

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

**Country:** Portugal

**Contractor's name:** Centre for Social Studies

**Date:** 3 November 2020

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# 1 Measures taken by government/public authorities impacting on specific freedoms

## 1.1 Emergency laws/states of emergency

In **Portugal**, throughout the months of September and October there was no emergency law or state of emergency. Nonetheless, there was an increase in the level of health security, given the growth of the infections caused by the COVID-19 pandemic, which resulted in the gradual implementation of more restrictive measures with impact on citizen's fundamental rights, specifically the freedom of movement. The more restrictive measures do not apply to the entire territory, but only to the municipalities where the level of infection is higher.

Council of Ministers Resolution 68-A/2020 of 28 August extended the declaration of the situations of contingency, for the Lisbon Metropolitan Area, and alert, for the rest of the country (that had been declared by Council of Ministers Resolution 55-A/2020 of 31 July), from 1 September until 14 September 2020<sup>1</sup>. In a press conference, the Minister of State and Presidency underlined that the fixed number of cases, the stable response of the National Health Service and the increased testing capacity called for the continuation of the measures already implemented<sup>2</sup>, specifically the limitations on gatherings of people on the street and in public spaces (10 in the Lisbon Metropolitan Area and 20 in the rest of the country), the prohibition on the sale of alcoholic beverages in service areas or fuel stations, in the Lisbon Metropolitan Area, and the prohibition of the consumption of alcohol on the street or in public spaces, with the exception of restaurants, as well as the possibility of the Presidents of the City Councils in the Lisbon Metropolitan Area to decide on the closing schedule of establishments, within certain limits.

On 14 October, the Minister of Presidency issued a press release regarding a decision of the Supreme Administrative Court stating that the measures approved by the Government to fight the pandemic were constitutional. The main issue was the unconstitutionality of the rules that forbid gatherings of more than 10 or 20 people (according to the region of the country) in public spaces, which allegedly breached the fundamental right to organise and participate in friends or family meetings. According to the Supreme Administrative Court, these measures respect the Constitution due to the exceptional nature of the current public health crises, their temporary nature and because they are democratically legitimised. Even though these measures restrict fundamental rights, they respect the requirements imposed by the Constitution, because they are adequate, necessary and proportional and also comply with the equality principle<sup>3</sup>.

Council of Ministers Resolution 70-A/2020 of 11 September declared the situation of contingency in the entire Portuguese territory from 15 September 2020 until 30 September 2020<sup>4</sup>. The Government

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<sup>1</sup> Portugal, [Resolução do Conselho de Ministros n.º 68-A/2020, prorroga a declaração da situação de contingência e alerta, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 68-A/2020 extending the declaration of the situations of contingency and alert during the COVID-19 pandemic), 28 August 2020.

<sup>2</sup> For more information, see [the Government webpage on the statement from the Council of Ministers of 27 August 2020](#).

<sup>3</sup> Portugal, Presidência do Conselho de Ministros (Council of Ministers' Presidency) (2020) "[Nota à comunicação social](#)" ("Note to the media"), 14 September 2020.

<sup>4</sup> Portugal, [Resolução do Conselho de Ministros n.º 70-A/2020, declara a situação de contingência, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 70-A/2020, declaring the situation of contingency during the COVID-19 pandemic), 11 September 2020.

justified the adoption of more restrictive measures on two grounds: first, there was an increase in the number of daily cases of infection in Portugal; second, the start of the school year and the rise in the movement of people, particularly through the use of public transportation in areas with high population density, could lead to a further growth in the number of cases. In practice, the Government extended the measures that were previously only applied in the Lisbon Metropolitan Area to the rest of the country, such as the prohibition of the sale of alcoholic beverages at fuel stations. Furthermore, the sale of alcoholic beverages after 20:00 in commercial establishments, including supermarkets, and the consumption of alcoholic beverages in public outdoor spaces, with the exception of restaurants, were also forbidden. As a result of extending the contingency situation to the whole country, gatherings of people on the street and in public spaces were limited to 10 people. This limit is also applied in restaurants. In addition, in all restaurants, coffee shops and bakeries located within 300 meters of a school or a higher education institution, there was a limit of four people per group. The possibility of the President of the City Council determining the closing time of establishments in the geographical area, within certain limits (20:00 to 23:00), and subject to a favourable opinion from the health authority and the security forces, was also extended to the whole country. Finally, the Government adopted specific workplace rules for the Lisbon and Porto Metropolitan Areas by imposing the obligation to adopt measures to prevent and mitigate the risks arising from the pandemic, such as rotation of workers between on-site and teleworking, daily or weekly, different starting or finishing times or different times for breaks and meals. The situation of contingency was extended from 1 October to 14 October by Council of Ministers Resolution 81/2020 of 29 September, maintaining all the measures described above<sup>5</sup>.

Council of Minister Resolution 88-A/2020 of 14 October declared the situation of calamity in the entire Portuguese territory as of 15 October and until 31 October 2020, raising the level of health security and applying more restrictive measures<sup>6</sup>. The implementation of more restrictive measures is linked with the progressive and consistent worsening of the COVID-19 pandemic in Portugal, which, for the first time, hit more than 2,000 daily cases of infection on 14 October 2020<sup>7</sup>. In a press conference, the Prime Minister stressed the need to: ensure the National Health Service's capacity to respond to COVID-19 patients, but also to health issues not related with the virus; continue with classroom teaching in all levels of education, without incidents or interruptions; and avoid measures that aggravate the economic and social crisis, and that threaten employment and family income. He also underlined the importance of individual behaviours and responsibilities in suppressing the spread of the virus, specifically among the younger generations<sup>8</sup>.

Gatherings on the street, in public spaces, commercial establishments and restaurants were limited to five people per group, unless cohabitants. In addition, the Government also established a limit of 50 people for family events (e.g. weddings, baptisms) and underlined that all participants must comply with the social distancing rules and other rules established by the Directorate-General for Health, such

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<sup>5</sup> Portugal, [Resolução do Conselho de Ministros n.º 81/2020, prorroga a declaração da situação de contingência, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 81/2020, extends the declaration of the situation of contingency during the COVID-19 pandemic), 29 September 2020.

<sup>6</sup> Portugal, [Resolução do Conselho de Ministros n.º 88-A/2020, declara a situação de calamidade, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 88-A/2020, declaring the situation of calamity during the COVID-19 pandemic), 14 October 2020.

<sup>7</sup> For more information, see the [Directorate-General for Health webpage on the rise of the COVID-19 cases in Portugal](#).

<sup>8</sup> For more information, see the [Government webpage on the eight measures approved to prevent the spread of the pandemic](#).

as the use of individual protective equipment (e.g. masks). In higher education, activities of a non-academic nature, such as festivities and recreational activities, were forbidden to avoid the gathering of students. The epidemiological situation also justified the applicability, in the Porto and Lisbon Metropolitan Areas, of the exceptional and transitional regime for the reorganisation of work approved by Decree-Law 79-A/2020 of 1 October. This establishes a set of rules (for e.g. organisation of the working hours by establishing different entry and exit times; create stable teams, to ensure that the contact between workers takes place within the same team; favour the teleworking regime if the working practices allow it) to avoid gatherings and concentrations of people in the workplace with regard to companies with more than 50 workers<sup>9</sup>. The Government also recommended the use of masks on the public road, when it was not possible to maintain social distancing, the use of the Stayaway Covid app, and the reporting of positive cases on the app, which is currently voluntary in nature.

On the same date, the Council of Ministers submitted a Draft-Law to the Parliament to establish the mandatory use of masks on the public road and in public spaces, when it is not possible to maintain social distancing, as well as the mandatory use of the Stayaway Covid app in the work and academic context, by the armed and security forces and the public sector, for people with a compatible phone. However, the proposal regarding the mandatory use of the Stayaway Covid app was highly criticised and generated different opinions, being withdrawn. According to the Draft-Law, police entities had to monitor compliance with these rules. Non-compliance will result in the payment of a fine from €100 to €500<sup>10</sup>. In statements to the media, the National Data Protection Authority (CNPD) underlined that imposing the use of the Stayaway Covid app, in whatever context, raised questions regarding the privacy of citizens, because it removed “the possibility of choosing, if they want, not to give control of their location and their movements to third parties, whether to multinational companies that are outside national jurisdiction or to the State”. The Authority also stated that this measure could be discriminatory, since the majority of citizens cannot have access to this app, and that the use of the app should remain voluntary<sup>11</sup>. Due to the controversy, the Government withdrew its proposal.

On 16 October, another Draft-Law was submitted by a political opposition party (*Partido Social Democrata*) and was supported by the majority party in the Government (*Partido Socialista*) and two other political parties (CDS and PAN), imposing a temporary mandatory use of masks in public spaces, which was approved on 23 October<sup>12</sup>. As such, Law 62-A/2020 of 27 October was approved imposing the mandatory use of masks to access, move and stay in public spaces and roads, for people over 10 years old, when it is not possible to maintain social distancing. Nonetheless, there are some exceptions to this rule, such as people with disabilities, those with a health condition that is not compatible with the use of masks or when the use of masks is not compatible with the activity that is being carried out. The security forces and municipal police have the obligation to supervise compliance with the use of masks in public spaces. The law also imposes the need to carry out awareness-raising campaigns in

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<sup>9</sup> Portugal, [Decreto-Lei n.º 79-A/2020, estabelece um regime excecional e transitório de reorganização do trabalho e de minimização de riscos de transmissão da infeção da doença COVID -19 no âmbito das relações laborais](#) (Decree-Law 79/2020, establishing an exceptional and transitory regime for the reorganisation of work and minimising the risks of transmission of COVID-19 in work situations), 1 October 2020.

<sup>10</sup> Portugal, Parliament (2020), [Proposta de Lei n.º 62/XIV](#) (Draft-Law 62/XIV), 14 October 2020.

<sup>11</sup> Expresso (2020), [“App anticovid obrigatória: patrões não querem, escolas contestam, oficiais das Forças Armadas vão reunir-se, UGT está furiosa”](#) (“Anticovid app mandatory: employers don’t want it, schools protest, Armed Forces will gather, UGT is furious”), 14 October 2020.

<sup>12</sup> Portugal, Parliament (2020), [Projeto de Lei 570/XIV](#) (Draft-Law 570/XIV), 16 October 2020.

the media and amongst the population, on the importance of wearing a mask. This obligation will be imposed for 70 days<sup>13</sup>.

On 22 October, the Council of Ministers approved new measures to fight the pandemic. A set of more restrictive measures was imposed on the municipalities of Felgueiras, Lousada and Paços de Ferreira due to the high number of COVID-19 cases. In these three municipalities there is now a duty of home confinement and, consequently, citizens should refrain from circulating in public spaces and public roads and can only leave the house for certain purposes (e.g. purchase of goods and services, to work, for health reasons, to assist vulnerable people, to go to school, among others). In addition, commercial and service establishments must close at 22:00, with some exceptions (e.g. pharmacies, vets, gas stations). Events or other celebrations that imply the gathering of more than five people are forbidden, unless they belong to the same household, as is the holding of fairs and markets. Finally, teleworking is mandatory, whenever working practices allow it, and visits to users of residential structures for older people, integrated continuous care units of the National Integrated Care Network and other organisations dedicated to older people, as well as day care centres, are now suspended<sup>14</sup>.

On 31 October, the Council of Ministers adopted new measures to contain the spread of the pandemic **in Portugal** that will enter into force on 4 November. In view of the epidemiological situation in the country, the Government decided to renew the situation of calamity until 15 November 2020, keeping the general measures already mentioned above and announcing more restrictive measures for a total of 121 municipalities, such as: the duty of home confinement, with certain exceptions (for e.g. to work, to go to school, since schools remain open, to purchase goods and services, for health reasons); closing of commercial and service establishments at 22:00; closing of restaurants at 22:30; prohibition on holding events or celebrations with more than five people, unless they belong to the same household; fairs and markets are allowed when authorised by the municipalities and if they comply with the security conditions and rules imposed by the health authority; religious ceremonies can be held, in compliance with the rules from the Directorate-General for Health; teleworking is now mandatory, if working practices allow it; the exceptional and transitional regime for the reorganisation of work approved by Decree-Law 79-A/2020 of 1 October, already mentioned above, is now also applied to these municipalities. The decision on the municipalities that will be covered by the new measures is based on the following criteria: 1) 240 new cases per 100,000 inhabitants in the last 14 days; 2) proximity to another municipality that fulfils the first criteria; and 3) outbreaks in low-density municipalities will not be considered. Finally, apart from these measures, the Government limited the number of people allowed per group in restaurants to six throughout the country, unless they belong to the same household<sup>15</sup>. The 121 municipalities that are covered by these measures include 7,1 million inhabitants, representing 70% of the population. The list will be reviewed every 15 days to add or remove municipalities<sup>16</sup>.

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<sup>13</sup> Portugal, [Lei n.º 62-A/2020, imposição transitória da obrigatoriedade do uso de máscara em espaços públicos](#) (Law 62-A/2020, temporary imposition of the mandatory use of masks in public spaces), 27 October 2020.

<sup>14</sup> Portugal (2020), [Resolução do Conselho de Ministros n.º 88-B/2020 que define medidas especiais aplicáveis aos concelhos de Felgueiras, Lousada e Paços de Ferreira no âmbito da situação de calamidade](#) (Council of Ministers Resolution, introducing special measures applicable to the regions of Felgueiras, Lousada and Paços de Ferreira due to the situation of calamity), 22 October 2020.

<sup>15</sup> For more information, see [the Government webpage on the measures to fight the pandemic adopted in the Council of Ministers held on 31 October 2020](#).

<sup>16</sup> For more information, see [the Government webpage on the new measures to fight the pandemic](#).

Amendments introduced by Decree-Law 87-A/2020 of 15 October to Decree-Law 10-A/2020 of 13 March extended the validity of multiple official documents, such as the citizen card, driving licence, documents and visas related to the stay in national territory, until 31 March 2021<sup>17</sup>.

## 1.2 Freedom of assembly

**In Portugal**, the right of association and demonstration must respect the rules of the health authority, specifically the restrictions imposed on the gatherings of people. With regard to events, the rules that were imposed in September and October were similar, only differing in the number of people allowed. From 1 September to 14 September, events that involved the gathering of more than 10 people (in the Lisbon Metropolitan Area) or 20 (in the rest of the country) were forbidden. However, there were some exceptions to this rule: religious ceremonies, including community celebrations; family events (e.g. weddings, baptisms); and corporate events, that are carried out in adequate spaces (e.g. congress halls, tourist establishments, venues for trade fairs and outdoor spaces). These events must respect the rules imposed by the health authority and, in their absence, the general rules regarding occupancy, permanence, physical distancing, hygiene and the use of disinfectants. Public events that were held outside of establishments intended for such purpose must be preceded by a risk assessment by the local health authorities to determine the possibility and the conditions for their realisation. In duly justified situations, the members of the Government responsible for the areas of internal administration and health, could authorise other celebrations or events, setting out the conditions necessary for them to be carried out. Finally, cultural events were allowed, but had to comply with several rules, namely the general rules regarding occupancy, permanence, physical distance and hygiene, ensuring an adequate distance between seats, using protective barriers in service stations, favouring the purchase of tickets by electronic means and the payment through bank card or other similar methods, among others<sup>18</sup>.

From 15 September to 14 October, the Government declared the situation of contingency in the entire Portuguese territory. As such, the number of people allowed in events was reduced to 10. All the other rules remained the same, including the exceptions allowed<sup>19</sup>.

Finally, Council of Ministers Resolution 88-A/2020 of 14 October declared the situation of calamity in the entire Portuguese territory and forbid events or celebrations that involved the gathering of more than five people, unless they belonged to the same household. Furthermore, with regard to family

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<sup>17</sup> Portugal, [Decreto-Lei n.º 87-A/2020, altera as medidas excecionais e temporárias relativas à pandemia da doença COVID-19](#) (Decree-Law 87-A/2020, amending the exceptional and temporary measures due to the COVID-19 pandemic), 15 October 2020.

<sup>18</sup> Portugal, [Resolução do Conselho de Ministros n.º 55-A/2020, declara a situação de contingência e alerta, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 55-A/2020, declaring the situation of contingency and alert during the COVID-19 pandemic), 31 July 2020.

<sup>19</sup> Portugal, [Resolução do Conselho de Ministros n.º 70-A/2020, declara a situação de contingência, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 70-A/2020, declaring the situation of contingency during the COVID-19 pandemic), 11 September 2020.

events, only a maximum of 50 guests was allowed. All the other rules remained the same<sup>20</sup>. The special rules for the 121 municipalities mentioned above will be applied as of 4 November.

In **Portugal**, one of the most controversial situations regarding events was the *Avante! Festival (Festa do Avante!)*, an event held annually by the Portuguese Communist Party. Even though highly criticised by several people, the *Avante! Festival* was not forbidden and was held from 4 to 6 September<sup>21</sup>. One of the main arguments for holding the festival was the fact that it was considered a political and cultural event, which was strongly criticised<sup>22</sup>. The main criticism to the festival concerned the high number of people allowed by the Directorate-General for Health, at a time when the Government had already stated the need to implement more restrictive measures in the second half of September, and the fact that all the other political parties suspended any event related with the new political season. As such, the main issue was the Directorate-General for Health's decision on the requirements that the event had to comply with. This type of events was not forbidden, but had to be authorised and comply with the rules defined by the health authority<sup>23</sup>.

On 31 August, the Directorate-General for Health disclosed its technical opinion on the *Avante! Festival*. According to the health authority, the event involved several risks due to the number of participants, but also the characteristics, expected behaviour, location, duration, activities available, and arrangements for the circulation of people, among others. The social component of the event also implied the mobility of the participants and proximity behaviours. In view of the epidemic in Portugal and, in particular, in the Lisbon Metropolitan Area, there was a real risk that infected people would attend the event, with or without symptoms. Therefore, the Directorate-General for Health issued a set of recommendations for the event, including: limits on the number of participants (total of 16,563 people); the recommendation of the use of masks by all people over 10 years of age, during the event, including outdoors; compliance with the physical distancing rule of two meters between people in the event, unless they are cohabitants; prohibition on concentrations of people along access routes or areas for people to gather; all spaces intended for specific activities should be clearly marked off and implement a system to control occupancy, the circulation of people and the distribution of seats; the organisation must ensure the control of arrivals to prevent people gathering and ensure the physical distancing rules; the consumption of alcoholic beverages was forbidden, unless in the restaurant area until 20:00 and, after that hour, during meals; the organisation must introduce procedures for the regular cleaning and disinfection of surfaces and objects, as well as equipment and facilities for the adoption of good hygiene practices and containers for the adequate disposal of masks<sup>24</sup>.

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<sup>20</sup> Portugal, [Resolução do Conselho de Ministros n.º 88-A/2020, declara a situação de calamidade, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 88-A/2020, declaring the situation of calamity during the COVID-19 pandemic), 14 October 2020.

<sup>21</sup> TSF (2020), "[Máscaras, gel, menos pessoas e mais críticas. Assim se fez a Festa do Avante!](#)" ("Masks, gel, less people and more critics. How the Avante! Festival was held"), 6 September 2020.

<sup>22</sup> Expresso (2020), "[Os lugares vão ser sentados? Os festivais não estavam proibidos? Ainda há bilhetes? A Festa do 'Avante!' em 15 perguntas e respostas](#)" ("Places are going to be seated? Weren't festivals forbidden? Are there still tickets? 'Avante!' Festival in 15 questions and answers"), 2 September 2020.

<sup>23</sup> Expresso (2020), "['Avante!': Rio lamenta que Portugal seja um 'exemplo negativo no estrangeiro' no combate à pandemia](#)" ("Avante!: Rio regrets that Portugal is a 'negative example abroad' in the fight against the pandemic"), 1 September 2020.

<sup>24</sup> Portugal, Direção-Geral da Saúde (Directorate-General for Health) (2020), [Parecer Técnico](#) (Technical Opinion), 30 August 2020.

A protective measure was filed in the Civil Central Court of Lisbon to stop the event in August. The claimant argued that *Avante!* increased the risk of contamination by the new coronavirus and provided for discriminatory treatment with regard to the summer festivals that were suspended, harming those whose business depended on that type of events. However, at the beginning of September the court dismissed the request. According to the media, the court argued that it needed more details of the specific facts that would lead to the worsening of the pandemic if the celebration was carried out. In addition, the court also argued that the health authority had already issued instructions and guidelines to ensure the event was safe<sup>25</sup>.

After a favourable opinion by the health authority, Order 9709-D/2020 of 7 October authorised pilot tests on the presence of spectators at football games, in strict compliance with the measures from the Directorate-General for Health<sup>26</sup>. These pilot tests were carried out on 7, 8, 14 and 15 October, for a few football games (not all) of the Portuguese Football Team and LigaPro, organised by the Portuguese Football Federation and the Portugal League. The main goal of these tests was to assess the possible return of spectators to football games.

With regard to religious celebrations, on 13 October access to the Sanctuary at Fátima was restricted due to the celebration of a religious event. The Directorate-General for Health imposed a set of rules for the event, including limits on the number of people allowed to enter the site (6,000 people), which allowed an average distance of 8 m<sup>2</sup> per person, access through eight different entrances, with various control mechanisms, and the movement through marked corridors. The use of masks was mandatory during the celebration, including in outdoor spaces. The organisation marked standing areas with circles and, in each circle, only a limited number of people from the same household was allowed, in compliance with the rules of the health authority. After entering the site, participants were led by the organisation to these areas, where they had to stay until the end of the celebration. Previously, on 13 September, access to the Sanctuary had been restricted, because the site reached the maximum capacity allowed in view of the COVID-19 pandemic, according to the Sanctuary's contingency plan<sup>27</sup>.

Another example of an event held in **Portugal** that led to the gathering of a very high number of people was the Portuguese Formula 1 Grand Prix, on 25 October. According to the Director-General for Health, there were several factors that enabled the event to take place. On the one hand, the Algarve region, where the event was held, has been less affected by the pandemic when compared to other regions of the country. On the other hand, the race track has several characteristics, including its accesses and open stands for the public, that comply with the social distancing rules. With a capacity for more than 100,000 people, the event was only allowed to receive 27,000 people per day, over

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<sup>25</sup> Expresso (2020), "[Tribunal rejeita providência cautelar para travar Festa do "Avante!"](#)" ("Court rejects protective measure to stop the "Avante!" Party), 3 September 2020.

<sup>26</sup> Portugal, [Despacho n.º 9709-D/2020, autoriza a realização de jogos da Seleção Portuguesa de Futebol e da LigaPro organizados pela Federação Portuguesa de Futebol e pela Liga Portugal, em regime de testes-piloto relativamente à presença de público, de acordo com as orientações emitidas pela Direção-Geral da Saúde](#) (Order 9709-D/2020, authorising games of the Portuguese Football Team and LigaPro, organised by the Portuguese Football Federation and the Portugal League, in pilot scheme to test the presence of spectators, in accordance with the guidelines from the Directorate-General for Health), 7 October 2020.

<sup>27</sup> Público (2020), "[Covid-19. Peregrinação de 13 de outubro no Santuário de Fátima reduzida a seis mil fiéis](#)" ("Covid-19. Pilgrimage of 30 October to the Fátima Sanctuary reduced to 6,000 worshippers"), 30 September 2020.



three days<sup>28</sup>. Despite the guidelines issued by the health authority, the media reported several cases of non-compliance with the social distancing rules during the event<sup>29</sup>. When questioned, the Director-General for Health stated that the situation was not catastrophic, and underlined that, when it comes to events, there is a shared responsibility between citizens, the event organisers and the Directorate-General for Health<sup>30</sup>. However, the Directorate-General for Health's decision to authorise such a high number of spectators in the event and the non-compliance by the event organisers with the rules of the health authority were strongly criticised by the media<sup>31</sup>.

### 1.3 Freedom of movement

In **Portugal**, the restrictive measures on air traffic were extended from 1 September until 31 October 2020, in compliance with Council Recommendation (EU) 2020/1186 of 7 August 2020, on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction, and considering the increase in active cases of COVID-19 in Portugal<sup>32</sup>.

All flights to and from EU countries, countries associated with the Schengen Area (Liechtenstein, Norway, Iceland and Switzerland) and the United Kingdom are allowed. Flights to and from Australia, Canada, China, South Korea, Georgia, Japan, New Zealand, Rwanda, Thailand, Tunisia and Uruguay are also allowed. With regard to other countries, only essential travel is allowed, namely the entry, exit or transit of EU citizens, nationals of States associated with the Schengen Area and members of their families, as well as third-country nationals legally resident in the EU, and third-country nationals travelling for professional, study, family reunion, health and humanitarian reasons. These prohibitions do not apply to state aircraft, the armed forces, aircraft to fight fires, flights for the exclusive transportation of cargo and mail, for medical emergencies, and technical stopovers for non-commercial purposes.

All passengers, national or foreign, travelling to and from countries outside the EU or the Schengen Area on essential travel, must present proof of a negative COVID-19 test result carried out in the 72 hours prior to boarding. If national citizens, foreigners legally resident in Portugal and diplomatic personnel travel without presenting proof of a negative COVID-19 test, they must carry out the test on arrival at the airport, at their own expense, and remain isolated until they receive result. All other

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<sup>28</sup> Sábado (2020), "[Covid-19: DGS diz que corrida de Fórmula 1 esteve longe de ser "catastrófica"](#)" ("Covid-19: DGS says that Formula 1 race was far from "catastrophic""), 26 October 2020.

<sup>29</sup> TVI 24 (2020), "[Covid-19: pouco distanciamento do público da Fórmula 1 em Portugal gera indignação nas redes sociais](#)" ("Covid-19: little distance between the public in Formula 1 in Portugal generates indignation in social networks"), 25 October 2020.

<sup>30</sup> Sábado (2020), "[Covid-19: DGS diz que corrida de Fórmula 1 esteve longe de ser "catastrófica"](#)" ("Covid-19: DGS says that Formula 1 race was far from "catastrophic""), 26 October 2020.

<sup>31</sup> TSF (2020), "[GP de Portugal em Moto GP sem público após organização "inaceitável" da F1](#)" (GP of Portugal in Moto GP without spectators after "inacceptable" organisation of F1"), 31 October 2020.

<sup>32</sup> Portugal, [Despacho n.º 8391-A/2020, prorrogação das medidas aplicáveis ao tráfego aéreo com destino e a partir de Portugal](#) (Order 8391-A/2020, extending the measures applied to air traffic to and from Portugal), 31 August 2020; Portugal, [Despacho n.º 8777-C/2020, prorrogação das medidas aplicáveis ao tráfego aéreo com destino e a partir de Portugal](#) (Order 8777-C/2020, extending the measures applied to air traffic to and from Portugal), 11 September 2020; Portugal, [Despacho n.º 9373-A/2020, prorrogação das medidas aplicáveis ao tráfego aéreo com destino e a partir de Portugal](#) (Order 9373-A/2020, extending the measures applied to air traffic to and from Portugal), 30 September 2020; Portugal, [Despacho n.º 9934-A/2020, prorrogação das medidas aplicáveis ao tráfego aéreo com destino e a partir de Portugal](#) (Order 9934-A/2020, extending the measures applied to air traffic to and from Portugal), 14 October 2020.

citizens travelling without presenting a negative COVID-19 test are not allowed to enter the country. In addition, passengers travelling to and from the EU or the Schengen Area do not have to present proof of a negative COVID-19 test, but are submitted to temperature control in the airport. Citizens in transit who do not leave the airport facilities also do not have to present a negative COVID-19 test result.

In **Portugal**, the ban on granting of land licenses and disembarkation of passengers and crews from cruise ships in national ports (with the exception of Portuguese nationals and residents) is still in force, until 31 October 2020<sup>33</sup>. Nonetheless, cruise ships are now authorised to dock at national ports for supply, maintenance and waiting (in lay-up) for repair.

Finally, during the months of September and October, the Government established a ban on the movement of people between municipalities from 30 October to 3 November, due to the holiday of 1 November, to avoid family gatherings and prevent outbreaks of COVID-19, with some exceptions (e.g. health professionals; teachers and non-teaching staff; for work reasons; to leave children at school; for Occupational Activity and Day Centres)<sup>34</sup>. Additionally, as mentioned above, the Government approved restrictions for movement in 121 municipalities as of 4 November.

The *Chega* party filed a protective measure against the ban on the movement of citizens between municipalities from 30 October to 3 November. However, on 31 October, the Supreme Administrative Court rejected the request. According to the court, a political party has no legitimacy to file a protective measure with such nature, because it can't be a holder of the fundamental rights invoked<sup>35</sup>.

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<sup>33</sup> Portugal, [Despacho n.º 8414-B/2020, mantém a interdição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais](#) (Order 8414-B/2020, maintaining the ban on disembarkation and land licences for passengers and crew of cruise ships in national ports), 1 September 2020; Portugal, [Despacho n.º 8844-A/2020, mantém a interdição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais](#) (Order 8844-A/2020, maintaining the ban on disembarkation and land licences for passengers and crew of cruise ships in national ports), 14 September 2020; Portugal, [Despacho n.º 9373-D/2020, mantém a interdição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais](#) (Order 9373-D/2020, maintaining the ban on disembarkation and land licences for passengers and crew of cruise ships in national ports), 30 September 2020; Portugal, [Despacho n.º 9934-B/2020, mantém a interdição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais](#) (Order 9934-B/2020, maintaining the ban on disembarkation and land licences for passengers and crew of cruise ships in national ports), 14 October 2020; Portugal, [Despacho n.º 10714/2020, prorrogação da proibição do desembarque e licenças para terra de passageiros e tripulações dos navios de cruzeiro nos portos nacionais](#) (Order 10714/2020, extending the ban on disembarkation and land licences for passengers and crew of cruise ships in national ports), 31 October 2020.

<sup>34</sup> Portugal, [Resolução do Conselho de Ministros n.º 89-A/2020, que determina a limitação de circulação entre diferentes concelhos do território continental no período entre as 00h00 de 30 de outubro e as 06h00 de dia 3 de novembro de 2020](#) (Council of Ministers Resolution 89-A/2020, setting limits on the movement of people between different municipalities in Portuguese territory from 00h00 on 30 October to 06h00 on 3 November of 2020), 26 October 2020.

<sup>35</sup> Expresso (2020), "[Supremo Tribunal Administrativo dá razão ao Governo](#)" ("Supreme Administrative Court gives reason to the Government"), 31 October 2020.

## 2 Implications of Covid-19 and measures to contain it on specific social rights

### 2.1 Education

The 2020/2021 school year started between 14 and 17 September 2020 for all levels of education. The return to school was being prepared during the previous months. Council of Ministers Resolution 53-D/2020 of 20 July set the exceptional and temporary measures for the organisation of the 2020/2021 school year for pre-school, basic and secondary education, due to the COVID-19 pandemic<sup>36</sup>. Contrary to what happened at the end of the previous school year, classroom teaching became the rule and is complemented or can be temporarily replaced with mixed or distance learning, of an exceptional and temporary nature, if necessary. The mixed system is to be applied if schools are not able to maintain classroom teaching and it is not possible or sufficient to adapt the working period, school timetable and manage the school spaces. This system merges face-to-face activities, synchronous sessions and autonomous work by the students. The distance learning system takes place where classroom activities have been suspended, and is delivered through synchronous and asynchronous sessions, each school adopting the methodologies it considers most appropriate. Schools can adapt their timetables, by extending them to balance school activities with the guidelines from the health authorities, and provide adequate management of school spaces, by increasing the spaces for classroom activities and, if possible, having only one room or space per class.

Order 8553-A/2020 of 4 September creates the possibility of applying educational support measures to students who are considered at risk patients in relation to COVID-19 by the health authorities and are unable to attend classroom teaching. The main aim of this measure is to encourage success at school, ensure the inclusion of those students, as well as their health and safety. This option must be requested by the parents, guardians or the students who are over 18 years of age and include special conditions for assessment and school attendance, as well as individual support in school or at home, on-site or remotely, through electronic means<sup>37</sup>.

On 4 September, the Directorate-General for Health published the document “Benchmark for Schools – Control of the COVID-19 transmission in schools”<sup>38</sup>. This extensive document presents, in a simplified way, information about COVID-19, as well as the measures to be implemented by the educational community, and serve as a benchmark for preventing and controlling transmission of the virus with regard to the management of cases, contacts and outbreaks of COVID-19 in schools. To minimize the risks of infection, the Directorate-General for Health underlines the need to adopt measures such as social distancing, personal hygiene (hand washing and respiratory etiquette), use of individual protection equipment (i.e. masks), environmental hygiene (i.e. cleaning, disinfection and adequate ventilation of spaces) and self-monitoring of symptoms. Considering the need for a swift and coordinated action to control the transmission of COVID-19 in schools, the Directorate-General for Health stresses the need to have updated contingency plans, reorganising the school space in

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<sup>36</sup> Portugal, [Resolução do Conselho de Ministros n.º 53-D/2020, estabelece medidas excecionais e temporárias para a organização do ano letivo 2020/2021, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 53-D/2020, establishing exceptional and temporary measures for the organisation of the 2020/2021 school year due to the COVID-19 pandemic), 20 July 2020.

<sup>37</sup> Portugal, [Despacho n.º 8553-A/2020, prevê a possibilidade de aplicação de medidas de apoio educativas](#) (Order 8553-A/2020, that foresees the possibility of applying educational support measures), 4 September 2020.

<sup>38</sup> Portugal, Direção-Geral de Saúde (Directorate-General for Health) (2020), [Referencial Escolas – Controlo da transmissão de Covid-19 em contexto escolar](#) (Benchmark for Schools – Control of the COVID-19 transmission in schools), 4 September 2020.

compliance with the guidelines in force, encouraging preventive behaviours and adequately managing the reporting of cases, through fluid communication with the local health authority when a suspected or confirmed case of COVID-19 is identified. The document states that an outbreak in a school is taken to mean two or more cases of active infection with an epidemiological link. The measures to be adopted by the local health authority will depend on several factors that will be considered on the risk assessment. The identification of people who were in contact with a confirmed case of COVID-19 must start preferably within 12 hours after the confirmation of the case, including contacts at school (e.g. students, teaching and non-teaching staff), cohabitants and other relevant contacts. Schools will only be closed in high risk situations. The first option will be to isolate certain classes or certain areas of the school<sup>39</sup>. In this document, the Directorate-General for Health also notes the negative consequences of closing schools, stating that it can have long-term consequences on the physical, psychological and social well-being of students, and tend to increase existing social and health inequalities<sup>40</sup>.

According to the guidelines from the Directorate-General for Health, the Directorate-General for Educational Establishments and the Directorate-General for Education, in the 2020/2021 school year, schools must adopt the following measures to ensure a safe return to academic and non-academic activities for pre-school, basic and secondary education: prepare and/or update the contingency plans for COVID-19; ensure that the schools have the necessary preconditions to promote good hygiene practices; enforce physical distancing rules, inside and outside school; ensure the mandatory use of masks for accessing and staying inside school establishments by students (starting from the second cycle of basic education) and by teaching and non-teaching staff; make information on the rules to be followed easily accessible to the entire school community; ensure the daily management of residues; ensure frequent air renewal, by opening windows and doors; provide alcohol-based antiseptic solution at the entrance of the premises; ensure the existence of adequate cleaning materials and products for proper disinfection and cleaning; establish a hygiene plan; restrict the access of external people to the schools; prefer digital routes for administrative procedures; suspend events or meetings with a high number of participants; ensure that people with symptoms of COVID-19 do not enter the school. With regard to the management of spaces, there are specific guidelines for pre-school, as well as for basic and secondary education. In pre-school it is recommended that: the school expands by adapting the spaces that are not being used; children and teaching and non-teaching staff are organised in groups; the physical distance between children is maximised; the use of spacious and airy rooms; the definition of internal one-way systems; children change their shoes; children do not take any toys or other unnecessary objects from home; ensure that children are delivered at the door of the establishment; among others. In basic and secondary education, the main recommendations are: organising students in groups to avoid other contact during classes, breaks and meals; ensuring that each class is assigned the same room and each student the same desk; favouring the use of spacious and airy rooms; avoiding gatherings of students, namely in the library or computer room; defining entry and exit routes for each group; establishing shorter breaks and ensuring that the students stay in specific areas to avoid gatherings; among others<sup>41</sup>.

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<sup>39</sup> For more information, see [the Directorate-General for Health webpage on the Benchmark for Schools – Control of the COVID-19 transmission in schools document](#).

<sup>40</sup> Portugal, Direção-Geral de Saúde (Directorate-General for Health) (2020), [Referencial Escolas – Controlo da transmissão de Covid-19 em contexto escolar](#) (Benchmark for Schools – Control of the COVID-19 transmission in schools), 4 September 2020.

<sup>41</sup> Portugal, Direção-Geral dos Estabelecimentos Escolares, Direção-Geral da Educação, Direção-Geral da Saúde (Directorate-General for Educational Establishments, Directorate-General for Education, Directorate-General for Health) (2020), [Orientações Ano Letivo 2020/2021](#) (Guidelines School Year 2020/2021), n.d.

In addition, the Directorate-General for Education and the Directorate-General for Health issued a set of guidelines regarding physical education, recommending that schools favour outdoor spaces for the classes, ensure students, teaching and non-teaching staff disinfect their hands at the entrance and exit of the sports facilities, encourage physical distancing of at least 3 meters between students, avoid sharing material without proper disinfection, provide access routes, encourage the use of exclusive footwear for the classes, define areas for the practice of sports, ensure good ventilation when the classes take place in closed spaces, implement the mandatory use of masks at the entrance and exit of the sports facilities, among others<sup>42</sup>.

The National Federation of Teachers (*Federação Nacional de Professores*, FENPROF) published a list of schools with cases of COVID-19 on its webpage, regardless of whether they are active or not, that is being constantly updated. According to FENPROF, this list was created since the Ministry of Education did not provide any information on the number of schools with cases of COVID-19 or the procedures that are being adopted, and the list released by the Directorate-General for Health reported a number of cases that was lower than the cases reported by the media and that were known to the Federation. As of 20 October 2020, according to FENPROF, there were 332 schools with reported cases of COVID-19, regardless if they are active or not. In addition, FENPROF underlines the need to implement uniform procedures for all schools, as well as testing all students, teachers and close contacts whenever a case of infection is detected, to protect the school community and ensure that it can stay open<sup>43</sup>. On 21 October, the Director-General for Health stated that there were only 49 active cases of COVID-19 in schools, with a total of 449 reported cases, making a positive assessment of the return to school. According to the Director-General for Health, given that the school community mobilises 1.2 million people daily and regularly, the beginning of the academic year had a very positive review<sup>44</sup>.

On 20 September, the Minister of Science, Technology and Higher Education issued a statement on the entry of new students into higher education establishments, encouraging the organisation of events for welcoming new students through digital means, as well as the dissemination of information to new students online, to avoid gatherings and parties<sup>45</sup>. In this statement, the Minister also reinforced the need to respect the recommendations to higher education institutions issued on 5 August 2020<sup>46</sup>. According to these recommendations, the preparation of the 2020/2021 school year should be guided by three principles: 1) providing classroom teaching and assessment, which is now the rule and an essential dimension of higher education, since it promotes equity between students in terms of participation and evaluation, provides for a complete education, encourages the diversity of academic paths and contributes to nationwide cohesion; 2) adopting realistic procedures, by establishing constant monitoring procedures on the evolution of the pandemic, at national and local

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<sup>42</sup> Portugal, Direção-Geral da Educação, Direção-Geral da Saúde (Directorate-General for Education, Directorate-General for Health) (2020), [Orientações para a realização em regime presencial das aulas práticas de Educação física](#) (Guidelines for providing face-to-face physical education classes), n.d.

<sup>43</sup> For more information, see [the webpage of the National Federation of Teachers on the list of schools with cases of COVID-19](#).

<sup>44</sup> Expresso (2020), [“Covid-19. Cerca de meia centena de escolas com surtos ativos”](#) (“Covid-19. About fifty schools with active outbreaks”), 21 October 2020.

<sup>45</sup> Portugal, Ministério da Ciência, Tecnologia e Ensino Superior (Ministry of Science, Technology and Higher Education) (2020), [“O novo ano letivo e a receção e integração dos novos estudantes no ensino superior”](#) (“The new academic year and the entry and integration of new students into higher education”), 20 September 2020.

<sup>46</sup> Portugal, Ministério da Ciência, Tecnologia e Ensino Superior (Ministry of Science, Technology and Higher Education) (2020), [Recomendação às instituições científicas e de ensino superior para a preparação do ano letivo 2020/2021](#) (“Recommendation to scientific and higher education institutions for the preparation of the 2020/2021 school year”), 5 August 2020.

level, regularly updating contingency plans and constantly monitoring their impact on the academic community, to implement adequate security measures to contain and mitigate the spread of the virus; 3) encourage innovation and pedagogical modernisation, through the use and dissemination of ground-breaking practices for a classroom-based education system supported by new technologies, as well as mixed forms of education.

In higher education, one of the main concerns was the gatherings of students as a result of welcome events or parties, as well as academic hazing. In the beginning of the academic year, as reported by the media, several higher education institutions suspended academic hazing practices in compliance with the rules from the health authorities regarding limitations on gatherings<sup>47</sup>. As already mentioned above, Council of Minister Resolution 88-A/2020 of 14 October that declared the calamity situation forbid activities of a non-academic nature, such as festivities and recreational activities, to avoid the gathering of students<sup>48</sup>.

## 2.2 Health care

On 10 September, the Prime Minister stated that the testing capacity of the National Health System and private facilities was going to be reinforced, to ensure a swift response in analysing suspected cases of COVID-19. According to the Prime Minister, the increase in testing capacity has been one of the main priorities of the Portuguese Government and will continue to be until the end of the year, since it is the only effective way to “check for new cases, and detect and isolate infected people”. At the time, Portugal had already surpassed 2 million tests and, on 8 September 2020, there was record 20,527 tests. In line with investments of the Economic and Social Stabilisation Programme, in the following weeks, the Government predicted that testing capacity would reach 21,000 tests per day. Finally, the Prime Minister underlined the importance of private laboratories, stating that, at that moment, there were already 102 private laboratories accredited for testing, an increase compared to only 50 in April<sup>49</sup>. On 16 September, in a press conference, the Minister of Health stated that, at that time, the National Health Service was responsible for 48% of the tests for COVID-19. Private partners and universities had a testing capacity of 6,700 tests per day, with the potential to reach 11,000 daily tests. To reinforce the laboratory capacity, the Government will invest 8.4 million euros<sup>50</sup>.

In **Portugal**, Ordinance 218-A/2020 of 16 September amends Ordinance 392/2019 of 5 November that establishes the minimum requirements for licensing, installation, organisation and operation, human resources and technical installations of clinical pathology or clinical testing laboratories and, as well, of the respective collecting points<sup>51</sup>. The main goal of this Ordinance is, due to the current public health situation, to strengthen the laboratory capacity for the diagnosis of SARS-CoV-2, with the

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<sup>47</sup> Público (2020), [“Praxes proibidas para mais de um terço dos caloiros”](#) (“Academic hazing forbidden for more than one third of new students”), 24 September 2020.

<sup>48</sup> Portugal, [Resolução do Conselho de Ministros n.º 88-A/2020, declara a situação de calamidade, no âmbito da pandemia da doença COVID-19](#) (Council of Ministers Resolution 88-A/2020, declaring the situation of calamity during the COVID-19 pandemic), 14 October 2020.

<sup>49</sup> For more information, see the [National Health Service webpage on the increase in testing capacity](#).

<sup>50</sup> For more information, see the [National Health Service webpage on the increase of daily testing](#).

<sup>51</sup> Portugal, [Portaria n.º 218-A/2020, altera a Portaria n.º 392/2019, de 5 de novembro, que estabelece os requisitos mínimos relativos ao licenciamento, instalação, organização e funcionamento, recursos humanos e instalações técnicas dos laboratórios de patologia clínica ou análises clínicas e, bem assim, dos respetivos postos de colheitas](#) (Ordinance 218-A/2020, amending Ordinance 392/2019 of 5 November that establishes the minimum requirements for licensing, installation, organisation and operation, human resources and technical installations of clinical pathology or clinical testing laboratories and, as well, of the respective collecting points), 16 September 2020.

consequent improvement of epidemiological surveillance, through the speeding-up of the licensing procedure and the authorised collection of biological products outside licensed facilities, when referenced by the Directorate-General for Health or the National Institute of Health Doctor Ricardo Jorge.

In addition, the current pandemic has put unprecedented pressure on the National Health Service, highlighting the need for an adequately equipped workforce. As such, Order 9719/2020 of 10 October delegates the power to authorise the hiring of workers for the fixed term employment contracts, for 4 months, as well as for the renewal of fixed-term employment contracts already made, for equal periods, to strengthen the human resources needed to respond to the pandemic caused by COVID-19<sup>52</sup>. In addition, Decree-Law 89/2020 of 16 October establishes an exception regime for creating legal employment relationships in the area of health<sup>53</sup>. The official data made available by the Directorate-General for Health on the number of people infected with COVID-19 concerns the general population and no disaggregated information is published regarding the number of health professionals infected. Nonetheless, the Secretary of State for Health stated in a press conference held on 28 October that since the beginning of the pandemic there were 6,596 health professionals infected with COVID-19 in Portugal, of which 4,617 had already recovered from the disease (a recovery rate of 69,9%)<sup>54</sup>. On the same day, the official data indicated a total of 128,392 people infected with COVID-19 since the beginning of the pandemic and 74,001 people recovered<sup>55</sup>. Although there are no official data on the impact on health care services caused by the number of medical workers affected by the disease, the media reported some problems concerning the pressure put on specific hospital units by the pandemic<sup>56</sup>. According to the Prime Minister in a press conference held on 31 October 2020, one of the main challenges faced by the country during the pandemic is avoiding the collapse of the National Health System, without causing serious damages to the economy<sup>57</sup>.

With the spread of the pandemic, the number of hospitalised persons has been increasing considerably. In a press conference held on 23 October 2020, the Minister of Health stated that the hospital units of the National Health Service have a total of 21,000 beds available in infirmaries, of which only 17,700 medical-surgical beds are able to be used to assist in the COVID-19 pandemic. The other beds are aimed to specialised services or diseases, for example psychiatric units, coronary diseases and neonatology. The Minister of Health stated that there is a total of 1,021 beds available

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<sup>52</sup> Portugal, [Despacho n.º 9719/2020, delega nos dirigentes máximos de entidades do Ministério da Saúde a competência para autorizar a contratação de trabalhadores para a constituição de vínculos de emprego a termo resolutivo, pelo período de quatro meses, bem como para as renovações de contratos de trabalho a termo resolutivo já celebrados ou a celebrar, por iguais períodos, para reforço dos recursos humanos necessários para dar resposta à pandemia provocada pela COVID-19](#) (Order 9719/2020, delegates the competence to authorise the hiring of workers for fixed term employment contracts, for 4 months, as well as for the renewal of fixed-term employment contracts already made, for equal periods, to boost the human resources needed to respond to the COVID-19 pandemic), 8 October 2020

<sup>53</sup> Portugal, [Decreto-Lei n.º 89/2020, estabelece um regime excecional de constituição de relações jurídicas de emprego na área da saúde](#) (Decree-Law 89/2020, establishes an exception regime for creating legal employment relationships in the health area), 16 October 2020.

<sup>54</sup> For more information, see [the video of the press conference available on the Facebook page of the National Health Service](#).

<sup>55</sup> Direção-Geral de Saúde (Directorate-General for Health) (2020), [Relatório da Situação n.º 240](#) (Report of the situation no. 240), 28 October 2020.

<sup>56</sup> Expresso (2020), [“Médicos sobre o hospital de Tâmega e Sousa: “Sentimo-nos em Itália. Se isto não é rotura, o que é rotura? As paredes caírem sobre nós?”](#) (“Doctors regarding the Tâmega and Sousa hospital: “We feel like we are in Italy. If this is not collapse what is? The walls falling on us?”), 28 October 2020.

<sup>57</sup> For more information, see [the Government webpage on the new measures to fight the pandemic](#).

in the intensive care units<sup>58</sup>. On 31 October 2020, the Prime Minister, stated that the number of beds available in the intensive care units for COVID-19 patients could be increased to 505. At the time, according to him, there were 286 people infected with COVID-19 hospitalised in intensive care units and 1,689 people hospitalised in infirmaries<sup>59</sup>.

As stated in a document made available by the Council of Ministers on 31 October 2020, the SNS24 line (the National Health Service helpline that is available around the clock for any health emergency, including COVID-19), received a total of 31,720 calls in October, as opposed to only 3,500 in March, with an average waiting time of 4 minutes and 30 seconds<sup>60</sup>. On 2 October, the Secretary of State for Health stated that the number of professionals of the SNS24 Contact Point was going to be reinforced, rising from 1,350 to 2,000 during the fall, and two additional call centres were going to be created<sup>61</sup>. With regard to testing capacity, the number of tests has been increasing since the beginning of the pandemic, with a total of 2,578 tests per day in March and 24,397 tests per day in October. 20 October 2020 was the day with most tests carried out (32,717). In total, since the beginning of the pandemic, Portugal has carried out 3,361,537 tests. Of those, 4.7% (i.e. 137,272) were positive. In October, 702,612 tests were carried out, of which 8% (i.e. 56,224) were positive, which illustrates the rapid growth of the pandemic in the last month in Portugal. As of 31 October 2020, the Stayaway Covid app had registered 2,451,851 downloads<sup>62</sup>.

To ensure the responsiveness of the National Health System, the Government decided to implement the following measures: reactivation of reserve units, which are units created by the Government to host patients discharged, but that need to stay hospitalised for social reasons because they have nowhere to go; hiring retired nurses to track contacts of people infected with the virus; making 202 beds on the intensive care units available (52 readily available, 50 by 31 December 2020, and 100 in the first quarter of 2021); adopt an exceptional regime for hiring nurses for intensive care units; allow the SNS24 to issue a provisional declaration for prophylactic isolation to justify absences<sup>63</sup>.

On 29 September 2020, the results of the study on “Access to healthcare during the pandemic”, that was carried out by GfK metrics, for the movement “Keep Healthy – Don’t Mask Your Health”, endorsed by the Portuguese Medical Association and the Portuguese Association of Hospital Administrators, with the support of Roche, were presented. This study aimed to understand the perceptions of the population regarding access to healthcare during the pandemic. The sample consists of 1,009 people (aged 18 and over) and is representative of the Portuguese population. Data were weighted for the universe of the study population (8.251 million individuals) and the respondents were selected through the quota method. The information was collected through direct and personal interviews, in privacy, based on a structured questionnaire prepared by the project team. Data was collected between 28 August and 8 September<sup>64</sup>. According to data from this study, more than half of Portuguese citizens believe that the pandemic has complicated their access to healthcare, specifically older people and people with chronic illnesses. With regard to the perceptions of safety when

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<sup>58</sup> For more information, see [the National Health Service webpage on the capacity of the National Health Service](#).

<sup>59</sup> For more information, see [the Government webpage on the new measures to fight the pandemic](#).

<sup>60</sup> Portugal, Conselho de Ministros (Council of Ministers) (2020), [Controlar a pandemia. Conselho de Ministros, 31 de outubro de 2020](#) (Controlling the pandemic. Council of Ministers, 31 October 2020), 31 October 2020.

<sup>61</sup> For more information, see the [National Health Service webpage on the reinforcement of the SNS24](#).

<sup>62</sup> Portugal, Conselho de Ministros (Council of Ministers) (2020), [Controlar a pandemia. Conselho de Ministros, 31 de outubro de 2020](#) (Controlling the pandemic. Council of Ministers, 31 October 2020), 31 October 2020.

<sup>63</sup> Portugal, Conselho de Ministros (Council of Ministers) (2020), [Controlar a pandemia. Conselho de Ministros, 31 de outubro de 2020](#) (Controlling the pandemic. Council of Ministers, 31 October 2020), 31 October 2020.

<sup>64</sup> Roche (2020), [Estudo à População: Acesso a cuidados de saúde em tempos de pandemia](#), Roche.



accessing health services, the results underline that about half of the population does not feel safe, for fear of being infected by the virus, and the younger population feels safer. More than 200,000 people admitted that they did not access health services despite feeling sick over the last few months, because they were afraid. 8% of the population admitted that they felt sick, 31% of whom did not see any doctor. However, the study emphasises that 88% of the population strongly trusts in health professionals in general and doctors in particular, and 83% do not fear going to pharmacies to buy medicines<sup>65</sup>.

### **3 Negative impact on social rights for vulnerable groups including measures to address this**

#### **3.1 Older people**

Since the beginning of the pandemic, the number of infected people and deaths in nursing homes have increased. This situation led to the adoption of measures with impact on social rights of older people in the period under analysis, namely their right to social assistance. For example, the implemented measures concerning the restriction of visits to nursing homes contributed to increase the social isolation of older people.

In **Portugal**, visits to nursing homes were suspended from 13 March until 18 May 2020. Visits were resumed after this date, but still with several constraints. On 18 October 2020, the Directorate-General for Health updated the guidelines for visits to residential structures for the elderly (ERPI), integrated continuous care units (UCCI) in the National Network of Integrated Continuous Care (RNCCI) and social support establishments for children, youth, elderly people or people with disabilities<sup>66</sup>. These guidelines aim to allow safe visits to residents and users of these structures and units. As such, older people living in nursing homes will be able to receive more than one visit per week, according to the technical conditions of the structures or units. Nonetheless, local health authorities have the power to suspend visits depending on the evolution of the epidemiological situation, but only for a limited time. Visits to these structures must be scheduled and can only last up to 90 minutes. Among the measures to be adopted, visitors must respect the physical distancing rules for users, adopt respiratory etiquette and hand hygiene measures, and wear a face mask during the visit. According to the document issued by Directorate-General for Health, visitors should not take personal objects, food or other products, and move through the institution. Finally, visitors who test positive for COVID-19 should inform the local health authority if they visited the institution up to 48 hours before the symptoms started.

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<sup>65</sup> For more information, see the [Portuguese Medical Association webpage on the results of the study on “Access to healthcare in times of pandemic”](#).

<sup>66</sup> Direção-Geral de Saúde (Directorate-General for Health) (2020), [Informação n.º 011/2020 sobre visitas a Estruturas Residenciais para Idosos \(ERPI\), Unidades de Cuidados Continuados Integrados \(UCCI\) da Rede Nacional de Cuidados Continuados Integrados \(RNCCI\) e Estabelecimentos de Apoio Social para Crianças, Jovens, Pessoas Idosas ou Pessoas com Deficiência](#) (Information 011/2020 on visits to residential structures for the elderly (ERPI), integrated continuous care units (UCCI) of the National Network of Integrated Continuous Care (RNCCI) and social support establishments for children, youth, elderly people or people with disabilities), 11 May 2020, updated on 18 October 2020.

As already mentioned above, Council of Ministers Resolution 88-B/2020 of 22 October<sup>67</sup> imposed a set of restrictions on certain regions of the country (Felgueiras, Lousada and Paços de Ferreira) due to the increase in the number of new cases of SARS-Cov-2 infection. One of those measures was the suspension of visits to residential structures for the elderly, integrated continuous care units of the National Network of Integrated Continuous Care and other organisations dedicated to the elderly, as well as activities in day care centres.

On 19 October, the Human Rights Commission of the Bar Association made public the conclusions of two reports that resulted from an investigation regarding the COVID-19 outbreaks and deaths in two nursing homes (in Matosinhos and Reguengos de Monsaraz). This commission was created by the Bar Association and works within its scope, with the goal to promote the respect for the rights, freedoms and guarantees of citizens, actively collaborate with civic and institutional organisations and identify and expose situations that infringe human rights. In both institutions there were 41 deaths due to COVID-19. The Human Rights Commission of the Bar Association points out the violation of several Constitutional rights, such as the right to life, the right to personal integrity, the right to liberty and security, the right to health and, in the case of the nursing home of Reguengos de Monsaraz, the violation of consumer rights in addition. With regard to the nursing home of Matosinhos, the Commission reports to have detected insufficiency or inadequacy in the administration of medication and of food and hygiene of their users, as well as failures in the procedures for suspected cases, specifically the fact that the contingency plan had several shortcomings and did not respect the rules of the health authority. With regard to the nursing home of Reguengos de Monsaraz, the Commission concluded that the lack of conditions did not allow the virus to be suppressed and that the patients were not treated according to good clinical practices, underlining the responsibility of those who knew that they did not have the adequate human resources and allowed the situation to degrade<sup>68</sup>.

Due to the worsening of the pandemic in **Portugal**, throughout the months of September and October, the Ministry of Labour, Solidarity and Social Security adopted a series of measures to support nursing homes.

One of the measures adopted by the Ministry of Labour, Solidarity and Social Security was the establishment of 18 Rapid Intervention Brigades (*Brigadas de Intervenção Rápidas*) for nursing homes, one for each district of the country, to temporarily reinforce the nursing homes staff, due to the impact of the COVID-19 pandemic in these institutions<sup>69</sup>. These brigades are comprised of teams of doctors, nurses, psychologists and technical assistants, that will be recruited and managed by the Red Cross, in cooperation with the Social Security. They will be deployed according to the specific needs of the institutions, ensuring that there is a rapid response when they run out of staff due to serious outbreaks

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<sup>67</sup> Portugal (2020), [Resolução do Conselho de Ministros n.º 88-B/2020 que define medidas especiais aplicáveis aos concelhos de Felgueiras, Lousada e Paços de Ferreira no âmbito da situação de calamidade](#) (Council of Ministers Resolution, introduces special measures applicable to the regions of Felgueiras, Lousada and Paços de Ferreira due to the situation of calamity), 22 October 2020.

<sup>68</sup> Público (2020), [““Indícios de violação grave de Direitos Humanos” em lares de Matosinhos e Reguengos, diz Ordem dos Advogados](#) (““Evidence of severe violation of Human Rights” in nursing homes of Matosinhos and Reguengos, says Bar Association”), 19 October 2020. For more information, see [the reports available at the Bar Association webpage](#).

<sup>69</sup> For more information, see the [webpage of the Red Cross regarding the protocol signed for the creation of the Rapid Intervention Brigades](#).

of COVID-19<sup>70</sup>. These brigades became operational on 1 October 2020. At the beginning of October, more than 400 professionals were already integrated into the Rapid Intervention Brigades<sup>71</sup>. On 26 October 2020, the Minister of Labour, Solidarity and Social Security stated that the teams of the Rapid Intervention Brigades for nursing homes affected by COVID-19 had already acted 51 times since being created. However, the Minister admitted that there are some regions of the country where it has been difficult to recruit staff for the brigades. To overcome this difficulty, the Red Cross started a recruitment process to reinforce the number of staff of the intervention teams<sup>72</sup>.

In addition, on 2 October 2020, a telephone line to support nursing homes during the pandemic was launched. The “COVID Nursing homes Helpline” (“Linha COVID Lares”) is the result of a partnership between *Santa Casa da Misericórdia de Lisboa* and ABC – Algarve Biomedical Centre, and is part of the integrated programme of the Ministry of Labour, Solidarity and Social Security to support nursing homes. As of this date, nursing homes across the country have a specialised support line, available 24 hours a day, 7 days a week, which enables the institutions to be permanently monitored, and prevents risk situations from getting out of control<sup>73</sup>. The main goals of the helpline are to clarify doubts, reinforce the procedures to be followed by the institutions, provide information and training materials, and encourage coordination between the competent authorities (health, social security and civil protection)<sup>74</sup>.

Finally, on 8 October 2020, the Government started to implement the second phase of the SARS-CoV-2 preventive testing programme for nursing homes and residential structures for the elderly. This programme, which will be gradually implemented, targets the entire country and aims to identify members of staff that test positive to COVID-19, in order to control the spread of the infection. In the new phase of this programme, staff of nursing homes with 50 or more users will be preventively tested. However, in Lisbon and Porto, nursing homes with 30 or more users will be tested, since these areas have a greater epidemiological risk. Each residential structure will be regularly tested, phased by groups of employees, which allows to signal situations of greater risk, and testing is expected to take place during five or six months. The programme will be implemented in the field in partnership with scientific and higher education institutions<sup>75</sup>.

On 2 October, the Faro City Council and the National Republican Guard Territorial Command of Faro, in celebration of the International Day of Older People, signed a protocol to promote and monitor the improvement of the quality of life of older people in the municipality, in particular those who are more isolated or more vulnerable. Under this protocol, older people can be informed about their social rights, as well as the promotion of security measures, through a specific door to door service that

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<sup>70</sup> Expresso (2020), “[Covid-19: Diretor de lar em Caminha queixa-se de “ineficácia” de equipa de intervenção rápida](#)” (“Covid-19: Nursing home director in Caminha complains about “inefficiency” of the rapid intervention team”), 8 October 2020.

<sup>71</sup> Ministério do Trabalho, Solidariedade e Segurança Social (Ministry of Labour, Solidarity and Social Security) (2020), “[Nota à comunicação social: Nova fase de testes preventivos em lares arranca esta semana](#)” (“Note to the media: New phase of preventive tests to nursing homes starts this week”), 8 October 2020.

<sup>72</sup> Rádio Renascença (2020), “[Ministra admite dificuldades no recrutamento para brigadas de intervenção nos lares](#)” (“Minister admits difficulties in the recruitment for intervention brigades in nursing homes”), 26 October 2020.

<sup>73</sup> For more information, see [the Santa Casa da Misericórdia de Lisboa webpage on the “Nursing homes COVID Line”](#).

<sup>74</sup> For more information, see [the flyer of the “Nursing homes COVID Line”](#).

<sup>75</sup> Ministério do Trabalho, Solidariedade e Segurança Social (Ministry of Labour, Solidarity and Social Security) (2020), “[Nota à comunicação social: Nova fase de testes preventivos em lares arranca esta semana](#)” (“Note to the media: New phase of preventive tests in nursing homes starts this week”), 8 October 2020.

analyses each case, with the ultimate goal of improving the quality of life of older people. After analysing the situation of the citizens concerned, an appropriate intervention will take place with specific responses to meet their needs<sup>76</sup>.

### 3.2 People with disabilities

In the period under analysis, the main concerns regarding the social rights of people with disabilities were related with their right to social security and social assistance and with labour rights of parents of children with disabilities.

The Observatory on Disability and Human Rights is monitoring the impact of the pandemic on the life of people with disabilities and their families. In April and May 2020, the Observatory carried out the study “Disability and COVID-19”, through an online questionnaire, which had the participation of 725 respondents. The main results of the study, published in July, underlined several constraints, such as the inadequacy of distance learning for children with disabilities, the suspension or the reduction of support of essential services (e.g. therapies, personal assistance), which led to the families taking over the provision of care, and the absence of specific information about COVID-19 directed to people with disabilities<sup>77</sup>. With the return to social and economic activity and the consequent reopening of institutions, services and educational establishments, a new questionnaire was prepared that aimed to understand how people with disabilities and their families experienced the end of the restrictions that were imposed. All responses are anonymous and confidential. The questionnaire was available until 25 October on the webpage of the Observatory<sup>78</sup>.

As mentioned above, Law 62-A/2020, of 27 October, imposed the mandatory use of masks to access, circulate and stay in public spaces and roads, for people older than 10 years of age, when it is not possible to maintain social distancing. One of the exceptions to the use of masks is people with cognitive or developmental impairments, and psychological disorders<sup>79</sup>.

On 13 October, the coordinator of the Different Citizen Movement (*Movimento Cidadão Diferente*) NGO, in statements to the media, highlighted that the suspension of the regular medical disability assessment teams, due to the COVID-19 pandemic, could harm hundreds of people who are unable to renew their prescriptions for state support. If the multipurpose medical disability certificate expires, the Social Inclusion Benefit is suspended, which creates several problems since the benefit is, for example, used to pay the parents’ contribution to the Occupational Activity Centres. As such this will increase the vulnerability and poverty of people with disabilities who depend on this benefit<sup>80</sup>.

In response to the news about the suspension of the regular medical disability assessment teams and the consequences for people with disabilities, the Ministry of Labour, Solidarity and Social Security clarified that the validity of the multipurpose medical disability certificate would be extended until 31 December 2020, according to Article 5 (11) of Decree-Law 10-A/2020, of 13 March. In addition, the Ministry states that people whose multipurpose medical disability certificate validity ended in 2019

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<sup>76</sup> For more information, see [the Faro City Council webpage on the protocol](#).

<sup>77</sup> For more information, see the [results published on the Observatory on Disability and Human Rights webpage](#).

<sup>78</sup> For more information, see [the Observatory on Disability and Human Rights webpage on the study “Disability, COVID-19 and lifting of the confinement measures”](#).

<sup>79</sup> Portugal, [Lei n.º 62-A/2020, imposição transitória da obrigatoriedade do uso de máscara em espaços públicos](#) (Law 62-A/2020, temporary imposition of the mandatory use of masks in public spaces), 27 October 2020.

<sup>80</sup> Observador (2020), [“Centenas de pessoas com deficiência podem perder apoios por falta de juntas médicas”](#) (“Hundreds of people with disabilities can lose support due to the lack of medical disability assessment teams”), 13 October 2020. For more information, see [the Different Citizen Movement Facebook page on the loss of support of people with disabilities due to the lack of medical disability assessment teams](#).

and who delivered proof to Social Security that they asked for the reassessment of their situation and the renewal of their certificate still have the right to the Social Inclusion Benefit in 2020. According to the Ministry, the regular medical disability assessment teams had been suspended since 18 March due to the need to mobilise public health doctors to fight the pandemic. To overcome this situation, an exceptional regime was created, regarding the composition of the medical assessment teams. According to this regime, each regional health administration must ensure the continuation of at least one medical assessment team for the assessment of people with disabilities by group of health centres or local health units. This exceptional regime, ensuring the continuation of at least one medical disability assessment team by group of health centres or local health units, which started to be applied in July, has already led to the creation of 63 medical disability assessment teams. The Government is studying the possibility of extending the validity of the multipurpose medical disability certificates until the end of 2021, depending on how the pandemic evolves<sup>81</sup>.

As stated in the media, on 30 October, one of the regional directors of the Authority for Working Conditions stated that parents are unaware of several assistance mechanisms for children with disabilities, especially during the COVID-19 pandemic. In a conference held in Aveiro, with the aim of analysing the rights of working parents, who have to accompany children with disabilities or chronic illnesses during the COVID-19 pandemic, she underlined that these parents must be properly informed of their rights to be able to assert them vis-à-vis their employer. Even though the labour law provides more resources for these parents, when compared with families with children without these limitations, the regional director of the Authority for Working Conditions states that people are still very ignorant of their rights, and this has been making the management of several households very difficult during the pandemic, professionally and familywise. Among the mechanisms available for families with children with disabilities, she underlines the flexibility in working hours, the possibility of part-time professional activity and family assistance leaves. Even though nowadays society is more aware of the need to tackle disability issues, there are still employers who will try to avoid their responsibilities, making it essential that all irregularities are reported, specifically through the general complaint form available at the webpage of the Authority for Working Conditions for all complaints at the work place<sup>82</sup>.

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<sup>81</sup> Portugal, Ministério do Trabalho, Solidariedade e Segurança Social (Ministry of Labour, Solidarity and Social Security) (2020), "[Nota à comunicação social. Esclarecimento sobre Atestados Médicos de Incapacidade Multiusos](#)" ("Note to the media: Clarifications on multipurpose medical disability certificates"), 15 October 2020.

<sup>82</sup> TVI 24 (2020), "[ACT quer pais de crianças com deficiência mais informados sobre direitos laborais](#)" ("ACT wants parents of children with disability more informed about labour rights"), 30 October 2020. For more information, see the [complaint form available on the webpage of the Authority for Working Conditions](#).