

# Coronavirus pandemic in the EU – Fundamental Rights Implications

**Country:** Ireland

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# 1 Measures taken by government/public authorities

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

In Ireland, the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 was signed into law on 20 March 2020.<sup>1</sup> This allowed the Government to put in place a stay at home order, which they did from 27 March.<sup>2</sup> In the intervening days, police were stopping and questioning members of the public as to their movements, but could not actually enforce the measures. The regulations giving An Garda Síochána (the Irish police force) the power to enforce restrictions were not put in place until 8<sup>th</sup> April.<sup>3</sup> The validity of these regulations, originally due to remain in force until 12 April, have been periodically extended and are now fully operating until 18 May, in line with the current stay at home order.

Two far right fringe figures are currently attempting to challenge the Emergency Measures Act, and the current stay at home order through the courts. The High Court will hear the permission for application to bring the judicial review proceedings on Tuesday May 5<sup>th</sup>.<sup>4</sup> No particular media resonance was given to these positions, and the Government and An Garda Síochána (the Irish police force) have indicated that the ‘vast majority’ of the public are adhering to public health guidelines.<sup>5</sup>

Transparency issues have been recently raised on the decision-making process within the National Public Health Emergency Team (NPHE).<sup>6</sup> This team of (public health and medical) experts have provided guidance, support and expert advice to the Government on the development and implementation of a strategy to contain COVID-19 in Ireland. The minutes of their meetings, in response to the raising of transparency issues, were published on 30 April.<sup>7</sup>

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<sup>1</sup> Ireland, Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020, available at: <https://www.oireachtas.ie/en/bills/bill/2020/3/>.

<sup>2</sup> Government of Ireland (2020), ‘Speech of Taoiseach Leo Varadkar’, 27 March 2020, available at: [https://merrionstreet.ie/en/News-Room/News/Speech\\_of\\_Taoiseach\\_Leo\\_Varadkar\\_27\\_March\\_2020.html](https://merrionstreet.ie/en/News-Room/News/Speech_of_Taoiseach_Leo_Varadkar_27_March_2020.html)

<sup>3</sup> Government of Ireland (2020), ‘Minister for Health Simon Harris signs regulations to give An Garda Síochána the power to enforce COVID-19 restrictions’, 10 April 2020, available at: <https://www.gov.ie/en/news/e9d120-minister-for-health-simon-harris-signs-regulations-to-give-an-garda-/>

<sup>4</sup> The Irish Times (2020), ‘Application for leave to challenge Covid-19 laws to be heard next week’, 28 April 2020, available at: <https://www.irishtimes.com/news/health/coronavirus/application-for-leave-to-challenge-covid-19-laws-to-be-heard-next-week-1.4239987>.

<sup>5</sup> Government of Ireland, Daily briefing on the government’s response to COVID-19, 29 April 2020, available at: <https://www.gov.ie/en/publication/8219c4-daily-briefing-on-the-governments-response-to-covid-19-wednesday-29-apr/>.

<sup>6</sup> The Irish Times (2020), ‘Questions raised over transparency of public health team’, 25 April 2020, available at: <https://www.irishtimes.com/news/ireland/irish-news/questions-raised-over-transparency-of-public-health-team-1.4237581>.

<sup>7</sup> Government of Ireland, Department of Health (2020), ‘Minutes and Agendas from meetings of the National Public Health Emergency Team’, 30 April 2020, available at: <https://www.gov.ie/en/collection/691330-national-public-health-emergency-team-covid-19-coronavirus/>.

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

In Ireland, the Government put in place a stay at home order from 27 March.<sup>8</sup> Initially for a two-week period, this was further extended until Tuesday 5 May, so all measures currently remain in place. This followed on from school closures on 12 March. On 1 May, the Government announced a further extension of the current lockdown until 18 May. At that time, a gradual 5-phase plan to ‘reopen Ireland’ from the lockdown will be starting.<sup>9</sup>

The current measures demand that everyone stay at home, except for those who work in named essential services<sup>10</sup>. The rest of the population are permitted to leave home to buy food and medicine, to attend medical appointments, for vital family reasons and to exercise within 2 kilometres from home, with members of the household only. A social distance of 2 metres with anyone who is not from the household is to be observed.

Research conducted for the Irish Government on 27 April showed that 89% of people self-reported staying at home rather than going out, and 90% of people are social distancing in queues.<sup>11</sup> A Citizen Science survey published by the National University of Ireland Galway, on 22 April, found that 79% of people has reported adapting their behaviour in public, and 92% indicated that the social distancing guidelines were clear.<sup>12</sup> These results were similar to those in a first wave of results published on 8 April, indicating social compliance has not yet waned. Public transport bodies, however, are noting a small uptick in service users, which may indicate that some restriction fatigue is setting in.<sup>13</sup> Since the end of March, people have received printed booklets / leaflets on COVID-19 related information in English and Irish language, via post, on three different occasions.

An Garda Síochána (the Irish police force) have put in place a ‘graduated policing response based on its tradition of policing by consent’<sup>14</sup>. People who are deemed not to have a reasonable reason for travelling are asked to return to their homes, and in so doing, are held to be in compliance with the law. Failure to comply after repeated warnings, however, resulted in the enforcement of COVID-19

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<sup>8</sup> Government of Ireland (2020), ‘Speech of Taoiseach Leo Varadkar’, 27 March 2020, available at: [https://merrionstreet.ie/en/News-Room/News/Speech\\_of\\_Taoiseach\\_Leo\\_Varadkar\\_27\\_March\\_2020.html](https://merrionstreet.ie/en/News-Room/News/Speech_of_Taoiseach_Leo_Varadkar_27_March_2020.html)

<sup>9</sup> Government of Ireland (2020), ‘Department of the Taoiseach and Department of Health, Roadmap for reopening society and business’, 1 May 2020, available at: <https://www.gov.ie/en/news/58bc8b-taoiseach-announces-roadmap-for-reopening-society-and-business-and-u/> .

<sup>10</sup> Government of Ireland (2020), ‘Department of the Taoiseach, List of essential service providers under new public health guidelines’, 28 March 2020, available at: <https://www.gov.ie/en/publication/dfcb8f-list-of-essential-service-providers-under-new-public-health-guidelin/> .

<sup>11</sup> Government of Ireland, ‘Daily briefing on the government’s response to COVID-19’, 29 April 2020, available at: <https://www.gov.ie/en/publication/8219c4-daily-briefing-on-the-governments-response-to-covid-19-wednesday-29-apr/> .

<sup>12</sup> National University of Ireland Galway (2020), ‘Corona Citizens Science Project – Wave 2 results’, 22 April 2020, available at: <https://www.nuigalway.ie/corona-study/> .

<sup>13</sup> Government of Ireland, ‘Daily briefing on the government’s response to COVID-19’, 29 April 2020, available at: <https://www.gov.ie/en/publication/8219c4-daily-briefing-on-the-governments-response-to-covid-19-wednesday-29-apr/> .

<sup>14</sup> An Garda Síochána (2020), ‘Continued High Compliance by Public With Health Guidelines’, 28 April 2020, available at: <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/april/an-garda-siochana-%E2%80%93-continued-high-compliance-by-public-with-health-guidelines-28-4-20.html> .

regulations on 76 occasions between 8 and 25 April.<sup>15</sup> These will be brought before the courts, and are punishable by a fine of up to €2,500, up to six months imprisonment, or a combination of both.<sup>16</sup> As of 28 April, Gardaí have arrested 76 people and detected other 760 breaches of the lockdown regulations.<sup>17</sup>

An Garda Síochána also reported 31 incidents of spitting and/or coughing against members of the force from 8 to 25 April, and used anti-spit guards on 15 occasions.<sup>18</sup> The Policing Authority has raised concerns about the possible use of these ‘spit hoods’ on minors between the ages of 12 and 18, but Garda Commissioner Drew Harris agreed with Policing Authority member at a meeting on 29 April that they should not be used on minors.<sup>19</sup>

On 22 April, eight human rights NGOs in Ireland wrote a letter to the Taoiseach (prime minister) acknowledging the ongoing need for some restrictions on our rights during the pandemic, but expressing concern that ‘some communities are suffering more than others’ and calling for a human rights impact assessment of the restrictions, and provision of disaggregated data on the basis of nationality, ethnicity, disability, gender and age with regard to those affected by Covid-19, and those arrested under the Emergency Health Regulations.<sup>20</sup> On 27 April, the Irish Human Rights and Equality Commission issued a statement urging that ‘more information is required to assess whether these new powers are being exercised proportionately, and whether they are being implemented in line with human rights and equality principles’.<sup>21</sup>

## 1.2.2 Education

In **Ireland**, schools, childcare facilities and universities closed on 12 March. According to the Government’s roadmap for reopening society and businesses, creches can be expected to reopen on a phased basis from July, but schools and third level institutions will remain closed until the new

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<sup>15</sup> An Garda Síochána (2020), ‘Continued High Compliance by Public With Health Guidelines’, 28 April 2020, available at: <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/april/an-garda-siochana-%E2%80%93-continued-high-compliance-by-public-with-health-guidelines-28-4-20.html> .

<sup>16</sup> Citizens Information Centre (2020), ‘Public health measures for COVID-19’, available at: [https://www.citizensinformation.ie/en/health/covid19/public\\_health\\_measures\\_for\\_covid19.html](https://www.citizensinformation.ie/en/health/covid19/public_health_measures_for_covid19.html) .

<sup>17</sup> The Irish Times (2020), ‘Coronavirus: Gardaí have made 76 arrests for breaches of lockdown regulation’, 28 April 2020, available at: <https://www.irishtimes.com/news/crime-and-law/coronavirus-garda%C3%AD-have-made-76-arrests-for-breaches-of-lockdown-regulations-1.4240136> .

<sup>18</sup> An Garda Síochána (2020), ‘Continued High Compliance by Public With Health Guidelines’, 28 April 2020, available at: <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2020/april/an-garda-siochana-%E2%80%93-continued-high-compliance-by-public-with-health-guidelines-28-4-20.html> .

<sup>19</sup> The Irish Times, (2020), ‘Gardai have no right to look into shopping bags at Covid-19 checkpoints’, 29 April 2020, available at: <https://www.irishtimes.com/news/crime-and-law/garda%C3%AD-have-no-right-to-look-into-shopping-bags-at-covid-19-checkpoints-1.4241130?mode=amp>. The meeting of the Policing Authority took place on 29 April and was livestreamed to the public – minutes will be available in due course here: <https://www.policingauthority.ie/en/authority-meetings/upcoming/policing-authority-meeting-29-04-2020> .

<sup>20</sup> Irish Council for Civil Liberties et al (2020), ‘Letter to Taoiseach Leo Varadkar’, 22 April 2020, available at: <https://www.iccl.ie/wp-content/uploads/2020/04/CSOs-letter-to-Taoiseach-calling-for-HRIA.pdf> .

<sup>21</sup> Irish Human Rights and Equality Commission (2020), ‘Statement from the Irish Human Rights and Equality Commission on COVID-19 Oversight in Respect of Human Rights and Equality’, 27 April 2020, available at: <https://www.ihrec.ie/statement-from-the-irish-human-rights-and-equality-commission-on-covid-19-oversight-in-respect-of-human-rights-and-equality/> .

academic year in September/October.<sup>22</sup> This is particularly concerning for children from socioeconomically disadvantaged backgrounds, from both an educational and child welfare perspective. A study by the National University of Ireland Maynooth reported that teachers in disadvantaged areas said that some pupils were at increased risk of hunger, some were living in homes with addiction or violence, many would be living in homes without much parental support for education, or would lack the means to engage in online platforms. Children with special educational needs were also mentioned as a group of concern.<sup>23</sup>

No specific provisions were immediately put in place for disadvantaged children, and the decision on how to engage with children and via which technologies is taken on a school-by-school basis. However, as school closures continued, further measures were put in place. On 29 March, the School Meals Programme was resumed and revised, allowing for home delivery of food parcels for children in need. From March 30, the national television broadcaster, RTÉ, put in place a home-school programme which runs for one hour every week day. Three qualified teachers cover core curriculum subjects for primary school students aged 7 to 12.<sup>24</sup> While not specifically aimed at children from disadvantaged backgrounds, this allows children to receive learning content on TV or any device, without having to engage with an online learning platform. On 22 April, the Government issued specific guidance on supporting primary pupils at risk of educational disadvantage.<sup>25</sup>

No arrangements have been put in place to facilitate working parents, and the Government's failure to establish any arrangements for the childcare arrangements of key workers, six weeks into school closures has been of particular concern.<sup>26</sup> On 22 April, the Government announced that paid leave would be provided to public sector workers whose partners were healthcare workers.<sup>27</sup> The Irish Nurses and Midwives' Organisation condemned the scheme, saying that it 'does nothing for the vast majority of nurses and midwives, and that it was 'worse than irrelevant' in that it 'actively discriminates against single parents and many modern families, who will still have the same problems in relation to childcare provision.'<sup>28</sup> Schemes to allow childcare workers to mind the children of

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<sup>22</sup> Government of Ireland (2020), 'Roadmap for reopening society and business', 3 May 2020, available at: <https://www.gov.ie/en/news/58bc8b-taoiseach-announces-roadmap-for-reopening-society-and-business-and-u/>.

<sup>23</sup> Burke J. and Dempsey M. (2020), 'Covid-19 Practice in Primary Schools in Ireland', report, Maynooth University, 1 April 2020, available at: <https://www.into.ie/app/uploads/2020/04/Covid-19-Practice-in-Primary-Schools-Report-1.pdf>.

<sup>24</sup> RTÉ (2020), 'RTÉ Home School Hub', available at: <https://www.rte.ie/tv/programmes/1127275-rte-home-school-hub/>.

<sup>25</sup> Department of Education and Skills (2020), 'Guidance on Continuity of Schooling: Supporting pupils at risk of educational disadvantage', 22 April 2020, available at: <https://www.education.ie/en/Schools-Colleges/Information/National-Emergencies-Public-Health-Issues/guidance-support-pupils-at-risk-primary.pdf>.

<sup>26</sup> The Irish Times (2020), 'Work continues on childcare scheme despite setback for deal', 29 April 2020, available at: <https://www.irishtimes.com/news/ireland/irish-news/work-continues-on-childcare-scheme-despite-setback-for-deal-1.4240902>.

<sup>27</sup> The Irish Times (2020), 'Coronavirus: Paid leave for some partners of healthcare workers to assist with childcare', 22 April 2020, available at: <https://www.irishtimes.com/news/health/coronavirus-paid-leave-for-some-partners-of-healthcare-workers-to-assist-with-childcare-1.4235059>.

<sup>28</sup> Irish Nurses and Midwives' Organisation, 'Government childcare offer "does nothing" for vast majority of nurses and midwives', 30 April 2020, available at: <https://www.inmo.ie/Home/Index/217/13583>.

healthcare workers in their own homes are being considered, but cannot be implemented until current restrictions are lifted.<sup>29</sup>

The Leaving Cert, a high-stake exam that concludes secondary education and in which students are de facto competing against each other for college places, is now scheduled to start on 29 July. The details of the 'shape' of this year's exam have not been communicated yet and several political parties are now calling for it to be cancelled.<sup>30</sup>

### 1.2.3 Work

A list of what constitutes essential work in **Ireland** was published on 28 March, immediately following the stay at home measure announcement, and has not changed since. All restrictions remain in place.<sup>31</sup>

Workers who have been temporarily laid off as a result of the pandemic restrictions can avail of a COVID-19 Pandemic Unemployment Payment. This payment was originally fixed at €203, in line with Jobseeker's Benefit, but was increased on 24 March to €350.<sup>32</sup> The payment is available to a wide group of people, including the self-employed, non-EU/EEA workers (irrespective of immigration status), and students and part-time workers. The Irish Government has further confirmed to NGO Migrant Rights Centre Ireland that all people – documented or undocumented – can apply for hardship payments and access information from social welfare services free from fear during COVID-19.<sup>33</sup> However, the Migrant Rights Centre state that they have seen examples of some individual cases where payments have been refused based on their immigration status. The Migrant Rights Centre have asked individuals who experience this to feedback to them directly.<sup>34</sup>

A separate temporary wage subsidy for employers was also put in place on 24 March.<sup>35</sup> This was revised on 15 April, since employers were reporting that lower paid or part time workers were finding

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<sup>29</sup> The Irish Times (2020), 'Coronavirus: Paid leave for some partners of healthcare workers to assist with childcare', 22 April 2020, available at: <https://www.irishtimes.com/news/health/coronavirus-paid-leave-for-some-partners-of-healthcare-workers-to-assist-with-childcare-1.4235059> .

<sup>30</sup> RTÉ (2020), 'Amid the uncertainty, what do we know about Leaving Cert 2020?', 3 May 2020, available at: <https://www.rte.ie/news/analysis-and-comment/2020/0503/1136304-leaving-cert/> .

<sup>31</sup> Government of Ireland (2020), 'List of essential service providers under new public health guidelines', available at: <https://www.gov.ie/en/publication/dfcb8f-list-of-essential-service-providers-under-new-public-health-guidelin/> .

<sup>32</sup> Ireland, Department of Employment Affairs and Social Protection (2020), 'COVID-19 Pandemic Unemployment Payment', available at: <https://www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/> .

<sup>33</sup> Migrant Rights Centre Ireland (2020) , 'Rights of undocumented workers to access social welfare supports during COVID-19', 22 April 2020, available at: <https://www.mrci.ie/2020/04/22/rights-of-undocumented-workers-to-access-social-welfare-supports-during-covid-19/>

<sup>34</sup> Migrant Rights Centre Ireland (2020) , 'Rights of undocumented workers to access social welfare supports during COVID-19', 22 April 2020, available at: <https://www.mrci.ie/2020/04/22/rights-of-undocumented-workers-to-access-social-welfare-supports-during-covid-19>

<sup>35</sup> Irish Revenue (2020), 'Temporary COVID-19 Wage Subsidy Scheme', available at: <https://www.revenue.ie/en/corporate/communications/covid19/temporary-covid-19-wage-subsidy-scheme.aspx> .

they would be better off on the unemployment benefit than with the wage subsidy scheme. The revisions address this anomaly.<sup>36</sup>

Available figures indicate that more than 1 million people in the Republic of Ireland (a country with less than 5 million inhabitants) are currently availing of income support mechanisms.<sup>37</sup> The Ireland's stability programme 2020 by the Department of Finance indicates that the unemployment rate is projected to reach a peak of 22 per cent in the second quarter before falling down during the second half of the year.<sup>38</sup>

As agriculture is deemed an essential service, agricultural workers are exempt from the lockdown. However, a number of clusters of COVID-19 cases in meat packing factories are raising concerns about the health and safety, and ability to maintain physical distancing, for agri-food workers.<sup>39</sup>

#### 1.2.4 Access to justice

Non-urgent court proceedings have been suspended in **Ireland**. The definition of urgent cases varies between the District, Circuit, Central, Special Criminal, High, Appeals and Supreme Courts, but all are available on the Irish Courts website.<sup>40</sup> In some cases, the parties to the case may appear by 'video link'. For example, persons on bail in the District and Circuit Court need not attend, and the case will be remanded. Accused persons in custody due to appear before the Central and Special Criminal Court will attend via 'video link'.<sup>41</sup>

Only those persons essential to the hearing, and members of the press, may attend. Media outlets are asked to send as few representatives as possible, and all parties must respect social distancing.

From 1 April, remote technology for all parties to proceedings, including the judges and legal counsel was piloted for the first time. In order to fulfil the constitutional requirement that justice must be administered in public, journalists are initially invited to attend in an empty courtroom, where they

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<sup>36</sup> The Irish Times (2020), 'Making sense of the Covid-19 temporary wage subsidy', 17 April 2020, available at: <https://www.irishtimes.com/business/economy/q-a-making-sense-of-the-covid-19-temporary-wage-subsidy-1.4231708>.

<sup>37</sup> The Irish Times (2020), 'Coronavirus: Over one million people now receiving State income support', 20 April 2020, available at: <https://www.irishtimes.com/news/health/coronavirus-over-one-million-people-now-receiving-state-income-support-1.4233192>.

<sup>38</sup> Ireland, Department of Finance (2020), 'Stability Programme Update 2020 - Incorporating the Department of Finance's Spring Forecasts', April 2020, available at: <https://www.gov.ie/en/publication/43a6dd-stability-programme-update-2020/>.

<sup>39</sup> RTÉ (2020), 'Covid-19 cases confirmed at two meat-processing plants', 1 May 2020 available at: <https://www.rte.ie/news/2020/0501/1135981-covid-19-cases-plant/>; Migrants Rights Centre Ireland (2020), 'MRCI calls for health and safety measures in the agri-food industry to be upheld', 27 March 2020 available at: <https://www.mrci.ie/2020/03/27/migrant-rights-centre-ireland-mrci-calls-for-health-and-safety-measures-in-the-agri-food-industry-to-be-upheld/>.

<sup>40</sup> The Courts Service of Ireland (2020), 'Latest news: Changes as a result of Covid-19', available at: <http://www.courts.ie/courts.ie/library3.nsf/pagecurrent/56F2259BE71F74E180257FB00055003D?opendocument&l=en&p=010>.

<sup>41</sup> Ireland Courts Service, 'Notice for practitioners and members of the public requiring services from court offices in respect of criminal, family law and civil law business with effect from 30 March 2020', available at: <http://www.courts.ie/Courts.ie/Library3.nsf/pagecurrent/AF971AE4E58FFD278025853A0063738E?opendocument>.



can watch proceedings via ‘video link’, but the Courts Services have indicated that they will be access such hearings themselves remotely in the near future.<sup>42</sup>

Alternatives to detention have not been mentioned, but the numbers in prisons continues to decrease as the Government moves to release low risk prisoners early.<sup>43</sup> Numbers in detention reduced from 3,976 people on 20 March 2020, to 3,791 people on 30 April 2020.<sup>44</sup>

### 1.2.5 Freedom of movement

**Ireland** has not closed its borders. The official advice remains that all non-essential travel should be avoided until further notice, which includes Great Britain, but does not apply to Northern Ireland. The Irish Health Authorities require anyone coming into Ireland, apart from those coming from Northern Ireland, and certain providers of essential supply chain services, to self-isolate for 14 days, upon arrival.<sup>45</sup>

On 17 April, a controversy arose when it was reported that an Irish fruit company had flown in 189 workers from Bulgaria, citing the lack of applications from Irish residents.<sup>46</sup> Speaking to journalists, the Irish Taoiseach (prime minister) said that agricultural workers are essential workers, and that ports and airports need to stay open for essential goods and services. He said, however, that better monitoring systems would be put in place at ports and airports to ensure that movement restriction for 14 days is respected.<sup>47</sup>

Garda (police) headquarters have acknowledged that there is a gap in the current stay at home legislation in that it only applies to persons resident in the State and that, therefore, residents of Northern Ireland who cross the border could potentially travel more than 2kms from their home. However, the Department of Health have pointed out that there are movement restrictions in the North also.<sup>48</sup> This legislative gap is expected to be addressed in the coming days.

Ireland’s International Protection Office is continuing to accept new applications for asylum, albeit with a limited registration service due to current restrictions. Temporary Residence Certificates will

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<sup>42</sup> RTE News (2020), ‘Supreme Court sits using remote technology for the first time’, 20 April 2020, available at: <https://www.rte.ie/news/courts/2020/0420/1132582-court-remote-working/>.

<sup>43</sup> Irish Penal Reform Trust (2020), ‘Irish Prisons and COVID-19:updates’, 27 March 2020, available at: <https://www.iprt.ie/latest-news/irish-prison-service-and-covid-19/>.

<sup>44</sup> Irish Prison Service, ‘Prisoner Population on 30 April March 2020’, available at: [https://www.irishprisons.ie/wp-content/uploads/documents\\_pdf/30-April-2020.pdf](https://www.irishprisons.ie/wp-content/uploads/documents_pdf/30-April-2020.pdf) total number of prisoners over age 17 – under 17 are in ‘child detention facilities’ and not counted here.

<sup>45</sup> Ireland Department of Foreign Affairs and Trade, ‘General COVID-19 Travel Advisory in Operation’, available at: <https://www.dfa.ie/travel/travel-advice/coronavirus/>.

<sup>46</sup> The Journal.ie (2020), ‘Keelings controversy: Taoiseach says workers resident in Ireland may be called upon to pick summer crops’, 20 April 2020, available at: <https://www.thejournal.ie/keelings-leo-varadkar-5078957-Apr2020/>.

<sup>47</sup> The Journal.ie (2020), ‘Keelings controversy: Taoiseach says workers resident in Ireland may be called upon to pick summer crops’, 20 April 2020, available at: <https://www.thejournal.ie/keelings-leo-varadkar-5078957-Apr2020/>.

<sup>48</sup> RTE News (2020), ‘Dept of Health: No anomaly in virus regulations but possible issue with NI citizens’, 26 April 2020, available at: <https://www.rte.ie/news/2020/0425/1134822-garda-headquarters-restrictions/>.



be renewed automatically. All substantive interviews, however, have been cancelled up until 15 May, and applicants will be contacted after that date with new appointments.<sup>49</sup>

## 1.3 Impact of measures on particular groups

Certain groups in society in Ireland have been particularly adversely affected by the restrictions put in place. According to the report's guidelines, we decided to include in this report information regarding the following 3 vulnerable groups: older people, people who are homeless, and Roma and Travellers.

### 1.3.1 Older people

On 27 March in Ireland, when the stay at home order was put in place, separate guidelines were issued for people over 70 years of age and other vulnerable people, advising them to 'cocoon'. This involves staying at home at all times, foregoing the shopping and 2km exercise rights enjoyed by the rest of the population.<sup>50</sup> Cocooning is a guideline rather than a legal requirement.

Older people are advised to ask others to get any shopping or medicines they need. To facilitate this, the Government has launched 'the Community Call' by which local authorities in each county have established a COVID-19 hotline, which older people and anyone who needs assistance can call.<sup>51</sup> This assistance is then provided by community and local voluntary groups. All households in Ireland have been supplied with a leaflet giving the hotline numbers, as well as advice on how to respect social distance and stay safe while offering and receiving help. An Post, the Irish postal service, have also volunteered to 'check-in' on older and vulnerable customers along their route, relaying any requests for provisions and medicines back to the Covid-19 support.<sup>52</sup>

From 5 May, people who have been cocooning, including notably elderly people, will be allowed to leave their homes for exercise so long as they avoid all contact with other people.<sup>53</sup>

However, while measures above concern older people living in their own homes, growing numbers of clusters and deaths associated with nursing homes are a serious cause for concern. Of approximately 550 nursing homes in Ireland, 218 are now affected by coronavirus clusters.<sup>54</sup> Official statistics further show that nursing homes for older people currently are associated with 50% of all COVID-19 deaths.<sup>55</sup>

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<sup>49</sup> Ireland, International Protection Office (2020), 'Important Notice re COVID-19', 5 May 2020, available at: <http://www.ipso.gov.ie/>.

<sup>50</sup> Ireland Health Service Executive, 'Cocooning', at: <https://www2.hse.ie/conditions/coronavirus/cocooning.html>.

<sup>51</sup> Government of Ireland (2020), 'Ireland launches "The Community Call" in major nationwide volunteering effort', 2 April 2020, available at: <https://www.gov.ie/en/press-release/ba4e3d-covid-19-ireland-launches-the-community-call-in-major-nationwide-vol/>.

<sup>52</sup> An Post (2020), 'An Post Delivery Staff to check-in with vulnerable customers', 25 March 2020, available at: <https://www.anpost.com/Media-Centre/News/An-Post-Delivery-Staff-to-check-in-with-vulnerable>.

<sup>53</sup> Government of Ireland (2020), 'Department of the Taoiseach and Department of Health, Roadmap for reopening society and business', 1 May 2020, available at: <https://www.gov.ie/en/news/58bc8b-taoiseach-announces-roadmap-for-reopening-society-and-business-and-u/>.

<sup>54</sup> Health Service Executive (2020), 'Epidemiology of COVID-19 in Ireland', 29 April 2020, available at: [https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/casesinireland/epidemiologyofcovid-19inireland/COVID-19%20Epidemiology%20report%20for%20NPHET%2020200429\\_website.pdf](https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/casesinireland/epidemiologyofcovid-19inireland/COVID-19%20Epidemiology%20report%20for%20NPHET%2020200429_website.pdf).

<sup>55</sup> The Irish Times (2020), 'Nursing homes account for 50 per cent of coronavirus deaths in Ireland' 29 April 2020, available at: <https://www.irishtimes.com/news/health/nursing-homes-account-for-50-per-cent-of-coronavirus-deaths-in-ireland-1.4241723>.

The situation is compounded by the fact that nursing homes are currently suffering severe staff shortages, due to sickness or self-isolation amongst their staff. While the Health Service Executive and the health sector unions agreed to a process whereby public health nurses might be redeployed to nursing homes, Government figures as of 24 April showed that only 85 nurses and 120 healthcare assistants had to date been deployed.<sup>56</sup> Furthermore, on 17 March, as part of an effort to tackle the spread of the virus in nursing homes and other residential settings, the National Public Health Emergency Team announced that all residents and staff in long-term residential care units were to be tested for Covid-19 over the following seven to ten days.<sup>57</sup> As of 3 May, around 80 per cent of residents was tested for coronavirus in Irish nursing homes<sup>58</sup>.

### 1.3.2 Homeless people

In Ireland, the Government report for March 2020 showed that there were 9,907 people (adults and children) in emergency homelessness accommodation in Ireland, recording a 2.3 per cent decrease on February's number.<sup>59</sup> NGO Simon Communities welcomed the efforts to alleviate overcrowding in emergency accommodation, while the media reported that greater availability of accommodation could be attributed to the collapse of the short-term holiday rental market and a moratorium on evictions during the pandemic.<sup>60</sup> However, the Simon Community warned that most of the properties coming on the market were advertised at price ranges beyond the cap placed by the Government for rental support in private accommodation.<sup>61</sup> Focus Ireland, another NGOs working on housing issues, speaking to the Irish Times, said that emergency (anti-eviction) measures that have helped reduce homelessness and which are due to expire in June should be retained.<sup>62</sup>

The national homelessness figures do not include people who are sleeping rough on the streets, of whom there were 92 in Dublin in November 2019.<sup>63</sup> NGOs have said that the closing of cafes, restaurants and public gyms and the scaling-back of soup kitchens or soup runs, are having a severe

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<sup>56</sup> The Irish Times (2020), 'One HSE nurse redeployed for every five private nursing homes, data reveal', 29 April 2020, available at: <https://www.irishtimes.com/news/health/one-hse-nurse-redeployed-for-every-five-private-nursing-homes-data-reveal-1.4241231>.

<sup>57</sup> RTÉ News (2020), 'Testing under way in residential care units', 19 April 2020, available at: <https://www.rte.ie/news/2020/0419/1132451-covid-19-nursing-homes-tests/>.

<sup>58</sup> Extra.ie (2020), 'Large scale COVID-19 testing completed in 80% of nursing homes as positive rates decline', 3 May 2020, available at: <https://extra.ie/2020/05/03/news/irish-news/large-scale-covid-19-testing-completed-in-80-of-nursing-homes-as-positive-rates-decline>.

<sup>59</sup> Government of Ireland (2020), 'Homeless Report – March 2020', available at: [https://merrionstreet.ie/MerrionStreet/en/News-Room/Releases/March\\_Homeless\\_Figures.pdf](https://merrionstreet.ie/MerrionStreet/en/News-Room/Releases/March_Homeless_Figures.pdf).

<sup>60</sup> The Irish Times (2020), 'The rule in the hub was we could only cook once a day', 27 April 2020, available at: <https://www.irishtimes.com/news/social-affairs/the-rule-in-the-hub-was-we-could-only-cook-once-a-day-1.4238415>.

<sup>61</sup> Simon Community (2020), 'Locked Out: A Comparative Study of Availability of Private Rental Accommodation within Housing Assistant Payment (HAP) limits in Irish Cities post Covid-19 Measures', April 2020, available at: <https://www.simon.ie/Publications/Research/TabId/278/ArtMID/1573/ArticleID/253/Locked-Out-XVII.aspx>.

<sup>62</sup> The Irish Times (2020), 'Number of homeless people drops below 10,000 amid Covid-19 measures', 30 April 2020, available at: <https://www.irishtimes.com/news/social-affairs/number-of-homeless-people-drops-below-10-000-amid-covid-19-measures-1.4242217>.

<sup>63</sup> Dublin Region Homeless Executive (2019), 'Winter 2019 Rough Sleeping Count', available at: <https://www.homelessdublin.ie/content/files/Winter-2019-Rough-Sleeping-Count.pdf>. Count is conducted twice a year.

impact on rough sleepers. They emphasised the importance of providing 24-hour access to emergency accommodation while restrictions are in place, which was not previously the norm.<sup>64</sup>

### 1.3.3 Roma and Travellers

There are a little over 30,000 Travellers in **Ireland**, and 5,000 Roma.<sup>65</sup> The ‘All Ireland Traveller Health Study’ reported that travellers women live on average 11.5 years less than women in the general population and traveller men on average 15 years less than settled men. Furthermore, deaths from respiratory and cardiovascular diseases are significant in number in the traveller communities.<sup>66</sup> Their poor health status, compared to the general population, makes of travellers a particular vulnerable group in the age of the coronavirus pandemic. On National Traveller and Roma Day on 8 April, NGO Pavee Point called upon Irish people to show solidarity with Traveller and Roma through an online campaign. They cited concerns with regard to overcrowding, lack of running water or electricity and higher levels of chronic diseases, all making vulnerability to COVID-19 more acute.<sup>67</sup> While a number of cases have been reported anecdotally amongst Travellers, and at least one death has occurred in the Roma community, the lack of official ethnic identification across Irish government services make it difficult to assess the extent of the impact. Pavee Point was among the eight NGOs signing a letter calling upon the Government to disaggregate data by ethnicity, amongst other things (as mentioned in Section 1.2.1 above).<sup>68</sup> However, as a system of ethnic identifiers has yet to be put in place, this will prove challenging in the short term.

## 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

The Health Service Executive in **Ireland** has told media that they are currently testing a COVID-19 contact tracing app, which may become available in May 2020, if current restrictions are eased.<sup>69</sup> The app is being developed by an Irish company, and the CEO of Ireland’s Health Service Executive has

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<sup>64</sup> The Journal.ie (2020), ‘Shuttered shops and scaled-back soup runs: Covid-19 leaves Ireland’s rough sleepers in the cold’, 28 March 2020, available at: <https://www.thejournal.ie/rough-sleepers-covid19-coronavirus-5059936-Mar2020/> .

<sup>65</sup> Central Statistics Office, ‘Census of Population 2016: Profile 8: Irish Travellers, Ethnicity and Religion’, available at: <https://www.cso.ie/en/releasesandpublications/ep/p-cp8iter/p8iter/p8iti/>; Pavee Point Traveller and Roma Centre & Department of Justice and Equality (2018), ‘Roma in Ireland – A National Needs Assessment’, available at: <https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf> .

<sup>66</sup> University College Dublin et al. (2010), ‘All Ireland Traveller Health Study. Our Geels’, September 2010, available at: [https://www.ucd.ie/t4cms/AITHS\\_SUMMARY.pdf](https://www.ucd.ie/t4cms/AITHS_SUMMARY.pdf) .

<sup>67</sup> Pavee Point (2020), ‘COVID-19 Solidarity on International Traveller & Roma Day 2020’, 8 April 2020, available at: <https://www.paveepoint.ie/solidarity-on-international-traveller-roma-day-2020/> .

<sup>68</sup> Irish Council for Civil Liberties et al (2020), ‘Letter to Taoiseach Leo Varadkar’, 22 April 2020, available at: <https://www.iccl.ie/wp-content/uploads/2020/04/CSOs-letter-to-Taoiseach-calling-for-HRIA.pdf> .

<sup>69</sup> Irish Examiner (2020), ‘HSE says Covid-19 contact tracing app may become available next month’, 17 April 2020, available at: <https://www.irishexaminer.com/breakingnews/ireland/hse-says-covid-19-contact-tracing-app-may-become-available-next-month-994660.html> .

confirmed that a decentralised system, where data-matching will take place on a person's phone, rather than a centralised server system, has been put in place.<sup>70</sup> This will allow the app to meet requirements made by Apple and Google to protect user privacy.<sup>71</sup> It will use Bluetooth technology to 'augment the contact tracing process' according to the CEO of the Health Service Executive<sup>72</sup>, and the Irish Minister for Health has said that the app would not record or collect exact location information, but that users would be given the option of volunteering their 'general locality'.<sup>73</sup> The Health Service Executive have also said that they are working with the Irish Data Protection Commissioner to ensure that the app is GDPR compliant.<sup>74</sup>

There have been no other arrangements put in place for collecting location data from telecoms operations for Covid-19 tracking purposes.

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

No developments in the reporting period. There is no indication that a new legal framework will be put in place. The Irish Health Service Executive has confirmed that the Attorney General has reviewed the app, and have said that while they have not yet published information on the project as it is still under development, they 'take their obligations seriously' and 'will not be going live with an app without meeting our legal obligations'.<sup>75</sup>

## **2.3 Privacy and data protection concerns and possible solutions**

NGO Digital Rights Ireland have expressed concern that lack of transparency over the State's proposed contact tracing app will limit uptake and undermine its effectiveness. A group of signatories led by NGO Irish Council for Civil Liberties and Digital Rights Ireland have made three requests: that the app adopt a decentralised approach; that the Health Service Executive follow European Data Protection Board recommendations by publishing draft specifications, source code and Data Protection Impact Assessment, and allow for expert input; and that purpose limitation to prevent mission creep, mandatory uptake or discrimination against those who have not installed the app.<sup>76</sup> While the news that the data-matching will apparently be decentralised may allay one concern, the Health Service

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<sup>70</sup> The Journal.ie (2020), 'Covid-19 contact tracing app due to be launched by end of May', 3 May 2020, available at: <https://www.thejournal.ie/hse-contact-tracing-app-coronavirus-5090759-May2020/>.

<sup>71</sup> The Irish Times (2020), 'HSE Covid-19 tracing app data will be stored on individual devices', 29 April 2020, available at: <https://www.irishtimes.com/business/technology/hse-covid-19-tracing-app-data-will-be-stored-on-individual-devices-1.4240304>.

<sup>72</sup> The Journal.ie (2020), 'Covid-19 contact tracing app due to be launched by end of May', 3 May 2020, available at: <https://www.thejournal.ie/hse-contact-tracing-app-coronavirus-5090759-May2020/>.

<sup>73</sup> The Irish Times (2020), 'Contact tracing app: One in four must use to curb Covid-19 spread', 4 May 2020, available at: <https://www.irishtimes.com/news/health/contact-tracing-app-one-in-four-must-use-to-curb-covid-19-spread-1.4244108>

<sup>74</sup> Silicon Republic (2020), 'HSE announces coronavirus contact-tracing app, but privacy concerns remain', 30 March 2020, available at: <https://www.siliconrepublic.com/enterprise/hse-coronavirus-contact-tracing-app>.

<sup>75</sup> The Irish Times (2020), 'Lack of transparency will "damage uptake" of contact tracing', 27 April 2020, <https://www.irishtimes.com/news/ireland/irish-news/lack-of-transparency-will-damage-uptake-of-contact-tracing-app-1.4238417>.

<sup>76</sup> Irish Council for Civil Liberties (2020), 'HSE app: experts and public need to see details', 29 April 2020, available at: <https://www.iccl.ie/news/hse-app-experts-and-public-need-to-see-details/>

Executive have said that they intend to share source code only after the app is launched.<sup>77</sup> The project team developing the app are preparing a Data Protection Impact Assessment to be sent to the Irish Data Protection Commissioner, which will set out how they plan to mitigate any risks or concerns with regard to data issues.<sup>78</sup>

## **2.4 Any other privacy and data protection concerns**

No developments in the reporting period.

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<sup>77</sup> The Irish Times (2020), 'Lack of transparency will "damage uptake" of contact tracing', 27 April 2020, <https://www.irishtimes.com/news/ireland/irish-news/lack-of-transparency-will-damage-uptake-of-contact-tracing-app-1.4238417>.

<sup>78</sup> The Journal.ie (2020), 'Covid-19 contact tracing app due to be launched by end of May', 3 May 2020, available at: <https://www.thejournal.ie/hse-contact-tracing-app-coronavirus-5090759-May2020/>