

Coronavirus pandemic in the EU – Fundamental Rights Implications

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1 Measures taken by government/public authorities

1.1 Emergency laws/states of emergency, including enforcement actions

Following the declaration of emergency on 16 March 2020, the Finnish government has continued to issue decrees under the Emergency Powers Act (*valmiuslaki/beredskapslagen*, Act No. 1552/2011).¹ As a new enforcement action, the government issued under Section 95 (2) a decree providing that health care professionals between the age of 18 and 67 can be ordered to carry out health care work when deemed necessary.² With a new decree this possibility has been extended and is now in force until 13 May 2020.³ It has not yet been necessary to make use of these powers.

Restrictions on movement to and from the Region of Uusimaa, where most Covid-19 cases have been registered, were introduced on 28 March 2020.⁴ The restrictions covered all travel except travel linked to public functions, work, studies, conscript service, care or death of close family member or implementation of access rights of children. The restrictions on the freedom of movement were monitored by the police with the assistance of the border guard and defence forces. Roadblocks were introduced at all major roads from the Region of Uusimaa to other regions of Finland. In line with Section 23 of the Constitution of Finland (*Suomen perustuslaki/Finlands grundlag*, Act No. 731/1999), the Parliament is mandated to consider all government decrees concerning provisional exceptions. Thus, when assessing the validity of the Government Decree No. 146/2020, the Constitutional Law Committee of the Parliament (*perustuslakivaliokunta/grundlagsutskottet*) noted that the infringement on the right to freedom of movement (Section 9 of the Constitution) was substantial. Further, the Committee underlined the requirements that any restrictions need to be temporary, necessary and proportionate in relation to the aim of the Emergency Powers Act. When this no longer is the case the restrictions have to be terminated.⁵ The Government Decree No. 146/2020 was originally in force until 19 April 2020, but on 15 April the government established that there is no need to uphold the restrictions and they were consequently terminated with immediate effect. During the lockdown of the Region of Uusimaa, the police reported that 0,5 million vehicles were inspected and 4,300 turned back.

¹ Government Decrees and Acts of Parliament can be retrieved from the [Finlex](#) database using the name or the number of the legal instrument.

² Finland, [Government Decree No. 139/2020](#) (*valtioneuvoaston asetus valmiuslain 95 §:n 2 momentissa säädetyin toimivaltuuden käyttöön otosta ja 96–103 §:n soveltamisesta/statsrådets förordning om ibruktagning av befogenheten i enlighet med 95 § 2 mom. och tillämpning av 96–103 § i beredskapslagen*), 25 March 2020.

³ Finland, [Government Decree No. 177/2020](#) (*valtioneuvoaston asetus valmiuslain 95 §:n 2 momentissa säädetyin toimivaltuuden käyttöön ja 96–103 §:n soveltamisen jatkamisesta/statsrådets förordning om fortsatt utövning av befogenheten i enlighet med 95 § 2 mom. och fortsatt tillämpning av 96–103 § i beredskapslagen*), 31 March 2020.

⁴ Finland, [Government Decree No. 146/2020](#) (*valtioneuvoaston asetus liikkumisen tilapäisistä rajoituksista väestön suojaamiseksi/statsrådets förordning om temporära begränsningar i rörelsefriheten som behövs för skyddande av befolkningen*), 27 March 2020.

⁵ Finland, Constitutional Law Committee (*perustuslakivaliokunta/grundlagsutskottet*), [Report PeVM 11/2020 vp – M 10/2020 vp](#), 3 April 2020.

Furthermore, 115 fines and 154 admonitions were issued.⁶ As of 29 April 2020, there are 4,906 officially reported covid-19 cases and 206 deaths in the whole country.⁷

1.2 Measures affecting the general population

1.2.1 Social distancing

In Finland, the government continued to uphold the recommendations adopted in the beginning of the crisis, including quarantine like conditions for persons over 70 and for persons returning from abroad, in the latter case for a period of two weeks.⁸ To facilitate social distancing, a temporary amendment of the Act regulating hotel and restaurant services was adopted with the effect of closing all restaurants until 31 May 2020.⁹ Only take-a-way services can be offered. Further, under the Communicable Diseases Act (*tartuntatautilaki/lag om smittsamma sjukdomar*, Act No. 1227/2016),¹⁰ the regional state administrative agencies extended their previous decisions prohibiting indoor and outdoor gatherings of more than 10 persons in all regions until 13 May 2020.¹¹ The Finnish Institute for Health and Welfare (*terveyden ja hyvinvoinninlaitos/institutet för hälsa och välfärd*) continues to provide information on how to implement social distancing in concrete situations, including in quarantine like conditions.

In accordance with Section 60 and Section 63 of the Communicable Diseases Act, only medical doctors in public-sector employment can order a person to formal quarantine or isolation. A person who violates quarantine or isolation orders can under Chapter 44, Section 2 of the Criminal Code (*rikoslaki/strafflagen*, Act No. 39/1889) be sentenced to fines or imprisonment up to three months. As to gatherings of more than 10 people, the police reports that the primary focus is on advising, urging and commanding people to abide by the orders. If these are not followed offences that could be at stake include, for example, assembly violation (Section 26) under the Assembly Act (*kokoontumislaki/lag om sammankomster*, Act No. 530/1999), or contumacy (Chapter 16, Section 4) and invasion of public premises (Chapter 24, Section 3) under the Criminal Code (*rikoslaki/strafflagen*, Act No. 39/1889).¹² The sentencing can be a fine or in more serious instances imprisonment. The government recommendations concerning quarantine like conditions for older people cannot be enforced through penalties.

⁶ Finland, National Police Board (*poliisihallitus/polisstyrelsen*), '[The police prepare to end the monitoring of restrictions on movement at the borders of Uusimaa](#)', press release, 15 April 2020.

⁷ Finland, Finnish Institute for Health and Welfare (*terveyden ja hyvinvoinnin laitos/institutet för hälsa och välfärd*), '[Situation update on corona virus](#)', web page

⁸ Finland, Government (*valtioneuvosto/statsrådet*), '[Government policies to curb spread of coronavirus and protect at-risk groups to continue until 13 May](#)', press release, 9 April 2020.

⁹ Finland, '[Amendment of Accommodation and Restaurant Services Act No. 153/2020](#) (*laki majoitus- ja ravitsemistoiminnasta/lag om inkvarterings- och förplägnadsverksamhet*, Act No. 308/2006), 30 March 2020, '[Government Decree No. 173/2020](#) (*valtioneuvoston asetus ravitsemisliikkeiden aukiolon väliaikaisesta rajoittamisesta tartuntataudin leviämisen ehkäisemiseksi/statsrådets förordning om temporär begränsning av förplägnadsrörelsers öppethållning i syfte att förebygga spridning av en smittsam sjukdom*), 31 March 2020.

¹⁰ Finland, '[Communicable Diseases Act No. 1227/2016](#) (*tartuntatautilaki/lag om smittsamma sjukdomar*).

¹¹ Finland, Regional State Administrative Agencies (*aluehallintovirasto/regionförvaltningsverket*), '[Aluehallintovirastot tekivät tartuntatautilain mukaiset jatkopäätökset yleisötilaisuuksien kieltämisestä ja oppilaitosten tilojen sulkemisesta](#)', press release, 8 April 2020.

¹² Finland, Police (*poliisi/polisen*), '[Gatherings and public meetings](#)', web page.

1.2.2 Education

In Finland, the government extended the time limit of its decree concerning distance teaching at primary, secondary and tertiary levels and in early childhood education until 13 May 2020.¹³ Simultaneously the regional state administrative agencies (*aluehallintovirasto/regionförvaltningsket*) extended their decisions to keep educational institutions closed.¹⁴ According to Section 3 (4) of the Government Decree No. 191/2020, contact teaching is still organized for specific groups, that is, children in pre-primary education, children in grade 1-3, children with special needs, and children in preparatory education. However, at the request of the guardian, the education for these groups shall be organized in another way than contact teaching. This possibility does not cover pre-primary education, which falls outside the general compulsory education system in Finland.

In particular, the provisions concerning preparatory education targeting children and youth from migrant families have been motivated by socioeconomic factors. The Ministry of Education and Culture states in its background report that the differential treatment of pupils attending preparatory education is warranted because parents with migrant background are not always able to provide enough support to their children in distance education. Consequently, these children are from the start in a more vulnerable position and affirmative action is therefore motivated.¹⁵ In this context it should be noted that preparatory education is optional for municipalities.

The National Board of Education (*opetushallitus/utbildningsstyrelsen*) has issued instructions to schools on the monitoring of the attendance of students in distance education.¹⁶ The school has an obligation to monitor the attendance and clarify the reasons for a student's absence from distance teaching. The teacher is obligated to keep in touch with the students also during distance teaching. In case the student has learning difficulties, the school shall provide individual pedagogical support. The school shall in serious cases cooperate with other relevant sectors, including social, health and youth care. With respect to children from immigrant families, it is explicitly mentioned that the school needs to ensure that immigrant children and their guardians understand the information, instructions and timetable provided. Further, the National Board of Education recognizes the need for computers for economically disadvantaged children. The campaign 'Computers for all' initiated in 2015 as a collaboration between authorities, private companies and the church has been used for distributing computers during the pandemic. The schools have through the campaign reported a need of 7,000 computers. So far, 850 computers and donations of € 100,000 have been obtained.¹⁷

¹³ Finland, [Government Decree No. 191/2020](#) (*valtioneuvoston asetus varhaiskasvatuksen sekä opetuksen ja koulutuksen järjestämisvelvollisuutta koskevista väliaikaisista rajoituksista/statsrådets förordning om temporära begränsningar av skyldigheten att ordna småbarnspedagogik samt undervisning och utbildning*), 6 April 2020.

¹⁴ Finland, Regional State Administrative Agencies (*aluehallintovirasto/regionförvaltningsverket*), '[Aluehallintovirastot tekivät tartuntatautilain mukaiset jatkopäätökset yleisötilaisuuksien kieltämisestä ja oppilaitosten tilojen sulkemisesta](#)', press release, 8 April 2020.

¹⁵ Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), [Government decree proposal on temporary restrictions on the obligation to organize early childhood education and other teaching and education](#), Report (*muistio/promemoria*), 6 April 2020, p. 4.

¹⁶ Finland, National Board of Education (*opetushallitus/utbildningsstyrelsen*), [Poissaolojen seuraaminen ja niihin puuttuminen etäopetuksen aikana](#), last updated 20 April 2020.

¹⁷ Information obtained from the web page of the campaign '[Kaikille kone -kampanja](#)' on 8 May 2020.

The government has decided to lift the restrictions on early childhood education and care as well as on primary and lower secondary education. This means that contact teaching will resume as of 14 May 2020 in the whole country.¹⁸

1.2.3 Work

The Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringsministeriet*) reports that 173,000 lay off periods and 20,000 unemployment periods have started after 16 March 2020.¹⁹ Various measures have been adopted to strengthen the social protection of persons affected.

A temporary revision of the unemployment legislation, including the Employment Protection Act (*työttömyysturvalaki/lag om utkomstskydd för arbetslösa*, Act No. 1290/2002), relaxing the eligibility requirements and improving the level of benefits, was adopted on 9 April 2020.²⁰ The temporary changes to the payment of unemployment benefits include the abolishment of a normal five-day waiting period and the reduction of the work requirement prior to the unemployment period. In addition, days on which someone is laid off temporarily do not count against their maximum eligibility for unemployment benefits. The changes took effect on 16 March 2020 and are in force until 30 June/6 July. The revision concerning the calculation of the maximum length of the unemployment benefit period does not cover persons who have been fired from their job or laid off before 16 March. The differential treatment between laid off and fired persons has been considered in the Constitutional Law Committee of the Parliament, where the majority accepted the distinction made between the two groups partly due to the short period of time that it is in force.²¹ Constitutional law scholars have criticized the exclusion of fired persons from the scope of the provision in particular because of their weaker position compared to persons who are laid off.²²

To safeguard the social protection of entrepreneurs, a temporary revision of the Employment Protection Act was adopted on 7 April 2020.²³ The amendment offers self-employed persons so-called labour market subsidy (*työmarkkinatuki/arbetsmarknadsstöd*) if their full-time employment in their business has ended or if their income from self-employment due to the covid-19 pandemic is less than € 1089.67 per month. Further, to support self-employed entrepreneurs who work on their own, the government has channelled € 250 million to the municipalities. The eligible entrepreneur is entitled to a one-off grant of € 2,000.²⁴

¹⁸ Finland, Government (*valtioneuvosto/statsrådet*), '[Government decides to lift the restrictions on early childhood education and care and on primary and lower secondary education](#)', press release, 29 April 2020.

¹⁹ Finland, Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringsministeriet*), '[Koronaviruksen vakutukset työllisyystilanteeseen](#)', web page, 29 April 2020.

²⁰ Finland, [Act No. 214/2020](#) (*laki työttömyysturvalain väliaikaisesta muuttamisesta/lag om temporär ändring lagen om utkomstskydd för arbetslösa*), 9 April 2020.

²¹ Finland, Constitutional Law Committee (*perustuslakivaliokunta/grundlagsutskottet*), [Statement PeVL 8/2020 vp - HE 38/2020 vp](#), 6 April 2020.

²² Rautiainen, P., '[Ei mikään tavallinen päivä ... perustuslakivaliokunta 6.4.2020](#)', Perustuslakiblogi, blog post, 6 April 2020.

²³ Finland, [Act No. 192/2020](#) (*laki työttömyysturvalain 11 luvun väliaikaisesta muuttamisesta/lag om temporär ändring av 11 kap. i lagen om utkomstskydd för arbetslösa*), 7 April 2020.

²⁴ Finland, [Government Decree No. 199/2020](#), (*valtioneuvoston asetus yksinyrittäjien tukemiseen tarkoitetuista valtionavustuksista kunnille/statsrådets förordning om statsunderstöd till kommunerna för stödjande av ensamföretagare*), 8 April 2020.

As to specific categories of workers, persons on zero hour contracts, whose job due to the pandemic has been reduced or ended, may apply for adjusted unemployment benefits (*sovittelu työttömyysetuus/jämkad arbetslöshetsförmån*) under Chapter 4 of the Employment Protection Act.²⁵ No amendments to these provisions have been made as a response to the pandemic. However, temporary amendments to the Employment Act No. 55/2001 have been introduced for the period 1 April - 30 June 2020.²⁶ These include the revision of Section 2 of Chapter 5 allowing employers to lay off persons on temporary contracts. For public sector employees this is allowed only if the person is substituting a permanent employee, who could be laid off. The laid off person is entitled to unemployment benefits under the requirements established in the Employment Protection Act.

In connection with the introduction of distance teaching (see 1.2.2.), the government issued, to begin with, a decree that allowed only parents in critical work to send their children to school.²⁷ To implement the decree the government drew up a list comprising close to 100 critical functions. However, due to uncertainty on how to interpret the list and in order to safeguard equal treatment, the provisions were revised within the timespan of three days and all parents with children in pre-primary education, grades 1-3, preparatory education and children with special needs were given the possibility to decide if their child should be sent to school or receive teaching at home.²⁸ Consequently, the category critical work ceased to fulfil a legal meaning under the Government Decree No. 126/2020. For a discussion on essential work in the context of border crossing, see 1.2.5.

For health care and social care workers the question of access to personal protective equipment has been a constant concern of authorities, professional organisations and workers themselves. Even if the National Emergency Supply Agency (*huoltovarmuuskeskus/försörjningsberedskapscentralen*) has been able to distribute protective equipment to the different hospital districts, the quality and quantity has not always been adequate.²⁹ In the retail sector, to protect sales persons many shops have installed plexiglass between the customer and the staff and have stopped accepting cash payments. In Finland, face masks are neither required nor broadly used among the general public.

As to additional financial support, the labour unions for health care professionals have in the ongoing negotiations for a new collective agreement argued for an extra corona compensation. This has so far not been achieved.³⁰

²⁵ Information obtained from the Social Insurance Institution of Finland (*kansaneläkelaitos/folkpensionsanstalten*) via phone on 6 May 2020.

²⁶ Finland, [Act. No. 167/2020](#) (*laki työsopimuslain väliaikaisesta muuttamisesta/lag om temporär ändring av arbetsavtalslagen*), 31 March 2020.

²⁷ Finland, [Government Decree No. 126/2020](#) (*valtioneuvoston asetus varhaiskasvatuksen sekä opetuksen ja koulutuksen järjestämisvelvollisuutta koskevista väliaikaisista rajoituksista/statsrådets förordning om temporära begränsningar av skyldigheten att ordna småbarnspedagogik samt undervisning och utbildning*), 17 March 2020.

²⁸ Finland, [Government Decree No. 131/2020](#) (*valtioneuvoston asetus varhaiskasvatuksen sekä opetuksen ja koulutuksen järjestämisvelvollisuutta koskevista väliaikaisista rajoituksista annetun valtioneuvoston asetuksen 3 §:n muuttamisesta/statsrådets förordning om ändring av 3 § I statsrådets förordning om temporära begränsningar av skyldigheten att ordna småbarnspedagogik samt undervisning och utbildning*), 20 March 2020.

²⁹ YLE Finnish Broadcasting Corporation (*Yleisradio/Rundradion*), '[Suomen Kiinasta tilaamat hengityssuojaimet eivät läpäisseet testejä](#)', 8 April 2020.

³⁰ The Union of Health and Social Care Professionals in Finland, Tehy, '[SuPer ja Tehy eivät hyväksy ratkaisuesitystä: Koronakriisissä kamppaileville tarjolla heikennyksiä](#)', press release, 30 April 2020.

1.2.4 Access to justice

In Finland, the National Courts Administration (*tuomioistuinvirasto/domstolsverket*) recommends that court proceedings continue as planned provided they do not cause danger to staff and clients.³¹ Further, the courts are advised to use as much as possible distance contacts in the proceedings. As a general guideline, the National Courts Administration states that cases requiring the presence of at least one of the parties can be postponed. Urgent cases involving coercive measures and criminal cases where the defendant is detained are listed as examples of cases that should not be postponed. Other cases to be prioritised are detention orders of aliens, custody and access cases concerning children, restraining orders, child protection cases, cases linked to the pandemic, and bankruptcy cases.³² The final prioritisation of cases is done by the individual courts. In mid-March 2020, courts have reported that they will adjourn some of their scheduled proceedings.³³ The Supreme Court (*Korkein oikeus/Högsta domstolen*) informs that they will move to written proceedings and will only exceptionally conduct oral hearings.³⁴ No end dates for these practices or lists of urgent cases are given in the press releases of the courts. In the media it is reported that 4,000 criminal cases and 1,000 civil cases have been postponed in the district courts (*käräjäoikeus/tingsrätt*).³⁵

On 15 April 2020, the National Courts Administration published a guide on distance contacts in court proceedings during emergency.³⁶ The guide includes both practical information on various communication tools as well as general recommendations on how to organise court proceedings using online means of communication.

With the exception of measures enabling the postponement of prison sentences (see 1.3), no alternatives to detention have been introduced as a consequence of the pandemic.

1.2.5 Freedom of movement

In Finland, the government decided to extend its decision to reintroduce border controls at internal borders until 13 May 2020.³⁷ The decision lists three main situations when border crossings continue to be allowed. These are persons returning to Finland, leaving Finland and conducting necessary travel for work or other purposes. In addition to regular travel documents, persons in the third category need to submit to the border control authorities a justification form, where the necessity of the travel is explained.³⁸ Persons with a right to return to Finland are Finnish passport holders, EU and Schengen citizens residing in Finland and third country nationals with residence permit. As to

³¹ Finland, National Courts Administration (*tuomioistuinvirasto/domstolsverket*), '[Kaikki tuomioistuimissa käsiteltävät asiat pyritään hoitamaan vaarantamatta kenenkään terveyttä](#)', press release, 19 March 2020.

³² Information obtained from the National Courts Administration via email on 8 May 2020.

³³ Information obtained on 27 April 2020 from the webpage Oikeus.fi maintained by the Ministry of Justice.

³⁴ Finland, Supreme Court (*Korkein oikeus/Högsta domstolen*), '[Korkein oikeus sopeuttaa toimintaansa koronavirustilanteeseen](#)', press release 20 March 2020.

³⁵ Yle Finnish Broadcasting Company (*Yleisradio/Rundradion*), '[Oikeudenkäyntejä keskeytetään koronapandemian vuoksi – juttusumaa aletaan purkaa kriisin jälkeen](#)', 19 April 2020.

³⁶ Finland, National Courts Administration (*tuomioistuinvirasto/domstolsverket*), '[Opas tuomioistuimille etäyhteyksien käyttöön oikeudenkäynnissä](#)', Tuomioistuinvirasto, 15 April 2020.

³⁷ Finland, [Government Decision SM/2020/26](#) (*valtioneuvoston päätös rajavallvonnan väliaikaisesta palauttamisesta sisärajoille tehdyn päätöksen voimassaolon jatkamiesta*), 7 April 2020.

³⁸ Finland, Border Guard (*rajavartiolaitos/gränsbevakningsväsendet*), '[Ohjeistus rajanylitysliikenteeseen](#)', 8 April 2020.

necessary travel for work, the decision stipulates that this does not include regular commuting between Finland and Estonia, only between Finland and Sweden and Norway. It is estimated that 300 health care professionals in northern Finland commute daily across the border to Sweden.³⁹ By allowing this travel to continue, Finland adheres to the concerns expressed by Swedish authorities on the importance of the Finnish labour force for the health care system.⁴⁰ In addition, the government has extended its previous decision to close some of the external border crossings and restrict the travel at others.⁴¹ The Border Guard (*rajavartiolaitos/gränsbevakningsväsendet*) has issued instructions on what should be considered as necessary travel at internal and external borders.⁴² Constitutional rights experts have expressed concern as to the validity of the restrictions on the freedom of movement. It has been argued that these are not based on an act of Parliament and are not respecting the requirements laid down in Section 9 of the Constitution of Finland, which stipulates that the right to leave the country can be limited by an act only if it is necessary for safeguarding legal proceedings, enforcement of penalties or fulfilment of military service.⁴³

In order to safeguard the security of supplies and the functioning of the labour market, amendments to the Aliens Act (No. 301/2004) and the Act on third country nationals in seasonal work (No. 907/2017) were made on 9 April 2020. The essential work covered by these amendments are established in the Government Decree No. 212/2020, where 37 functions within 11 key sectors are listed, that is, agriculture, energy, technology, chemical industry, food industry, maritime industry, logistics, social and health, communication, construction and infrastructure.⁴⁴ The amendments are in force until 31 October 2020 and enable foreigners already in the country to move to essential work in case they are laid off or fired from another work.⁴⁵ Further, third-country nationals who have obtained permission for seasonal work are entitled to enter the country.⁴⁶ In order to safeguard enough workforce within the agricultural sector during the summer season, the government has so far confirmed a quota of 4,000 agricultural workers from third-countries to be divided between agricultural producers.⁴⁷ The government indicates that this figure may still be increased. During normal years there are 16,000 foreign workers in agriculture and horticulture.

³⁹ Yle Finnish Broadcasting Corporation (*Yleisradio/Rundradion*), [‘Työmatkaliikenteessä lisärajoituksia, mutta pelättyä pohjoisen rajojen täyssulkua ei tullut’](#), 7 April 2020.

⁴⁰ Yle Finnish Broadcasting Corporation (*Yleisradio/Rundradion*), [‘Liikennerajoituksia tiukennetaan Ruotsin ja Norjan rajalla, laivojen henkilöliikenne Virosta, Ruotsista ja Saksasta päättyy’](#), 7 April 2020.

⁴¹ Finland, [Government Decision SM/2020/27](#) (*valtioneuvoston päätös eräiden rajanylityspaikkojen väliaikaisesta sulkemisesta ja liikenteen rajoittamisesta tehdyn päätöksen voimassaolon jatkamisesta*), 7 April 2020.

⁴² Finland, Border Guard (*rajavartiolaitos/gränsbevakningsväsendet*), [Ohjeistus rajanylitysliikenteeseen](#), 8 April 2020.

⁴³ Scheinin, M., [‘Onko Suomen kansalaisen perusoikeus lähteä maasta unohdettu?’](#), Perustuslakiblogi, blog post, 28 April 2020.

⁴⁴ Finland, [Government Decree No. 212/2020](#) (*valtioneuvoston asetus ulkomaalaisten työnteko-oikeudesta huoltovarmuuden tai työmarkkinoiden toimivuuden kannalta välttämättömissä tehtävissä/statsrådets förordning om utlänningars rätt att arbeta i uppgifter som är nödvändiga för försörjningsberedskapen eller arbetsmarknadens funktion*), 9 April 2020.

⁴⁵ Finland, [Act No. 208/2020](#) (*laki ulkomaalaislain väliaikaisesta muuttamisesta /lag om temporär ändring av utlänningslagen*), Section 213 b, 9 April 2020.

⁴⁶ Finland, [Act No. 209/2020](#) (*laki kolmansien maiden kansalaisten maahantulon ja oleskelun edellytyksistä kausityöntekijöinä työskentelyä varten annetun lain väliaikaisesta muuttamisesta/lag om temporär ändring av lagen om villkor för tredjelandsmedborgares inresa och vistelse för säsongsanställning*), 9 April 2020.

⁴⁷ Finland, Government (*valtioneuvosto/statsrådet*), [‘Government measures to ensure availability of seasonal employees’](#), press release 315/2020, 6 May 2020.

Regarding asylum seekers, the Finnish Immigration Service reports delays in the processing of asylum applications. Thus, the asylum interviews were interrupted on 16 March 2020 and are continued on a limited basis as of 14 April 2020.⁴⁸

1.3 Impact of measures on particular groups

Persons with disabilities

As indicated in 1.2.2., the closing of schools has impacted also children with disabilities. In accordance with Section 3 of the Government Decree No. 191/2020 on distance education, children with special needs are entitled to contact teaching, provided that the guardian does not request that the teaching is organized through distance education. The schools are obliged to provide regular support services to children with special needs, however, in the present circumstances, only to the extent possible. This is the case also if the teaching is organised in the home.

Based on a survey among member organisations, the Finnish Disability Forum (*Vammaisfoorumi/Handikappforum*) highlights challenges caused by the covid-19 in the daily lives of persons with disabilities. These include concerns regarding the right to health care if infected, access to essential maintenance services (e.g. wheelchair repairs), access to personal assistants and their personal protection, home care of persons with disabilities when support services are reduced, and continuation of services brought into the home.⁴⁹

The Finnish Institute for Health and Welfare has in the handbook for disability services included a section on covid-19-related instructions and recommendations issued by different authorities and organisations, such as the Ministry for Social Affairs and Health, the Finnish Institute for Health and Welfare, the Finnish Institute of Occupational Health, and the Finnish Social Insurance Institution.⁵⁰ These include the provision of adequate interpretation services for persons who are illiterate or do not understand Finnish and Swedish, the application of prescribed time limits when assessing service needs of persons with disabilities also during emergency, the need to ensure that possible prohibitions to visit institutional care units are proportionate to the aim pursued and are not limiting the right of a disabled person to visit his or her family home, and the requirement that the door to the room of a person with disability can be locked only in case a medical doctor has ordered the person to stay in quarantine or isolation under the Communicable Diseases Act (see 1.2.1).

Older people

As previously mentioned, persons over 70 are requested to stay in quarantine like conditions at home and minimize interaction with others.⁵¹ To assist senior citizens in shopping and other daily chores outside the home many municipalities, religious communities, civil society organisations and neighbours are offering help. In Finland, more than 50,000 people above 75 receive regular home

⁴⁸ Finland, Finnish Immigration Service (*maahanmuuttovirasto/migrationsverket*), '[Finnish Immigration Service continues asylum interviews on a limited basis](#)', press release, 9 April 2020.

⁴⁹ Finnish Disability Forum (*Vammaisfoorumi/Handikappforum*), '[Vammaisten ihmisten oikeudet ja niiden toteutuminen koronaviruksen aiheuttamassa poikkeustilanteessa](#)', 31 March 2020.

⁵⁰ Finland, Finnish Institute for Health and Welfare (*terveyden ja hyvinvoinnin laitos/institutet för hälsa och välfärd*), '[Vammaispalvelujen käsikirja, Koronavirus ja vammaispalvelut](#)', 27 March 2020.

⁵¹ Finland, Government (*valtioneuvosto/statsrådet*), '[Government policies to curb spread of coronavirus and protect at-risk groups to continue until 13 May](#)', press release, 9 April 2020.

care services.⁵² Based on the Communicable Diseases Act (No. 1227/2016), the Ministry for Social Affairs and Health published on 15 April 2020 updated instructions on how to prepare for the spread of covid-19 and to respond to the needs of the customers in home care services, including senior citizens.⁵³ Emphasis is put on the right of the clients to receive social and health care services based on individual needs, the provision of clear instructions to all parties, use of personal protective equipment, and the need to follow hygiene prescriptions.

In Finland, there are less than 5,000 persons in old age homes. As of 29 April 2020, in total 206 covid-19 related deaths have been reported. According to media sources, up to two thirds of all deaths have taken place in care homes.⁵⁴ The municipalities are responsible for monitoring the care homes whether public or private. At regional level oversight is exercised by the Regional State Administrative Agencies (*aluehallintovirasto/regionalförvaltningsverket, Avi*) and at national level by the National Supervisory Authority for Welfare and Health (*sosiaali- ja terveystalun lupa- ja valvontavirasto/tillstånds- och tillsynsverket för social- och hälsovården, Valvira*). Both institutions report that they are currently assessing the overall situation in old age homes in order to identify possible shortcomings in the handling of the covid-19 threat.⁵⁵ Also the Office of the Parliamentary Ombudsman has initiated investigations into old age care homes and in particular the question how the care of persons with memory-related diseases is affected by the epidemic.⁵⁶ As a concrete example, the Office of the Ombudsman notes in this context that locking doors to rooms of old persons cannot for fire safety reasons replace lack of adequate staffing. Furthermore, in case an old person wants to keep the door open and this can be achieved by installing a door damper, it does not constitute an illegal restriction on fundamental rights, provided it does not harm the client.

Detainees

In order to limit the number of prisoners and protect the health of staff and inmates, the execution of prison sentences has been postponed. For shorter prison sentences this was done already in mid-March by way of Ministry Decree No. 122/2020. In order to expand this possibility also to longer prison sentences exceeding six months a temporary act transferring the start of the sentence beyond 31 July 2020 was adopted on 7 April 2020.⁵⁷ The Criminal Sanctions Agency (*rikosseuraamuslaitos/ brottsförvaltningsmyndigheten*) reports that covid-19 has affected the life inside

⁵² Finland, Finnish Institute for Health and Welfare (*terveyden ja hyvinvoinnin laitos/institutet för hälsa och välfärd*), [Kotihoito ja sosiaalihuollon laitos- ja asumispalvelut 2018](#), Tilastoraportti 41/2019, 13 November 2019.

⁵³ Finland, Ministry for Social Affairs and Health (*sosiaali- ja terveystalun ministeriö/social- och hälsovårdsministeriet*), [Koronavirustartuntoihin varautuminen ja asikkaiden tarpeisiin vastaaminen kotiin annettavissa palveluissa](#), ohje, 15 April 2020.

⁵⁴ Yle Finnish Broadcasting Corporation (*Yleisradio/Rundradion*), '[Yle slevitti: Jo kaksi kolmasosa Suomen kaikista koronakuolemista hoivakodeissa](#)', 14 April 2020.

⁵⁵ Finland, National Supervisory Authority for Welfare and Health (*sosiaali- ja terveystalun lupa- ja valvontavirasto/tillstånds- och tillsynsverket för social- och hälsovården*), '[Hoivakotien omavalvonta keskeistä myös koronaepidemian aikana, aluehallintovirastot ja Valvira selvittävät mahdolliset laiminlöynnit](#)', press release, 23 April 2020.

⁵⁶ Finland, Office of the Parliamentary Ombudsman, '[Apulaisoikeusasiamies huolissaan vanhustenhuollon ohjeistusten ja valvonnan puutteista](#)', press release, 28 April 2020.

⁵⁷ Finland, [Act No. 194/2020](#), (*laki sakan muuntorangaistuksen ja ehdottoman vankeusrangaistuksen täytäntönnäpän väliaikaisesta rajoittamisesta/lag om temporär begränsning av verkställigheten av förvandlingsstraff för böter och av verkställigheten av ovillkorliga fängelsestraff*), 7 April 2020.

the prison in various ways, for example, group activities, family meetings and visits outside the prison have been cancelled.⁵⁸ So far no covid-19 cases among the prisoners have been reported.⁵⁹

In the media covid-19 related demonstrations in detention units for asylum-seekers have been reported.⁶⁰ With reference to difficulties in maintaining social distance in the detention unit, asylum-seekers have requested to be freed from detention. The Finnish section of Amnesty International have stated that isolation within the detention unit for a long period of time could constitute an unreasonable breach of human rights, even if the purpose is to protect the life and health of the person.⁶¹ The media reports 95 cases of covid-19 infections in reception centres in the capital area.⁶²

2 Users' data - privacy and data protection

2.1 Arrangements between public authorities and other actors to allow collection, sharing and processing of user data

A Bluetooth based automatic proximity tracing application to inform people about contacts with other individuals who have contracted the Covid-19 virus and to enhance the control of the epidemic is being prepared in cooperation with private IT companies under the general responsibility of the Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*).⁶³ The Ministry of Transport and Communication (*liikenne- ja viestintäministeriö/kommunikationsministeriet*) together with the National Cyber Security Centre (NCSC-FI, *Kyberturvallisuuskeskus/Cybersäkerhetscentret*, KTK) is entrusted with the task of ensuring that data security principles are respected⁶⁴ and the Data Protection Ombudsman (*tietosuojavaltuutettu/dataombudsmannen*) has been and will be consulted in the course of the preparation of the application.⁶⁵ The government has stressed on several occasions that the absolute preconditions for the use of any tracing application are that it is voluntary and that data security is ensured.⁶⁶

⁵⁸ Finland, Criminal Sanctions Agency (*rikosseuraamuslaitos/brottsåtgärdsmyndigheten*), '[Koronaviruksen varautuminen Rikosseuraamuslaitoksessa – usein kysytyt kysymykset](#)', web page, 27 April 2020.

⁵⁹ Information obtained from the Criminal Sanctions Agency per phone on 8 May 2020.

⁶⁰ Yle Finnish Broadcasting Corporation (*Yleisradio/Rundradion*), '[Joukko säilöönottokeskuksen asukkaita meni nälkälakkoon – haluavat vapautteen korona-ajaksi](#)', 24 March 2020.

⁶¹ Amnesty International Finland, '[Säilöönottettujen ulkomaalaisten ihmisoikeudet turvattava koronakriisin aikana](#)', press release, 8 April 2020.

⁶² Yle Finnish Broadcasting Corporation (*Yleisradio/Rundradion*), '[Vastaanottokeskuksessa Espoossa lähes sata koronatartuntaa](#)', 1 May 2020..

⁶³ Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*), (2020), '[Preparation for introduction of an application to trace chains of transmission continues - proposal for a roadmap circulated for comments](#)', press release, 28 April 2020.

⁶⁴ Finland, Minister of Transport and Communication (*liikenne- ja viestintäministeriö/kommunikationsministeriet*), '[Koronaviruksen tartuntaketjujen kartoitus – miten ja millä ehdoin?](#)', Blog post, 5 April 2020. Finland, Ministry of Social Affairs and Health, [Decision appointing the working parties preparing the contact tracing application, 14 May 2020.](#)

⁶⁶ Finland, Minister of Transport and Communication (*liikenne- ja viestintäministeriö/kommunikationsministeriet*), '[Koronaviruksen tartuntaketjujen kartoitus – miten ja millä ehdoin?](#)', Blog post, 5 April 2020 and Finland, Finnish government (2020), '[Government updates Finland's coronavirus strategy: Possible to dismantle restrictive measures in a gradual and controlled manner](#)', press release, 22 April 2020.

A proposal for a road map for introducing the application, which will be based on internationally developed models and the EU common approach, was published and submitted for a round of comments on 28 April 2020.⁶⁷ According to the proposal, the application would not use location data, nor would it store directly identifiable personal information, but pseudonymised identifiers, and the data would be aggregated and data collection decentralised.⁶⁸ The use of the application would be voluntary and the processing of the data would be based on law and require personal consent. No additional health functionalities would be included in the application. According to the plan, a sufficient number of users will be needed for the system to be effective. If the aim is to have 60 % of the Finnish population to use the application, this would mean that 3.3 million people would need to download the application in Finland. The expectation is that the application could be brought into use in June.⁶⁹

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

Preparations for a legislative proposal to enable the introduction of the application on the basis of the emergency situation have been started.. The road map proposal suggests assigning the application related public tasks and powers to the National Institute for Health and Welfare (*Terveyden- ja hyvinvoinninlaitos/Institutet för hälsa och välfärd*, THL) through amendments to the Communicable Diseases Act (*tartuntatautilaki/lag om smittosamma sjukdomar*, Act No. 1227/2016) which regulates the tasks of the National Institute for Health and Welfare in planning, guidance and support of the work to combat communicable diseases. These tasks could comprise e.g. handling proximity data and forwarding the data to health authorities, on condition, that the persons in question have given their permission therefor. The amendments would be temporary and expressly tied to the control of the current corona epidemic.⁷⁰

The proposal also identifies a need to include provisions regulating the safeguards in accordance with the GDPR as well as provisions prohibiting the usage of the gathered information for any other purpose than the corona virus control.⁷¹ Further regulatory needs include a data protection impact assessment which is suggested to be made in the context of the legislative proposal, as well as a safety assessment which could be assigned to the responsibility of the Centre for Cyber Security. In addition, the proposal observes a need to take into account underage users, seeing to it that child

⁶⁷ Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*), (2020), '[Preparation for introduction of an application to trace chains of transmission continues - proposal for a roadmap circulated for comments](#)', press release, 28 April 2020, p. 3.

⁶⁸ Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*), Request for statements, [Kontaktien jäljityssovelluksen käyttöönotto Covid-19-epidemian hallinnan tueksi esitys etenemisestä 20200421.pdf](#), VN/10058/2020, STM053:00/2020, 28 April 2020.

⁶⁹ Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*), Request for statements, [Kontaktien jäljityssovelluksen käyttöönotto Covid-19-epidemian hallinnan tueksi esitys etenemisestä 20200421.pdf](#), VN/10058/2020, STM053:00/2020, 28 April 2020.

⁷⁰ Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*), Request for statements, [Kontaktien jäljityssovelluksen käyttöönotto Covid-19-epidemian hallinnan tueksi esitys etenemisestä 20200421.pdf](#), VN/10058/2020, STM053:00/2020, 28 April 2020.

⁷¹ Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveysministeriö/social- och hälsovårdsministeriet*), Request for statements, [Kontaktien jäljityssovelluksen käyttöönotto Covid-19-epidemian hallinnan tueksi esitys etenemisestä 20200421.pdf](#), VN/10058/2020, STM053:00/2020, 28 April 2020.

rights are respected. Lastly, the proposal notes that the application should be available at least in Finnish and Swedish, possibly also in other languages.

2.3 Privacy and data protection concerns and possible solutions

Suggestions for ensuring privacy and data protection in accordance with the GDPR in the development and use of a tracing application have been presented in advance by e.g. the Data Protection Ombudsman⁷², the Parliament working group on information policy⁷³ and legal experts⁷⁴. The Data Protection Ombudsman advises e.g. voluntary use of the application, observing the principles of lawfulness laid down in Article 5 of the GDPR and anonymising or at least pseudonymising the data.⁷⁵ The Ombudsman also notes it to be necessary to see to it that a data protection impact assessment in accordance with Article 35 of the GDPR is being done.

The road map proposal was submitted for a round of comments which ended on 5 May 2020.⁷⁶ The majority of the commentators (71 %, N=56) considers the proposal at least mainly adequate for the purpose of tracing infection chains.⁷⁷ On the other hand, e.g. legal experts from the University of Turku note the legal acceptability of the application to depend essentially on its efficiency. If the application produces significant amounts of misleading data/false contacts, there will not be strong enough legal basis to issue quarantine orders based on the Act on Communicable Diseases (*tartuntatautilaki/lag om smittosamma sjukdomar*, Act No. 1227/2016), which presupposes a strong suspicion of infection.

The majority of the commentators (64 %) also were of the opinion that privacy and data protection considerations have been observed at least mainly at an adequate level.⁷⁸ However, e.g. the National Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*) is of the opinion that the presented analysis as concerns the data controller, the duty to inform, the lawful basis of the data processing and data safety remain at a superficial level. Nor does the proposal describe how the authorities and/or professionals using the application are being defined, identified and verified, notes the Institute for Health and Welfare.

The Foreign Ministry (*ulkoministeriö/utrikesministeriet*) finds matters relating to the supervision of the application not to have been adequately addressed, also observing the need to stress the

⁷² Finland, Data Protection Ombudsman (*tietosuojavaltuutettu/dataombudsmannen*), '[MyData ja tietosuoja lähtökohtana terveyssovellusten suunnittelussa](#)', Blog post, 7 April 2020.

⁷³ Finland, Collaborative group on Information policy ([Tietopolitiikan yhteistyöryhmä](#)) Digital Tracing of Contact Chains in Viral Epidemic Management – Ethical and Fundamental Principles, 3 April 2020.

⁷⁴ Lindroos-Hovinheimo, S. (2020): '[Tietosuojakysymyksiä korona-aikana](#)', Blog post, 20 April 2020, Perustuslakiblogi.

⁷⁵ ⁷⁵ Finland, Data Protection Ombudsman (*tietosuojavaltuutettu/dataombudsmannen*), '[MyData ja tietosuoja lähtökohtana terveyssovellusten suunnittelussa](#)', Blog post, 7 April 2020.

⁷⁶ Finland, Comments on the road map proposal are available at: Lausuntopalvelu [Lausuntopyyntö esityksestä kontaktien jäljityssovelluksen käyttöönotosta Covid-19-epidemian hallinnan tueksi, Kaikki lausunnonantajat](#).

⁷⁷ Finland, Comments on the road map proposal are available at: Lausuntopalvelu [Lausuntopyyntö esityksestä kontaktien jäljityssovelluksen käyttöönotosta Covid-19-epidemian hallinnan tueksi, Kaikki lausunnonantajat](#).

⁷⁸ Finland, Comments on the road map proposal are available at: Lausuntopalvelu [Lausuntopyyntö esityksestä kontaktien jäljityssovelluksen käyttöönotosta Covid-19-epidemian hallinnan tueksi, Kaikki lausunnonantajat](#).

business sector's responsibility to respect human rights, including the right to privacy, in accordance with the UN Guiding Principles on Business and Human Rights (A/HRC/17/31).⁷⁹

Several commentators draw attention to the need to observe equality viewpoints (e.g. the Association of Finnish Municipalities [*Kuntaliitto/Kommunförbundet*] and the Equality Ombudsman [*yhdenvertaisuusvaltuutettu/diskrimineringsombudsmannen*]), the situation of children and other special groups such as the elderly and disabled persons (e.g. the Supreme Administrative Court [*korkein hallinto-oikeus/högsta förvaltningsdomstolen*] and the Ombudsman for Children [*lapsiasiavaltuutettu/barnombudsmannen*]).⁸⁰ Many of the respondents, including the Ministry of Justice (*oikeusministeriö/justitieministeriet*) with reference to the EDPB letter of 21 April 2020, note that a mobile application should only be used as a part of a broader strategy, including testing and manual tracing of infection chains.

2.4 Any other privacy and data protection concerns

The Chancellor of Justice (*oikeuskansleri/justitiekanslern*) investigated as an own initiative the use of a location data service in monitoring the effect of the government's decisions [restricting freedom of movement between the regions] as an operator had announced that it had developed a model for the use of the government to control the epidemic.⁸¹ The operator offered the service for the Prime Minister's Office and the use of the service was started on 3 April 2020.⁸² The service collects anonymised quantitative data on the movements of people between the regions for a period of three months. The Chancellor of Justice concluded that since the data could not be connected to an individual device or a natural person, even indirectly, it did not constitute processing of personal data in the meaning of the GDPR or violate the prohibition of the use of location data set forth in the Information Society Code (*laki sähköisen viestinnän palveluista/ lag om tjänster inom elektronisk kommunikation*, Act No. 917/2014, Chapter 20). The government utilising the service did not violate anyone's rights, according to the Chancellor of Justice, nor was the introduction of the service unlawful, thus, no further measures from the part of the Chancellor of Justice were required. The Data Protection Ombudsman was not consulted before or during the implementation of the service.⁸³

⁷⁹ Finland, Comments on the road map proposal are available at: Lausuntopalvelu [Lausuntopyyntö esityksestä kontaktien jäljityssovelluksen käyttöönotosta Covid-19-epidemian hallinnan tueksi, Kaikki lausunnonantajat](#).

⁸⁰ Finland, Comments on the road map proposal are available at: Lausuntopalvelu [Lausuntopyyntö esityksestä kontaktien jäljityssovelluksen käyttöönotosta Covid-19-epidemian hallinnan tueksi, Kaikki lausunnonantajat](#).

⁸¹ Finland, Chancellor of Justice (*oikeuskansleri/justitiekanslern*), [Paikannustietojen hyödyntäminen COVID-19-epidemian hillinnässä](#), Decision OKV/15/50/2020, 28 April 2020.

⁸² Finnish Broadcasting Company (yleisradio/rundradion), '[Oikeuskansleri selvittää, miten hallitus hyödyntää Telian paikkatietodataa epidemian torjunnassa – virasto tutkii asian omasta aloitteestaan](#)', news release, 11 April 2020.

⁸³ Finland, information obtained from the office of the Data Protection Ombudsman (*tietosuojavaltuutettu/data-ombudsmannen*) on 6 May 2020.