragraph are adopted ex officio, the Autonomous Communities' administrations exercising powers to enforce State legislation on traffic, vehicle circulation and road safety shall be informed in advance.

The State, regional and local authorities responsible for traffic, vehicle traffic and road safety will ensure that the public is made aware of measures that may affect road traffic.

6. The Minister of Health may, in view of developments in the health emergency, issue *orders and instructions relating to the activities and journeys referred to in paragraphs 1 to 4 of this Article, with the scope and territorial area determined therein.*"

On 25 April, the Ministry of Health published Order SND/370/2020¹⁶, specifying the conditions under which displacement of children should take place during the health crisis caused by COVID-19. As a result, as of 26 April, and after 43 days of confinement, minors under 14 years old may walk around - a maximum of one kilometre away from home - accompanied by one of their parents, legal guardian or "household employee in charge of the minor"¹⁷.

Data made public on 29 April by the Ministry of the Interior¹⁸ revealed that, from the beginning of the state of alarm until 28 April, a total of 7,183 people had been detained and 805,875 proposals for sanctions had been registered.

These significant numbers of arrests and sanctions have led the Ombudsman to request information from the Ministry of the Interior on the sanctioning files initiated by the National Police Force and the *Guardia Civil*, in order to carry out an overall analysis of the sanctioning regime during the state of alarm and, thus, certify whether correct and proportional action has been taken¹⁹.

There is an increasing number of jurists who are seriously concerned about police action during the state of alarm, considering that although it is a minority, it is excessive, disproportionate, discriminatory and even arbitrary²⁰.

¹⁶ Spain, Order on the conditions under which children should be displaced during the health crisis caused by COVID-19 (*Orden sobre las condiciones en las que deben desarrollarse los desplazamientos por parte de la población infantil durante la situación de crisis sanitaria ocasionada por el COVID-19*), 25 April 2020.

¹⁷ The rules for children's walks are set out as follows: i) Children under 14 years of age may be released (not those who have already reached that age); ii) They will be accompanied by a responsible adult; iii) It can be one of the parents or someone who lives with them or their caregiver; iv) In the last two cases, they must have an authorization; v) They can go out once a day, between nine o'clock in the morning and nine o'clock at night, for a maximum of one hour; vi) A maximum of one kilometre from home; vii) They may not come within two metres of other people; viii) They can walk on any public road, including green spaces, but not in playgrounds or sports facilities; ix) In addition to these walks, they may accompany their parents to any of the permitted exits in the state of alarm.

¹⁸ Ministerio del Interior, Datos de detenidos y propuestas de sanción por incumplimiento de las medidas del estado de alarma, 28 de abril de 2020, <https://twitter.com/interiorgob/status/1255476711409532929/photo/1>

¹⁹ Defensor del Pueblo (2020), "El Defensor plantea la posibilidad de que niños y niñas puedan salir a la calle de manera limitada y tomando las debidas precauciones", 17 de abril de 2020, <https://www.defensordelpueblo.es/noticias/defensor-crisis-covid/>

²⁰ Bosch, J. (2020), "Las libertades en tiempos de excepcionalidad pandémica", *Rights, International Spain Blog*, 20 abril de 2020, <http://rightsinternationalspain.org/es/blog/164/las-libertades-en-tiempos-de-excepcionalidad-pandemica->; Ruiz Castro, M. (2020), "Detenciones y multas por saltarse el confinamiento con difícil encaje legal", *El Periódico*, 27 de abril de 2020.

1.2.2 Education

Article 9 (on containment measures in the field of education and training) of Royal Decree 463/2020 of 14 March)²¹, states that: "1. Classroom-based educational activity is suspended in all centres and at all stages, cycles, grades, courses and levels of education referred to in Article 3 of Organic Law 2/2006 of 3 May on Education, including university education, as well as any other educational or training activities provided in other public or private centres. 2. During the period of suspension, educational activities will be maintained through the distance and online modalities, whenever possible".

To date (30 April 2020), the Ministry of Education and Professional Training has sought to develop and implement this legal provision through the adoption of two ministerial orders and two resolutions²². Two of these instruments are of particular importance in the fight against inequality and the exclusion of socioeconomically disadvantaged children.

In its annex II on guidelines for the third quarter, Order EFP/365/2020, of 22 April, which establishes the framework and guidelines for action for the third quarter of the 2019-2020 academic year and the start of the 2020-2021 academic year, in the face of the crisis situation caused by COVID-19²³, establishes that the Administrations and educational centres:

- will make a special effort to identify students who lack the means of digital connection and will encourage the use of different types of devices for various purposes;
- intensify the provision of technological and other resources to students that they need for the development of their activities;
- develop appropriate and realistic training tools and programmes to enable students to get the most out of blended learning.

Likewise, through the Resolution of 13 April 2020²⁴, the collaboration agreement between the Spanish Radio and Television Corporation and the Ministry of Education and Professional Training was made public, for the production of the container programme "*Aprendemos en casa*" (We learn at home). In this way, it is intended that those students who lack devices and Internet access have an alternative way to continue developing their school learning.

Despite the Government's efforts, many social media reflect, in a profuse way, the increase in inequality as the great threat of the coronavirus in the online school. And that teachers look with concern at the digital gap, remembering that not all families have resources for telematic education²⁵.

²¹ Spain, Royal Decree declaring the state of alarm for the management of the health crisis situation caused by COVID-19 (*Real Decreto por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19*), 14 March 2020.

²² Gobierno de España (2020), Estado de alarma. Medidas crisis sanitaria COVID-19, https://administracion.gob.es/pag_Home/atencionCiudadana/Estado-de-alarma-crisis-sanitaria.html#.Xqm-sJntaUn

²³ Spain, Order establishing the framework and guidelines for action for the third quarter of the 2019-2020 academic year and the start of the 2020-2021 academic year, in the face of the crisis situation caused by COVID-19 (*Orden por la que se establecen el marco y las directrices de actuación para el tercer trimestre del curso 2019-2020 y el inicio del curso 2020-2021, ante la situación de crisis ocasionada por el COVID-19*), 22 April 2020.

²⁴ Spain, Resolution publishing the collaboration agreement between the Spanish Radio and Television Corporation, S.M.E. and the Ministry of Education and Professional Training, for the production of the container programme "We learn at home" (*Resolución por la que se publica el Convenio de colaboración entre la Corporación de Radio y Televisión Española, Sociedad Anónima, S.M.E. y el Ministerio de Educación y Formación Profesional, para la producción del programa contenedor "Aprendemos en casa"*), 13 April 2020.

²⁵ See among many others: Rodríguez Álvarez, S. (2020), "El aumento de la desigualdad, la gran amenaza del coronavirus en la escuela online", *infoLibre*, 26 de marzo de 2020; Yoldi Hualde, U. (2020), "La brecha digital impide a más de 7.000 escolares de Navarra seguir las clases on line", *Noticias de Navarra*, 2 de abril de 2020;

1.2.3 Work

During the period in reference (from 21 March to 30 April), the Spanish Government has implemented an important battery of measures to mitigate or avoid the fearsome impact on employment of the health crisis caused by COVID-19. These measures are mainly contained in the following regulatory instruments:

- Royal Decree Law 9/2020, of 27 March, which adopts complementary measures, in the field of employment, to mitigate the effects of COVID-19²⁶;
- Royal Decree-Law 10/2020 of 29 March regulating recoverable paid leave for employees who do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19²⁷;
- Royal Decree-Law 13/2020 of 7 April adopting certain urgent measures in the field of agricultural employment²⁸;
- Royal Decree-Law 15/2020 of 21 April on urgent complementary measures to support the economy and employment²⁹.

Furthermore, according to official sources³⁰, the government is determined to implement, in May this year, the minimum vital income (*ingreso mínimo vital*), considered a "new pillar of the welfare state" that will protect those who are suffering most from the COVID-19 crisis.

Despite all these efforts, the Labour Force Survey (*Encuesta de Población Activa - EPA*) for the first quarter of 2020, published by the National Institute of Statistics (INE) on 28 April 2020³¹, confirms the worst misgivings: the effects of Covid-19 strike an unprecedented blow on the labour market, exacerbating job precariousness and raising the number of unemployed to truly alarming levels. Among its main findings, the EPA indicates that in the first quarter of 2020, employment has dropped by 285,600 people. "But we must take into account that this figure does not include those affected by an ERTE (*expediente de regulación temporal de empleo*) (temporary layoffs) with employment suspension which, according to the EPA methodology, are considered employed while such suspension is less than three months". Unemployment rose by 121,000 people, bringing the total

Torres Menárguez, A. (2020), "La epidemia agrava la brecha educativa: las familias con menos recursos gestionan peor el estrés", *El País*, 27 de marzo de 2020.

²⁶ Spain, Royal Decree Law adopting complementary measures, in the field of employment, to mitigate the effects of COVID-19 (*Real Decreto-ley por el que se adoptan medidas complementarias, en el ámbito laboral, para paliar los efectos derivados del COVID-19*), 27 March 2020.

²⁷ Spain, Royal Decree-Law regulating recoverable paid leave for employees who do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19 (*Real Decreto-ley por el que se regula un permiso retribuido recuperable para las personas trabajadoras por cuenta ajena que no presten servicios esenciales, con el fin de reducir la movilidad de la población en el contexto de la lucha contra el COVID-19*), 29 March 2020.

²⁸ Spain, Royal Decree-Law adopting certain urgent measures in the field of agricultural employment (*Real Decreto-ley por el que se adoptan determinadas medidas urgentes en materia de empleo agrario*), 7 April 2020.

²⁹ Spain, Royal Decree-Law on urgent complementary measures to support the economy and employment (*Real Decreto-ley de medidas urgentes complementarias para apoyar la economía y el empleo*), 21 April 2020.

³⁰ Gobierno de España. Presidencia de Gobierno (2020), "Sánchez destaca que el ingreso mínimo vital protegerá a quienes más están sufriendo la crisis del COVID-19", *La Moncloa*, 29 de abril de 2020, <https://www.lamoncloa.gob.es/presidente/actividades/Paginas/2020/290420-sanchezcontrol.aspx?qfr=1>

³¹ Instituto Nacional de Estadística (INE) (2020), *Encuesta de Población Activa. EPA. Primer trimestre 2020*, 28 de abril de 2020, https://www.ine.es/dyngs/INEbase/es/operacion.htm?c=Estadistica_C&cid=1254736176918&menu=ultiDatos&idp=1254735976595

number of unemployed to 3,313,000 or, in other words, the unemployment rate is now 14.41%, which is 63 hundredths more than in the previous quarter. " Last year this rate has fallen by 29 hundredths"³².

Social media³³ reflects quite profusely that among the most precarious groups are health personnel, agricultural workers, domestic workers (mostly women and foreigners), delivery personnel, waiters, cleaners, cashiers and assistants for the elderly and dependent persons. All these groups are essential during the pandemic, they work too many hours, and some of them do not enjoy good salaries or social recognition. Health workers (basically doctors and nurses) are the sector that receives most social recognition through the daily applause of society at 8 p.m. And it is no wonder, especially given that "Spain is the country with the highest number of infections among health workers"³⁴. In fact, as of 21 April 2020, the number of infections in this group amounted to 35,295, representing 20% of the total national infections by COVID-19³⁵. However, it seems that this great gesture of social recognition has not yet even translated into overtime payment³⁶.

Extremely concerned about such growing unemployment and job precariousness in light of the pandemic, *Cáritas Española* considers that the Government's urgent measures in the field of agricultural employment (Royal Decree 13/2020) are limited and insufficient, and do not respond to the needs of this precarious sector or to the social reality of those who live in settlements (immigrant agricultural seasonal workers [*los temporeros agrícolas inmigrantes*])³⁷.

It its annex, Royal Decree-Law 10/2020 of 29 March³⁸ establishes that the following are essential activities (whether public or private):

- Health professionals. Manufacturers and distributors of supplies of any kind for the health system. Employees who import these products.
- Workers in retirement homes and other social centres. Persons who care for the elderly, minors, dependent persons or persons with disabilities, but not household employees in general if they do not fulfil these functions, as was shown in drafts filtered during the afternoon.

³² Instituto Nacional de Estadística (INE) (2020), *Encuesta de Población Activa. EPA. Primer trimestre 2020...* cit., pp. 1, 2 and 6.

³³ See among others: Gómez, M. V. (2020), "La crisis del coronavirus provoca la pérdida de 900.000 empleos desde el inicio del estado de alarma", *El País*, 2 de abril de 2020; Gaibar, L. (2020), "Las kellys exigen que se garantice su salud laboral cuando los hoteles vuelvan a abrir", *El Salto*, 29 de abril de 2020; "Cáritas advierte de que el parón ahondará en la precariedad laboral en Castilla y León", *El Norte de Castilla*, 25 de abril de 2020.

³⁴ Güell, O. (2020), "España es el país con más contagios entre el personal sanitario", *El País*, 25 de abril de 2020.

³⁵ Instituto de Salud Carlos III, Centro Nacional de Epidemiología (2020), Informe sobre la situación de COVID-19 en España Informe COVID-19 nº 24. 21 de abril de 2020, available from: <https://www.isciii.es/QueHacemos/Servicios/VigilanciaSaludPublicaRENAVE/EnfermedadesTransmisibles/Documentos/INFORMES/Informes%20COVID-19/Informe%20nº%2024.%20Situaci%3b%20de%20COVID-19%20en%20Espa%3b%20a%2021%20de%20abril%20de%202020.pdf>;

European Centre for Disease Prevention and Control (ECDC) (2020), *Coronavirus disease 2019 (COVID-19) in the EU/EEA and the UK – ninth update*, Stockholm, 23 April 2020.

³⁶ Villegas, E. (2020), "Un trabajo sin descanso ahora aún más precario: los sanitarios siguen en un segundo plano", *Tu Otro Diario*, 15 de abril de 2020.

³⁷ Cáritas Española (2020), *Coronavirus: Cáritas considera limitadas e insuficientes las medidas urgentes del Gobierno en materia de empleo agrario*, 29 de abril de 2020, <https://www.caritas.es/noticias/coronavirus-caritas-considera-insuficientes-las-medidas-urgentes-del-gobierno-sobre-empleo-agrario/>

³⁸ Spain, Royal Decree-Law regulating recoverable paid leave for employees who do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19 (*Real Decreto-ley por el que se regula un permiso retribuido recuperable para las personas trabajadoras por cuenta ajena que no presten servicios esenciales, con el fin de reducir la movilidad de la población en el contexto de la lucha contra el COVID-19*), 29 March 2020.

- Personnel in open stores: food, beverages, products and basic goods, pharmacies, medical and health establishments, opticians and orthopaedic products, hygiene products, hairdressers (only for home service), kiosks and stationery stores, petrol stations and service areas for attending to transporters, tobacco shops, sales of technological and telecommunications equipment, pet food, Internet, telephone or mail order trade, as well as home sales of food, dry cleaning and laundry services. Also all those in charge of maintaining the production and distribution for these businesses of essential goods.
- Vehicle rental establishments and mechanical workshops, by previous orders.
- Media, printing and distribution and news agency workers.
- Workers in the 371 hotels that have been declared as essential services.
- Operators of critical or essential services, such as electricity, water, gas or telecommunications.
- Transport, both goods and people. As well as those responsible for their maintenance. But, in the case of goods, only those who distribute products to supply the rest of the basic services are allowed. The rest must finish the service they are in and go home.
- Financial, banking and insurance services but "for the provision of services that are indispensable".
- Services of legal advice, administrative and social graduate management, and prevention of occupational hazards, but only in urgent matters.
- Lawyers, solicitors, social graduates, translators, interpreters and psychologists who have to attend the hearings or legal proceedings established in the minimum services.
- Those responsible for the protection of victims of gender violence.
- Those working in penal institutions, civil protection, maritime rescue, rescue and fire prevention and extinction, mine safety, and traffic and road safety. Also private security companies that provide essential services for security and supply.
- Those who maintain material and equipment of the armed forces.
- People who work in companies, R+D+I and biotechnology centres linked to COVID-19, and those who supply them with products or technology.
- Funeral services.
- Veterinary services.
- Those of telecommunications and audiovisual companies and essential computer services, also networks and facilities, especially those essential for the continuation of the non-presential work of public employees and other public services.
- Notaries and registries, but only for essential services.
- Cleaning services, maintenance, emergency breakdown repair, surveillance and waste management
- Workers in the Refugee Reception Centres and in the Centres for Temporary Stay of Immigrants.
- People who are indispensable to the meteorological services.
- Postal workers.
- Those who work in distribution and delivery of products purchased over the Internet.
- The essential tasks to maintain the manufacture of the supplies or materials necessary for the rest of the activities on this list.
- And "any others that provide services that have been considered essential".

1.2.4 Access to justice

Restrictions on freedom of movement imposed by Royal Decree Law 463/2020 of 14 March³⁹ have also had a significant impact on access to justice, especially as its second additional provision establishes the suspension of procedural deadlines in the following terms:

1. Terms are suspended and time limits provided for in procedural laws are suspended and interrupted for all jurisdictional orders. The calculation of time limits shall be resumed at the time when this Royal Decree or, as the case may be, any extensions thereof become ineffective.

2. In the criminal jurisdiction, suspension and interruption shall not apply to habeas corpus proceedings, proceedings entrusted to the guard services, proceedings with detainees, protection orders, urgent prison surveillance proceedings and any precautionary measures relating to violence against women or minors.

Likewise, in the investigation phase, the competent judge or court may agree to conduct those proceedings which, because of their urgent nature, cannot be postponed.

3. With regard to the rest of the jurisdictional orders, the interruption referred to in the first paragraph shall not be applicable to the following cases:

a) The procedure for the protection of the fundamental rights of the person foreseen in articles 114 and following of Law 29/1998, of 13 July, regulating the Contentious-Administrative Jurisdiction, nor to the processing of the judicial authorizations or ratifications foreseen in article 8.6 of the mentioned law.

b) The procedures of collective conflict and for the protection of fundamental rights and public freedoms regulated by Law 36/2011, of 10 October, regulating social jurisdiction.

c) Judicial authorization for non-voluntary internment on grounds of mental illness, as provided for in Article 763 of Law 1/2000 of 7 January on Civil Procedure.

(d) The adoption of measures or provisions for the protection of minors as provided for in article 158 of the Civil Code.

4. Notwithstanding the provisions of the preceding paragraphs, the judge or court may agree to take any legal action that is necessary to avoid irreparable damage to the rights and legitimate interests of the parties to the proceedings.

Notwithstanding this special attention to judicial guarantee of fundamental rights, the public authorities themselves acknowledge that the administration of justice has suffered a significant slowdown as a result of the COVID-19 crisis⁴⁰. To deal with this slowdown and other consequences of the state of alarm, the Government has adopted *Royal Decree Law 16/2020, of 28 April, on procedural and organisational measures to deal with COVID-19 in the area of the Administration of Justice*⁴¹. According to this same legal instrument, its purpose, in addition to other more specific measures, is

³⁹ Spain, Royal Decree declaring the state of alarm for the management of the health crisis situation caused by COVID-19 (*Real Decreto por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19*), 14 March 2020.

⁴⁰ Spain, Royal Decree Law on procedural and organisational measures to deal with COVID-19 in the area of the Administration of Justice (*Real Decreto-ley de medidas procesales y organizativas para hacer frente al COVID-19 en el ámbito de la Administración de Justicia*), 28 April 2020, paragraph I.4 of the Preamble.

⁴¹ Spain, Royal Decree Law on procedural and organisational measures to deal with COVID-19 in the area of the Administration of Justice (*Real Decreto-ley de medidas procesales y organizativas para hacer frente al COVID-19 en el ámbito de la Administración de Justicia*), 28 April 2020.

to provide a rapid solution to the accumulation of procedures suspended by the declaration of the state of alarm, when the suspension is lifted.

There is a number of voices that criticize the paralysis of the Administration of Justice, considering that it is not justified and what is more serious, it calls into question the constitutional effective judicial protection of citizens, which cannot be suspended *sine die*⁴². They also argue that the health crisis only revealed the "chronic" "slowness and inefficiency of the justice system, largely due to the dire lack of resources - both material and human - and the lack of a modernization plan, with sufficient and sustained funding over time"⁴³.

Furthermore, the recommendations of both the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe⁴⁴ and the World Health Organization⁴⁵ that Member States should adopt alternative measures to deprivation of liberty to alleviate the effects of the coronavirus in prisons and other detention or internment centres appear to be well known to the Spanish authorities and public opinion⁴⁶.

As far as this report has been able to ascertain, no alternative measures to deprivation of liberty applicable to the imprisoned population appear to have been adopted in Spain to date. This is in spite of the fact that there have been several requests to this effect, reported by the media⁴⁷. The most relevant aspect regarding such measures seems to be the progressive closure of Alien Internment Centres (*CIE – Centros de Internamiento de Extranjeros*), "releasing their residents, given that these are spaces of administrative detention conditioned to expulsion and this is not feasible with the closing of borders due to the pandemic in the countries to which they would be sent"⁴⁸. This complies with the Ombudsman's request to the Office of the Commissioner-General for Aliens and Borders and the State Secretariat for Migration to adopt coordination measures to enable the release of persons held in these centres or to refer them to available humanitarian reception resources, considering that in the current situation it was not possible to proceed with their return or expulsion⁴⁹.

1.2.5 Freedom of movement

By means of Order INT/356/2020, of 20 April, extending the criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and associated

⁴² Fernández Benavides, F. (2020), "¿Está justificado el "parón" de la Administración de Justicia mientras dure el estado de alarma?", *Hay Derecho Expansión* Blog, 9 de abril de 2020.

⁴³ Idem.

⁴⁴ Consejo de Europa, Comité Europeo para la Prevención de la Tortura y de las Penas o Tratos Inhumanos o Degradantes (CPT) (2020), *Declaración de principios relativos al trato de las personas privadas de libertad en el contexto de la pandemia de la enfermedad por coronavirus(COVID-19)*, 20 de marzo de 2020, <https://rm.coe.int/16809e0a89>.

⁴⁵ World Health Organisation (2020), *Prevention and control of COVID-19 in prisons and other places of detention*, <http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/technical-guidance/prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention>; World Health Organisation (2020), *Checklist to evaluate preparedness, prevention and control of COVID-19 in prisons and other places of detention*, http://www.euro.who.int/_data/assets/pdf_file/0020/438041/Covid19-PrisonsChecklist-eng.pdf?ua=1.

⁴⁶ "OMS y Consejo de Europa piden alternativas a la prisión ante el efecto del Covid-19 en las cárceles", *ConSalud.es*, 23 de marzo de 2020.

⁴⁷ Bastida, J. (2020), "Presos de la cárcel de Palma exigen su libertad en base a las directrices de la OMS", *Última Hora*, 20 de abril de 2020.

⁴⁸ Vega, I. (2020), "El Consejo de Europa recomienda medidas alternativas a la cárcel frente al coronavirus", *ABC*, 9 de abril de 2020.

⁴⁹ Defensor del Pueblo (2020), *Actuaciones por la crisis del COVID-19*, 17 de abril de 2020.

Schengen countries for reasons of public order and public health on the occasion of the health crisis caused by COVID-19⁵⁰, the Government extended the closure of borders until 15 May. In the meantime, the Government had also extended the exceptions and allows descendants and spouses or partners of European citizens to enter the national territory on their way to their place of residence. Therefore, all the restrictions on freedom of movement, already outlined in the previous report, remain in place⁵¹.

1.3 Impact of measures on particular groups

The Electronic Code COVID-19: Vulnerable Groups, edited by the Official State Bulletin (BOE)⁵², shows that during the period in reference, both central and regional governments adopted a series of measures aimed at strengthening the protection of people with disabilities against the impacts of the coronavirus crisis. Meanwhile, there have been complaints from organizations representing groups of people with disabilities⁵³ about certain discriminatory practices which, in their view, result in social exclusion and lack of protection for people with disabilities. The most serious of these complaints relate to health care and the accessibility of information and communication. In this regard, in response to the complaints of CERMI (Spanish Committee of Representatives of Persons with Disabilities)⁵⁴, the national Bioethics Committee recalled that discrimination on the basis of disability in health care is prohibited in Spain⁵⁵. In turn, the Ombudsman recalled that "it is not acceptable" that scientific societies recommend the sacrifice of persons with disabilities due to lack of means. To all this, the Ministry of Health responded that the Government guarantees health care for those affected by COVID-19 on an equal basis⁵⁶. CERMI also complained to the Ombudsman about the lack of accessibility for deaf and blind persons to Ministry of Education teaching materials broadcast on television during school closures⁵⁷.

In large cities, particularly in Madrid, local authorities have made efforts to mitigate the serious impacts of the coronavirus crisis on the homeless. In spite of this, the Ombudsman⁵⁸ states that he has received numerous complaints about the situation of the homeless, complaints that highlight the lack of adequate resources and the scarcity of means of personal protection to facilitate care in reasonable conditions of separation. These complaints came mainly from social workers and non-governmental organizations that provide assistance to the homeless in various shelters in Madrid,

⁵⁰ Spain, Order extending the criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and associated Schengen countries for reasons of public order and public health on the occasion of the health crisis caused by COVID-19 (*Orden por la que se prorrogan los criterios para la aplicación de una restricción temporal de viajes no imprescindibles desde terceros países a la Unión Europea y países asociados Schengen por razones de orden público y salud pública con motivo de la crisis sanitaria ocasionada por el COVID-19*), 20 April 2020.

⁵¹ Available at https://fra.europa.eu/sites/default/files/fra_uploads/spain-report-covid-19-april-2020_en.pdf

⁵² Available at https://www.boe.es/biblioteca_juridica/codigos/codigo.php?id=359_COVID-19_Colectivos_Vulnerables&tipo=C&modo=1.

⁵³ See CERMIN (2020), Información de interés para personas con discapacidad sobre el Coronavirus, 30 de abril de 2020, <https://www.cermin.org/informacion-interes-personas-discapacidad-coronavirus/>.

⁵⁴ Idem.

⁵⁵ Idem.

⁵⁶ Idem.

⁵⁷ Idem.

⁵⁸ Defensor del Pueblo (2020), El Defensor traslada a las Administraciones las preocupaciones de los ciudadanos en la crisis del coronavirus, 3 de abril de 2020, <https://www.defensordelpueblo.es/noticias/mas-millar-quejas-covid-19/>.

warning that the increase in users in existing centers is generating overcrowding and a lack of safe spaces to prevent contagion. The Ombudsman has conveyed this concern to both the Ministry of Health and the Mayor's Office of Madrid, considering that it is necessary to provide the facilities with sanitary reinforcements and to set up additional accommodation areas that will allow for increased measures to separate users according to their symptoms. Cleaning and disinfection services should also be reinforced and professionals and users should be provided with individual protective equipment⁵⁹.

The impact of COVID-19 on older people and nursing homes is particularly dramatic. The Ombudsman indicates that he has received a considerable number of complaints in which the relatives of residents have pointed out shortcomings in their health care and a lack of information and transparency on the part of the centres. They also express their desperation at not being able to say goodbye in the event of death and the insecurity of their rights currently.

After analysing the complaints received and taking into account the dramatic data on the number of people affected and dead in nursing homes that is becoming known, the Ombudsman has sent recommendations to all of the Autonomous Communities to improve health care for residents in nursing homes, the information provided to their families and the protection of their rights. He considers that it is necessary to focus on strengthening health care measures in the centres and on providing care for other rights of people who are confined to residential centres and who have been neglected in the face of the urgent need to protect life⁶⁰.

A number of voices have denounced the increased vulnerability of the Roma population as a result of the state of alarm caused by the COVID-19 crisis. Among these voices is Union Romani. This organisation has pointed out that "the state of alarm has caused families who do not normally need help to be in need of food, because without markets we have no income and we live from day to day". It explained that more than 80% of this collective is professionally dedicated to street selling and since the State of Alarm was decreed they have suffered from the lack of income, since their activity was one of the first to stop being carried out as they work at places where many people congregate⁶¹. Likewise, a relevant telephone survey carried out by the *Fundación Secretariado Gitano* to 11,000 Roma people throughout the country identified the lack of food and basic needs, the scarcity of resources and the educational gap among the serious impacts of the coronavirus crisis on the Roma population⁶².

In addition, social media⁶³ profusely reports the rise in attitudes of discrimination, rejection and hatred that the Roma population is suffering, accused of being "guilty" of the increase in the number of

⁵⁹ Tapia Zamorano, M. (2020), "Alertan al Defensor del Pueblo del "hacinamiento desmedido" en los centros para personas sin hogar de Madrid", *Público*, 23 de marzo de 2020; Asuar, B. (2020), "La Policía denuncia a una persona sin hogar pese a que los recursos de Madrid están llenos y no tiene donde ir", *Público*, 8 de abril de 2020.

⁶⁰ Defensor del Pueblo (2020), El Defensor pide a las CCAA mejorar la atención sanitaria en los centros de mayores, la información a familiares y la protección de sus derechos, 24 de abril de 2020, <https://www.defensordelpueblo.es/noticias/residencias-mayores-la-crisis-del-covid-19/>.

⁶¹ Unión Romani, <https://unionromani.org/2020/03/31/jose-rosillo-los-gitanos-tambien-estamos-expuestos-al-coronavirus-y-somos-responsables/>

⁶² Fundación Secretariado Gitano (2020), "The Fundación Secretariado Gitano carries out a telephone survey to 11,000 Roma people that reveals the serious social impact of the Covid-19 crisis", 24 April 2020, <https://www.gitanos.org/actualidad/archivo/131067.html.en>.

⁶³ See among others: Sánchez, G. (2020), "Los gitanos, nuevo foco de mensajes racistas que les acusan de extender el coronavirus en España", *eldiario.es*, 22 de abril de 2020; Babiker, S. (2020), "Antigitismo y emergencia económica: la crisis sanitaria se ensaña con el pueblo gitano", *El Salto*, 8 de abril de 2020; Hernández, M. (2020), "Cómo el coronavirus puede agravar la discriminación hacia los gitanos", *TheObjective*, 8 de abril de 2020.

infected people in different autonomous communities. According to the press, this serious situation is of great concern to the Council for the Elimination of Racial or Ethnic Discrimination, which is part of the Ministry of Equality, and which is trying to combat it⁶⁴.

According to the press, both Penitentiary Institutions, belonging to the Ministry of the Interior, and the Catalan prisons under the jurisdiction of the Catalan Government, have launched video calls in order to "minimize and mitigate the impact" on detainees of the ban on family visits during the coronavirus crisis. Meanwhile, it has been provided that "in order to preserve the health of inmates and prison professionals, inmates who are sick or isolated because they present symptoms compatible with Covid-19 will not be able to make use of this type of communication, since the risk of contagion in these cases is very high". It appears that, while this measure is understandable from the point of view of preventing the spread of the disease, it is worrying insofar as it may involve a significant violation of the rights of those prisoners suffering from COVID-19.⁶⁵

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

The indication by the State Secretariat for Artificial Intelligence and the Digital Agenda that Spain participates in the PEPP-PT (Pan-European Privacy-Preserving Proximity Tracing) initiative shows Spain's determination to contribute to technological solutions with a pan-European approach to combat COVID-19⁶⁶.

On 6 April 2020 the Spanish Government launched and made available to all the Autonomous Communities the official mobile application for self-diagnosis and information called **AsistenciaCOVID-19**⁶⁷, designed and developed by *CARTO*, *ForceManager*, *Mendesaltaren*, together with *Telefónica*, *Google* and *Ferrovial*, with the support and approval of the Ministry of Health⁶⁸. Its

⁶⁴ "El Consejo contra la Discriminación Racial o Étnica avisa de "numerosos" casos de odio a colectivos ante la pandemia", *Europapress*, 15 de abril de 2020.

⁶⁵ López-Fonseca, O. (2020), "El doble aislamiento de los reclusos contagiados", *El País*, 1 de abril de 2020.

⁶⁶ Cano, F. (2020), "Europa presenta su app de rastreo del Covid y España aún no decide si la implementará", *El Español*, 17 de abril de 2020.

⁶⁷ Gobierno de España. Presidencia de Gobierno (2020), La aplicación oficial de autodiagnóstico AsistenciaCOVID-19, disponible ya en cinco nuevas comunidades autónomas, 6 de abril de 2020, <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/asuntos-economicos/Paginas/2020/060420-asistencia-covid19.aspx>. According to the corresponding official information, this tool, which can be used via mobile phone or web, "allows for *self-diagnosis*, access to recommendations for action and updated information, and to receive reminders for periodic monitoring of health status. *In no case does it constitute a medical diagnosis service, emergency care or prescription of pharmacological treatments*". The same official information indicates that "the application, through the request of a series of identification and health data related to the symptoms experienced, allows recommendations and guidelines for action to be offered.

In addition, through the *geolocation system via GPS* of the mobile phone, with the user's permission, the autonomous community where he/she is will be validated to personalize the responses according to the protocols of each one of them". Therefore, it is possible to conclude from the information available that this application does not include the use of *Bluetooth* for data collection.

⁶⁸ "Apps oficiales en España para pre-diagnosticar el contagio del Coronavirus", *eProfessionals*, 28 de abril de 2020, <https://campussanofi.es/e-professionals/noticias/app-diagnostico-coronavirus/>.

objective is to relieve the congestion of the health care telephones in different autonomous communities and to offer official and reliable information to the citizens.

In parallel, three autonomous communities have launched their own applications: in Madrid, the app "**CoronaMadrid**"⁶⁹; in Catalonia, the app "**Stop Covid-19**"⁷⁰; and in the Basque Country, the app "**COVID-19.EUS**"⁷¹. The proactive action of the Spanish Agency for Data Protection (AEPD) in fulfilling its responsibilities is well known, as is also demonstrated in its already numerous communiqués issued since the beginning of the current COVID-19 crisis. The interest and precaution of the public authorities in adjusting their legislative and administrative initiatives to the legislation in force on data protection is equally evident. However, it has not been possible to determine whether this Agency has been consulted for the creation and implementation of the aforementioned mobile applications and websites.

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

The most relevant regulatory instrument adopted on the subject during the period in consideration was Order SND/297/2020, of 27 March, which entrusted the State Secretariat for Digitalisation and Artificial Intelligence, of the Ministry of Economic Affairs and Digital Transformation, with the development of various actions for the management of the health crisis caused by COVID-19⁷².

The Order does not establish any exception to the fundamental right to data protection, but rather expressly refers to the application of Organic Law 3/2018 of 5 December on the Protection of Personal Data and the Guarantee of Digital Rights (LOPDGDD), adapting to Spanish legislation Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (GDPR).

2.3 Privacy and data protection concerns and possible solutions

Having noted that, under the health emergency that the country is experiencing, public and private initiatives are being launched that use apps or websites and request that citizens provide personal information, mainly related to health, the Spanish Agency for Data Protection (AEPD) has issued a statement⁷³ recalling the criteria to be applied for the processing of personal health data to be legal. The Agency points out, once again, that the current emergency situation should not lead to a suspension of the fundamental right to the protection of personal data. At the same time, however,

⁶⁹ Accessible from <https://coronavirus.comunidad.madrid/>.

⁷⁰ Accessible from <https://stopcovid19.cat/>.

⁷¹ Accessible from <https://www.euskadi.eus/coronavirus-app-covid-eus/web01-a2korona/es/>.

⁷² Spain, Order entrusting the State Secretariat for Digitalisation and Artificial Intelligence, of the Ministry of Economic Affairs and Digital Transformation, with the development of various actions for the management of the health crisis caused by COVID-19 (*Orden por la que se encomienda a la Secretaría de Estado de Digitalización e Inteligencia Artificial, del Ministerio de Asuntos Económicos y Transformación Digital, el desarrollo de diversas actuaciones para la gestión de la crisis sanitaria ocasionada por el COVID-19*), 27 March 2020.

⁷³ AEPD (2020), Comunicado de la AEPD sobre apps y webs de autoevaluación del Coronavirus, 26 de marzo de 2020, <https://www.aepd.es/es/prensa-y-comunicacion/notas-de-prensa/aepd-apps-webs-autoevaluacion-coronavirus-privacidad>.

the data protection regulations cannot be used to hinder or limit the effectiveness of the measures adopted by the competent authorities, especially the health authorities, in the fight against the epidemic, since they provide for solutions that make it possible to reconcile the lawful use of personal data with the measures necessary to effectively guarantee the common good⁷⁴.

Likewise, in relation to the measurement of temperature by businesses, work centres and other establishments, the AEPD expressed its concern about this type of action, considering that it involves a particularly intense interference in the rights of the affected parties and that it is being carried out without the prior criterion of the health authorities⁷⁵.

Beyond the AEPD, taken as a whole the above-mentioned COVID-19 pre-diagnosis and self-assessment applications and websites give rise to great concern, especially as they include the possibility of geolocation of citizens (through GPS) for public health protection purposes. Some critical sectors consider that, although the applications adopted so far are currently being used with anonymised processing, there is a high risk of subsequent use of citizens' data in a manner contrary to the fundamental right to privacy. Hence, such initiatives require special vigilance⁷⁶.

2.4 Any other privacy and data protection concerns

All the above suggests that the immediate future could bring interesting debates about the "spy" nature of the said mobile applications, which is reflected in the possible tracing (more or less consented) of citizens' data and contacts. Such debates are as much or more expected in view of the possible use of Bluetooth technology, in addition to geolocation via GPS, to trace millions of mobile phones with anonymous and aggregated data provided by telephone operators, all with the purpose of combating COVID-19 disease.

⁷⁴ AEPD (2020), Comunicado de la AEPD sobre apps y webs de autoevaluación del Coronavirus, 26 de marzo de 2020, <https://www.aepd.es/es/prensa-y-comunicacion/notas-de-prensa/aepd-apps-webs-autoevaluacion-coronavirus-privacidad>.

⁷⁵ Idem.

⁷⁶ Bosch, J. (2020), "Las libertades en tiempos de excepcionalidad pandémica",... cit.; Díaz, E. (2020), "Las apps con geolocalización no curan el Covid-19: analizan la movilidad de las personas", *El Español*, 9 de abril de 2020.