

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Portugal

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1 Measures taken by government/public authorities

1.1 Emergency laws/states of emergency, including enforcement actions

In Portugal, from 19 March to 2 May, three state of emergency laws were in force. The state of emergency was first declared on 18 March, by Decree of the President of the Republic 14-A/2020, based on a situation of public calamity¹. The first period of the state of emergency lasted from 19 March to 2 April. According to the Decree of the President of the Republic 14-A/2020 of 18 March, the following rights were partially suspended: right to move and settle anywhere in the Portuguese territory; private property and economic initiative; workers' rights, such as the right to strike; international travel; right to assemble and demonstrate; freedom of worship in its collective dimension; and the right of resistance. The state of emergency was regulated, in this period, by Decree 2-A/2020 of 20 March².

On 2 April, the declaration of the state of emergency was renewed for 15 days, starting the second period on 3 April and ending on 17 April³. In this first renewal, some terms of the suspension of fundamental rights were changed, revealing special concerns with education, employment, hoarding and speculation, as well as with the protection of the elderly and the prison population. The President of the Republic based this renewal on the fact that Portugal had since evolved from a phase of containment to a phase of mitigation of the pandemic and, therefore, the level of prevention should be increased, especially in the Easter season, otherwise the efforts made would have been in vain.

According to Decree of the President of the Republic 17-A/2020 of 2 April, the freedom to learn and teach may be restricted by public authorities to reduce the risk of contamination (for e.g. prohibition or limitation of classroom teaching, the imposition of distance learning and the alteration of school calendar). In addition, data protection rights can be restricted since public authorities may require telecommunications operators to send their customers written messages with warnings from the Directorate-General for Health or others relating to the fight against the epidemic. In the economic domain, there is a special concern with the lack of goods, speculation and hoarding and measures such as limitations or modifications to commerce (for example, dismissal limitations and changes to the quantity, nature or price of goods produced and traded), price control and measures to combat speculation or hoarding of certain products or materials can be adopted. Regarding the workers' rights, we highlight the suspension of the right of trade union associations to participate in the drafting of labour legislation, insofar as the exercise of this right may delay the entry into force of urgent legislative measures. Article 6 highlights the concern with the vulnerability of the prison population, stating that exceptional and urgent measures can be taken to protect citizens deprived

¹ Portugal, [Decree of the President of the Republic 14-A/2020, declaring the state of emergency based on a situation of public calamity](#) (*Decreto do Presidente da República n.º 14-A/2020, que declara o estado de emergência, com fundamento na verificação de uma situação de calamidade pública*), 18 March 2020.

² Portugal, [Decree 2-A/2020, implementing the application of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-A/2020, que regulamenta a aplicação do estado de emergência decretado pelo Presidente da República*), 20 March 2020.

³ Portugal, [Decree of the President of the Republic 17-A/2020, renewing the declaration of the state of emergency based on a situation of public calamity](#) (*Decreto do Presidente da República n.º 17-A/2020, que renova a declaração de estado de emergência, com fundamento na verificação de uma situação de calamidade pública*), 2 April 2020.

of their liberty due to the enforcement of a sentence, as well as workers of prison establishments. The state of emergency, in this phase, was regulated by Decree 2-B/2020 of 2 April⁴.

On 17 April, the declaration of state of emergency was renewed for another 15 days, starting on 18 April and ending on 2 May⁵. The President of the Republic, in a message to the country, gave three principal reasons why he considered necessary to extend the state of emergency until the beginning of May: to guarantee the protection of those who live in care homes; to guarantee the National Health Service's response capacity; and the need for time to prepare the progressive re-opening of the economy⁶. In this third period, two aspects are worth mentioning: first, the lifting of the sanitary fence in the Municipality of Ovar, in northern Portugal, which had been in force since 18 March; second, the consent given for restricted celebrations of the public holiday on 1 May, observing the recommendations of the health authorities as regard social distancing. The state of emergency was regulated by Decree-Law 2-C/2020, of 17 April⁷. In general, the restrictions to fundamental rights were the same.

Parliamentary support for the state of emergency has varied over time. In the first approval, on 18 March, of the 10 parties with parliamentary seats, 6 voted in favour and 4 abstained. In the first renewal, on 2 April, 5 parties voted in favour, 1 against and 4 abstained. In the second renewal, on 16 April, 5 parties voted in favour, 3 voted against and there were 2 abstentions⁸.

According to Resolution of the Council of Ministers 33-A/2020 of 30 April⁹, that declared a situation of calamity, the Government opted for the gradual lifting of restrictions, but maintaining several measures following sanitary recommendations, such as social distancing and mandatory use of a protective mask in certain circumstances, namely, for example, when accessing commercial spaces, in public attendance services, in schools and in public transportation. The measures outlined in this resolution will enter into force on 3 May and will be detailed on the next report. On 30 April, the Resolution of the Council of Ministers 33-C/2020 was approved, establishing a strategy for the gradual lifting of the confinement measures, aiming to start the recovery and revitalization of life in society and the economy in the country¹⁰.

⁴ Portugal, [Decree 2-B/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-B/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 2 April 2020.

⁵ Portugal, [Decree of the President of the Republic 20-A/2020, that renews the declaration of the state of emergency based on a verified situation of public calamity](#) (*Decreto do Presidente da República n.º 20-A/2020, que renova a declaração de estado de emergência, com fundamento na verificação de uma situação de calamidade pública*), 17 April 2020.

⁶ For more information, see [the press conference available on the webpage of the Presidency of the Republic](#).

⁷ Portugal, [Decree 2-C/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-C/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 17 April 2020.

⁸ For more information, see [the Parliament website](#).

⁹ Portugal, [Resolution of the Council of Minister 33-A/2020 that declared the situation of public calamity in the context of the COVID-19 pandemic](#) (*Resolução do Conselho de Ministros n.º 33-A/2020 que declara a situação de calamidade, no âmbito da pandemia da doença COVID-19*), 30 April 2020.

¹⁰ Portugal, [Resolution of the Council of Ministers 33-C/2020, that establishes a strategy to lift containment measures in the context of the COVID 19 pandemic](#) (*Resolução do Conselho de Ministros n.º 33-C/2020, que estabelece uma estratégia de levantamento de medidas de confinamento no âmbito do combate à pandemia da doença COVID 19*), 30 April 2020.

1.2 Measures affecting the general population

1.2.1 Social distancing

According to the laws that implemented the state of emergency and its respective extensions¹¹ mentioned above, three groups of people were defined and given different restrictions: 1) citizens infected with COVID-19 or under observation must remain in mandatory confinement (the violation of this obligation is a crime of disobedience); 2) citizens over the age of 70 or citizens with chronic illness are subject to a special duty of protection and can only leave the house for some purposes (e.g. acquisition of goods and services; health reasons; short trips for the purpose of physical exercise); 3) other citizens are covered by the general duty to stay at home and have less mobility restrictions. They can leave the house for e.g. shopping, work, health reasons, provide assistance to vulnerable people and family members, volunteering, among others. Security forces must ensure compliance with the restrictions in force.

In addition, special rules reinforced the limitation on the right to move. Resolution of the Council of Ministers 18-B/2020 of 2 April extended the effects of the declaration of public calamity in the municipality of Ovar until 17 April¹². The movement of people outside the municipality of Ovar is prohibited except for necessary and urgent trips such as, for e.g., to go shopping, for health reasons, to provide assistance to vulnerable people and family members and to work within the municipality. The enforced closure of public services, commercial, service and industrial establishments (with some exceptions) was maintained. Article 6 of Decree 2-B/2020 of 2 April¹³ (first renewal of the state of emergency) prohibited any travel outside people's usual municipality of residence between 9 and 13 April, during Easter, the traditional period of family reunion or holiday travels, except for work or health reasons. Compliance with this prohibition was closely monitored by the security forces and its violation was a crime of disobedience. In addition, all national airports were closed for passenger traffic.

The Government will enact, for the long weekend of the 1 May, the same rule that was adopted for Easter, with a ban on travel outside people's municipality of residence¹⁴.

On 18 April, due to a case of the local transmission of COVID-19 in Câmara de Lobos, with the risk of transmission chains occurring in other places in the municipality and in other municipalities in the Autonomous Region of Madeira, a situation of public calamity was declared with the imposition of a

¹¹ Portugal, [Decree 2-A/2020, implementing the application of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-A/2020, que regulamenta a aplicação do estado de emergência decretado pelo Presidente da República*), 20 March 2020; Portugal, [Decree 2-B/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-B/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 2 April 2020; and Portugal, [Decree 2-C/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-C/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 17 April 2020.

¹² Portugal, [Resolution of the Council of Ministers 18-B/2020, extending the effects of the declaration of calamity situation in the municipality of Ovar](#) (*Resolução do Conselho de Ministros n.º 18-B/2020, que prorroga os efeitos da declaração de situação de calamidade no município de Ovar*), 2 April 2020.

¹³ Portugal, [Decree 2-B/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-B/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 2 April 2020.

¹⁴ For more information, [see the Government website on this prohibition](#).

sanitary fence banning the movement of people entering and leaving, as well as the permanence on public road, except in certain situations¹⁵.

The Republican National Guard (*Guarda Nacional Republicana*, GNR) and the Public Security Police (*Polícia de Segurança Pública*, PSP), in compliance with the declaration of the state of emergency and its successive extensions, have implemented an intensive awareness-raising campaign and several surveillance operations among the population. In this context, in the first state of emergency period, between 22 March and 2 April, 108 arrests for the crime of disobedience were made and 1,708 commercial establishments were closed¹⁶. In the second period, 184 people were detained for the crime of disobedience, of which 44 for disobeying the obligation of mandatory confinement, 80 for disobeying the general duty to stay at home, 9 for disobeying the ban on travelling outside the municipality in the Easter period, 19 for not closing their stores, 1 for disobeying the rules of operation for the retail trade, 1 for disobeying the rules of operation in the provision of services, 10 for resistance and 20 for breaching the sanitary fence in Ovar. A total of 432 establishments were also closed for non-compliance with the established rules¹⁷.

A monitoring study carried out by PSE (a company specialized in data science and advanced research, which is monitoring a sample of 3,670 people via a mobile phone application) reveals that Easter Sunday saw the highest percentage of self-isolation (79%) in Portugal, but that subsequently people started to leave their homes and the level of isolation dropped to 57% on 22 April, one of the lowest rates in the period of the state of emergency¹⁸. According to the study, despite being far from normal, there is a tendency for an increase in mobility. This monitoring study has regular updates.

1.2.2 Education

Decree-Law 14-G/2020 of 13 April¹⁹ approved a set of exceptional and temporary measures in the area of education for the academic year 2019/2020, to be applied to pre-school, basic and secondary education, covering public, private and cooperative educational establishments at a non-higher level.

In basic education, from the 1st to the 9th grade, the third term (that started on 14 April) will continue with distance learning until the end of the school year, using digital methods, which will be reinforced with the support of the television daily broadcast of educational content – Tele-school #EstudoEmCasa (#StudyAtHome) – that will complement, without replacing, the work of teachers²⁰. To reach all students, this content is broadcast on a public television channel, which is accessible not only by cable or satellite, but also via DTT (Digital Terrestrial Television). On 20 April, the Ministry of Education started broadcasting educational content through the television (#EstudoEmCasa). This activity is meant to be a complement and support resource aimed, primarily, at students without internet access and/or equipment, regardless of other uses that may be made by the teachers at

¹⁵ Autonomous Region of Madeira, [Resolution 210/2020, that declares a situation of public calamity in Câmara de Lobos](#) (Resolução n.º 210/2020, declaração de calamidade pública em Câmara de Lobos), 18 April 2020.

¹⁶ For more information, see [the Government webpage on the “Note to the Media: State of emergency status on 9 April 2020”](#).

¹⁷ For more information, see the [Government webpage on the “Note to the media: State of emergency status on 18 April 2020”](#).

¹⁸ For more information, see [the PSE webpage on the main results of the study](#).

¹⁹ Portugal, [Decree-Law 14-G/2020, establishing exceptional and temporary measures in the area of education, as a result of the COVID-19 pandemic](#) (*Decreto-Lei nº 14-G/2020, que estabelece as medidas excecionais e temporárias na área da educação, no âmbito da pandemia da doença COVID-19*), 13 April 2020.

²⁰ For more information, see [the #StudyAtHome \(#EstudoEmCasa\) website](#).

each educational establishment. The resources are organized in themed blocks of 30 minutes, combining school years, with common blocks and resources, from the 1st grade to the 9th grade. The daily content has a limited time, covering most of the curricular components, organized by and across subjects, and will be complemented by information to be made available by the Directorate-General for Education²¹.

Assessment will be made internally in each school and all exams were cancelled until the 9th grade (Article 7 of Decree-Law 14-G/2020 of 13 April). Regarding secondary education, in 10th grade classes will continue also with distance learning until the end of the school year. With respect to the 11th and 12th grades, the Government decided to partially open classroom lessons as of 18 May, according to the Resolution of the Council of Ministers 33-C/2020 of 30 April²². However, classroom lessons will only cover the subjects whose final exams are necessary for accessing higher education. In the other subjects, teaching will continue to be done remotely (by digital means). In face-to-face classes, attendance will not be mandatory and additional measures with respect for adequate distance and hygiene will be implemented such as the mandatory use of a protective mask inside the school by students, teachers and non-teaching workers (which will be provided by the Ministry of Education) and the use of disinfectant gel (dispensers will be available in schools).

The end of the third term was delayed to 26 June which lead to the consequent postponement of the exam period for admission to higher education: the first phase will take place between 6 and 23 July and the second phase between 1 and 7 September (Article 10 and Annex III of Decree-Law 14-G/2020 of 13 April).

Other measures were adopted relating to education. The special support scheme approved by the Government in Decree-Law 10-A/2020 of 13 March²³ for families with children under 12, which was suspended during the Easter Holidays (from 30 March to 13 April), was resumed and will be maintained until the end of the school year. Ordinance 82/2020 of 29 March establishes the essential services for the purpose of receiving, in educational establishments, the children or other dependents of the essential workers²⁴. Law 5/2020 of 10 April amended Articles 9 and 10 of Decree-Law 10-A/2020 of 13 March extending the categories of children that have access to food support provided by schools and including the workers of elderly homes in the list of essential workers that may leave their children in the schools that will remain open to receive them while they are working²⁵. With the aim of supporting schools in the development of distance learning, the

²¹ For more information, see [the Directorate-General for Education website on the #EstudoEmCasa](#).

²² Portugal, [Resolution of the Council of Ministers 33-C/2020 that establishes a strategy to lift the containment measures adopted within the scope of the combating the COVID-19 pandemic](#) (*Resolução do Conselho de Ministros n.º 33-C/2020 que estabelece uma estratégia de levantamento de medidas de confinamento no âmbito do combate à pandemia de doença COVID 19*), 30 April 2020.

²³ This support scheme was approved by Decree-Law 10-A/2020 of 13 March. Portugal, [Decree-Law 10-A/2020, establishing exceptional and temporary measures regarding the epidemic of the new Coronavirus Covid-19](#) (*Decreto-Lei n.º 10-A/2020, que estabelece medidas excepcionais e temporárias relativas à situação epidemiológica do novo Coronavírus – COVID-19*), 13 March 2020. This Decree-Law had several amendments. The last amendment was by Decree-Law 20/2020 of 1 May.

²⁴ Portugal, [Ordinance 82/2020 that establishes the essential services for the purpose of receiving, in educational establishments, the children and other dependents of the professionals](#) (*Portaria n.º 82/2020, que estabelece os serviços essenciais para efeitos de acolhimento, nos estabelecimentos de ensino, dos filhos ou outros dependentes a cargo dos respetivos profissionais*), 29 March 2020.

²⁵ Portugal, [Law 5/2020, fourth amendment through parliamentary appreciation of the Decree-Law 10-A/2020, establishing exceptional and temporary measures regarding the epidemic of the new Coronavirus Covid-19](#) (*Lei n.º 5/2020, quarta alteração por apreciação parlamentar, ao Decreto-Lei n.º 10 -A/2020, de 13 de março, que*

Directorate-General for Education (DGE) and the Open University (UA) will provide training for digital and network teaching aimed at school principals and extended to two or more teachers per school. The first course started on 15 April and will end on 5 May. The main goal of this course is to develop the best strategies for accompanying students. The training will be extended in the future to all teachers interested in broadening their knowledge and skills on distance learning²⁶.

A platform on YouTube was made available as of 16 April allowing teachers to share their classrooms with the wider education community (YouTube community #EstudoEmCasa). This platform is the result of a partnership between the Ministry of Education, YouTube and Thumb Media. Teachers who participate will produce and/or provide classes and other activities, placing them in their own channels (public or private) and the Directorate-General for Education, after a validation process, will organize these materials by school year and by subjects so that everyone can view them on the Directorate-General for Education channel #EstudoEmCasa²⁷.

Considering that the Portuguese population has unequal access to information technology, be it equipment or the digital network, this circumstance increases the risk of reproducing inequality among students forced by the confinement to follow school activities from home. To minimize this situation, several entities, public and private, have made campaigns to deliver computers and tablets to students in need. For example, the Matosinhos Council will invest 420,000€ to purchase 800 tablets and 500 computers; Paredes Council announced the investment of 366,000€ in computer equipment (725 laptops, 602 tablets and 1,016 Internet connections) to support students in distance learning; and the Association of Entrepreneurs for Social Inclusion (Epis), which helps low-achieving students throughout the country, raised around 50,000€ to buy computers for students in need²⁸.

Measures to combat the pandemic in higher education were taken even before the declaration of a state of emergency. Several universities and polytechnic institutes, on their own initiative, suspended teaching activities in the second week of March. Law 7/2020 of 10 April determined that higher education institutions shall ensure distance learning and, if they do not, they shall re-adjust tuition fees²⁹. On 17 April, following the renewal of the declaration of the state of emergency, the Minister of Science, Technology and Higher Education recommended that scientific and higher education institutions developed, until 30 April, plans for progressively lifting the containment measures, including the phased reactivation of academic and non-academic activities with the presence of students³⁰.

estabelece medidas excecionais e temporárias relativas à situação epidemiológica do novo Coronavírus – COVID 19), 10 April 2020.

²⁶ For more information, see [the Government webpage on the press release “More than 700 school groups enrolled in training for digital and network teaching”](#).

²⁷ For more information, see [the Government webpage on #EstudoEmCasa arrives on YouTube through 5 new channels](#).

²⁸ Público (2020), [“COVID-19: Paredes invests 366,000 euros in computers and tablets for online education”](#) (“COVID-19: Paredes investe 366 mil euros em computadores e tablets para ensino “online””), 14 April 2020. Público (2020), [“Association of entrepreneurs buys computers for students in need”](#) (“Associação de empresários compra computadores para alunos carenciados”), 13 April 2020.

²⁹ Portugal, [Law 7/2020, that establishes exceptional and temporary regimes to respond to the SARS-CoV-2 epidemic](#) (*Lei n.º 7/2020, que estabelece regimes excecionais e temporários de resposta à epidemia SARS-CoV-2*), 10 April 2020.

³⁰ Portugal, Ministério da Ciência, Tecnologia e Ensino Superior (Ministry of Science, Technology and Higher Education), [Recomendação e esclarecimento às instituições científicas e de ensino superior: Elaboração de planos para levantamento progressivo das medidas de contenção motivadas pela pandemia COVID-19](#)

1.2.3 Work

As already mentioned in the previous report, with the worsening of the pandemic in the country, work was subject to several measures, such as: mandatory teleworking, whenever the work duties in question allow; subsidy in cases of prophylactic isolation; sickness subsidy; child and grandchild care subsidy; justified absences from work caused by the assistance to children under 12 years of age or other dependant due to the suspension of classroom activities; financial support measures to self-employed workers such as, for e.g., extraordinary financial support and deferral of the payment of contributions to Social Security; among others. In the period under analysis, we can highlight the following legislative measures.

Decree 2-B/2020, of 2 April, and Decree 2-C/2020, of 17 April, that regulated the extensions of the state of emergency, reinforced the means and powers of the Authority for Working Conditions (ACT)³¹.

Decree-Law 10-G/2020 of 26 March established exceptional and temporary measures to protect jobs during the pandemic³², revoking Ordinance 71-A/2020 of 15 March, which previously regulated these matters. This decree applies to employers of a private nature and to workers at their service, affected by the COVID-19 pandemic and who are consequently in a state of business crisis (Article 2). The measures foreseen are: 1) the extraordinary support for the maintenance of an employment contract, with or without training, in the event of a temporary reduction in normal working time or suspension of the employment contract (simplified lay off); 2) the extraordinary training plan; 3) the extraordinary financial incentive to support the normalization of the company's activity; and 4) the temporary exemption from the payment of social security contributions, borne by the employer.

Decree-Law 12-A/2020, of 6 April, and Decree-Law 14-F/2020, of 13 April, amended Decree-Law 10-A/2020 of 13 March, introducing some changes regarding the exceptional family support for self-employed workers and the extraordinary support for reducing the economic activity of the self-employed³³.

In addition, Decree-Law 10-K/2020 of 26 March establishes the exceptional and temporary regime of justified absences motivated by family assistance in the context of the COVID-19 disease pandemic³⁴.

(Recommendation and clarification to scientific and higher education institutions: Drafting plans for the progressive lifting of the containment measures caused by the COVID-19 pandemic), 17 April 2020.

³¹ Portugal, [Decree 2-B/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-B/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 2 April 2020; and Portugal, [Decree 2-C/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-C/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 17 April 2020.

³² Portugal, [Decree-Law 10-G/2020, that establishes exceptional and temporary measures to protect jobs during the pandemic](#) (*Decreto-Lei n.º 10-G/2020, que estabelece uma medida excecional e temporária de proteção dos postos de trabalho, no âmbito da pandemia COVID-19*), 26 March 2020. Rectified by Declaration of Rectification 14/2020, of 28 March.

³³ Portugal, [Decree-Law 12-A/2020, that establishes exceptional and temporary measures in the context of the COVID-19 pandemic](#) (*Decreto-Lei n.º 12-A/2020, que estabelece medidas excecionais e temporárias relativas à pandemia da doença COVID-19*), 6 April 2020; Portugal, [Decree-Law 14-F/2020, that establishes exceptional and temporary measures in the context of the COVID-19 pandemic](#) (*Decreto-Lei n.º 14-F/2020, que estabelece medidas excecionais e temporárias relativas à pandemia da doença COVID-19*), 13 April 2020.

³⁴ Portugal, [Decree-Law 10-K/2020, that establishes the exceptional and temporary regime of justified absences motivated by family assistance in the context of the COVID-19 disease pandemic](#) (*Decreto-Lei n.º 10-K/2020, que estabelece um regime excecional e temporário de faltas justificadas motivadas por assistência à família, no âmbito da pandemia da doença COVID-19*), 26 March 2020.

Decree-Law 10-F/2020, of 26 March, establishes an exceptional and temporary regime for the fulfilment of tax obligations and social contributions³⁵. Finally, Ordinance 94-A/2020 of 16 April, regulates the procedures for awarding exceptional family support, extraordinary support for the reduction of the economic activity of self-employed workers and the maintenance of employment contracts in a situation of business crisis, the deferral of contributions from self-employed workers and the recognition of the right to extend social security benefits³⁶.

Throughout the time in which the exceptional rules to combat the pandemic are in force, the media has reported situations of vulnerability of many workers. On 26 March, following a complaint by the Portuguese Communist Party, it was reported that countless companies, such as stores, factories, hotels or call centres, in trying to resist the crisis, have been circumventing employment law by non-renewal of contracts, forced vacations, lay-offs with loss of income, changing the work places. There are also complaints from companies that do not accept the resource to social support for childcare³⁷.

On 6 April, the Minister of Labour, Solidarity and Social Security reported the data on the access to the supports created by the measures to combat the economic effects of the pandemic. According to this data, the workers who resorted to support for prophylactic isolation, which guarantees the payment of 100% of salary for 14 days, were 11,380. Regarding support for self-employed workers due to reduced activity, the Minister said that there were 105,000 candidates. Regarding simplified lay-off, the Minister said that so far 33,366 companies have applied for the measure, corresponding to a total of 556,751 workers³⁸. On 15 April, in a parliamentary hearing, the Minister of Labour, Solidarity and Social Security, stated that on that date there were 938,000 workers in simplified lay-off³⁹.

On 20 April, the Institute of Employment and Vocational Training, released unemployment data in Portugal regarding the month of March, which was the first known data on the impact of the COVID-19 pandemic on the national labour market. At the end of March 2020, 343,761 unemployed people were registered in the Employment Services, 8.9% more than in the previous month, and 3% more than in March 2019. In turn, job vacancies decreased 11% to 12,305, as well as placements that fell by 9.3% compared to the previous month⁴⁰.

³⁵ Portugal, [Decree-Law 10-F/2020, that establishes an exceptional and temporary regime for the fulfilment of tax obligations and social contributions](#) (*Decreto-Lei 10-F/2020, que estabelece um regime excecional e temporário de cumprimento de obrigações fiscais e contribuições sociais*), 26 March 2020.

³⁶ Portugal, [Ordinance 94-A/2020, that regulates the procedures for awarding exceptional family support, extraordinary support for the reduction of the economic activity of self-employed workers and the maintenance of employment contracts in a situation of business crisis, the deferral of contributions from self-employed workers and the recognition of the right to extend social security benefit](#) (*Portaria n.º 94-A/2020 que regulamenta os procedimentos de atribuição dos apoios excecionais de apoio à família, dos apoios extraordinários à redução da atividade económica de trabalhador independente e à manutenção de contrato de trabalho em situação de crise empresarial, do diferimento das contribuições dos trabalhadores independentes e do reconhecimento do direito à prorrogação de prestações do sistema de segurança social*), 16 April 2020.

³⁷ Público (2020), [“There are thousands of workers: PCP joins complaints that show avoidance of labour law”](#) (“São milhares de trabalhadores: PCP junta denúncias que mostram as fugas à lei laboral”), 26 March 2020.

³⁸ For more information, see [the Government website on “Government takes stock of support measures for workers and companies”](#).

³⁹ Portugal, Parliament, [Parliamentary hearing of the Minister for Labour, Solidarity and Social Security, on the Government's social responses to the COVID-19 pandemic](#) (*Audição da Ministra do Trabalho, Solidariedade e Segurança Social, sobre as respostas sociais do Governo no âmbito da pandemia da doença COVID-19*), 15 April 2020.

⁴⁰ Institute of Employment and Professional Training (2020), [Monthly Information March 2020](#).

On 28 April, the Minister of Labour, Solidarity and Social Security presented a balance of the measures to support workers and said that Social Security has already approved the claims for payment of lay-offs of almost 40,000 companies. According to the Minister, 61.7% of the 62,341 applications for adherence to the simplified lay-off that were requested by companies until the beginning of April were approved, which means that support will be paid until 5 May to 38,465 companies with a total of 359,000 workers. Additionally, approximately ten thousand requests (9,458) were rejected for reasons related to their contributory situation, the lack of certification by the accountant or non-compliance with the rules for the start date of support. There are also 1,946 requests that were rejected for different reasons – they were incorrectly instructed or the bank statement was missing. The Minister also said that 88% of the workers covered by the lay-off have their contract suspended, while the remaining 12% have reduced hours. The sectors with the largest number of companies in lay-off are accommodation and catering (26%), followed by commerce (22%). The vast majority of companies (76%) are micro-enterprises and the average number of workers covered is 10 per company. The average amount of compensation paid by Social Security is €421.80. Adding the remaining supports (to the reduction of the activity of the self-employed, family support measures or prophylactic isolation), on 5 May the support will reach a total of 600,000 people⁴¹.

During this time, the media have been reporting on the financial difficulties that lawyers are facing due to the reduction in their activity during the pandemic⁴². The Government has not extended to lawyers the support already available to other independent professionals in the same situation, so many lawyers are facing financial difficulties. On 30 March, the Ombudsman made a recommendation, following several complaints made by lawyers and solicitors, for the need to consider and adopt measures to provide exceptional and temporary support to lawyers and solicitors, similar to those recognized for other self-employed workers⁴³. Calls from lawyers and solicitors to reduce the payments to the Caixa de Providência dos Advogados e Solicitadores (a private Social Security system for lawyers and solicitors) were not positive, raising a huge controversy⁴⁴. Article 8 of Decree-Law 10-F/2020, of 26 March, establishes the possibility of the Caixa de Providência deferring, suspending or reducing the contributions of beneficiaries. The Caixa de Providência established that those who are in quarantine or prophylactic isolation may ask for their contributions to be postponed for three months. However, this measure is considered insufficient, and the president of the Bar Association calls for a reduction in the value of the minimum payment or even an eventual debt forgiveness in case of the impossibility of payment⁴⁵. The president of the Bar Association stated to be very concerned about the situation of the professionals in the sector who are not covered by the aid granted by the Government for independent work⁴⁶.

⁴¹ For more information, see [the Government webpage on Social Security will pay layoff orders from almost 40,000 companies by 5 May](#)".

⁴² Público (2020), "[If Caixa de Providência does not support lawyers, Parliament can do it](#)" ("Se Caixa de Providência não apoiar advogados, Parlamento pode fazê-lo"), 7 April 2020.

⁴³ Portugal, Provedoria de Justiça (2020), "[Queixa dirigida à Provedora de Justiça sobre a inexistência de medidas de apoio excecionais e temporárias para os advogados e solicitadores face às consequências do COVID-19 nas respetivas situações familiares e profissionais](#)", 30 March 2020.

⁴⁴ Público (2020), "[Lawyers' Welfare: "Those who are not working can suspend registration"](#)" (Providência dos Advogados: "Quem não está a trabalhar pode suspender inscrição"), 30 March 2020.

⁴⁵ For more information, see [the Bar Association webpage](#).

⁴⁶ Ordem dos Advogados (2020), "[President of the Portuguese Bar Association: "I am extremely concerned"](#)" ("Bastonário da Ordem dos Advogados: "Estou muitíssimo preocupado"), 17 April 2020.

Although indirectly related to work, but reflecting this same circumstance, the Food Bank Against Hunger reports that since the beginning of the COVID-19 pandemic it has received more than 11,600 requests for help from households. This number, that represents 55,000 people, are all new cases of poverty caused mainly by unemployment of people who had precarious jobs and liberal professionals, that only get paid when they work. Children are greatly affected by the closure of day care centres and schools, where they often had guaranteed meals, in addition to mothers with professions that they are now unable to exercise, such as hairdressers, manicurists and housekeepers, who have lost income⁴⁷.

The laws that regulate the state of emergency and its extensions (Decree 2-A/2020 of 20 March; Decree 2-B/2020 of 2 April; and Decree 2-C/2020 of 17 April)⁴⁸, list the services that are considered essential and can stay open, such as supermarkets, bakeries, health and social support services, opticians, essential public services and their repair and maintenance (water, electricity, gas), veterinaries, pharmacies, among others. These laws also establish security and hygiene measures to ensure adequate social distancing and the periodic disinfection of objects or surfaces subject to intense contact with the public, such as payment terminals. These entities must have contingency plans that determine with more detail those measures.

1.2.4 Access to justice

In the context of the COVID-19 pandemic, deadlines for legal and procedural acts were suspended. Law 4-A/2020 of 6 April⁴⁹ introduced some changes on these matters, amending Law 1-A/2020 of 19 March. According to the current wording of Article 7(5), the suspension of these deadlines does not preclude the proceeding of cases and non-urgent acts when all parties are able to ensure that they are carried out electronically or through appropriate means of distance communication and also the issuing of the final decisions when the court and other entities consider that it is not necessary to carry out new diligences. Urgent proceedings continue to be carried out, without the suspension or the interruption of deadlines, according to the following conditions: 1) in cases that require the physical presence of the parties, procedural acts must be carried out through appropriate means of distance communication, namely teleconference, video call or other equivalent; 2) when this is not possible, and the life, physical integrity, mental health, freedom or immediate subsistence of the

⁴⁷ Público (2020), "[Thousands of families fallen into poverty call for help. Food Bank has never seen anything like this](#)" ("Milhares de famílias caídas na pobreza pedem ajuda. Banco Alimentar nunca viu nada assim"), 28 April 2020.

⁴⁸ Portugal, [Decree 2-A/2020, implementing the application of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-A/2020, que regulamenta a aplicação do estado de emergência decretado pelo Presidente da República*), 20 March 2020; Portugal, [Decree 2-B/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-B/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 2 April 2020; and Portugal, [Decree 2-C/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-C/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 17 April 2020.

⁴⁹ Portugal, [Law 4-A/2020, making the first amendment to Law 1-A/2020, of 19 March, which approves exceptional and temporary measures to respond to the epidemiological situation, and the second amendment to Decree-Law 10-A/2020, of 13 March, which establishes exceptional and temporary measures regarding the epidemiological situation of the new Coronavirus - COVID 19](#) (*Lei n.º 4-A/2020, que procede à primeira alteração à Lei n.º 1-A/2020, de 19 de março, que aprova medidas excecionais e temporárias de resposta à situação epidemiológica, e à segunda alteração ao Decreto-Lei n.º 10-A/2020, de 13 de março, que estabelece medidas excecionais e temporárias relativas à situação epidemiológica do novo Coronavírus — COVID 19*), 6 April 2020.

interveners are at risk, the acts can be carried out in person, as long as they respect the recommendations of the health authorities and in accordance with the guidelines established by the competent high councils; 3) when it is not possible or adequate to carry out the proceedings according to any of the conditions previously stated, they are suspended (Article 7 (7)). The following proceedings are considered urgent: the proceedings for defending the rights, freedoms and guarantees harmed or threatened by any unconstitutional or illegal measures; the proceedings that are necessary to avoid irreparable damage, namely those relating to minors at risk or to urgent educational guardianship cases; and the proceedings and judgments of imprisoned defendants (Article 7 (8)).

On 5 April, the media reported that in the first two weeks of the state of emergency more than 9,000 trials were postponed or cancelled due to the COVID-19 pandemic. Despite the reduction in court activity, around 2,600 trials and other in-person proceedings were carried out in the courts during that period⁵⁰. In a survey carried out by the Association of Portuguese Judges, 86% of the 390 magistrates surveyed said that they went to court occasionally in the last two weeks of March. 97% percent of judges say they are working from home, but 70% say they take longer to complete tasks remotely than under normal circumstances. There are many judges working remotely because most cases are digitized⁵¹.

1.2.5 Freedom of movement

According to Order 3659-A/2020 of 24 March, the Foreigners and Borders Service started to control the borders in accordance with a set of procedures⁵². Regarding the air border, the Foreigners and Borders Service is checking flights from third countries that have not been suspended, only allowing the entry of passengers such as for e.g. nationals of a European Union Member State, Schengen associated countries, or their family members; passengers on flights from Portuguese-speaking countries, South Africa, Canada, the United States of America, the United Kingdom and Venezuela, provided that the reciprocity of treatment in these countries to Portuguese citizens is ensured; citizens with a residence permit; health professionals and health researchers and humanitarian aid workers, as long as they are exercising their functions; applicants for international protection; citizens traveling for urgent and duly proven professional reasons; citizens whose entry is justified on humanitarian grounds. For maritime and land borders, the measures established in Resolution of the Council of Ministers 10-B/2020, dated 16 March⁵³ apply. Passengers authorized to enter national territory are required to comply with the guidelines issued by the Directorate-General for Health.

The suspension of flights to and from Italy was extended on 24 March, due to the persistence of the pandemic in the country⁵⁴. Only flights for the exclusive transportation of cargo and mail are

⁵⁰ TSF (2020), "[More than nine thousand trials postponed or cancelled due to the Covid-19 pandemic](#)" ("Mais de nove mil julgamentos adiados ou cancelados devido à pandemia da Covid-19"), 5 April 2020

⁵¹ Público (2020), "[Judges work from home, but admit difficulties](#)" ("Juizes trabalham de casa, mas admitem dificuldades"), 3 April 2020.

⁵² Portugal, [Order 3659-A/2020, that sets out SEF border control procedures](#) (*Despacho n.º 3659-A/2020, que determina procedimentos de controlo de fronteira por parte do SEF*), 24 March 2020.

⁵³ Portugal, [Council of Ministers Resolution 10-B/2020, restoring, exceptionally and temporarily, the document control of people at borders in the context of the new Coronavirus epidemic](#) (*Resolução do Conselho de Ministros n.º 10-B/2020, que repõe, a título excepcional e temporário, o controlo documental de pessoas nas fronteiras no âmbito da situação epidemiológica provocada pelo novo coronavírus*), 16 March 2020.

⁵⁴ Portugal, [Order 3659-B/2020, extension of the suspension of flights to and from Italy](#) (*Despacho n.º 3659-B/2020, prorrogação de suspensão dos voos de e para Itália*), 24 March 2020.

allowed, as well as flights of a humanitarian nature or medical emergency and technical stopovers for non-commercial purposes. The extension of this suspension was renewed again on 8 April⁵⁵ and 21 April⁵⁶

One of the measures passed by the Government during the state of emergency concerns the protection of fundamental rights targeting the immigrant population, implemented by Order 3863-B/2020 of 27 March, that regularised the situation of all foreigners with requests pending at the Immigration and Borders Service under the Immigration Law and the Asylum Law at the date of the declaration of the state of emergency (18 March 2020), guaranteeing they benefit from the same rights as other citizens⁵⁷. The Minister of Internal Affairs, stated that “the priority in a state of emergency is the defence of collective health and security” and that “at these times it becomes even more important to guarantee the rights of the most vulnerable as is the case of migrants”. He added that “ensuring the access of migrants to health, social security and stability in employment and housing is a duty of a solidary society in times of crisis”⁵⁸.

On 9 April, the ban on disembarkation and licenses to land of passengers and crew from cruise ships in national ports was extended⁵⁹, taking into account the state of emergency in force in the country and the worsening of the epidemiological situation in Portugal and other countries. This measure was maintained by Order 5138-B/2020 of 30 April⁶⁰.

According to the aforementioned legal documents, there was an extension of all deadlines for the various interdictions and limitations on land, air and sea travel, until mid-May.

1.3 Impact of measures on particular groups

Older People

In Portugal, the measures to combat the pandemic with respect to the elderly focused on two major areas: on the one hand, there was a special duty of protection imposed by the state of emergency; on the other hand, the situation experienced in homes for the elderly, with a significant increase in the risk of contamination and in the mortality rate among users.

⁵⁵ Portugal, [Order 4328-D/2020, extension of the suspension of flights to and from Italy](#) (*Despacho n.º 4328-D/2020, prorrogação de suspensão dos voos de e para Itália*), 8 April 2020.

⁵⁶ Portugal, [Order 4808-B/2020, extension of the suspension of flights to and from Italy](#) (*Despacho n.º 4804-B/2020, prorrogação de suspensão dos voos de e para Itália*), 21 April 2020.

⁵⁷ Portugal, [Order 3863-B/2020, determining that the management of appointments is carried out in such a way as to unequivocally guarantee the rights of all foreign citizens with proceedings pending at the Foreigners and Borders Service, within the scope of COVID 19](#) (*Despacho n.º 3863-B/2020, determina que a gestão dos atendimentos e agendamentos seja feita de forma a garantir inequivocamente os direitos de todos os cidadãos estrangeiros com processos pendentes no Serviço de Estrangeiros e Fronteiras, no âmbito do COVID 19*), 27 March 2020.

⁵⁸ Público (2020), [“Government regularises all immigrants who have pending applications at SEF”](#) (“Governo regulariza todos os imigrantes que tenham pedidos pendentes no SEF”), 28 March 2020.

⁵⁹ Portugal, [Order 4394-D/2020, that keeps the ban on disembarkation and licenses to land for passengers and crew from cruise ships in national ports](#) (*Despacho n.º 4394-D/2020, que mantém a interdição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais*), 9 April 2020.

⁶⁰ Portugal, [Order 5138-B/2020 that keeps the ban on disembarkation and licenses to land for passengers and crew from cruise ships in national ports](#) (*Despacho n.º 5138-B/2020 que mantém a interdição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais*), 30 April 2020.

As stated above, when the state of emergency and its extensions were regulated, the elderly were the subject to a particular attention. It was decided that those over 70 were due a special duty of protection, which translates into a process of home confinement with only a few exceptions for e.g. acquisition of goods and services; health care; short trips for physical activity; short trips for the purpose of walking pets⁶¹.

The duty of confinement, and the abrupt changes that the virus has brought to people's daily lives, are felt particularly by older people, who, as a risk group, have been unable to have physical contact with their children and grandchildren, which in some cases increased even further their isolation. This emotional and psychological aspect started to be noticed by certain entities. In light of this, the Portuguese Red Cross created psychological and social helplines, and increased telephone contacts with the elderly and their families⁶². Mitigating the feelings of isolation and loneliness of the elderly is the goal of a group of young people from Abrantes, who implemented the "Adopt a Grandparent" ("Adota um Avô") project using cell phones. In this initiative, each volunteer, mostly students, is assigned a senior during the quarantine period and keep him/her company every day by cell phone⁶³. The Bissaya Barreto Foundation launched a support line (SOSolidão) so that older people do not feel isolated and alone. The service complements the SOS Elderly line (Linha SOS Pessoa Idosa), created in 2014 by the same foundation, to support cases of violence, but which has been receiving more and more calls from senior citizens in need of company⁶⁴.

The vulnerability of the elderly is reflected in the rate of contamination and, above all, in mortality. For example, at the end of the first period of the state of emergency (2 April), 21.25% of those infected and 86.99% of deaths by COVID-19 were people aged 70 or over⁶⁵. At the end of the second period of the state of emergency (17 April), 24.30% of those infected and 86.75% of deaths from COVID-19 were people aged 70 or more⁶⁶. When comparing the data there is an increase of three percentage points in the number of infected people in that age group.

The other issue related to the elderly is associated with elderly homes and the protection conditions that are provided to them. As the impact of COVID-19 is considered to be greater in people over 65 and with comorbidities, visits to Residential Accommodation for the Elderly, Integrated Continuous

⁶¹ Portugal, [Decree 2-A/2020, implementing the application of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-A/2020, que regulamenta a aplicação do estado de emergência decretado pelo Presidente da República*), 20 March 2020; Portugal, [Decree 2-B/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-B/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 2 April 2020; and Portugal, [Decree 2-C/2020, that regulates the extension of the state of emergency decreed by the President of the Republic](#) (*Decreto n.º 2-C/2020, que regulamenta a prorrogação do estado de emergência decretado pelo Presidente da República*), 17 April 2020.

⁶² Público (2020), ["Covid-19 further isolated the elderly. Home support does not stop"](#) ("A covid-19 isolou ainda mais os idosos. Apoio domiciliário não para), 25 March 2020.

⁶³ Público (2020), ["Abrantes youth attenuates isolation of the elderly with the Adopt a Grandfather project"](#) ("Jovens de Abrantes atenuam isolamento de idosos com projeto Adota um Avô"), 1 April 2020.

⁶⁴ Público (2020), ["There is a new line to fight loneliness for the elderly"](#) ("Há uma nova linha de combate à solidão para os idosos"), 14 April 2020.

⁶⁵ Estrutura de Monitorização do Estado de Emergência (2020), [Relatório sobre a aplicação da declaração do estado de emergência – 19 de março de 2020 a 2 de abril de 2020](#), Lisbon, Ministério da Administração Interna. 13 April 2020.

⁶⁶ Estrutura de Monitorização do Estado de Emergência (2020), [Relatório sobre a aplicação da 2.ª declaração do estado de emergência – 3 de abril de 2020 a 17 de abril de 2020](#), Lisbon, Ministério da Administração Interna. 27 April 2020.

Care of the National Network of Continued Care and other responses dedicated to elderly people were suspended by the Directorate-General for Health⁶⁷. This decision was extended during the successive periods of the state of emergency.

On 2 April, the Government approved Order 4097-B/2020⁶⁸, which determines the channels and procedures to be adopted by the public institutions and entities that are called upon to act in establishments of a residential, social and health nature for the elderly, aiming to protect users and their workers. The Order provides for the coordinated intervention of city councils, Civil Protection teams, local health authorities and Social Security offices, in order to find alternative facilities to accommodate people in prophylactic isolation and/or cases of confirmed COVID-19 infection which do not need hospitalization.

On 14 April, the Portuguese Mercies Union (União das Misericórdias Portuguesas) and the National Confederation of Solidarity Institutions (Confederação Nacional das Instituições de Solidariedade), acknowledged their concerns about the serious situation experienced in the homes for the elderly and the disabled in the context of the COVID-19 pandemic. These associations state that the elderly homes may not have the conditions (infrastructures, human and technical resources) to provide appropriate care to users with COVID-19, specially in cases of acute illness, and to prevent the contamination, since some structures may not have isolation spaces, adequate protective equipment and trained staff. They call for the coordination between the Ministry of Labour, Solidarity and Social Security and the Ministry of Health and state to be available to initiate a constructive dialogue with health providers to ensure health care for the elderly and disabled living in homes⁶⁹.

On 24 April, the Government reported that the competent ministries had carried out more than 17,000 diagnostic tests for COVID-19 in nursing homes under the programme for diagnostic tests in nursing homes and intend to reach 70,000 next month. This programme, which involves a partnership with several institutions, was launched with the objective of curbing the spread of the disease in nursing homes, by testing all workers and users with symptoms⁷⁰. To date, nearly two hundred institutions have been tested across the country. Before, several elderly home directors and employees spoke publicly about the lack of tests⁷¹.

The Association for Home Support, Retirement Homes and Nursing Homes for the Elderly, informed us that the following activities were carried out: dissemination of guidelines, rules and information from the Directorate-General for Health; support in the preparation and implementation of contingency plans; early recommendation for homes to end visits and prevent elderly from leaving; recommendation for homes to make video calls with family members of the elderly, in order to

⁶⁷ Direção-Geral de Saúde (2020), [Orientação n.º 009/2020 de 11/03/2020, atualizada a 07/04/2020](#) (Guideline 009/2020 from 11/03/2020, updated on 07/04/2020).

⁶⁸ Portugal, [Order 4097-B/2020, that determines the intervention competencies](#) (Despacho n.º 4097-B/2020, que determina as competências de intervenção), 2 April 2020.

⁶⁹ For more information, see [the União das Misericórdias Portuguesas website on the communication about the situation of homes for the elderly and disabled in the context of the COVID-19 pandemic](#).

⁷⁰ For more information, see [the Government webpage on the number of tests performed under the diagnostic testing programme in nursing homes](#).

⁷¹ Público (2020), [“Covid-19. Lar de Aveiro com 15 mortes esperou duas semanas por kits de testes”](#) (“Covid-19. Aveiro nursing home with 15 deaths waited two weeks for test kits”), 6 April 2020; Expresso (2020), [“Covid-19. “Sem testes rápidos e retirada de infetados, vai ser o descalabro nos lares de idosos”: o aviso dos autarcas do Alto Minho”](#) (“Covid-19. “Without fast tests and removal of infected persons, it will be a disaster in nursing homes”: the warning of the local representatives of Alto Minho”), 13 April 2020.

reduce homesickness and anxiety; at the request of the Social Security Institute, surveying the needs of personal protection equipment of all associates for eventual supply by the Institute; among others.

The impact of COVID-19 was particularly worrying among elderly people living in social care facilities. Due to the characteristics of these facilities, social distancing measures proved to be difficult to implement, having multiplied the cases of epidemic outbreaks originating in (or enhanced by) nursing homes. The response to the various cases of epidemic outbreaks in nursing homes was multidisciplinary, involving public and private, civil and military entities⁷². The situation of the Lar de Nossa Senhora das Dores, in Vila Real, which led to the relocation of about 50 users to the Military Hospital of Porto, was just one of those that deserved particular attention⁷³. Over the period of the state of emergency, the ability to carry out tests on users and workers in these facilities has been strengthened, with the purpose of complying with the special duty of protection legally enshrined. The subjection of workers in nursing homes to mandatory or prophylactic home confinement and the impact this has on human resources for the provision of care to the elderly were addressed in the meetings, where the importance of increasing volunteering was underlined⁷⁴.

On 17 April, there were 1,777 infected nursing home users and 2,488 in isolation. 52 users had recovered. As for professionals, 993 had a positive diagnosis and 1,359 were in isolation. There were 75 recovered. Up to that date, 200,000 items of personal protective equipment had been distributed to 4,634 users and 2,670 employees⁷⁵. The report of the Monitoring Structure of the State of Emergency pointed out the concerns about the lack of personal protective equipment felt in the different Government areas. To respond to those needs, the Monitoring Structure of the State of Emergency called for the definition of priority criteria for access to tests, personal protective equipment and ventilators and for a clear identification of sectoral needs and the centralisation of this information in the health services⁷⁶. On 23 April, according to data released by the Directorate-General for Health⁷⁷, four out of ten people who died of COVID-19 in Portugal were elderly people living in elderly homes, that is, 327 deaths (out of a total of 820). The North region of the country was the most affected, with 180 deaths in nursing homes, followed by the Center with 106, Lisbon and Tejo Valley with 39, 1 death in Alentejo and another in Algarve⁷⁸.

⁷² Estrutura de Monitorização do Estado de Emergência (2020), [Relatório sobre a aplicação da declaração do estado de emergência – 19 de março de 2020 a 2 de abril de 2020](#), Lisbon, Ministério da Administração Interna, 13 April 2020.

⁷³ Público (2020), [“Coronavírus: Lar com 20 casos vai ser evacuado. Funcionárias pediram ajuda à janela”](#) (“Coronavirus: Nursing home with 20 cases will be evacuated. Employees asked for help at the window”), 25 March 2020.

⁷⁴ Estrutura de Monitorização do Estado de Emergência (2020), [Relatório sobre a aplicação da declaração do estado de emergência – 19 de março de 2020 a 2 de abril de 2020](#), Lisbon, Ministério da Administração Interna, 13 April 2020.

⁷⁵ Público (2020), [“Mais de 2500 infetados em lares e meio milhão de equipamentos distribuídos aos bombeiros”](#) (“More than 2500 infected persons in elderly homes and half a million equipment distributed to firefighters”), 28 April 2020.

⁷⁶ Estrutura de Monitorização do Estado de Emergência (2020), [Relatório sobre a aplicação da declaração do estado de emergência – 19 de março de 2020 a 2 de abril de 2020](#), Lisbon, Ministério da Administração Interna, 13 April 2020.

⁷⁷ For more information, see [the Directorate-General for Health press conference](#).

⁷⁸ Rádio Renascença (2020), [“Covid-19 matou 327 pessoas em lares de idosos de Portugal”](#) (“COVID-19 killed 327 people in elderly homes in Portugal”), 23 April 2020.

Roma and Travellers

The Portuguese authorities received 12 Portuguese Roma families, of about 30 people, who had crossed the border into Spain and were preparing to camp on the outskirts of Badajoz⁷⁹. The alarm of the presence of Roma families was raised by residents to the local police. The nomads went to a private land where they used to camp for decades. However, when they were preparing to camp, the police authorities prevented them, alleging the current situation of “health alarm” and they were escorted back to the border. These families were helped by Portuguese activists. According to them, they had no knowledge of the pandemic crisis and the measures enacted, since they don’t have access to phones or computers. To face this situation, the Secretary of State for Integration and Migration created a “safe space for quarantine” in Évora, where a nomadic park was improvised, with toilets and showers as well as a portable kitchen and a water point⁸⁰.

According to a media report from 25 March, about 3,000 Roma families, which corresponds to 32% of Roma families living in Portugal, live in a “non-classic” home. Without water, electricity, basic sanitation, garbage collection and financial resources, these families are in a very vulnerable situation in the current pandemic crisis. According to the media, this situation is aggravated by the closing of fairs and markets, one of their sources of income. In addition, many workers do not fulfill the requirements to receive the state support foreseen for individual entrepreneurs. On the other hand, these families have school-age children, without computer equipment or access to the internet, so they are forcibly excluded from distance learning⁸¹.

As stated by the media, in the neighbourhood of Pedreira, in Beja, about 300 people from the Roma community live in tents without access to basic hygiene facilities. The biggest problem is the lack of conditions to ensure that the basic hygiene procedures that are being recommended to the general population can be carried out. On the other hand, the proximity of homes increases the danger of contamination in the event that a member of the community gets infected by the virus⁸². On 2 April, the mayor of Beja informed that the neighbourhood of Pedreira and other Roma neighborhoods would be sprayed with disinfectant⁸³.

On 10 April, the media reported that, in the Roma community of the neighbourhood of Espadanal, 1,5 km from the city of Moura, 17 children and 2 adults were infected with COVID-19⁸⁴. The neighbourhood is made up of 16 families, making a total of 59 people. On the following day, 14

⁷⁹ Público (2020), [“Roma families wanted to camp in Badajoz but police expelled them to Portugal”](#) (“Famílias ciganas pretendiam acampar em Badajoz mas polícia expulsou-as para Portugal”), 19 March 2020.

⁸⁰ Público (2020), [“How are Roma communities coping with the epidemic in camps without running water?”](#) (“Como estão as comunidades ciganas a enfrentar a epidemia em acampamentos sem água corrente?”), 25 March 2020.

⁸¹ Público (2020), [“How are Roma communities coping with the epidemic in camps without running water?”](#) (“Como estão as comunidades ciganas a enfrentar a epidemia em acampamentos sem água corrente?”), 25 March 2020.

⁸² Público (2020), [“A “refugee” camp outside Beja”](#) (“Um campo de “refugiados” às portas de Beja”), 25 March 2020.

⁸³ RTP (2020), [“Municipality of Beja concerned with the health of the Roma community”](#) (“Autarquia de Beja preocupada com saúde da comunidade cigana”), 2 April 2020; Expresso (2020), [“Fotogaleria. Desinfeção preventiva em Beja chegou à maior comunidade cigana de Portugal”](#) (“Photo gallery. Preventive disinfection in Beja has reached the largest gypsy community in Portugal”), 21 April 2020.

⁸⁴ Público (2020), [“In the Roma community of Moura there are 17 children and two adults infected with COVID-19”](#) (“Na comunidade cigana de Moura há 17 crianças e dois adultos infetados por COVID-19”), 10 April 2020.

additional positive cases were confirmed in the community. In view of this situation, the Moura municipality activated the municipal civil protection emergency plan⁸⁵. Meanwhile, a sanitary fence was imposed on the neighborhood, controlled by elements of the National Republican Guard, with all inhabitants identified and having to report their presence regularly in response to a call made by the authorities. Meanwhile, in Margaça, also in the municipality of Moura, in another Roma community composed of 13 elements, 6 positive cases of COVID-19 were recorded⁸⁶. A sanitary fence was also installed in the neighbourhood, and in both cases the Municipality provided food and medication for residents.

The Association of Roma Mediators of Portugal⁸⁷, presented several recommendations aimed at the Roma community during the celebrations of the International Day of the Roma people on 8 April, urging Roma people to stay home and in their communities and to cooperate with society, pointing out the urgency of measures to protect the Roma communities, prioritizing those who live without the minimum basic hygiene conditions, of providing more information at the local level and to the most isolated communities, of a regular presence of official entities in Roma communities (civil and military authorities), and of exceptional support measures aimed at supplementing the lack of income due to the lack of street vending at fairs and markets.

Detainees

The Ministry of Justice's Reintegration and Prison Services implemented a series of measures aimed at reducing human contact. Among the measures adopted by the Directorate-General of Reinsertion and Prison Services regarding prison establishments, the following are worth noting: the provisional suspension of visits to all prisons and educational centers; the suspension of transfers of prisoners between prisons; the suspension of the open to the outside regime in areas identified as at risk; the possibility of the security sections of Paços de Ferreira and Linhó to become areas of containment or extended quarantine⁸⁸. In addition, the Directorate-General for Reintegration and Prison Services informed us of the adoption of other measures such as, for e.g., the dissemination of guidelines; the facilitation of contact with family and friends, by allowing three daily phone calls lasting five minutes each; the intensification of cleaning and sanitizing of the different prison spaces; the redeployment and establishment of different daily routines for the prison population in order to separate, as much as possible, the people who are considered most vulnerable of the remaining prisoners; the distribution of kits of personal protective equipment; the approval of contingency plans; the establishment of a crisis group for COVID-19; among others.

On 26 March, the Ombudsman, due to the specific features of the prison environment, which do not facilitate social distancing measures, and the characteristics of the prison population, older and with a high prevalence of health problems, recommended the adoption of extraordinary measures to reduce the risks resulting from the concentration of people within the prison system, through the flexibility of prison sentences⁸⁹.

The Portuguese Association for the Support of Prisoners (APAR) informed us that they were extremely concerned about the prison population (of approximately 12,000 people), which are in a

⁸⁵ For more information, [see the website of the Moura Municipality](#).

⁸⁶ Público (2020), "[Another Roma community infected by COVID-19 in Moura](#)" ("Mais uma comunidade cigana infetada por Covid-19 em Moura"), 23 April 2020.

⁸⁷ For more information, see [the Facebook page of the Associação dos Mediadores Ciganos de Portugal](#).

⁸⁸ For more information see [the Ministry of Justice webpage on COVID-19: Measures taken in justice](#).

⁸⁹ Portugal, Provedoria de Justiça (2020), [Recomendação n.º 4/B/2020](#), 26 March 2020.

situation of enormous vulnerability due to the serious health problems they have, the poor quality of the food that is served, the lack of medical assistance, the unhealthy physical space they live in and the number of prisoners per cell.

On 31 March, the Ministry of Justice, in a press release, reported that the prison system registered four infected persons with COVID-19: an auxiliary worker, two prison guards and one detainee, which was infected outside and was in isolation at the Prison Hospital⁹⁰.

The Portuguese Parliament approved Law 9/2020 of 10 April⁹¹, which established an exceptional regime for making the execution of sentences more flexible in the context of the COVID-19. The first measure consisted of a pardon of prison sentences up to two years or less and of the remaining periods of longer prison sentences, if the time remaining is two years or less. The second measure consists of an exceptional pardon of penalties to be granted to prisoners who are 65 years old or older, if they have a disease, physical or mental, or a degree of autonomy incompatible with the normal stay in prison, in the context of the pandemic. It should be noted that these measures do not cover the most serious crimes such as, for e.g. homicide, domestic violence, crimes against sexual freedom and sexual self-determination, qualified theft, criminal association, corruption, money laundering, among others. The third measure is the application of an extraordinary regime of administrative release license for sentenced prisoners, for a period of 45 days, renewable, upon the verification of certain cumulative requirements. During those 45 days, the prisoner must stay at home and be surveilled. The fourth and final measure is the extraordinary early release on probation for a period of six months. There are no measures to postpone imprisonment, although it is admitted that there is a greater consideration by the courts regarding the possibility of applying house arrest. When entering the prison, a preventive quarantine period is applied. There are no specific measures regarding youth offenders. According to the Minister of Justice, in a hearing of the Parliamentary Committee, on 8 April⁹², the number of prisoners that will benefit from the pardon are around 2,000 people and many others may leave due to the remaining measures. The Directorate-General for Reinsertion and Prison Services informed us that, between 11 and 21 April, 1,128 prisoners were pardoned and 366 prisoners were released under the extraordinary administrative release license. On 27 April, the President of the Republic⁹³ granted 14 exceptional pardons, based on a proposal of the Minister of Justice. As of December 2019, the number of prisoners in the prison system was 12,934, which means that these exceptional measures may cover about 15% of the prison population⁹⁴.

According to the Portuguese Association for the Support of Prisoners (APAR), among the prisoners released, many had no family support, and the Directorate-General for Reintegration and Prison Services did a remarkable work, with the support of some local authorities and institutions, which enabled them to manage the situation. Some city councils (of which Oeiras was a prime example)

⁹⁰ For more information, see [the Government webpage on health in the prison services](#).

⁹¹ Portugal, [Law 9/2020, that establishes an exceptional regime for facilitating the execution of sentences and freeing measures, in the context of the COVID-19 disease pandemic](#) (Lei n.º 9/2020, que aprova o regime excecional de flexibilização da execução das penas e das medidas de graça, no âmbito da pandemia da doença COVID-19), 10 April 2020.

⁹² Portugal, [Parliament, Hearing of the Minister of Justice on the measures that the Government intends to take under the prison system in the face of the COVID-19 pandemic](#) (Audição da Ministra da Justiça sobre as medidas que o Governo tenciona tomar no âmbito do sistema prisional perante a pandemia do COVID-19), 8 April 2020.

⁹³ For more information, see [the website of the Presidency of the Republic on the exceptional pardons](#).

⁹⁴ For more information, see [the Government webpage on health in the prison services](#).

provided spaces for released prisoners without family or any other support. APAR asked for help from local businesses (particularly in fruit-picking) because, usually, these firms have housing for workers and pay daily, which would make it possible for them to meet food expenses.

2 Users' data - privacy and data protection

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

On 15 April, the Prime Minister and the President of the Republic attended a technical meeting between experts and politicians held on Infarmed. According to some epidemiologists, in order to lift restrictions without running the risk of a second wave of infection, there will have to be monitoring and surveillance systems that allow us to understand and follow the transmission chains that may occur. As such, the suggestion of a georeferencing process was questioned. However, the Prime Minister and the President of the Republic dismissed this possibility. The Prime Minister made it clear that he had many doubts about its constitutionality, considering that the measure would not be considered constitutional by the Portuguese Constitutional Court. The President of the Republic agreed, considering that any measure of this type would need a prior opinion from the Constitutional Court and the Ombudsman and that it would always have to guarantee the citizens' privacy⁹⁵. Even though the Prime Minister strongly rejected tracking infected persons through georeferencing, he admitted the possibility of the Directorate-General for Health sending a text message to Portuguese citizens' to warn them that they were close to someone infected with COVID-19⁹⁶.

On 27 April, details about the application monitorCovid19.pt were released (the application was not released yet). This app will be a free platform for voluntary use, which will allow interested users to discover cases of close contact with people infected by COVID-19. The application aims to improve the screening for infection cases carried out by the health authorities, which currently try to track the persons' recent contacts and contact them directly by phone, thus saving time. The project, which started in late March, is coordinated by the Institute of Systems and Computer Engineering, Technology and Science (INESC TEC). However, to be effective in detecting new cases of COVID-19, at least 60% of smartphone users in Portugal would need to have this application installed. Privacy has been one of the concerns of the team that developed the app. Therefore, monitorCovid19.pt (which will be available for Android and iOS) will not ask the user for any type of information and the only option available on the interface is a button to turn on or off. The application works with Bluetooth which is found on several devices such as laptops and smartphones and allows them to exchange information when they are close. When activated, the application sends anonymous identifiers ("beeps") to nearby mobile phones, while saving the identifiers it receives. These beeps are completely anonymous. The main goal is, if one of the users becomes infected, he/she can voluntarily share all the beeps sent by his/her mobile phone in the last 14 days with a health

⁹⁵ Público (2020), "[Costa and Marcelo remove mandatory geolocation of infected persons](#)" ("Costa e Marcelo afastam geolocalização obrigatória de infetados"), 15 April 2020.

⁹⁶ Diário de Notícias (2020), "[Costa admite envio de mensagens para telemóveis de quem esteve em contacto com doentes](#)" ("Costa admits sending messages to cell phones from people who have been in contact with infected"), 23 April 2020.

professional and they can send a warning message to those users. According to the developers of the application, it will not register the coordinates of people or reveal the identity of those infected. There is no estimated date for the launch of the monitorCovid19.pt application, which is still being tested and perfected, but the goal is to help Portuguese citizens when the measures of social isolation are lifted. Ethical and data protection assessments of the application are being carried out, respectively by the Institute of Public Health of the University of Porto and by INESC TEC⁹⁷. According to the information available, an independent data protection assessment will be carried out by the National Cybersecurity Center later⁹⁸. The main flaws of the application are the reduced use by Portuguese citizens (since it's not mandatory, it is estimated that at least 60% of citizens will have to install the application for it to be effective) and the exclusion of citizens who have no access to technologies (specifically elderly people)⁹⁹.

Until 30 April, no arrangement for the development of tracing apps, tracking apps or telecom data that allow the identification or localization of specific persons infected with COVID-19 was being planned in Portugal.¹⁰⁰.

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

No specific legislation was adopted under the coronavirus pandemic regarding this issue. As such, the applications must respect the European and national legislation on data protection.

The processing of health data must comply with the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data). With respect to health data, Article 9 (2) (h) and (i) of the GDPR establishes some exceptions to its processing when (1) it is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services; and (2) it is necessary for reasons of public interest in the area of public health, such as protection against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medical products or medical devices.

According to Article 35 (1) of the Constitution, all citizens have the right to access electronic data that concerns them and the right to know the purposes for which they are intended, under the provisions set out in the law. Law 58/2019 of 8 August¹⁰¹ (Personal Data Protection Law) ensures the

⁹⁷ Público (2020), "[Voluntary, with beeps, by Bluetooth: what the COVID-19 app will be like in Portugal](#)" ("De uso voluntário, com beeps, por Bluetooth: como será a app para rastrear contágios de COVID-19 em Portugal"), 27 April 2020.

⁹⁸ Público (2020), "[Voluntary, with beeps, by Bluetooth: what the COVID-19 app will be like in Portugal](#)" ("De uso voluntário, com beeps, por Bluetooth: como será a app para rastrear contágios de COVID-19 em Portugal"), 27 April 2020.

⁹⁹ Rádio Renascença (2020), "[Conheça a "monitorCOVID19.pt", a app que o Governo quer para rastrear o novo coronavírus](#)" ("Know "monitorCOVID19.pt", the app that the Government wants to track the new coronavirus"), 27 April 2020.

¹⁰¹ Portugal, [Law 58/2019 ensures the execution, in the national legal framework, of the Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data](#) (*Lei n.º 58/2019, que*

execution, in the national legal framework, of the GDPR. According to Article 3, the National Data Protection Commission (CNPD) is the national supervisory authority for the purposes of the GDPR. As such, public and private entities must cooperate with the CNPD providing all the information requested, when it exercises its powers and competences (Article 8). Regarding specific situations, specifically processing of health data, access to such data must respect the principle of the necessity to know the information (Article 29 (1)). The processing of health data in the cases that are allowed by the GDPR (Article 9 (2) (h) and (i) of the GDPR), must be carried out by a professional or by persons bound by a duty of confidentiality and secrecy and appropriate information security measures must be guaranteed (Article 29 (2), (4) and (5)). Access to health data must be made electronically, unless there is a technical impossibility or a contrary indication from the data subject, and its subsequent disclosure or transmission is prohibited (Article 29 (3)). The data subjects must be notified of any access to their personal data and the controller is responsible for ensuring this traceability and notification mechanism (Article 29 (6)). Finally, health-related data can be organized in centralised databases or records based on single platforms, when processed according to the legal purposes of the GDPR and national legislation, and must respect the security and inviolability requirements set out in the GDPR (Article 30 (1) and (2)).

According to INESC TEC, monitorCovid19.pt will respect the national and European legislation on data protection¹⁰².

2.3 Privacy and data protection concerns and possible solutions

The National Data Protection Commission has disclosed, on its website, the Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak, adopted on 21 April 2020 by the European Data Protection Board¹⁰³, that clarify the conditions and principles for the proportionate use of location data and contact tracing tools, for two specific purposes: using location data to support the response to the pandemic by modelling the spread of the virus so as to assess the overall effectiveness of confinement measures; and contact tracing, which aims to notify individuals of the fact that they have been in close proximity of someone who is eventually confirmed to be a carrier of the virus, in order to break the contamination chains as early as possible.

2.4 Any other privacy and data protection concerns

On 24 April, the Ministry of Labour, Solidarity and Social Security, following the returning to work activities after the end of the current state of emergency, to prevent contamination among workers, stated that measuring body temperature is feasible, provided no record is kept. The Ministry clarifies that there are several circumstances in which the processing of such data proves to be compatible with the provisions of the European and national legal framework, namely when: it has the

assegura a execução, na ordem jurídica nacional, do Regulamento (UE) 2016/679 do Parlamento e do Conselho, de 27 de abril de 2016, relativo à proteção das pessoas singulares no que diz respeito ao tratamento de dados pessoais e à livre circulação desses dados), 8 August 2019.

¹⁰² Diário de Notícias (2020), "[App para rastreio de vírus em Portugal "cumprе escrupulosamente leis europeias"](#)" ("App to track the virus in Portugal "strictly complies with European legislation"), 27 April 2020.

¹⁰³ Comité Europeu para a Proteção de Dados (2020), [Diretrizes n.º 4/2020 sobre a utilização de dados de localização e ferramentas de contact tracing no contexto do surto de COVID-19](#), 21 April 2020.

employee's express consent; it is carried out by a health professional subject to confidentiality or by another person with a duty of confidentiality; it is necessary for reasons of public interest in the field of public health; it aims to protect the safety of the worker and/or third parties. The Government will clarify this situation through legislation, safeguarding full respect for workers' personality rights and the proportionality principle¹⁰⁴.

The National Data Protection Commission (*Comissão Nacional de Proteção de Dados*, CNPD), to respond to the circumstances resulting from the measures implemented in the state of emergency, and considering some complaints received, has produced several guidelines on the following topics:

- Use of video surveillance and alarm systems by private security entities¹⁰⁵. According to the National Data Protection Commission, private security companies are prohibited from carrying out activities corresponding to the exclusive powers of the judicial or police authorities. The state of emergency did not alter the functions of controlling entry and travel in Portuguese territory, which are centralised in the State. As such, the Local authorities and private entities are prohibited from using devices for capturing images and sound in public spaces for this purpose.
- Use of technologies to support distance learning¹⁰⁶. According to the Data Protection Commission, the use of electronic platforms to support distance learning implies the collection and subsequent processing of several information from users, a situation that is subject to the principles and rules of personal data protection. CNPD points out the risks that distance learning can have with respect to the fundamental rights of users, in particular the right to respect for private and family life and the right to equality, in terms of non-discrimination. Additionally, the risk of bullying is also highlighted, enhanced by the confinement and massive use of technologies. In this matter, CNPD issued several guidelines such as: the platforms chosen must have well-defined purposes and be compatible with distance learning; the adoption of each distance learning support platform should be preceded by an impact assessment on data protection; platforms must define the roles and responsibilities of the stakeholders in the processing of personal data, in particular the distribution of roles and responsibilities between those who provide and manage the platform and those who decide on its use; teachers must be properly informed about the use of the platforms; educational establishments should seek to raise awareness among the school community on good practices and precautions to be followed when using these technologies; among others.
- Ensure compliance of the processing of workers' personal data with the legal data protection regime and minimize the impact on privacy¹⁰⁷. First, CNPD points out that technological solutions for remote control of worker performance are not allowed. Examples of this are software that, in addition to tracking work and downtime, record the Internet pages visited, the location of the terminal in real time and the uses of peripheral devices. To

¹⁰⁴ For more information, see [the clarifications on measuring workers' temperature on the Government webpage](#). Decree-Law 20/2020 of 1 May regulated the control of body temperature on the work place.

¹⁰⁵ Comissão Nacional de Proteção de Dados (2020), [Orientações para utilização de sistemas de videovigilância e de alarmística por entidades de segurança privada](#) (Guidelines for the use of video surveillance and alarm systems by private security entities), 2 April 2020.

¹⁰⁶ Comissão Nacional de Proteção de Dados (2020), [Orientações para utilização de tecnologias de suporte ao ensino à distância](#) (Guidelines for the use of technologies to support distance learning), 8 April 2020.

¹⁰⁷ Comissão Nacional de Proteção de Dados (2020), [Orientações sobre o controlo à distância em regime de teletrabalho](#) (Guidelines on teleworking remote control), 17 April 2020.

that extent, the collection and subsequent processing of that data breaches the principle of minimizing personal data. Likewise, employers can't force the workers to keep the video camera permanently on, nor, in principle, is it possible to admit the possibility of recording teleconferences between the employer (or managers) and the workers.

- Disclosure of information related to persons infected by Covid-19¹⁰⁸. Complaints have come to CNPD from citizens whose personal identification and contact details were exposed on the webpages and social networks of the local authority, after confirming the COVID-19 diagnosis. This situation occurs not because some local authorities reveal the infected persons' personal data, but because they provide information broken down by parish, without taking account of the small number of cases, which makes it easy, especially in small towns, to identify patients. In this context, CNPD issued a set of guidelines: a) local authorities cannot publish health data which identify the people to whom they relate; b) health data cannot be published, even without identifying the patients, when their number in a given territorial area, relative to its population size, is so small that it makes it possible to identify the infected people;
- Collection of workers' health data¹⁰⁹. The CNPD became aware that employers, among the measures adopted to prevent the contamination of workers, include the collection and registration of data relating to the health and private life of workers likely to suggest infection by the virus (namely, body temperature)¹¹⁰. Because the registration and collection of this information corresponds to processing of personal data, the CNPD has defined guidelines in order to guarantee the conformity of the processing of such data with the data protection regime. CNPD states that despite the exceptional situation framed by the state of emergency, which has implied profound changes in the context of work, this does not allow the adoption of any and all measures by the employer. Consequently, there is no justification of acts that, under national law, only the health authorities or the worker himself, during a process of self-monitoring, can perform. CNPD states that employers are unable to collect and record the body temperature of workers or other information related to health or to any risk behaviours of their workers. However, health professionals can evaluate the health status of workers and obtain the information that is necessary to assess their aptitude for work, in the general terms defined in the law of safety and health at work. CNPD reinforces the position that employers should limit themselves to act in accordance with the guidelines from the national health authority for the prevention of infection by the virus in the workplace, refraining from adopting initiatives that involve data collection on the personal health of their workers when they have no legal basis, nor have they been requested by the competent administrative authorities.

¹⁰⁸ Comissão Nacional de Proteção de Dados (2020), [Orientações sobre a divulgação de informação relativa a infetados por COVID-19](#) (Guidelines on the disclosure of information related to infected persons by Covid-19), 22 April 2020.

¹⁰⁹ Comissão Nacional de Proteção de Dados (2020), [Orientações sobre a recolha de dados de saúde dos trabalhadores](#) (Guidelines on the collection of workers' health data), 23 April 2020.

¹¹⁰ [Decree-Law 20/2020 of 1 May](#) regulated the control of body temperature on the work place.