

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

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**Date:** 3 June 2020

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# 1 Measures taken by government/public authorities

## 1.1 Emergency laws/states of emergency

The reference period of this report (1-31 May) has elapsed in the context of the state of alarm, which was declared on 14 March 2020<sup>1</sup> and extended for a fourth and fifth time on 8 and 22 May 2020 respectively, by virtue of Royal Decree 514/2020<sup>2</sup>, and Royal Decree 537/2020<sup>3</sup>. In accordance with Articles 1 and 2 of the latter, the state of alarm is extended until 00:00 hours on 7 June 2020.

The central purpose common to both Royal Decrees is to rule on the “Plan for the Transition to a New Normality” (*Plan para la transición hacia una nueva normalidad*), structured into four phases (phase 0 to phase 3) and whose fundamental objective is "to ensure that, while maintaining the protection of public health as a reference, daily life and economic activity are gradually restored, minimizing the risk posed by the epidemic to the health of the population and preventing the capacities of the National Health System from being overwhelmed"<sup>4</sup>.

In addition to the above-mentioned decrees extending the state of alarm, during the same reference period the Spanish Government adopted seven royal decrees, three of which were in the social, economic and labour field, two in the field of culture and sport, one in the area of agriculture, and one on national mourning for the dead from COVID-19:

- Royal Decree 538/2020 of 26 May declaring official mourning for those who died as a result of the COVID-19 pandemic<sup>5</sup>;

- Royal Decree-Law 19/2020, of 26 May, adopting supplementary measures in the agricultural, scientific, economic, employment and social security and tax fields to alleviate the effects of COVID-19<sup>6</sup>;

- Royal Decree-Law 18/2020, of 12 May, on social measures in defence of employment<sup>7</sup>;

- Royal Decree-Law 17/2020, of 5 May, approving support measures for the cultural sector and measures of a tax nature to deal with the economic and social impact of the COVID-2019<sup>8</sup>;

- Royal Decree 524/2020 of 19 May, regulating the direct award of grants by the Ministry of Culture and Sport and its public bodies to various cultural entities and institutions<sup>9</sup>;

- Royal Decree 508/2020 of 5 May establishing the regulatory bases for granting state subsidies in 2020 to sheep and goat farms with difficulties in marketing lambs and kids, during the months of March and April, as a result of the limitations imposed by Royal Decree 463/2020 of 14

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

<sup>2</sup> Spain, Royal Decree extending the state of alarm (*Real Decreto por el que se prorroga el estado de alarma*), 8 May 2020.

<sup>3</sup> Spain, Royal Decree extending the state of alarm (*Real Decreto por el que se prorroga el estado de alarma*), 22 May 2020.

<sup>4</sup> Government of Spain, Ministry of Health (2020), Plan for the Transition to a New Normality (*Plan para la transición hacia una nueva normalidad*), 28 April 2020.

<sup>5</sup> Spain, Royal Decree on official mourning (*Real Decreto sobre el luto oficial*), 26 May 2020.

<sup>6</sup> Spain, Royal Decree-Law on Supplementary Measures (*Real Decreto-ley de medidas complementarias*), 26 May 2020.

<sup>7</sup> Spain, Royal Decree-Law on social measures in defence of employment (*Real Decreto-ley de medidas sociales en defensa del empleo*), 12 May 2020.

<sup>8</sup> Spain, Royal Decree-Law Royal Decree-Law on measures to support the cultural sector (*Real Decreto-ley de medidas de apoyo al sector cultural*), 5 May 2020.

<sup>9</sup> Spain, Royal Decree on the direct granting of subsidies to various cultural entities and institutions (*Real Decreto de la concesión directa de subvenciones a diversas entidades e instituciones culturales*), 19 May 2020.

March declaring the state of alarm for the management of the health crisis situation caused by COVID-19, and its extensions<sup>10</sup>; and

- Royal Decree-Law 20/2020 of 29 May establishing the minimum living income<sup>11</sup>. Considered "a historic measure in our democracy so that no one is left behind"<sup>12</sup> and a new pillar of the welfare state that will protect those who are suffering most from the COVID-19 crisis, the minimum living income (*ingreso mínimo vital*) is conceived and regulated as "a benefit aimed at preventing the risk of poverty and social exclusion of people living alone or integrated in a cohabitation unit, when they are in a situation of vulnerability due to lack of sufficient economic resources to cover their basic needs" (Art. 1)<sup>13</sup>.

Furthermore, for the enforcement of the emergency legislation, during the referred period a number (dozens) of measures have been adopted in the form of orders, resolutions and instructions<sup>14</sup> by both the Ministries-Authorities Delegated for the management of the state of alarm (Health; Defence; Interior; Transport, Mobility and Urban Agenda) and other Ministries and Organisms<sup>15</sup>.

During the period under review, there have been several court rulings regarding some of these measures and others taken in previous periods. By way of example, the Christian Lawyers Association filed a contentious-administrative appeal through the ordinary procedure before the Administrative Chamber of the Supreme Court, against a certain provision of Order SND/399/2020, of 9 May, for the relaxation of certain restrictions of national scope, established after the declaration of the state of

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<sup>10</sup> Spain, Royal Decree on the regulatory bases for granting State subsidies to sheep and goat farms (*Real Decreto de las bases reguladoras para la concesión de las subvenciones estatales a las explotaciones ovinas y caprinas*), 5 May 2020.

<sup>11</sup> Spain, Royal Decree-Law on the minimum living income (*Real Decreto-ley del ingreso mínimo vital*), 29 May 2020.

<sup>12</sup> 'Intervention of the President of the Government, Pedro Sánchez', Press release, 23 May 2020, [https://www.lamoncloa.gob.es/presidente/actividades/paginas/2020/23052020\\_comparencia.aspx](https://www.lamoncloa.gob.es/presidente/actividades/paginas/2020/23052020_comparencia.aspx).

<sup>13</sup> Article 3 of the Royal Decree-Law provides that the minimum living income has the following characteristics: (a) It guarantees a minimum level of income by covering the difference between the sum of the economic resources of any kind available to the individual beneficiary or, where appropriate, the members of a cohabitation unit, and the amount of income guaranteed in each case under the terms of Article 10.

b) It is structured in its protective action, differentiating according to whether it is addressed to an individual beneficiary or to a cohabitation unit, in this case, on the basis of its structure and specific characteristics.

(c) It is a benefit whose duration will be extended as long as the situation of economic vulnerability persists and the requirements that gave rise to the right to it are maintained.

(d) It is a protection network designed to enable people to move from a situation of exclusion to one of participation in society. To this end, its design will include incentives for employment and inclusion, articulated through different formulas of cooperation between administrations.

e) It is non-transferable. It may not be offered as a guarantee of obligations, nor be the object of total or partial assignment, compensation or discount, retention or seizure, except in the cases and within the limits provided for in Article 44 of the revised text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October.

<sup>14</sup> Government of Spain (2020), State of alarm. COVID-19 health crisis measures (*Estado de alarma. Medidas crisis sanitaria COVID-19*), [https://administracion.gob.es/pag\\_Home/atencionCiudadana/Estado-de-alarma-crisis-sanitaria.html#.XszE7MDtaUn](https://administracion.gob.es/pag_Home/atencionCiudadana/Estado-de-alarma-crisis-sanitaria.html#.XszE7MDtaUn).

<sup>15</sup> Namely: Agriculture, Fisheries and Food; Economic Affairs and Digital transformation; Social Rights and Agenda 2030; Education and Professional training; Finance; Inclusion, Social Security and Migration; Industry, Trade and Tourism; Justice; Territorial Policy and Public Service; Presidency, Relations with the Courts and Democratic Memory; Labour and Social Economy; Ecological Transition and the Demographic Challenge.

alarm in application of phase 1 of the Plan for the transition to a new normality<sup>16</sup>. Precisely, the appellant requested the suspension of Article 9 of the said order as a precautionary measure, alleging that it violates Article 16 of the Spanish Constitution, which guarantees freedom of ideology, religion and worship with no other limitation than that necessary for the maintenance of protected public order. The High Court ruled that it had not found the circumstances of particular urgency for the adoption of the requested measure<sup>17</sup>.

In turn, the High Court of Justice of Madrid has allowed the contentious administrative appeal filed by the Communist Party of the Peoples of Spain against the resolution of the Government Delegation in Madrid, which agreed to ban the demonstration called by that party for May 23 at the Puerta del Sol. The Court resolved to annul the contested resolution for violating the right to assembly provided for in Article 21 of the Spanish Constitution. And it revoked the ban on holding the reported demonstration<sup>18</sup>.

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

Royal Decree 514/2020 of 8 May has amended Article 7 of Royal Decree 463/2020 of 14 March regulating the limitation of the freedom of movement of persons by adding a new paragraph 1 bis, with the following content: "1 bis. The validity of the state of alarm shall not imply any obstacle to the development and carrying out of the electoral actions required for the development of elections called to the Parliaments of autonomous communities".

The implementation of the Plan for the Transition to a New Normality (hereinafter referred to as the De-escalation Plan), has resulted in a progressive lifting of confinement and a progressive increase in mobility, considered to be one of the most complex aspects of de-escalation<sup>19</sup>. As a result, by 25 May the entire country had passed Phase 0, with half in Phase I and half in Phase II<sup>20</sup>. In summary, Phase 0 corresponds to "transition preparation"; Phase 1, to the "initial" opening of small shops; in Phase 2, restaurants, theatres and cinemas can open "with limitations"; and in Phase 3, restrictions are "relaxed". Each of the four phases lasts a minimum of two weeks.

Among the criteria set by the authorities to avoid or minimize the risk of COVID-19 infection and ensure safe mobility in accordance with the De-escalation Plan, is the mandatory use of masks.

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<sup>16</sup> Spain, Order SND/399/2020 for the relaxation of certain restrictions of national scope, established after the declaration of the state of alarm in application of phase 1 of the Plan for the transition to a new normality (*Orden SND/399/2020 para la flexibilización de determinadas restricciones de ámbito nacional, establecidas tras la declaración del estado de alarma en aplicación de la fase 1 del Plan para la transición hacia una nueva normalidad*), 9 May 2020.

<sup>17</sup> Spain, Supreme Court - Administrative Chamber (*Tribunal Supremo - Sala de lo Contencioso-Administrativo*), Decision (*Auto*), 19 May 2020 (Roj: ATS 2547/2020 - ECLI: ES:TS:2020:2547A).

<sup>18</sup> Spain, High Court of Justice of Madrid (*Tribunal Superior de Justicia de Madrid*), Case No. 214/2020, 21 May 2020 (Roj: STSJ M 1955/2020 - ECLI: ES:TSJM:2020:1955).

<sup>19</sup> Government of Spain, Ministry of Health (2020), Plan for the Transition to a New Normality, cit., p. 13.

<sup>20</sup> Government of Spain, Transition map to the New Normality. Entry into force from Monday 25 May 2020. (*Mapa de transición a la Nueva Normalidad. Entrada en vigor a partir del lunes 25 de mayo de 2020*), 22 May 2020,

[https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/sanidad14/Documents/2020/22052020\\_MapaFases3.pdf](https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/sanidad14/Documents/2020/22052020_MapaFases3.pdf).

Thus, apart from the exceptions provided for, from 21 May 2020, all persons aged six and over are obliged to wear masks not only on public transport<sup>21</sup>, but also on public roads, in open spaces and in any enclosed space for public use or that is open to the public, provided that it is not possible to maintain a safe interpersonal distance of at least two metres<sup>22</sup>.

Meanwhile, on 6 May 2020, the Ministry of the Interior reported that, since the beginning of the state of alarm, a total of 7,462 people had been detained and 853,334 proposed sanctions had been imposed, as a result of applying the sanctioning regime provided for in Royal Decree 463/2020 of 14 March<sup>23</sup>. By 20 May 2020, these figures had risen to 8,418 and 1,013,747, respectively, according to the media<sup>24</sup>.

## 1.2.2 Education

The aforementioned Royal Decree 537/2020 of 22 May establishes that the educational administrations (the Autonomous Communities) may decide to resume face-to-face classes at non-university education and training levels in areas that are in Phase 2. This way, the Government gave the Autonomous Communities the freedom to decide how and when to resume face-to-face classes at any school or institute, as long as social distance and hygiene measures are followed in the classrooms. At the same time, the possibility of online education is maintained, also in courses where class attendance was compulsory before the state of alarm.

The media have profusely reported on the return to the classroom, on May 25, of the students of high school and vocational training, which was registered in Galicia<sup>25</sup> and the Basque Country<sup>26</sup> - both have regional elections scheduled for next 12 July 2020. Apart from these two examples, there seems to be a lack of consensus<sup>27</sup> between the autonomous governments (which have competence in

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<sup>21</sup> Spain, Order TMA/424/2020 amending Order TMA/384/2020 of 3 May, issuing instructions on the use of masks in the various means of transport and laying down requirements to ensure safe mobility in accordance with the plan for the transition to a new normality; and Order TMA/419/2020, of 18 May, updating the measures in the area of general planning of maritime navigation adopted during the state of alarm for the management of the health crisis caused by COVID-19 to the de-escalation process (*Orden TMA/424/2020 por la que se modifican la Orden TMA/ 384/2020, de 3 de mayo, por la que se dictan instrucciones sobre la utilización de mascarillas en los distintos medios de transporte y se fijan requisitos para garantizar una movilidad segura de conformidad con el plan para la transición hacia una nueva normalidad; y la Orden TMA/419/2020, de 18 de mayo, por la que se actualizan las medidas en materia de ordenación general de la navegación marítima adoptadas durante el estado de alarma para la gestión de la crisis sanitaria ocasionada por el COVID-19 al proceso de desescalada*), 20 May 2020.

<sup>22</sup> Spain, Order SND/422/2020 regulating the conditions for the obligatory use of masks during the health crisis caused by COVID-19 (*Orden SND/422/2020 por la que se regulan las condiciones para el uso obligatorio de mascarilla durante la situación de crisis sanitaria ocasionada por el COVID-19*), 19 May 2020.

<sup>23</sup> Spain, Ministry of the Interior (2020), Data on detainees and proposed sanctions for non-compliance with state of alarm measures (Datos de detenidos y propuestas de sanción por incumplimiento de las medidas del estado de alarma), 6 May 2020, <https://twitter.com/interiorgob/status/1258364414513815553/photo/1>.

<sup>24</sup> García, L. B. (2020), 'Spain exceeds one million fines for violating state of alarm measures' (*España supera el millón de multas por violar las medidas del estado de alarma*), *La Vanguardia*, 20 May 2020.

<sup>25</sup> Palacios, X. M and López, A. (2020), 'Slow return to high school classrooms' (*Lento regreso a las aulas en los institutos*), *La Voz de Galicia*, 25 May 2020.

<sup>26</sup> Flaño, T. (2020), 'A return to the classroom more controlled than ever' (*Una vuelta a las aulas más controlada que nunca*), *El Diario Vasco*, 25 May 2020.

<sup>27</sup> Rodríguez, P and Sánchez Caballero, D. (2020), 'Catalonia, Madrid and the Balearic Islands will open schools from 0 to 3 years before the summer amid complaints from educators' (*Catalunya, Madrid y Baleares abrirán escuelas de 0 a 3 años antes del verano entre las quejas de los educadores*), *eldiario.es*, 27 May 2020; Zafra, I. and Silió, E. (2020), 'The autonomous regions are returning to the classroom late, without consensus and with

the field of education), the academic authorities and the National Government on the possible reopening of schools. All indications are that the return to school will only be possible in September.

The media has also widely reported on the different responses that the public authorities are giving to the situation of thousands of children who are beneficiaries of the so-called "canteen scholarship". The focus has been especially on the concern about the health of these children in the Community of Madrid, whose regional authorities have opted to provide them with a daily "fast food" menu, prepared by the companies Telepizza, Rodilla and Villena Capellanes, from the time the schools closed, a solution that could last up to three months<sup>28</sup>.

This report has not identified the existence of concrete measures taken to bridge the "digital divide" that hampers the learning process of many students in the face of school closures. Furthermore, concerns about when day-care centres might reopen have been reported in the media on numerous occasions. Both the De-escalation Plan and the respective guides are not precise on this matter. However, it is possible that such reopening will take place during Phase 3 of de-escalation, which will be managed, to a large extent, by the respective regional authorities.

### 1.2.3 Work

The numerous orders, resolutions and instructions adopted to date for the implementation of the "De-escalation Plan" show the tremendous efforts made by the competent authorities to ensure that the transition to the "new normality" does not result in a "dangerous" relaxation of the measures to combat the disease caused by COVID-19. In this regard, it is worth stressing the aforementioned Order SND/422/2020 regulating the conditions for the obligatory use of masks during the health crisis caused by COVID-19, does not seem to have encountered resistance from either companies or the general population, at least to date. Furthermore, in order to meet the public health objective, the various institutions and companies in both the public and private sectors are developing and making public their own occupational safety plans. This is the case, among others, of the Administration of Justice which, through Order JUS/394/2020, of 8 May, approved its own Occupational Safety Scheme and its own De-escalation Plan before the COVID-19<sup>29</sup>. In general, in addition to the compulsory use of masks and the social distance of two metres, the guide on "Good Practice in Workplaces"<sup>30</sup> drawn up by the Ministry of Health remained valid during the period under review.

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few students' (*'Las autonomías vuelven a las aulas tarde, sin consenso y con pocos alumnos'*), *El País*, 26 May 2020; EFE (2020), 'Epidemiologists propose a return to school in September, with some rehearsal before that' (*'Los epidemiólogos proponen vuelta al 'cole' en septiembre, con algún ensayo antes'*), *El Confidencial*, 15 May 2020.

<sup>28</sup> López Trujillo, N., Rodrigo, B. and Martín, A. (2020), 'Canteen scholarships: this is how children eat in each autonomous community' (*'Becas comedor: así comen los niños en cada comunidad autónoma'*), *Newtral*, 6 May 2020.

Ferrero, B. and Peinado, F. (2020), 'Vulnerable children in Madrid will be eating pizza for more than three months' (*'Los niños vulnerables en Madrid comerán pizza durante más de tres meses'*), *El País*, 5 May 2020;

<sup>29</sup> Spain, Order on the Occupational Safety Scheme and the De-escalation Plan for the Administration of Justice (*Orden sobre el Esquema de Seguridad Laboral y el Plan de Desescalada para la Administración de Justicia*), 8 May 2020.

<sup>30</sup> Government of Spain, Ministry of Health (2020), Good practices in the workplace. Measures for the prevention of COVID-19 infections (*Buenas prácticas en los centros de trabajo. Medidas para la prevención de contagios del COVID-19*), updated on 11 April 2020, available at: [https://www.miteco.gob.es/es/ministerio/medidas-covid19/buenas-practicas-centros--trabajo/guiaparacentrosdetrabajo-covid-19\\_tcm30-508640.pdf](https://www.miteco.gob.es/es/ministerio/medidas-covid19/buenas-practicas-centros--trabajo/guiaparacentrosdetrabajo-covid-19_tcm30-508640.pdf).

Both the aforementioned *Royal Decree-Law 18/2020 of 12 May on social measures in defence of employment* and *Royal Decree-Law 19/2020 of 26 May adopting supplementary measures in the agricultural, scientific, economic, employment and social security and tax fields to alleviate the effects of COVID-19*, highlight the Government's major efforts to mitigate the effects of COVID-19 and defend employment. Despite these efforts including the Temporary Regulation of Employment File (ERTE) measure "so that no one is left behind", a number of media report on the existence of many workers in various sectors of activity whose precariousness has been exacerbated<sup>31</sup>. Among other aspects, the job precariousness is manifested in the excess of working hours and low wages that, in turn, translate into the worsening of the economic vulnerability of many families. As a result, many are forced to resort to food banks and "are unable to meet the costs of renting, since, on receiving 70% of their salary, they cannot cover the basic costs they need to live"<sup>32</sup>.

Among the precarious sectors are the health workers who, mobilised by the "*Sanitarios Necesarios*" ("Necessary Healthcare") platform and with slogans such as "Public health is not for sale, it is defended", "Don't cut off the hands that look after you" or "We have fought without weapons", demonstrated at the entrances to Madrid's hospitals on 25 May to "give visibility" to their precarious situation and defend public health<sup>33</sup>.

#### **1.2.4 Access to justice**

In the preamble to *Royal Decree-Law 16/2020, of 28 April, on procedural and organisational measures to deal with COVID-19 in the area of the Administration of Justice*, the public authorities recognise that the Administration of Justice has suffered a significant slowdown as a result of the COVID-19 crisis. And they propose, by adopting specific measures, to seek a swift solution to the accumulation of procedures suspended due to the declaration of the state of alarm and to deal with the foreseeable increase in litigation that will arise as a result of the extraordinary measures that have been adopted and the economic situation itself derived from the health crisis.

In order to comply with this *Royal Decree-Law*, the Administration of Justice has adopted its own "de-escalation plan", currently in phase 2, the specific measures of which are set out in two Orders adopted by the Ministry of Justice: Order JUS/430/2020, of 22 May, activating Phase 2 of the De-escalation Plan for the Administration of Justice before the COVID-19, and the aforementioned Order JUS/394/2020, of 8 May, approving the Occupational Safety Scheme and the De-escalation Plan for the Administration of Justice before the COVID-19.

It should also be noted that the aforementioned *Royal Decree 537/2020, of 22 May*, which agreed to extend the state of alarm for the fifth time, also established the lifting, from 4 June, of the suspension of procedural deadlines and of the periods of limitation and lapse of rights and actions, as well as, from 1 June, the resumption of the calculation of the suspended administrative deadlines. In fact, and in line with the above-mentioned *Royal Decree-Law 16/2020*, the Government considers that progress in the De-escalation Plan, with the consequent reactivation of economic activity, mobility

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<sup>31</sup> De la Fuente, A. (2020), 'Precariousness and the ERTes are suffocating families: "If we used to live from day to day, now with 70% of the salary it's impossible"' (*La precariedad y los ERTes asfixian a las familias: "Si antes vivíamos al día, ahora con un 70% del sueldo es imposible"*), *Público*, 12 May 2020.

<sup>32</sup> De la Fuente, A. (2020), 'Precariousness and the ERTes are suffocating families: "If we used to live from day to day, now with 70% of the salary it's impossible"' (*La precariedad y los ERTes asfixian a las familias: "Si antes vivíamos al día, ahora con un 70% del sueldo es imposible"*), *Público*, 12 May 2020.

<sup>33</sup> Cuartopoder (2020), "'Necessary Healthcare', the demand for public health, in images' (*"Sanitarios necesarios", la reivindicación por la sanidad pública, en imágenes*)' *cuartopoder*, 25 May 2020.

and citizens' needs to access public and private services, makes it appropriate to facilitate the normal performance of administrative and judicial procedures.

### 1.2.5 Freedom of movement

During the period in reference, no changes have been verified in the measures previously taken: both internal and external borders remained closed and no date has been announced so far for their possible reopening. In addition, at the European level, the criteria for the application of temporary restrictions on non-essential travel for people from third countries have been extended until 15 June 2020. It is worth mentioning that on 11 May a new requirement was introduced to the series of requirements imposed on all those who enter Spanish territory: in order to ensure the continuity of economic activity, entry is permitted to those who arrive by air or sea in Spanish territory for exclusively employment reasons, provided that this situation is documented. All this is set out in three Orders adopted by the Ministry of the Interior:

- Order INT/409/2020, of 14 May, extending the criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and associated Schengen countries for reasons of public order and public health, due to the health crisis caused by COVID-19<sup>34</sup>;

- Order INT/401/2020, of 11 May, temporarily re-establishing controls at internal air and sea borders, due to the health crisis caused by COVID-19<sup>35</sup>; and

- Order INT/396/2020, of 8 May, extending internal land border controls due to the health crisis caused by COVID-19<sup>36</sup>.

These instruments of the Ministry of the Interior should be read in parallel with Order SND/403/2020, of 11 May, on the quarantine conditions to which people from other countries must be subjected on arrival in Spain, during the health crisis caused by COVID-19. In its article 2, this Order establishes that people coming from abroad must keep in quarantine the 14 days following their arrival, and they will be obliged to wear masks when carrying out those legally allowed displacements.

With regard to the lifting of temporary suspensions of asylum application procedures, the provisions of Article 9 of the aforementioned Royal Decree 537/2020 of 22 May are relevant. This provides that, with effect from 1 June 2020, the calculation of administrative periods that have been suspended will be resumed, or will be restarted, if so provided for in a regulation with the status of law approved during the state of alarm and its extensions.

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<sup>34</sup> Spain, Order extending the criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and Schengen associated countries ([\*Orden de prórroga de los criterios para la aplicación de una restricción temporal de viajes no imprescindibles desde terceros países a la Unión Europea y países asociados Schengen\*](#)), 14 May 2020.

<sup>35</sup> Spain, Order on the temporary reintroduction of controls at internal air and sea borders (*Orden de restablecimiento temporal de los controles en las fronteras interiores aéreas y marítimas*), 11 May 2020.

<sup>36</sup> Spain, Order for the temporary extension of controls at internal land borders (*Orden de prórroga temporal de los controles en las fronteras interiores terrestres*), 8 May 2020.



### 1.3 Impact of measures on particular groups

According to the State Disability Observatory (*Observatorio Estatal de la Discapacidad*), it is estimated that 4.12 million people with disabilities reside in Spain, which is approximately 9% of the total population in Spain. In general terms, these people face more different discriminatory situations than non-disabled people, a circumstance that is multiplied by the addition of factors such as gender, age, habitat or ethnic origin<sup>37</sup>. The Spanish Committee of Representatives of People with Disabilities (CERMI) in turn points out that the COVID-19 pandemic has revealed the scarce knowledge and implementation of the International Convention on the Rights of People with Disabilities and of the human rights mandates in Spanish public policies. It also points out that during this pandemic, Spanish society has continued to view people with disabilities from a disregarding (*prescindencia*) point of view or rehabilitating medical model, to the detriment of a rights-based approach based on the dignity and self-determination of people with disabilities. As a result, this pandemic has revealed many shortcomings in caring for people with disabilities in exceptional situations, compromising fundamental rights such as life or education and leaving health care for these people in a precarious state. That is why, according to this organization, public services must be revised in terms of inclusion<sup>38</sup>. A concrete example of this claim has been highlighted by some media, reporting that deaf students in the autonomous community of Andalusia complain of suffering discrimination, due to the fact that "the Andalusian Government suspended the outsourced service of sign language interpretation two months ago, as well as other services such as transport or the canteen"<sup>39</sup>.

During the period under review, the media's focus on the homeless people has been remarkably low. This may mean a return to invisibility for one of the most vulnerable and most exposed groups to the effects of the disease by COVID-19. At least one newspaper has reported that a total of 1,239 people are living in the streets of Barcelona without being confined. This serious situation occurs despite the fact that the city Council has set up a hostel for the homeless in a pavilion of the *Fira de Barcelona* with 620 emergency places opened due to the state of alarm<sup>40</sup>. Another newspaper has reported on the efforts being made by the Madrid city Council to relocate some 250 homeless people to apartments with social assistance, following the planned closure at the end of May of the *IFEMA- Feria de Madrid* pavilion where they had been confined<sup>41</sup>. At the time of its closure, this report has not had any knowledge of further developments of this information.

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<sup>37</sup> Observatorio Estatal de la Discapacidad (OED) (2020), Protecting persons with disabilities from the COVID-19 crisis (*Proteger a las personas con discapacidad frente a la crisis de la COVID-19*), 7 May 2020, <https://www.observatoriodeladiscapacidad.info/proteger-a-las-personas-con-discapacidad-frente-a-la-crisis-de-la-covid-19/>.

<sup>38</sup> Comité Español de Representantes de Personas con Discapacidad (CERMI) (2020), The impact of the coronavirus pandemic on the human rights of people with disabilities in Spain (*El impacto de la pandemia del coronavirus en los derechos humanos de las personas con discapacidad en España*), 23 May 2020, <https://www.cermi.es/es/actualidad/novedades/el-impacto-de-la-pandemia-del-coronavirus-en-los-derechos-humanos-de-las>.

<sup>39</sup> Cenizo, N. (2020), 'Deaf students in Andalusia complain that the Junta discriminates against them: "I can't follow the classes"' (*Alumnos sordos de Andalucía denuncian que la Junta los discrimina: "No puedo seguir las clases"*), *eldiario.es*, 17 May 2020.

<sup>40</sup> EFE (2020), 'More than 1,200 people spend their time on the streets of Barcelona' (*Más de 1.200 personas pasan el confinamiento en calles de Barcelona*), *elPeriódico*, 20 May 2020.

<sup>41</sup> Domingo, M. R. (2020), 'Objective: to house Ifema homeless people in apartments after the coronavirus crisis' (*Objetivo: alojar a las personas sin hogar de Ifema en apartamentos tras la crisis del coronavirus*), *ABC*, 10 May 2020.

During the period in question, the most relevant change in the situation of detainees is reflected in Order INT/407/2020, of 12 May, which adopts measures to relax the restrictions established in the area of penitentiary institutions under Royal Decree 463/2020, of 14 March, which declares the state of alarm for the management of the health crisis situation caused by COVID-19<sup>42</sup>. Its single Article on the prison regime establishes that as of 13 May, the following activities are to be resumed in the State's prisons, gradually and gradually, while maintaining public health protection as a reference:

- a) Ordinary communications from inmates.
- b) Leave and scheduled departures, in accordance with the health authority's instructions.
- c) Inmates classified as third degree or who have applied the flexibility regime and are assigned to social insertion centres, open sections or ordinary centres, may continue to leave for the performance of the activities expressly listed in Article 7 of Royal Decree 463/2020, of 14 March, which declares the state of alarm for the management of the health crisis situation caused by COVID-19, adopting the established protocols when they return to the prison. In any case, the recommendations and obligations issued by the health authorities must be respected during any trip.
- d) Transfers of prisoners when requested by the judicial authorities, transfers for health reasons and those required by regulatory or treatment circumstances, according to the health indications adopted in each case and at each time.
- e) Educational, training, therapeutic, sporting, cultural and religious activities within the prisons, depending on the situation of the prisons and the measures that may be adopted by the competent authorities in the matter.

The aforementioned actions and activities may be reversed if the epidemiological situation so warrants, either globally or individually for one or more prisons.

## 2 Impact on fundamental rights of older people

### 2.1 Data/statistics

As of 31 May 2020, a total of 239,429 confirmed cases of COVID-19 had been reported in Spain, with 27,127 deaths and 150,376 recovered<sup>43</sup>.

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<sup>42</sup> Spain, Order of measures to relax the restrictions established in the area of penitentiary institutions (*Orden de medidas para flexibilizar las restricciones establecidas en el ámbito de Instituciones Penitenciarias*), 12 may 2020.

<sup>43</sup> Spain, Centre for the Coordination of Health Alerts and Emergencies (2020), Update No. 122. 31.05.2020 (consolidated data at 12:00 hours on 31.05.2020), [https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Actualizacion\\_122\\_COVID-19.pdf](https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Actualizacion_122_COVID-19.pdf).

### 2.1.1 Share of persons 60+ in the total number of persons in the community infected, recovered and died in relation to COVID-19.

- Infected by COVID-19: **127.564** (this includes figures on infections and deaths overall, both in community and in the institutions).

Age groups (years)	Total Nº (%)	Women Nº (%)	Men Nº (%)
60-69	35.197 (14,2)	16.883 (11,9)	18.311 (17,2)
70-79	33.411 (13,5)	15.034 (10,6)	18.377 (17,2)
≥80	58.956 (23,8)	37.286 (26,4)	21.669 (20,3)

Source: Instituto de Salud Carlos III, Informe COVID-19 nº 33. 29 de mayo de 2020<sup>44</sup>.

- Recovered from COVID-19: **n/a**

Age groups (years)	Total Nº (%)	Women Nº (%)	Men Nº (%)
60-69	n/a	n/a	n/a
70-79	n/a	n/a	n/a
≥80	n/a	n/a	n/a

- Died in relation to COVID-19: **n/a**.

The data below, which refer to 9 May 2020, show that the age group in which most deaths have been recorded is the over-70s, with more than 80% of the deaths occurring in both men and women.

Age groups (years)	Total Hospitalised Nº (%)	Total Nº (%)	Women Nº (%)	Men Nº (%)	Lethality (%)
60-69	17.117 (18,9)	1.608 (8,7)	467 (5,9)	1.141 (10,8)	4,8
70-79	20.644 (22,9)	4.462 (24,2)	1.422 (18,0)	3.040 (28,9)	14,0
80-89	18.376 (20,3)	7.585 (41,2)	3.346 (42,4)	4.239 (40,2)	20,7
90 & +	6.098 (6,8)	3.902 (21,2)	2.376 (30,1)	1.526 (14,5)	22,0

<sup>44</sup> Instituto de Salud Carlos III (2020), Análisis de los casos de COVID-19 notificados a la RENAVE hasta el 10 de mayo en España. Informe COVID-19 nº 33. 29 de mayo de 2020, <https://www.isciii.es/QueHacemos/Servicios/VigilanciaSaludPublicaRENAVE/EnfermedadesTransmisibles/Paginas/InformesCOVID-19.aspx>.

Source: Spain, Centre for the Coordination of Health Alerts and Emergencies (2020), Update No. 101. 10.05.2020 (consolidated data at 12:00 hours on 9.05.2020).

### **2.1.2 Share of persons 60+ in the total number of persons in institutional settings infected, recovered and died in relation to COVID-19.**

There is no official data in this regard and this is why the source provided under data for institutions is media rather than official statistics.

- Infected by COVID-19: n/a
- Recovered from COVID-19: n/a
- Died in relation to COVID-19

A report by Radio Televisión Española (RTVE), updated on 31 May 2020, indicates that the number of deaths caused by COVID-19 or similar symptoms in approximately 5,457 Spanish nursing homes - whether public, subsidized or private - reached 19,218. Most deaths have occurred in Madrid, Catalonia, Castile and Leon and Castile-La Mancha. Thus, deaths in nursing homes would account for 71% of the total officially reported by the Ministry of Health<sup>45</sup>.

### **2.1.3 Number and type of institutions affected**

Approximately 5,457<sup>46</sup>.

### **2.1.4 Do official statistics on mortality rates from COVID-19 include deaths of older persons in care homes? Has there been any critique of data collection with respect to care homes?**

On 23 March Order SND/275/2020, which establishes complementary measures of an organisational nature, as well as the provision of information in the area of residential social service centres in relation to the management of the health crisis caused by COVID-19, was published. In accordance with this Order, since 8 April the competent authorities of the Autonomous Communities must complete and send to the Ministry of Health, on Tuesdays and Fridays, information on all residential social service centres (residential centres for the elderly, disabled persons or other social service centres of a similar nature), whether publicly or privately owned.

It has been possible to learn from the media that the Autonomous Communities are complying. And that the Ministry of Health is still evaluating the data received, leaving the publication

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<sup>45</sup> RTVE (2020), 'Coronavirus X-ray in nursing homes: over 19,200 deaths with Covid-19 or compatible symptoms' ('Radiografía del coronavirus en residencias de ancianos: más de 19.200 muertos con Covid-19 o síntomas compatibles'), RTVE, 31 May 2020, <https://www.rtve.es/noticias/20200531/radiografia-del-coronavirus-residencias-ancianos-espana/2011609.shtml>.

<sup>46</sup> RTVE (2020), 'Coronavirus X-ray in nursing homes: over 19,200 deaths with Covid-19 or compatible symptoms' ('Radiografía del coronavirus en residencias de ancianos: más de 19.200 muertos con Covid-19 o síntomas compatibles'), RTVE, 31 May 2020, <https://www.rtve.es/noticias/20200531/radiografia-del-coronavirus-residencias-ancianos-espana/2011609.shtml>.

of the same on the air. This situation creates a kind of "statistical gap": it appears that elderly people who have died in nursing homes are still not included in the figures for people who have died from COVID-19<sup>47</sup>.

This has generated some criticism. One doctor spoke in the following terms about the more than 19,000 deaths in nursing homes due to COVID-19: "There is no right to forget them, for them and their families, it's very hard for them to remember. I don't think it's a respectful or humane act. It is like considering them marginal when they have been treated as Covid's patients, they have been treated as Covid's pests and they have been cremated as Covid's victims. Now it is not worth saying that they were not confirmed, they were confirmed by the doctors"<sup>48</sup>. In turn, the so-called State Board for the Rights of the Elderly, having recognised that the current pandemic has highlighted the deep structural crisis in the long-term care system for the elderly, on 7 May sent the Government a document with proposals to address the pandemic crisis and create a new care and attention system for the elderly, especially those living in care homes<sup>49</sup>.

### 2.1.5 Independent studies published on the situation of older persons with respect to the impact of and responses to COVID-19

Every week, the Carlos III Health Institute publishes COVID-19 reports, both general and on health professionals<sup>50</sup>. In turn, the Coordination Centre for Health Alerts and Emergencies, attached to the Ministry of Health, publishes daily updated and consolidated data on coronavirus disease (COVID-19)<sup>51</sup>. Beyond that, the extensive desk research carried out has not found any scientific-academic publication, in Spain, on the situation.

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<sup>47</sup> Idem; Sosa Troya, M. (2020), 'More than 17,500 deaths from coronavirus or compatible symptoms in social service residences' (*'Más de 17.500 muertos por coronavirus o con síntomas compatibles en residencias de servicios sociales'*), *El País*, 7 May 2020.

<sup>48</sup> Saiz, S. (2020), 'Begoña, a doctor in a nursing home: "There are more than 19,000 dead who were treated as stinkers by Covid and now it is not worth saying that they were not confirmed"' (*'Begoña, médico en una residencia: "Hay más de 19.000 muertos que fueron tratados como apestados por Covid y ahora no vale decir que no estaban confirmados"'*), *El Mundo*, 31 May 2020.

<sup>49</sup> HelAge (2020), The State Board for the Rights of the Elderly sends the Government its proposals for addressing the crisis and creating a new model of care (*La Mesa Estatal por los Derechos de las Personas Mayores envía al Gobierno sus propuestas para abordar la crisis y crear un nuevo modelo de atención y cuidados*), 7 May 2020, <https://www.helpage.org/spain/noticias/la-mesa-estatal-por-los-derechos-de-las-personas-mayores-enva-al-gobierno-sus-propuestas-para-abordar-la-crisis-y-crear-un-nuevo-modelo-de-atencion-y-cuidados-/>.

<sup>50</sup> Which are available at <https://www.isciii.es/QueHacemos/Servicios/VigilanciaSaludPublicaRENAVE/EnfermedadesTransmisibles/Paginas/InformesCOVID-19.aspx>.

<sup>51</sup> Which may be accessed at <https://www.msbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/home.htm>.

## 2.2 COVID-19 measures targeting older people

### 2.2.1 National guidelines/protocols in response to COVID-19 addressing older people

The De-escalation Plan of 28 April, which is legally binding by virtue of the Royal Decrees extending the state of alarm of 8 and 22 May, recognises that "the older population, together with the health workers, is the group that is most concerned about containing the virus. Those elderly people in geriatric residences who have been by far the worst affected by the pandemic deserve differentiated treatment, as do those who are not institutionalized, who live alone and face the risk of abandonment"<sup>52</sup> (emphasis added).

The same document therefore states: "It is essential to ensure a progressive reduction of infections, and a strong protection of the population living in residential care homes, as well as of the professionals who provide services in them. Although this protection will also be included as one of the indicators in the panel of indicators that will be used to make decisions in the process of transition towards a new normality, the initial premise in the area of residential care homes will be the non-application of de-escalation measures (emphasis added). This precaution must necessarily be accompanied by measures to ensure adequate health care for the people who live or work in them, which will include strict surveillance of the epidemiological situation in them". Finally, the De-escalation Plan recognizes that "in any case, the experience of the ongoing health crisis has shown the limitations of the current system of residential care homes, which must be analyzed for its improvement"<sup>53</sup>.

In line with the previous paragraph, the Guide to Phase 1 of the Plan for the Transition to a New Normalization refers to people over 65 years of age only once, by establishing that businesses and premises must reserve opening hours with priority service for this group<sup>54</sup>.

The Phase 2 Guide maintains the rule established in the previous phase. In addition, in the section on social services it states that: (i) the Autonomous Communities and the autonomous cities may allow in their territorial scope the carrying out of visits to the residents of supervised housing, residential centres for people with disabilities and residential centres for the elderly; (ii) the visits to residential centres for the elderly will be carried out according to the rules established by each Autonomous Community; and (iii) the visit must be previously arranged with the supervised housing or the residential centre<sup>55</sup>.

The Phase 3 Guide reiterates the obligation to establish opening hours with priority service for the over-65s in commercial and service provision establishments. And it includes among the reasons for travelling throughout the national territory the assistance and care of the elderly<sup>56</sup>.

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<sup>52</sup> Government of Spain, Ministry of Health (2020), Plan for the Transition to a New Normality, cit. p.20.

<sup>53</sup> Idem.

<sup>54</sup> Government of Spain, Ministry of Health (2020), Plan for the Transition to a New Normality: Guide to Phase 1 (*Plan para la Transición hacia la Nueva Normalidad: Guía de la Fase 1*), 23 May 2020, p.8, [https://www.lamoncloa.gob.es/covid-19/Documents/23052020\\_Plan\\_Transicion\\_Guia\\_Fase1.pdf](https://www.lamoncloa.gob.es/covid-19/Documents/23052020_Plan_Transicion_Guia_Fase1.pdf).

<sup>55</sup> Government of Spain, Ministry of Health (2020), Plan for the Transition to a New Normality: Guide to Phase 2 (*Plan para la Transición hacia la Nueva Normalidad: Guía de la Fase 2*), 23 May 2020, pp.11 and 15, [https://www.lamoncloa.gob.es/covid-19/Documents/23052020\\_Plan\\_Transicion\\_Guia\\_Fase2.pdf](https://www.lamoncloa.gob.es/covid-19/Documents/23052020_Plan_Transicion_Guia_Fase2.pdf).

<sup>56</sup> Government of Spain, Ministry of Health (2020), Plan for the Transition to a New Normality: Guide to Phase 3 (*Plan para la Transición hacia la Nueva Normalidad: Guía de la Fase 3*), 31 May 2020, pp. 7 and 10, <https://www.lamoncloa.gob.es/Documents/31052020PlanTransicionGuiaFase3.pdf>.

It seems that the latter affects only those older people who live within the community. Therefore, the rule established in the De-escalation Plan according to which de-escalation measures are not applied in the area of residential care homes is maintained.

### **2.2.2 National guidelines/protocols on patient triage that apply age as the main and decisive criterion**

There is a "Guide to the prevention and control of COVID-19 in elderly's care homes and other residential social service centres"<sup>57</sup>, published on 23 March 2020 and currently being updated. It has not been possible to identify any other instrument specific to older people among the many "technical documents for professionals", which are divided into "documents on outbreak preparedness and response", "recommendations for patient management", "procedures and measures for the prevention and control of infection" and "measures for vulnerable groups and individuals", published by government authorities<sup>58</sup>.

### **2.2.3 Targeted testing of residents and staff in residential care homes**

- Is this laid down in a targeted policy/measure or done on an ad-hoc basis when a case has been detected?

The extensive desk research carried out shows that there has been no general programme of testing for COVID-19 in nursing homes during the period in review. However, the social media has reported on some local test programs. Such is the case of the Community of Madrid, which, as of May 14, had distributed a total of 29.040 PCR tests in nursing homes, used as part of a serological study with the purpose of knowing the true scope of the pandemic<sup>59</sup>. Another example was found in the province of Albacete, where nearly 1.200 tests had been carried out on elderly people and workers in residential homes<sup>60</sup>.

- Data/statistics on testing & frequency of testing – institutions, residents, staff

Apart from the data indicated above and those that may result from other isolated local cases, it has not been possible to find any information on this subject.

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<sup>57</sup> Spain, Guide to the prevention and control of COVID-19 in old people's homes and other residential social service centres (*Guía de prevención y control frente al COVID-19 en residencias de mayores y otros centros de servicios sociales de carácter residencial*), 24 March 2020, [https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Residencias\\_y centros\\_sociosanitarios\\_COVID-19.pdf](https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/Residencias_y centros_sociosanitarios_COVID-19.pdf).

<sup>58</sup> All of them may be accessed at <https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos.htm>.

<sup>59</sup> RTVE (2020), '38% of the tests performed in nursing homes in the Community of Madrid are positive for coronavirus' (*El 38% de los test realizados en residencias de ancianos de la Comunidad de Madrid dan positivo por coronavirus*), RTVE, 14 May 2020, <https://www.rtve.es/noticias/20200514/38-test-realizados-residencias-ancianos-comunidad-madrid-dan-positivo-covid-19/2014053.shtml>.

<sup>60</sup> Romero, J. (2020), 'Almost 1,200 tests carried out on the elderly in the residences of Albacete and the province, plus 500 on workers' (*Casi 1.200 test realizados a mayores de las residencias de Albacete y provincia, más 500 a trabajadores*), *El Digital de Albacete*, 1 May 2020.

#### **2.2.4 Restrictions/bans on visits to residential care settings, and any (conditional) lifting of these restrictions**

As mentioned above, the rule established in the De-escalation Plan according to which de-escalation measures are not applied in the area of residential care homes is maintained.

However, the rules established in the aforementioned Guide to Phase 2 of the De-escalation Plan are very relevant in this regard: i) the Autonomous Communities and Autonomous Cities may allow visits to residents of supervised housing, residential centres for people with disabilities and residential centres for the elderly within their territory; ii) visits to residential centres for the elderly will be carried out according to the rules established by each Autonomous Community; iii) the visit must be previously arranged with the supervised housing or residential centre.

An example of the materialization of these rules can be found in Asturias, whose autonomous government allows, since May 25, visits in nursing homes to elderly people with severe cognitive impairment. According to the official website, the protocol designed for Phase 2 of de-escalation by the Department of Social Rights proposes a rotating system that guarantees that all residents can receive their loved ones. Family members must disinfect their hands at the entrance and exit of the centres, wear a mask and maintain an interpersonal distance of two metres<sup>61</sup>.

#### **2.2.5 Restrictive measures for older people living in the community**

On 30 May 2020, the Ministry of Health issued Order SND/458/2020 for the relaxation of certain national restrictions established following the declaration of the state of alarm in application of phase 3 of the Plan for the transition to a new normality<sup>62</sup>. This Order does not refer to the elderly beyond including their care among the reasons that justify mobility throughout the national territory, and the reservation of a schedule in commercial establishments for care with priority service to persons over 65 years of age.

Therefore, the rules set out in Order SND/380/2020, of 30 April, on the conditions in which non-professional physical activity can be carried out in the open air during the health crisis caused by the COVID-19<sup>63</sup>, are maintained. In its Article 5, this order, published on 1 May, establishes that people over 70 years of age may practice individual sports and walks between 10:00 and 12:00 and between 19:00 and 20:00, and may be accompanied by a partner between 14 and 70 years of age.

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<sup>61</sup> Social Asturias (2020), 'From next Monday, the Government of Asturias will allow visits in residential homes to elderly people with serious cognitive impairment' (*'El Gobierno de Asturias permitirá desde el próximo lunes las visitas en residencias a mayores con grave deterioro cognitivo'*), Press release, 18 May 2020, [https://www.socialasturias.es/servicios-sociales/actualidad/el-gobierno-de-asturias-permitira-desde-el-proximo-lunes-las-visitas-en-residencias-a-mayores-con-grave-deterioro-cognitivo-18052020\\_2175\\_299\\_3506\\_0\\_1\\_in.html](https://www.socialasturias.es/servicios-sociales/actualidad/el-gobierno-de-asturias-permitira-desde-el-proximo-lunes-las-visitas-en-residencias-a-mayores-con-grave-deterioro-cognitivo-18052020_2175_299_3506_0_1_in.html).

<sup>62</sup> Spain, Order for the relaxation of restrictions in phase 3 of de-escalation (*Orden de relajación de las restricciones en fase 3 de desescalada*), 30 May 2020.

<sup>63</sup> Spain, Order on the conditions to carry out non professional physical activity (*Orden sobre las condiciones para realizar actividad física no profesional*), 30 April 2020.



### **2.2.6 Access to healthcare for older people for conditions unrelated to COVID-19**

From the "Action guide for people with chronic health conditions and the elderly in a state of confinement"<sup>64</sup> and the "Recommendations for the elderly"<sup>65</sup>, both published by the Ministry of Health on 4 April and 5 May, respectively, there is a recommendation to stay at home and receive medical attention by telephone while the COVID-19 alarm lasts. That said, it appears that the health crisis caused by COVID-19 has led to a generalised situation of marginalisation from other illnesses. However, there is no indication or it has not been possible to identify any indication from the health authorities to restrict the access of older people suffering from diseases other than COVID-19 to health centres or hospitals.

### **2.2.7 Support measures and promising practices targeting older people, including access to goods and services online and offline, social/psychological support, and use of digital tools and technology**

During the period in reference it has not been possible to identify the existence of such measures on a general scale. However, considering the competence of the Autonomous Communities in the area of social services, the possible existence of such measures in their respective fields should not be ruled out.

### **2.2.8 Consultation of older people's organisations and/or other civil society organisations in the design, implementation and review of COVID-19-related measures**

It has not been ascertained whether the government authorities have consulted with organizations defending the rights of the older people in the elaboration of the measures adopted for the different phases of de-escalation. In the meantime, it has been noted that several of these organizations are very proactive in providing recommendations to the Government. Some of them have even requested to participate actively in the Commission for Social and Economic Reconstruction that has been set up in the Congress of Deputies<sup>66</sup>.

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<sup>64</sup> Spain, Action guide for people with chronic health conditions and the elderly in a state of confinement. COVID-19 alarm state (*Guía de actuación para personas con condiciones de salud crónicas y personas mayores en situación de confinamiento. Estado de alarma por COVID-19*), 4 April 2020, <https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/documentos/CRONICOS20200403.pdf>.

<sup>65</sup> Spain, Stay home, and take care of yourself! Recommendations for older people (*Quédate en casa, y ¡cuidate! Recomendaciones para personas mayores*), 5 May 2020, [https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/img/COVID19\\_mayores\\_en\\_casa.jpg](https://www.mscbs.gob.es/profesionales/saludPublica/ccayes/alertasActual/nCov-China/img/COVID19_mayores_en_casa.jpg).

<sup>66</sup> HelAge (2020), The State Board for the Rights of the Elderly sends the Government its proposals for addressing the crisis and creating a new model of care, cit.; Sociedad Española de Geriatria y Gerontología (2020) Recommendations for de-escalation of older people (*Recomendaciones para la desescalada de las personas mayores*), 20 May 2020, <https://www.segg.es/actualidad-segg/2020/05/20/recomendaciones-desescalada-personas-mayores-segg>.