

CORONAVIRUS PANDEMIC IN THE EU – FUNDAMENTAL RIGHTS IMPLICATIONS

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Acronyms and abbreviations

Charter	Charter of Fundamental Rights of the European Union
DPA	Data Protection Authority
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
EDPB	European Data Protection Board
EU	European Union
FRA	European Union Agency for Fundamental Rights
JHA	Justice and Home Affairs
OJ	Official Journal of the European Union
OSCE	Organization for Security and Co-operation in Europe
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Foreword

As we enter the second half of 2020, the constraints on our daily lives brought about by the COVID-19 pandemic have become a firm reality. New local lockdowns and the reintroduction of restrictive measures prompted by fresh outbreaks of the virus are a stark reminder that COVID-19 continues to shape our lives – and our enjoyment of fundamental rights – in profound ways.

The stabilisation of COVID-19 infections across much of the European Union (EU) provides a moment to reflect on the immense contribution of institutions and people from across our diverse societies who have stepped up to promote and protect fundamental rights. Medical staff and other frontline workers have ensured that essential services kept running. Courts have pushed back against excessive regulation. National bodies – National Human Rights Institutions, Equality Bodies, Ombuds and Data Protection Authorities, among others – have provided much-needed monitoring, guidance and advice. Civil society has not only advocated for rights, but delivered vital services, often incredibly creatively. Their contributions can provide a blueprint for dealing with future crisis situations, and it is crucial that their stories are heard.

At the same time, looking across this series of four bulletins, there is compelling evidence of how the pandemic has exacerbated existing challenges in our societies. Sections of our populations have exploited COVID-19 to attack minorities already subject to appalling levels of discrimination and hate crime. The rapid spread of disinformation risks undermining trust in the measures and institutions essential to containing the virus. Women have taken on a disproportionate share of caring responsibilities prompted by the closure of schools and support services, endangering hard-fought progress towards gender equality.

The gradual reduction in the constraints on our lives shines the light on us, on our personal and social responsibility to contain the pandemic and mitigate its effects. Delivering on that responsibility, both individually and collectively, is our greatest fundamental rights challenge going forward.

Michael O’Flaherty
Director

Key findings

This bulletin outlines some of the measures EU Member States have put in place to protect public health during – and following the first peak of – the Coronavirus pandemic. It highlights how the different measures may affect fundamental rights. Where specific articles are mentioned in the report, these refer to the **Charter of Fundamental Rights of the European Union**, which also serves as a proxy for the many other human rights standards that apply at national level.¹

The report covers the period 1 – 30 June 2020 and focuses on four interrelated issues:

- states of emergency or equivalent measures;
- measures to contain the spread of COVID-19 and mitigate its impact on social life, education, work, the justice system and travel to and within the EU;
- the impact of the virus and efforts to limit its spread on particular groups in society, namely people in institutional settings, older persons, persons with disabilities, Roma and Travellers, detainees and victims of domestic violence;
- specific areas in which the pandemic has prompted significant fundamental rights issues, including racism and xenophobia, asylum and migration, disinformation, and data protection and privacy.

The most widespread restrictions on daily life experienced in peacetime in modern Europe affect everyone living in the EU, albeit in different ways. This has implications for the enjoyment across our societies of nearly all the fundamental rights enshrined in the Charter. The following paragraphs outline key findings from FRA's data collection across the 27 EU Member States, illustrating the impact on fundamental rights of the virus and the measures to contain it.

States of emergency

Member States continued to lift **states of emergency** or their equivalent as the health situation improved. However, these were often replaced by other emergency measures. States of emergency typically allow certain rights to be limited, such as freedom of movement (Article 45 of the Charter), freedom of assembly and of association (Article 12), and private and family life (Article 7). Restrictions on freedom of assembly and of association came to the fore in the context of anti-racism demonstrations following the death of George Floyd in the USA. During the reporting period between 1 and 30 June:

- States of emergency – or their equivalent – remained in place in a small number of Member States.
- Others extended the emergency measures that had earlier replaced states of emergency, or introduced such measures as states of emergency ended. Some such developments prompted concerns about changes to the law-making process, the legal basis for measures and on-going limitations on fundamental rights.
- Courts, national human rights bodies and civil society organisations continued to scrutinise – within their respective areas of competence – limitations on fundamental rights linked to states of emergency. In several cases, this prompted authorities to change their approach.
- Member States adopted a variety of approaches ahead of, during and after the anti-racism demonstrations that took place across the EU in June. Some granted permission for such protests, while others banned them.
- In a number of countries, actors took steps to ensure physical distancing and other hygiene measures at demonstrations.

Impact on daily life: Member States' measures to address the outbreak

While the gradual relaxation of restrictions on daily life continued in June, **physical distancing measures remained in place in all EU Member States**. Such restrictions affected many fundamental rights, including the rights to liberty and security (Article 6 of the Charter), respect for private and family life (Article 7), freedom of thought, conscience and religion (Article 10), freedom of expression and information (Article 11), freedom of assembly and of association (Article 12), freedom of the arts and sciences (Article 13), and freedom of movement and of residence (Article 45). They can also affect the rights of specific groups including children (Article 24), older persons (Article 25) and persons with disabilities (Article 26).

- The removal of constraints in public life came on the condition that health and safety instructions – including on numbers entering a service or facility, special spacing arrangements or wearing of facemasks – are strictly followed.
- Specific stay-at-home orders remained in place in many countries for persons infected with the Coronavirus or persons living with them. Some Member States ordered lockdown measures for specific regions experiencing rising infection rates.
- Police continued to monitor and record violations of health and safety rules, in some cases imposing fines for violations.

The **approach to reopening educational institutions varied across Member States** in June. While some completely reopened their educational systems, others kept schools shut. Most alternated between face-to-face and remote teaching. This had consequences for the right to education of all children in the EU, without discrimination (Articles 14 and 21 of the Charter).

- Hygiene and safety rules remained in place for educational facilities across the EU.
- A number of Member States initiated summer school programmes to make up for lost teaching time and prepare pupils, particularly those with socially disadvantaged backgrounds or special needs, for the new school year.
- Many countries began preparations for a return to school in the autumn, reflecting the potential need for continued COVID-19-related measures, including prolonged distance learning.
- Assessments of the impact of remote learning revealed challenges of access to equipment and support for children from disadvantaged backgrounds.

By late June, **most economic sectors were operating again across the EU**, but under health and hygiene protocols. Ongoing economic pressures and preventative measures against the virus can affect fundamental rights including: workers' rights to information and consultation (Article 27), protection in the event of unjustified dismissal (Article 30), the right to fair and just working conditions (Article 31), social security and social assistance (Article 34), the right to health (Article 35), but also the freedom to choose an occupation, the right to engage in work (Article 15), and the freedom to conduct a business (Article 16).

- Some Member States extended measures to support the labour market and cushion the negative economic impact of the lockdown. Several focused on sectors that could still not reopen, or those particularly affected by the pandemic, such as the self-employed.
- Data from a number of countries indicated that the pandemic has disproportionately affected women, particularly when it comes to work-life balance and caring responsibilities.

Disruption to judicial proceedings affects people's right to access justice, in particular the right to an effective remedy and a fair trial (Article 47). It also has possible implications for the right to equality before the law (Article 20) and the right to good administration (Article 41). **Judicial systems continued to resume normal operations across the EU**, while implementing new health and safety guidelines to contain the spread of COVID-19 and working to address the backlog in cases resulting from earlier restrictions.

- Many Member States continued to conduct certain proceedings via written procedure or remotely, to extend deadlines for lodging petitions, and to use electronic communication.
- Some countries reported a backlog of cases and sought to ease these in a variety of ways, including by extending opening hours, hiring additional staff or creating temporary courts.
- Many Member States announced the continuation of video-hearings, although countries and courts differed with regard to which proceedings would continue to take place remotely.

Most Member States acted in line with the **European Commission's recommendation to extend the restrictions on travel to the EU** to the end of June. At the same time, Member States continued to ease temporary controls at their internal borders.

- Some Member States announced that – **in line with the Council recommendation on the gradual lifting of temporary restrictions on non-essential travel into the EU** – that they would begin to re-open their Schengen external borders from 1 July to residents of certain third countries.
- Member States adopted three main approaches to travel within the EU. Half of them generally no longer imposed controls on entry for people resident in most EU or Schengen states; eight operated a 'traffic light system', with travel allowed from EU Member States on 'safe' or 'green' lists, while certain conditions remained in place for travel from other Member States; the remainder imposed other conditions.

Impact on particular groups in society

COVID-19 and the measures adopted to contain it continued to severely affect the fundamental rights of particular groups, such as people in institutional settings, older persons, persons with disabilities, Roma and Travellers, and detainees. Continuing lockdown restrictions also had an impact on domestic violence.

The situation of **older persons and persons with disabilities living in institutions** gave particular cause for concern, given the high rates of infections and deaths in these settings and the impact of visiting bans on residents' wellbeing.

- In June, about half of EU Member States further eased restrictions on visits to these settings. Criticisms emerged in some countries that guidelines on visits were too complex, that there was a lack of information about changes, and that restrictions were over-implemented or disproportionate.
- Governments and organisations in some Member States assessed the response to COVID-19 in institutions and considered how to deal with a potential 'second wave'.

Issues around access to treatment and testing, access to services and the impact of isolation affect **older people's** right to lead a life in dignity and independence, as enshrined in Article 25 of the Charter, alongside many other fundamental rights.

- Member States continued to lift general restrictions and special measures, such as stricter physical distancing recommendations, targeting older persons in June.
- Evidence in some Member States pointed to increased loneliness and psychological distress linked to the pandemic. Some Member States allocated additional resources to facilitate social contact through digital means.

Persons with disabilities continued to face challenges in everyday life because of the pandemic.

- Actors called for greater efforts to ensure that support measures in fields such as employment, education, contact tracing and physical distancing include persons with disabilities and take account of their specific needs.
- Evidence from studies in several Member States indicated that the pandemic is negatively affecting the wellbeing of persons with disabilities and their families, including by increasing stress and loneliness.

Access to clean water and sanitation, loss of jobs and employment opportunities, and the continued vulnerable situation of children remained pressing concerns for many **Roma and Travellers** in June.

- Some Member States announced or implemented educational programmes to support Roma children and children from disadvantaged backgrounds.
- In some countries, Roma organisations partnered with authorities and launched initiatives to address the negative effect of COVID-19 on Roma communities. Roma health and education mediators played a critical role in facilitating Roma people's access to information and basic services.

Detention conditions and measures to contain the COVID-19 pandemic continued to **affect detainees' rights across the EU**. **Several Member States** reported new COVID-19 infections among prisoners and prison staff.

- Member States continued to gradually restore normal services in prisons throughout June, primarily by easing visiting bans and resuming activities such as education programmes.
- Some countries considered whether to extend initiatives introduced during the pandemic, such as greater access to video calls.

Evidence from some Member States indicated that **domestic violence increased during confinement**.

- Some Member States reported increases of between 20 % and 73 % in calls to domestic violence national hotlines. Others reported increases in crimes of domestic violence. In contrast, evidence from several countries indicated that reporting to police did not increase. This, as evidenced by [FRA's survey on Violence against Women](#), is likely to reflect the long-standing challenge of underreporting by victims of domestic violence.
- Some Member States continued to make efforts to support victims, for example by opening new accommodation places, developing a network of places where victims can seek help, and increasing funding to better protect victims.

Specific fundamental rights issues

FRA's bulletins have covered a number of specific fundamental rights issues between March and June 2020, including **racism, asylum and migration, disinformation, privacy and data protection**. The key developments in these areas by 30 June 2020 are summarised here. **Racism, hate speech and violence against minority groups linked to the pandemic**, covered in [Bulletin #1](#), remained a cause of concern.

- The pandemic increasingly became a pretext to attack minorities already subject to racial discrimination, hate speech and hate crime, such as migrants, people with an immigrant background and Roma, particularly on social media.
- Incidents targeting people of assumed Asian origin continued or even increased.
- Reports emerged in several Member States of politicians using racist and xenophobic language.
- Some countries reported racial profiling and disproportionate enforcement of COVID-19 related restrictions with respect to people with North African background, Black people and other ethnic minority groups.
- Issues highlighted in previous bulletins concerning the registration and processing of asylum applications remained in some Member States.
- The number of asylum applications in the EU-27 increased in May compared to April 2020, although overall levels remained low. This could reflect a gradual return to normal trends.
- Most Member States that had imposed temporary restrictions on the processing of asylum applications earlier in the pandemic had gradually resumed asylum procedures by June, partly through remote interviewing.

Disinformation related to COVID-19 continued to circulate, particularly on social media, as reported in [Bulletin #1](#). The European Commission issued a [Joint Communication in June 2020](#) recalling the crucial role played by freedom of expression and a pluralistic democratic debate when fighting disinformation.

- Evidence from some Member States indicates that actions taken at the start of the pandemic successfully reduced the impact of disinformation.
- Several Member States initiated criminal investigations into the spread of disinformation.²
- The topics and conspiracy theories spread through disinformation were similar through the EU. Evidence from several Member States indicated that a majority of people believed they had encountered disinformation about the pandemic.
- Efforts to fight disinformation at national level included: promoting enhanced transparency when publishing statistics related to the virus; creating platforms to rebut disinformation and allocating funds to the media to counter disinformation.

By the end of June, contact-tracing apps and other technological tools to combat the pandemic were available or well underway in several Member States, raising a number of **data protection and privacy concerns**, as highlighted in **Bulletin #1** and **Bulletin #2**.

- Data Protection Authorities in several Member States called for legislation that would provide legal clarity, ensure the voluntary nature and purpose limitation of contact tracing apps, restore public trust and increase public acceptance. Some Member State governments made efforts in this regard.
- Data protection bodies, civil society organisations and the media continued to pay close attention to the deployment of other technological tools to respond to the pandemic, including use of drones and other forms of surveillance of physical distancing measures, passenger locator forms and temperature screening. Some bodies highlighted data processing concerns and a lack of clarity about the legal basis for such tools.



Introduction

By 21 July 2020, COVID-19 had infected 1,328,120 people in the EU and 135,124 people had died from it, according to the [European Centre for Disease Prevention and Control](#). As infection rates continued to stabilise throughout June, EU Member States focused on further relaxing the restrictions they had put in place to combat the spread of COVID-19 and protect the health and lives of people in the EU.

In June, more aspects of life returned to 'normal' as restrictions on gatherings eased further, people could again travel within the EU, and more businesses reopened their doors. Despite the gradual return to normal life, Member States continued to exercise caution, recognising that the pandemic is not yet over and amid concerns about a possible 'second wave' of COVID-19 infections. Protecting the rights to life and health – while avoiding further inequalities that may result from measures adopted – should remain a priority as countries continue to ease restrictions.

This is the fourth FRA Bulletin on how the Coronavirus pandemic affects fundamental rights. It outlines some of the measures EU Member States adopted to safely reopen their societies and economies while continuing to mitigate the spread of COVID-19. It highlights the impact these measures may have on civil, political and socioeconomic rights. The bulletin starts by looking at declarations of states of emergency, or their equivalent, including how and under what circumstances Member States began to lift them ([Section 1](#)). It then considers the impact on fundamental rights of measures to contain the virus on important areas of daily life, including social life, work, education, travel and the judicial system ([Section 2](#)). [Section 3](#) describes the impact of the pandemic and containment measures on certain population groups. The bulletin closes by returning to some of the specific fundamental rights issues related to the pandemic addressed in previous bulletins, providing updated information on: racism and xenophobia; asylum and migration; disinformation; and data protection and privacy ([Section 4](#)).

Given the speed with which the pandemic and policy responses have unfolded, the bulletin does not present an in-depth socio-legal analysis of measures and their impact, nor does it offer recommendations for future policies. Rather, it presents illustrative examples drawn from data collected by FRA's research network Franet (see box). It is beyond the Bulletin's scope to present an analysis of relevant international human rights law since it applies only to the situation in the EU and its Member States.

Bulletin #4 addresses several areas of life affected by the COVID-19 outbreak. While these are all reflected in various articles of the EU Charter of Fundamental Rights, they are not all comprehensively covered by secondary EU law. For example, the Bulletin encompasses core areas affected by measures enacted in response to COVID-19 – such as education. These are, in the main, questions of national competence. But in combination, they might nevertheless have implications in EU law relevant fields such as non-discrimination.

Selected examples of promising practices to mitigate the impact of public health measures on fundamental rights are included throughout. These examples of practices in EU Member States presented in the report do not comprehensively cover the huge number of actions taken across the EU Member States.

More information on the situation concerning COVID-19 among migrants and refugees at the EU's external borders is available in FRA's [regular reporting on migration](#). In addition, FRA is collecting in-depth information on the impact of COVID-19 on Roma and Travellers, and is planning to publish its findings in a separate publication in the coming months.

BULLETIN #4: COVERAGE AND TIMELINE

Bulletin #4 on COVID-19 documents the situation in the 27 EU Member States from **1 to 30 June 2020**. It retains the main structure of Bulletins #1, #2 and #3, published on 8 April, 28 May and 30 June 2020, in looking at the impact of COVID-19 on both society as a whole and particular groups within it, with some differences in the specific issues considered. In addition, the final section updates the situation concerning particular fundamental rights issues linked to the pandemic.

FRA's multidisciplinary research network, FRANET, collected data and information for this bulletin across all 27 EU Member States. It gathered information from sources that were publicly available at the moment of data collection.

FRA's 2021 Fundamental Rights Report, to be published in June 2021, will address the impact of COVID-19 on fundamental rights across the EU in 2020.

1

STATES OF EMERGENCY

All countries, including here in Europe, are facing a delicate balance between protecting their people, while minimizing the social and economic damage, and respecting human rights.

WHO Director-General Dr Tedros Adhanom Ghebreyesus, **Opening remarks at the Standing Committee of the Parliamentary Assembly of the Council of Europe (PACE)**, 26 June 2020

EU Member States continued to lift states of emergency, or their equivalent, in June as the health situation improved. However, other emergency situations remained in place in many Member States, prompting concerns about ongoing limitations on fundamental rights. This report uses the respective national terminology, without prejudice to the specific legal consequences different terms may refer to.

It is a basic principle of international human rights standards that any restrictions to a right must be prescribed by law, proportionate and necessary, and of limited duration. Well-established case law of the European Court of Human Rights (ECtHR), based on Article 15 of the European Convention on Human Rights (ECHR), provides that derogations need to be notified, and should happen only in exceptional circumstances and in a limited and supervised manner to secure certain rights and freedoms under the ECHR. **Latvia withdrew its remaining derogations from the ECHR**, which concerned Article 8 (respect for private and family life) and Article 2 of Protocol 4 (freedom of movement), on 10 June. As reported in **Bulletin #3**, the other EU Member States (Estonia and Romania) that had **notified a derogation from the ECHR** in times of emergency withdrew these derogations in May.

1.1 FROM STATES OF EMERGENCY TO OTHER EMERGENCY SITUATIONS

As reported in previous bulletins, the situation concerning states of emergency – or their equivalent – varied greatly across the EU:

- States of emergency in **France (in place until 10 July)** and **Italy (until 31 July)** remained in place. The **emergency ordinances in the Netherlands' 'safety regions' remained in force** until the end of June. The state of emergency in Lithuania continued, but the **quarantine regime ended** on 16 June.
- A number of Member States extended the measures that had earlier replaced states of emergency (see **Bulletin #3**). **Bulgaria extended its emergency epidemic situation** until 15 July, **Portugal extended its situation of calamity** to 30 June and **Romania prolonged the state of alert for 30 days** from 16 June.
- Several other countries took a similar approach, as states of emergency ended but other emergency measures were introduced or remained in place. These included Hungary (**state of danger ended on 18 June**, replaced by **state of epidemiological preparedness**), Luxembourg (state of emergency ended on 24 June, **replaced by two laws providing for the continuation** of many emergency measures) and Latvia (emergency situation ended on 9 June, **replaced by a special regulation**). **Slovakia's state of emergency ended** on 13 June, but the state of crisis remains in place.
- The **state of emergency in Finland ended** on 16 June, while **Spain's state of alarm** ended on 21 June.

In a number of cases, developments prompted concerns about changes to the law-making process, the legal basis for measures and on-going limitations on fundamental rights. This reflects trends highlighted in FRA's earlier bulletins, which also indicated the extensive engagement of national human rights bodies and civil society on these issues.

After the **Hungarian parliament adopted the Act on Transitional Rules**, the **government declared a state of epidemiological preparedness** – lasting six months – on 18 June. Reflecting previous concerns (see **Bulletin #3**), the **Eötvös Károly Policy Institute argued** that the act provides a formal legal basis for the government to govern by decree.

Criticism of draft legislation focused on the principles of legality, necessity and proportionality. The French National Consultative Commission on Human Rights noted that the **draft bill to lift the state of health emergency** would extend some of the exceptional powers granted to the executive during the state of health emergency, and stressed that **some provisions do not meet the requirements of legal certainty**.

Responding to a consultation on the **draft bill to replace the regional emergency ordinances in the Netherlands with a special national act**, the **Netherlands Institute for Human Rights underlined** that any measures limiting fundamental rights should not go beyond what is necessary to contain the spread of COVID-19. It also noted that the draft bill leaves room for the Chairs of the safety regions to continue to legislate through emergency ordinances. The institute called for the text of the bill and explanatory memorandum to provide greater clarity to emphasise the exceptional nature of these powers. The **National Ombuds institution highlighted similar issues**, arguing that it is not clear which authority decides on which measures, what factors are considered when imposing a measure, and which remedies are available to individuals affected by the measures. The **government subsequently postponed the implementation of the bill**, intended to take effect by 1 July, until at least September.

Concerns in Luxembourg centred on the provision in one of the bills adopted after the end of the state of emergency that **allowed forced hospitalisation** of persons infected with COVID-19. The **President of the Superior Court of Justice questioned** how the law could be applied in practice, while the **Consultative Commission on Human Rights emphasised that forced hospitalisation constitutes a deprivation of liberty** and can only be justified on exceptional grounds. It stressed that any such order should be well-reasoned and respect procedural guarantees, including the potential to appeal.

As noted in previous bulletins, around a third of EU Member States did not declare a state of emergency or equivalent during the pandemic period.

1.2 STATES OF EMERGENCY AND EMERGENCY MEASURES UNDER SCRUTINY

Courts, national human rights bodies and civil society organisations continued to scrutinise – within their respective areas of competence – limitations on fundamental rights linked to states of emergency. In several cases, this prompted authorities to change their approach.

Following a challenge brought by the Ombuds institution, the **Romanian Constitutional Court declared** certain provisions of the Law regarding some measures to prevent and combat the effects of the COVID-19 pandemic unconstitutional as they breached the separation of powers. **Constitutional courts in Austria, Croatia and Slovenia** are currently reviewing the constitutionality of legal changes and measures adopted during the pandemic.

Following a trend emerging from previous bulletins, several cases focused on limitations on the freedom of assembly. Events of more than 5,000 are prohibited in France until 31 August 2020. Following complaints, the **French Council of State ruled** on 13 June that the prohibition of demonstrations in public is justified only when COVID-19 physical distancing and other preventive measures cannot be respected or when the event may bring together

more than 5 000 people. It recalled **that any demonstration in public must be the subject of a prior declaration** to the municipality or prefecture, and that it can be prohibited if the police or prefect consider it likely to disturb public order, including for health reasons, or when local circumstances justify it. This prompted the **government to adopt a new decree on 14 June** reassessing the restrictions, which was itself **challenged before the Council of State**. Another **decree, adopted on 21 June**, stated that gatherings, meetings or activities in public may be authorised if the conditions of their organisation are capable of guaranteeing compliance with the social distancing and hygiene measures.

In contrast, the **Belgian Council of State rejected an urgent appeal** from the collective Santé en Lutte to suspend the prohibition on protest, stating that the infringement of the freedom to demonstrate is not sufficient to justify the urgency of the appeal. The court ruled that the measure banning protests was evidently temporary and was subject to a continuous review.



COVID-19 AFFECTS THE ORGANISATION OF ELECTIONS

The postponement of elections in both France and Poland highlighted how the pandemic affected the functioning of democracy. The second round of municipal elections in France, initially scheduled for 22 March, took place on 28 June. The **media reported that the turnout of just over 40 % represented a historic low**, and a 20 percentage point decrease compared to the 2014

municipal elections. However, the **Constitutional Council held that the postponement of the election** did not violate “the right to vote, the principle of honest voting, or that of equality before the vote”. Amid **strict sanitary measures**, on 28 June voters also cast their ballots in the first round of the Polish Presidential elections, delayed from 10 May. Several actors raised concerns about the impact of new legislation regulating the elections on the legal framework for the campaign and the effective exercise of electoral rights.*

The **Croatian State Electoral Commission banned those infected with COVID-19 from voting from home**, while allowing those self-isolating because of suspected infection to vote in this way. The civil society organisation **Gong argued that this could unreasonably limit the rights of infected persons**, and called for clear information about the legal basis for the decision.

* *ODIHR (2020)*, Opinion on the draft Act on special rules for the organizations of the general election of the President of the Republic of Poland ordered in 2020 with the possibility of postal voting; *Ombuds institution's Office (2020)*, Uwagi RPO do nowej ustawy o wyborach prezydenckich; *Helsinki Foundation for Human Rights (2020)*, New elections law: new problems. HFHR comments on a law setting special rules for the carrying out of universal elections of the President of Poland.

1.3 ANTI-RACISM PROTESTS HIGHLIGHT IMPACT ON FREEDOM OF ASSEMBLY

Anti-racism demonstrations following the **death of George Floyd in the United States** on 25 May took place across the EU in June. Data collected by FRA suggests considerable variation in approaches ahead of, during and after these events.

While Member States maintained on-going restrictions on larger gatherings (see **Section 2.1**), several made exceptions for demonstrations. Demonstrations were **exempt from the current ban on assemblies** of more than 50 people in Denmark, for example, while the **special measure prohibiting events over 2,500 people in Czechia** noted that restrictions do not apply to gatherings under the **Act on the right to assembly**, which include demonstrations. The **Portuguese Minister of Health underlined that there is no restriction to the right of demonstration** during the state of calamity, but that the organisers must ensure respect for health guidelines. Car-based gatherings could exceed the **limit of 100 people for public gatherings in Estonia**: a **Black Lives Matter rally** took place in this format on 10 June.

Authorities in some Member States granted permission for anti-racism protests. Administrative **authorities in Spain authorised demonstrations in Madrid and Barcelona** on 7 June, which each involved some 3,000 people; police also pre-approved a **demonstration outside the United States embassy in Luxembourg** on 6 June. In contrast, a number of **protests in honour of George Floyd and against police violence took place in Paris, France**, despite being banned by the police. However, the **Interior Minister stated that further demonstrations would be tolerated** and participants would not face sanctions.

FRA evidence from several Member States suggested shifting approaches to different demonstrations. For example, police declared protests against Cyprus's immigration policies, and in particular the situation at Pournara camp, unlawful and issued fines of € 300 to the participants. Another **demonstration by the main opposition party AKEL** did not face similar restrictions, however, and no fines were issued to participants. In some cases, changes in approach followed large numbers of people gathering. After more than 10 000 people participated in a Black Lives Matter protest in Brussels, Belgium, on 7 June 2020, the **Secretary of State for the Interior wrote to remind all mayors and regional Governors** that public gatherings of more than 20 people were prohibited until 30 June 2020. The Minister called on local public officials to draw organisers' attention to other ways of exercising the freedom of expression.

In a number of countries, actors took steps to ensure physical distancing and other hygiene measures at demonstrations. Following a large anti-racism demonstration in Austria, the **government amended the regulation on COVID-19 measures** to require the wearing of face masks during demonstrations if physical distance of one metre cannot be maintained. **Authorities in Denmark urged those who participated in a large Black Lives Matter protest to get tested** for COVID-19. In other cases, protest organisers took a leading role. **Volunteers at the protest in Luxembourg ensured safety** during the event and distributed guidelines on hygiene measures to participants.

While most protests were peaceful, some prompted police investigations. **Police in Lithuania investigated eight cases of administrative offenses**, as well as a public order violation, during the Black Lives Matter rally in Vilnius. Police in Sweden broke up several anti-racism protests in large cities, noting that they exceeded the current 50 person limit; **they arrested 10 persons and put around 30 in preventative detention** following a demonstration in Gothenburg, and **reported the organisers of the protest in Malmö** for suspected violation of the Public Order Act. The **Irish police force looked into breaches of social distancing** during a large protest in Dublin, saying that while organisers had attempted to put in place social distancing measures, the turnout had substantially exceeded expectations. **Organisers cancelled a subsequent planned march** due to fears of potential prosecution. The **media reported violent incidents during protests in Greece** following the death of George Floyd.

2

IMPACT ON DAILY LIFE: EU MEMBER STATES' MEASURES TO ADDRESS THE OUTBREAK



This section showcases how COVID-19 continues to affect five key areas of daily life: daily social interaction, education, work, the judicial system, and travel to and within the EU. The evidence indicates that, while Member States are lifting restrictions in many areas, significant challenges to fundamental rights remain.

2.1 DISRUPTIONS TO DAILY INTERACTION: PHYSICAL DISTANCING

In June, all Member States progressed with further lifting the restrictions put in place when the pandemic began. Governments and authorities continued to call for public discipline and solidarity, and for people to maintain the minimum physical distance.

The removal of constraints in public life came on the condition that health and safety instructions are strictly followed. Such instructions not only encompassed hygiene etiquette, but also measures such as curbing the number of customers in service facilities, limiting opening times, requiring specific seating arrangements in restaurants or cultural venues, and installing protective shields in shops. Facemasks remained mandatory on public transport in almost all countries, with exceptions for children and persons with particular needs.

Limitations on the number of participants attending an event were adjusted in many countries, allowing for events with a greater number of participants than in the preceding months. However, a ban on mass events lasted throughout June in most Member States.

While general stay-at-home orders have been lifted in all Member States, specific orders remained in place in many countries for persons infected with the Coronavirus or persons living with them. In addition, some Member States ordered lockdown measures for specific regions experiencing rising infection rates:

- **Bulgaria locked down the Iztok neighbourhood** in Kyustendil, which has a predominantly Roma population, due to an increase in the number of infected persons among its residents.
- **Covid-19 outbreaks were reported in a meat factory in the North-Rhine Westphalia region** of Germany, **prompting local lockdowns** in two affected districts.
- In Portugal, the Metropolitan Area of Lisbon remained under stricter restrictions than the rest of the country until 15 June due to localised outbreaks, after which a **resolution of the Council of Ministers** lifted them.

Sanctions for violating containment orders remained intact in the Member States in June. The Greek Ministry of Development and Investments, in collaboration with the Hellenic police, conducted 1,506 checks in June to monitor the implementation of Covid-19 health and safety measures as well as businesses' compliance with provisions to balance the negative financial impact of the pandemic. They recorded a total of 267 violations of health and safety rules and the laws against illicit trading.³ Polish media reported several cases of penalties of up to € 2,500 imposed by the sanitary inspectorates for violating physical distancing rules. The Polish Ombuds institution later reported that the **County Sanitary Inspectorate decided to lift the disproportional charges**.

2.2 DISRUPTION TO EDUCATION

The approach to reopening educational institutions varied across Member States. In Denmark, Estonia and Slovenia, the educational system had completely reopened by June; in contrast, educational facilities in Bulgaria, Romania, Spain and Malta remained closed – with exceptions for the exam period (see box). In most Member States schools alternated between face-to-face and remote teaching, and rotated classes to limit the number of pupils in classrooms. Universities and other higher education institutions largely continued with remote lectures.

Hygiene and safety rules such as maintaining the minimum physical distance, providing hand disinfectants, regularly ventilating rooms, specific seating arrangements or wearing of face masks – with exceptions for younger children or persons with particular needs – remain in place.

2.2.1 Preparations for the new school year

A number of Member States initiated summer school programmes to make up for lost teaching time and prepare pupils, particularly those with socially disadvantaged backgrounds or special needs, for the new school year. The **Slovakian Ministry of Education allocated € 500 000 for** the organisation of summer schools, while the **Austrian Ministry of Education, Science and Research launched** a nationwide programme of free summer schools for primary and secondary school pupils with a migrant background to improve their German. The **Irish Department of Education announced** that a summer programme usually offered to children with autism or severe disabilities will expand to cover a wider range of children with special needs.

SPECIAL ARRANGEMENTS FOR EXAMS

Member States organised end-of-year exams in different ways. In Bulgaria, where face-to-face courses had not resumed, **all mandatory exams for students in the 7th and 12th grades** took place in person. **In Poland too, pupils took their school-leaving exams** in person. In both cases exams were held in strict compliance with hygiene and physical distancing measures such as the mandatory wearing of facemasks and ensuring minimum physical distance between people in classrooms.

In contrast, **the Netherlands and France cancelled school-leaving exams**, and pupils were assessed on the marks they achieved during the school year.

Access to the technology and materials needed to continue learning while schools are closed is desperately unequal. Likewise, children with limited learning support at home have almost no means to support their education. Providing a range of learning tools and accelerating access to the internet for every school and every child is critical.

Robert Jenkins, UNICEF Chief of Education, [Press release](#), 4 June 2020

Looking further ahead, many Member States started preparing for the return to school in autumn, reflecting the potential need for continued COVID-19-related measures. The **Finnish parliament approved an amendment to the Basic Education Act**, allowing schools to switch between face-to-face and remote teaching if necessary. The **amendment does not cover** pre-primary education, children in grades 1-3, special needs education, or children in preparatory education, who will continue with face-to-face teaching. In Spain, **the central and regional governments agreed** on the modalities for the full opening and functioning of the next school year. The **Swedish Public Health Authority withdrew its recommendation** to conduct upper secondary education remotely on 15 June, meaning all upper secondary pupils may return to in-person teaching in autumn.

A number of measures maintained provisions for distance learning. The **Croatian Ministry of Science and Education's Action plan** included a combination of remote and face-to-face teaching, for example. Guidelines for the reopening of schools presented by the **Italian Ministry of Education and the President of the Italian government** came with a budget of € 331 million for awareness raising campaigns, training programmes and the preparation of school buildings to comply with COVID-19 health and safety standards. The guidelines also included remote teaching.

2.2.2 Lessons from remote learning

Several Member States took steps to assess the impact of remote learning, revealing similar challenges of access to equipment and support for children from disadvantaged backgrounds discussed in previous bulletins. The Latvian Ministry of Education and Science, in cooperation with the web-platform Edurio, conducted an **online survey to evaluate remote learning and teaching**. In total 10 177 students, 4 662 teachers and 8 352 parents took part. Final results show that 83 % of students, 94 % of teachers and 77 % of parents felt that the remote learning period had gone 'well' or 'very well'. However, the survey also showed that not all students have the necessary technical equipment: 23 % need a more stable internet connection and 16 % had to share a computer or tablet with other family members.

On 24 June 2020, a working group of the Finnish Ministry of Social Affairs and Health published its **preliminary observations on the effects of the pandemic on children's wellbeing**. The report indicated that many, but not all, children in primary education were positive about remote learning. Immigrant families, for example, could not support their children adequately due to language problems or lack of knowledge of the tools and equipment. The working group underlined that all children need study support in periods of remote teaching.

2.3 DISRUPTION TO WORK

By late June, most economic sectors were operating again across the EU, although businesses such as nightclubs or bars remained closed in many countries. Employers and employees continued to follow health and safety instructions to prevent COVID-19 infections (see Bulletins #2 and #3). A number of countries continued to recommend remote work where possible.

2.3.1 Funding and support to businesses continue

Previous Bulletins highlighted steps to support the labour market and cushion the negative impact of lockdown measures. In June, some Member States extended such measures or implemented new ones. The **Greek Manpower Employment Organisation extended the unemployment allowance** for two months, while the Slovenian National Assembly adopted the **Intervention Measures to Mitigate and Eliminate the Consequences of the Covid-19 Epidemic Act** which subsidises work time until the end of 2020. Employers who cannot provide at least 10 % of their workers with 90 % of regular working time per week can receive subsidies of up to 50 % of work time. While receiving these and for one month afterwards, employers cannot terminate employment contracts.

Some countries focused on sectors particularly affected by the pandemic. In Romania, the state subsidy for technical unemployment was suspended from 1 June in most sectors, except for those that were not allowed to reopen. To support affected employees, **the state will reimburse employers** – for three months – 41.5 % of the gross monthly salary of employees whose suspended contracts are reactivated, as long as they keep their jobs until the end of the year. The **Austrian Chamber of Commerce announced new guidelines for the ‘hardship fund’** to support self-employed persons who lost income due to the crisis. Those eligible are entitled to a minimum payment of € 500 and a ‘comeback’ bonus of € 500 per month. It also doubled the support period from three to six months. Self-employed pensioners can now apply for the fund.

2.3.2 Women and work during the pandemic

Evidence collected by FRA shows that the pandemic has disproportionately affected women, particularly when it comes to work-life balance and caring responsibilities.

- The **Vienna University of Economics and Business and the Chamber of Labour Vienna were conducting a non-representative survey** of 2,113 persons on life during the COVID-19 restrictions in Austria until 31 July 2020. **Preliminary results** revealed a return to more traditional gender roles at home, with women reporting feeling that they did most of the work at home. The Austrian non-profit women’s organisation **ABZ* Austria stressed the fact** that women were under intense pressure to handle the multiple responsibilities of remote work, childcare and domestic work, and warned that efforts must be made to prevent women from becoming financially dependent or ending up in precarious living conditions.
- A **survey by the Irish Central Statistics Office** revealed that women were more likely than men to be caring for a child, and, as a result, were finding it more difficult to work from home. Similarly, the women’s office of the trade union *Pancypriot Confederation of Labour* **highlighted** the expansion of unpaid work in the care of children, older family members and the home as serious challenges for women’s professional lives.

- A study published by the National Institute for Demographic Studies in France (INED) showed that women were more adversely affected than men by unemployment prompted by the pandemic. Only two in three women employed on 1 March 2020 were still in employment two months later, compared to three in four men.
- A study by the think tank ‘Corona Crisis’ of the Social and Economic Council of the Netherlands revealed a sharp drop in the hours women work, as many work in sectors particularly affected by containment measures, such as retail or hospitality, and because **women were more likely than men to have zero-hours contracts**.

In some cases, this prompted government action. On 16 June, the French Secretary of State for Equality, in cooperation with ‘France Active’ (a network of associations engaged in social and solidary economy), **launched a campaign to inform women in business** of available financial assistance and advice. The **Austrian Parliament passed a resolution** in June asking the government to evaluate the gender-specific impact of the pandemic.



CONTINUED HEALTH RISK TO MIGRANT WORKERS

Migrant workers are often over-represented in some of the sectors hardest hit by the pandemic. For example, the problematic situation of migrant workers in meat factories highlighted in **Bulletin #3** persisted in June. A large **COVID-19 outbreak in a meat factory in Germany** led to a regional lockdown, while outbreaks occurred in a **Dutch meat factory** and **two fruit companies**. The Employment Team for the **Protection of Migrant Workers in the Netherlands**

stressed that the working and living conditions of migrant workers increase their susceptibility to COVID-19 infection.

Noting the specific challenges migrant workers face, **the International Labour Organisation (ILO) published policy options** in June 2020 for a comprehensive social protection for migrant workers in the context of the COVID-19 pandemic and beyond. Also in June, the **Organisation for Economic Co-operation and Development (OECD) published a policy brief**

on “Managing international migration under COVID-19”. The brief assesses migration policy reactions by OECD countries in response to the pandemic, identifying possible medium and longer-term challenges to migration management arising from the global health crisis.

The European Commission has also reported on how COVID-19 has disproportionately affected migrant communities, including information on migrant integration and good practices across the EU during the pandemic.



2.4 DISRUPTIONS TO THE JUDICIAL SYSTEM

Judicial systems continued to resume normal operations across the EU, while implementing new health and safety guidelines to contain the spread of COVID-19 (see also **Bulletin #3**). Many Member States retained at least some of the measures introduced at the start of the pandemic, however, partly to help ease case backlogs. These included conducting certain proceedings via written procedure or remotely, extending deadlines for lodging petitions and continued use of electronic communication (e.g. for lodging petitions).

2.4.1 Strategies to tackle case backlog

As reported in **Bulletins #2** and **#3**, COVID-19 restrictions resulted in a substantial backlog of cases, particularly criminal cases. Some Member States introduced strategies to deal with the backlog and increased litigation due to COVID-19 measures:

- In the Netherlands, **district courts and courts of appeal** extended their opening hours and deployed recently retired judges. More criminal cases will involve a single chamber (one judge).
- In Denmark, **the Copenhagen district court scheduled extra criminal proceedings** outside normal opening hours. The government also announced **plans to give the courts an extra DKK 7 million to tackle the backlog** in the second half of 2020. The money will be used to hire temporary judges at district and high courts, employ deputy judges and allow other jurists to take on overtime work.
- **Latvia broadened the instances** where criminal cases can be tried by written procedure.
- The **Justice Ministry in Spain announced the preparation of a 'shock plan'** to combat the scale of both the "slowdown suffered" and the "increase in litigation" involving the **creation of temporary courts to hear COVID-19-related cases**, particularly in the social, commercial and administrative areas.

2.4.2 Remote hearings and videoconferences continue

Many Member States announced the continuation of video-hearings to some extent. Some increased funding to courts for this purpose. For example, the **Finnish government allocated € 411,000 to courts** in June for video conference equipment.

Countries and courts differed with regard to which proceedings would continue to take place remotely. Some countries, for example **Hungary and Italy**, announced that video conferencing would still be used primarily in civil proceedings. Others made clear that such measures would also continue for criminal proceedings. For example, in the **Netherlands, by late June, the judiciary had managed to handle 75 % of criminal cases**, mostly in writing or by videoconferencing. Similarly, as of 22 June, **56 courts in Bulgaria were using videoconference systems** provided by the Ministry of Justice, mostly for criminal proceedings.

Poland introduced legislation in June providing for the possibility for courts to conduct remote hearings and sessions in some criminal cases – including concerning the application of pre-trial detention. The new law lifts the obligatory presence of a suspect in the courtroom if their participation in the session is ensured via technical means.

The **Helsinki Foundation for Human Rights criticised** the new law, expressing concerns that the suspect's right – stemming from Article 5 of the European Convention of Human Rights – to be physically present before the judge, and their right to contact a lawyer, might be illusory.

2.5 TRAVEL RESTRICTIONS AT THE EU EXTERNAL BORDERS AND WITHIN THE EU

June saw further progress towards the restoration of unhindered freedom of movement within the Schengen area, with citizens and residents of many EU Member States again able to travel to other EU Member States by the end of the month, although air travel remained restricted. While the situation of restricted access to the EU from third countries remained largely unchanged, this was set to change from July 2020.

2.5.1 Situation at external borders

On 11 June the **Commission recommended Member States to extend the temporary restriction** on non-essential travel to the EU until 30 June 2020, while setting out an approach for lifting it from July. Subsequently on 30 June, the **Council adopted a recommendation on the gradual lifting of the temporary restrictions** on non-essential travel into the EU from 1 July. Travel restrictions should be lifted for residents of 14-15 countries listed in the recommendation, with the list reviewed every two weeks with a view to adding or removing countries – depending on their health situation and containment measures, as well as economic and social considerations.

Most Member States acted in line with these recommendations, and extended the restriction on travel from outside the EU/Schengen to the end of June. Some announced – in line with the Council recommendation – that they would begin to re-open their Schengen external borders from 1 July to residents of certain third countries.

2.5.2 Situation at internal borders

Following on from the guidelines issued on 13 May concerning the gradual restoration of freedom of movement (see **Bulletin #3**), on 15 June the Commission **launched the web platform 'Re-open EU'**. Available in all EU official languages, it provides real-time information on borders, available transport, travel restrictions, health and safety measures and other practical information for travellers. National governments also publish up-to-date online information on travel restrictions..

While internal border controls remained in place in many Member States in the first half of June, with borders only fully open to residents of certain Member States or certain categories of workers (see **Bulletins #2** and **#3**), this changed in mid-June. By 30 June, FRA data showed three main approaches across the EU (see Table 1):

- Half of Member States generally no longer imposed conditions on entry for people resident in most EU or Schengen states. In some cases (Austria, Estonia, Italy), travellers had to confirm that they had not been in another country (outside those allowed) in the past 14 days, or show no symptoms of the virus (Estonia).⁴ Some countries imposed controls on entry from certain EU countries due to higher rates of COVID-19 infections. For example, **Bulgaria required people coming from Portugal and Sweden to quarantine** for 14 days.
- Eight Member States operated a 'traffic light system' by the end of June, with travel allowed from EU Member States on 'safe' or 'green' lists, while restrictions such as obligations to take a COVID-19 test, self-isolate or even entry restrictions were in place for other Member States. Criteria for appearing on the 'safe list' differed. For example,

Without the return to a fully functional Schengen Area, we are still missing an essential stepping-stone on our way to recovery. A complete return to free movement, no discrimination, mutual trust and solidarity are of utmost importance and core values of the EU.

Fernando Lopez Aguilar,
Chair of the European Parliament
Committee on Civil Liberties,
Justice and Home Affairs,
Press release, 19 June 2020

Lithuania included countries having fewer than 25 COVID-19 infections per 100,000 inhabitants over a two-week period; Finland set the level at fewer than eight new confirmed coronavirus infections per 100,000 people. Persons entering Denmark were generally required to document a stay of a minimum of six nights, with exceptions for border regions.

- Five Member States adopted other approaches. Most allowed people to enter from other EU countries, but obliged them to self-isolate for 7-14 days upon arrival or take a test (for example Ireland and Slovakia).



Table 1 – Conditions imposed by EU Member States for entry from other EU Member States by 30 June 2020

	GENERALLY ALLOWING TRAVEL FOR EU CITIZENS/RESIDENTS WITHOUT CONDITIONS	OPERATING 'SAFE LISTS' FOR TRAVEL FROM CERTAIN MEMBER STATES AND APPLYING CONDITIONS FOR TRAVEL FROM OTHER MEMBER STATES	IMPOSING OTHER CONDITIONS FOR TRAVEL (E.G. OBLIGATION TO QUARANTINE OR TAKE A TEST)
1	Austria	Cyprus	Greece
2	Belgium	Czechia	Ireland
3	Bulgaria	Denmark	Malta
4	Croatia	Finland	Slovakia
5	Estonia	Latvia	Spain
6	France	Lithuania	
7	Germany	Romania	
8	Hungary	Slovenia	
9	Italy		
10	Luxembourg		
11	The Netherlands		
12	Poland		
13	Portugal		
14	Sweden		

3

IMPACT ON PARTICULAR GROUPS

As reported in Bulletins [#1](#), [#2](#) and [#3](#), COVID-19 and the measures to contain it affect people's fundamental rights in different ways, often exacerbating existing inequalities. FRA asked the FRANET researchers in each Member State to select three social groups particularly affected by the pandemic in their country. This section summarises the main developments for the groups that featured most prominently in the country studies, namely:

- people in institutional settings;
- older persons;
- people with disabilities;
- Roma and Travellers;
- detainees;
- victims of domestic violence.

3.1 PEOPLE IN INSTITUTIONAL SETTINGS

FRA's Bulletins have continuously highlighted the particular effect COVID-19 measures have on older persons and persons with disabilities living in institutional settings. To curb the risk of infection, almost all Member States prohibited visits to residential care homes during the first phase of the pandemic. As reported in [Bulletin #3](#), governments began easing such restrictions from May.

In Spain, complaints and lawsuits against nursing home management and political-administrative authorities commenced. [Media reported](#) that about 300 families whose relatives died in care homes joined collective complaints against regional governments and the facilities.

3.1.1 Visiting restrictions eased but challenges remain

In June, about half of EU Member States further eased restrictions on visits. For example, in France, [updated guidelines](#) reconciled strict health measures with the free choice of people to see their relatives. Similarly, [Finland updated guidelines on visits to healthcare](#) and social welfare units, emphasising that decisions should be based on individual considerations rather than absolute bans. Some countries, such as Bulgaria and Sweden,⁵ kept visitation bans in place, however, or – as in [Croatia – reintroduced them after a rise in infections](#).

Groups in some Member States criticised visitation guidelines as too complex. [A patient advocacy group in Luxembourg demanded clearer guidelines](#), reporting that despite the general easing of restrictions in some institutions, visits were difficult to arrange and requirements were often “too harsh or cumbersome”.

National Human Rights Bodies in some EU Member States criticised the application of the easing of bans on visits to institutions for people with disabilities as ineffective. A **study by the Danish Institute of Human Rights found that** the restrictions were “over-implemented”, while the Ombudsperson for people with disabilities in Slovakia criticised the lack of information about changes in measures.⁶ The **Finnish Deputy Parliamentary Ombuds criticised the lack of balance** between the prohibitions and alternative measures that respect the rights to non-discrimination, self-determination and family life.

3.1.2 Preparing for a ‘second wave’

Governments and organisations in some Member States assessed the response to COVID-19 in institutions so far and considered how to deal with a potential ‘second wave’. In Sweden, the **government asked the Public Health Agency** to review the need for additional regulations. The **Austrian Ombuds Board started an enquiry** into nursing and care homes to determine how well these institutions coped during the pandemic. The NGO **Médecins sans Frontières raised concerns** about the capacity of Belgian residential care centres to manage a ‘second wave’ of infections, citing a lack of information and coordination and exhaustion among care professionals.

3.2 OLDER PEOPLE

Member States continued to lift general restrictions and special measures targeting older persons in June. In Finland, the government **lifted the age-based recommendation for persons over 70** to avoid physical contact, recognising that the recommendation had a negative impact on the wellbeing and functional capacity of older persons. Hungary too **lifted the ban on leaving home** for those above 70, as well as **the special timeframe** for persons over 65 to visit shops. Hungary too **lifted the ban on leaving homes** for those above 70, and also **lifted the special time frame** for persons over 65 to visit shops. Malta **repealed the Vulnerable Persons Order**, which called on persons over 65 and persons with disabilities, among other groups, to stay at home.

However, as reported in previous bulletins, older persons living in the community still faced challenges to the enjoyment of their rights in various areas of life. In Belgium, the **Flemish Elderly Council argued** that labelling all persons over 65 as ‘vulnerable’ led to unfair and unjustified exclusion from different activities such as volunteering. Together with the Flemish coordinating Minister for Elderly Policy and the Chair of the federal Corona Expert Group, they developed a framework for older persons to make safe and responsible choices, in consultation with their doctors. In Lithuania, the **parliament adopted measures to subsidise employers** to keep workers over 60 in work.

The pandemic also intensified the feelings of loneliness and psychological distress for older persons (see previous Bulletins). The **preliminary results of a large academic study** in Flanders in Belgium and the Netherlands on older persons living at home showed that COVID-19 measures strongly increased feelings of loneliness.



DEBATE OVER ACCESS TO INTENSIVE CARE UNITS

The **Royal Dutch Medical Association and the Medical Specialists Federation proposed a draft protocol** for patient triage in intensive care units. The document suggests that doctors may have to make choices on non-medical grounds. For example, they may have to use intensive care for patients expected to stay there for the shortest time, thus prioritising younger over older patients. In response, the **Minister for Medical Care indicated in a letter** to the parliament his disagreement with a triage where age plays a decisive role, regardless of medical considerations.

FRA's previous bulletins highlighted evidence on the use of digital means to cope with loneliness. A **Belgian and Dutch study among older people reported** that 58 % of respondents used more video calls, although one in four do not use such technology at all. In Sweden, the **government allocated 30 million SEK** (approx. € 2.9 million) to support municipalities' efforts to end the isolation of older persons. The funds should be used to facilitate social contact, including through the purchase of equipment needed to enable virtual contact.

3.3 PERSONS WITH DISABILITIES

Persons with disabilities continued to face challenges in their everyday life as a result of the pandemic. In certain cases, practices could arguably even amount to discrimination. In Austria, the **Aid Association of the Blind and Visually Impaired reported** that contact-tracing applications did not take into account the needs of persons with disabilities.



PROMISING PRACTICE: EMPLOYMENT SUPPORT FOR PERSONS WITH DISABILITIES

To support persons with disabilities employed in workshops that were closed during the pandemic, the German Federal Government **allocated € 70 million** in June to integration offices for persons with disabilities.

In Finland, a **working group appointed by the Ministry of Social Affairs and Health reported** that the pandemic had impacted negatively on the well-being of families with children with disabilities. It proposed measures to ensure the availability of sufficient support services and the resources to implement such services. The Latvian **Ombudsperson called for the adoption of fairer provisions** on unemployment assistance allowance to also cover unemployed persons with disabilities. The Dutch **civil society organisation Iederin claimed** that persons with disabilities were "forgotten" during the lifting of measures, while blind persons or persons in wheelchairs said that keeping physical distance is not feasible for them. In Spain, the **CERMI Women's Foundation highlighted** the added difficulties that students with disabilities encountered in accessing distance learning platforms.

Finally, similar to survey findings about older people's experience during the pandemic, a **survey of 2,100 persons with disabilities in the Netherlands** showed that 45 % of the respondents suffered from loneliness, and 40 % experienced stress or distress.

3.4 ROMA AND TRAVELLERS

Roma and Travellers continued to face challenges linked to the COVID-19 pandemic in June. These included access to clean water and sanitation, loss of jobs and employment opportunities, and the continued vulnerable situation of Roma children – issues that existed prior to COVID-19 and the impact of emergency responses, and which require longer-term investment and engagement. Roma were still in many cases subject to disproportionate use of restrictive measures in response to identified cases of infection, although less frequently than earlier in the pandemic. FRA will publish in-depth findings on the impact of COVID-19 on Roma and Travellers in a separate publication in the coming months.

Across the EU, Roma organisations and civil society organisations criticised governments for not addressing their concerns related to COVID-19 effectively. In Greece, for example, the **Panhellenic Confederation of Greek Roma reported** that some of the most deprived communities still lack basic hygiene products and suffer from malnutrition or even starvation. **As of 6 June, only 20 of 31 Irish local authorities had requested funds** to address Traveller needs in accessing clean water and sanitation.

Bulletins **#1** and **#2** highlighted the particular vulnerability of Roma children in accessing distance learning. By the end of June, Ireland, the Netherlands, Slovakia and Spain had announced or implemented educational programmes to support Roma children and children from disadvantaged backgrounds.⁷ Programmes focused primarily on enabling access to distance learning, for example by providing devices and internet access, with less attention given to developing children's skills to use the technology.

In some Member States, Roma organisations partnered with authorities and launched initiatives to address the negative effect of COVID-19 on Roma. In Portugal and Romania, Roma organisations could apply for special funding to mitigate some of the impacts of COVID-19.⁸ In Romania, a **joint initiative** of the Roma NGO 'Together Agency for Community Development' and the network 'Geeks for Democracy' delivered goods and medication to more than 300 families. In Czechia, Roma activists set up a **Facebook page** and **website to inform people about the pandemic** and counter the spread of coronavirus-related misinformation among Roma. In Bulgaria, following a protest of residents in a neighbourhood placed under quarantine, **young Roma activists helped defuse the tension** and assisted police at the checkpoints, explaining why the measures are needed or accompanying residents when going to a shop, medical clinic or bank.

In many countries, Roma health and education mediators played a critical role in facilitating Roma people's access to information and basic services. In Bulgaria, for example, they organised the cleaning and sanitation of neighbourhoods, and mediated with local authorities to diffuse tension and prevent potential conflicts.⁹



Member States should ensure that Coronavirus response measures target people in need, including marginalised Roma communities, so they do not carry a disproportionate burden of the pandemic and do not suffer from additional exclusion, poverty, hate and discrimination.

Helena Dallí, Commissioner for Equality, **speaking at the EQUINET conference**, 29 June 2020



We welcome the action taken by a number of States to reduce overcrowding and to find new means to maintain and improve contact between detained persons and the outside world. [...] Any additional restrictions that may have been placed on persons deprived of their liberty to limit the spread of COVID-19 should be lifted as soon as they are no longer required.

Sir Malcolm Evans, Chair of the United Nations Subcommittee on Prevention of Torture, and Mr Mykola Gnatovskyy, President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [Press release](#), 26 June 2020

PROMISING INITIATIVES IN PRISONS

The **European Parliamentary Research Service** published a report in June on 'Coronavirus and prisons in the EU' that outlined initiatives in Member States to compensate for the negative impact of COVID-19 measures on detainees. These ranged from extra phone credit for prisoners to stay in touch with their families (for example in Belgium and France), to more flexibility in allowing prisoners to receive food parcels and spend more time outdoors (for example in Czechia). In Germany, prisoners who had been receiving payment for jobs continued to receive their wages even as their work was put on hold because of the virus.

3.5 DETAINEES

Member States continued to gradually restore normal services in prisons throughout June, primarily by easing visit bans and resuming activities such as education programmes (see also [Bulletin #3](#)). Strict physical distancing and hygiene regulations remained in place in most prisons, however. As reported in previous bulletins, some Member States continued to advocate for keeping prison numbers low to avoid overcrowding and avert COVID-19 outbreaks. The **French Minister of Justice proposed replacing short prison sentences** with alternatives such as community service or electronic bracelets, for example.

Some Member States considered maintaining initiatives introduced as temporary measures during the pandemic. In Croatia, as in many other Member States, prisoners were allowed to contact family members and other close relatives via video calls during the pandemic (see [Bulletins #1](#) and [#2](#)). Before the pandemic, they were only allowed to contact their children this way. In June, the **Croatian Ombudswoman called on the Ministry of Justice** to consider allowing all prisoners to continue using video calls. The Ministry is planning an analysis of this.

Several Member States reported new COVID-19 infections among prisoners and prison staff. On 4 June, **French media confirmed that a testing operation** carried out at Majcavo Lamir prison detected that 183 of 323 detainees were infected with the virus. **Italian authorities registered 74 new infections** among prisoners and 61 among prison officials as of 5 June.

3.6 VICTIMS OF DOMESTIC VIOLENCE

As reported in [Bulletins #1](#) and [#3](#), confinement measures exacerbate the risk of domestic violence, especially for women and children. Data for June confirms this trend:

- **Data released by the Croatian police in June** showed an increase in domestic violence misdemeanors and criminal offenses of 37 % and 57 % respectively in the first three months of 2020 compared with data for the same period in 2019; **reports from the Croatian Gender Equality Ombudsperson confirmed** this trend for the March-June period.
- **Germany** and **Czechia indicated** that calls to their national domestic violence hotlines rose by 20 % and 50 % respectively between March and June. **Slovakia noted** an estimated increase of domestic violence of 30-40 %; the **national hotline reported an increase of 50 %** for women who called the line for the first time compared to the same period in 2019. According to a **report by the National Institute for Statistics in Italy published in June**, in the period 1 March to 16 April calls to the national helpline increased by 73 % and the number of victims asking for help by 59 %, again when compared with the same period in 2019. The data also showed that 45 % of the victims reported being afraid for their safety and life, 73 % decided not to report the violence to the police, 93 % of the incidents occurred at home and 64 % involved children witnessing violence.
- **The Portuguese Secretary of State for Citizenship and Equality** stated that the number of requests to the National Support Network for Victims of Domestic Violence doubled after the lifting of confinement measures, from around 2,500 biweekly appointments to 4,500. Specifically, an increase in requests concerning **domestic violence against older women** was observed.

The increase in calls to domestic violence helplines and requests for other support was not, however, matched by increased reporting to the police, reflecting a long-standing challenge of underreporting. **Italy noted** a decrease of 44 % in the number of cases of domestic abuse reported to the police, while **Portugal indicated** that complaints to the police fell by 15 % between January and April, and by 33 % between 22 March and 2 May.

Member States continued to implement measures to address domestic violence, including: security plans (**Slovakia**) or action plans (**Romania**) for victims of violence; opening of new accommodation places for victims (**France**); creating residential centres for older women victims of domestic violence (**Portugal**); increasing the annual budget for actions to better protect women (**France**); and developing a network of places, such as cafes or bars, where victims of domestic violence and street harassment can ask for help (**France**).

In Malta, which **criminalises abortion**, concerns were raised about the impact of COVID-19-related travel restrictions on women seeking an abortion, including victims of rape. Unable to travel for abortions elsewhere, many women contacted NGOs abroad to request abortion pills and support, and **some reportedly ordered illegal abortion pills online**.



PROMISING PRACTICE – STUDY HIGHLIGHTS RISK FACTORS CONCERNING DOMESTIC VIOLENCE

On 2 June, the Technical University of Munich in Germany published findings of a **representative online survey** on women and children's experiences of domestic violence during the pandemic. Around 3,800 women aged 18 to 65 were asked about their experiences during the lockdown period between 22 April and 8 May. Results showed that about 3 % of women respondents became victims of physical violence at home while, in 6.5 % of all households, children were subjected to corporal punishment. Some 3.6 % of women were raped by their partners and 3.8 % of women felt threatened; 2.2 % were not permitted to leave home, while in 4.6 % of cases, partners controlled women's contacts with others, including through digital channels such as messenger services.

The survey indicated a number of specific factors that increased the prevalence of physical violence when compared to the overall levels of 3 % of women and 6.5 % of children experiencing abuse during the period covered, including: being quarantined at home – women (prevalence increased to 7.5 %), children (10.5 %); family suffered from acute financial insecurity – women (8.4 %), children (9.8 %); one partner had working hours reduced or become unemployed due to the pandemic – women (5.6 %), children (9.3 %); one partner suffered from anxiety or depression – women (9.7 %), children at (14.3 %); living in households with children under 10 years of age – women (6.3 %), children (9.2 %).

4

SPECIFIC FUNDAMENTAL RIGHTS ISSUES

As the last in a series of FRA bulletins on the immediate impact of the COVID-19 pandemic on fundamental rights in the EU, this section returns to several important issues covered in previous reports. It provides additional, updated information on:

- racism linked to COVID-19;
- asylum and migration in the context of the pandemic;
- COVID-19-related disinformation;
- data protection and privacy concerns in the context of technological tools to support exit strategies.

4.1 RACISM

Bulletin #1 reported racist and xenophobic incidents linked to the COVID-19 pandemic targeting certain national or ethnic communities in many EU Member States. Most related to incidents against people of assumed Chinese or Asian origin. Since then, evidence indicates that the pandemic was increasingly exploited as a pretext to attack minorities already subject to racial discrimination, hate speech and hate crime, such as migrants, people with an immigrant background and Roma, particularly on social media. The **EU-wide interactive map of COVID-19 impact on racialised communities** released in May by the European Network Against Racism, documents further hate speech and hate crime incidents linked to COVID-19.

Some countries reported racial profiling and disproportionate enforcement of COVID-19 related restrictions with respect to people with North African background, Black people and other ethnic minority groups.

FRA will include information on hate speech and conspiracy theories affecting Jews in its annual update on national data collection on antisemitism, to be published in September 2020.

4.1.1 Racist hate speech and violence against minority groups

The Austrian NGO Zara reported in May that **43 % of the 93 COVID-19 related racist incidents registered since mid-March targeted refugees**, often through online hate speech. The Belgian equality body *Unia* received 19 complaints of alleged hate speech and hate crime linked to COVID-19 between 1 April and 30 June, mostly involving people of Asian origin, but also including social media posts blaming migrants for spreading the pandemic.¹⁰ An article published in Estonia under the headline **'Barbecue party of Africans scared the people of Tallinn'** claimed that locals felt threatened by a large group of black people

gathering. One comment on the article called on people to contact an anti-immigrant group whenever such events occur. A Hungarian research institute analysed around 22,000 comments related to COVID-19 on social media platforms between mid-January and mid-April, finding that **every second comment blamed some ethnic group** – including Chinese, Arabs, Jews and Roma – for the pandemic; some 16 % of the comments analysed contained the word ‘migrants’. This prompted the institute to use the term pandemic racism to describe the phenomenon. In Malta, the police reported an increase in threats and incitement to racial hatred on social media, **primarily targeting migrants**.



Reports emerged in several countries of politicians using racist and xenophobic language. Amnesty International noted in April that the introduction of quarantine measures in Roma neighbourhoods in Bulgaria and Slovakia was accompanied by **“an increasingly hostile anti-Roma rhetoric, frequently stoked by politicians”**. A member of the Portuguese parliament called for an urgent study of the quantity and localisation of Roma communities and a specific confinement plan, arguing that in some regions they represented **“a strong security and public health problem”**.

Incidents targeting people of assumed Asian origin continued or even increased. According to the French Public Defender of Rights, anti-Asian racism has taken on a new dimension, **from insults and assaults in public places to harassment of children at school**. By 19 June, the German Federal Anti-discrimination Office had received some **300 counselling requests for corona-related incidents**, mostly targeting people of assumed Asian origin. An analysis of **139 incidents reported to antidiscrimination services in the Netherlands** showed that most targeted people of assumed Asian origin.

The Italian Police indicated that, by 7 April, they had registered 30 racist incidents linked to COVID-19. About half were **physical assaults accompanied by the use of derogatory language**; others included verbal assaults and hate speech on social media.

Hate-motivated harassment and violence greatly affect victims and communities. A **report on minorities’ experiences of hatred in public space** by the Danish Institute for Human Rights documented the feelings of fear and vulnerability that people from minority groups associate with everyday activities during the pandemic, such as shopping, or going to a playground or for a walk.

4.1.2 Racial profiling and disproportionate enforcement of COVID-19 restrictions

FRA’s survey data show that ethnic and racialised minorities often experience racial profiling by the police. This can lead COVID-19 enforcement measures to disproportionately affect these groups. A **June report by Amnesty International**, covering incidents from 11 EU Member States, voiced concerns about the disproportionate impact of enforcement measures on people of North African origin, Black people and other minority ethnic groups living in working class districts, including several cases of disproportionate use of force. Similarly, according to seven Belgian human rights organisations joining the campaign **Stop ethnic profiling**, data from the **observatory of police violence** suggested stricter enforcement of containment measures in neighbourhoods with a high proportion of residents with a migrant background.

In France, 24 local, national and international organisations published an open letter on 13 May **calling on the government to end racist and discriminatory practices** by law enforcement officers. They also called for taking immediate

PROMISING PRACTICE – REGULARISATIONS

As reported in **Bulletin #2**, several countries introduced measures to regularise the status of migrants in an irregular situation during the pandemic. In late May, **Spain introduced a two-year work permit for farmworkers** for third-country nationals whose permit expired during or after the lockdown, and for regularly residing third-country nationals aged between 18 and 21.

People on the move face a protection crisis. More than 150 countries have imposed border restrictions to contain the spread of the virus. At least 99 states make no exception for people seeking asylum from persecution.

UN Secretary-General, António Guterres, **Video message on COVID-19 and People on the Move**, 3 June 2020

action to eliminate the discriminatory impact of checks and sanctions relating to compliance with lockdown measures. The letter referred to government statistics showing a concentration of checks and fines in working-class areas with a high number of residents with migrant backgrounds, and pointed to videos on social media capturing checks that appeared abusive, violent and discriminatory, often related to lockdown enforcement.

The Spanish racial equality body raised concerns about discriminatory bias in policing and the enforcement of restriction measures, particularly regarding Roma. A **report by the Spanish implementation team of the decade of people of African Descent and Rights International Spain** analysed cases of alleged racial profiling linked to police enforcement of restrictions, including excessive use of force. It recommended the introduction of a clear ban on racial profiling and the adoption of stop-and-search forms for transparency purposes, and the publication of anonymised statistics on police stops.

4.2 ASYLUM AND MIGRATION

Problems highlighted in Bulletins **#1**, **#2** and **#3** concerning asylum registration and application procedures and dangerous health conditions in detention remained prevalent in some Member States in June. In addition, as reported in Bulletins **#1** and **#2**, several Member States continued to report that refugee children could not access distance learning due to a lack of available equipment or WIFI. In a more promising development, most Member States that had imposed temporary restrictions on the processing of asylum applications since March had gradually resumed normal asylum procedures by June.

This section outlines some key developments; more detailed information is available in FRA's **regular reporting on migration**.

4.2.1 Challenges in registering new asylum seekers remain

Evidence provided to FRA by UNICEF indicated that in Belgium, the introduction of an online registration system for asylum seekers resulted in limited access to housing in reception facilities, including for unaccompanied boys aged over 15. According to UNHCR and the Cyprus Refugee Council, with few exceptions, third-country nationals who arrived in Cyprus as of March were not registered. This resulted in a lack of access to reception conditions and situations of homelessness, including for unaccompanied children.

Under **a new law in Hungary**, asylum applicants entering the country irregularly were escorted to the border and directed to the Hungarian Embassies in Serbia and Ukraine. In response to global refugee protection challenges, the **UN Refugee Agency (UNHCR) proposed five concrete ways** for the EU to address COVID-19-related issues and sustain a bold and robust response to forced displacement. These include ensuring access to asylum, and assistance and healthcare for all.

In Greece, the **authorities extended the measures restricting the movement in and out of some refugee camps** beyond the lockdown for the general population. **Médecins sans Frontières in Lesvos criticised** this measure and also called for transfers to more adequate facilities. A promising practice was noted in France, where the **government allowed those who would no longer qualify** for accommodation, for example asylum seekers who received a positive decision in response to their asylum applications, to continue to stay in reception facilities until the end of the public health crisis.

4.2.2 First signs of increase in asylum applications

The European Asylum Support Office (EASO) **reported** that in May 2020 the number of asylum applications in the EU-27 increased in comparison with April 2020 (16 % more than in April). While FRA data indicate that Member States continued to record low numbers of applications in May and June,¹¹ this could reflect a gradual return to normal trends in asylum applications.

As noted in **Bulletin #3**, most Member States that had imposed temporary restrictions on the processing of asylum applications earlier in the pandemic had gradually resumed processing asylum procedures by June, partly through remote interviewing. **UNHCR** and **EASO** each issued practical guidance on the conduct of remote interviews for international protection.



COVID-19 INFECTIONS AND DEATHS IN SWEDEN BY COUNTRY OF BIRTH

The **Swedish Public Health Agency** **published a preliminary study** on the links between COVID-19 related infections and deaths in the period 13 March to 7 May 2020 and patients' country of birth. The study showed that persons born in countries other than Sweden were more affected by the virus. Overall, the prevalence of COVID-19 was highest among persons born in Turkey. While the study stressed that morbidity and mortality may be affected by factors such as different living conditions and habits as well as underlying illnesses, such information was not included in the analysis.

Table 2: Incidence of COVID-19 in Sweden by country of birth for the eight countries with the highest incidence and Sweden, 13 – 7 May 2020

COUNTRY OF BIRTH	INCIDENCE (NUMBER OF CASES PER 100,000 PERSONS)
Turkey	753
Ethiopia	742
Somalia	660
Chile	624
Iraq	600
Lebanon	533
Iran	522
Finland	515
Sweden	189

Note: Full table shows 18 countries. This table shows the eight countries with the highest incidence and Sweden

Source: Sweden, Public Health Agency, **Demographic description of confirmed covid-19 cases in Sweden 13 March – 7 May 2020, 18 May 2020**

4.3 DISINFORMATION

As illustrated in **Bulletin #1**, disinformation during the COVID-19 pandemic took many forms. The highest level of government underlined the risks linked to the spread of disinformation, while efforts to combat it brought together actors from both the public and private sector.

Recognising that the fight against the spread of disinformation requires multi-layer actions, the European Commission issued a **Joint Communication in June 2020**. Among the follow-up steps suggested, the Commission recalled the crucial role played by freedom of expression and a pluralistic democratic debate when fighting disinformation.

Evidence collected by FRA indicated that actions taken at the start of the pandemic bore fruit in some Member States. For example, reports from Estonia, Cyprus and Poland suggest disinformation around COVID-19 has reduced in importance since March 2020. Such positive signs could not be generalised to other Member States, however. As reported in **Bulletin #1**, several Member States, including Croatia and Hungary, initiated criminal investigations into the spread of disinformation.

Survey data shows that disinformation, particularly on social media, remains a significant problem. More than 80 % of respondents to a **survey commissioned by the State Office for Media of North-Rhine Westphalia** in Germany said they believed they had encountered disinformation about coronavirus on the Internet. A **representative survey in Austria found** that every second person (55 %) had come across fake news; this number increased to 73 % among younger respondents. The content seen included fake news about the legal measures introduced (37 %), conspiracy theories (19 %), wrong information about the virus (17 %) and wrong information about cures and vaccines (12 %).

Other data indicated the consequences of this disinformation. Evidence collected by FRA suggests that the topics and conspiracy theories spread through disinformation were similar through the EU. According to a **representative survey** of 1,008 adults conducted between 1 and 7 June by the Bulgarian Research Center Trend, 43 % of Bulgarians believed that COVID-19 was artificially created to allow pharmaceutical companies to generate profit, 40 % believed that it was a biological weapon created to decrease the Earth's population, 23 % shared the view that no COVID-19 existed and the whole situation was a global deception, 22 % were concerned that a vaccine would be used to install chips into people to control their behaviour, and 12 % believed that the coronavirus was spread through 5G technology. While data from a **representative survey of 1,017 Dutch citizens** over the age of 18 by IPSOS showed that most people did not believe them, the topics of the conspiracy theories largely matched those in Bulgaria. The **Danish Institute for Human Rights reported** that disinformation about COVID-19 predominantly affected areas with many vulnerable ethnic minority communities.

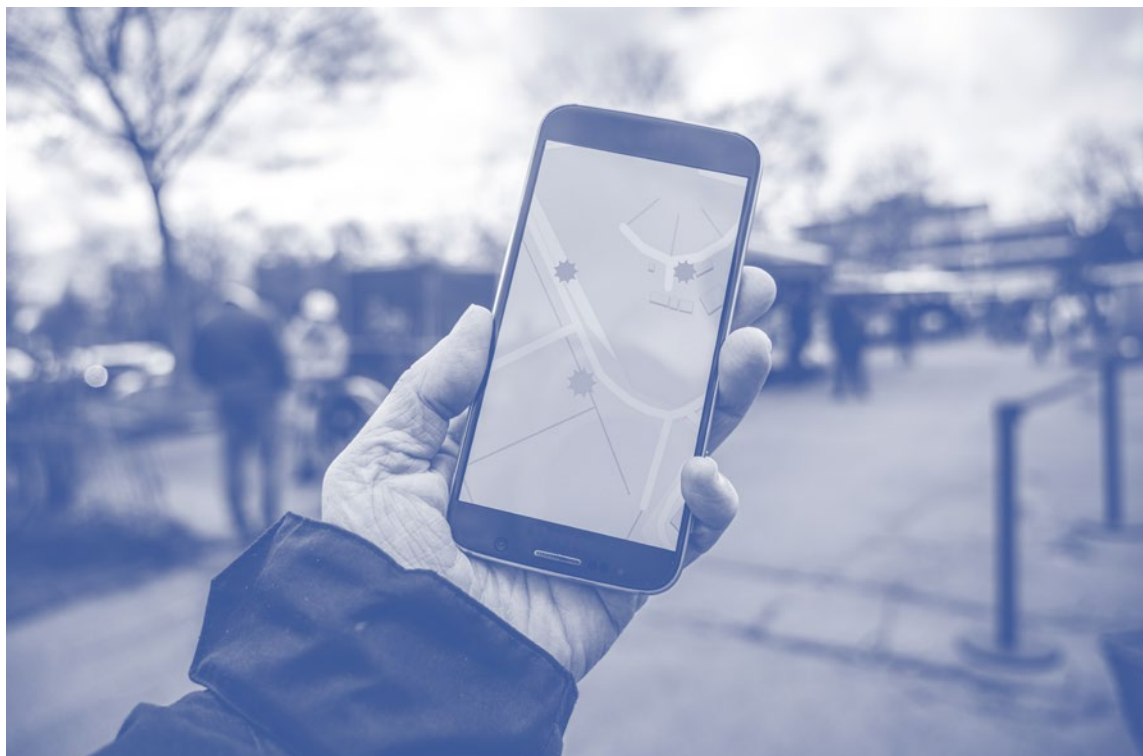
Evidence showed that efforts to fight disinformation took different forms. Austria promoted an **enhanced transparency effort** when publishing statistics and numbers related to COVID-19. Open data were considered an efficient means to combat disinformation. Dedicated platforms or news items focused on **rebutting disinformation in Estonia and Sweden**. Other Member States, such as **Latvia, allocated dedicated funds to the media** to counter disinformation. This **solution will be assessed** in the coming months in Finland. The **Prague Security Studies Institute analysed how disinformation spreads** on various Czech websites to identify the main narratives, authors and patterns of such messages.

Waves of disinformation hit Europe during the Coronavirus pandemic. They originated from within as well as outside the EU. To fight disinformation, we need to mobilise all relevant players from online platforms to public authorities, and support independent fact checkers and media. While online platforms have taken positive steps during the pandemic, they need to step up their efforts. Our actions are strongly embedded in fundamental rights, in particular freedom of expression and information.

Vice-President for Values and Transparency Věra Jourová,
Coronavirus: EU strengthens action to tackle disinformation,
Press release, 10 June 2020

4.4 DATA PROTECTION AND PRIVACY

In **Bulletin #2**, FRA examined some technological solutions and processing of users' data in the context of Member States' exit strategies from COVID-19 lockdowns. This section updates the findings on the use and development of contact tracing apps and other tools used in the fight against the pandemic.



4.4.1 Contact-tracing apps raise privacy concerns

By the end of June, contact-tracing apps were put in function in Denmark, France, Germany, Hungary and Latvia (see also Table 2, in **Bulletin #2**), with development well underway in Ireland, Italy, the Netherlands, Portugal and Slovenia. In contrast, Romania abandoned plans to develop a contact-tracing app.

Data protection concerns persisted in many Member States, including related to regulation of contact tracing apps. The **Slovenian Data Protection Authority (DPA) strongly criticised** the mandatory use of the app by persons infected with COVID-19 or ordered to quarantine as being contrary to EU law. It also criticised the applicable law for lacking clarity about the legal basis for the app, the definition of the controller, what data are processed, their storage period and who can access the data. The **Czech DPA, which was not consulted on the contact-tracing app, called for** a clear legal framework and criticised the identification of data subjects' telephone numbers. Similarly, the **Portuguese DPA**, the **Croatian Ombudswoman** and **political parties in Germany** called for legislation that would provide legal clarity, ensure the voluntary nature and purpose limitation of contact tracing apps, restore public trust and increase public acceptance. The **DPAs in Germany** and **Austria stressed** that access to public spaces such as shops and restaurants or attending large events should not be made dependent on presentation of the contact-tracing app.

Some Member States, including Belgium, Finland, France and Slovenia, passed legislation addressing such issues. Legislation in Belgium and **Finland prohibits processing of data collected from contact tracing apps** for other purposes. According to the **Belgian legislation, this prohibition explicitly applies** to data processing for police, commercial, criminal or state security purposes. It also mandates the publication of the app's source code.

Certain actors, however, questioned the effectiveness of such apps. For example, the **Irish Council for Civil Liberties and Digital Rights Ireland argued** that Bluetooth technology is not reliable for detecting contact with individuals infected with COVID-19. A **Dutch survey showed** that people are equally divided as to whether or not to install the app, whether the app should inform health authorities, and whether access to shops should depend on the use of the app.

4.4.2 Scrutiny and analysis of other technological tools

Data protection bodies, civil society organisations and the media continued to pay close attention to the deployment of other technological tools to respond to the pandemic.

- The **Constitutional Court of Bulgaria admitted the complaint against the law allowing** the police to access location data of identified individuals for tracking people in quarantine. The judgment was pending at the time of writing.
- The **Lithuanian DPA suspended the use of the health self-reporting app** for not complying with data protection principles. In Sweden, a similar tool attracted concern for lack of clarity about how it processes the data collected and shares them with third parties, as well as for the lack of transparency concerning its source code.¹²
- In France, the **Conseil d'Etat put a stop to drone surveillance** to monitor physical distancing measures in public spaces, due to the absence of any legal basis.
- The Portuguese **DPA published guidelines on how to mitigate data protection risks** regarding the monitoring of public beaches through aerial photographs and an app informing people on overcrowding.
- The **media raised concerns about the Passenger Locator Form used in Greece** to monitor and perform diagnostic screening of incoming passengers. Passengers are not informed about the criteria determining who gets tested nor the purposes of data processing and the periods of storage of data.
- **In Latvia, the DPA held** that the practice of businesses providing services requesting clients to confirm whether they have travelled abroad is inconsistent with the GDPR.

DPA in some Member States addressed the issue of temperature screening of people entering closed public spaces such as shops, schools and workplaces. According to the DPAs in **Romania** and **Luxembourg**, such screening without taking records is not data processing. In contrast, the **Portuguese DPA considers such screening as data processing**, irrespective of whether records are kept. The **Belgian DPA expressed concern that temperature checks** at Brussels Airport lack an appropriate legal basis. **According to the French DPA**, certain camera systems that monitor people's temperature or social distancing do not comply with data protection rules and lack the appropriate legal basis. The DPA also questions the effectiveness of thermal cameras as they cannot spot asymptomatic persons.

Endnotes

- 1 To understand when the Charter applies see: FRA (2018), *Applying the Charter of the European Union in law and policymaking at national level*.
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- 9 Information submitted to FRA.
- 10 The 17 Member States for which FRA obtained data in June reported marked declines between March and May/June 2020 in the number of asylum applications compared with the same period in 2019 or the first couple of months of 2020 when restrictions were not yet in place.
- 11 Croatia, Marić, J. (2020), *Podnesene 32 prijave za širenje lažnih vijesti o koroni u Hrvatskoj. Sudit će im se po zakonu iz bivše Juge*, *Novilist.hr*; Knežević, A. (2020), *Istarska policija je otkrila ženu koja je na Facebooku glumila da je liječnica i širila laži o koroni*, *Telegram*; Hungary, Koronavirus.gov.hu (2020), *Operatív törzs: már Budapestén is tartható házasságkötés után családi rendezvény*; Szurovecz Illés (2020), *Eddig egyetlen embert ítélték el rémhírtérjesztéses ügyben*, *444.hu*.
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PROMOTING AND PROTECTING YOUR FUNDAMENTAL RIGHTS ACROSS THE EU —

As we enter the second half of 2020, the constraints on our daily lives brought about by the Coronavirus pandemic have become a firm reality. New local lockdowns and the reintroduction of restrictive measures prompted by fresh outbreaks of the virus are a stark reminder that COVID-19 continues to shape our lives – and our enjoyment of fundamental rights – in profound ways. There is compelling evidence of how the pandemic has exacerbated existing challenges in our societies. This FRA Bulletin outlines some of the measures EU Member States adopted to safely reopen their societies and economies while continuing to mitigate the spread of COVID-19. It highlights the impact these measures may have on civil, political and socioeconomic rights.

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