

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

**Country:** Spain

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# 1 Measures taken by government/public authorities impacting on specific freedoms

Please briefly describe the main developments, between 1 September – 31 October 2020, in the legal framework and related measures adopted in your country in response to the Coronavirus pandemic with respect to emergency laws/state of emergency, freedom of assembly and freedom of movement.

## 1.1 Emergency laws/states of emergency

The period from 1 September to 24 October was part of the so-called "new normality", established after the expiry of the state of emergency and the extraordinary containment measures, including those restricting freedom of movement. During this period, a series of urgent prevention, containment and coordination measures were adopted, which presumably allow the pandemic to continue to be faced and controlled until the health crisis situation officially ends. These measures were taken mainly under the following regulatory instruments:

- Law 3/2020, of 18th September, on procedural and organizational measures to deal with COVID-19 in the field of the Administration of Justice<sup>1</sup>;
- Royal Decree-Law 29/2020, of September 29, on urgent measures in the field of teleworking in the Public Administrations and human resources in the National Health System to deal with the health crisis caused by COVID-19<sup>2</sup>;
- Royal Decree-Law 30/2020, of 29 September, on social measures in defence of employment<sup>3</sup>;
- Royal Decree-Law 31/2020, of 29 September, adopting urgent measures in the field of non-university education<sup>4</sup>;
- Royal Decree 866/2020, of 29 September, regulating the direct granting of subsidies to various bodies and entities in the tourism sector by the Ministry of Industry, Trade and Tourism during the 2020 financial year<sup>5</sup>;

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<sup>1</sup> Spain, Law 3/2020, on procedural and organizational measures to deal with COVID-19 in the field of the Administration of Justice (*Ley 3/2020 de medidas procesales y organizativas para hacer frente al COVID-19 en el ámbito de la Administración de Justicia*), 18 September 2020, available at:

<https://www.boe.es/eli/es/l/2020/09/18/3/con>.

<sup>2</sup> Spain, Royal Decree-Law 29/2020 on urgent measures in the field of teleworking in the Public Administrations and human resources in the National Health System to deal with the health crisis caused by COVID-19 (*Real Decreto-ley 29/2020 de medidas urgentes en materia de teletrabajo en las Administraciones Públicas y de recursos humanos en el Sistema Nacional de Salud para hacer frente a la crisis sanitaria ocasionada por la COVID-19*), 29 September 2020, available at:

<https://www.boe.es/eli/es/rdl/2020/09/29/29/con>.

<sup>3</sup> Spain, Royal Decree-Law 30/2020 on social measures in defence of employment (*Real Decreto-ley 30/2020 de medidas sociales en defensa del empleo*), 29 September 2020, available at:

<https://www.boe.es/eli/es/rdl/2020/09/29/30/con>.

<sup>4</sup> Spain, Royal Decree-Law 31/2020, of 29 September, adopting urgent measures in the field of non-university education (*Real Decreto-ley 31/2020 por el que se adoptan medidas urgentes en el ámbito de la educación no universitaria*), 29 September 2020, available at: <https://www.boe.es/eli/es/rdl/2020/09/29/31/con>.

<sup>5</sup> Spain, Royal Decree 866/2020 regulating the direct granting of subsidies to various bodies and entities in the tourism sector by the Ministry of Industry, Trade and Tourism during the 2020 financial year (*Real Decreto 866/2020 por el que se regula la concesión directa de subvenciones a diversos organismos y entidades del sector turístico por el Ministerio de Industria, Comercio y Turismo, durante el ejercicio presupuestario 2020*), 29 September 2020, available at: <https://www.boe.es/eli/es/rd/2020/09/29/866> .

- Royal Decree 883/2020, of 6 October, establishing the regulatory bases for the granting of subsidies for the health crisis of COVID-19, in the cut flower and ornamental plant sector<sup>6</sup>;
- Royal Decree 900/2020 of October 9, declaring the state of alarm to respond to situations of special risk for uncontrolled transmission of infections caused by SARS-CoV-2<sup>7</sup>. This state of alarm applied for only 9 municipalities in the Autonomous Community of Madrid, including the capital, with a duration of barely 15 days. During the referred period a number of other measures have been adopted by the Government in the form of orders, resolutions and instructions<sup>8</sup>.

On October 25, 2020 the Government declared the state of alarm throughout the country to contain the spread of infections caused by SARS-CoV-2. It did so through Royal Decree 926/2020 declaring a state of alarm to contain the spread of infections caused by SARS-CoV-2<sup>9</sup>.

For the purposes of the state of alarm, the competent authority is the Government of the Nation. In each autonomous community or city, the delegated competent authority is the one that holds the presidency. The state of alarm will end at 00:00 hours on November 9, 2020, without prejudice to any extensions that may be established. Following the parliamentary debate held on 29 October 2020, the Government has obtained the support of the parliamentary majority to extend the new state of alert to six months (until 9 May 2021). By way of accountability, the President of the Government will go to Parliament every two months to explain the evolution of the pandemic<sup>10</sup>.

During the set period it is expected:

- The limitation of the movement of persons on the streets or spaces for public use during the hours determined by the delegated authority, except for acquiring medicines, health products and other essential goods; attending health centres, services and establishments or veterinary care centres for emergency reasons; fulfilling work, professional, business, institutional or legal obligations; returning to the place of habitual residence after carrying out some of these activities; assisting and caring for the elderly, minors, dependents, disabled persons or particularly vulnerable persons; due to force majeure or a situation of need or any other activity of an accredited similar nature; refuelling at petrol stations or service stations, when necessary for carrying out the planned activities. This limitation will

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<sup>6</sup> Spain, Royal Decree 883/2020 establishing the regulatory bases for the granting of subsidies for the health crisis of COVID-19, in the cut flower and ornamental plant sector (*Real Decreto 883/2020 por el que se establecen las bases reguladoras para la concesión de subvenciones por la crisis sanitaria del COVID-19, en el sector de la flor cortada y la planta ornamental*), 6 October 2020, available at:

<https://www.boe.es/eli/es/rd/2020/10/06/883>.

<sup>7</sup> Spain, Royal Decree 900/2020 declaring the state of alarm to respond to situations of special risk for uncontrolled transmission of infections caused by SARS-CoV-2 (*Real Decreto 900/2020 por el que se declara el estado de alarma para responder ante situaciones de especial riesgo por transmisión no controlada de infecciones causadas por el SARS-CoV-2*), 9 October 2020, available at:

<https://www.boe.es/eli/es/rd/2020/10/09/900/con>.

<sup>8</sup> All of them can be accessed on the official website of the State Administration, [https://administracion.gob.es/pag\\_Home/atencionCiudadana/Crisis-sanitaria-COVID-19.html](https://administracion.gob.es/pag_Home/atencionCiudadana/Crisis-sanitaria-COVID-19.html).

<sup>9</sup> Spain, Royal Decree 926/2020 declaring the state of alarm to contain the spread of infections caused by SARS-CoV-2 (*Real Decreto 926/2020 por el que se declara el estado de alarma para contener la propagación de infecciones causadas por el SARS-CoV-2*), 25 October 2020 available at:

<https://www.boe.es/eli/es/rd/2020/10/25/926/con>

<sup>10</sup> Spanish Parliament (*Congreso de los Diputados*) (2020), Results of the Voting Plenary Sessions. Session nº 56, 29/10/2020 (*Resultado Votaciones Sesiones Plenarias. Sesión nº 56, 29/10/2020*), available at <https://app.congreso.es/votacionesWeb/InvocaReport?sesion=56&votacion=18&legislatura=14>; Hermida, X. & Casqueiro, J. (2020), 'El Congreso aprueba con una amplia mayoría la prórroga del estado de alarma hasta mayo', *El País*, 29 October 2020.

be applicable for the whole country except for the Autonomous Community of the Canary Islands, due to its better epidemiological situation.

- The restriction of the entry and exit of persons from the territory of each Autonomous Community or city, except for attending health centres, services and establishments; fulfilling labour, professional, business, institutional or legal obligations; attending university, teaching and educational centres; returning to the place of habitual residence or family; attending and caring for the elderly, minors, dependents, disabled persons or particularly vulnerable persons; travel to financial and insurance entities or refuelling stations in neighbouring territories, required or urgent actions before public, judicial or notary bodies; renewing permits and official documentation, as well as other administrative procedures that cannot be postponed; carrying out examinations or official tests that cannot be postponed; force majeure or situation of need or any other activity of a similar nature, duly accredited.
- The limitation of the stay of groups of persons in public and private spaces to a maximum of six persons, unless they are living together.
- The limitation of the stay of persons in places of worship: the corresponding delegated competent authority shall establish the capacity for the meetings, celebrations and religious gatherings taking into account the risk of transmission that could result. This limitation may not affect the private and individual exercise of religious freedom.

These measures shall be effective on the territory of each autonomous community or town when the delegated competent authority so determines. Each one may, within its own territory, in the light of developments in health, epidemiological, social, economic and mobility indicators, modulate, make the measures more flexible and suspend their application.

Until October 31, 2020, there was no record of any judicial pronouncement on the current state of alarm decree<sup>11</sup>. Prior to this decree, measures restricting mobility and the right of assembly, adopted mostly by the authorities of several autonomous communities and, in one case, by the Government, received disparate judicial decisions: unable to unify criteria, the courts in some cases ratified such measures<sup>12</sup>; in others, they rejected them, arguing, among other reasons, that the measures at stake lacked legal coverage and affected the fundamental rights and freedoms of citizens<sup>13</sup>.

## 1.2 Freedom of assembly

A thorough sweep of the websites of the various social communication media reveals that the period in question has been fertile in demonstrations, protests and rallies throughout the country. Everything seems to indicate that, in general terms, during that period freedom of assembly has not experienced

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<sup>11</sup> Spain, Royal Decree 926/2020 declaring the state of alarm to contain the spread of infections caused by SARS-CoV-2 (*Real Decreto 926/2020 por el que se declara el estado de alarma para contener la propagación de infecciones causadas por el SARS-CoV-2*), 25 October 2020, available at:

<https://www.boe.es/eli/es/rd/2020/10/25/926/con>

<sup>12</sup> ElDerecho.com (2020), 'El TSJCV ratifica las limitaciones a la movilidad nocturna y las reuniones sociales acordadas por la Generalitat antes del estado de alarma', 28 October 2020.

<sup>13</sup> CincoDías (2020), 'La Justicia anula el confinamiento perimetral impuesto por Sanidad en Madrid', 8 October 2020; Comunicación Poder Judicial (2020), 'El TSJM desestima el recurso de la Fiscalía contra el auto que anulaba el cierre perimetral de Madrid', Press release, 29 October 2020; Gómez, A. & Blanco, M. (2020), 'Preguntas y Respuestas: el TSJM decide no avalar las restricciones del Gobierno central en Madrid', *Newtral*, 8 October 2020.

any other limitation than that derived from the obligatory use of masks and the obligation to maintain social distance<sup>14</sup>.

In the meantime, as the cases of Covid-19 contagion have increased, several media have reported the restrictions imposed on the freedom of assembly as a result of the measures adopted in various administrative jurisdictions. The measures taken to prevent the spread of Covid-19 disease have tended to limit groups of people from carrying out any activity or event of a family or social nature on public or private spaces<sup>15</sup>.

On 14 August the Ministry of Health and the Autonomous Communities unanimously agreed on coordinated actions to control the transmission of COVID-19<sup>16</sup>. These were a set of eleven control measures in seven different areas, three recommendations and an indication of compliance with the aspects included in the "Early Response Plan in a COVID-19 pandemic control scenario", adopted on 13 July<sup>17</sup>. Acting on this basis, several communities have been taking measures restricting the right of assembly by limiting the number of people who could gather. Here are some examples reported by the media<sup>18</sup>:

- On 1 September, the Government of La Rioja announced that social gatherings would be limited to a maximum of 10 people not living together, although it recommended that the number of people not living together should not exceed six. In turn, the Government of Castile and León announced that from Thursday 3 September, meetings, whether with family or friends, of more than 10 people were prohibited if they were not cohabitants in the cities of Valladolid and Salamanca. This measure, as reported by the Health Department of Castilla y León, was taken after a notable increase in contagion was detected.

- On 11 September, the government of Navarre announced that for 15 days from Saturday 12 September only meetings of six people will be permitted, except in the case of people living together in public spaces. However, in the private sphere this limitation will continue to be only a recommendation.

- On 22 September, the Catalan Secretary of Public Health, Josep Maria Argimon, announced that the Regional Ministry of Health would propose to the Catalan Territorial Civil Action Plan (PROCICAT) that the maximum number of people who can meet be reduced from 10 to six. The measure was approved by the government the following day, 23 September.

- On 21 October, the Galician government announced the return to level 2 restrictions for coronaviruses throughout Galicia, which means that from 00:00 hours on Thursday 22 October, social gatherings of groups of more than five people are prohibited throughout the autonomous community.

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<sup>14</sup> Gaceta Madrid (2020), 'Una gran manifestación reclamará este sábado en Madrid la aprobación de una ley de residencias', 25 September 2020; RTVE (2020), 'La medicina española, en huelga', 27 October 2020; Sevilla, J. (2020), 'Concentración para reivindicar un trabajo decente', *SER*, 7 October 2020.

<sup>15</sup> El Confidencial (2020), '¿En qué comunidades están prohibidas las reuniones de más de 10 o 6 personas?', 23 October 2020.

<sup>16</sup> Spain, Presidencia del Gobierno (2020), 'Sanidad y las comunidades autónomas acuerdan por unanimidad actuaciones coordinadas para controlar la transmisión de la COVID-19', Press release, 14 August 2020.

<sup>17</sup> Spain, Ministerio de Sanidad (2020), *Plan de Respuesta Temprana en un escenario de control de la pandemia por COVID-19*, 13 July 2020, available at: <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/sanidad14/Documents/2020/130720-respuesta-temprana-covid.pdf>.

<sup>18</sup> El Confidencial (2020), '¿En qué comunidades están prohibidas las reuniones de más de 10 o 6 personas?', 23 October 2020.

In the towns of Santiago de Compostela, O Milladoiro, Verín, Oímbra and Vilardevós, level 3 restrictions have been established, meaning that no meetings can be held between people who are not living together. After the state of alarm was declared, wakes and participation in the funeral procession; places of worship, wedding ceremonies and other religious or civil celebrations; hotel and catering establishments and gastronomic societies; cinemas, theatres, auditoriums, canopy circuses, bullrings, enclosures and similar spaces, as well as in open-air enclosures and other premises and establishments intended for public performances and cultural and recreational activities; sports activities and facilities; libraries, archives, museums and exhibition halls, monuments and other cultural facilities are among the areas and circumstances in which the freedom of assembly is being restricted, notably by the limitation of the number of persons who may gather or participate<sup>19</sup>. More specifically, under Article 7 of the aforementioned Royal Decree 926/2020 declaring the current state of alarm<sup>20</sup>, a limit of six persons has been imposed nationwide on meetings both in public and private areas, unless they are cohabitants. In turn, Article 5 of this same regulation imposes a limitation on the movement of persons during nighttime hours, a measure that is subject to modulation, relaxation or suspension by the competent authority in each autonomous community.

Unless otherwise indicated, these measures will be in place until May 9, 2021, by virtue of the aforementioned extension of Royal Decree 926/2020 approved by Parliament on October 29, 2020.<sup>21</sup>

It is foreseeable that after the approval and entry into force of the new state of alarm, a significant decrease in demonstrations may be registered, since in its article 7.3, the above mentioned Royal Decree 926/2020 allows the prohibition of demonstrations if the safety distance is not guaranteed and there is a risk of contagion. As it has been widely reported in the media, this means that contrary to certain widespread hoaxes, the new state of alarm will not ban demonstrations for six months from October 29: it only allows the banning of those who do not comply with "personal distance"<sup>22</sup>.

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<sup>19</sup> FMO Influencer (2020), 'La Junta restringe el derecho de reunión en Valladolid y Salamanca por miedo al Covid', 1 September 2020.

<sup>20</sup> Spain, Royal Decree 926/2020 declaring the state of alarm to contain the spread of infections caused by SARS-CoV-2 (*Real Decreto 926/2020 por el que se declara el estado de alarma para contener la propagación de infecciones causadas por el SARS-CoV-2*), 25 October 2020, available at:

<https://www.boe.es/eli/es/rd/2020/10/25/926/con>

<sup>21</sup> This parliamentary approval has been substantiated in Royal Decree 956/2020 extending the state of alarm declared by Royal Decree 926/2020 of October 25, which declares the state of alarm to contain the spread of infections caused by SARS-CoV-2 (*Real Decreto 956/2020 por el que se prorroga el estado de alarma declarado por el Real Decreto 926/2020, de 25 de octubre, por el que se declara el estado de alarma para contener la propagación de infecciones causadas por el SARS-CoV-2*), 3 November 2020 available at: <https://www.boe.es/eli/es/rd/2020/11/03/956/con>.

<sup>22</sup> Maldita.es (2020), 'No, el nuevo estado de alarma no va a prohibir las manifestaciones durante seis meses a partir del 29 de octubre: sólo permite la prohibición de las que no cumplan con "la distancia personal"', 31 October 2020; Carmona, J. (2020), 'Las manifestaciones que se realicen durante el estado de alarma podrán prohibirse si no se cumple el distanciamiento social', *Público*, 25 October 2020; 20minutos (2020), 'El estado de alarma permite prohibir manifestaciones si no se garantiza la distancia personal', 25 October 2020.

### 1.3 Freedom of movement

As widely reported by the media, since the declaration of the new state of alarm on 25 October<sup>23</sup>, the majority of the autonomous communities are applying restrictions to mobility through night-time curfews, local or community-level confinements (so-called perimeter closures), even limiting the entry and exit of citizens from other territories<sup>24</sup>.

On 30 September, the Government extended until midnight on 31 October the effectiveness of Order INT/657/2020, which imposes a temporary restriction on non-essential travel from third countries to the European Union and the Schengen associated countries for reasons of public order and public health as a result of the health crisis caused by Covid-19. This extension was carried out by Order INT/913/2020 of 29 September extending Order INT/657/2020 of 17 July amending the criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and the Schengen associated countries on grounds of public order and public health in connection with the health crisis caused by COVID-19<sup>25</sup>.

The new Order INT/1006/2020, of October 29, which modifies Order INT/657/2020, of July 17, which modifies 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>26</sup>, will take effect from November 1 to 30, 2020, without prejudice to its possible modification due to a change in circumstances or new recommendations within the European Union.

Canada, Georgia and Tunisia have been removed from the list of exceptions, so from November 1st their residents will not be able to enter Spain. Singapore has been added to the list and China has been confirmed on the list (except for those coming from the regions of Hong Kong and Macao, pending a reciprocal agreement).

Therefore, third countries whose residents are not affected by the temporary restriction on non-essential travel to the EU across external borders under the terms of the aforementioned Order INT/1006/2020 (provided that they come directly from these countries, have exclusively transited

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<sup>23</sup> Spain, Royal Decree 926/2020 declaring the state of alarm to contain the spread of infections caused by SARS-CoV-2 (*Real Decreto 926/2020 por el que se declara el estado de alarma para contener la propagación de infecciones causadas por el SARS-CoV-2*), 25 October 2020, available at:

<https://www.boe.es/eli/es/rd/2020/10/25/926/con>.

<sup>24</sup> RTVE (2020), 'El confinamiento perimetral afecta a más del 80 % de la población en 15 territorios', 29 October 2020.

<sup>25</sup> Spain, Order INT/913/2020 extending Order INT/657/2020 of 17 July amending the criteria for the application of a temporary restriction on non-essential travel from third countries to the European Union and the Schengen associated countries on grounds of public order and public health in connection with the health crisis caused by COVID-19 (*Orden INT/913/2020 por la que se prorroga la Orden INT/657/2020, de 17 de julio, por la que se modifican los criterios para la aplicación de una restricción temporal de viajes no imprescindibles desde terceros países a la Unión Europea y países asociados Schengen por razones de orden público y salud pública con motivo de la crisis sanitaria ocasionada por la COVID-19*), 29 September 2020, available at: <https://www.boe.es/eli/es/o/2020/09/29/int913>.

<sup>26</sup> Order INT/1006/2020 modifying Order INT/657/2020, of July 17, which modifies 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 (*Orden INT/913/2020 por la que se prorroga la Orden INT/657/2020, de 17 de julio, por la que se modifican los criterios para la aplicación de una restricción temporal de viajes no imprescindibles desde terceros países a la Unión Europea y países asociados Schengen por razones de orden público y salud pública con motivo de la crisis sanitaria ocasionada por la COVID-19*), 29 October 2020, available at: <https://www.boe.es/eli/es/o/2020/09/29/int913>.

through other countries or have only made international transits at airports in countries not on the list) are as follows: Australia, Japan, New Zealand, Rwanda, Singapore, South Korea, Thailand, Uruguay, China, including the Special Administrative Regions of Hong Kong and Macao, subject to confirmation of reciprocity. In sum, allowed to enter Spain are: European citizens, citizens residing in countries on the list, persons included in one of the categories exempt from travel restrictions to the European Union.

The Order sets out the following categories of persons as being exempt from the temporary travel restriction to the EU+ area from third countries that are not on the above list: EU citizens and nationals of Iceland, Norway, Liechtenstein, Switzerland and the United Kingdom, as well as their respective family members; third-country nationals who are long-term residents under the Long-term Residence Directive, or deriving their right to reside from other EU Directives or national law, or who hold national long-term visas, as well as their respective family members.

The temporary travel restrictions should also not apply to people with an essential function or need, including: healthcare professionals, health researchers, and elderly care professionals; frontier workers; seasonal workers in agriculture; transport personnel; diplomats, staff of international organisations and people invited by international organisations whose physical presence is required for the well-functioning of these organisations, military personnel and humanitarian aid workers and civil protection personnel in the exercise of their functions; passengers in transit; passengers travelling for imperative family reasons; seafarers; persons in need of international protection or for other humanitarian reasons; third-country nationals travelling for the purpose of study; highly qualified third-country workers if their employment is necessary from an economic perspective and the work cannot be postponed or performed abroad.

Furthermore, the Order lays down that entry will be denied to those those third-country nationals who do not comply with the established health controls.

In accordance with current regulation (the above-referred Order INT/1006/2020), non-essential travels shall be understood as all those not included in the list of categories provided for in Article 1 of Order INT/657/2020. These are basically tourist, shopping and entertainment trips.

## **2 Implications of Covid-19 and measures to contain it on specific social rights**

*Please provide information on legislation/measures taken by the government/public authorities, between 1 September – 31 October 2020, in response to COVID-19 that have impacted negatively on relevant social rights with respect to two of the following areas of life: education, work, health care and housing.*

### Right to a job and to a fair wage

In Spain, the right to a job and to a fair wage is one of the rights most negatively affected by the by the Covid-19 pandemic. During the reference period, social media have widely reported on unemployment, which mainly affects the young population under 25 years of age, reaching 41.7% in

September this year, the highest youth unemployment rate in the whole Eurozone<sup>27</sup>. According to the State Employment Service (SEPE), in October Spain recorded, in absolute terms, a total of 3,826,043 unemployed persons. The absolute number of unemployed young people under 25 reached 361,986. In turn, the number of unemployed young people between the ages of 25 and 29 stood at 373,333<sup>28</sup>. Despite suggesting a slight reduction, the unemployment rate among young people under 25 is over 40% of the total unemployed population, which stands at 16.5%<sup>29</sup>.

Although the reality of unemployment in the country is of a structural nature and therefore predates the crisis caused by the Covid-19 pandemic, everything seems to indicate that the measures taken by the State Administration are being crucial to counteract and mitigate the harmful impacts of the pandemic on employment. Among these measures, two stand out: the temporary employment regulation files (*ERTE – Expedientes de Regulación Temporal de Empleo*) and the minimum vital income (*Ingreso Mínimo Vital*).

The above-mentioned Royal Decree-Law 30/2020 on social measures in defense of employment<sup>30</sup> extends until January 31, 2021, the temporary employment regulation files based on the causes set forth in Article 22 of Royal Decree-Law 8/2020, of March 17, on extraordinary urgent measures to deal with the economic and social impact of Covid-19. The law displays the temporary employment regulation proceedings linked to COVID-19 and other associated extraordinary measures to address the impediment or limitations of activity, the suspension and reduction of working hours for economic, technical, organizational and production reasons linked to COVID-19, the limits related to the distribution of dividends and transparency, all with the aim of safeguarding employment and providing protection for workers in the current context.

The already mentioned Decree-Law 30/2020 sets in motion the articulation of the Temporary Employment Regulation Files are articulated with the Minimum Vital Income. In its fifth final provision, it modifies Royal Decree-Law 20/2020, of May 29, which establishes the minimum vital income<sup>31</sup>, specifying the requirements and conditions of access to the Minimum Vital Income for young people from 23 years of age.

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<sup>27</sup> El Español (2020), 'España eleva más su paro juvenil (43,9%) y duplica el de la eurozona: 16,2% por 8,1%', 1 October 2020; El Independiente (2020), 'Paro juvenil: el ranking de la vergüenza para España', 4 September 2020; Ordiz, E. (2020), "'Una generación perdida": el paro juvenil en España casi triplica a la UE', *20minutos*, 5 October 2020; Ramírez, A. (2020), 'España encabeza por segunda vez el paro juvenil en la UE', *Cambio16*, 13 October 2020.

<sup>28</sup> SEPE - Servicio Público de Empleo Estatal (2020), 'Evolución del paro registrado por sexo, edad, sectores, extranjeros, provincias y Comunidad Autónomas', Press release, October 2020, available at: <https://www.sepe.es/HomeSepe/que-es-el-sepe/estadisticas/datos-avance/paro.html#top>.

<sup>29</sup> Expansión (2020), 'Desempleo de España', September 2020.

<sup>30</sup> Spain, Royal Decree-Law 30/2020 on social measures in defence of employment (*Real Decreto-ley 30/2020 de medidas sociales en defensa del empleo*), 29 September 2020, available at: <https://www.boe.es/eli/es/rdl/2020/09/29/30/con>.

<sup>31</sup> Spain, Royal Decree-Law 20/2020 establishing the minimum vital income (*Real Decreto-ley 20/2020 por el que se establece el ingreso mínimo vital*), 29 May 2020, available at: <https://www.boe.es/eli/es/rdl/2020/05/29/20/con>.

## Right to housing

In Spain, as reflected in several media, the right to housing is one of the social rights that has demonstrated a high degree of sensitivity to the negative impacts of the current pandemic.<sup>32</sup>

In view of the foreseeable increase in evictions linked to the difficult employment situation, the State Administration has introduced legal measures to prohibit both evictions and abusive rent increases. In this sense, by virtue of the aforementioned Royal Decree-Law 30/2020 on social measures in defence of employment, the government has extended the ban on evictions and "abusive" increases in housing rents until 31 January 2021. These are considered as being the necessary measures embedded in the so-called "social shield" to alleviate the economic consequences of the coronavirus crisis on the most vulnerable population.

According to media sources, NGOs warn that despite these measures, curfews imposed under Royal Decree 926/2020 declaring the new state of alarm could lead to a considerable increase in the number of homeless people and worsen the human drama of the more than 40,000 people who survive on the streets<sup>33</sup>.

### **3 Negative impact on social rights for vulnerable groups including measures to address this**

*Please select and provide information concerning two groups whose social rights were particularly negatively impacted with respect to developments/measures adopted in relation to COVID-19, between 1 September – 31 October 2020. For each of the two groups selected – highlight which social rights were most impacted. Also, identify any government and related measures that were introduced to alleviate the negative impact on these groups.*

#### Elderly people

Article 6.1.c) of the above-mentioned Royal Decree 926/2020 provides for assistance and care for the elderly as one of the reasons justifying displacement in the context of mobility restricted by the state of alarm. However, many psychologists and geriatricians agree in warning of the serious negative consequences that measures restricting freedom of assembly and freedom of movement can have for the elderly. They identify loneliness, loss of memory, sadness, fear and homesickness, new or more acute pain, loss of life expectancy among some of these consequences<sup>34</sup>.

They point out that 95% of the senior citizens' centres in Spain are located in public buildings, which are currently closed without any scheduled opening date, which is causing a significant lack of activities for the elderly. Therefore, the new state of alarm may increase "serious health

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<sup>32</sup> Fanjul, S. G. (2020), 'No tener casa mata', *El País*, 26 October 2020.

<sup>33</sup> Zas Marcos, M. & Rodríguez, P. (2020), 'Coronavirus, frío y hambre: el toque de queda de quienes no tienen donde ir', *elDiario.es*, 30 October 2020; Colell, E. (2020), 'Los sintecho y el toque de queda: "Nos ven como basura, no como personas"', *elPeriódico*, 27 October 2020; Fernández, E. (2020), 'Toque de queda y sin techo: "No tengo donde meterme"', *La Región*, 28 October 2020.

<sup>34</sup> Cardenete, P. (2020), 'Pérdidas de memoria, tristeza, miedo y morriña y dolores: así afecta el confinamiento a los mayores', *Heraldo*, 13 September 2020.

consequences" among this group, since, added to the lack of activities in the elderly centres, pathologies such as "depression or anxiety" may increase<sup>35</sup>.

In the reporting period it has not been possible to identify specific measures adopted at the State or regional level aimed at protecting elderly, the population segment especially hard hit by the current pandemic.

### Homeless people

In a recently published study, the NGO Cáritas estimates that the number of homeless people in Spain has increased by 25% since the beginning of the Covid-19 pandemic, exceeding 40 thousand people<sup>36</sup>. In terms of profile, homeless people are mostly male between 45 and 64 years of age and of Spanish nationality (53.5%). However, there is an increasing number of women involved in homelessness. In fact, 7,100 women live without a home or shelter, many of whom are on the streets after having suffered violence. More than 1,000 children and adolescents live in families without regular housing; and another 7,300 young people between 18 and 29 years of age (two out of every ten homeless people), many of them former minors who are released from sheltered facilities without alternative accommodation, have found their destiny on the streets. A smaller but equally important percentage are those who suffer from mental health disorders or certain additions that make them end up on the street. According to Cáritas, they are all characterised by extreme vulnerability.

It has not been possible to identify any specific measures taken during the reporting period to provide specific protection to homeless people. A comprehensive national strategy for homelessness is in place since 2015<sup>37</sup>. In some regions, such as the Basque Country<sup>38</sup>, there are also regional strategies. Some municipalities, such as Madrid<sup>39</sup>, have also adopted their own municipal programmes. In addition, it has been possible to identify a number of NGOs operating in the field of homelessness. It remains to be seen to what extent all these actors, programmes and strategies are coordinated and how effective they are in the current pandemic context.

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<sup>35</sup> *vivirEdiciones* (2020), 'Alerta de las consecuencias negativas del estado de alarma para los mayores', 27 October 2020.

<sup>36</sup> Cáritas (2020), *Las personas en situación de sin hogar acompañadas por Cáritas. Contexto en 2019 y durante el estado de alarma y la COVID-19*, October 2020, Madrid: Cáritas Española Editores, <https://caritas-web.s3.amazonaws.com/main-files/uploads/2020/10/C%C3%81RITASestudios-e-investigaciones-22-web-.pdf>.

<sup>37</sup> Spain, Consejo de Ministros (2015), *Estrategia Nacional Integral para Personas sin Hogar 2015-2020. Aprobada por Acuerdo de Consejo de Ministros de 6 de noviembre 2015*, Madrid, Ministerio de Sanidad, Servicios Sociales e Igualdad, available at: <https://www.msbs.gob.es/ssi/familiasInfancia/ServiciosSociales/docs/EstrategiaPSH20152020.pdf>.

<sup>38</sup> Spain, Gobierno Vasco (2018), *Estrategia Vasca Para Personas sin Hogar 2018-2021*, available at: [https://www.euskadi.eus/contenidos/informacion/instrumento\\_valoracion/es\\_instrume/adjuntos/ESTRATEGIA%20VASCA%20PARA%20PERSONAS%20SIN%20HOGAR%202018-2021%20castellano.pdf](https://www.euskadi.eus/contenidos/informacion/instrumento_valoracion/es_instrume/adjuntos/ESTRATEGIA%20VASCA%20PARA%20PERSONAS%20SIN%20HOGAR%202018-2021%20castellano.pdf).

<sup>39</sup> Spain, Ayuntamiento de Madrid (2015), *Estrategia Municipal para la Prevención y la Atención al Sinhogarismo, 2015-2020*, available at: <https://www.madrid.es/UnidadesDescentralizadas/SamurSocial/NuevoSamurSocial/ficheros/LARES.%20Estrategia%20Municipal%20erradicaci%C3%B3n%20sinhogarismo%202015-2020%201.pdf>.