

# **Coronavirus pandemic in the EU – Fundamental Rights Implications**

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**Date:** 4 May 2020

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# 1 Measures taken by government/public authorities

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

The coronavirus pandemic continues to affect the Czech Republic, and the state of emergency, effective since 12 March based on Crisis Act No. 240/2000 Coll.,<sup>1</sup> remains in place according to Government Regulation No. 485 from 30 April and will continue until at least 17 May 2020.<sup>2</sup> Since 7 April 2020 there has been a gradual easing of the measures adopted in connection with the coronavirus pandemic.

Public health concerns and concerns over the state of the economy heavily outweigh those that relate to fundamental rights issues.

On 23 April, Judgment No. 14 A 41/2020 of the Municipal Court in Prague<sup>3</sup> annulled four protection measures that had been adopted by the Ministry of Health in March regarding restrictions on retail activities and the free movement of people. Specifically, the court annulled the following special protection measures:

- Special Measure No. MZDR 12745/2020-1/MIN/KAN from 23 March<sup>4</sup> extended the restrictions on the free movement of people, with the only exceptions being essential travel to and from work, essential shopping of groceries and similar stuff, essential visits to doctors or public offices, visiting and taking care of family members, and walks in parks and the countryside. The measure limited the number of people able to meet in a public place to two and mandated them to keep a distance of two metres from each other (unless they live in the same household);
- Special Measure No. MZDR 13361/2020-1/MIN/KAN from 26 March<sup>5</sup> prohibited all retail sales and other facilities from operating, except for groceries, drugstores, pharmacies, opticians, tobacconists and similar essential services, and ordered the closure of restaurants, bars or outdoor sports facilities;
- Special Measure No. MZDR 16193/2020-2/MIN/KAN from 17 April eased the regulations on retail sales, allowing a number of retail shops to open provided that customers keep a distance of at least two metres from each other and disinfection is provided in the shop;
- Special Measure No. MZDR 16195/2020-1/MIN/KAN from 15 April eased the regulations limiting free movement, allowing people to use outdoor sports facilities and permitting professional athletes to conduct group training. A maximum of eight people can train together in non-contact sports; face masks are not required outside but people must keep a distance of two metres between them. The same measure also made it possible for weddings to take place with a maximum attendance of ten people, including officials and the couple. Except for

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<sup>1</sup> Czech Republic, Crisis Act No. 240/2000 Coll. ([krizový zákon č. 240/2000 Sb.](#)), 9 August 2000.

<sup>2</sup> Government of the Czech Republic (2020), 'The declaration of a state of emergency – updates on current measures' ([Vyhlášení nouzového stavu – co aktuálně platí](#)), press release 30 April 2020.

<sup>3</sup> Municipal Court in Prague (2020), [Judgment No. 14 A 41/2020](#), 23 April 2020.

<sup>4</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 12745/2020-1/MIN/KAN on free movement on the territory of the Czech Republic ([Mimořádné opatření - volný pohyb osob na území ČR](#)), 23 March 2020.

<sup>5</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 13361/2020-1/MIN/KAN on exceptions from retail sale closures ([Mimořádné opatření - výjimky z uzavření obchodů](#)), 26 March 2020.

the couple all participants must keep a two-metre distance between them and wear a nose and mouth covering.

The ministerial special measures from March were introduced to de facto replace the measures that were originally adopted by the Government in the state of emergency. Instead of extending these measures, the Government annulled them and they were reintroduced by the Ministry of Health instead. The court found that by introducing these measures the Ministry of Health was acting beyond the scope of its authority.

The court ruled that the fact that the measures were not adopted by the government under the Constitutional Act on the Security of the Czech Republic No. 110/1998 Coll. and the Crisis Act No. 240/2000 Coll.<sup>6</sup> but by the Ministry of Health under Act No. 258/2000 Coll. on the Protection of Public Health<sup>7</sup> violated the constitutional guarantees of the separation of powers. When the government adopts measures under Crisis Act No. 240/2000 Coll.,<sup>8</sup> the measures fall within the oversight of the Chamber of Deputies of Parliament, which can under Article 5(4) of the Constitutional Act on the security of the Czech Republic<sup>9</sup> revoke the state of emergency at any time. According to this ruling, a number of crisis measures, including ones violating basic rights, had been adopted without being reviewed by the Chamber of Deputies, whose constitutional powers were frustrated.

The government can declare a state of emergency for a maximum period of 30 days, after which an extension must be granted by the Chamber of Deputies (Article 6, Constitutional Act on the Security of the Czech Republic)<sup>10</sup> and special measures under Crisis Act No. 240/2000 Coll.<sup>11</sup> may only be adopted for the period of the state of emergency. However, the time frame during which the Protection Measures adopted by the Ministry of Health can remain in effect is not directly set and depends on its necessity.

The lawsuit was filed by independent health rights expert Ondřej Dostál, according to whom the measures were arbitrary, chaotic, and difficult to understand.<sup>12</sup>

In reaction to the court's decision on 24 April the Government requested the consent of the Chamber of Deputies to prolong the state of emergency until 25 May.<sup>13</sup> In the end, the Chamber of Deputies prolonged the state of emergency till 17 May.<sup>14</sup>

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<sup>6</sup> Czech Republic, Crisis Act No. 240/2000 Coll. ([krizový zákon č. 240/2000 Sb.](#)), 9 August 2000.

<sup>7</sup> Czech Republic, Act No. 258/2000 Coll. on the Protection of Public Health ([zákon č. 258/2000 Sb., o ochraně veřejného zdraví](#)), 11 August 2000.

<sup>8</sup> Czech Republic, Crisis Act No. 240/2000 Coll. ([krizový zákon č. 240/2000 Sb.](#)), 9 August 2000.

<sup>9</sup> Czech Republic, Constitutional Act No. 110/1998 Coll. on the Security of the Czech Republic ([ústavní zákon č. 110/1998 Sb., o bezpečnosti České republiky](#)), 29 May 1998.

<sup>10</sup> Czech Republic, Constitutional Act No. 110/1998 Coll. on the Security of the Czech Republic ([ústavní zákon č. 110/1998 Sb., o bezpečnosti České republiky](#)), 29 May 1998.

<sup>11</sup> Czech Republic, Crisis Act No. 240/2000 Coll. ([krizový zákon č. 240/2000 Sb.](#)), 9 August 2000.

<sup>12</sup> Klímová, J., M. Pokorný and K. Frouzová (2020), 'The court invalidated four governmental measures limiting free movement and retail. They are allegedly unlawful' ([Soud zrušil čtyři vládní opatření omezující volný pohyb a maloobchod. Jsou podle něj nezákonná](#)), *Hospodářské noviny*, 23 April 2020.

<sup>13</sup> Government of the Czech Republic (2020), 'The government has requested that the Chamber of Deputies prolong the state of emergency until 25 May' ([Vláda požádá Poslaneckou sněmovnu o prodloužení nouzového stavu do 25. Května](#)), press release 24 April 2020.

<sup>14</sup> [Resolution of the Chamber of Deputies No 1105 from 28 April 2020.](#)

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

Focus on:

- *Stay at home orders and physical distancing when outside the house*
- *Enforcement and penalties*

**Movement in public places.** Despite the state of emergency, no general stay at home order has been in place and there are no restrictions on walking in the park or the countryside. The wearing of face masks remains obligatory when walking outdoors, but since 7 April it has been made possible for increasing numbers of people to use outdoor sports facilities or practise individual sports without covering their nose and mouth.<sup>15</sup> As well as certain professionals, car drivers, toddlers up to two years old, people with intellectual disabilities, and people with mental health problems are exempt from wearing masks.<sup>16</sup> The Ministry of Health's applicable special measure<sup>17</sup> does not require the last two categories of people to carry a proof of their condition.

Effective from 24 March, the Ministry of Health ordered that no more than two people could gather in a public space.<sup>18</sup> Exceptions include family members living in the same household, people conducting business, or people attending a funeral. The number of people permitted to gather has been gradually increasing and crisis measures were significantly eased in the second half of April when the following changes were introduced:

- as of 27 April it has been possible for up to 15 people to attend a church service;<sup>19</sup>
- on 20 April the Ministry of Health released a set of safety guidelines with a view to gradually reinstating the full functioning of public administrative offices;<sup>20</sup>
- as of 20 April weddings can take place with a maximum attendance of ten people, including 2 officials (the registrar and his/her assistant) and the couple as well as two obligatory witnesses.<sup>21</sup>

People who gather (whether inside or outside) are required to keep two metres apart.

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<sup>15</sup> Government of the Czech Republic (2020), 'Individual sports are possible without face masks, the government permits some shops to open from Thursday' ([Individuálně sportovat bude možné bez roušek, vláda od čtvrtka umožní i provoz některých prodejen](#)), press release 6 April 2020.

<sup>16</sup> Government of the Czech Republic (2020), 'Individual sports are possible without face masks, the government permits some shops to open from Thursday' ([Individuálně sportovat bude možné bez roušek, vláda od čtvrtka umožní i provoz některých prodejen](#)), press release 6 April 2020.

<sup>17</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 15757/2020-2/MIN/KAN on wearing protection coverings of the respiratory tract and exceptions from this obligation ([Mimořádné opatření - nošení ochranných prostředků dýchacích cest s výjimkami](#)), 9 April 2020.

<sup>18</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 12745/2020-1/MIN/KAN on free movement on the territory of the Czech Republic ([Mimořádné opatření - volný pohyb osob na území ČR](#)), 23 March 2020.

<sup>19</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 16484/2020-1/MIN/KAN on limiting the free movement of persons and exceptions to this, effective from 17 April 2020 ([Mimořádné opatření - zákaz volného pohybu osob s výjimkami, s účinností od 27.4.2020](#)), 17 April 2020.

<sup>20</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 15757/2020-3/MIN/KAN on instructions for public administrative offices I ([Mimořádné opatření - nařízení správním úřadům I.](#)), 9 April 2020.

<sup>21</sup> Ministry of Health (2020), Special Protection Measure No. MZDR 16195/2020-1/MIN/KAN on the ban on free movement and exceptions to this, effective from 10 April 2020 ([Mimořádné opatření - zákaz volného pohybu osob s výjimkami, s účinností od 20. 4. 2020](#)), 15 April 2020.

**Penalties.** On 1 April the Ministry of the Interior requested that the Government approve a proposal that would grant police officers the right to impose fines of up to EUR 400 on the spot if a person is caught violating the restriction measures connected to the coronavirus.<sup>22</sup> The proposal was approved by the Chamber of Deputies, but was “halted” by the Senate for 30 days by not adopting a position on the bill and will come into effect on 13 May. Examples of such violations would include group gatherings and consuming alcohol in parks. The Ministry claims that the current administrative procedure for the enforcement of fines is too protracted. The Minister of the Interior has assured that the aim is ‘not to build a police state’ and that the majority of cases involving a violation of measures will be dealt with by the police with a verbal warning – which is the way it is now.<sup>23</sup> The minister claims that during the Easter holidays the police conducted over 50 thousand checks and commenced administrative procedures in the case of 3,700 violations. In the end, as the special measures setting the restrictions in question were quashed by the Municipal court in the judgement described above, people could not be fined for violating them.<sup>24</sup>

Penalties for violating Act No. 258/2000 Coll. on the Protection of Public Health,<sup>25</sup> which may entail a fine of up to CZK 3 million (EUR 107,000), are still in place.

## 1.2.2 Education

*Focus on:*

- *Ensuring continuity of education for children from socioeconomically disadvantaged backgrounds, including measures to ensure distance learning for this group*

Schools remain closed, but since 27 April universities have been able to work with up to five students (such as in a laboratory) and university students can take exams in person.<sup>26</sup>

According to the Governmental Department for Social Inclusion (formerly known as the Agency for Social Inclusion),<sup>27</sup> not all children in the Czech Republic have equal access to e-learning, and about 3% of all households do not have any internet access. In many cases, teachers have resorted to supporting students via telephone. The Agency also provided a recommendation for municipalities and

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<sup>22</sup> Ministry of the Interior (2020), ‘Important empowerment for the Police. The Police would be able to impose penalties on the spot for violating crisis measures connected with the coronavirus’ ([Důležité posílení práva. Policie by mohla pokutovat porušení krizových nařízeních ke koronaviru přímo na místě](#)), press release 1 April 2020.

<sup>23</sup> Irozhlas (2020), ‘The Chamber of Deputies has made it possible for the police to impose fines in connection with the coronavirus. But only starting in May’ ([Senát umožnil, aby policie mohla pokutovat přestupky ohledně koronaviru. Ale až od května](#)), 17 April 2020.

<sup>24</sup> Czech Press Agency (2020), ‘Misdemeanour procedures for quashed measures will be halted, Hamáček said’ ([Řízení kvůli přestupkům za zrušená opatření se zastaví, řekl Hamáček | ČeskéNoviny.cz](#)), 29 April 2020.

<sup>25</sup> Czech Republic, Act No. 258/2000 Coll. on the Protection of Public Health ([zákon č. 258/2000 Sb., o ochraně veřejného zdraví](#)), 11 August 2000.

<sup>26</sup> Government of the Czech Republic (2020), Government Resolution from 24 April 2020 No. 455 ([Usnesení vlády České republiky ze dne 23. dubna 2020 č. 455](#)).

<sup>27</sup> Department for Social inclusion (2020), ‘Foreign experts: Intensive support for underprivileged children will help mitigate the effects of school closures’ ([Zahraniční experti: Intenzivní podpora znevýhodněných dětí přispěje ke zmírnění dopadů přerušení školní docházky](#)), press release 16 April 2020.

schools on education during the pandemic<sup>28</sup> as well as list of education resources<sup>29</sup> An NGO initiative called We Teach Online collects computers for families in need.<sup>30</sup>

There are no specific studies or analyses mapping the effects of school closures on socio-economically disadvantaged children. The Consortium of Organisations Assisting Migrants, an umbrella organisation bringing together twenty organisations that assist migrants, asked the Ministry of Education, Youth and Sports to increase the awareness of parents of children whose mother tongue is not Czech about online schooling options.<sup>31</sup> The Consortium also requested that the Ministry reach out to schools in an effort to improve the communication between migrant parents and teachers.

The NGOs offer a number of tutoring courses for migrant children.<sup>32</sup>

### 1.2.3 Work

*Focus on:*

- *People in precarious work*
- *Measures related to 'essential workers' and those already returning to work, e.g. what is identified as an 'essential' function, physical distancing measures in the workplace, relaxing restrictions on working hours, additional financial support*

**Essential workers.** Workers in critical infrastructure are defined as essential workers in Article 2(k) of Crisis Act No. 240/2000 Coll.,<sup>33</sup> and Governmental Resolution 140/2020 Coll. from 30 March No. 332 prevents these workers from taking a leave. Workers in critical infrastructure work in the following fields: power supply, water engineering, food industry and agriculture, health care, transport, communication and information systems, financial trade and currency, emergency service, public service.<sup>34</sup>

**Work safety measures.** As a number of measures have been eased, the Ministry of Health Protection Measure No. MZDR 15757/2020-3/MIN/KAN from 9 April stipulates that working from home should be prioritised whenever possible, personal meetings should be conducted through a barrier or with a two-metre distance between participants, and public authorities should prioritise communication via email or telephone over meetings in person.

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<sup>28</sup> Department for Social Inclusion (2020), 'Support possibilities for education during the time of emergency' ([Možnost podpory vzdělávání v období stavu nouze v ČR](#)), 27 March 2020.

<sup>29</sup> Department for Social Inclusion (2020), 'Support for online-education for teachers' ([Podpora online výuky pro učitele](#)), 24 April 2020.

<sup>30</sup> Demeterová, I. (2020), 'Not every family has internet at home. How to help with the education of children from disadvantaged backgrounds' ([Ne každá rodina má doma internet. Jak pomoci se vzděláváním dětem ze znevýhodněného prostředí?](#)), *Radiožurnál*, 29 April 2020.

<sup>31</sup> Consortium of Organisations Assisting Migrants (2020), 'Online offer for pupils whose mother tongue is not Czech and their teachers in connection with covid-19' ([Online nabídky pro žáky s OMJ a jejich pedagogy v souvislosti s covid-19](#)), press release 5 April 2020.

<sup>32</sup> Consortium of Organisations Assisting Migrants (2020), 'Online offer for pupils whose mother tongue is not Czech and their teachers in connection with covid-19' ([Online nabídky pro žáky s OMJ a jejich pedagogy v souvislosti s covid-19](#)), press release 5 April 2020.

<sup>33</sup> Czech Republic, Crisis Act No. 240/2000 Coll. ([krizový zákon č. 240/2000 Sb.](#)), 9 August 2000.

<sup>34</sup> Ministry of the Interior (2020), '[Critical infrastructure workers](#)', undated.

The Czech-Moravian Confederation of Trade Unions compiled a set of recommendations for workers and employees on physical protection measures at the workplace.<sup>35</sup> Health-care workers and workers in social services have complained that they do not have enough protective gear.<sup>36</sup>

**Financial support to workers and people in precarious work.** In addition to the care allowance that was already introduced in March, the self-employed will receive additional financial support, but the parliamentary Pirate Party has warned that while the government has supported employed and self-employed people, people working on the basis of a contract of services or on work activity do not qualify for any support scheme and have no access to financial relief measures.<sup>37</sup> People who work on these temporary contracts often work in agricultural, construction, services, or similar sectors, but this arrangement is also relatively common for white-collar workers (often as a side-job).. Discussions initiated by the Ministry of Labour and Social Affairs are currently under way to enable these workers to access the care allowance, which is a form of financial compensation for parents of children up to 13 years of age who are out of school, retroactively from 1 April.<sup>38</sup>

#### 1.2.4 Access to justice

Focus on:

- *Restrictions to court proceedings (e.g. adjournment of proceedings, written procedures, extension of deadlines, determination of what constitutes ‘urgent cases’)*
- *Use of alternatives to detention*

The courts continue to function and do so with ever fewer disruptions, but many court procedures have been postponed to May.<sup>39</sup> Increasing use has been made of videoconferences to communicate with imprisoned defendants in prisons.<sup>40</sup> Some courts were affected by positive COVID-19 test results or compulsory quarantines of staff, but in most cases essential proceedings have taken place. Since it is up to judges to decide if individual proceedings are to be held or postponed, in practice some courts function very well, but certain courts have been significantly affected.<sup>41</sup>

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<sup>35</sup>Českomoravská konfederace odborových svazů (2020), ‘How to protect yourself from the coronavirus at work?’ ([Jak se v práci chránit před koronavirem?](#)), press release 24 April 2020.

<sup>36</sup>Šrajbrová, M. (2020), ‘No face masks or respirators. Nurses caring for people at home lack protection’ ([Bez roušek i respirátorů. Sestrám starajícím se o lidi v domácí péči ochrana chybí](#)), *Hospodářské noviny*, 21 April 2020.

<sup>37</sup>Ivan Bartoš (2020), ‘Remarks from Ivan Bartoš: Let’s support all workers, no one should sink to the bottom’ ([Komentář Ivana Bartoše: Podpořme všechny pracující, nikdo nesmí padnout na dno](#)), The Pirate Party, press release 6 April 2020.

<sup>38</sup>Ministry of Labour and Social Affairs (2020), ‘The care allowance will increase to up to 80%, people working on agreements to complete a job will also gain access. Minister Maláčová’s proposal has been approved by the’ ([Ošetřovné se zvýší na 80 %, nově budou mít nárok i „dohodáři“](#)), *Návrh ministryně Maláčové prošel senátem*), press release 29 April 2020.

<sup>39</sup>Česká justice (2020), ‘Courts are postponing procedures to May, are taking people’s temperatures and are not letting the public in their buildings’ ([Soudy odročují jednání na květen, měří lidem teplotu nebo do budov nepouští veřejnost](#)), 16 March 2020.

<sup>40</sup>Regionplzen.cz (2020), ‘In the Plzen region the number of video conferences with courts is increasing’ ([Na soudech v Plzeňském kraji přibývá videokonferencí](#)), 22 April 2020.

<sup>41</sup>Dimun, P. (2020), ‘Due to the coronavirus public prosecutors fear “irresponsible judges”; lawyers appeal for the postponement of imprisonment’ ([Státní zástupci mají kvůli koronaviru strach z „nezodpovědných soudců“](#)), *advokáti apelují na odklad nástupu trestu*), *Česká justice*, 14 April 2020.



The Prison Service requested that in order to decrease the risk of contagion in prisons the imprisoning of persons sentenced for petty crimes could be delayed.<sup>42</sup> The Minister of Justice, Marie Benešová, supported this request.

The Ministry of Justice issued two recommendations regarding the functioning of courts: one in March, when the crisis measures started,<sup>43</sup> requesting that courts review whether current or future court proceedings should be held in view of the situation, and one on 17 April,<sup>44</sup> recommending that courts gradually recommence those activities that were affected by the declaration of a state of emergency.

### 1.2.5 Freedom of movement

*Focus on:*

- *Closure of borders/restrictions on movement within the EU and categories of people allowed to enter the Member State (including EU citizens, legally-residing third country nationals and their families, asylum applicants)*
- *Special provisions for cross-border commuters (especially health and care workers) or other workers from neighbouring non-EU countries*

**Travel bans.** The travel ban was imposed on 16 March and it effectively prohibits Czech citizens from leaving the country and foreign nationals from entering the Czech Republic unless they have permanent residency or a temporary residence permit valid for a period of over 90 days, or they are family members or are employed in specific professions. This measure was eased on 14 April and travelling abroad is now possible for serious reasons, defined as the need to travel for official purposes, to attend a funeral, visit family members, or other urgent matters.<sup>45</sup>

In a press release the Minister of the Interior, Jan Hamáček, commented that the travel restrictions are 'not arbitrary or a means to bully citizens, but an effort to protect their health and lives'.<sup>46</sup> He also pointed out that this measure is commonly applied in many EU countries.

**Detention centres.** In order to prevent the further spread of the coronavirus in the Czech Republic the Bělá-Jezová detention centre was designated as the only centre to receive newly detained migrants

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<sup>42</sup> Česká justice (2020), 'Benešová supports the postponement of imprisonment in order to restrict the spread of the coronavirus' ([Benešová podporuje odklad nástupu vězňů do výkonu trestu kvůli omezení šíření nákazy koronaviru](#)) 14 April 2020.

<sup>43</sup> Ministry of Justice (2020), Recommendation regarding the functioning of the courts in consideration of the declared state of emergency No. MSP-15/2020-SDJ-SP/1 ([Doporučení ve vztahu k fungování soudů s ohledem na vyhlášený nouzový stav](#) č. j. MSP-15/2020-SDJ-SP/1), 13 March 2020.

<sup>44</sup> Ministry of Justice (2020), Recommendation regarding the functioning of courts in consideration of the declared state of emergency and the exceptional measures introduced by the Ministry of Health on 9 April 2020 No. MSP-15/2020-SDJ-SP/5 ([Doporučení ve vztahu k fungování soudů s ohledem na vyhlášený nouzový stav a na mimořádné opatření Ministerstva zdravotnictví ze dne 9.4.2020 č. j. MSP-15/2020-SDJ-SP/5](#)), 17 April 2020.

<sup>45</sup> Ministry of the Interior (2020), 'We are adjusting the regime on the borders. After Easter there will be more possibilities to travel abroad' ([Upravujeme režim na hranicích. Po Velikonocích se mj. rozšíří možnosti vycestovat do zahraničí](#)), press release 7 April 2020.

<sup>46</sup> Ministry of the Interior (2020), 'Comments from the Minister of the Interior on travelling abroad' ([Vyjádření ministra vnitra k vycestování](#)), press release 17 April 2020.



and asylum-seekers.<sup>47</sup> People who were hosted there before 24 March have been transferred to other detention centres.

All detention centres remain closed to visitors except persons providing legal aid, interpretation and social services.<sup>48</sup>

**Foreign nationals and asylum applicants.** Government Resolution from 12 March 2020 No. 198 states that the status of authorised foreign nationals, including applicants for international protection and people in asylum procedures, will not be subject to change during the state of emergency. Even if their documents expire, they are to be considered valid until the state of emergency is lifted.<sup>49</sup> The offices processing asylum applications have been open since 20 April.<sup>50</sup>

**Restrictions for people entering the Czech Republic.** Until 31 March only people entering from so-called high-risk countries were required to undergo a 14-day home quarantine, but this requirement was later extended to all people entering the Czech Republic, irrespective of which country they were travelling from.<sup>51</sup> As of 27 April the 14-day self-quarantine requirement is waived if the person entering the country can present a negative coronavirus test that is no more than four days old.<sup>52</sup>

**Cross-border commuters.** Czech cross-border commuters (pendlers), in most cases Czech people working in Germany and Austria, were originally exempt from the travel ban, and people working in health, social services, and emergency services can still freely travel to their employment places abroad provided that they carry written confirmation of their employment status with them.<sup>53</sup> For those working in other sectors, stringent restrictions were introduced on 26 March requiring work-commuters to remain in the country where they work for at least 21 days without returning and then to home quarantine for 14 days upon returning to the Czech Republic.<sup>54</sup> Since 27 April home quarantine is not required for work commuters and students, but they must present a negative COVID-19 test every 14 days.<sup>55</sup> The test is waived in the case of people whose stay outside the Czech Republic will be shorter than 24 hours.

Germany and Austria requested that Czech cross-border commuters working in health, social services, and emergency services be exempt from the obligation to work for 21 days after which they must

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<sup>47</sup> Ministry of the Interior (2020), 'A centre for newly detained foreigners and new asylum-seeking applicants is established' ([Kvůli pandemii koronaviru zřizujeme středisko pro nově zajištěné cizince a nové žadatele o mezinárodní ochranu](#)), press release 24 March 2020.

<sup>48</sup> See previous report.

<sup>49</sup> Government of the Czech Republic (2020), [Government Resolution from 12 March 2020 No 198](#).

<sup>50</sup> Ministry of the Interior (2020), 'Department on international protection' ([Oddělení mezinárodní ochrany](#)), 2 January 2020.

<sup>51</sup> Government of the Czech Republic (2020), [Government Resolution from 30 March 2020 No. 334](#).

<sup>52</sup> Ministry of the Interior (2020) 'People who have a maximum four-day-old negative coronavirus test result do not have to self-quarantine when returning to the Czech Republic' ([Lidé s maximálně čtyři dny starým negativním testem na koronavirus nemusejí při návratu do Česka do karantény](#)), press release 23 April 2020.

<sup>53</sup> Ministry of the Interior (2020), 'The obligation to remain at work abroad for at least 21 days does not concern commuters working in health, social services, and emergency services' ([Povinnost pracovat za hranicemi minimálně 21 dní neplatí pro pracovníky ve zdravotnictví, sociálních službách a v integrovaném záchranném systému](#)), press release 25 March 2020.

<sup>54</sup> Government of the Czech Republic (2020), 'Social benefit claimants will not have to go to the relevant offices, the government suggests. A caregiver allowance programme for entrepreneurs was also approved' ([Žadatelé o dávky nebudou muset na úřady, navrhuje vláda. Schválila i dotační program na ošetřovné pro OSVČ](#)) press release 26 March 2020.

<sup>55</sup> Government of the Czech Republic (2020), [Government Resolution from 23 April 2020 No. 443](#).

return to the Czech Republic and home quarantine for 14 days. The Ministry of the Interior consented to this request as, according to the Minister, these workers play a key role in the fight against the coronavirus pandemic both in the Czech Republic and in the surrounding countries.<sup>56</sup> The reason restrictions are not placed on these workers is not only that the Austrian and German health-care systems are dependent on Czech workers, but also that the Czech health-care system also heavily depends on Slovak cross-border workers.<sup>57</sup> By the beginning of April it was apparent that the district of Domažlice, which has a particularly high number of health-care workers who commute to Germany for work, had been disproportionately affected by the coronavirus.<sup>58</sup>

### 1.3 Impact of measures on particular groups

Select the three most relevant groups from the following:

- *persons with disabilities,*
- *homeless people,*
- *older people (which should include older persons in institutions),*
- *Roma and Travellers (FRA would like to see this group covered in those Member States with significant Roma populations)*
- *detainees*
- *or another group not listed that have immersed in your country as facing particular challenges - before selection, this should be discussed with FRA.*

**Roma.** Very little is known about the effects that the measures introduced in connection with the coronavirus pandemic have had on Roma. There is a lack of any studies, analyses, or even media reports on the impact the measures are having on socially disadvantaged Roma communities.

The Office of the government council for Roma minority affairs distributed informative materials about protective measures and instructions for families on education and debt issues to NGOs, Roma coordinators and social workers.<sup>59</sup> Also the Agency for Social Inclusion publishes and distributes guidance materials on education, employment,<sup>60</sup> housing<sup>61</sup> and other topics.

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<sup>56</sup> Ministry of the Interior (2020), 'The obligation to remain at work abroad for at least 21 days does not concern commuters working in health, social services, and emergency services' ([Povinnost pracovat za hranicemi minimálně 21 dní neplatí pro pracovníky ve zdravotnictví, sociálních službách a v integrovaném záchranném systému](#)), press release 25 March 2020.

<sup>57</sup> Smatana, L. (2020), 'In the Domažlice region the epidemic topped Prague. According to public health officers the disease is spread by health workers commuting to Germany' ([Epidemie na Domažlicku předčila Prahu. Podle hygieniků šíří nákazu zdravotníci pendlující do Německa](#)), *Irozhlas*, 8 April 2020.

<sup>58</sup> Smatana, L. (2020), 'In the Domažlice region the epidemic topped Prague. According to public health officials the disease is spread by health workers commuting to Germany' ([Epidemie na Domažlicku předčila Prahu. Podle hygieniků šíří nákazu zdravotníci pendlující do Německa](#)), *Irozhlas*, 8 April 2020.

<sup>59</sup> European Commission (2020) Overview of the impact of coronavirus measures on the marginalised Roma communities in the EU.

<sup>60</sup> Department for Social Inclusion (2020), *Recommendations to citizens in case of loss of employment* ([Doporučení občanům v okamžiku ztráty zaměstnání](#)).

<sup>61</sup> Department for Social Inclusion (2020), *Recommended steps for households in the housing field* ([Doporučené postupy pro domácnosti v oblasti bydlení](#)).

On International Roma Day the Government Human Rights Commissioner Helena Válková thanked Czech Roma for joining volunteer activities in connection with the pandemic.<sup>62</sup>

Activist Emil Voráč from the Roma NGO Khamoro has pointed out that more support is needed in socially excluded localities, the specific needs of which have so far been largely neglected.<sup>63</sup>

**Homeless people.** Municipalities are obliged to take care of the homeless people who reside on their territory, and since the beginning of April several towns have set up tents and other temporary arrangements where homeless people who are suspected of having COVID-19 or are mandated to self-quarantine can stay.<sup>64</sup>

The National Institute of Public Health warns that homeless people are particularly vulnerable in the current situation and cites the American Center for Disease Control's support measures as sources of inspiration for specific measures to target this group.<sup>65</sup> The NGO Platform for Social Housing (Platforma pro sociální bydlení) issued a set of recommendations for public authorities concerning measures for people who are already homeless and measures to ensure that the number of homeless people does not increase as a result of the pandemic.<sup>66</sup> Examples of these recommendations include increasing the capacities for case management, making use of empty hotel rooms and Airbnb flats to temporarily house vulnerable people, and protecting homeless people who cannot stay at home from repressive crisis measures.

**Persons with disabilities.** The Ministry of the Interior has published a set of videos on its website with the aim of providing information on the coronavirus pandemic to persons with various disabilities. The videos also show how various professionals should communicate with disabled people in emergency situations.<sup>67</sup>

The NGO Children of the Full Moon (Děti úplňku), which focuses on autistic children and their families, and the NGO Alliance for Individualised Support (Aliance pro individualizovanou podporu) conducted a survey on the effects of restrictive measures in connection with COVID-19 and found that many lack essential care services.<sup>68</sup> The survey was completed by 244 respondents, including people with a disability or a chronic illness, their family members, and workers in social services. Almost 90% of respondents claimed that social and health services have since the introduction of restrictive measures become less available and about 50% have become seriously economically affected.

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<sup>62</sup> Government of the Czech Republic (2020), 'The Government Human Rights Commissioner comments on the International Roma Day' ([Zmocněnkyně pro lidská práva k Mezinárodnímu dni Romů](#)), 8 April 2020.

<sup>63</sup> Romea.cz (2020), 'Emil Voráč: The governmental measures in relation to the COVID-19 disease did not stop us; the poorest socially excluded locations have been forgotten' ([Emil Voráč: Vládní opatření související s nákazou COVID-19 nás nezastavily, na ty nejchudší vyloučené lokality se dost zapomnělo](#)), 27 April 2020.

<sup>64</sup> Novinky.cz (2020), 'Prague set up a tent town for homeless people who have coronavirus' ([Praha postavila stanové městečko pro bezdomovce s koronavirem](#)), 8 April 2020.

<sup>65</sup> National Institute of Public Health (2020), 'Coronavirus and homelessness' ([Koronavirus a bezdomovectví](#)), 2 April 2020.

<sup>66</sup> Platforma pro sociální bydlení (2020), 'Measures for the protection of homeless people in relation to the disease COVID-19 caused by coronavirus SARS-CoV-2' ([Opatření pro ochranu osob bez domova v souvislosti s nemocí COVID-19 způsobenou koronavirem SARS-CoV-2](#)), 19 March 2020.

<sup>67</sup> Ministry of the Interior (2020), 'Coronavirus COVID-19 – People with disabilities and special communication needs' ([Koronavirus COVID 19 - Lidé s postižením \(disabilitou\) a speciálními komunikačními potřebami](#)).

<sup>68</sup> Alliance pro individualizovanou podporu (2020), *The needs of people with disabilities or chronic illnesses in the times of COVID-19 – survey conclusions* ([Aktuální potřeby osob se zdravotním postižením nebo chronickým onemocněním v době COVID-19 – závěry šetření](#)).

The closure of many community social services for the public due to the state of emergency<sup>69</sup> is affecting the care for persons with disabilities, which is left mostly to their families. The same applies for special schools for children with disabilities. Since 27 April, low-threshold facilities for children and social activation services for families can reopen in a distance, on-line form.

## 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

Based on Government Resolution No. 250 from 18 March<sup>70</sup> for safeguarding the increased protection of inhabitants (tracing), the Ministry of Health issued a special measure with instructions for the operators of mobile network communications and banks.<sup>71</sup> The measure is aimed at tracking the movement of people who are confirmed to have COVID-19 and it instructs the operators of mobile network communications and banks to process call detail records of telephony and internet traffic and transaction data on the use of electronic payment instruments (bank cards). If requested by the Ministry of Health or the regional Health and Hygiene Office, telecommunication operators and banks must provide the required data about the data subject, but only with the subject's consent.

The Minister of Health has assured that the data will not be misused for the purposes of intercepting communication, no information will be shared about the content of communications or the data subject's account details or payment history, and the data cannot be used as evidence in criminal proceedings. The data must be deleted by the health and hygiene offices immediately after they process it; the longest authorities can retain the subject's data for processing them is six hours.<sup>72</sup> If needed after that period, the consent of the data subject must be renewed. The Office for Personal Data Protection has reminded the authorities of the importance of duly informing the public with regard to this specific measure.<sup>73</sup>

The measure is part of a set of measures that make up the 'Smart Quarantine' project that was initiated by the Ministry of Health in the middle of April and piloted by several regional Health and

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<sup>69</sup> Government of the Czech Republic (2020), Government Resolution No. 239 from 16 March 2020 about the crisis measure on providing social services ([Usnesení vlády č. 239 ze dne 16. března 2020 ke krizovému opatření o poskytování sociálních služeb](#)) 16 March 2020.

<sup>70</sup> Government of the Czech Republic (2020), Government Resolution No. 250 from 18 March 2020 for safeguarding the increased protection of inhabitants – tracing ([Usnesení vlády č. 250 ze dne 18. března 2020 č. 250 k zajištění zvýšené ochrany obyvatel – trasování](#)), 18 March 2020.

<sup>71</sup> Ministry of Health (2020), a special measure with instructions for the operators of mobile network communications and banks No. MZDR 12398/2020-1/MIN/KAN ([Mimořádné opatření - nařízení pro operátory veřejných mobilních komunikačních sítí a banky, č. MZDR 12398/2020-1/MIN/KAN](#)), 19 March 2020.

<sup>72</sup> Ministry of Health (2020), a special measure with instructions for the operators of mobile network communications and banks No. MZDR 12398/2020-1/MIN/KAN ([Mimořádné opatření - nařízení pro operátory veřejných mobilních komunikačních sítí a banky, č. MZDR 12398/2020-1/MIN/KAN](#)), 19 March 2020.

<sup>73</sup> Office for Personal Data Protection (2020), 'The Office's statement on the special measure of the Ministry of Health in relation to the Smart Quarantine project' ([Úřad se vyjádřil k mimořádnému opatření ministerstva zdravotnictví v souvislosti s projektem chytrá karanténa](#)), press release 2 April 2020.

Hygiene Offices.<sup>74</sup> The measures are designed to establish a ‘memory map’ of persons who are confirmed to have the disease COVID-19 in order to identify to whom the person may have transmitted the disease in the past five days (at most three weeks). People thus found to have been potentially exposed will subsequently be contacted by the authorities and asked to self-quarantine to be subsequently tested during the next 4 – 5 days. If the rest turns out positive, the same will be applied.

Several other apps aimed at tracking the SARS-CoV-2 contagion or providing information on the health situation in the country are already in use and some are still in preparation. The most commonly used tracking application is Mapy.cz, which is a popular Czech online map application similar to Google Maps. When a mobile phone owner switches on the location sharing function, the application conducts an analysis of the person’s location history and sends a warning if the probability of contagion is high (in the past ten days the mobile phone owner has spent a significant amount of time with a person who also switched on the location tracking function of this app and turned out to test positive for SARS-CoV-2). The application is not endorsed by state authorities and it is up to individual users to share their COVID-19 status. There are no obligations imposed on users who receive a warning about potentially significant exposure to the disease. The location tracking of this application was enabled by over a million users at the end of April. The application works independently of the official tracking done by authorities, which processes data provided by telecommunication networks and banks (memory map).

The contact tracking app eRouška (eFace Mask) introduced in April as part of the ‘Smart Quarantine’ project is the first official tool endorsed by the government. Via Bluetooth (not via location tracking) the application senses other mobile phones on which eRouška is installed, but location sharing is not enabled and users cannot trace each other’s location (data are encrypted). The app is centralised and serves only tracking purposes when tracking contacts of the infected persons by the Health and Hygiene Offices. It was created by a group of Czech IT experts and businesses (described as volunteers), a list of whom is available online,<sup>75</sup> under the auspices of the Ministry of Health. Statements from Czech academics and IT experts confirming the app’s functions and supporting its use can be accessed online<sup>76</sup>, but the application has not been endorsed by the Office for Personal Data Protection (see below).

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

Based on Government Resolution No. 250 from 18 March<sup>77</sup> for safeguarding the increased protection of inhabitants, the Ministry of Health issued a special measure with instructions for the operators of

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<sup>74</sup> Ministry of Health (2020), ‘Information on the smart quarantine system’ ([Informace k chytré karanténě](#)), press release 10 April 2020.

<sup>75</sup> COVID19.CZ (2020) [Manifest COVID19CZ](#).

<sup>76</sup> eRouška (2020) Audit and code ([Audit a kód](#)).

<sup>77</sup> Government of the Czech Republic (2020) Government Resolution No. 250 from 18 March 2020 for safeguarding the increased protection of inhabitants – tracing ([U usnesení vlády č. 250 ze dne 18. března 2020 č. 250 k zajištění zvýšené ochrany obyvatel – trasování](#)), 18 March 2020.

mobile network communications and banks.<sup>78</sup> The Ministry of Health issued the measure based on Article 69 (1i) and (2) of the Act No. 258/2000 Coll. on the protection of public health.

## 2.3 Privacy and data protection concerns and possible solutions

The Office for Personal Data Protection voiced several concerns in relation to the ‘Smart Quarantine’ project, which consists of a set of measures introduced by the Ministry of Health to combat the epidemic in the Czech Republic with the help of electronic and online data described above.<sup>79</sup> One of the measures is designed to establish a ‘memory map’ of persons who are confirmed to have the disease COVID-19 in order to identify to whom the person may have transmitted the disease in the past 5 days. People thus found to have been potentially exposed will subsequently be contacted by the authorities and asked to self-quarantine.

On 31 March 2020 the head of the Office for Personal Data Protection asked the Ministry of Health to provide documents with specific details about how personal data are to be used and shared, and data flows are regulated within the ‘Smart Quarantine’ project.<sup>80</sup> The Office did not receive the requested information and claims that it is thus unable to make informed comments on the measures, which have been already adopted. It is also unable to review whether the protection of privacy is sufficiently guaranteed, nor is it able to assess the risks connected to the processing of this data. Without this information the Office cannot advise on appropriate protective measures in the electronic and on-line context.

## 2.4 Any other privacy and data protection concerns

No further information was identified.

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<sup>78</sup> Ministry of Health (2020) a special Measure with instructions for the operators of mobile network communications and banks No. MZDR 12398/2020-1/MIN/KAN ([Mimořádné opatření - nařízení pro operátory veřejných mobilních komunikačních sítí a banky, č. MZDR 12398/2020-1/MIN/KAN](#)), 19 March 2020.

<sup>79</sup> Ministry of Health (2020) ‘Information of the smart quarantine’ ([Informace k chytré karanténě](#)), press release 10 April 2020.

<sup>80</sup> Office for Personal Data Protection (2020) ‘The Office for Personal Data Protection on the project “smart quarantine”’ ([ÚOOÚ k projektu „chytrá karanténa“](#)), press release 11 April 2020.