

# Coronavirus pandemic in the EU – Fundamental Rights Implications

**Country:** Austria

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# 1 Measures taken by government/public authorities

## 1.1 Emergency laws/states of emergency, including enforcement actions

The situation remains unchanged, no emergency state has been declared.

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

In **Austria**, a new regulation on the relaxation of shop openings came into force on 14 April.<sup>1</sup> This regulation allows for the opening of selected shops beyond those pertaining to basic care, including shops selling construction, building, and gardening materials, as well as pawn shops. Furthermore, this regulation states that other shops with up to 400m<sup>2</sup> customer space can resume business. The regulation foresees that customers and employees in contact with customers must wear masks that cover nose and mouth. All shopkeepers must ensure only one customer is present per 20m<sup>2</sup>. According to the *Die Presse* newspaper, allowing small but not big shops to open was criticised by experts as an infringement of the principle of equality.<sup>2</sup> More relaxation measures were issued on 30 April and came into force on 1 May pertaining to the opening of all shops under strict hygiene requirements (one metre security distance, wearing of masks, only one customer per 10m<sup>2</sup>).<sup>3</sup> *Der Standard* newspaper reported about an announcement from 21 April that restaurants and bars would open again on 15 May under strict hygiene rules.<sup>4</sup>

In **Austria**, a regulation clarifying new measures on social distancing and containment came into force on 14 April.<sup>5</sup> It supplements the regulation on measures pertaining to the relaxation of shop openings.<sup>6</sup> Masks covering mouth and nose must be worn in public transport and when interacting with someone outside one's own household – only children under the age of six are exempt. One metre of distance between persons must be maintained in public places. The regulation is rooted in the measures outlined in the COVID-19 Law which were extended until 13 April and banned gatherings of over five people and only allowed access to public spaces alone or with people in one's household, to run necessary errands, or to aid those in need.<sup>7</sup>

In **Austria**, the Federal Minister of Social Affairs, Health, Care and Consumer Protection issued a decree regulating the maximum number of people allowed in private spaces on 2 April. The *der Standard* newspaper reported about the so-called "Easter decree" ("*Ostererlass*"), which was transmitted to regional governments on 2 April.<sup>8</sup> The decree stated that due to the increased risk during Easter family gatherings, private (indoor) meetings with more than five people who do not

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<sup>1</sup> Austria, Amendment to the regulation concerning temporary measures to prevent the spread of COVID-19 ([Änderung der Verordnung betreffend vorläufige Maßnahmen zur Verhinderung der Verbreitung von COVID-19](#)), Federal Law Gazette II No. 151/2020.

<sup>2</sup> Die Presse (2020), '[Regierung benachteiligt große Händler: Bund drohen Zahlungen](#)', 14 April 2020.

<sup>3</sup> Austria, regulation on the relaxation of COVID-19 measures ([COVID-19-Lockerungsverordnung](#)), Federal Law Gazette II No. 197/2020.

<sup>4</sup> Der Standard (2020), '[Vorsichtiges Herantasten an den Neustart ab Mai](#)', 21 April 2020.

<sup>5</sup> Austria, Amendment to the regulation as per § 2 Z 1 of the COVID-19 Law ([Änderung der Verordnung gemäß § 2 Z 1 des COVID-19-Maßnahmengesetzes](#)), Federal Law Gazette II No. 148/2020.

<sup>6</sup> Austria, Amendment to the regulation concerning temporary measures to prevent the spread of COVID-19 ([Änderung der Verordnung betreffend vorläufige Maßnahmen zur Verhinderung der Verbreitung von COVID-19](#)), Federal Law Gazette II No. 151/2020.

<sup>7</sup> Austria, COVID-19 Law ([COVID-19 Gesetz](#)), Federal Law Gazette I No. 12/2020.

<sup>8</sup> Der Standard (2020), '[Regierung legt sich ein Osterei: Wieso der Ostererlass so viele Fragen aufwirft](#)', 5 April 2020.

live in the same household should be banned.<sup>9</sup> The police received the legal basis to take action against such gatherings. The decree sparked controversy by constitutional jurists and the opposition, and the Minister lifted the decree on 6 April. In the same month, the *Wiener Zeitung* reported about an enquiry to the Federal Ministry of Social Affairs, Health, Care and Consumer Protection by the Austrian Press Agency (*Austria Presseagentur, APA*) regarding the social distancing regulation in private spaces, after a controversial FAQ section on the Ministry website had stated that meetings with family members and friends should be avoided.<sup>10</sup> Media controversy was raised as it became clear that meetings in private areas had never been forbidden, contrary to repeated statements by the government in press meetings that meetings with friends and family should be avoided. The relevant information on the website was since corrected. The Minister of Social Affairs, Health, Care and Consumer Protection further clarified that “for the time being, there shall be no checks in private spaces”.<sup>11</sup> This statement was heavily criticised by the NEOS party, among others, as such a future move would impact the right to privacy.<sup>12</sup>

In **Austria**, a new regulation on penal orders came into force on 11 April.<sup>13</sup> This regulation clarifies that law enforcement officers shall perform checks in public transport and in opened shops, and specifies the financial penalties for administrative offences pertaining to the Law on Epidemics and the COVID-19 Law. In addition to the previous possibility of filing a police complaint in case of violations, law enforcement officers may now impose on-the spot fines: As per the Law on Epidemics, the regulation foresees a penalty of 50 Euros for unlawful group meetings and for violating individual quarantines or quarantines of regions, as well as 25 Euros for not wearing a mask or other protection covering mouth and nose in one of the designated places in which this is mandatory. As per the COVID-19 Law, other offences, including not sticking to social distance regulations, lead to a 50 Euro penalty.<sup>14</sup>

## 1.2.2 Education

In **Austria**, there were no relaxations of measures pertaining to kindergartens, schools, or universities that took place between 21 March and 30 April. On 24 April, the new plan for the step-wise opening of primary and secondary schools was announced by the Federal Ministry of Education, Science and Research (*Bundesministerium für Bildung, Wissenschaft und Forschung*).<sup>15</sup> On 27 April, the Federal Minister of Education, Science and Research (*Bundesminister für Bildung, Wissenschaft und Forschung*) sent a letter to all parents and guardians explaining the new plan and outlining the steps: Matura students (i.e. high school graduates) will return to school on 4 May. The secondary school stage for students between 6 to 14 attending primary schools, lower secondary schools, new secondary schools and special schools will reopen on 18 May. Finally, face-to-face teaching at polytechnic schools, upper secondary schools, and vocational schools will resume on 3

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<sup>9</sup> Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz*) (2020) [Appell an Bevölkerung: heuer keine privaten Osterfeste](#), press release, 4 April 2020.

<sup>10</sup> *Wiener Zeitung* (2020), ['Ministerium stellt klar: Private Treffen sind zulässig'](#), 27 April 2020.

<sup>11</sup> Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz*) (2020), [Gesundheitsministerium: Konkretisierung bezüglich Verkehrsbeschränkungen und Treffen im privaten Bereich](#), press release, 27 April 2020.

<sup>12</sup> NEOS (2020), [NEOS zu möglichen Kontrollen in Privathaushalten: Die Regierung droht wie sonst nur autoritäre Staaten](#), press release, 28 April 2020.

<sup>13</sup> Austria, Collection of fines with organ penal order according to the 1950 Law on Epidemics Law and the COVID-19 Law ([Einhebung von Geldstrafen mit Organstrafverfügung nach dem Epidemiegeseztz 1950 und dem COVID-19-Maßnahmengeseztz](#)), Federal Law Gazette II No. 152/2020.

<sup>14</sup> Austria, Annex to the regulation on the collection of fines with organ penal order according to the 1950 Law on Epidemics Law and the COVID-19 Law ([Anlage zur Organstrafverfügung nach dem Epidemiegeseztz 1950 und dem COVID-19-Maßnahmengeseztz](#)), Federal Law Gazette II No. 152/2020.

<sup>15</sup> Federal Ministry of Education, Science and Research (*Bundesministerium für Bildung, Wissenschaft und Forschung*) (2020) [Eckpunkte der Aktivierung des Schulsystems](#), 24 April 2020.

June.<sup>16</sup> Teaching will take place in shifts to ensure not all students attend class at the same time, and is subject to hygiene requirements including social distancing and the wearing of masks covering nose and mouth.<sup>17</sup>

In **Austria**, the Federal Ministry of Education, Science and Research lends laptops to students from Federal schools for the duration of distance learning measures.<sup>18</sup> Federal schools include higher general and vocational schools, insofar as these are not privately run.<sup>19</sup> These measures have been criticised by the opposition Social Democratic party<sup>20</sup> (*Sozialdemokratische Partei Österreichs, SPÖ*) and the *der Standard* newspaper<sup>21</sup>, among others, for excluding primary school pupils and those in New Middle Schools (“*Neue Mittelschulen*”), schools with particular challenges pertaining to socio-economic inequalities. This affects the right to equal treatment. Since the Federal Minister for Education, Science and Research’s announcement regarding laptops on 11 April,<sup>22</sup> several actors including the opposition parties, the Chamber of Labour in different regions, regional governments and NGO/private sector initiatives have set up IT offers for these and other students, providing IT equipment and other support like free data volume. Lacking access to infrastructure affects the right to education.

In **Austria**, the Third COVID-19 Law of 4 April established a fund for families facing hardships (“*Familienhärtefonds*”). The fund includes 30 Million Euros and is run by the Federal Ministry of Labour, Family and Youth (*Bundesministerium für Arbeit, Familie und Jugend*). Families with children who are struggling financially due to the consequences of the pandemic may apply, subject to the following requirements: assuming family support for at least one child on the reporting date 28 February 2020; at least one parent living in the household lost their job or went into short-term employment; in case of self-employed, at least one parent must have incurred significant income loss and is eligible for the hardship fund (“*Härtefonds*”); the income of the family must not exceed a certain threshold. The Austrian Anti-Poverty Network (*Armutskonferenz*) criticises that in Austria, 80.000 children living in socially precarious situations, i.e. “conditions requiring social assistance”, are effectively excluded from the eligibility requirements of the fund. Concretely, the network states the fund does not cater to families who require social assistance, who are part of the working poor, who are single parents, who have any form of disability, and who are in marginal employment (i.e. earning under roughly 460 Euros a month for which no tax or insurance must be paid.).<sup>23</sup> This affects the right to equal treatment, as no rules are in place to offer financial support explicitly to socioeconomically disadvantaged families in precarious situations, who are not eligible for the fund for families.

### 1.2.3 Work

In **Austria**, a new regulation on the relaxation of shop openings came into force on 14 April.<sup>24</sup> This regulation allows for the opening of selected shops beyond those pertaining to basic care, including

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<sup>16</sup> Federal Ministry of Education, Science and Research (*Bundesministerium für Bildung, Wissenschaft und Forschung*) (2020) [Letter to parents and guardians](#), 27 April 2020.

<sup>17</sup> Federal Ministry of Education, Science and Research (*Bundesministerium für Bildung, Wissenschaft und Forschung*) (2020) [Eckpunkte der Aktivierung des Schulsystems](#), 24 April 2020.

<sup>18</sup> Austria, Federal Ministry of Education, Science and Research (*Bundesministerium für Bildung, Wissenschaft und Forschung*), [Website on digital devices](#).

<sup>19</sup> Austria, Law on the Organisation of Schools ([Schulorganisationsgesetz](#)), Federal Law Gazette I No. 242/1962.

<sup>20</sup> Social Democratic Party of Austria Parliamentary Club (*Sozialdemokratische Partei Österreichs Parlamentsklub*), [Hammerschmid fordert Laptops und Tablets für alle Schultypen](#), press statement, 9 April 2020.

<sup>21</sup> *Der Standard* (2020), ‘[Schulen und Corona: Laptops reichen nicht](#)’, 14 April 2020.

<sup>22</sup> *Der Standard* (2020), ‘[Bund stellt 12.000 Schülern digitale Leihgeräte zur Verfügung](#)’, 9 April 2020.

<sup>23</sup> Austrian Anti-Poverty Network (*Armutskonferenz*), [Vom Familienhärtefonds sind die hunderttausend ärmsten Kinder ausgeschlossen](#), 9 April 2020.

<sup>24</sup> Austria, Amendment to the regulation concerning temporary measures to prevent the spread of COVID-19 ([Änderung der Verordnung betreffend vorläufige Maßnahmen zur Verhinderung der Verbreitung von COVID-19](#)), Federal Law Gazette II No. 151/2020.

shops selling construction, building, and gardening materials, as well as pawn shops. Furthermore, the regulation states that other shops with up to 400m<sup>2</sup> customer space can resume business. The regulation foresees that customers and employees in contact with customers must wear masks that cover nose and mouth, and that one metre of social distance must be observed between all persons at all times. All shopkeepers must ensure only one customer is present per 20m<sup>2</sup>. If shops are smaller than 20m<sup>2</sup>, only one customer may enter at a time.<sup>25</sup> More relaxation measures were issued on 30 April and came into force on 1 May pertaining to the opening of all shops under strict hygiene requirements (one metre security distance, wearing of masks, only one customer per 10m<sup>2</sup>).<sup>26</sup> *Der Standard* newspaper reported about an announcement from 21 April that restaurants and bars would open again on 15 May under strict hygiene rules.<sup>27</sup> No information is available on changes to working hours.

In **Austria**, the Third COVID-19 Law from 4 April foresees that persons classified as being highly “at risk” are entitled to take a paid leave of absence from employment until 30 April.<sup>28</sup> Exceptions include being able to work from home or being able to alter the conditions at the workplace so as to ensure no risk of infection. Employers may apply to the state for the compensation of costs pertaining to granting temporary leave. This regulation initially did not apply to essential workers, i.e. workers in “system-relevant jobs” pertaining to basic care, or to self-employed persons. At a press conference on 21 April, it was clarified by the Federal Minister of Social Affairs, Health, Care and Consumer Protection that in a new regulation anticipated for 4 May, essential workers would be included.<sup>29</sup> On 6 May, a catalogue of what constitutes a “risk” was issued in a regulation, describing various medical conditions.<sup>30</sup> The Austrian Trade Union (*Österreichischer Gewerkschaftsbund, ÖGB*) criticised that pregnant women were still not included in the clarification.<sup>31</sup> This regulation affects the right to equal treatment and the right to fair and just working conditions.

In **Austria**, a second phase to the hardship fund (“*Härtefallfonds Phase 2*”) was introduced following harsh criticism by the opposition parties<sup>32</sup> on the initial one billion Euro hardship fund (“*Härtefallfonds*”). The Austrian Chamber of Commerce (*Wirtschaftskammer Österreich, WKÖ*) operates the hardship fund and offers financial aid for those in self-employment facing income losses. The *Der Standard* newspaper reported about the criticism by the opposition, especially about low funding amounts and the difficult nature of the application, the ineligibility of those with additional incomes or in so-called marginal employment, rules excluding those with multiple insurances (incl. pensions) and a short consideration period used as basis for calculation.<sup>33</sup> The second phase started on 20 April with new rules and an additional one billion Euros in funding.<sup>34</sup> The new phase expanded the circle of eligible applicants, relaxed the bracket of minimum and maximum monthly income, lifted restrictions pertaining to double insurances and additional incomes, and increased the amount of aid given.<sup>35</sup> The Minister of Finance announced a third amendment to the hardship fund on 27 April to expand the consideration period and to offer more individualised

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<sup>25</sup> Austria, Amendment to the regulation concerning temporary measures to prevent the spread of COVID-19 ([Änderung der Verordnung betreffend vorläufige Maßnahmen zur Verhinderung der Verbreitung von COVID-19](#)), Federal Law Gazette II No. 151/2020.

<sup>26</sup> Austria, regulation on the relaxation of COVID-19 measures ([COVID-19-Lockerungsverordnung](#)), Federal Law Gazette II No. 197/2020.

<sup>27</sup> *Der Standard* (2020), ‘[Vorsichtiges Herantasten an den Neustart ab Mai](#)’, 21 April 2020.

<sup>28</sup> Austria, Third COVID-19 Law ([3. COVID-19 Gesetz](#)), Federal Law Gazette I No. 23/2020.

<sup>29</sup> Austria, Chamber of Commerce (*Wirtschaftskammer Österreich, WKÖ*), [Website on special protection of risk groups against COVID-19](#), 22 April 2020.

<sup>30</sup> Austria, Regulation on the definition of the general COVID-19 risk group ([COVID-19-Risikogruppe-Verordnung](#)), Federal Law Gazette II No. 203/2020.

<sup>31</sup> Austrian Trade Union (*Österreichischer Gewerkschaftsbund, ÖGB*) (2020) [Schwangere nicht als Risikogruppe definiert, Gewerkschaft fordert umgehende Anpassung](#), press release, 21 April 2020.

<sup>32</sup> *Der Standard* (2020), ‘[Coronavirus: Rufe nach Änderungen bei Kriterien für Härtefallfonds](#)’, 28 March 2020.

<sup>33</sup> *Der Standard* (2020), ‘[Coronavirus: Rufe nach Änderungen bei Kriterien für Härtefallfonds](#)’, 28 March 2020.

<sup>34</sup> Austria, Federal Ministry of Finance (*Bundesministerium für Finanzen*) (2020), [Finanzminister Blümel: Härtefallfonds auf 2 Mrd. verdoppelt](#), press statement, 1 April 2020.

<sup>35</sup> Chamber of Commerce (*Wirtschaftskammer Österreich*) (2020), [website on hardship fund eligibility requirements for phase 2](#)

support.<sup>36</sup> Concretely announced changes include a minimum of 500 Euros in aid to eligible applicants and the use of the annual income bracket as basis for calculation.<sup>37</sup> It should be noted that in phases one and two of the fund, no explicit rules and regulations are in place for people who are self-employed but working under precarious conditions, for example those living solely on income from one or more jobs in so-called marginal employment (i.e. jobs with incomes under roughly 460 Euros a month for which no tax or insurance must be paid). The inaccessibility of the hardship fund to self-employed people in precarious or atypical work situations impacts the right to social security.

#### 1.2.4 Access to justice

In **Austria**, the first judiciary law accompanying the COVID-19 Law<sup>38</sup> from 23 March is split into two parts: part one covers regulations concerning civil law, and part two covers criminal law. The civil law part covers statutory periods that have not expired by 22 March and extends them to 30 April, meaning the deadlines will recommence on 1 May. This includes statutory periods for appeals against judgements and orders. Exceptions include statutory periods in proceedings in which there is imminent danger to life, limb, safety, or the threat of serious harm. In the latter case, a judge must decide whether to interrupt the existing statutory periods. According to the cited law the interest in averting the danger must outweigh the public interest to contain COVID-19.<sup>39</sup>

In **Austria**, the criminal law part of first judiciary law accompanying the COVID-19 Law<sup>40</sup> from 23 March authorises the Federal Minister of Justice to order by regulation that, among others: convicted persons do not have to begin to serve their sentences for the duration of measures to contain COVID-19 provided the convicted person is not dangerous (in relation to the security of state, person and property) and the sentence to be served does not exceed three years; suspected or actual infection with COVID-19 can be declared grounds for unfitness for imprisonment in accordance with §§5 (3) and 133 Penal Procedure Code<sup>41</sup>. Furthermore, the Federal Minister of Justice may issue regulations that, among others: contact of prisoners to the outside world can be limited to telephone contact; hearings on applications for conditional release can be held by video conference; it is possible that detention in electronically monitored house arrest (shackles) can continue in case work cannot be carried out due to the measures seeking to contain COVID-19. Generally, a prison sentence can also be replaced by the provision of community service. It may now also be ordered that a prison sentence may be postponed even if such community services can no longer be provided due to COVID-19. Limitations to the contact of prisoners to the outside world potentially affect the right of prisoners to family life. Certain statutory periods may be extended to 30 April, meaning the deadlines will recommence on 1 May. According to this law, the regulations pertaining to statutory periods generally do not apply to proceedings in which the accused is being held in detention, therefore European Arrest Warrant proceedings are not impacted.<sup>42</sup>

In **Austria**, the Fourth COVID-19 Law from 4 April<sup>43</sup> authorises the Federal Minister of Justice to extend deadlines, including among others the deadline for granting authorisation to prosecute.

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<sup>36</sup> Austria, Federal Ministry of Finance (*Bundesministerium für Finanzen*) (2020), [Blümel: Phase II des Härtefallfonds wird ausgeweitet](#), press statement, 27 April 2020.

<sup>37</sup> [Richtlinie des Bundesministers für Finanzen im Einvernehmen mit dem Vizekanzler sowie der Bundesministerin für Digitalisierung und Wirtschaftsstandort zur Regelung der Auszahlungsphase 2 im Rahmen des Härtefallfonds](#)

<sup>38</sup> Austria, First judiciary law accompanying the COVID-19 Law ([1. COVID-19-Justiz-Begleitgesetz](#)), Federal Law Gazette I No. 24/2020.

<sup>39</sup> Austria, First judiciary law accompanying the COVID-19 Law ([1. COVID-19-Justiz-Begleitgesetz](#)), Federal Law Gazette I No. 24/2020.

<sup>40</sup> Austria, First judiciary law accompanying the COVID-19 Law ([1. COVID-19-Justiz-Begleitgesetz](#)), Federal Law Gazette I No. 24/2020.

<sup>41</sup> Austria, Penal Procedure Code ([Strafvollzugsgesetz](#)), Federal Law Gazette I, No. 144/1969, §5(3).

<sup>42</sup> Austria, First judiciary law accompanying the COVID-19 Law ([1. COVID-19-Justiz-Begleitgesetz](#)), Federal Law Gazette I No. 24/2020, §9 (3).

<sup>43</sup> Austria, Fourth Covid-19 Law ([4. COVID-19 Gesetz](#)), Federal Law Gazette I No. 24/2020.

Detention hearings for the extension of pre-trial detention may be dispensed in cases, in which detention hearings are not possible via video conference. In such cases, the decision may be taken without oral hearing in a written procedure according to §175 (4) second sentence Criminal Code.<sup>44</sup> Also, court days in appeal proceedings may be held via video conference before all appellate courts.

In **Austria**,<sup>45</sup> the Federal Minister of Justice stated in a press statement from 14 April that court hearings shall only take place in urgent cases, i.e. criminal proceedings with the accused in custody. If possible, hearings should also be held in proceedings for domestic violence, accommodation, or insolvency cases. If the technical conditions can be met, the hearing will take place via video conference. Apart from these cases, the judges will decide whether a court hearing should be held after weighing up the interests and risks.

### 1.2.5 Freedom of movement

In **Austria**, there have been no changes to the rules pertaining to asylum seekers. The Austrian Broadcasting Corporation (*Österreichischer Rundfunk, ORF*) reported that as of 2 May, asylum seekers still need to provide a medical statement confirming a negative COVID-19 test result to gain entry into the country. The Federal Minister of Social Affairs, Health, Care and Consumer Protection clarified that any constitutional or European legal obligations must be obeyed, implying that asylum seekers may still apply for asylum and therefore enter the country.<sup>46</sup>

In **Austria**, a regulation on entering the country via means of air travel was issued on 9 April, valid until the end of April.<sup>47</sup> Austrian citizens, EU/EEA citizens, Swiss citizens, as well as persons living in households with such persons and those possessing a category D visa or another residency permit, are obliged to self-quarantine for 14 days upon arrival. Self-quarantine is not necessary if a German or English medical statement no older than four days, indicating a negative COVID-19 test result can be presented. Third-country nationals arriving from the Schengen area or who fall into one of the above-mentioned categories may only enter upon providing a German or English medical statement no older than four days, indicating a negative COVID-19 test result. If this cannot be provided, the person will be placed in quarantine for 14 days unless immediate departure is ensured.

In **Austria**, a regulation on access to Austria from the neighbouring countries Italy, Switzerland, Liechtenstein, Germany, Hungary and Slovenia was issued, valid from 2 April.<sup>48</sup> Besides citizens and those with legal residency allowed to enter the country without a medical statement, the target group was amended to include also persons with mandatory health insurance in the country, and persons able to provide proof of medical emergency.<sup>49</sup> It is possible to bring one accompanying person. A new regulation from 9 April further allows for exceptions for entering the country without a test result, including for family emergencies and for reasons of animal care.<sup>50</sup> A 14-day quarantine is still mandatory without a negative test result in either German, English, Italian, or French.

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<sup>44</sup> Austria, First judiciary law accompanying the COVID-19 Law ([1. COVID-19-Justiz-Begleitgesetz](#)), Federal Law Gazette I No. 24/2020, §9(4).

<sup>45</sup> Austria, Federal Ministry of Justice (*Bundesministerium für Justiz*) (2020), [Schutzmaßnahmen für Notbetrieb an Gerichten verlängert](#), press statement, 14 April 2020.

<sup>46</sup> ORF (2020) ['Innenministerium: Asylwerberregeln unverändert'](#), 2 May 2020.

<sup>47</sup> Austria, Amendment to the regulation on entry into Austria via air route ([Änderung der Verordnung über die Einreise auf dem Luftweg nach Österreich](#)), Federal Law Gazette II No. 150/2020.

<sup>48</sup> Austria, Amendment to the regulation on measures upon entry into Austria from Italy, Switzerland, Liechtenstein, Germany, Hungary and Slovenia ([Änderung der Verordnung über Maßnahmen bei der Einreise aus Italien, der Schweiz, Liechtenstein, Deutschland, Ungarn und Slowenien](#)), Federal Law Gazette II No. 129/2020.

<sup>49</sup> Austria, Federal Ministry of the Interior (*Bundesministerium für Inneres*) (2020), [Grenzkontrollmaßnahmen an Österreichs Grenzen](#), press statement, 10 April 2020.

<sup>50</sup> Austria, Amendment to the regulation on measures upon entry into Austria from Italy, Switzerland, Liechtenstein, Germany, Hungary and Slovenia ([Änderung der Verordnung über Maßnahmen bei der Einreise aus Italien, der Schweiz, Liechtenstein, Deutschland, Ungarn und Slowenien](#)), Federal Law Gazette II No. 149/2020.

Commuters, freight transports and commercial transports (excluding passenger transport) remain except from these regulations,<sup>51</sup> but must undertake a medical exam if requested upon entry into the country.<sup>52</sup> These measures are valid until 30 April.

In **Austria**, there were no regulations pertaining to freedom movement for care or health workers until two laws issued on 30 April, which entered into force on 1 May covering entry from neighbouring countries<sup>53</sup> and from beyond<sup>54</sup>. The Austrian Society for Psychosomatic and Psychotherapeutic Medicine (*Österreichische Gesellschaft für Psychosomatik und Psychotherapeutische Medizin, ÖGPPM*) states that reliance on healthcare workers from neighbouring and Eastern European countries for 24-hour-care is high, with border closures leading to a near collapse of the system of 24-hour-healthcare.<sup>55</sup> The *Kurier* newspaper reported the regional Lower Austrian government and Chamber of Commerce in Lower Austria (*Wirtschaftskammer Niederösterreich*) had 231 female healthcare workers from Romania and Bulgaria flown to Austria on 29 April to mitigate this gap.<sup>56</sup> *Der Standard* reported about a special permit issued by the Federal Ministry of European, and International Affairs (*Bundesministerium für Europäische und Internationale Angelegenheiten*) and about Austrian Airlines conducting the transfer, as well as about the workers being required to undertake an unpaid 14-day quarantine before being able to commence work. The trade union initiative *Vidaflex*, among others, heavily criticised this and the underlying healthcare system's reliance on badly paid healthcare workers from neighbouring countries.<sup>57</sup> The *Wiener Zeitung* reported on 23 April that the Minister of European Affairs announced a bilateral negotiation with Romania with which immigration from Romania to Austria for healthcare workers shall be made possible from 2 May.<sup>58</sup> The Austrian Federal Railway (*Österreichische Bundesbahnen, ÖBB*) together with the Chamber of Labour (*Wirtschaftskammer Österreich*) shall operate the planned „train corridor“ under strict rules.

In **Austria**, it was announced on 30 April that from 1 May, the ban on planes landing from 10 “high-risk” countries would be extended until 22 May. Exceptions to this rule now include planes carrying seasonal workers as well as health and care personnel, who may land even coming from banned locations classified as being locations of “high risk”.<sup>59</sup> Landing is subject to these passengers undertaking a medical exam if requested upon entry into Austria.<sup>60</sup> Another new regulation was passed on 30 April, valid from 1 until 31 May, allowing seasonal workers as well as health and care staff from neighbouring countries to enter Austria via bus or train as long as there would be no stops

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<sup>51</sup> Austria, Measures on entry into Austria from Italy ([Maßnahmen bei der Einreise aus Italien](#)), Federal Law Gazette II No. 87/2020.

<sup>52</sup> Austria, Medical checks upon entry into Austria with reference to the “new 2019 coronavirus“ ([Medizinische Überprüfungen bei der Einreise im Zusammenhang mit dem „2019 neuartigen Coronavirus“](#)), Federal Law Gazette No. 81/2020.

<sup>53</sup> Austria, Amendment to the regulation on the landing ban for aircrafts from SARS-CoV-2 risk areas, the regulation on the suspension on rail traffic to Italy, Switzerland and Liechtenstein due to the outbreak of SARS-CoV-2 and the regulation on entry into Austria by air ([Änderung der Verordnung über das Landeverbot für Luftfahrzeuge aus SARS-CoV-2 Risikogebieten, der Verordnung über die Einstellung des Schienenverkehrs zu Italien, der Schweiz und Liechtenstein aufgrund des Ausbruchs von SARS-CoV-2 und der Verordnung über die Einreise auf dem Luftweg nach Österreich](#)) Federal Law Gazette II No. 196/2020.

<sup>54</sup> Austria, Amendment to the regulation on measures on entry into Austria from neighbouring states ([Änderung der Verordnung über die Maßnahmen bei der Einreise aus Nachbarstaaten](#)) Federal Law Gazette II No. 195/2020.

<sup>55</sup> Austrian Society for Psychosomatic and Psychotherapeutic Medicine (*Österreichische Gesellschaft für Psychosomatik und Psychotherapeutische Medizin, ÖGPPM*), [24-Stunden-Pflege: Zusammenbruch des Systems droht](#), press release, 18 April 2020.

<sup>56</sup> *Kurier* (2020), ['24-Stunden-Betreuung steht vor dem Kollaps'](#), 9 April 2020.

<sup>57</sup> Austrian Trade Union (*Österreichischer Gewerkschaftsbund*) (2020), [Coronakrise: vidaflex fordert „Bleib da! - Bonus“ von 1.000 Euro im Monat für alle 24-Stunden-Betreuerkräfte](#), press release, 31 March 2020.

<sup>58</sup> *Wiener Zeitung* (2020), ['Korridorzüge für rumänische Pflegerinnen durch Ungarn'](#), 23 April 2020.

<sup>59</sup> Austria, Amendment to the regulation on the landing ban for aircrafts from SARS-CoV-2 risk areas, the regulation on the suspension on rail traffic to Italy, Switzerland and Liechtenstein due to the outbreak of SARS-CoV-2 and the regulation on entry into Austria by air ([Änderung der Verordnung über das Landeverbot für Luftfahrzeuge aus SARS-CoV-2 Risikogebieten, der Verordnung über die Einstellung des Schienenverkehrs zu Italien, der Schweiz und Liechtenstein aufgrund des Ausbruchs von SARS-CoV-2 und der Verordnung über die Einreise auf dem Luftweg nach Österreich](#)) Federal Law Gazette II No. 196/2020.

<sup>60</sup> Austria, Medical checks upon entry into Austria with reference to the “new 2019 coronavirus“ ([Medizinische Überprüfungen bei der Einreise im Zusammenhang mit dem „2019 neuartigen Coronavirus“](#)), Federal Law Gazette II No. 81/2020.

between the departure and arrival station.<sup>61</sup> 14 day self-quarantine is mandatory and, if necessary, must be paid for by the worker or by a third party.

### 1.3 Impact of measures on particular groups

#### **Persons with disabilities and older people:**

In **Austria**, the Austrian Ombudsman Board<sup>62</sup> (*Volksanwaltschaft*), as well as the Platform for Disabled, Chronically Ill and Old People<sup>63</sup> (*Plattform behinderter, chronisch kranker und alter Menschen*) and the Association for Seniors<sup>64</sup> (*Seniorenbund*) criticised that the laws on social distancing take no special consideration of persons with disabilities or older people, who particularly suffer from isolation and feelings of loneliness. The Austrian Ombudsman Board stated the need for creative solutions and measures to mitigate the negative consequences of isolation for people with (multiple) disabilities in care homes. Persons, particularly those with severe impairments, are negatively impacted by the ban on visits and by rapidly changing rules for social conduct, eg. wearing masks. Measures impact on their right to acceptable healthcare that makes use of the maximum available resources. Furthermore, the Austrian Ombudsman Board calls for care homes (for people with disabilities as well as for elderly persons) to refrain from forbidding patients from leaving care grounds for walks. This impacts on their freedom of movement and right to healthcare. *Kurier* newspaper reports that by the end of April or beginning of May, depending on province, visits to care and elderly homes will gradually be allowed again.<sup>65</sup>

#### **Persons with disabilities:**

The NGO *Lebenshilfe* criticises the lack of additional medical supplies, face masks and protective gear for organisations offering care for people with disabilities, who are at particular risk for contracting COVID-19.<sup>66</sup> This impacts on their right to health and to equal treatment. The Independent Monitoring Committee (*Unabhängiger Monitoringausschuss*) and the Council for Persons with Disabilities (*Behindertenrat*) point to the importance of self-determination and criticise that persons with disabilities were not included in crisis teams planning mitigating measures, which is not in line with the UN Convention on the Rights of People with Disabilities.<sup>67</sup>

#### **Older people:**

In **Austria**, the ban on visits to homes for the elderly has led to criticism about isolation and “social death” of older persons. The *Wiener Zeitung* reported about the social deprivation faced by persons in care homes (older people as well as people with disabilities). In addition to older people in care homes, also older people were asked specifically to stay at home, as they are considered by the Austrian government as one of the main groups affected by COVID-19.<sup>68</sup> However, the Austrian Broadcasting Corporation (*Österreichischer Rundfunk, ORF*) reported that 40% of over 60-year-olds have no access to the Internet.<sup>69</sup> In addition, as social distancing regulations imply not being able to

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<sup>61</sup> Austria, Amendment to the regulation on measures on entry into Austria from neighbouring states ([Änderung der Verordnung über die Maßnahmen bei der Einreise aus Nachbarstaaten](#)) Federal Law Gazette II No. 195/2020.

<sup>62</sup> Austrian Ombudsman Board (*Volksanwaltschaft*) (2020), [Pflegeheime: Mit kreativen Lösungen Isolation beenden](#), 27 April 2020.

<sup>63</sup> Platform for Disabled, Chronically Ill and Old People (*Plattform behinderter, chronisch kranker und alter Menschen*) (2020), [Regierungsmaßnahmen anlässlich der Covid19-Pandemie für besonders gefährdete Menschen unzureichend](#), press release, 9 April 2020.

<sup>64</sup> Association for Seniors (*Seniorenbund*) (2020), [Social Distancing: Korosec fordert Lockerungen für Besuche innerhalb der Familie](#), press release, 27 April 2020.

<sup>65</sup> *Kurier* (2020), [Besuche wieder erlaubt: Begegnungszonen im Altersheim](#), 28 April 2020.

<sup>66</sup> *Lebenshilfe* Austria (2020), [Gesundheitsversorgung von Menschen mit Behinderungen in Zeiten von CoViD-19](#), press release, 10 April 2020.

<sup>67</sup> Independent Monitoring Committee (*Unabhängiger Monitoringausschuss*) (2020), [Corona-Krisenstäbe schließen Expertise von Menschen mit Behinderungen aus](#), press release, 22 April 2020.

<sup>68</sup> Austria, Federal Chancellery (*Bundeskanzleramt*) (2020), [Weitere Maßnahmen gegen Ausbreitung des Coronavirus](#), 10 March 2020.

<sup>69</sup> ORF Science (2020), [Ältere: Zwischen Schutz und Ausgrenzung](#), 30 April 2020.

take part in sports or socialising activities, this could lead to declining physical and mental health of older persons more generally. The new COVID-19 law issued on 30 April, which entered into force on 1 May, additionally foresees that certain groups may be excluded from participating in public events for health and safety reasons. The Association for Pensioners<sup>70</sup> (*Pensionistenverband Österreichs*) fears this could exclude older persons, fearing the blanket-exclusion of persons over a certain age.

### **Detainees:**

In **Austria**, security measures for prisons foresee measures to prevent the virus from circulating rapidly, which are outlined in a catalogue of preventive measures as well as in a decree to prevent the introduction of infectious diseases and their spread sent to penal institutions at the end of February 2020, according to *der Standard* newspaper.<sup>71</sup> Summaries of both documents are available on a compiled information document provided by the Federal Ministry of Justice.<sup>72</sup> The catalogue of preventive measures for penal and law enforcement outlines the measures, including among others postponed proceedings, restricted visiting rights for prisoners, and isolation for new detainees until it can be certain there is no infection.<sup>73</sup> The *Wiener Zeitung* reported about problems pertaining to the implementation of measures, particularly concerning detainees on withdrawal from drugs or with mental health needs who only have access to therapy via telephone.<sup>74</sup> In addition, several detainees from the Josefstadt Prison (*Justizanstalt Josefstadt*) wrote letters to the Austrian Press Agency (*Austria Presseagentur, APA*) citing problems with the enforcement of security regulations (one metre security distance), very minimal possibilities to go out, as well as high costs for phone calls for which no financial aid is given.<sup>75</sup> According to a media report by *der Standard*, some experts call for alternatives to detention to be considered due to the high risk of infection and spread of the virus, as well as the already worse state of health of detainees.<sup>76</sup>

## **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 **Austria**, the telecommunications company A1 provided users' movement data to the government to aid understanding in mobility behaviours.<sup>77</sup> The company later clarified that data was anonymised and that no tracing of individuals was possible.<sup>78</sup> As of May 2020, anonymised analyses of mobility and motion data continue to be provided publicly on an online dashboard in cooperation with Invenium, a spin-off initiative of the Graz University of Technology (*TU Graz*).<sup>79</sup> No information is available on whether the government is receiving direct data input from A1 and Invenium.

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<sup>70</sup> Austrian Association for Pensioners (*Pensionistenverband Österreichs*) (2020), [Pensionistenverband befürchtet „wegsperrn“ von älteren Menschen](#), 25 April 2020.

<sup>71</sup> *Der Standard* (2020), '[Coronavirus beschäftigt Juristen und Justiz](#)', 3 March 2020.

<sup>72</sup> Austria, Federal Ministry of Justice (*Bundesministerium für Justiz*) (2020), [Bisherige Maßnahmen seit 25. Februar 2020 zu COVID-19 im Straf- und Maßnahmenvollzug](#).

<sup>73</sup> Austria, Federal Ministry of Justice (*Bundesministerium für Justiz*) (2020), [Bisherige Maßnahmen seit 25. Februar 2020 zu COVID-19 im Straf- und Maßnahmenvollzug](#).

<sup>74</sup> *Kleine Zeitung* (2020), '[Doppelt gefangen](#)', 22 April 2020.

<sup>75</sup> *Kleine Zeitung* (2020), '[Justizanstalt Josefstadt - Häftlinge kritisieren: Kein Mindestabstand, hohe Telefonkosten](#)', 11 April 2020.

<sup>76</sup> *Der Standard* (2020), '[Coronavirus sorgt für Angst in den Haftanstalten](#)', 7 April 2020.

<sup>77</sup> *Futurezone* (2020), '[Ausgangsbeschränkung: A1 liefert Bewegungsdaten an Regierung](#)', 17 March 2020.

<sup>78</sup> A1 (2020), [website on current information](#)

<sup>79</sup> A1 and Invenium (2020), [#bleibdaheim dashboard on anonymised mobile phone signalling data](#)

In **Austria**, the Austrian Red Cross (*Österreichisches Rotes Kreuz*) developed and published the contact-tracing app “Stopp Corona” on 25 March.<sup>80</sup> The app is operated by the Austrian Red Cross, was realized in cooperation with the consulting firm Accenture Austria, and was financed by the UNIQA Private Foundation (*UNIQA Privatstiftung*). Although the app is not an explicit arrangement with Austrian public authorities, its voluntary use is encouraged as a digital supplement to other measures by the Federal Minister of Social Affairs, Health, Care and Consumer Protection.<sup>81</sup> “Stopp Corona” allows for the exchange of (manual and automatic) digital handshakes via Bluetooth. The app requires active consent for data processing. Users can enter their own data about a (suspected) infection based on a medical statement or on the app-internal symptom checker (= self-evaluation quiz). Users must enter their phone numbers and confirm phone ownership via TAN SMS to prevent abuse. Once their own data about an infection is registered and confirmed, all persons who had close contact with the user in the last 54 hours are warned and recommended to self-isolate.. Close contact is defined by spending 15 minutes within two metres of the person. Once a handshake has taken place, a “token” is stored locally on both user’s phones. “Stopp Corona” sends anonymous data on people who enter their details and are at risk to their centralised server, including a unique ID allocated upon app installation, IP address, date and time of digital handshake, and device configuration. No sensitive data is submitted to the central server. If a user deletes the app, the entered phone number is stored on the server for 30 days.<sup>82</sup> The *Der Standard* newspaper reported on 24 April that the open source code was published on GitHub, allowing full insight into the mechanics behind the app.<sup>83</sup> As of 6 May 2020, the app has been downloaded 560.000 times.<sup>84</sup>

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

In **Austria**, according to an FAQ on data protection during the COVID-19 crisis issued by the Data Protection Authority (*Republik Österreich Datenschutzbehörde*), it is the General Data Protection Regulation (GDPR)<sup>85</sup> in combination with the Law on Telecommunications<sup>86</sup> which provides the framework for the sharing of user data in the context of COVID-19.<sup>87</sup> The information issued is a response provided to the question “May telecommunication providers forward movement profiles of mobile phone users to the government to help stem the spread of infection?” and does not refer explicitly to the “Stopp Corona app”. It is stated that only movement data without any personal reference may be transmitted [to the government] and may be used to analyse movement flows, for example. Anonymisation techniques must not allow for the tracing (i.e. identification) of individuals or may only be possible at a disproportionately high expense. Individual movement profiles may only be transmitted based on prior explicit consent with the possibility of withdrawal at any time. No further information on procedures pertaining to the tracking of location data or access to telecommunication data is given in the FAQ document.

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<sup>80</sup> Austrian Red Cross (2020), [website on the Stopp Corona app](#).

<sup>81</sup> ORF (2020), [„Report“ über PCR-Tests und Rot-Kreuz-App „Stopp Corona“](#), 7 April 2020.

<sup>82</sup> Austrian Red Cross (2020), [website on data protection and the Stopp Corona App](#)

<sup>83</sup> Github (2020), [open source platform with source code Stopp Corona app](#).

<sup>84</sup> Der Standard (2020) [Rotes Kreuz: Mehr Menschen sollten die "Stopp Corona"-App installieren](#), 6 May 2020.

<sup>85</sup> [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC \(General Data Protection Regulation\)](#).

<sup>86</sup> Austria, 2003 Telecommunications Law ([Telekommunikationsgesetz 2003](#)), Federal Law Gazette I No. 70/2003.

<sup>87</sup> Republic of Austria Data Protection Authority (*Republik Österreich Datenschutzbehörde*) (2020), [FAQ zum Thema Datenschutz und Coronavirus \(COVID-19\)](#), 24 April 2020.

## 2.3 Privacy and data protection concerns and possible solutions

In **Austria**, the Data Protection Authority (*Datenschutzbehörde*) has not made any statements on any of the (draft) laws pertaining to the outbreak of COVID-19 in Austria, Stopp Corona app, or made any corresponding legal decisions. The most recent quarterly newsletter gives information about recent decisions and statements of the Authority, none of which relate to COVID-19 – there is one section that reminds employers about the importance of upholding data protection standards in dealing with sensitive data of employees, and pointing to the increased risk of cybercrime.<sup>88</sup> As reported by *Der Standard* newspaper on 16 April, the Freedom Party of Austria (*Freiheitliche Partei Österreichs, FPÖ*) filed charges against the Austrian Red Cross (*Österreichisches Rotes Kreuz*) with the Data Protection Authority due to “massive data protection concerns” and concerns about the possibility for data abuse.<sup>89</sup> No further information is available.

In **Austria**, the “Stopp Corona” contact tracing app by the Austrian Red Cross (*Österreichisches Rotes Kreuz*) was reviewed by independent research organisations following an intense public debate about privacy concerns. The disclaimer of the report reads that no financial remuneration was received for the assessment and that the authors consider it their duty to inform the population in a neutral manner about the app.<sup>90</sup> The app was deemed secure and in accordance with data protection guidelines but worthy improvements in line with recent developments across Europe.<sup>91</sup> According to the European Center for Digital Rights (NOYB), 23 out of 26 recommendations for improvement (technical and legal) have either been implemented or are in the works as of 21 April.<sup>92</sup> Recommendations encompassed switching to a decentralised system for contact tracing (DP-3T), preventing communication with the server of the Red Cross before the users’ consent, clarifying information to users before consent as well as the FAQ section, implementing the automatic deletion of handshake data. In the report, the Austrian Red Cross provided response statements on the three recommendations not considered. All three were legal in nature and the Red Cross did not see the need to implement them.

In **Austria**, on 28 April the Parliament’s Health Committee (*Gesundheitsausschuss*) debated a request by the ruling Austrian People’s Party (*Österreichische Volkspartei, ÖVP*) and Green Party (*Die Grünen*) on the use of the Red Cross’ “Stopp Corona App” for screening programmes.<sup>93</sup> The request seeks to alter the Law on Epidemics<sup>94</sup>. According to the *Wiener Zeitung*, participation in the screening programmes via the app would be voluntary and enable app users to transmit personal and health data to the health authority to aid the definition of so-called “spread clusters” (“*Ausbruchcluster*”) of COVID-19.<sup>95</sup> As of 1 May, no new information on this development could be found.

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<sup>88</sup> Republic of Austria Data Protection Authority (*Republik Österreich Datenschutzbehörde*) (2020), [Anwendbarkeit des §11 DSG - Muss die Datenschutzbehörde bei erstmaligen Verstößen verwarnen statt strafen?](#), Newsletter 2/2020.

<sup>89</sup> *Der Standard* (2020) “[Stopp Corona"-App: FPÖ bringt Anzeige bei Datenschutzbehörde ein](#)”, 16 April 2020.

<sup>90</sup> Epicenter.works, European Centre for Digital Rights, SBA Research gGmbH (2020), [Technische und Rechtliche Analyse der Stopp Corona App des Österreichischen Roten Kreuzes](#).

<sup>91</sup> SBA Research GmbH (2020), [Stopp Corona App - Initial Assessment](#).

<sup>92</sup> European Centre for Digital Rights (2020), [First functioning European "Corona App" reviewed by noyb, epicenter.works and SBA Research](#), 21 April 2020.

<sup>93</sup> Republic of Austria Parliament (*Republik Österreich Parlament*) (2020) [Neu im Gesundheitsausschuss](#), Parliamentary Correspondance Nr. 349, 22 April 2020.

<sup>94</sup> Austria, 1950 Law on Epidemics ([Epidemiegesetz 1950](#)), Federal Law Gazette I No. 186/1950.

<sup>95</sup> *Kurier* (2020), [Entscheidung über Corona-App liegt bei Anschober](#), 26 April 2020

## 2.4 Any other privacy and data protection concerns

In **Austria**, the Law on Epidemics was amended with the third COVID-19 Law, allowing district authorities to forward personal and contact data of infected persons in mandatory quarantine to mayors, insofar as this is deemed necessary for the provision of goods and services needed on a day-to-day basis.<sup>96</sup> Mayors may only use the data for this purpose and data must be deleted as soon as this reason for usage no longer exists. This poses a potential problem as it is unclear whether consent of persons whose data is entered into the epidemiological registration system (*Epidemiologisches Meldesystem, EMS*) is asked.

In **Austria**, it was announced by the umbrella organisation for insurance carriers (*Kassendachverband*) that the Austrian insurance carriers decided on 2 April to provide the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (*Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz*) with pseudonymised data to aid research.<sup>97</sup> According to the statement made, there are several unique medical databases in Austria and when combining data from all of them, insights to help combat the spread of COVID-19 can be gained and “data can help save lives”.<sup>98</sup> The data provided will be yielded from the unique databases on prescription billings (*Heilmittelabrechnung, HEMA*) and the electronic health record system ELGA (*elektronische Gesundheitsakte, ELGA*).<sup>99</sup> This poses a potential data protection concern as data is not anonymised but pseudonymised and thereby might allow for individuals to be traced based on triangulation of data. As of May 2020, no legal developments have occurred in this regard and no further statements on the topic could be found.

In **Austria**, the Second Covid-19 Law from 21 March changed the 2003 Law on Telecommunications.<sup>100</sup> The vaguely formulated new law obliges mobile phone carriers to send public warnings about potential and/or unfolding emergencies, catastrophes or similar, to end users via text message. The request to send such messages may only be made by the Federal Government or any other federal institution (hereafter: client). The law specifies that these warning messages can be sent nation-wide or regionally, depending on the nature of the client’s request. The mobile phone carrier is allowed to use “primary and movement data” (*“Stamm- und Standortdaten”*) for the sole purpose of sending the warning message to the group specified by the client.<sup>101</sup> It is unclear to which data this refers to exactly, but it is likely to user’s master data and their (current) location at the time when the message should be sent. Particular person groups may be defined although it is not clarified in the law which groups. The telecommunications company is required to document the processing of the Ministry’s request. Full information on the warning and on the group of recipients must be published online. This poses a potential data protection concern as mobile users do not opt in to the use of their primary and movement data.

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<sup>96</sup> Austria, Third COVID-19 Law ([3. COVID-19 Gesetz](#)), Federal Law Gazette I No. 23/2020.

<sup>97</sup> Austrian Social Insurance (*Österreichische Sozialversicherung, SVA*) (2020), [Lehner: Daten können Leben Retten](#), press statement, 2 April 2020.

<sup>98</sup> Austrian Social Insurance (*Österreichische Sozialversicherung, SVA*) (2020), [Lehner: Daten können Leben Retten](#), press statement, 2 April 2020.

<sup>99</sup> Austrian Social Insurance (*Österreichische Sozialversicherung, SVA*) (2020), [Lehner: Daten können Leben Retten](#), press statement, 2 April 2020.

<sup>100</sup> Austria, Second COVID-19 Law ([2. COVID-19 Gesetz](#)), Federal Law Gazette I No. 16/2020.

<sup>101</sup> Austria, Second COVID-19 Law ([2. COVID-19 Gesetz](#)), Federal Law Gazette I No. 16/2020.