

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

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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

In **Finland**, the state of emergency ended on 16 June 2020.<sup>1</sup> The use of powers under the Emergency Powers Act (*valmiuslaki/beredskapslagen*, Act No. 1552/2011) was repealed. The measures taken to manage the COVID-19 pandemic are now based on ordinary legislation. The focus has shifted from wide-ranging restrictions to more targeted measures at regional and local levels (see below).

## 1.2 Freedom of assembly

In **Finland**, the coronavirus-related restrictions on public gatherings (including demonstrations) and public events (such as concerts, movies, theatres and sports events) are based on the Communicable Diseases Act (*tartuntatautilaki/lag om smittsamma sjukdomar*, Act No. 1227/2016).<sup>2</sup> At regional level the decision on restrictions or prohibition of public gatherings and events are made by the six Regional State Administrative Agencies (*aluehallintovirasto/regionförvaltningsverket*), at local level by the municipalities. Hospital districts in the region provide expert assistance. The decision-making at regional and local levels relies on the epidemiological information and recommendations from the Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*). The government action plan to manage the epidemic divides the epidemiological situation into three phases: base, acceleration and spreading phase.<sup>3</sup> These are used to evaluate the need for restrictions and their targeting. According to information from the Regional State Administrative Agencies, the restrictions on public events do not concern regular services provided in public premises (such as libraries, playgrounds, amusement parks, zoos, swimming pools), nor private events.<sup>4</sup>

The restrictions on public events issued by the Regional State Administrative Agencies do not apply to practice of religion when this is part of the characteristic activities of a religious community and takes place in the community's own premises.<sup>5</sup> This is due to the freedom of religion as provided for in the Constitution Act of Finland (*Suomen perustuslaki/Finlands grundlag*, Act No. 731/1999) and the Act on the Freedom of Religion (*uskonnonvapauslaki/religionsfrihetslag*, Act No. 453/2003).<sup>6</sup> It also follows the scope of application of the Assembly Act (*kokoontumislaki/lag om sammankomster*, Act No. 530/1999) and the definition of public events and gatherings in the Act.<sup>7</sup> However, the restrictions on public events apply to other activities organised by religious communities and to all activities of

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<sup>1</sup> [FRANET country study](#), 2 July 2020.

<sup>2</sup> Finland, [Communicable Diseases Act](#) No. 1227/2016 (*tartuntatautilaki/lag om smittsamma sjukdomar*).

<sup>3</sup> Finland, Government (*valtioneuvosto/statsrådet*), ['Government discusses action plan to manage COVID-19'](#), press release, 4 September 2020.

<sup>4</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), [Usein kysytyt kysymykset](#), website, 15 October 2020.

<sup>5</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), [Usein kysytyt kysymykset](#), website, 30 October 2020.

<sup>6</sup> Finland, [Constitution of Finland](#) No. 731/1999 (*Suomen perustuslaki/Finlands grundlag*), section 11. Finland, [Act on the Freedom of Religion](#) No. 453/2003 (*uskonnonvapauslaki/religionsfrihetslag*), section 28.

<sup>7</sup> Finland, [Assembly Act](#) No. 530/1999 (*kokoontumislaki/lag om sammankomster*), section 2.

non-registered religious groups, which often function as ideological associations.<sup>8</sup> According to the Act on the Freedom of Religion, a religious community means the Evangelical Lutheran Church of Finland, the Orthodox Church of Finland and any religious community registered in the manner provided in the Act.<sup>9</sup> The largest religious communities in the latter group are the Jehovah's Witnesses, the Evangelical Free Church of Finland and the Catholic Church in Finland.<sup>10</sup> The Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*) reported on 28 October that the main religious communities have, by their own decision, largely followed the coronavirus-related restrictions and safety arrangements in their premises.<sup>11</sup>

In **Finland**, the number of new coronavirus infections started to increase after the summer. This led to tighter restrictions on public events issued by the Regional State Administrative Agencies. In August, public events with more than 500 people were permitted with special safety arrangements. In September-October, public events with more than 50 attendees were allowed in indoor and enclosed outdoor spaces, provided that they comply with the safety guidelines from the Finnish Institute for Health and Welfare and the Ministry of Education and Culture.<sup>12</sup> In smaller events the organiser was advised, but not required to follow safety guidelines.

The Regional State Administrative Agencies also decided on stricter restrictions in their area, targeted at clusters of COVID-19. For example, the Regional State Administrative Agency in Western and Inland Finland banned all indoor and outdoor public events and gatherings with more than 10 attendees within the Vaasa Hospital District for a period between 12-31 October 2020, as a response to a rapid increase in new reported cases of COVID-19 infections in the city of Vaasa and surroundings.<sup>13</sup> On 15 October, the Regional State Administrative Agency in Southern Finland decided that public events in indoor and enclosed outdoor spaced with more than 20 people are allowed only on condition that they comply with the hygiene and safety guidelines.<sup>14</sup> The restriction first applied to the metropolitan district of Helsinki, Espoo and Vantaa only and between 19 October and 8 November 2020. On 22 October, it was extended to cover all municipalities within the hospital districts of Helsinki and

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<sup>8</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), [Usein kysytyt kysymykset](#), website, 30 October 2020.

<sup>9</sup> Finland, [Act on the Freedom of Religion](#) No. 453/2003 (*uskonnonvapauslaki/religionsfrihetslag*), section 2.

<sup>10</sup> Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), [Religious communities](#), website, 7 November 2020.

<sup>11</sup> Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), '[Uskonolliset yhdyskunnat noudattavat koronasuosituksia hyvin](#)', press release, 28 October 2020.

<sup>12</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), [Lokakuun päätökset kokoontumisrajoituksista annettu](#), 22 September 2020. Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*) and the Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [Ohje koronavirustartuntojen ehkäisemisestä yleisötilaisuuksien ja yleisten kokoontumisten yhteydessä sekä julkisten tilojen käytössä](#), guidelines, 21 September 2020.

<sup>13</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), '[Vaasan sairaanhoitopiirin alueelle kymmenen hengen kokoontumisrajoitus kolmeksi viikoksi](#)', press release, 9 October 2020.

<sup>14</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), '[Pääkaupunkiseudulla yli 20 hengen yleisötilaisuuksissa on noudatettava ohjetta turvaetäisyyksistä ja hygieniäkäytännöistä 19.10. alkaen](#)', press release, 15 October 2020.

Uusimaa and of Kanta-Häme and it will be in force until 30 November 2020.<sup>15</sup> Also on 22 October, the Regional State Administrative Agency in Southwest Finland decided that public events in indoor and enclosed outdoor spaced with more than 20 people are allowed only on condition that they comply with the hygiene and safety guidelines. The restriction is in force between 26 October and 25 November 2020.<sup>16</sup>

At local level, for example the coronavirus coordination group in the Helsinki metropolitan area decided on 8 October to give a strong recommendation to the effect that private meetings of more than 20 people are postponed or cancelled and that organisers of large sports and culture events recommend the use of face masks at their events.<sup>17</sup> On 13 October, the regional corona prevention task force of Southwest Finland recommended against private indoor events of more than 20 people.<sup>18</sup>

On 23 October, the government urged the regional and local authorities to fully exercise their decision-making power to fight the epidemic. It issued several non-binding recommendations as guidance to decision-making at the regional and local levels.<sup>19</sup> The government recommended that in regions where the epidemic is accelerating private events with more than 20 persons are avoided and the number of persons at indoor public events is restricted to half the normal capacity. In regions where the virus is spreading rapidly, private events with more than 10 persons should be avoided. As a last resort, public events may be prohibited altogether, if necessary.

Pursuant to the Assembly Act (*kokoontumislaki/lag om sammankomster*, Act No. 530/1999), the organiser of a public gathering or a public event shall see to the compliance with the law in the event and to the safety of the participants. The police maintain order and security in public gatherings and events, and in doing so can intervene in obvious breaches of restrictions set by the Regional State Administrative Agencies.<sup>20</sup> The police reported one registered case in September-October of a public event (football match) where the safety guidelines had not been followed. The event organiser had admitted too many spectators and it was not possible to ensure safe distances. The police instructed the organiser of the safety guidelines.<sup>21</sup>

The Supreme Administrative Court (*korkein hallinto-oikeus/högsta förvaltningsdomstolen*) found on 23 October that the administrative court could dismiss a case where the appellant had challenged the decision on restrictions to public events which had been issued by the Regional State Administrative Agency in Northern Finland in order to curb the spread of the coronavirus.<sup>22</sup> The appellant, who did not live in Northern Finland, claimed that because of the constitutional right to freedom of movement

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<sup>15</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), '[Uudellamaalla ja Kanta-Hämeessä rajoitetaan marraskuussa yli 20 hengen yleisötilaisuuksia – Etelä-Karjalassa, Kymenlaaksossa ja Päijät-Hämeessä rajoitukset koskevat yli 50 hengen tilaisuuksia](#)', press release, 22 October 2020.

<sup>16</sup> Finland, Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), '[Varsinais-Suomessa kokoontumisrajoitukset kiristyvät](#)', press release, 23 October 2020.

<sup>17</sup> Finland, City of Helsinki, '[The Helsinki metropolitan area - a recommendation to avoid private events of more than 20 persons and to require face masks at sports and culture events](#)', 9 October 2020.

<sup>18</sup> Finland, Turku University Hospital, '[Coronavirus epidemic in 2020](#)', website, 13 October 2020.

<sup>19</sup> Finland, Government (*valtioneuvosto/statsrådet*), '[Government adopts resolution on local and regional recommendations to prevent the spread of COVID-19](#)', press release, 23 October 2020.

<sup>20</sup> Finland, [Assembly Act](#) No. 530/1999 (*kokoontumislaki/lag om sammankomster*), Chapter 2 (public meetings) and Chapter 3 (public events).

<sup>21</sup> Information obtained from the National Police Board (*poliisihallitus/polisstyrelsen*) per e-mail on 6 November 2020.

<sup>22</sup> Finland, Supreme Administrative Court (*korkein hallinto-oikeus/högsta förvaltningsdomstolen*), [KHO:2020:108](#), 23 October 2020.

and the right to arrange meetings and to participate in them, everyone in the country was affected by the decision. Both courts held that the appellant had no right of appeal, because the agency's decision was not addressed to the appellant or did not directly affect the appellant's right, obligation or interest.<sup>23</sup> No other court decisions pertaining to freedom of assembly and coronavirus-related restrictions have been reported in open-access case-law databases in September-October.

### 1.3 Freedom of movement

In **Finland**, decisions on the temporary reintroduction of border control at internal borders are made by the government, pursuant to section 15 of the Border Guard Act (*rajavartiolaitaki/gränsbevakningslag*, Act No. 578/2005).<sup>24</sup> The need for and extent of travel restrictions is assessed every week, based on an evaluation of the epidemiological situation by the Finnish Institute for Health and Welfare. As from 11 September, the government assessment of travel restrictions has applied the limit value of a maximum of 25 new cases of the disease per 100,000 persons in the previous 14 days.<sup>25</sup> The limit value applies to the EU and Schengen countries and the countries on the Green List defined by the Council of the European Union. Within the reporting period of September-October, the latest government decision on border checks and entry restrictions was made on 8 October and is in force between 12 October – 8 November 2020.<sup>26</sup> The Border Guard provides on its website up-to-date information on entry into Finland, traffic restrictions and entry requirements.<sup>27</sup>

Starting from 12 October, restrictions apply to travel between Finland and all EU and Schengen countries. Regarding entry into Finland, return traffic to Finland, transit traffic and commuting is permitted. Travel for other essential reason, such as studying, persons travelling for family matters (e.g., meeting a relative, romantic relationship, funerals, weddings, illness), persons who own property in Finland, or persons in need of international protection, is also permitted. After arriving in Finland, a 10-day period of self-isolation is recommended. The period of self-isolation can be shortened by taking two voluntary COVID-19 tests and when the results are negative. People living in Sweden and Estonia may come to work in Finland without a self-isolation period or testing. Day-to-day travel across Finland's land borders with Sweden and Norway is permitted for residents of border communities without a self-isolation period or testing. As a rule, this type of traffic consists of normal shopping trips and use of other services. Recreational boat traffic between EU and Schengen countries and Finland is not restricted.

Also starting from 12 October, external border traffic is permitted from Vatican and for residents of Australia, Japan, Rwanda, South Korea, Thailand, New Zealand and Uruguay. For this group of travellers it is not necessary to self-isolate upon arrival in Finland or to take a COVID-19 test.

Finnish citizens and residents of Finland always have the right to return to Finland, and everyone has the right to leave Finland, provided that there is no legal impediment to this (e.g., legal proceedings or enforcement of penalties).<sup>28</sup> Family members of Finnish citizens are permitted to enter the country

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<sup>23</sup> Finland, [Administrative Judicial Procedure Act](#) No. 808/2019 ([laki oikeudenkäynnistä hallintoasioissa/lag om rättegång i förvaltningsärenden](#)), sections 7 and 81(2)(4).

<sup>24</sup> Finland, [Border Guard Act](#) No. 578/21005 ([rajavartiolaitaki/gränsbevakningslag](#)).

<sup>25</sup> Finland, Government (*valtioneuvosto/statsrådet*), '[Government adopts resolution on implementing the hybrid strategy for border traffic and travel](#)', press release, 11 September 2020.

<sup>26</sup> Finland, Government decision, [Valtioneuvoston päätös SM/2020/90](#), 8 October 2020.

<sup>27</sup> Finland, Border Guard (*rajavartiolaitos/gränsbevakningsväsendet*), [The instructions of the Finnish Border Guard to passengers regarding entry to Finland](#), 16 October 2020.

<sup>28</sup> Finland, [Constitution of Finland](#) No. 731/1999 ([Suomen perustuslaki/Finlands grundlag](#)), section 9.

regardless of their nationality. A family member of a Finnish citizen may enter Finland if he or she fits the definition of a family member as laid down in section 37 of the Aliens Act (*ulkomaalaislaki/utlänningslag*, Act No. 301/2004) and the Finnish citizen resides in Finland. The family member must also have the necessary travel documents, including a visa or residence permit, when required. The right to entry also applies to family members of a Finnish citizen who has exercised his or her right to free movement under the Free Movement Directive by settling in another Member State, and the family member accompanies him or her to Finland or joins him or her later. The family member must have the required document proving his or her right of residence in Finland or another EU or Schengen country.<sup>29</sup>

In October, the government proposed temporary amendments to the Communicable Diseases Act, to the effect that travellers arriving in Finland would have a duty to present a negative COVID-19 test result.<sup>30</sup> The bill was reviewed by the Constitutional Law Committee of Parliament (*perustuslakivaliokunta/grundlagsutskottet*). In its statement of 15 October, the committee found that the bill contained major flaws from the perspective of fundamental rights and could not be considered in accordance with the ordinary legislative procedure unless substantially amended.<sup>31</sup> The committee emphasised that restrictions to fundamental rights must be precise, defined in sufficient detail and based on an Act of Parliament. Among the major issues in the bill were the new decision-making powers granted to the Finnish Institute for Health and Welfare, without however defining the conditions or limits to this decision-making in the amended Act. For example, the Finnish Institute for Health and Welfare would decide which countries of departure the test requirement would apply to, but the criteria for such assessment were not set in the amended Act. The proposed test requirement did not explicitly exclude Finnish citizens, who always have a right to return to the country. The proposal was not clear on the consequences of a failure to present a negative test result and whether travellers, other than Finnish citizens, could in such a case be refused entry under the Aliens Act. Also, the proposed possibility to order a traveller to a test or into quarantine under section 60 of the Communicable Diseases Act and the role of the Finnish Institute for Health and Welfare in the process was not clear. The committee also questioned whether it was absolutely necessary to extend the validity of the amendments until the end of 2021, as suggested. Following the criticism by the Constitutional Law Committee, the government decided on 22 October to withdraw the bill. A new proposal is being prepared.<sup>32</sup>

In **Finland**, the Chancellor of Justice (*oikeuskansleri/justitiekansler*) gave his ruling, on 1 October, on a complaint concerning government decisions to restrict cross-border traffic and close border-crossing points at the beginning of the COVID-19 pandemic.<sup>33</sup> The complainant claimed that the measures were contrary to the constitutional right of Finnish citizens to leave the country and to return to the country and violated also the principle of free movement of persons in the EU. The Chancellor of Justice noted that the purpose of the measures was to decrease cross-border traffic in order to curb the spread of

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<sup>29</sup> Finland, Border Guard (*rajavartiolaitos/gränsbevakningsväsendet*), [The instructions of the Finnish Border Guard to passengers regarding entry to Finland](#), 16 October 2020. Finland, [Aliens Act](#) No. 301/2004 (*ulkomaalaislaki/utlänningslag*), section 37.

<sup>30</sup> Finland, Government Bill No. 137/2020 (*hallituksen esitys eduskunnalle laeiksi tartuntatautilain ja liikenteen palveluista annetun lain väliaikaisesta muuttamisesta/regeringens proposition till riksdagen med förslag till lagar om temporär ändring av lagen om smittsamma sjukdomar och lagen om transportservice*).

<sup>31</sup> Finland, Constitutional Law Committee of Parliament (*perustuslakivaliokunta/grundlagsutskottet*), statement [PeVL 32/2020 vp](#), 15 October 2020.

<sup>32</sup> Finland, Government (*valtioneuvosto/statsrådet*), '[Government withdraws its proposal on amending the Communicable Diseases Act and the Act on Transport Services](#)', press release, 22 October 2020.

<sup>33</sup> Finland, Chancellor of Justice (*oikeuskansleri/justitiekansler*), decision [OKV/61/2020](#), 1 October 2020.

the virus and to protect the citizens' right to life and to health. The decisions were proportionate to their aim. All border-crossing points were not closed, and all travel deemed as necessary was permitted. It was also explicitly stated in the decisions that Finnish citizens always have a right to return to Finland and everyone has the right to leave the country. However, the Chancellor of Justice held that there were deficiencies in how the public was informed of the measures. When informing the public of government decisions, it is important to use accurate terms and expressions. In this case, it was not clear whether the decision were recommendations or legally binding obligations. Also, in the memorandum, which specifies the grounds to the decisions, the analysis of the measures and their impact on fundamental rights and on different population groups, was not comprehensive and thorough enough. The Chancellor of Justice brought his views to the attention of the Ministry of the Interior (*sisäministeriö/inrikesministeriet*) and the Prime Minister's Office (*valtioneuvoston kanslia/statsrådets kansli*) and requested that the issues raised are taken into account when preparing and communicating government decisions.

## 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.*

The selected areas are work and health care.

In **Finland**, the Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringslivsministeriet*) reports that in September there were 315,800 unemployed jobseekers registered at the employment and economic development offices. This is 89,700 more than one year ago, but 13,900 less than the previous month.<sup>34</sup> The unemployment is highest among service and sales workers and craft and related trade workers.<sup>35</sup> As a response to the steep increase during the reporting period in COVID-19 cases,<sup>36</sup> the Finnish Government adopted on 30 September 2020, by virtue of the temporary section 58a of the Communicable Disease Act (*tartuntatautilaki/lag om smittsamma sjukdomar*, Act No. 1227/2016), Decree No. 675/2020 restricting the opening hours and licensing hours of food and beverage service businesses. Restaurants' opening hours are restricted to 04.00-01.00 and alcohol can be sold 09.00-24.00. The decree is in force from 8 to 31 October 2020. On 9 October 2020, the restrictions were made more far-reaching (Decree No. 686/2020) in six areas where the COVID-19 pandemic is in the phase of acceleration or spreading. In these regions the restaurants are required to stop selling alcohol already at 22.00 and close at 23.00. Further they are allowed to seat only half of their normal number of customers.<sup>37</sup> The Finnish Hospitality Association Mara anticipates that these restrictions will affect 20,000 workplaces in the hospitality industry.<sup>38</sup> Thus, the

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<sup>34</sup> Finland, Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringslivsministeriet*), [Employment Bulletin, September 2020](#), Employment Bulletin 9/2020, 20 October 2020.

<sup>35</sup> Finland, Ministry of Economic Affairs and Employment (*työ- ja elinkeinoministeriö/arbets- och näringslivsministeriet*), [Employment Bulletin, September 2020](#), Employment Bulletin 9/2020, 20 October 2020.

<sup>36</sup> Information obtained from the webpage of the Finnish Institute for Health and Welfare, [here](#).

<sup>37</sup> Finland, Government (*valtioneuvosto/statsrådet*), ['Tighter restrictions to be imposed on food and beverage service businesses in six areas'](#), press release, 9 October 2020.

<sup>38</sup> Finland, Finnish Broadcasting Company (*Yleisradio/Rundradion*), ['Ravintola-ala tyrmistyi hallituksen rajoituksista – "valtava huoli yrityksistä ja työntekijöistä"'](#), 30 September 2020.

government measures could be viewed as affecting the right to work under Article 1 of the revised European Social Charter and particularly ‘the achievement and maintenance of as high and stable a level of employment as possible’. Also the right to social security could in this context be affected in case the processing time of unemployment benefit applications is delayed due to the increase in unemployed persons.

To facilitate the realization of the right to social security during the pandemic, the government introduced in May 2020 a temporary amendment of the Unemployment Security Act (*työttömyysturvalaki/lag om utkomstskydd för arbetslösa*, Act No. 1290/2002) enabling the payment of unemployment benefits up to six months prior to the formal decision, compared to two months in normal circumstances.<sup>39</sup> The temporary amendment act is in force until 31 October 2020. On 22 October 2020, Parliament approved an extension of the act until the end of the year.<sup>40</sup>

In **Finland**, the restrictions in the temporary section 58a of the Communicable Diseases Act concerning the hospitality industry have also been addressed from the perspective of the freedom to pursue a trade. On 1 October, the government submitted to Parliament a bill which extends the validity of section 58a from 31 October 2020 until 28 February 2021.<sup>41</sup> The Constitutional Law Committee of Parliament (*perustuslakivaliokunta/grundlagsutskottet*) found on 15 October that the proposed restrictions on opening and licencing hours and number of customers interfered with the freedom to engage in commercial activity. In order to meet the criteria of proportionality and necessity, the restrictions must be regional, based on the epidemiological situation in the region, and targeted at restaurants where the risk of infection is high and where the restrictions are necessary in order to prevent the spread of a communicable disease.<sup>42</sup> Following the instructions issued by the Constitutional Law Committee, the Social Affairs and Health Committee of Parliament (*sosiaali- ja terveystieteiden valiokunta/social- och hälsovårdsutskottet*) revised section 58a of the Communicable Diseases Act on 20 October 2020<sup>43</sup> and Parliament approved it on 23 October 2020.<sup>44</sup> Based on the epidemiological situation in a given region, the number of customers can be restricted by 50 % in restaurants where the sale of alcohol is the main form of business and by 25 % in other restaurants. The opening hours can be restricted when necessary between 23.00 and 05.00 and the sale of alcohol between 22.00 and 09.00. Restaurants that operate in connection with gasoline stations and international travel are not covered by the restrictions on opening hours. On 29 October 2020, the

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<sup>39</sup> Finland, Act No. 315/2020 ([laki väliaikaisista poikkeuksista työttömyysturvalakiin covid-19- epidemian vuoksi/lag om temporära undantag från lagen om utkomstskydd för arbetslösa på grund av covid-19-epidemin](#)), 8 May 2020.

<sup>40</sup> Finland, [Government Bill No. 163/2020](#) (*hallituksen esitys eduskunnalle laiksi väliaikaisista poikkeuksista työttömyysturvalakiin covid-19-epidemian vuoksi annetun lain 4 §:n muuttamisesta/regeringens proposition till riksdagen med förslag till lag om ändring av 4 § i lagen om temporära undantag från lagen om utkomstskydd för arbetslösa på grund av covid-19-epidemin*), 22 October 2020.

<sup>41</sup> Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveystieteiden ministeriö/social och hälsovårdsministeriet*), [Temporary provisions of Communicable Diseases Act on restrictions concerning food and beverage service businesses to remain in force until end of February 2021](#), press release, 1 October 2020.

<sup>42</sup> Finland, Constitutional Law Committee of Parliament (*perustuslakivaliokunta/grundlagsutskottet*), statement [PeVL 31/2020 vp](#), 15 October 2020.

<sup>43</sup> Finland, Social Affairs and Health Committee of Parliament (*sosiaali- ja terveystieteiden valiokunta/social- och hälsovårdsutskottet*), report [StVM 27/2020 vp](#), 20 October 2020.

<sup>44</sup> Finland, [Government Bill No. 139/2020](#) (*hallituksen esitys eduskunnalle laiksi tartuntatautilain väliaikaisesta muuttamisesta/regeringens proposition till riksdagen med förslag till lag om temporär ändring av lagen om smittsamma sjukdomar*), 23 October 2020.



government issued Decree No. 728/2020 specifying the application of the revised section 58a from 1 November until 15 December 2020 in different parts of the country.<sup>45</sup>

With respect to working conditions, the increase in COVID-19 infections has affected the health and safety of workers particularly when working remotely is not an option. In Finland, the government recommends as of 13 August 2020 the use of face coverings and masks in line with the guidelines drawn up by the Finnish Institute for Health and Welfare.<sup>46</sup> These include recommendations to use facial masks in public indoor places in regions where COVID-19 is accelerating or spreading, that is, in the two highest phases of the pandemic on a scale to three.<sup>47</sup>

As to health care, the need for hospital care during the reporting period has been lower compared to the spring. The Finnish Institute for Health and Welfare reports that at the end of October there were in the whole country some 60 COVID-19 patients who needed hospital care out of which 15 were in intensive care.<sup>48</sup> In the spring more than 160 patients were at most treated in hospitals out of which 80 were in intensive care. Whereas there was in the beginning of the crisis a clear shortage of protective equipment for health care personnel, no major problems in this regard have been reported during the autumn. The Finnish Institute for Health and Welfare reports that 10 % of all infections confirmed during the last week of October have been caught at the work place, compared to 60 % within the family. Within the social and health care sector there have been during the same week far fewer incidents (i.e. 12) of mass exposure to COVID-19 compared to the education sector (102) or leisure activities (53).<sup>49</sup> To cover COVID-19 related health care costs and budget deficits accumulated after 16 March 2020, the government has opened a funding call for the hospital districts on 1 September 2020. In total € 200 million has been reserved in the supplementary state budget for the call.<sup>50</sup>

The Finnish Institute for Health and Welfare reports in its quarterly bulletin published in October that the queue to non-urgent specialized health care has grown due to COVID-19 and amounted to 137,165 patients in the end of August. At the time close to 18,000 patients had waited longer than six months for health care, which is an increase of 10,000 from the end of April. According to the bulletin, the figure is normally 2,000 in the beginning of the autumn.<sup>51</sup> Furthermore, access to health care varies between the 21 hospital districts. Whereas the waiting time exceeds six months in 0.6 % of the cases in the hospital district of Etelä-Savo, the comparable figure in the hospital district of Länsi-Pohja is 21.6 %. It is provided that the main reasons for the long waiting times to specialized health care are the rescheduling of operations during the spring and cancellations by patients themselves. Section 52

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<sup>45</sup> Finland, [Government Decree No. 728/2020](#) (*valtioneuvoston asetus ravitsemisliikkeiden toiminnan väliaikaisesta rajoittamisesta tartuntataudin leviämisen estämiseksi/statrådets förordning om temporär begränsning av förplägnadsrörelsens verksamhet i syfte att förhindra spridning av en smittsam sjukdom*), 29 October 2020.

<sup>46</sup> Finland, Government (*valtioneuvosto/statsrådet*), [‘Government resolutions on recommendations for wearing face coverings and face masks and for remote work’](#), press release, 13 August 2020.

<sup>47</sup> Information obtained from the webpage of the Finnish Institute for Health and Welfare, [here](#).

<sup>48</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [Situation update on coronavirus](#), webpage, 5 November 2020.

<sup>49</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [COVID-19 tartuntalähteet viikolla 44](#), webpage, 5 November 2020.

<sup>50</sup> Finland, Ministry of Finance (*valtiovarainministeriö/finansministeriet*), [‘Sairaanhoidopiirien korona-avustuksen haku alkamassa’](#), press release, 27 August 2020.

<sup>51</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [Hoitopääsy erikoissairaanhoidossa 31.8.2020: Yli puoli vuotta hoitoa odottavien määrä kasvanut sairaanhoidopiireissä kesän aikana](#), Tilastoraportti 38/2020, 7 October 2020.

of the Health Care Act (*terveydenhuoltolaki/hälso- och sjukvårdslag*, Act No. 1326/2010) stipulates that patients should have access to specialized health care within six months from the date the need for health care has been established.<sup>52</sup> Whereas this provision was suspended under section 88 of the Emergency Powers Act (*valmiuslaki/beredskapslagen*, Act No. 1552/2011) in the spring, it is since 16 June 2020 again in force. The media reports, based on interviews with representatives of the hospital districts, that the queues have shortened during the autumn. At the same time concern is expressed on the consequences of the second wave of COVID-19 infections.<sup>53</sup>

Rescheduling and cancellations are visible also within the primary health care. The Finnish Institute for Health and Welfare reports that the number of visits to maternal and child health clinics have dropped in 2020. The same is reported for school health checks and student health care.<sup>54</sup> It has been confirmed in studies that the main reason for this trend is the redeployment of health care personnel due to the pandemic to other tasks within the health care sector.<sup>55</sup> The National Supervisory Authority for Welfare and Health (*Sosiaali- ja terveystalouden lupa- ja valvontavirasto/Tillstånds- och tillsynsverket för social- och hälsovården*) monitors the fulfilment of the time requirements in health care. According to the monitoring programme of the National Supervisory Authority for Welfare and Health, the focus in 2020 will specifically be on access to primary health care.<sup>56</sup> No report has yet been published.

In **Finland**, the Finnish Institute for Health and Welfare reports that there were in September close to 80,000 COVID-19 tests per week.<sup>57</sup> The Finnish Institute for Health and Welfare estimates that the testing capacity in the end of September was 20,000 tests per day.<sup>58</sup> In the government's testing strategy adopted on 19 August 2020 it is held that the aim is to provide testing within one day and the results within one day of the testing. There is no general information on the waiting times for the whole country. The testing is organised within 21 hospital districts (*sairaanhoitopiiri/sjukvårdsdistrikt*) and the waiting time varies between the districts. One of the larger laboratories in charge of the analyses of tests in five hospital districts reports on 23 October 2020 that the average waiting time for obtaining the result is 31 hours.<sup>59</sup>

There are various ways to access free corona testing. One can conduct an assessment of coronavirus symptoms in an online service called Omaolo and based on this obtain a referral to testing.<sup>60</sup> One can also call the local health centre or a country-wide corona service number for further advice. In September and October no major delays in accessing COVID-19 testing is reported. As to the access of persons without a municipality of residence (*kotikunta/hemkommun*) to free corona testing, the Ministry for Social Affairs and Health has on 26 August 2020 recommended that municipalities provide

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<sup>52</sup> Finland, [Health Care Act](#) No. 1326/2010 (*terveydenhuoltolaki/hälso- och sjukvårdslag*).

<sup>53</sup> Iltasanomat, '[Koronan myötä hoitojonot ryöpsähtivät, ja nyt pelätään jo uutta kriisiä](#)', media, 19 October 2020.

<sup>54</sup> Finland, Finnish Institute for Health and Welfare, (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [Koronaepidemian vaikutukset hyvinvointiin, palveluihin ja talouteen](#), webpage, 7 October 2020.

<sup>55</sup> Hakulinen, T., Hietanen-Peltola, M., Hastrup, A., Vaara, S., Jahnukainen, J., Varonen, P. (2020), "[Pahin syksy ikinä](#)" – Lasten, nuorten ja perheiden peruspalvelut koronasuoksynä 2020, Työpaperi 37/2020, Helsinki, Terveyden ja hyvinvoinnin laitos, p. 5.

<sup>56</sup> Finland, National Supervisory Authority for Welfare and Health (*Sosiaali- ja terveystalouden lupa- ja valvontavirasto/Tillstånds- och tillsynsverket för social- och hälsovården*), [Sosiaali- ja terveydenhuollon valtakunnallinen valvontaohjelma vuosille 2020–2023](#), Valvontaohjelma 1:2020, Helsinki.

<sup>57</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [COVID-19-epidemian hybridistrategian seuranta – tilannearvioraportti 7.10.2020](#), 7 October 2020.

<sup>58</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), [COVID-19-epidemian hybridistrategian seuranta – tilannearvioraportti 7.10.2020](#), 7 October 2020, p. 6.

<sup>59</sup> Information obtained from [webpage of Fimlab](#) on 23 October 2020.

<sup>60</sup> For information on Omaolo, see [here](#).

such testing and urgent care also to third-country nationals without a Finnish municipality of residence, including students, diplomats, posted workers, au pairs and paperless migrants.<sup>61</sup> Further, to facilitate tracing, the general public is strongly encouraged to download the free Koronavilkku app which informs of potential exposure to coronavirus.<sup>62</sup> As of 1 October 2020, the app has been downloaded by 2,2 million people.<sup>63</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.*

In **Finland**, the two groups to be discussed are young people and older people.

With respect to young people the main social right at stake concerns equal access to quality education during periods of distance learning. In Finland, the Basic Education Act (*perusopetuslaki/lag om grundläggande utbildning*, Act No. 628/1998) was amended on 26 June 2020 in order to allow schools during the autumn semester to switch between class room and distance learning if the COVID-19 situation so requires (section 20a). On the basis of a survey conducted by the Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*), 2,688 students in primary education attended distance teaching on 29 September 2020.<sup>64</sup> Educational institutions at secondary and tertiary levels are also broadly applying distance learning during the autumn of 2020. With the increase in COVID-19 infections in the beginning of October the number of persons in distance teaching has continued to increase.

No reports are yet available on the impact of these recent measures. However, studies conducted after the eight-week period of distance learning in the spring show that even if many students did well, some faced difficulties. The Finnish Education Evaluation Centre (*Kansallinen koulutuksen arviointikeskus/Nationella centret för utbildningsutvärdering*) concluded in a report covering all educational levels that in order to safeguard equality in education also during periods of distance learning, it is essential to strengthen the study guidance and the student welfare services.<sup>65</sup> With respect to basic education, the report shows that in particular students who for various reasons need

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<sup>61</sup> Finland, Ministry of Social Affairs and Health (*sosiaali- ja terveystieteiden ministeriö/social- och hälsovårdsministeriet*), [‘Yhdenvertainen koronatestiin pääsy turvataan myös kotikunnattomille henkilöille’](#), press release, 26 August 2020.

<sup>62</sup> For information on the Koronavilkku, see [here](#).

<sup>63</sup> Finland, Finnish Institute for Health and Welfare (*Terveystieteiden tutkimuskeskus/Institutet för hälsa och välfärd*), [‘Käyttäjät tekivät Koronavilkun kautta 600 tartuntailmoitusta syyskuussa – varmista, että sinulla on sovelluksen uusin versio’](#), webpage, 1 October 2020.

<sup>64</sup> Kyllönen, M., Tahvanainen, R., Karlsson, O. & Liljeström, A (2020), [Perusopetus syksy 2020 viikko 40](#), Regional State Administrative Agency and Ministry of Education and Culture, 6 October 2020.

<sup>65</sup> Finland, Finnish Education Evaluation Centre (*Kansallinen koulutuksen arviointikeskus/Nationella centret för utbildningsutvärdering*), [‘Poikkeuksellisten opetusjärjestelyjen vaikutukset tasa-arvon ja yhdenvertaisuuden toteutumiseen, Kansallisen arvioinnin tuloksia’](#), 17 June 2020.

special support or come from minority language groups were in the spring most negatively impacted by distance learning.

With the aim of equalizing the effects of the coronavirus on students who have suffered from distance learning, the Ministry of Education and Culture has decided to grant additional funding to high schools<sup>66</sup> and vocational training institutions<sup>67</sup>. The funding, which amounts to € 46 million, enables extra support services for students who suffered during the pandemic from coping and mental health problems, or who were otherwise in a weak position, or who were difficult to reach during the period of distance teaching. On 14 October 2020, the ministry has further launched special funding for higher education institutions and student organisations with the purpose of supporting the wellbeing and supervision of students in higher education during the period of exceptional teaching arrangements.<sup>68</sup> The funding can be used to enhance self-directional skills among students, mitigate loneliness, develop tutor activities, peer support, and low threshold services, strengthen the communal spirit and organise psychology services. The ministry has previously decided on extra funding for early childhood, pre-primary, primary and lower secondary educational institutions.<sup>69</sup>

In **Finland**, with respect to older people, the Deputy Parliamentary Ombudsman (*apulaisoikeusasiamies/biträdande justitieombudsman*) published on 11 September 2020 a decision concerning the rights of older people under COVID-19.<sup>70</sup> In the decision, which primarily concerned practices during the spring and summer, the Deputy Ombudsman addressed the use of restrictions on social interaction with family members and social distancing recommendations and how these were communicated to the general public. In particular the use of legally binding language in connection with recommendations was criticised by the Deputy Ombudsman. The Deputy Ombudsman also noted from the perspective of equality and non-discrimination that instead of targeting persons over the age of 70, it would have been better to direct recommendations on social distancing to the whole population, while highlighting in that context who belongs to the risk groups and what specific guidelines are recommended for these groups.<sup>71</sup>

With the increase in COVID-19 infections during the autumn the national, regional and local authorities have again adopted stricter restrictions and recommendations on gatherings and social distancing (see 1.2). While these measures protect the health rights of older people, they negatively affect other rights such as the right of older people to participate in social and cultural activities guaranteed in e.g. Article 23 of the revised European Social Charter. In this context, the government's

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<sup>66</sup> Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), '[17 miljoonaa euroa lukiokoulutukseen poikkeusolojen vaikutusten tasoittamiseksi](#)', press release, 16 September 2020.

<sup>67</sup> Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), '[42 miljoonaa koronaviruksen vaikutusten tasoittamiseen ammatillisessa koulutuksessa sekä lähihoitajakoulutuksen lisäämiseen](#)', press release, 2 October 2020.

<sup>68</sup> Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), '[Korkeakouluopiskelijoiden hyvinvointia ja ohjausta tuetaan erityisavustuksilla](#)', press release, 14 October 2020.

<sup>69</sup> Finland, Ministry of Education and Culture (*opetus- ja kulttuuriministeriö/undervisnings- och kulturministeriet*), '[84 miljoonaa euroa haettavissa varhaiskasvatukseen ja esi- ja perusopetukseen poikkeusolojen vaikutusten tasoittamiseksi](#)', press release, 5 June 2020.

<sup>70</sup> Finland, Deputy Parliamentary Ombudsman (*eduskunnan apulaisoikeusasiamies/riksdagens biträdande justitieombudsman*), [EOAK/2889/2020](#), 7 September 2020.

<sup>71</sup> Finland, Deputy Parliamentary Ombudsman (*eduskunnan apulaisoikeusasiamies/riksdagens biträdande justitieombudsman*), [EOAK/2889/2020](#), 7 September 2020, p. 21.

recommendation issued on 13 August 2020 regarding facial masks<sup>72</sup> has facilitated to some extent the participation of older people in social and cultural activities.

As to the success of the measures adopted so far, the Finnish Institute for Health and Welfare reports that the incidence of COVID-19 infections among people over 70 remains for the time being low.<sup>73</sup> The media reports of concerns regarding an increase in infections among older population groups particularly in regions with high incidence rates of infection.<sup>74</sup> In October, cases of infection in care homes for older people have again started to emerge.<sup>75</sup> To protect older people, the Finnish Institute for Health and Welfare provides general guidance on prevention of COVID-19 infections in care homes<sup>76</sup> as well as specific guidance on, for example, visits by relatives and others.<sup>77</sup> In accordance with section 17 of the Communicable Diseases Act, the care home units are obligated to systematically prevent the spread of infections, in collaboration with local communicable disease experts, the municipality, the hospital district and national prevention programmes. With respect to visits of relatives and others, the Finnish Institute for Health and Welfare recommends, especially during periods of increasing numbers of infections, that there are only 1-3 visitors at the time, visits are agreed in advance, hygiene rules and social distancing are followed, and the visits are arranged in the room of the older person. When care units restrict visits, the Institute for Health and Welfare notes that it should always be possible to visit critically ill and terminal patients.

The Regional State Administrative Agency (*aluehallintovirasto/regionförvaltningsverket*) and the National Supervisory Authority for Welfare and Health (*Sosiaali- ja terveystieteiden tutkimuskeskus/regionförvaltningsverket*) emphasise in a joint statement published on 2 September 2020 the need to recognize fundamental rights of clients in social care, including care homes for older people, when preventing COVID-19 infections. The principle of proportionality needs to be followed, only medical doctors in charge of communicable diseases can decide on quarantine and isolation, and restrictions linked to individual quarantine and isolation decisions cannot automatically be extended to the whole unit.<sup>78</sup>

In a judgment from the Eastern Finland Administrative Court of 16 October 2020, the question of the right to visit close relatives in care homes is considered.<sup>79</sup> The court observes that section 17 of the

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<sup>72</sup> Finland, Government (*valtioneuvosto/statsrådet*), '[Government resolutions on recommendations for wearing face coverings and face masks and for remote work](#)', press release, 13 August 2020.

<sup>73</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden- ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), '[COVID-19-epidemian hybridstrategian seuranta – tilannearvioportti 21.10.2020](#)', Helsinki, p. 6.

<sup>74</sup> Finland, Finnish Broadcasting Company (*Yleisradio/Rundradion*), '[Vaasan koronatilanne edelleen vaikea – nyt huolta herättää se, että virus on leviämässä vanhempiin ikäluokkiin](#)', 12 October 2020.

<sup>75</sup> Finland, Finnish Broadcasting Company (*Yleisradio/Rundradion*), '[Hoitokotitartunnat säikäyttivät Pohjanmaalla – infektio lääkäri koronan leviämisestä riskiryhmiin: Nyt on skarpattava entisestään](#)', 20 October 2020.

<sup>76</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), '[Koronavirustartuntojen torjunta pitkäaikaishoidon ja –hoivan toimintayksiköissä](#)', webpage, 13 October 2020.

<sup>77</sup> Finland, Finnish Institute for Health and Welfare (*Terveyden ja hyvinvoinnin laitos/Institutet för hälsa och välfärd*), '[Vierailut pitkäaikaishoidon ja –hoivan toimintayksikössä koronavirusaikana](#)', webpage, 15 September 2020.

<sup>78</sup> Finland, National Supervisory Authority for Welfare and Health (*Sosiaali- ja terveystieteiden tutkimuskeskus/regionförvaltningsverket*) and Regional State Administrative Agency (*aluehallintovirasto/regionalförvaltningsverket*), '[Perusoikeuksien toteutuminen ja tartuntojen ehkäisy sosiaalihuollossa](#)', Statement, 2 September 2020.

<sup>79</sup> Finland, Eastern Finland Administrative Court (*Itä-Suomen hallinto-oikeus/Östra Finlands förvaltningsdomstol*), '[HAO 16.10.2020 20/1059/1](#)', 16 October 2020.

Communicable Diseases Act on the obligation of social and health care units to prevent the spread of communicable diseases does not provide a sufficient legal base for restricting the right to privacy and family life of individuals. The complaint concerns restrictions adopted in a municipality regarding the number (one per week), duration (half an hour) and monitoring of visits to care homes as well as the need to inform the care home of the visit in advance. Even if these type of restrictions could be warranted as part of quarantine and isolation provisions in the Communicable Diseases Act (section 69), the decision in the instant case had not been taken by a medical doctor in charge of communicable diseases as required by section 69. The judgment can still be appealed.