

# **Coronavirus COVID-19 outbreak in the EU**

## **Fundamental Rights Implications**

**Country:** Estonia

**Contractor's name:** Estonian Human Rights Centre

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# 1 Measures taken by government/public authorities

On 12 March 2020, the Government of the Republic of Estonia declared an emergency situation due to the pandemic spread of the Covid-19. The emergency situation is to last until 1 May 2020, unless the government decides otherwise.<sup>1</sup> It gives rise to the right to apply different measures, which are outlined in the Emergency Act.<sup>2</sup>

## Closure of educational institutions

As one of the emergency measures, the government suspended regular studies in schools and universities as of 16 March 2020 and introduced distance learning.<sup>3</sup> Educational institutions are to continue their activities through different e-learning solutions. The Ministry of Education has published guidelines for distance learning for teachers, headmasters and parents.<sup>4</sup>

Local governments have expressed concern regarding the fact that for many children school lunch is the only warm meal they eat in a day. To address this problem, several local governments, such as Tallinn, Tartu, Narva and Rakvere, are developing solutions to organise lunch for students in need, for example, through home delivery.<sup>5</sup>

School closures also have an impact on parents who need to continue working. There are no nationwide solutions for childcare in this situation. The government advises that employers and employees should find mutually reasonable solutions, if possible, by allowing employees to work remotely. For any support services, the Government advises people to contact their local government, as local governments are responsible for the provision of social services in Estonia.<sup>6</sup>

Regarding kindergartens, the Prime Minister ordered local authorities to devise solutions as to how to ensure the care of children of preschool age in the event their parents have to be at work.<sup>7</sup> Whenever possible, the state authorities encourage parents to leave their children at home, however, kindergartens have not been ordered to close. The opening and organisation of kindergartens and nurseries remain the responsibility of the local government.<sup>8</sup>

Local governments handle the situation differently, but most municipalities have kept at least one kindergarten open. Several local governments have decided to waive the kindergarten fee until the end of the emergency situation.<sup>9</sup> In some municipalities, such as Jõhvi, Tartu and Kambja, a 24-hour kindergarten is open for children whose parents work in vital positions (police, rescue, medicine, etc) and in workplaces essential for the sustainable functioning of the state.<sup>10</sup>

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<sup>1</sup> Estonia, [Declaration of Emergency Situation in the Administrative Territory of the Republic of Estonia \(Eriolukorra väljakuulutamine Eesti Vabariigi haldusterritooriumil\)](#), 12 March 2020.

<sup>2</sup> Estonia, [Emergency Act \(Hädaolukorra seadus\)](#), 8 February 2017.

<sup>3</sup> Estonia, [Application of measures of emergency situation \(Eriolukorra meetmete rakendamise\)](#), 13 March 2020.

<sup>4</sup> Estonia, Ministry of Education, [Soovitused õpetajale, koolijuhile, lapsevanemale](#), 18 March 2020.

<sup>5</sup> Jõesaar, T. (2020), '[Omavalitsused korraldavad koolilaste toitlustamist: Tartu plaanib kojuvedu, Rakvere pakub toidutalonge](#)', *Delfi*, 17 March 2020.

<sup>6</sup> Estonia, Government of the Republic, [Eriolukord Eestis: korduma kippuvad küsimused](#), 19 March 2020.

<sup>7</sup> Estonia, [Order of the person in charge of emergency situation \(Eriolukorra juhi korraldus\)](#), 13 March 2020.

<sup>8</sup> Estonia, Government of the Republic, [Eriolukord Eestis: korduma kippuvad küsimused](#), 19 March 2020.

<sup>9</sup> Tallinn City Government, [Tallinna info seoses koroonaviirusega](#), 20 March 2020; Tartu City Government, [Tartu linn vabastab vanemad pooleteiseks kuuks lasteaia kohatasu maksmisest](#), 18 March 2020; Virumaa Teataja (2020), '[Tapa vald ei võta ajutiselt lasteaia tasu](#)', 18 March 2020.

<sup>10</sup> Põhjarannik (2020), '[Jõhvi pakub seoses eriolukorraga elanikele uusi teenuseid](#)' 19 March 2020; Tartu City Government, [Tartu linn vabastab vanemad pooleteiseks kuuks lasteaia kohatasu maksmisest](#), 18 March 2020; Kambja Municipality Government, [Ööpäevaringne lastehoid](#), 20 March 2020.

## **Restrictions to public gatherings and entertainment**

Under the initial emergency situation measures, all public gatherings, film screenings, night clubs, shows/performances, concerts and conferences and sports and exercise events were prohibited.<sup>11</sup> The ban on public gatherings also includes religious services, which now only take place online, however, churches generally remain open.<sup>12</sup> All public sports halls, gyms, saunas, spas, sports clubs, swimming pools, water parks, day centres, casinos and slot machines halls and children's playrooms were also ordered to close. This does not apply to institutions which provide social and health services and soup kitchen services.<sup>13</sup> The Estonian Council for Administration of Court has also issued recommendations for the operation of the courts during the emergency situation.<sup>14</sup> Courts are still functioning, but whenever possible, judicial proceedings take place in written form rather than through hearings. Where an oral hearing is necessary, the courts are encouraged to conduct proceedings via technical means.<sup>15</sup>

On 24 March 2020, the government announced further restrictions. Taking effect on 25 March, groups of more than two people are not allowed to gather in public places (except families and persons performing public duties). As of 27 March, all shopping centres, restaurants, cafes, bars and other entertainment facilities are ordered to close. Grocery stores, pharmacies, telecommunications outlets, bank offices, parcel collection points, and shops that sell or rent medical equipment will remain open. Only take-away food is allowed to be sold at eateries.<sup>16</sup>

Apart from the effect on freedom of movement and assembly, these restrictions have an impact on the employment of many people. To alleviate this effect, the government has agreed to compensate for 70% of the gross income of employees of companies that have experienced a sharp decrease in turnover due to the coronavirus and cannot offer work to their employees. The compensation will be paid for two months between March and May. Companies must also participate in paying compensation themselves by paying their employees at least 150 euro a month.<sup>17</sup>

## **Closure of borders and restrictions to movement between territories**

On 14 March 2020, restrictions were imposed on the freedom of movement on the islands (which are municipalities) of Saaremaa, Hiiumaa, Vormsi, Ruhnu, Kihnu, Muhu and Manija, prohibiting people from entering or leaving the territories of these areas (with exceptions, such as local residents returning to the territories, medical staff and people moving goods).<sup>18</sup>

As of 17 March 2020, the government temporarily restored border checks and restricted the crossing of the external border for the purpose of entering Estonia. The restriction does not apply to people with Estonian citizenship, Estonian residence permit or right of residence; people involved in transporting goods; diplomats and their families; health workers and emergency responders.

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<sup>11</sup> Estonia, [Application of measures of emergency situation \(Eriolukorra meetmete rakendamine\)](#), 13 March 2020.

<sup>12</sup> Postimees (2020), '[Ove Sander: kirikuksed on lahti, kuid jumalateenistused toimuvad internetis](#)', 20 March 2020.

<sup>13</sup> Estonia, [Order of the person in charge of emergency situation concerning restrictions imposed on institutions accessible to the public \(Eriolukorra juhi korraldus seoses avalikuks kasutamiseks mõeldud asutustele kehtestatavate piirangutega\)](#), 14 March 2020.

<sup>14</sup> Estonia, Council for Administration of Court, [Recommendations of the Council for Administration of Courts for organising the administration of justice during emergency situation](#), 16 March 2020.

<sup>15</sup> Estonia, Government of the Republic, [Eriolukord Eestis: korduma kippuvad küsimused](#), 19 March 2020.

<sup>16</sup> ERR (2020), '[Uued piirangud: kaubanduskeskustes jäävad lahti toidupoeid ja apteegid](#)', 24 March 2020.

<sup>17</sup> ERR (2020), '[Riik kompenseerib raskustes ettevõtete töötajatele 70 protsenti palgast](#)', 18 March 2020.

<sup>18</sup> Estonia, [Order of the person in charge of emergency situation for imposing restrictions on the freedom of movement in the territories of the rural municipalities of Saaremaa, Hiiumaa, Vormsi, Ruhnu, Kihnu and Muhu and the island of Manija \(Eriolukorra juhi korraldus Saaremaa, Hiiumaa, Vormsi, Ruhnu, Kihnu ja Muhu valla ning Manija saare territooriumil liikumisvabaduse piirangute kehtestamise kohta\)](#), 14 March 2020.

Exceptionally, entry may also be allowed to asymptomatic foreigners who are close family members of someone lawfully residing in Estonia, or whose entry is justified under a special request. Foreigners are also allowed to cross the border for immediate transit to their country of residence, provided they are asymptomatic.<sup>19</sup>

The government has not published any analysis on the impact of these restrictions on fundamental rights. The explanatory memorandums only make a brief mention of the necessity of the restrictions for the protection of public health and prevention of the spread of Covid-19.<sup>20</sup>

## **Isolation**

On 16 March 2020, the Prime Minister imposed a restriction on the freedom of movement for 14 days on persons permitted to enter Estonia. Within 14 calendar days after arriving in Estonia, such persons are prohibited from leaving their place of residence. The restriction includes exceptions for asymptomatic persons who are, for example, health care professionals or emergency responders; transporting goods or raw products; transiting to their country of residence, etc.<sup>21</sup>

To ensure access to employment, the order was changed on 18 March 2020 to allow the crossing of the border between Finland and Estonia for people who work in Finland but whose place of permanent residence is in Estonia. In this case, 14 day isolation on returning to Estonia is not required.<sup>22</sup> The same exception applies to persons whose border crossing serves the purpose of going to work or from work to their place of residence in municipalities adjacent to the state border between the Republic of Estonia and the Republic of Latvia.

The Police and Border Guard Board (*Politsei- ja Piirivalveamet*) has explained that isolation means avoiding all non-essential movement and staying at your place of residence. It is only allowed to leave home if it is unavoidable, in order to get medical assistance, food supplies, or to walk a dog. It is also allowed to go jogging or cycling, if it is possible to avoid contact with other people. However, it is not allowed to go to work, shopping centres, or other public places. If the isolated person lives with other people, it is advised to avoid close contact.<sup>23</sup>

People who are required to isolate themselves, but are in good health and have no reason to suspect they had contact with someone carrying the coronavirus are advised to reach an agreement with their employer and work from home if possible.<sup>24</sup> Sick leave certificates can be issued to working people who are sick, who are caring for a sick child or dependant, or who have been directly exposed to someone infected with the coronavirus but are not yet showing any symptoms. As a temporary measure during the emergency situation, sick leave certificates can be applied for online.<sup>25</sup>

The explanatory memorandum to the order makes a brief mention of proportionality, stating that given the very high risk of spreading of the coronavirus, the restriction on free movement is

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<sup>19</sup> Estonia, [Temporary restriction on crossing the state border due to the spread of the coronavirus causing the COVID-19 disease \(Riigipiiri ületamise ajutine piiramine COVID-19 haigust põhjustava koroonaviiruse leviku tõttu\)](#), 15 March 2020.

<sup>20</sup> Estonia, Explanatory memorandum to the regulation of the Government of the Republic “Temporary reintroduction of internal border control and surveillance of the state border” (*Vabariigi Valitsuse määruse „Sisepiiril piirikontrolli ja riigipiiri valvamise ajutine taaskestamine“ eelnõu seletuskiri*), 15 March 2020.

<sup>21</sup> Estonia, [Order of the person in charge of emergency situation for imposing a restriction on movement after crossing the state border \(Eriolukorra juhi korraldus liikumiskiirangu kehtestamiseks pärast riigipiiri ületamist\)](#), 16 March 2020.

<sup>22</sup> Estonia, Amendment to Prime Minister Order No 32 of 16 March 2020, ‘Order to Establish a Restriction on Movement after Crossing the State Border’ (*Peaministri 16. märtsi 2020. a korralduse nr 32 „Eriolukorra juhi korraldus liikumiskiirangu kehtestamiseks pärast riigipiiri ületamist“ muutmise*), 18 March 2020.

<sup>23</sup> Police and Border Guard Board, [Teave eriolukorra kohta: kohustus 14 päeva kodus püsida](#), 2020.

<sup>24</sup> Estonia, Government of the Republic, [Eriolukord Eestis: korduma kipuvad küsimused](#), 19 March 2020.

<sup>25</sup> ERR (2020), [Work sick leave can be filed online as temporary measure from Monday](#), 16 March 2020.

proportionate and necessary to protect human life and health.<sup>26</sup> Other than that, no state analysis on the impact of isolation on fundamental rights of different groups has been published.

People who are not obliged to isolate themselves, are still advised to self-isolate and practice social distancing. This particularly includes vulnerable groups, such as elderly people. In case any assistance is needed for obtaining food or medical supplies, people are advised to turn to their local government.<sup>27</sup>

Under the emergency measures, visiting hours in social welfare institutions (e.g. nursing homes), hospitals, detention centres and prisons are prohibited.<sup>28</sup> Prisoners and detainees continue to have access to lawyers, consular officers and religious representatives.<sup>29</sup>

### **Information and enforcement**

Information on the restrictions is distributed on the Internet, television and radio. Television news of the Estonian National Broadcasting are broadcasted in Estonian, Russian, and sign language. The government created a special website (kriis.ee) with information and guidelines in Estonian, English, and Russian, including an automated chatbot, which answers queries concerning the coronavirus crisis. In addition, the Emergency Response Centre (*Häirekeskus*) launched a free 24/7 hotline (1247) which provides information on issues related to the coronavirus in Estonian, English and Russian.<sup>30</sup>

Failure to comply with the emergency measures will prompt the application of administrative coercive measures such as penalty payment. According to the Emergency Act, penalty payments shall be imposed pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act, with the maximum amount of a penalty payment set at 2000 euros.<sup>31</sup> It is also possible to impose a fine pursuant to the Emergency Act for violation of requirements established during an emergency situation in an amount up to 1200 EUR for natural persons and up to 20 000 EUR for legal persons. There are no wide-ranging enforcement measures, however, the Police and Border Guard Board checks compliance with the emergency rules as part of their everyday work, e.g. during traffic supervision.<sup>32</sup>

### **Additional information**

On 20 March 2020, Estonia notified the Secretary General of the Council of Europe pursuant to Article 15 of the European Convention on Human Rights that it had declared an emergency situation on the whole of the territory of Estonia, and informed the Secretary General of the measures it has taken. The Permanent Representation of Estonia to the Council of Europe noted that some of the measures may involve a derogation from obligations of Estonia under Articles 5, 6, 8 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Articles 1 and 2 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 2 of Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental

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<sup>26</sup> Estonia, Explanatory memorandum to the order imposing a restriction on movement after crossing the national border ([Seletuskiri eriolukorra juhi korralduse juurde, millega kehtestatakse liikumiskiirang pärast riigipiiri ületamist](#)), 16 March 2020.

<sup>27</sup> ERR (2020), '[Perearstid avaldasid nõuanded eakatele ja nende lähedastele eriolukorras tegutsemiseks](#)', 16 March 2020.

<sup>28</sup> Estonia, [Application of measures of emergency situation \(Eriolukorra meetmete rakendamine\)](#), 13 March 2020.

<sup>29</sup> Ministry of Justice, Estonian Prison Service, [Muudatused seoses eriolukorraga riigis](#), 23 March 2020.

<sup>30</sup> Estonia, Government of the Republic, [Eriolukord Eestis](#), 23 March 2020.

<sup>31</sup> Estonia, [Emergency Act \(Hädaolukorra seadus\)](#), § 47, 8 February 2017.

<sup>32</sup> Police and Border Guard Board, [Teave eriolukorra kohta: kohustus 14 päeva kodus püsida](#), 2020.

Freedoms.<sup>33</sup> This notification was not preceded by a discussion on a national or governmental level, which has been criticised by lawyers and human rights organisations.<sup>34</sup>

On the same day, the Estonian Ambassador to the UN sent a note to the Secretary-General of the UN, informing him of the declaration of emergency situation and of the subsequent measures, noting that some of these measures may involve a derogation from obligations of Estonia under the International Covenant on Civil and Political Rights, particularly under Articles 9, 12, 14, 17, 21 and 22.<sup>35</sup>

## 2 Impact of the outbreak on certain national or ethnic communities

There was a report in the media that on 26 February 2020, a Malaysian citizen was verbally attacked in public transport in Tallinn and accused of “bringing the coronavirus”.<sup>36</sup>

According to the Police and Border Guard Board, there have been no registered offences against people from countries where the coronavirus is reported or perceived to be widespread.<sup>37</sup>

In the beginning of February, dental clinic Nordic announced that they temporarily suspend the provision of dental care to patients from China to ensure the health of their staff and patients. The Gender Equality and Equal Treatment Commissioner (*Soolise võrdõiguslikkuse ja võrdse kohtlemise volinik*) condemned this decision in a public opinion article.<sup>38</sup>

Since the declaration of the emergency situation, the Chancellor of Justice (*Õiguskantsler*) has been contacted approximately 30 times with questions regarding the emergency measures. However, the questions have not concerned discrimination on national or ethnic ground, but rather the legality of various restrictions to freedom of movement.<sup>39</sup>

## 3 Impact on privacy and spread of disinformation

### Infringement of privacy and data protection rights

The Estonian Data Protection Inspectorate (*Andmekaitse Inspeksioon*) has received inquiries from employers about whether the employer is entitled to request medical records from employees during the coronavirus pandemic to decide whether or not to allow them to work. The Inspectorate clarified publicly on their website that health data should not be processed on the basis of a 'legitimate interest', there needs to be a specific legal basis or the consent of the individual. In certain cases, the law

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<sup>33</sup> Permanent Representation of Estonia to the Council of Europe, [Note No. 1-16/6 to the Secretary General of the Council of Europe](#), 20 March 2020.

<sup>34</sup> ERR (2020), [‘Rait Maruste: eriolukord parlamentaarses riigis’](#), 2 April 2020; ERR (2020), [‘Mälksoo: õiguste teemal teavitust vajavaks eelnevat debatti’](#), 28 March 2020; ERR (2020); [‘Egert Rünne: kergekäeline loobumine inimõiguste konventsioonist on libe tee’](#), 29 March 2020.

<sup>35</sup> Permanent Mission of the Republic of Estonia to the United Nations, [Note No 15.2-4/125 to the the Secretary-General of the United Nations](#), 20 March 2020.

<sup>36</sup> Käämer, L. (2020), [‘Tallinnas elav Malaisia neiu langes trammis koroonahirmu tõttu rassistlike rünnakute alla’](#), *Maaleht*, 28 February 2020.

<sup>37</sup> Police and Border Guard Board, Response to information request, 11 March 2020.

<sup>38</sup> Eesti Päevaleht (2020), [‘Liisa Pakosta: Hiinlasi me ei teeninda ja ukrainlane meie kooli ei tule’](#), 11 February 2020.

<sup>39</sup> Chancellor of Justice, Response to information request, 24 March 2020.

requires the employer to ask for a medical certificate before commencing work, but this obligation applies only in certain areas (such as food handling, health care).<sup>40</sup>

The Data Protection Inspectorate also received an information request in which a person questioned a coronavirus related article, which published photos of people arriving by plane from Italy. Since this was not a complaint by the data subject but a request for clarification, the Inspectorate provided a general explanation on how newspapers assess the disclosure of personal data.<sup>41</sup>

### **Spread of disinformation**

The Estonian Health Board (*Terviseamet*) tackles the spread of disinformation connected to coronavirus through social media. On Instagram, the Health Board shares World Health Organisation's "myth busters" about the coronavirus, for example, to disprove various fake "cures".<sup>42</sup> On Facebook, the Health Board answers to frequently asked questions and shares warnings against scams.<sup>43</sup>

On 16 March 2020, there was a surge in the spread of disinformation on social media, specifically that the Estonian capital Tallinn will be closed off completely and the sale of alcohol will be banned. The government's communication office reacted quickly by refuting these rumours through a Facebook post, which was also published in different media outlets.<sup>44</sup> During a press conference on the same day, the Prime Minister confirmed that this information is false and warned that knowingly spreading false information is punishable, as it may be considered a breach of public order.<sup>45</sup>

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<sup>40</sup> Data Protection Inspectorate, '[Kas töötajat saab kohustada rääkima kõike oma tervislikust seisundist?](#)', 16 March 2020.

<sup>41</sup> Data Protection Inspectorate, Response to information request, 10 March 2020.

<sup>42</sup> Instagram, [Terviseamet](#).

<sup>43</sup> Facebook, [Terviseamet](#).

<sup>44</sup> Sildam, T. (2020), '[Libauudiste trollid tõusid rünnakule](#)', *ERR*, 16 March 2020.

<sup>45</sup> Poom, R. (2020), '[Tähelepanu: koroonaviiruse kohta valeinfo levitamise eest saab trahvi või koguni aresti määrata](#)', *Delfi*, 16 March 2020.